

MINUTES

ORDINARY MEETING OF COUNCIL

16 MARCH 2021



TABLE OF CONTENTS FOR ORDINARY MEETING OF COUNCIL HELD ON 16 MARCH 2021

		PAGE		
1.	DECLARATION OF OPENING	1		
2.	RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE			
2.1	Attendance	1		
2.2	Apologies	1		
2.3	Leave Of Absence	2		
3.	DISCLOSURES OF INTEREST	2		
4.	PUBLIC QUESTION TIME	2		
4.1	Responses To Public Questions Previously Taken On Notice	2		
4.2	Public Questions	2		
5.	PETITIONS, DEPUTATIONS AND PRESENTATIONS	3		
5.1	Petitions	3		
5.2	Deputations	3		
5.3	Presentations	3		
6.	APPLICATIONS FOR LEAVE OF ABSENCE	3		
7.	CONFIRMATION OF MINUTES	4		
8.	ANNOUNCEMENTS BY THE PRESIDING MEMBER	4		
9.	UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS	4		
10.	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	4		
11.	REPORTS	5		
11.1.	Office Of The CEO	5		
	11.1.1 Shire Of Gingin Control Of Vehicles (Off-Road Areas) Local Law 2021	5		
	11.1.2 Shire Of Gingin Meeting Procedures Amendment Local Law 2021	23		
	11.1.3 2020 Compliance Audit Return	37		
	11.1.4 Review Of Council Policy Manual Section 2 - Policies 2.2 To 2.30	54		
11.2.	CORPORATE AND COMMUNITY SERVICES	126		
44.0	11.2.1 List Of Paid Accounts For The Period Ending 28 February 2021	126		
11.3.	REGULATORY AND DEVELOPMENT SERVICES 11.3.1 Application For Development Approval - Temporary Sea Container	129		
	(Storage) On Lot 149 Daviesia Fairway, Ginginup	129		
	11.3.2 Application For Development Approval - Proposed Use Not Listed			
	(Outbuilding) On Lot 150 Daviesia Way, Ginginup	141		
	11.3.3 Application For Development Approval - Proposed Extractive Industry On Lot 11 (356) Sappers Road, Nilgen	157		

	11.3.4	Application For Development Approval - Proposed Single House On Lot 44 (41) Gordon Street, Guilderton	214	
	11.3.5	Application For Development Approval - Proposed Amendment To Conditions Of Planning Approval For Composting Facility And Associated Infrastructure On Lot 10 (1340) Wannamal Road West, Boonanarring	228	
	11.3.6	Application For Development Approval - Proposed Animal Husbandry - Intensive (Broiler Shed Extensions) And Machinery Shed On Lot 3694 (209) Airfield Road, Bambun	305	
	11.3.7	Application For Subdivision Approval Referral - Proposed Two Lot Subdivision (Homestead Lot) On Lot 500 Nabaroo Road, Cowalla	321	
	11.3.8	Application For Development Approval - Proposed Single House On Lot 10 Starbush Way, Ginginup	349	
	11.3.9	Application For Development Approval - Proposed Outbuilding At Lot 76 (6) Lefroy Street, Gingin	367	
	11.3.10	Application For Retrospective Development Approval - Transportable Building And Sea Container (Storage) At Lot 21 (14) Old Mooliabeenee		
		Road, Gingin	379	
11.4.	<u>Operati</u>		394	
		Cunliffe Street, Lancelin - Foreshore Redevelopment	395	
	11.4.2	Unbudgeted Expenditure Cheriton Road Upgrade Contribution - Claymont Development	417	
	11.4.3	Gingin Outdoor Activity Space - Budget Variation	424	
12.	MOTIO	NS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	429	
13.	COUNC	CILLORS' OFFICIAL REPORTS	430	
13.1	Scouts	WA Youth Award 2021 Ceremony - 21 February 2021	430	
13.2	2021 In	ternational Women's Day Lunch - 8 March 2021	430	
13.3	Seabird	Progress Association - Annual General Meeting - 27 February 2021	431	
14.	NEW BUSINESS OF AN URGENT NATURE 43			
15.	MATTERS FOR WHICH MEETING IS TO BE CLOSED TO THE PUBLIC 43:			
16.	CLOSU	<u>RE</u>	432	

SHIRE OF GINGIN

MINUTES OF THE ORDINARY MEETING OF THE SHIRE OF GINGIN HELD IN THE COUNCIL CHAMBER ON TUESDAY, 16 MARCH 2021 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. <u>DECLARATION OF OPENING</u>

The Shire of Gingin would like to acknowledge the Yued people who are the traditional custodians of this land. The Shire would like to pay respect to the Elders past, present and emerging of the Yued Nation and extend this respect to all Aboriginal people. The Shire also recognises the living culture of the Yued people and the unique contribution they have made to the Gingin region.

The Shire President declared the meeting open at 3.05pm and welcomed those in attendance.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

2.1 ATTENDANCE

<u>Councillors</u> – C W Fewster (Shire President), J K Rule (Deputy Shire President), L Balcombe, J Court, F J Johnson, J E Morton, F J Peczka and A R Vis.

<u>Staff</u> – 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), K Bacon (Manager Statutory Planning), G Quinn (Personal Assistant Executive Manager Corporate and Community Services), R De Beer (Coordinator of Assets/Projects) and L Burt (Governance/Minute Officer).

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

2.2 APOLOGIES

Nil

2.3 LEAVE OF ABSENCE

Councillor J C Lobb

3. DISCLOSURES OF INTEREST

3.1 Councillor Balcombe Item 11.4.3 Gingin Outdoor Activity Space - Budget Variation

Councillor Balcombe disclosed a Financial Interest in relation to this matter as a paid employee of a major sponsor of the project (Bendigo Bank) and as a member of the GOAS Committee.

3.2 Councillor Vis Item 11.4.3 Gingin Outdoor Activity Space - Budget Variation

Councillor Vis disclosed an Impartiality Interest in relation to this matter as she lives in Ocean Farm and works closely with the Ocean Farm Community and Recreation Association.

4. PUBLIC QUESTION TIME

4.1 RESPONSES TO PUBLIC QUESTIONS PREVIOUSLY TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

4.2.1 Michael Byrne – Aldwick Loop, Swan View Beermullah Airstrip

- Q1. Can the CEO please state what mechanism law or policy, or any other document exists that would allow the local government to prosecute an aviator for using the airstrip at Gingin North?
- A1: As the Beermullah Air Strip is owned privately by the Shire of Gingin if people access the site without formal approval from the Shire then the Shire has the ability to report to the Police the trespassing under State Law and would be dealt with as such.
- Q2. Can the CEO please State the range of offences and fines that could be imposed?
- A2. As trespassing is dealt with by the Police this would be determined by the Police.
- Q3. The CEO stated that the airstrip fences were down several times in verbal comments during both the Top Fun and GRFC Applications my understanding of local law the shire would have to comply with and clearly delineate that the airfield is closed for use some of the ways of doing this must include complete fencing and signage is this correct Mr CEO?

- A3. The comment of the fencing was to provide clarity that wildlife is not being kept out of the airstrip properly due to the state of the fencing and this has the potential to add a safety issue for planes landing and taking off. This does not affect the intent of trespassing.
- Q4. Given that aviators fly into the airstrip can the CEO comment how his trespassing laws would ever apply to an aviator given that the airstrip is clearly not marked as closed from the air nor is there any requirement in any aviation publication that states that prior permission is required to use the airstrip.
- A4. The Shire administration will undertake notifying the Aviation publications that the Strip is not open for public use.
- Q5. In 1974 when the airstrip was purchased from PR Harper it was an active public airstrip. Can the CEO provide a copy of any council minutes that between the purchase date and the current date that gave rise to a council resolution that closed the airstrip to public use?
- A5. No, the Shire cannot provide any Council minutes other than those recently provided to yourself from 2020 where the airstrip has been closed to the public. The Shire owns the Airstrip freehold and has the discretion to deal with the Airstrip as it chooses and currently it is not available for lease or general public use.

5.	PETITIONS.	DEPUTATIONS	AND PRESENTATIONS
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5.1 PETITIONS

Nil

5.2 DEPUTATIONS

Nil

5.3 PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. **CONFIRMATION OF MINUTES**

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

SECONDED: Councillor Balcombe MOVED: Councillor Morton

That the Minutes of the Ordinary Council meeting held on 16 February 2021 and the Special Council meeting held on 2 March 2021 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 SHIRE OF GINGIN CONTROL OF VEHICLES (OFF-ROAD AREAS) LOCAL LAW 2021

File:	LAW/1		
Author:	Lee-Anne Burt – Governance Officer		
Reporting Officer:	Aaron Cook – Chief Executive Officer		
Report Date:	16 March 2021		
Refer:	20 October 2020 Item 11.3.4		
Appendices:	1. Control of Vehicles (Off-road Areas) Local Law 2021		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider whether Council wishes to make the Shire of Gingin Control of Vehicles (Offroad Areas) Local Law 2021 in accordance with s.3.12(4) of the *Local Government Act 1995*.

BACKGROUND

The Shire of Gingin Control of Vehicles (Off-road Areas) Local Law (Appendix 1) was adopted by Council at its meeting on 20 October 2020 for the purpose of advertising the local law for public comment.

A notice advising of Council's intention and of the purpose and effect of the local law was duly published in accordance with s.3.12 of the *Local Government Act 1995* (the Act), with the required public submission period closing on 25 January 2021.

COMMENT

No public submissions were received in relation to the proposed Control of Vehicles (Offroad Areas) Local Law.

In accordance with the requirements of the Act, a copy of the proposed local law was submitted to the Minister for Local Government for consideration. The Department of Local Government, Sport and Cultural Industries subsequently provided advice recommending a number of minor amendments involving terminology and formatting as follows:

Clause	Department Recommendation	Action Taken
Table of	Suggested that page numbers be	Supported. Table of Contents has been
Contents	removed, as they might clash with the page system already used in the	amended accordingly.
	Government Gazette.	
Cl.3.1(2)(f)	Change "Council" to "local government" to ensure consistency with terminology used in the <i>Local Government Act 1995</i> .	Supported. Clause has been amended accordingly.
Cl.3.6(1)(d)	Change "Council" to "local government" to ensure consistency with the terminology used in the <i>Local Government Act 1995</i> .	Supported. Clause has been amended accordingly.
Cl.4.1	Clause doesn't explicitly say that transfer decisions have a right of appeal. If the Shire intends for a right of appeal to exist, it might be prudent to amend clause 4.1(b) by adding ", transfer" after "amend".	Supported. Clause has been amended accordingly.
CI.5.5(1)	Delete "Part 6 of", as the Act isn't divided into parts.	Supported. Clause has been amended accordingly.
Sch. 1	 At the top of the schedule change "[Clause 7.5]" to "[Clause 5.4(1)]". Item 15: Replace "2.10(1)" with "2.10". Modified penalties are set for clause 5.3(1)(a) and (b), but not for an offence under paragraph (c). The Shire should ensure this is intended. 	 Supported. Schedule amended accordingly. Supported. Schedule amended accordingly. Noted. Ranger Services has confirmed that it is considered the offences dealt with in clause 5.3(1)(c) are adequately covered by the modified penalties already listed in Schedule
		 and there is therefore no need to add an additional modified penalty. Therefore no amendment has been made in this instance.

It is not considered that the amendments made have an effect on the intent of any part of the local law, and therefore are not of sufficient magnitude to require recommencement of the public submission process.

In the event that Council resolves to make the local law as presented, then the following sequence of events will commence:

- 1. The adopted local law will be published in the Government Gazette and a further copy provided to the Minister for Local Government.
- 3. After gazettal, local public notice will be given stating the title of the local law, its purpose and effect (including the date it will come into operation) and advising where copies of the local law may be inspected or obtained.
- 3. A copy of the local law, together with the accompanying explanatory memorandum, will then be submitted to the WA Parliamentary Joint Standing Committee on Delegated Legislation for scrutiny.

The local law will come into effect two weeks after gazettal.

Council should be aware that it is possible that, after reviewing the local law, the Joint Standing Committee may require certain amendments to be made. If this is the case, then the Shire will be required to recommence the process of advertising for public comment, resolving again to make the local law/s, gazettal and re-submission to the Committee for further consideration.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995

Part 3 – Functions of local governments

Division 2 – Legislative functions of local governments

Section 3.5 – Legislative power of local governments

Section 3.12 – Procedure for making local laws.

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Governance
Objective	5 – To demonstrate effective leadership, governance and advocacy on
	behalf of community
Outcome	N/A
Key Service	N/A
Areas	
Priorities	N/A

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Court SECONDED: Councillor Rule

That Council adopt the Shire of Gingin Control of Vehicles (Off-road Areas) Local Law 2021 as presented in Appendix 1.

CARRIED BY ABSOLUTE MAJORITY

8-0

APPENDIX 1

LOCAL GOVERNMENT ACT 1995

CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT 1978

SHIRE OF GINGIN

CONTROL OF VEHICLES (OFF-ROAD AREAS) LOCAL LAW 2020

LOCAL GOVERNMENT ACT 1995 CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT 1978

SHIRE OF GINGIN

CONTROL OF VEHICLES (OFF-ROAD AREAS) LOCAL LAW 2020

TABLE OF CONTENTS

Part 1 – Preliminary

- 1.1 Title
- 1.2 Commencement
- 1.3 Application
- 1.4 Terms Used
- 1.5 Meaning of 'on'

Part 2 - Off-road Vehicle Area

Division 1 - Entry to the Off-road Vehicle Area

- 2.1 Entry restrictions
- 2.2 Refusal of entry
- 2.3 Direction to leave

Division 2 - Activities on Off-road Vehicle Area

- 3.1 Activities requiring a permit
- 3.2 Using or driving a vehicle
- 3.3 Using or riding a sandboard
- 3.4 Ramps prohibited

Division 3 - Behaviour on Off-road Vehicle Area

- 3.5 Behaviour which interferes with others
- 3.6 Behaviour detrimental to Off-road Vehicle Area
- 3.7 Taking or injuring any fauna
- 3.8 Intoxicated persons not to enter

Division 4 - Signs

3.9 Signs

Part 3 - Permits

Division 1 - Applying for a permit

- 3.1 Application for a permit
- 3.2 Decision on application for permit
- 3.3 General restrictions on grant of permit
- 3.4 Compliance with a permit

Division 2 - General

- 3.5 Duration of permit
- 3.6 Transfer of permit
- 3.7 Cancellation or suspension of permit

3.8 Nominee of permit holder

Part 4 – Objections and appeals

4.1 Objection and appeal rights

Part 5 – Enforcement

Division 1 - Notices

- 5.1 Liability for damage
- 5.2 Notice to remove

Division 2 – Offences and penalties

- 5.3 Offences
- 5.4 Prescribed offences
- 5.5 Form of notices



LOCAL GOVERNMENT ACT 1995 CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT 1978

SHIRE OF GINGIN

CONTROL OF VEHICLES (OFF-ROAD AREAS) LOCAL LAW 2020

Under the power conferred by the *Control of Vehicles (Off-road Areas) Act 1978*, the *Local Government Act 1995* and under all other powers enabling it, the local government of the Shire of Gingin resolved on to make the following local law.

Part 1 - Preliminary

1.1 Title

This is the Shire of Gingin Control of Vehicles (Off-road Areas) Local Law 2020.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.3 Application

This local law applies throughout the district.

1.4 Terms used

(1) In this local law, unless the context otherwise requires -

authorised person means a person appointed by the local government under section 38(3) of the *Control of Vehicles (Off-road Areas) Act*, or appointed under section 9.10 of the *Local Government Act*, to perform any of the functions of an authorised person under this local law;

CEO means the chief executive officer of the local government;

commencement day means the day on which this local law comes into operation under clause 1.2:

Council means the council of the local government;

Control of Vehicles (Off-road Areas) Act means the Control of Vehicles (Off-road Areas) Act 1978;

Control of Vehicles (Off-road Areas) Regulations means the Control of Vehicles (Off-road Areas) Regulations 1979;

district means the district of the local government;

drive has the meaning in the Control of Vehicles (Off-road Areas) Act;

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes, in relation to any such animal—

(a) any class of animal or individual members;

1

- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

infrastructure means any thing installed or placed on the Off-road Vehicle Area by the local government or any public authority, including a curb, bollard, pole, gate, fence, sign, bin, structure or building;

local government means the Shire of Gingin;

Local Government Act means the Local Government Act 1995;

Local Government Regulations means the *Local Government (Functions and General) Regulations* 1996;

local public notice means notice given in accordance with the procedure set out in section 1.7 of the *Local Government Act*:

nuisance means-

- (a) an activity or condition which is harmful or annoying and which may give rise to legal liability in the tort of public or private nuisance at common law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her right to use or occupy the Off-road Vehicle Area; or
- (c) an interference which causes material damage to the Off-road Vehicle Area or to any infrastructure;

Off-road Vehicle Area means any off-road vehicle area declared as a Permitted Area under section 12 of the Control of Vehicles (Off-road Areas) Act, within the district of the local government;

owner, in relation to property, or a vehicle, means -

- (a) the person who is entitled to possession of the property, or the vehicle; or
- (b) if there are several persons entitled to its immediate possession, the person whose entitlement is paramount;

permit means a permit issued under this local law;

permitted area has the meaning in the Control of Vehicles (Off-road Areas) Act;

permit holder means a person who holds a valid permit;

public authority has the meaning in the Control of Vehicles (Off-road Areas) Act;

ramp means a ramp, device or any other thing, designed or used to perform a stunt, make a jump or to propel a vehicle into the air;

sandboard means a board, sled or any other thing, designed or used for sand surfing or sandboarding:

trading means —

- the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in the Off-road Vehicle Area; or
- (b) displaying goods in the Off-road Vehicle Area for the purpose of-

- (i) offering them for sale or hire;
- (ii) inviting offers for their sale or hire;
- (iii) soliciting orders for them; or
- (iv) carrying out any other transaction in relation to them, and includes the setting up of a stall, or the conducting of a business at a stall; and

vehicle has the meaning in the Control of Vehicles (Off-road Areas) Act.

(2) A term that is used in this local law and is not defined in clause 1.4(1) has the meaning in the Control of Vehicles (Off-road Areas) Act or, if not defined in the Control of Vehicles (Off-road Areas) Act, the meaning in the Local Government Act.

1.5 Meaning of 'on'

In this local law a reference to 'on the Off-road Vehicle Area' or to 'in the Off-road Vehicle Area' includes 'on or in the Off-road Vehicle Area'.

Part 2 - Off-road Vehicle Area

Division 1 - Entry to the Off-road Vehicle Area

2.1 Entry restrictions

- (1) A person must not
 - (a) enter the Off-road Vehicle Area unless the fee or charge (if any) imposed by the local government in relation to use of, or admission to the area has been paid;
 - (b) enter or remain on the Off-road Vehicle Area except on those days and during those times when access is available to the public; or
 - (c) enter any area of the Off-road Vehicle Area that has been fenced off or closed to the public.
- (2) Subclause (1) does not apply in any of the circumstances referred to in clause 2.5(2)(b), (c) or (d).

2.2 Refusal of entry

- (1) An authorised person may refuse to allow entry to the Off-road Vehicle Area to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this local law.
- (2) A refusal under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

2.3 Direction to leave

An authorised person who reasonably suspects that a person has contravened a provision of any written law in respect of the Off-road Vehicle Area may direct the person to leave the Off-road Vehicle Area.

Division 2 - Activities on Off-road Vehicle Area

2.4 Activities requiring a permit

- (1) A person must not without a permit
 - (a) carry on trading on the Off-road Vehicle Area, unless the trading is conducted by a person who has a permit to carry on trading on the Off-road Vehicle Area under any written law; or
 - conduct a function or public event, or undertake any promotional activity, on the Off-road Vehicle Area.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

2.5 Using or driving a vehicle

- (1) A person must not -
 - use or drive a vehicle in the Off-road Vehicle Area, other than in an area designated for vehicle use;
 - (b) permit any person under the age of 16 years to use or drive a vehicle in the Off-road Vehicle Area, unless that person is under the supervision of an adult; and
 - (c) use or drive a vehicle in the Off-road Vehicle Area, at a speed that exceeds the speed limit applicable to the area where the vehicle is being driven.
- (2) The use or driving of a vehicle in circumstances that would otherwise be contrary to the provisions of clause 2.5(1)(a) or clause 2.5(1)(c) is permitted
 - (a) where the vehicle is used or intended to be used for the conveyance of an incapacitated person and is designed for use solely for that purpose;
 - (b) for purposes connected with providing medical treatment or responding to an injury or illness, or preventing, controlling, or extinguishing a fire;
 - (c) by an authorised person in the course of performing a function under a written
 - (d) by a person performing a function of a public authority under a written law; or
 - (e) by the holder of a permit issued under this local law, or a permit referred to in clause 2.4(1)(a), in accordance with the terms of the permit.

2.6 Using or riding a sandboard

A person must not use or ride a sandboard in the Off-road Vehicle Area other than in an area designated for sandboarding.

2.7 Ramps prohibited

A person must not erect or place, or allow to be erected or placed, any ramp or structure in the Off-road Vehicle Area, without the approval of the local government.

Division 3 — Behaviour on Off-road Vehicle Area

2.8 Behaviour which interferes with others

- (1) Unless authorised by the local government or an authorised person, a person must not, on the Off-road Vehicle Area, behave in a manner which —
 - (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use, or who is using the Off-road Vehicle Area;
 - (b) is likely to endanger a person who might use, or who is using the Off-road Vehicle Area; or
 - (c) creates a nuisance.
- (2) Subclause (1) does not apply in any of the circumstances referred to in clause 2.5(2)(b), clause 2.5(2)(c) or clause 2.5(2)(d).

2.9 Behaviour detrimental to Off-road Vehicle Area

- (1) In this clause, 'detrimental to the Off-road Vehicle Area', includes—
 - (a) interfering with any thing from the Off-road Vehicle Area (such as a rock, plant, equipment, infrastructure, fence, post or sign) provided for the use, enjoyment or safety of any person;
 - (b) destroying, interfering with or damaging any thing on the Off-road Vehicle Area, (such as a plant, equipment, infrastructure, fence, post or sign) provided for the use, enjoyment or safety of any person;
 - (c) interfering with or altering the natural structure of a sand dune within the Offroad Vehicle Area (including moving, digging or redirecting sand, soil or earth to create a hole or build a mount); or
 - (d) causing environmental harm to or a nuisance to or on the Off-road Vehicle Area.
- (2) Unless authorised by the local government or an authorised person, a person must not, on the Off-road Vehicle Area, behave in a manner which is or might be detrimental to the Off-road Vehicle Area.
- (3) Subclause (2) does not apply in any of the circumstances referred to in clause 2.5(2)(b), clause 2.5(2)(c) or clause 2.5(2)(d).

2.10 Taking or injuring any fauna

A person must not take, injure or kill, or attempt to take, injure or kill, any fauna which is on or above the Off-road Vehicle Area unless that person is authorised under a written law to do so.

2.11 Intoxicated persons not to enter

A person must not enter, or remain on, the Off-road Vehicle Area while intoxicated or under the influence of an illegal drug.

Division 4 - Signs

2.12 Signs

- (1) The local government may erect a sign on the Off-road vehicle Area specifying any conditions of use which apply to the Off-road vehicle Area.
- (2) A condition of use specified on a sign must not be inconsistent with any provision of this local law.
- (3) A person must comply with a sign erected under subclause (1).

Part 3 - Permits

Division 1—Applying for a permit

3.1 Application for a permit

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with subclause (2).
- (2) An application for a permit must—
 - (a) be in the form determined by the CEO;
 - (b) state the full name and address of the applicant;
 - (c) be signed by the applicant;
 - (d) contain the information required by the form;
 - (e) contain any other information required for that particular type of permit under this local law; and
 - (f) be forwarded to the local government together with any fee imposed by the local government under sections 6.16 to 6.19 of the *Local Government Act*.
- (3) Before determining an application for a permit, the CEO or an authorised person may require the applicant to provide additional information reasonably related to the application.
- (4) The CEO or an authorised person may require an applicant to give local public notice of the application for a permit.
- (5) The CEO or an authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

3.2 Decision on application for permit

- (1) The CEO or an authorised person, in respect of an application for a permit, may—
 - (a) grant the application unconditionally or subject to any conditions; or
 - (b) refuse to grant the application.
- (2) If an application for a permit is granted, the CEO or an authorised person is to issue to the applicant a permit in the form determined by the CEO.

- (3) If an application for a permit is refused, the CEO or an authorised person must give written notice of that refusal to the applicant.
- (4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the applicant, or the date specified in the notice, whichever is the later.

3.3 General restrictions on grant of permit

- (1) The CEO or an authorised person must not grant a permit if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The CEO or an authorised person must not grant a permit unless the CEO or the authorised person is satisfied that—
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit;
 - (b) the area at which the activity is to be provided is suitable for that purpose;
 - (c) a permit or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.
- (3) The CEO or an authorised person must not grant a permit to an applicant if the applicant has been found guilty of an offence under this local law unless the CEO or an authorised person is satisfied that there are exceptional reasons for doing so.

3.4 Compliance with a permit

A permit holder must comply with the terms and conditions (if any) of the permit.

Division 2—General

3.5 Duration of permit

A permit is valid for one year from the date on which it is issued unless it is-

- (a) otherwise stated in this local law or in the terms and conditions of the permit; or
- (b) cancelled under clause 3.7.

3.6 Transfer of permit

- (1) An application for the transfer of a valid permit is -
 - (a) to be made in writing;
 - (b) to be signed by the permit holder and the proposed transferee of the permit;
 - (c) to include whatever information that the CEO or an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any fee imposed by the local government under sections 6.16 to 6.19 of the Local Government Act.
- (2) The CEO or an authorised person may, in respect of an application for the transfer of a permit –

- (a) approve the application unconditionally or subject to any conditions; or
- (b) refuse the application.
- (3) If an application for the transfer of a permit is granted
 - the transfer is to be effected by an endorsement on the permit signed by the CEO or an authorised person;
 - (b) the CEO or an authorised person is to give the applicant written notice of the decision to grant the application, including a copy of any endorsement on the permit under paragraph (a); and
 - (c) the local government is not required to refund any part of any fee paid by the former permit holder.
- (4) If an application for transfer of a permit is refused, the CEO or an authorised person must give the applicant written notice of the decision.

3.7 Cancellation or suspension of permit

- (1) A permit may be cancelled by the local government if—
 - (a) the permit holder has not complied with a condition of the permit;
 - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit;
 - (c) the permit holder without the approval of the CEO or authorised person, has transferred or assigned, or sought to transfer or assign, the permit; or
 - (d) a written law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under subclause (1), the permit holder—
 - (a) must return the permit to the local government as soon as practicable; and
 - (b) is taken to have forfeited any fees paid in respect of the permit.

3.8 Nominee of permit holder

If a permit holder by reason of illness, accident or other sufficient cause is unable to carry on an activity authorised by a permit, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply as if the nominee was the permit holder.

Part 4 - Objections and appeals

4.1 Objection and appeal rights

Where the local government, the CEO or an authorised person makes a decision whether—

- (a) lo grant a person a permit or an approval; or
- (b) to amend, transfer or cancel a permit or an approval that a person has under this local law,

the provisions of Division 1 of Part 9 of the *Local Government Act* and regulation 33 of the *Local Government Regulations* apply to that decision.

Part 5 - Enforcement

Division 1-Notices

5.1 Liability for damage

- (1) If a person unlawfully damages or interferes with, the Off-road Vehicle Area or any infrastructure on the Off-road Vehicle Area, the local government or an authorised person may, by notice in writing to the person, require the person within the time specified in the notice to, at the option of the local government, pay the costs of—
 - (a) reinstating the Off-road Vehicle Area, or the infrastructure, to the state it was in prior to the occurrence of the damage or interference; or
 - (b) replacing that infrastructure.
- (2) If a person given a notice under subclause (1) fails to comply with the notice, the local government may recover the costs referred to in the notice as a debt due to it.

5.2 Notice to remove

If any thing is erected or placed on the Off-road Vehicle Area contrary to this local law, the local government or an authorised person may give a notice to—

- (a) the owner of the thing; or
- (b) any other person who may be responsible for the thing being erected or placed,

requiring the person who is given the notice to remove the thing in the manner (if any) and within the time specified in the notice.

Division 2—Offences and penalties

5.3 Offences

- (1) A person who—
 - (a) fails to do anything required or directed to be done under this local law; or
 - (b) fails to comply with a notice given to him or her under this local law; or
 - (c) does an act or omits to do an act contrary to this local law,

commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$100.

5.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 37 of the *Control of Vehicles (Off-road Areas) Act.*
- (2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.5 Form of notices

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in the *Control of Vehicles (Off-road Areas) Act.*
- (2) An infringement notice in respect of an offence against this local law may be given under section 37(1) of the *Control of Vehicles (Off-road Areas) Act* and is to be given in the form of Form 3 in Schedule 1 to the *Control of Vehicles (Off-road Areas) Regulations*.
- (3) A notice sent under section 37(5) of the *Control of Vehicles (Off-road Areas) Act* withdrawing an infringement notice is to be in the form of Form 4 in Schedule 1 to the Control of Vehicles (Off-road Areas) Regulations.



Schedule 1 - Prescribed offences

		Schedule 1 - Prescribed offences	[Clause E 4/4)]
ITERA	OLALIOT.	DECODIDITION OF OFFINEE	[Clause 5.4(1)]
ITEM NO.	CLAUSE NO.	DESCRIPTION OF OFFENCE	MODIFIED PENALTY
1	2.1(1)(a)	Failing to pay fee or charge for use of, or admission to, the Off-road Vehicle Area	
2	2.1(1)(b)	Unauthorised entry to the Off-road Vehicle Area	\$50
3	2.1(1)(c)	Unauthorised entry to an area of the Off-road Vehicle Area fenced off or closed to the public	\$50
4	2.4(1)(a)	Carrying on trading in the Off-road Vehicle Area without a permit	\$50
5	2.4(1)(b)	Conducting a function or undertaking a promotional activity on the Off-road Vehicle Area without a permit	\$50
6	2.5(1)(a)	Using or driving a vehicle in the Off-road Vehicle Area, other than in an area designated for vehicle use	\$50
7	2.5(1)(b)	Permitting a person under the age of 16 years to use or drive a vehicle in the Off-road Vehicle Area, without supervision of an adult \$\$50	
8	2.5(1)(c)	Using or driving a vehicle in the Off-road Vehicle Area \$50 in excess of the speed limit	
9	2.6	Using or riding a sandboard in the Off-road Vehicle \$50 Area other than in an area designated for sandboarding	
10	2.7	Erecting, placing or allowing to be erected or placed, any ramp or structure on the Off-road Vehicle Area	
11	2.8(1)(a)	Behaviour on the Off-road Vehicle Area which interferes with others	\$50
12	2.8(1)(b)	Behaviour on the Off-road Vehicle Area which endangers others	\$50
13	2.8(1)(c)	Behaviour on the Off-road Vehicle Area which creates a nuisance	\$50
14	2.9(2)	Behaviour on the Off-road Vehicle Area detrimental to the Off-road Vehicle Area \$50	
15	2.10	Taking or injuring fauna on the Off-road Vehicle Area	\$50
16	2.12(3)	Failure to comply with a sign regarding conditions of use of the Off-road Vehicle Area	\$50
17	3.4	Failure to comply with terms and conditions of a permit	\$50
18	5.3(1)(a)	Failure to comply with a direction	\$50
19	5.3(1)(b)	Failure to comply with a notice	\$50

Dated this day of	2021
The Common Seal of the Shire of Gingin was affixed by authority)
of a resolution of the Council in the)
presence of:)

COLIN WAYNE FEWSTER Shire President

AARON JOSEPH COOK Chief Executive Officer

11.1.2 SHIRE OF GINGIN MEETING PROCEDURES AMENDMENT LOCAL LAW 2021

File:	LAW/1		
Author:	Lee-Anne Burt – Governance Officer		
Reporting Officer: Aaron Cook – Chief Executive Officer			
Report Date:	16 March 2021		
Refer:	17 November 2020 Item 11.1.1		
Appendices:	Meeting Procedures Amendment Local Law 2021		
	2. Schedule of Submissions		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider whether Council wishes to make the Shire of Gingin Meeting Procedures Amendment Local Law 2021 in accordance with s.3.12(4) of the *Local Government Act* 1995.

BACKGROUND

The Shire of Gingin Meeting Procedures Amendment Local Law (Appendix 1) was adopted by Council at its meeting on 20 October 2020 for the purpose of advertising the local law for public comment.

A notice advising of Council's intention and of the purpose and effect of the local law was duly published in accordance with s.3.12 of the *Local Government Act 1995* (the Act), with the required public submission period closing on 25 January 2021.

COMMENT

Eight submissions have been received with respect to the proposed Meeting Procedures Amendment Local Law. A Schedule of Submissions and Administration comments addressing the points raised in the submissions is provided as **Appendix 2**. All submissions received oppose the removal of Deputations/Presentations from the order of business for Council meetings.

The common theme of concern is a belief that the intent of the proposed local law amendment is to remove the opportunity for members of the public to address Council about issues of concern to them in an open and accountable forum. As detailed in the Officer's Report presented to Council at its meeting on 17 November 2020, this is absolutely not the case; the sole aim of the proposal to remove Deputations/Presentations from the order of business for Council meetings is to make meeting attendance more convenient for members of the public wishing to attend Council meetings. There would be no decrease in time commitment for Councillors or Council officers, and Deputations/Presentations would still be made before the full Council in a forum that is open to the public. The only change that would occur if Council resolves to proceed with the proposed local law is that Deputations/Presentations will take place immediately prior to the commencement of the formal Council meeting.

ORDINARY MEETING SHIRE OF GINGIN 16/03/2021

However, after taking into consideration the submissions received, Council may decide that the degree of public benefit to be realised is not significant enough to warrant proceeding with the amendment of its Meeting Procedures Local Law. If that is the case, then Council may resolve not to proceed with the Local Law at this point in time.

In accordance with the requirements of the Act, a copy of the proposed local law was submitted to the Minister for Local Government for consideration. The Department of Local Government, Sport and Cultural Industries subsequently provided advice recommending a number of amendments involving terminology and formatting as follows:

Clause	Department Recommendation	Action Taken
Cl.3	Clauses should be formatted as a single sentence. It is suggested that the clause be split into two separate subclauses or reformatted into a single sentence (example provided).	Supported. Clause has been reformatted as a single sentence in accordance with the example provided by the Department.
Cl.4 & 5	In line with best drafting principles, it is suggested that clauses 4 and 5 be reformatted (example provided).	Supported. Clauses have been reformatted in accordance with the example provided by the Department.
Cl.6	When State legislation is amended by Parliament the remaining clauses are usually not renumbered. This avoids the need to update existing cross references which may end up inaccurate if the numbering has changed. Whilst renumbering may be desirable in some circumstances, it is not legally necessary. The Shire has the option of retaining the current numbering in the principal local law. Therefore, it is suggested that cl.6 be deleted.	Supported. Clause has been deleted.

It is not considered that the amendments made have an effect on the intent of any part of the local law, and therefore are not of sufficient magnitude to require recommencement of the public submission process.

In the event that Council resolves to make the local law as presented, then the following sequence of events will commence:

- 1. The adopted local law will be published in the Government Gazette and a further copy provided to the Minister for Local Government.
- 3. After gazettal, local public notice will be given stating the title of the local law, its purpose and effect (including the date it will come into operation) and advising where copies of the local law may be inspected or obtained.
- 3. A copy of the local law, together with the accompanying explanatory memorandum, will then be submitted to the WA Parliamentary Joint Standing Committee on Delegated Legislation for scrutiny.

The local law will come into effect two weeks after gazettal.

Council should be aware that it is possible that, after reviewing the local law, the Joint Standing Committee may require certain amendments to be made.

If this is the case, then the Shire will be required to recommence the process of advertising for public comment, resolving again to make the local law/s, gazettal and re-submission to the Committee for further consideration.

Alternatively, if Council resolves not to adopt the proposed local law then no further action will be taken in relation to this matter and the existing Meeting Procedures Local Law 2014 will remain in place in its current form.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995
Part 3 – Functions of local governments
Division 2 – Legislative functions of local governments
Section 3.5 – Legislative power of local governments
Section 3.12 – Procedure for making local laws

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Governance
Objective	5 – To demonstrate effective leadership, governance and advocacy on
	behalf of community
Outcome	N/A
Key Service	N/A
Areas	
Priorities	N/A

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Vis SECONDED: Councillor Court

That Council adopt the Shire of Gingin Meeting Procedures Amendment Local Law 2021 as presented in Appendix 1.

CARRIED BY ABSOLUTE MAJORITY

8-0

APPENDIX 1

LOCAL GOVERNMENT ACT 1995

SHIRE OF GINGIN

MEETING PROCEDURES AMENDMENT LOCAL LAW 2021

Under the power conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gingin resolved on to make the following local law.

1. Title

This is the Shire of Gingin Meeting Procedures Amendment Local Law 2021.

2. Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

3. Principal Local Law

This local law amends the Shire of Gingin Meeting Procedures Local Law 2014 as published in the Government Gazette on 6 November 2014.

4. Clause 4.2 amended

In clause 4.2(1) delete ", deputations and presentations".

5. Clause 4.7 amended

In clause 4.7(3)(c) delete	"or deputation	ı".
Dated this	. of	2021
The Common Seal of the Shire was affixed by authority of a resolution of the Council ir presence of:	•) } }

COLIN WAYNE FEWSTER Shire President AARON JOSEPH COOK Chief Executive Officer

APPENDIX 2

SCHEDULE OF SUBMISSIONS

Proposed Shire of Gingin Meeting Procedures Amendment Local Law

No.	Submitter	Submission Detail	Officer Comment
1,	Ratepayer	The submitter does not support the proposed local law and makes the following comment: As a ratepayer I am against this proposed change in local law. How would a ratepayer be able to raise issues in a public forum and have that recorded on official minutes?	 There is no suggestion that Council will stop accepting deputations from members of the public. The proposal is to remove deputations from the official order of business for Council meetings, and to set aside time for them to take place before the Council meeting starts. This will mean that Council can proceed more promptly to the actual business of the meeting, which will benefit members of the public attending the meeting who have an interest in a specific item, but not necessarily in the subject of a deputation. The only change proposed to Deputations and Presentations is the timing. Members of the public will still be able to request a Deputation to address Council on any matter of concern, or to attend and listen to Deputations if they wish to, and all other arrangements will remain the same. With respect to recording in the Minutes, Council Minutes don't currently include the actual detail of deputations – only a heading giving the subject, and the names of the speakers
2.	Resident	The submitter does not support the proposed local law and makes the following comment: I have read the most appalling information from Saturday's paper. Surely must be incorrect saying that all deputations and representation will be voted out by the Gingin local law. Do we the people not vote you into power. Are you then supposed to enact the bylaws on our behalf after having HEARD our opinions. Since when did you the council become God or our parent who knows best.	who addressed Council on the matter. There is no suggestion that Council will stop accepting deputations from members of the public. The proposal is to remove deputations from the official order of business for Council meetings, and to set aside time for them to take place before the Council meeting starts. This will mean that Council can proceed more promptly to the actual business of the meeting, which will benefit members of the public attending the meeting who have an interest in a specific item, but not necessarily in the subject of a deputation. The only change proposed to Deputations and Presentations is the timing. Members of the public will still be able to request a Deputation to address Council on any matter of concern, or to attend and listen to Deputations if they wish to, and all other arrangements will remain the same.

3.	Ratepayer	The submitter does not support the proposed local law and	As for Submission 2.
		makes the following comment:	
		I [name provided] object to these Law changes which are being proposed by the Shire of Gingin.	
4.	Ratepayer	The submitter does not support the proposed local law and makes the following comment: After reading some of the minutes on your different meetings on your web site very few if any have a Deputations or Presentations put! Hardly any, so I cannot see the need to change the system and order that is currently in place. The time you will save is miniscule at best, so I do not agree with any change to the current system in place.	There is no intention of taking away the opportunity for any member of the public to request a deputation to address Council on any matter. If Council ultimately decides to amend the Meeting Procedures Local Law, then the only thing that will change is the time at which Deputations will be held. Deputations will continue to be completely open to the public, and all other current arrangements will remain in place. In addition, Public Question Time will still remain part of the order of business for meetings, as required by the Local Government Act 1995.
		1. Why didn't the Shire of Gingin clearly post this proposal on their web site for the whole of the area to view, or on the Moore River News as an example? **The Company of the Shire of Gingin clearly post this proposal on their web site for the whole of the area to view, or on the Moore River News as an example? **The Company of the Shire of Gingin clearly post this proposal on their web site for the whole of the area to view, or on the Moore River News as an example? **The Company of the Shire of Gingin clearly post this proposal on their web site for the whole of the area to view, or on the Moore River News as an example? **The Company of the Shire of Company of the Area of	1. The public notice for the proposed amendment which appeared in The West Australian on 28 November 2020 was published on the Shire of Gingin website under the Public Notices section which can be accessed by clicking on "Public Notices" in the Quick Links box on the Shire's home page. Unfortunately there was a delay in putting a headline in the Latest News box (also on the home page), but this was attended to on 1 December 2020. As well as the notice published in The West Australian on 28 November 2020, public notice also appeared in the Council to Community newsletter that was published on the Shire's Facebook page and website, and circulated electronically to everyone who has subscribed to receive it, on 3 December 2020. Notices were also placed on all of the Shire's official noticeboards (at the Gingin and Lancelin offices and public libraries).
		Deputations and Presentations have always been part of Gingin Council business and yet now it takes up to much time?	2. The intention of changing the time for Deputations isn't to save time for Council, but rather to make attendance easier and quicker for members of the public. Deputations would still take place in front of the full Council, so there would be no change to time commitments for Councillors or staff.
		This change is so the Gingin Council has more time to get to "Real Business" who gets to say that a persons Deputation or Presentation isn't real business to this rate payer? 2	However, a significant number of people who attend Council meetings are there because they have an interest in the outcome of an item that is not the subject of a deputation, and they take time out of their working day to attend. Removal of

		4. The proposed changes is for "timing" so the Council can get on with "Real Business" but we the rate payers pay the Council to do due diligence in the running of our Shire and as such we are paying them for their time to listen to Deputations and Presentations in the Council meetings not to be discussed add hock in the back rooms before the "Real Business" starts.	Deputations from the formal meeting process would mean that people who have no interest in the deputations presented on a particular day won't have to sit through them if they don't want to. Conversely, because Deputations would remain open to the public, and people who do want to listen (whether they have a specific interest or not), will be able and welcome to do so.
		I am not an antagonist or stirrer but I feel that all Rate Payers are aggrieved by these changes because at the very root of the proposal it's all about the Council saving a very small amount of time on Deputations and Presentations at the cost of transparency and open and free dialogue from its Rate Payers.	
5.	Ratepayer	The submitter does not support the proposed local law and makes the following comment:	There is no intention of taking away the opportunity for any member of the public to request a deputation to address Council on any matter. If Council ultimately decides to amend the Meeting
		It is important that the general public perceive that a Councils Business is open and accountable.	Procedures Local Law, then the only thing that will change is the time at which Deputations will be held. Deputations will continue to take place in front of the full Council and will remain open to the
		For the sake of accordingly 15 minutes saved within the time of a meeting, what gain and what for.	public, and all other current arrangements will remain in place. In addition, Public Question Time will still remain part of the order of business for meetings, as required by the <i>Local Government Act</i>
		Research shows that 90% of Councils retain the normal procedures.	1995.
		The other 10% are under investigation for one demeanour or another.	
		5. Forums are not formal meetings.	
		Freedom of individuals to present at a formal Council meeting that has their current issue under discussion on the agenda should be retained.	
6.	Ratepayer	The submitter does not support the proposed local law and makes the following comment:	There is no intention of requiring anyone seeking a deputation to have further meetings instead. Members of the public will still be able to request a deputation on any matter - the only change to the
		I consider that for those people who seek a deputation at council's chambers the usual process of requests to council has not satisfied their concern. Therefore requiring such people, however	current process being proposed is the timing of deputations. If Council decides to proceed with the Amendment Local Law, then deputations will be held on Council meeting day before the full
		few or infrequent such deputations are, to undergo further meetings is not a sufficient response.	Council and will be open to the public, but they will take place prior to the commencement of the meeting itself. This is the same
	I.	I meetings to not a sufficient response.	to the commencement of the meeting toen. This is the same

		I request that any modifications to the laws regarding deputations are such that the request for and fact of a deputation is a matter of public record.	process as that followed by the City of Wanneroo, which has conducted deputations prior to the commencement of its Council meetings for many years.
7.	Ratepayer	The submitter does not support the proposed local law and makes the following comment: The rationale for the changes appears to have invoked conflicting responses. Councilor's that I have spoken with state the issue is the extended meeting time, and yet Shire responses are more focused on the public not having to wait/hear whilst others have their say. Both responses are belittling our intelligence. I believe the motivation for this change is a result of my presentation to council October 20, 2020 regarding the Edward Island Track Closure. Indeed my deputation appeared to create much debate and changes to motions. I am certain the motion changes may have been uncomfortable for the Councilors, Shire President and Executive with them possibly feeling challenged whilst developing new motions in full view of the public. Nothing could be further from the truth. The process witnessed was what we expect and crave for in council meetings. I am now confident that with the proposed changes to meeting procedure, the council delegates will now have time and opportunity to discuss amongst themselves, out of public ear shot, any alterations to motions/agendas to sway meeting outcomes in favour of particular parties.	As stated in the Officer's Report presented to Council at its meeting on 17 November 2020, the primary benefit of conducting deputations and presentations prior to the start of a Council meeting is seen to be that, once meeting formalities and Public Question Time are completed, the meeting will be able to move directly to the items requiring Council's deliberation. This means that members of the public present in the Gallery with an interest in an item or items not related to a deputation will spend less time waiting for the meeting to reach their particular item of interest. The fact is that many deputations are from proponents in support of an application that is before Council for consideration, rather than addressing an issue of concem. It is true that the removal of Deputations/Petitions from the order of business may result in a shorter meeting, but there will be no change in the overall time commitment for Councillors and Officers as they will still be required to attend Deputations/Presentations prior to the Council meeting commencing. According to the Department of Local Government, Sport and Cultural Industries' Operational Guideline Clarity in Council Motions, "Problems within resolutions often emerge when recommendations from staff or a committee are subject to amendment during a council meeting. A difficult meeting environment may lead to mistakes being made in terms of clarity in an amended motion and the extent to which the ultimate motion addresses all issues involved". For that reason, any significant changes to an Officer recommendation must be subject to thorough debate during the meeting is "uncomfortable" for Councillors, a perusal of Minutes from previous Council meetings will show that it is not uncommon for Council to formulate and consider amendments or alternatives to Officer recommendations during a meeting. Any changes to a recommendation must be subjected to formal debate during the meeting, and what may have
		4	

been seen by the submitter as "discomfort" was actually the kind of intensive debate necessary to ensure that the motion was ultimately worded to accurately reflect Council's intent.

Where possible it is best practice for Councillors to formulate a proposed amendment or alternative motion prior to the Council meeting so that it can be circulated to other Councillors in time for them to read and consider it thoroughly before making a decision at the meeting. However proposed amendments to Officer recommendations or alternative motions cannot be discussed or debated by Council outside the confines of the Council meeting.

Points of Interest

1. It does NOT make attendance to the council meeting easier and quicker for the general public as advised by Lee-Anne Burt (Governance Officer). In fact hearing a deputation/presentation is a great forum for the rest of the people in the public gallery to hear of issues within their Shire that they may not have otherwise been aware of. As previously, the public have always been able to come and go within the public gallery so if any issues are not concerning then they are free to leave.

- 2. It is also of great concern that the deputations/presentations will NOT be recorded in the Minutes of meeting. There should be some record of the item that the deputation/presentation was referred to and the person that presented it as obviously it was a matter of such great concern that person/s have taken their time to research, write and present these concerns to the council. As we all know face to face communication is far more important as tone/body language account for > 90% "non verbal" and the "spoken word" 7%. It is also of interest to councillors and public alike to view ALL the meeting delegates reactions to
- 1. If Council resolves to proceed with amending its Meeting Procedures Local Law to remove Deputations/Presentations from the formal order of business for Council meetings, then the intention is that Deputations/Presentations will be conducted in an open forum immediately prior to the commencement of the meeting. Deputations/Presentations will remain completely open to the public if they wish to attend. It is correct that members of the public are free to leave the public gallery during deputations if they wish to do so; however, in practice this is difficult because there is no way of knowing how long deputations will run for and therefore there is the risk that in leaving the gallery a person may unwittingly miss the item that they are actually interested in if it occurs early in the meeting. The same risk applies to attending part way through a meeting.
- 2. The Minutes of a Council meeting are the official record of what happens during the meeting. If Council ultimately resolves to amend its Meeting Procedures Local Law to remove deputations from the Order of Business for Council meetings, then deputations will be held outside the formal meeting process and therefore won't be recorded in the Minutes of the meeting.

As advised above, if Council elects to proceed with the Meeting Procedures Amendment Local Law then

these deputations. As we know, a deputation may just sway a councilors vote and I believe the public have a right to view this in action.

Deputations/Presentations will continue to be made in front of the full Council and will be open to the public to attend.

- 3. It has been stated that the Local Government offer these deputations as a 'service to the public' and that it is not a requirement in Local Government Act 1995. I find this statement offensive and certainly high lights the arrogance displayed in many levels of government. If the public wants to hear the deputations/presentations within the council meeting proper, then they should be able to do so. The purpose of such meetings is for due process and fair representation of our immediate community.
- 3. It is a fact that there is no requirement in the Local Government Act 1995 for deputations to be included in the business of a Council meeting, although the Act does require that provisions be made during a Council meeting for Public Question Time. It is also a fact that local governments usually provide an opportunity for members of the public to make deputations to Council, even though they are not required to do so.

4. By keeping it in the Meeting Agenda, the debate and motions are seen as open and transparent to all councilors and public present. I encourage and so should all meeting participants that different views are debated. I am not concerned if the meeting takes longer and equally not concerned for councilors, presidents and CEO's to explore new motions within public view. It's healthy, as was the October 20th, 2020 motion for Edward Island Track to stay on. I applauded the discussion and interest reflected in that meeting.

As stated above, if Council proceeds with the proposed Meeting Procedures Amendment Local Law then Deputations/Presentations will remain completely open to the public.

As advised above, debate in relation to any matter on the

Agenda for a Council meeting must take place within the meeting. Section 5.23 of the Local Government Act 1995 requires that Council meetings must be open to the public unless the matter under discussion is deemed to be of a specified nature that makes it appropriate for the meeting to be closed to the public whilst debate takes place.

As noted previously, it is not uncommon for Council to consider amendments to recommendations, or alternative motions, during a meeting and these instances are noted in the Minutes of the meeting.

Even though Deputations are currently conducted within the confines of the Council meeting, there is no opportunity for debate at the time the deputation is presented, although Councillors may ask questions of the presenter. If the deputation relates to an item on the Agenda for that meeting, then Council must reserve debate until the meeting reaches the item concerned. If the deputation is not in relation to an item on the Agenda then Councillors will bear the comments in mind if and when the matter is presented for formal consideration.

			<u> </u>
		I sincerely doubt the motivation for these changes is "only" in the interest of the public being unnecessarily held up but more importantly for the council to further manage/control their meetings. As we know these changes are to be tabled, ratified for the Department of Local Government endorsement and Procedures rewritten. Needlessiy consuming ratepayers resources and finances.	As previously noted, the removal of Deputations/Presentations from the formal meeting process will not lead to any changes in the way Deputations are conducted or to any opportunity for "closed debate" on the content of a deputation. With respect to the issue of resources required to progress the Amendment Local Law, the actual Local Law itself has already been drafted and is a very brief document. If Council resolves to proceed then all that is required is the publication of a notice for public information, publication of the local law in the Government Gazette, and submission of the Local Law and details of Council's decision to the Department of Local Government, Sport and Cultural Industries and to the Parliamentary Joint Standing Committee on Delegated Legislation. The last action required is to amend the existing Meeting Procedures Local Law by deleting the relevant clause. None of these actions is time consuming or requires a significant amount of expenditure. It is estimated that the required public notice and gazettal processes will cost in the vicinity of \$600-\$700 and will be accommodated as part of the normal course of business from within Council's existing budget allocations, in conjunction with the same process required for the proposed Control of Vehicles (Off-road Areas) Local Law.
8.	Ratepayer	The submitter does not support the proposed local law and makes the following comment:	The proposal is to remove deputations from the official order of business for Council meetings, and to set aside time for them to take place before the Council meeting starts. This will mean that
		I wish to state my objection to your proposal to remove Deputations and Presentations from Council meetings.	Council can proceed more promptly to the actual business of the meeting, which will benefit members of the public attending the meeting who have an interest in a specific item, but not necessarily
		I have not seen nor heard of any complaints regarding the current arrangements and can see of no logical reason to make such changes.	in the subject of a deputation.
9.	Resident	The submitter does not support the proposed local law and makes the following comment:	
		I strongly object to the removal of deputations from council meeting time.	
		If a person takes the time to discuss with locals, write and present a deputation, then I believe it should be presented at the council meeting proper and registered in the minutes of the meeting. If	If Council decides to proceed with the proposed Meeting Procedures Amendment Local Law then Deputations/Presentations will be conducted immediately prior to

the deputation is held before the council meeting, the councillors may have time to discuss amongst themselves motions or change that could be construed as vote swaying. Why not keep it in a public forum and keep it open and transparent?

the commencement of the Council meeting and in a public forum. In addition, proposed amendments to Officer recommendations or alternative motions cannot be debated by Council outside the confines of the Council meeting. Debate in relation to any matter on the Agenda for a Council meeting must take place within the meeting, and Section 5.23 of the Local Government Act 1995 requires that Council meetings must be open to the public unless the matter under discussion is deemed to be of a specified nature that makes it appropriate for the meeting to be closed to the public whilst debate takes place.

The motivation for these changes is not because public are held up by listening to deputations on a subject they are not personally interested in. I would be interest to how many written complaints the council has received about the length of time of meetings. If anything, the Shire of Ginglin council meetings are much shorter than some of the other City council meetings I have attended. I believe it of more importance to the council to give them more control. Once again I must reiterate that the council is supposed to represents their constituents — not run their own show based on their own conveniences.

Contrary to the submitter's statement, the aim of the proposed local law amendment is, as set out in the Officer's report submitted to the Council meeting on 17 November 2020, to benefit members of the public attending Council meetings. It will have no effect on the way in which deputations are conducted, or on how the information provided as part of a deputation is dealt with by Council.

There have been no written complaints received in relation to the length of Council meetings, however neither this or the fact that larger metropolitan Councils have longer meetings is considered to be a material factor warranting consideration.

The proposed amendment will not provide increased "convenience" for Council. Deputations would still take place in front of the full Council, so there would be no change to time commitments for Councillors or staff. Indeed, if progressed the amendment may well result in Councillors and staff being required to attend earlier on Council meeting days because the pre-Council meeting Briefing Session may commence earlier in order to provide time between the Briefing Session and the Council meeting for Deputations/Presentations.

11.1.3 2020 COMPLIANCE AUDIT RETURN

File:	COR/29
Author:	Genesia Koorasingh – Governance Support Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	16 March 2021
Refer:	Nil
Appendices:	2020 Compliance Audit Return

DISCLOSURES OF INTEREST

Nil

PURPOSE

To receive and consider the Audit and Governance Committee's recommendation with respect to the Shire of Gingin Compliance Audit Return for the period 1 January 2020 to 31 December 2020.

BACKGROUND

In accordance with Regulation 14 of the *Local Government (Audit) Regulations 1996*, all local governments are required to complete an annual Compliance Audit Return for submission to the Department of Local Government, Sport and Cultural Industries.

Regulation 14(3A) of the *Local Government (Audit) Regulations 1996* specifies that the Compliance Audit Return is to be reviewed by the Council's Audit Committee. The results of the review are to be presented to Council and the Compliance Audit Return submitted to Council for adoption, with the adopted Return to be submitted to the Department by 31 March of each year.

The completed 2020 Compliance Audit Return (Appendix 1) was presented to Council's Audit and Governance Committee on 2 March 2021. After considering the report, the Committee resolved to:

- 1. Acknowledge and report the results of the 2020 compliance audit process to Council; and
- 2. Recommend that Council adopt the 2020 Compliance Audit Return for the period 1 January 2020 to 31 December 2020, as shown in Appendix 1.

COMMENT

The Shire of Gingin's 2020 Compliance Audit Return has been conducted internally. The completed Return shows that, in general, the standard of compliance is good. However, a number of new compliance obligations arose in 2020 as a result of both the implementation of sections of the *Local Government Legislation Amendment Act 2019* and the State's COVID-19 response, and the audit process has revealed that a small number of these obligations were either not addressed, or only been addressed in part.

Attention is drawn to the following:

- 1. Optional Questions section (page 8 of 11 **Appendix 1**)
 - Q7. Did the CEO publish information on the local government's website in accordance with sections 5.96A(1), (2), (3) and (4)?

Response

In 2020 the Shire was only partially compliant with this requirement.

Sections 5.96A(1), (2), (3) and (4) of the *Local Government Act 1995* relate to the publication of information on the Shire's official website. In particular, s.5.96A(1) sets out information that must be made available on the website as follows:

- a. a map of the district showing the district boundaries and, if the district is divided into wards, the ward boundaries;
- b. an up-to-date consolidated version of any local law made by the local government in accordance with s3.12 that is in force;
- c. the annual budget;
- d. an up-to-date list of fees and charges imposed under s.6.16;
- e. current plans for the future of the district made under s.5.56;
- f. confirmed minutes of council or committee meetings;
- g. minutes of electors' meetings;
- notice papers and agenda relating to council or committee meetings (where the committee has delegated decision making powers and meetings are open to the public); and
- i. information of a kind prescribed for the purposes of s.5.96A(1) or required by another provision of the Act to be published on the website.

For the purposes of item i, Regulation 29C of the *Local Government* (Administration) Regulations 1996 prescribes a further range of information that must be published on the website, as follows:

- any adverse recommendation made by an authorised person under s.8.13(2) and provided to the local government in respect of the local government, its council, a council member or the CEO;
- ii. any adverse finding, recommendation or proposition made by an oversight entity and made available to the public in respect of the local government, its council, a council member or the CEO;

- iii. an up-do-date version of each policy of the local government;
- iv. the name of each Council member who lodged a primary return or annual return for a financial year beginning on or after 1 July 2020;
- v. the position of each employee who lodged a primary return or annual return for a financial year beginning on or after 1 July 2020;
- vi. the type, and the amount or value, or any fees, expenses or allowances paid to each council member during a financial year beginning on or after 1 July 2020.

In 2020, the Shire of Gingin met all of its obligations with respect to s.5.96A and Regulation 29C with the exception of the following:

- Specific details with respect to the names of each Council member, and the position of each employee, who lodged a primary or annual return during the financial year beginning 1 July 2020; and
- b. the type and value of fees, expenses or allowances paid to each Council member during the financial year beginning 1 July 2020.

This information was not published on the Shire's website.

Now that the omission has been identified, the required information will be made available on the Shire of Gingin's website.

- 2. Tenders for Providing Goods and Services section (page 9 of 11 **Appendix 1**)
 - Q8 Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?

Response

In 2020 the Shire of Gingin was only partially compliant with this requirement.

Regulation 17 of the *Local Government (Functions and General) Regulations* 1996 deals with the keeping of a tender register and specifies that:

- a. The CEO must keep a tender register and make it available for public inspection.
- The CEO must publish the tender register on the local government's official website.
- c. The tender register must include, for each request for tender:

- i. a brief description of the goods or services required;
- ii. particulars of any notice seeking expressions of interest, any person who submitted an express of interest and any list of acceptable tenderers prepared as a result of the expressions of interest process;
- iii. a copy of the notice of invitation to tender;
- iv. the name of each tenderer whose tender was opened;
- v. the name of any successful tenderer; and
- vi. the amount of consideration sought in the successful tender.

The Shire of Gingin's tender register complies with Regulation 17 in that it is available for public inspection and contains the required information.

However, in 2020 Regulation 17 was amended to require all local governments to publish a copy of the tender register on their official website, and this requirement was not complied with.

Now that the omission has been identified, the tender register will be made available on the Shire of Gingin's website.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government (Audit) Regulations 1996

Reg 14 – Compliance audits by local governments

Reg 15 – Compliance audit return, certified copy of etc. to be given to Executive Director

POLICY IMPLICATIONS

Policy 1.33 Elected Member Training

It will be necessary to present Policy 1.33 to Council for adoption by absolute majority.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Balcombe SECONDED: Councillor Morton

That Council:

1. Acknowledge and report the results of the 2020 compliance audit process to Council; and

2. Adopt the 2020 Compliance Audit Return for the period 1 January 2020 to 31 December 2020, as shown in Appendix 1.

CARRIED UNANIMOUSLY

APPENDIX 1



Gingin - Compliance Audit Return 2020

Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government, Sport and Cultural Industries together with a copy of the relevant minutes.

No	Reference	Question	Response	Comments	Respondent
1	s3.59(2)(a) F&G Regs 7,9,10	Has the local government prepared a business plan for each major trading undertaking that was not exempt in 2020?	N/A	No Major Trading undertaking in 2020	Genesia Koorasingh
2	s3.59(2)(b) F&G Regs 7,8,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2020?	N/A	No Major Land Transactions in 2020	Genesia Koorasingh
3	s3.59(2)(c) F&G Regs 7,8,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2020?	N/A	No Major Land Transactions in 2020	Genesia Koorasingh
4	s3.59(4)	Has the local government complied with public notice and publishing requirements for each proposal to commence a major trading undertaking or enter into a major land transaction or a land transaction that is preparatory to a major land transaction for 2020?	N/A	No major trading undertaking in 2020 or major land transaction in 2020	Genesia Koorasingh
5	s3.59(5)	During 2020, did the council resolve to proceed with each major land transaction or trading undertaking by absolute majority?	N/A	No major trading undertaking in 2020 or major land transaction in 2020	Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
1	s 5.1 6	Were all delegations to committees resolved by absolute majority?	N/A	No delegations to committees	Genesia Koorasingh
2	s5.16	Were all delegations to committees in writing?	N/A	No delegations to committees	Genesia Koorasingh
3	s5.17	Were all delegations to committees within the limits specified in section 5.17?	N/A	No delegations to committees	Genesia Koorasingh
4	s5. 1 8	Were all delegations to committees recorded in a register of delegations?	N/A	No delegations to committees	Genesia Koorasingh
5	s5.18	Has council reviewed delegations to its committees in the 2019/2020 financial year?	N/A	No delegations to committees	Genesia Koorasingh
6	s5.42(1) & s5.43 Admin Reg 18G	Did the powers and duties delegated to the CEO exclude those listed in section 5.43 of the Act?	Yes		Genesia Koorasingh
7	s5.42(1)	Were all delegations to the CEO resolved by an absolute majority?	Yes		Genesia Koorasingh
8	s5.42(2)	Were all delegations to the CEO in writing?	Yes		Genesia Koorasingh
9	s5.44(2)	Were all delegations by the CEO to any employee in writing?	Yes		Genesia Koorasingh
10	s5.16(3)(b) & s5.45(1)(b)	Were all decisions by the council to amend or revoke a delegation made by absolute majority?	Yes		Genesia Koorasingh
11	s5.46(1)	Has the CEO kept a register of all delegations made under Division 4 of the Act to the CEO and to employees?	Yes		Genesia Koorasingh
12	s5.46(2)	Were all delegations made under Division 4 of the Act reviewed by the delegator at least once during the 2019/2020 financial year?	Yes		Genesia Koorasingh
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record in accordance with Admin Reg 19?	Yes	As far as can be ascertained	Genesia Koorasingh

Disclosure of Interest						
No	Reference	Question	Response	Comments	Respondent	
1	s5.67	Where a council member disclosed an interest in a matter and did not have participation approval under sections 5.68 or 5.69, did the council member ensure that they did not remain present to participate in discussion or decision making relating to the matter?	Yes		Genesia Koorasingh	



No	Reference	Question	Response	Comments	Respondent
2	s5.68(2) & s5.69 (5) Admin Reg 21A	Were all decisions regarding participation approval, including the extent of participation allowed and, where relevant, the information required by Admin Reg 21A, recorded in the minutes of the relevant council or committee meeting?	Yes		Genesia Koorasingh
3	s5.73	Were disclosures under section sections 5.65, 5.70 or 5.71A(3) recorded in the minutes of the meeting at which the disclosures were made?	Yes		Genesia Koorasingh
4	s5.75 Admin Reg 22, Form 2	Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?	Yes		Genesia Koorasingh
5	s5.76 Admin Reg 23, Form 3	Was an annual return in the prescribed form lodged by all relevant persons by 31 August 2020?	Yes		Genesia Koorasingh
6	s5.77	On receipt of a primary or annual return, did the CEO, or the mayor/president, give written acknowledgment of having received the return?	Yes		Genesia Koorasingh
7	s5.88(1) & (2)(a)	Did the CEO keep a register of financial interests which contained the returns lodged under sections 5.75 and 5.76?	Yes		Genesia Koorasingh
8	s5.88(1) & (2)(b) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70, 5.71 and 5.71A, in the form prescribed in Admin Reg 28?	Yes		Genesia Koorasingh
9	s5.88(3)	When a person ceased to be a person required to lodge a return under sections 5.75 and 5.76, did the CEO remove from the register all returns relating to that person?	Yes		Genesia Koorasingh
10	s5.88(4)	Have all returns removed from the register in accordance with section 5.88(3) been kept for a period of at least five years after the person who lodged the return(s) ceased to be a person required to lodge a return?	Yes		Genesia Koorasingh
11	s5.89A(1), (2) & (3) Admin Reg 28A	Did the CEO keep a register of gifts which contained a record of disclosures made under sections 5.87A and 5.87B, in the form prescribed in Admin Reg 28A?	Yes		Genesia Koorasingh
12	s5.89A(5) & (5A)	Did the CEO publish an up-to-date version of the gift register on the local government's website?	N/A	COUNCIL MADE NO DECISONS REGARDING PARTICIPATION APPROVAL IN 2020	Genesia Koorasingh
13	s5.89A(6)	When a person ceases to be a person who is required to make a disclosure under section 5.87A or 5.87B, did the CEO remove from the register all records relating to that person?	N/A		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
14	s5.89A(7)	Have copies of all records removed from the register under section 5.89A (6) been kept for a period of at least five years after the person ceases to be a person required to make a disclosure?	Yes		Genesia Koorasingh
15	Rules of Conduct Reg 11(1), (2) & (4)	Where a council member had an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person, did they disclose the interest in accordance with Rules of Conduct Reg 11(2)?	Yes		Genesia Koorasingh
16	Rules of Conduct Reg 11(6)	Where a council member disclosed an interest under Rules of Conduct Reg 11 (2) was the nature of the interest recorded in the minutes?	Yes		Genesia Koorasingh
17	s5.70(2) & (3)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to council or a committee, did that person disclose the nature and extent of that interest when giving the advice or report?	Yes		Genesia Koorasingh
18	s5.71A & s5.71B (5)	Where council applied to the Minister to allow the CEO to provide advice or a report to which a disclosure under s5.71A(1) relates, did the application include details of the nature of the interest disclosed and any other information required by the Minister for the purposes of the application?	N/A		Genesia Koorasingh
19	s5.71B(6) & s5.71B(7)	Was any decision made by the Minister under subsection 5.71B(6) recorded in the minutes of the council meeting at which the decision was considered?	N/A		Genesia Koorasingh
20	s5.103 Admin Regs 34B & 34C	Has the local government adopted a code of conduct in accordance with Admin Regs 34B and 34C to be observed by council members, committee members and employees?	Yes		Genesia Koorasingh
21	Admin Reg 34B(5)	Has the CEO kept a register of notifiable gifts in accordance with Admin Reg 34B(5)?	Yes		Genesia Koorasingh

Disposal of Property						
No	Reference	Question	Response	Comments	Respondent	
1	s3.58(3)	Where the local government disposed of property other than by public auction or tender, did it dispose of the property in accordance with section 3.58(3) (unless section 3.58(5) applies)?	Yes		Genesia Koorasingh	
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property?	Yes		Genesia Koorasingh	

4 of 11



Elections					
No	Reference	Question	Response	Comments	Respondent
1	Elect Regs 30G(1) & (2)	Did the CEO establish and maintain an electoral gift register and ensure that all disclosure of gifts forms completed by candidates and donors and received by the CEO were placed on the electoral gift register at the time of receipt by the CEO and in a manner that clearly identifies and distinguishes the forms relating to each candidate?	N/A	No elections conducted in 2020	Genesia Koorasingh
2	Elect Regs 30G(3) & (4)	Did the CEO remove any disclosure of gifts forms relating to an unsuccessful candidate, or a successful candidate that completed their term of office, from the electoral gift register, and retain those forms separately for a period of at least two years?	N/A		Genesia Koorasingh
3	Elect Regs 30G(5) & (6)	Did the CEO publish an up-to-date version of the electoral gift register on the local government's official website in accordance with Elect Reg 30G(6)?	N/A		Genesia Koorasingh

Finance					
No	Reference	Question	Response	Comments	Respondent
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act?	Yes		Genesia Koorasingh
2	s7.1B	Where the council delegated to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority?	N/A	No Powers or duties delegated to Audit and Governance Committee	Genesia Koorasingh
3	s7.3(1) & s7.6(3)	Was the person or persons appointed by the local government to be its auditor appointed by an absolute majority decision of council?	Yes	Greg Godwin 310219	Genesia Koorasingh
4	s7.3(3)	Was the person(s) appointed by the local government under s7.3(1) to be its auditor a registered company auditor or an approved auditor?	Yes	Moore Australia (WA)	Genesia Koorasingh
5	s7.9(1)	Was the auditor's report for the financial year ended 30 June 2020 received by the local government by 31 December 2020?	Yes	Completed 21/12/2020	Genesia Koorasingh
6	s7.12A(3)	Where the local government determined that matters raised in the auditor's report prepared under s7.9 (1) of the Act required action to be taken, did the local government ensure that appropriate action was undertaken in respect of those matters?	Yes		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
7	s7.12A(4)(a)	Where matters identified as significant were reported in the auditor's report, did the local government prepare a report that stated what action the local government had taken or intended to take with respect to each of those matters?	Yes	Audit Committee meeting 2/03/2021 & Council Meeting 16 March 2021	Genesia Koorasingh
8	s7.12A(4)(b)	Where the local government was required to prepare a report under s.7.12A(4)(a), was a copy of the report given to the Minister within three months of the audit report being received by the local government?	Yes		Genesia Koorasingh
9	s7.12A(5)	Within 14 days after the local government gave a report to the Minister under s7.12A(4)(b), did the CEO publish a copy of the report on the local government's official website?	Yes	Will be published after it has been sent to the minister	Genesia Koorasingh
10	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives and scope of the audit, a plan for the audit, details of the remuneration and expenses paid to the auditor, and the method to be used by the local government to communicate with the auditor?	N/A		Genesia Koorasingh
11	Audit Reg 10(1)	Was the auditor's report for the financial year ending 30 June received by the local government within 30 days of completion of the audit?	Yes	Received 22/12/2021	Genesia Koorasingh

No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 19C	Has the local government adopted by absolute majority a strategic community plan? If Yes, please provide the adoption date or the date of the most recent review in the Comments section?	Yes	21/05/2019 Council minutes 11.1.4	Genesia Koorasingh
2	Admin Reg 19DA (1) & (4)	Has the local government adopted by absolute majority a corporate business plan? If Yes, please provide the adoption date or the date of the most recent review in the Comments section?	Yes	17/09/2019 Council Item 11.1.1	Genesia Koorasingh
3	Admin Reg 19DA (2) & (3)	Does the corporate business plan comply with the requirements of Admin Reg 19DA(2) & (3)?	Yes		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve a process to be used for the selection and appointment of the CEO before the position of CEO was advertised?	N/A	No CEO appointments in 2020	Genesia Koorasingh
2	s5.36(4) & s5.37 (3) Admin Reg 18A	Were all CEO and/or senior employee vacancies advertised in accordance with Admin Reg 18A?	N/A	No CEO or Senior Employees appointments in 2020	Genesia Koorasingh
3	Admin Reg 18E	Was all information provided in applications for the position of CEO true and accurate?	N/A	No CEO appointments in 2020	Genesia Koorasingh
4	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position under section 5.36(4)?	N/A	No CEO appointments in 2020	Genesia Koorasingh
5	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss senior employee?	N/A	No employment or dismissal Senior Employees appointments in 2020	Genesia Koorasingh
6	s5.37(2)	Where council rejected a CEO's recommendation to employ or dismiss a senior employee, did it inform the CEO of the reasons for doing so?	N/A	No employment or dismissal Senior Employees appointments in 2020	Genesia Koorasingh

Official Conduct					
No	Reference	Question	Response	Comments	Respondent
1	s5.120	Has the local government designated a senior employee as defined by section 5.37 to be its complaints officer?	N/A	The CEO is the complaints officer	Genesia Koorasingh
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that resulted in a finding under section 5.110(2)(a)?	No	the Shire of Gingin has not had a complaint resulting in a finding under s5.110(2)(a)	Genesia Koorasingh
3	s5.121(2)	Does the complaints register include all information required by section 5.121 (2)?	N/A		Genesia Koorasingh
4	s5.121(3)	Has the CEO published an up-to-date version of the register of the complaints on the local government's official website?	N/A	the Shire of Gingin has not had a complaint resulting in a finding under s5.110(2)(a)	Genesia Koorasingh

Optional Questions



No	Reference	Question	Response	Comments	Respondent
1	Financial Management Reg 5 (2)(c)	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Financial Management Reg 5(2)(c) within the three years prior to 31 December 2020? If yes, please provide the date of council's resolution to accept the report.	Yes	17 March2020	Genesia Koorasingh
2	Audit Reg 17	Did the CEO review the appropriateness and effectiveness of the local government's systems and procedures in relation to risk management, internal control and legislative compliance in accordance with Audit Reg 17 within the three years prior to 31 December 2020? If yes, please provide date of council's resolution to accept the report.	Yes	18.12.2018	Genesia Koorasingh
3	s5.87C(2)	Where a disclosure was made under sections 5.87A or 5.87B, was the disclosure made within 10 days after receipt of the gift?	Yes		Genesia Koorasingh
4	s5.87C	Where a disclosure was made under sections 5.87A or 5.87B, did the disclosure include the information required by section 5.87C?	Yes		Genesia Koorasingh
5	s5.90A(2)	Did the local government prepare and adopt by absolute majority a policy dealing with the attendance of council members and the CEO at events?	Yes		Genesia Koorasingh
6	s.5.90A(5)	Did the CEO publish an up-to-date version of the attendance at events policy on the local government's official website?	Yes		Genesia Koorasingh
7	s5.96A(1), (2), (3) & (4)	Did the CEO publish information on the local government's website in accordance with sections 5.96A(1), (2), (3), and (4)?	Yes	In part. No info relating to Admin Reg 29C(2)(d), 29C(2)(c) and 29(2)(f)	Genesia Koorasingh
8	s5.128(1)	Did the local government prepare and adopt (by absolute majority) a policy in relation to the continuing professional development of council members?	Yes		Genesia Koorasingh
9	s5.127	Did the local government prepare a report on the training completed by council members in the 2019/2020 financial year and publish it on the local government's official website by 31 July 2020?	Yes		Genesia Koorasingh
10	s6.4(3)	By 30 September 2020, did the local government submit to its auditor the balanced accounts and annual financial report for the year ending 30 June 2020?	Yes		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
1	F&G Reg 11A(1) & (3)	Does the local government have a current purchasing policy that complies with F&G Reg 11A(3) in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250,000 or less or worth \$250,000 or less?	Yes		Genesia Koorasingh
2	F&G Reg 11A(1)	Did the local government comply with its current purchasing policy in relation to the supply of goods or services where the consideration under the contract was, or was expected to be, \$250,000 or less?	Yes		Genesia Koorasingh
3	s3.57 F&G Reg 11	Subject to F&G Reg 11(2), did the local government invite tenders for all contracts for the supply of goods or services where the consideration under the contract was, or was expected to be, worth more than the consideration stated in F&G Reg 11(1)?	Yes		Genesia Koorasingh
4	F&G Regs 11(1), 12(2), 13, & 14(1), (3), and (4)	When regulations 11(1), 12(2) or 13 required tenders to be publicly invited, did the local government invite tenders via Statewide public notice in accordance with F&G Reg 14(3) and (4)?	Yes		Genesia Koorasingh
5	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than a single contract?	N/A		Genesia Koorasingh
6	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer notice of the variation?	Yes		Genesia Koorasingh
7	F&G Regs 15 & 16	Did the local government's procedure for receiving and opening tenders comply with the requirements of F&G Regs 15 and 16?	Yes		Genesia Koorasingh
8	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?	No	Tender Register was not published on the sites	Genesia Koorasingh
9	F&G Reg 18(1)	Did the local government reject any tenders that were not submitted at the place, and within the time, specified in the invitation to tender?	N/A		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
10	F&G Reg 18(4)	Were all tenders that were not rejected assessed by the local government via a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept?	Yes		Genesia Koorasingh
11	F&G Reg 19	Did the CEO give each tenderer written notice containing particulars of the successful tender or advising that no tender was accepted?	Yes		Genesia Koorasingh
12	F&G Regs 21 & 22	Did the local government's advertising and expression of interest processes comply with the requirements of F&G Regs 21 and 22?	N/A	No expression of interest sought	Genesia Koorasingh
13	F&G Reg 23(1) & (2)	Did the local government reject any expressions of interest that were not submitted at the place, and within the time, specified in the notice or that failed to comply with any other requirement specified in the notice?	N/A	No expression of interest sought	Genesia Koorasingh
14	F&G Reg 23(3)	Were all expressions of interest that were not rejected assessed by the local government?	N/A		Genesia Koorasingh
15	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services as an acceptable tenderer?	N/A		Genesia Koorasingh
16	F&G Reg 24	Did the CEO give each person who submitted an expression of interest a notice in writing of the outcome in accordance with F&G Reg 24?	N/A		Genesia Koorasingh
17	F&G Regs 24AD(2) & (4) and 24AE	Did the local government invite applicants for a panel of pre-qualified suppliers via Statewide public notice in accordance with F&G Reg 24AD(4) and 24AE?	N/A		Genesia Koorasingh
18	F&G Reg 24AD(6)	If the local government sought to vary the information supplied to the panel, was every reasonable step taken to give each person who sought detailed information about the proposed panel or each person who submitted an application notice of the variation?	N/A		Genesia Koorasingh
19	F&G Reg 24AF	Did the local government's procedure for receiving and opening applications to join a panel of pre-qualified suppliers comply with the requirements of F&G Reg 16, as if the reference in that regulation to a tender were a reference to a pre-qualified supplier panel application?	N/A		Genesia Koorasingh
20	F&G Reg 24AG	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers comply with the requirements of F&G Reg 24AG?	N/A		Genesia Koorasingh



No	Reference	Question	Response	Comments	Respondent
21	F&G Reg 24AH(1)	Did the local government reject any applications to join a panel of prequalified suppliers that were not submitted at the place, and within the time, specified in the invitation for applications?	N/A		Genesia Koorasingh
22	F&G Reg 24AH(3)	Were all applications that were not rejected assessed by the local government via a written evaluation of the extent to which each application satisfies the criteria for deciding which application to accept?	N/A	No panel of prequalified supplied established	Genesia Koorasingh
23	F&G Reg 24AI	Did the CEO send each applicant written notice advising them of the outcome of their application?	N/A		Genesia Koorasingh
24	F&G Regs 24E & 24F	Where the local government gave regional price preference, did the local government comply with the requirements of F&G Regs 24E and 24F?	N/A	No regional price preference in place	Genesia Koorasingh

I certify this Compliance Audit Return has been adopted by council at it	s meeting on
Signed Mayor/President, Gingin	Signed CEO, Gingin

11.1.4 REVIEW OF COUNCIL POLICY MANUAL SECTION 2 - POLICIES 2.2 TO 2.30

File:	COR/28-1				
Author:	Lee-Anne Burt – Governance Officer				
Reporting Officer:	Aaron Cook – Chief Executive Officer				
Report Date:	16 March 2021				
Refer:	21 January 2020 Item 11.1.2				
Appendices:	1. Current Policies 2.2 to 2.30				
	2. Amended Policy 2.30 Organisational Structure and				
	Designated Senior Employees				
	3. New Policy 2.31 Transaction Cards				
	4. New Policy 2.32 Gratuities				
	5. New Policy 2.33 Execution of Documents				

DISCLOSURES OF INTEREST

Nil

PURPOSE

To undertake a review of Council Policies 2.2 to 2.30.

BACKGROUND

There is no legislative requirement for local governments to put policies in place, although s. 2.7 of the *Local Government Act 1995* identifies determination of the local government's policies as part of the role of Council.

Policies are documents designed to provide guidance to staff and Elected Members on what is to be considered when dealing with certain matters. They form the discretionary part of a local government's decision making, or the component that allows Council to make policy level decisions; implementation and day-to-day delivery is carried out by staff.

The Shire of Gingin's current policy manual has been in place since 1995. It has been a number of years since the last comprehensive review of the policy manual as a whole, although many of the policies have been reviewed individually from time to time. There is no statutory requirement for policies to be reviewed, although good governance dictates that review should be undertaken on a regular basis to ensure that policies remain relevant.

A review of Section One of the Policy Manual was undertaken by Council at its meeting on 21 January 2020. Further sections of the Policy Manual will be presented to future Council meetings as the review process progresses.

Policy 1.4 Council Policy Management requires that, where a new policy or major amendment to an existing policy is proposed, Councillors and senior staff are to be provided with a minimum of 21 days to provide feedback on the proposal prior to it being presented to Council for consideration. Any feedback and/or questions received can then be addressed as part of the Officer's Report to Council.

Proposals with respect to the review of Policy Manual Section Two were circulated to all Councillors and the Executive Management Team on 26 November 2020. The comment period closed on 22 January 2021, with no feedback being received.

COMMENT

Most of the policies currently contained within Section Two are very old and are redundant either because the issues they address are now covered by other means, or because they are operational matters that do not fall within the realm of Council policy.

Where it is proposed that a policy be retained (possibly with amendment), then the policy has been reformatted to meet current standards.

The following comments address each policy individually. All existing policies within Section 2 are provided for Council's information as **Appendix 1**. Proposed new or amended policies are provided individually as separate appendices.

1. Policy 2.2 Staff – New and Casual Positions

Recommendation – that the policy be repealed.

Policy 2.2 was first adopted in 1995. It deals with two specific issues as follows:

- No new positions can be created without the express authorisation of Council; and
- 2. The CEO is authorised to employ casual and part time staff as and when required, provided that provision has been made in the annual budget.

Repeal of Policy 2.2 is recommended for the following reasons:

- Section 5.2 of the Local Government Act 1995 (the Act) requires the Council to ensure that there is an appropriate structure for administering the local government. However, the employment, management, supervision, direction and dismissal of employees other than the CEO (subject to the constraints of s.5.37(2) in relation to senior employees), and management of the day to day operations of the local government, are the responsibility of the CEO as specified in s.5.41(c), (d) and (g) of the Act.
- 2. Council Policy 2.30 Organisational Structure and Senior Employees recognises that part of Council's role is to ensure that there is an appropriate structure for administering the local government and requires that the CEO keep Council informed of any changes to the organisational structure. If Council isn't satisfied that an appropriate structure exists, then it can, by resolution, direct the CEO to establish a structure in accordance with Council's advice.

Policy 2.30 is dealt with at Item 24. Although, strictly speaking, Council has no role to play in the creation of new staff positions provided that it is satisfied with the overall organisational structure, Policy 2.30 ensures that Council is made aware of any proposed changes to the organisational structure, including the creation of new positions.

3. With respect to Part 2 of Policy 2.2, Council has no power to "authorise" the CEO to employ casual and part-time staff.

2. Policy 2.7 Staff Telephones

Recommendation – that the policy be repealed.

Policy 2.7 was adopted in 1995 and specifies that Council will provide the CEO, Executive Officers and senior staff with a mobile telephone, fully paid for by Council, for business use and limited private use.

The provision of mobile phones etc to the CEO, Executive Managers and other staff who are under contract, including private use provisions, is covered by individual contracts of employment for those officers.

The issue of mobile phones to other officers who may require a phone to carry out their duties is part of the CEO's responsibility to employ, manage, supervise, direct and dismiss other employees.

3. Policy 2.8 Use of Shire Vehicles

Recommendation – that the policy be repealed.

Policy 2.8 was adopted in 1995 and deals with the conditions and requirements for private and commuting use of motor vehicles by staff.

The conditions for use of Shire vehicles by staff forms part of the CEO's responsibility to employ, manage, supervise, direct and dismiss employees and should not be dealt with by a policy of Council.

4. Policy 2.10 Licensing of Shire Vehicles/Plant

Recommendation – that the policy be repealed.

Policy 1.4 was originally adopted in 1995 and requires that all Shire vehicles be licensed with "GG" registration plates.

Licensing procedures for vehicles forms part of the day to day operations of the Shire. It is not considered that a Council policy in this regard is either appropriate or necessary.

5. Policy 2.11 Staff Uniform

Recommendation – that the policy be repealed.

Policy 2.11 was adopted in 1995 and details the amount of contribution the Shire will make towards a corporate wardrobe for each administrative employee and executive officer and also references staff dress standards.

The provision of uniforms and setting of dress standards for staff is part of the CEO's responsibility for the employment, management, supervision, direction and dismissal of employees and is dealt with under operational policy and within the constraints of Council's adopted budget. It is not appropriate for these matters to be addressed by a policy of Council.

6. Policy 2.12 Protective Clothing

Recommendation – that the policy be repealed.

Policy 2.12 was adopted in 1995 and specifies that protective clothing shall be provided to all staff where work requirements dictate the provision of such clothing.

Under the *Occupational Safety and Health Act 1994* (s. 19 Duties of Employers), all employers are obligated to provide their employees with appropriate protective clothing and equipment as required to protect them against workplace hazards. There is therefore no requirement for a Council policy in this regard.

7. Policy 2.13 Conferences – Study Tours

Recommendation – that the policy be repealed.

Policy 2.13 was first adopted in 1995 and details the Council's position on attendance by the CEO and Senior Employees at conferences, study tours, seminars or conventions.

Although the stated objective of the Policy is to determine the nature and extent of <u>the Council's representation by staff</u> at conferences etc, in reality it addresses the attendance by officers at conferences for professional development, not events where an officer would be representing the Council as such.

The policy authorises the CEO to approve attendance at such conferences subject to certain considerations and also recognises that the CEO may approve or refuse staff attendance at other conferences or similar events.

In general, the CEO and other executive officers will have provisions for professional development included in their contracts of employment. Approval for attendance at conferences and similar by other employees is part of the CEO's responsibility for the employment, management, supervision, direction and dismissal of employees.

It is not considered that a Council policy in this regard is either appropriate or necessary.

8. Policy 2.14 Study Leave

Recommendation – that the policy be repealed.

Policy 2.14 was first adopted in 1995 and provides a Council position on the granting of study leave to employees for approved courses of study.

Professional development for employees and the granting of leave for any reason falls under the jurisdiction of the CEO, and it is not appropriate for these matters to form a policy of Council.

9. Policy 2.15 Statutory Advertising

Recommendation – that the policy be repealed.

Policy 1.14 was first adopted in 1995 and details the circumstances under which statutory advertising will be published in *The West Australian* and/or community publications.

Statutory advertising requirements are generally defined by the relevant legislation and vary from law to law. For instance, where local and/or statewide public notice is required under the *Local Government Act 1995*, then s.1.7 and 1.8 of the Act and Regulations 3A and 3B of the *Local Government (Administration) Regulations 1996* specify how the public notice is to be given. The *Bush Fires Act 1956*, which requires notice to be given in a number of separate instances, specifies in each instance how that notice is to be provided. The *Planning and Development (Local Planning Schemes) Regulations 2015* specify how public notice is to be given for a number of things such as advertising or revocation of a local planning strategy, adoption of a local planning scheme etc.

Statutory requirements for local or state-wide public notice are not discretionary, and therefore a policy in this regard is unnecessary.

10. Policy 2.16 Community Services Directory

Recommendation – that the policy be repealed.

Policy 2.16 was first adopted in 1995 and gives a Council position on assisting with the compilation of an annual Community Services Directory.

The Shire of Gingin is no longer involved in the production of such publications. Policy 2.16 is therefore obsolete.

11. Policy 2.17 Distribution of Political Material

Recommendation – that the policy be repealed.

Policy 2.17 was first adopted in 1995 and prohibits the distribution of political material on "Shire premises" except where buildings have been hired for the express purpose of a function by a political candidate.

The repeal of Policy 2.17 is recommended on the following grounds:

The policy does not give any definition for what is meant by "political material". There is no reference to "political material" in the Local Government Act 1995, the Electoral Act 1907 (WA) or the Commonwealth Electoral Act 1918. In each case, the legislation refers only to "electoral material" (in the case of the Local Government Act and the Electoral Act WA) or to "electoral matter" (in the case of the Commonwealth Electoral Act).

In all cases the legislation only relates to matter that is printed, published or distributed in direct connection to an election process, and then only sets out requirements for the material to identify the authorising person and/or the printer and to not be misleading or deceptive. In addition the Local Government Act prohibits any attempts to canvas or solicit votes, or to influence the vote of an elector, within a polling place or within 6m of the entrance to a polling place.

It is therefore unclear whether the policy was originally intended to apply to material that is associated with a specific electoral process, or to material that could more generally be interpreted as being political in nature.

2. Similarly, the policy does not give a definition of "Shire premises". Depending on how the term is interpreted, it could be argued that the policy could potentially be used to prevent actions such as the handing out of how to vote cards and similar material at elections where the polling place is a Shire-controlled property.

In its current form the policy is far too broad to provide effective guidance and if it were to be utilised and the action was challenged, it is possible that the policy could be found to be hindering freedom of political expression.

Given that Administration is not aware of any instance of the policy being utilised in the 25 years since it was adopted, it would appear that it does not serve any useful purpose.

12. Policy 2.18 Equal Opportunity Act

Recommendation – that the policy be repealed.

Policy 2.18 was first adopted in 1995. The policy recognises the Shire's legal obligations under the *Equal Opportunity Act 1984* and essentially consists of two parts:

- 1. Confirms the Shire's commitment to actively promoting equal employment opportunity based solely on merit; and
- 2. Provides a Statement of Commitment, Goals and Objectives towards the promotion of women in local government.

It is suggested that the policy should be repealed on the following grounds:

- 1. Compliance with the requirements of the *Equal Opportunity Act 1984* is a legal obligation. The Shire has no discretion with respect to compliance with the requirements of the Act.
- 2. The first section of the policy deals with employment of staff, which is solely the responsibility of the CEO (apart from the employment of the CEO) and is covered by Operational Policy 2.5 Discrimination, Harassment and Bullying.
- 3. The remainder of the policy, which was added in 2002, addresses the promotion of the involvement of women in local government. Whilst very worthy in and of itself, the Statement makes absolutely no mention of other groups currently under-represented as elected members such as younger people, people with a disability or those from a different ethnic background. The value of this statement is therefore open to question.

13. Policy 2.19 Smoking, Alcohol or Other Drugs

Recommendation – that the policy be repealed.

Policy 2.19 was first adopted in 1999 and deals with smoking in the workplace and the consumption of alcohol or other drugs by employees during working hours.

The CEO is responsible for the employment, management, supervision, direction and dismissal of employees, and smoking and the consumption of alcohol and drugs by employees is currently dealt with under Operational Policy 2.1 Drugs, Alcohol and Smoking.

Smoking in or near enclosed public places by members of the public is dealt with under the *Tobacco Products Control Act 2006*.

14. Policy 2.10 Corporate Credit Cards

Recommendation – that the policy be repealed and replaced with a new Policy 2.31 Transaction Cards.

Policy 2.20 was first adopted in 1995 and currently specifies which members of staff are authorised to hold and operate corporate credit cards, what credit limits will pertain to each staff position, and the internal controls relating to card usage.

A Council policy which addresses corporate transaction cards such as credit cards, fuel cards etc contributes to the local government fulfilling its obligations under Regulation 11 of the *Local Government (Financial Management) Regulations 1996*. Such a policy should address the criteria to be met in considering the issue of a transaction card, the types of transactions for which a card can be used, requirements for reporting on credit card usage to Council by the CEO and obligations to be met by cardholders.

The Department of Local Government, Sport and Cultural Industries' Operational Guideline No. 11 Use of Corporate Credit Cards identifies a series of issues which should be addressed by a Council policy relating to transaction cards. Whilst Council's current policy addresses a number of these issues, the following shortcomings have been identified:

- The policy currently addresses the use of corporate credit cards only. A policy of this nature should be applied to the use of all transaction cards, including fuel cards etc. A new Policy 2.31 Transaction Cards has been drafted for consideration (see Item 24).
- 2. The current policy identifies those positions authorised to operate credit cards, and the credit limits for those cards. These are matters that form part of the CEO's responsibility for the day to day operations of the Shire, and should be addressed by an operational procedure. Rather than detailing specific positions and limits, the Council policy should set out the general principles that will apply to the issue and operation of any corporate card.

A new Policy 2.31 Transaction Cards has been prepared and is provided for Council's consideration as **Appendix 4**.

15. Policy 2.21 Severance Pay (Section 5.50 of the Local Government Act 1995)

Recommendation – that the policy be repealed.

Section 5.50 of the *Local Government Act 1995* was introduced in 1995 in response to local governments making large payments or providing large entitlements (such as a motor vehicle) to long serving CEOs and senior employees when departing the local government. It requires every local government to prepare a policy in relation to employees whose employment with the local government is finishing, setting out:

- the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee (a gratuity); and
- 2. the manner of assessment of the additional amount.

Council's Policy 2.21 was first adopted in 1995. Although it purports to address the requirements of s.5.50, in reality it deals with redundancy and severance payments, and settlement of potential industrial or legal claims. It does not satisfy the requirement for Council to adopt a policy dealing with the payment of gratuities to employees (this is addressed separately in Item 25).

WALGA has advised that the issues covered by the Policy are outside the intent of s.5.50, and has provided the following specific comments:

1. A payment made to an employee to settle an industrial or legal claim is not a gratuity payment pursuant to s.5.50 of the LG Act and therefore the limits on an amount payable to resolve a claim should not be included within a Gratuity Policy or any other policy.

Often when an industrial or legal claim is made by an employee, they are in fact a former employee and are no longer employed by the local government. Further, Council is not required to approve a decision to offer an employee a settlement payment to resolve an industrial or legal claim. Any payment made to an employee would come from the employee costs line of the budget. A CEO can put Council on notice of a claim received and the amount the CEO has approved to settle the claim, however this is more for Council's information as Council is not required to make a decision to approve the payment.

2. The minimum redundancy payments for the [Shire's] outdoor employees are outlined in the Shire of Gingin Enterprise Agreement 2017 (Outside Workforce) (Agreement). The minimum redundancy payments for administrative employees arise from the Local Government Industry Award 2010 (Award).

Any policy regarding redundancy payments in excess of the Agreement or the Award should be a stand-alone policy and would not form part of a gratuity policy under s.5.50 of the LG Act.

A Redundancy Policy is only required where it is proposed to offer redundancy-related payments that exceed the provisions of the Shire's Enterprise Agreement or the Local Government Industry Award.

It is <u>not</u> current practice to offer redundancy payments in accordance with Policy 2.21. Any redundancies are dealt with in accordance with the Shire of Gingin Enterprise Agreement 2017 (for outside staff) or the Local Government Industry Award 2010 (for administrative staff). For that reason, and in accordance with the information provided above, Policy 2.21 is effectively obsolete.

16. Policy 2.22 Redundancy

Recommendation – that the policy be repealed.

Policy 2.22 was first adopted in 1997. The policy sets out a process for dealing with redundancy of employee positions and overlaps to some extent with Policy 2.21.

The comments provided with respect to Policy 2.21 (Item 15 above) also apply in this case. A Redundancy Policy should only be put in place where redundancy provisions over and above those contained in the current Enterprise Agreement and/or Local Government Industry Award are contemplated.

In particular, the following inconsistencies with respect to Policy 2.22 are pointed out:

- a. clauses (a) and (b) are outdated and irrelevant;
- b. any reference to a consultation process should refer back to the consultation clauses in the Enterprise Agreement and/or Award, as these provisions must be complied with for a redundancy to be genuine under the *Fair Work Act 2009*;

 the policy reference to maintaining pay upon redeployment to another role is more generous than that contained within the Enterprise Agreement or Award, and is not currently applied; and

d. the redundancy payments and notice provisions in the policy differ to those in the Enterprise Agreement and Award, and again are not currently applied.

17. Policy 2.23 Occupational Health and Safety

Recommendation – that the policy be retained.

Policy 2.23 was first adopted in 1997 and details the obligations of both the Shire of Gingin as an employer and the Shire's employees with respect to occupational safety and health.

There is no legislative requirement for Council to have an OSH policy in place, however the existence of such a policy gives a clear demonstration of the Shire's commitment to the safety of its employees.

The existing policy has been reviewed, and no amendments are considered necessary at this point in time other than placing the policy into the current policy format.

18. Policy 2.24 Staff Housing and Maintenance of the Property

Recommendation – that the policy be repealed.

Policy 2.24 was first adopted in 1997 and deals with the allocation and management of housing and accommodation for Shire staff.

With the exception of the CEO (for whom accommodation arrangements form part of the negotiated contract of employment), arrangements with respect to staff accommodation form part of the CEO's responsibilities with respect to both the employment, management, supervision, direction and dismissal of other employees, and management of the day to day operations of the local government. A policy of Council in this regard is therefore unnecessary and inappropriate.

19. Policy 2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances

Recommendation – that the policy be repealed and replaced by a new Policy 2.32 Gratuities.

Policy 2.25 was first adopted in 1998 and deals with the potential pay-out of accrued sick leave as a redundancy payment or as a retirement benefit.

The following comments are offered in respect to the specific provisions of Policy 2.25:

a. Clause (a) of the policy deals refers to payments to be made in the event of redundancy. This part of the policy overlaps to some extent with Policies 2.21 and 2.22, which have already been addressed in Items 15 and 16.

If the intention was to offer redundancy provisions over and above those contained within the Shire's Enterprise Agreement 2017 (for the outside workforce) or the Local Government Industry Award 2010 (for administrative staff), then these provisions would need to be set out in a separate Redundancy Policy. As has been previously advised, current practice is to deal with redundancies in accordance with the provisions of the Agreement and/or the Award.

b. Clause (b) entitles an employee who has worked for the Shire for five or more years, who reaches the age of 55 and who retires from the Shire and such retirement is a bona fide retirement from working life to a cash payment equivalent to 50% of any Sick Leave accrued during employment with the Shire which is unused at the time of retirement.

It is proposed to retain this entitlement, with some amendment; however a payment of this nature is considered to be a gratuity, which must be dealt with as part of Council's Gratuities Policy. The matter of a Gratuities Policy is dealt with separately in Item 26.

For the reasons provided above, Policy 2.25 is considered to be redundant.

20. Policy 2.26 Loss of Driver's Licence (Shire of Gingin Employees)

Recommendation – that the policy be repealed.

Policy 2.26 in its current form was adopted in 2013 and deals with the implications for Shire employees resulting from the loss of a driver's licence.

Matters of this nature form part of the CEO's responsibilities with respect to both the employment, management, supervision, direction and dismissal of other employees, and management of the day to day operations of the local government. A policy of Council in this regard is therefore inappropriate.

21. Policy 2.27 Voluntary Superannuation Contributions

Recommendation – that the policy be retained.

Policy 2.27 was adopted in 2015 and clarifies the percentage of employee earnings that the Shire of Gingin will pay as a voluntary contribution towards employee superannuation.

The policy has been reviewed and no amendments are proposed at this point in time.

22. Policy 2.28 Application of the Common Seal to Withdrawals of Caveat

Recommendation – that the policy be repealed and replaced by a new Policy 2.33 Execution of Documents.

Policy 2.28 was adopted in 2015 as a response to a specific need. In reality, however, a Council policy is required to address the use of the Shire's Common Seal over a broader range of documents, and the execution of documents on behalf of the Shire of Gingin generally.

The matter of a policy dealing with execution of documents is addressed separately in Item 27.

23. Policy 2.29 Employee Recognition – Length of Service

Recommendation – that the policy be repealed and replaced by a new Policy 2.32 Gratuities.

Policy 2.29 was adopted in 2017 and provides for a cash payment to be made to employees who are departing the employ of the Shire of Gingin under specific circumstances.

Payments of this nature are considered to be a gratuity. As has already been addressed elsewhere, s.5.50 of the *Local Government Act 1995* requires all local governments to have a Gratuities Policy which addresses payments of this nature, and a draft Gratuities Policy is presented for consideration as Item 26.

Policy 2.29 also makes provision for:

- a farewell function to be offered to departing employees who have served a period of continuous employment of 10 years or more; and
- for recognition of service milestones for employees who are not retiring or resigning from employment.

As with a significant number of other policies addressed in this report, matters of this nature form part of the CEO's responsibilities with respect to both the employment, management, supervision, direction and dismissal of other employees and management of the day to day operations of the local government and should be the subject of an Operational HR Policy.

In view of the above, Policy 2.29 is considered to be redundant.

24. Policy 2.30 Organisational Structure and Designated Senior Employees

Recommendation – that the policy be amended and retained.

Policy 2.30 was adopted in 2017 for the purpose of clarifying the separate roles played by Council and the CEO in setting the organisation's structure, and to incorporate the identification of designated Senior Employees. Policy 2.1, which previously dealt with Senior Employees, was superseded by Policy 2.30.

Whilst in general the adoption of a policy which reflects existing legislative arrangements is not considered to be good governance practice, in this instance Policy 2.30 was developed to clearly set out the position of Council as a whole in response to ongoing queries from Councillors in relation to Council's role in endorsing the organisational structure for the Shire's administration. For that reason, retention of Policy 2.30 is supported at this point in time.

It is proposed that the policy be amended by the addition of background information setting out the legislative constraints surrounding Council involvement in both the setting of the organisational structure and in the appointment and/or dismissal of Senior Employees.

Draft amended Policy 2.30 is provided for Council's information as **Appendix 2**.

25. Policy 2.31 Transaction Cards

Recommendation – that new Policy 2.31 Transaction Cards be adopted.

As referenced in Item 14 above, a new Policy 2.31 Transaction Cards has been prepared for Council's consideration.

The policy deals with all transaction cards (rather than just credit cards as is the case with Council's existing policy), and has been drafted based on WALGA's template Transaction Card Policy.

New Policy 2.31 Transaction Cards is provided as **Appendix 3**.

26. Policy 2.32 Gratuities

Recommendation – that new Policy 2.32 Gratuities be adopted.

As referenced in Items 15, 19 and 23 above, a new Policy 2.32 Gratuities is presented for Council's consideration.

The policy addresses the following issues:

1. Council's obligation under s.5.50 of the *Local Government Act 1995*, which requires every local government to prepare a policy in relation to employees whose employment with the local government is finishing, setting out:

- The circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
- b. The manner of assessment of the additional amount.

These matters are currently addressed by a Gratuities Policy that has previously been treated as an Operational HR Policy, and none of the provisions contained within that policy have been changed. However, in order to comply with the requirements of s.5.50 of the *Local Government Act 1995*, the policy must be adopted as a policy of Council and included in the publicly available Policy Manual.

2. The provision currently contained in Policy 2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances (see Item 19 above) which entitles an employee who has been employed by the Shire continuously for five or more years, has reached the age of 55 and is retiring, to receive a cash payment equivalent to 50% of any unused sick leave entitlement accrued whilst in the employ of the Shire of Gingin has been included.

This provision has been amended by removing the requirement for the employee's retirement to be a *bona fide retirement from working life*. It is considered that this requirement is for all intents and purposes meaningless, as there is no way for the Shire to ensure adherence once employment with the Shire of Gingin ends.

WALGA advises that, in general, policies that allow for the payout of sick leave are not supported because:

- They can encourage employees to "stockpile" sick leave instead of using it if required for its intended purpose; and
- b. It can be seen as discriminating against those employees who need to use all of their sick leave entitlement and therefore aren't able to accrue any unused leave.

However, it is considered that it would be unfair to remove this benefit from those members of staff employed on the understanding that the benefit would be available. For that reason, a "grandfather clause" has also been included which limits eligibility for the part payout of sick leave entitlements to those members of staff employed by the Shire of Gingin on or before the date of adoption of the new policy. This clause has been added at WALGA's recommendation.

Councillors may note that the policy states that employees who are made redundant are eligible for a gratuity payment. This may appear to be in conflict with advice given previously that redundancy payments that are outside the provisions of the Shire of Gingin Enterprise Agreement 2017 or the Local Government Industry Award must be addressed by a separate redundancy payment.

It is important, however, to understand that "redundancy" payments are usually substantial payments that are intended to compensate for loss of income and to provide the person with funds to tide them over while they seek new employment.

A "gratuity", on the other hand, is a minor payment that is usually intended as a recognition of things like years of service. WALGA has confirmed that paying a gratuity in the case of redundancy is not considered to be a "redundancy" payment.

New Policy 2.32 Gratuities is provided as **Appendix 4**.

27. Policy 2.33 Execution of Documents

Recommendation – that new Policy 2.33 Execution of Documents be adopted.

Section 9.49A of the *Local Government Act 1995* requires that, in order for a document to be executed by a local government, there must be:

- 1. A Council resolution to:
 - a. apply the Common Seal to that particular document; or
 - b. permit the application of the Seal to a range of documents which includes the document in question; or
- 2. A Council resolution authorising the Chief Executive Officer or another employee, or an agent of the Shire, to sign documents on behalf of the Shire.

At its meeting on 20 November 1997 the Council of the day resolved to delegate authority to the Chief Executive Officer to affix to any document, as required, the Common Seal of the Shire of Gingin, with details of any such use of the Common Seal being reported to the next Ordinary meeting of Council. It is not clear that this delegation was ever incorporated into the Shire's Delegated Authority Manual, although the delegation was certainly exercised with regular reports being presented to Council as required. However it is apparent that, at some point, the practice ceased and the Shire reverted to seeking a specific Council resolution authorising the affixing of the Common Seal as required.

Many local governments now have a formal policy in place which identifies separate classes of documents that, in order to be executed, either:

- 1. Require a specific resolution of Council to undertake an action and to execute the resulting document under the Common Seal; or
- Require execution under the Common Seal in order to effect a more general resolution of Council and which may be subject to time constraints for execution; or
- 3. Don't require the Common Seal to be affixed, but can be executed under signature of those officers authorised by the policy.

The adoption of such a policy lessens the risk of breaching s.9.49A by inadvertently failing to obtain the required Council resolution prior to applying the Common Seal to a document. It may also assist with improved efficiency and effectiveness by removing unnecessary delays in executing documents where a timely response is required.

A new Policy 2.33 Execution of Documents (Appendix 5) has been drafted for Council's consideration.

STATUTORY/LOCAL LAW IMPLICATIONS

Corruption, Crime and Misconduct Act 2993

Local Government Act 1995

Part 2 - constitution of local government

Division 2 – Local governments and councils of local governments

Section 2.5 – Local governments created as bodies corporate

Section 2.7 – Role of council

Part 5 – Administration

Division 1 – Introduction

Section 5.2 – Administration of local governments

Division 4 – Local government employees

Section 5.37 - Senior employees

Section 5.41 - Functions of CEO

Section 5.42 – Delegation of some powers and duties to CEO

Section 5.50 – Payments to employees in addition to contract or award

Part 6 – Financial management

Division 3 – Reporting on activities and finance

Section 6.5 – Accounts and records

Part 9 - Miscellaneous

Division 3 – Documents

Section 9.49A - Execution of documents

Local Government (Administration) Regulations 1996

Part 4 – Local government employees

Regulation 19A – Payments in addition to contract or award, limits of (Act s.5.50(3))

Local Government (Financial Management) Regulations 1996

Part 2 – General financial management – s.6.10

Regulation 5 – CEO's duties as to financial management

Regulation 11 – Payments, procedures for making etc.

Oaths, Affidavits and Statutory Declarations Act 2005

Occupational Safety and Health Act 1984

Occupational Safety and Health Regulations 1996

Public Sector Management Act 1994

Superannuation Guarantee (Administration) Act 1992

POLICY IMPLICATIONS

This report seeks to review and either repeal, amend or retain without amendment all policies currently contained within Section 2 of Council's Policy Manual, and to add three new policies.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Rule

That Council:

- 1. Repeal Policy 2.2 Staff New and Casual Positions.
- 2. Repeal Policy 2.7 Staff Telephones.
- 3. Repeal Policy 2.8 Use of Shire Vehicles.
- 4. Repeal Policy 2.10 Licensing of Shire Vehicles/Plant.
- 5. Repeal Policy 2.11 Staff Uniform.
- 6. Repeal Policy 2.12 Protective Clothing.
- 7. Repeal Policy 2.13 Conferences Study Tours.

- 8. Repeal Policy 2.14 Study Leave.
- 9. Repeal Policy 2.15 Statutory Advertising.
- 10. Repeal Policy 2.16 Community Services Directory.
- 11. Repeal Policy 2.17 Distribution of Political Material.
- 12. Repeal Policy 2.18 Equal Opportunity Act.
- 13. Repeal Policy 2.19 Smoking, Alcohol or Other Drugs.
- 14. Repeal Policy 2.20 Corporate Credit Cards.
- 15. Repeal Policy 2.21 Severance Pay (Section 5.50 of the *Local Government Act* 1995).
- 16. Repeal Policy 2.22 Redundancy.
- 17. Retain reviewed Policy 2.23 Occupational Health and Safety without amendment, as shown at Appendix 1.
- 18. Repeal Policy 2.24 Staff Housing and Maintenance of the Property.
- 19. Repeal Policy 2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances.
- 20. Repeal Policy 2.26 Loss of Driver's Licence (Shire of Gingin Employees).
- 21. Retain reviewed Policy 2.27 Voluntary Superannuation Contributions without amendment, as shown at Appendix 1.
- 22. Repeal Policy 2.28 Application of the Common Seal to Withdrawals of Caveat.
- 23. Repeal Policy 2.29 Employee Recognition Length of Service.
- 24. Adopt amended Policy 2.30 Organisational Structure and Designated Senior Employees, as shown at Appendix 2.
- 25. Adopt Policy 2.31 Transaction Cards as shown at Appendix 3.
- 26. Adopt Policy 2.32 Gratuities as shown at Appendix 4.
- 27. Adopt Policy 2.33 Execution of Documents as shown at Appendix 5.

CARRIED UNANIMOUSLY

APPENDIX 1

2.0 ADMINISTRATION

MATTERS RELATING TO STAFF

2.2 Staff - New and Casual Positions

No new positions are to be created without the express authorisation of Council.

The Chief Executive Officer is authorised to employ casual and part-time staff, as and when required, provided the appropriate provision for the employment of such staff is made in the annual budget.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.7 Staff Telephones

Mobile telephones will be provided to the Chief Executive Officer, Executive Officers and senior staff, fully paid by Council. Mobile phone is for business use and limited private use.

Where the Chief Executive Officer, Executive Officers and senior staff reside in a Council residence and there is a need for a telephone for Council business, Council will pay for the connection, standard home-line rental and all outgoing business calls, unless otherwise negotiated with Council.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: COUNCIL 19 APRIL 2011

2.8 Use of Shire Vehicles

Staff who do **not** have negotiated private use of a motor vehicle as part of their Salary Package, when authorised by the Chief Executive Officer, may use Shire vehicles to travel between Shire offices and their place of residence and on official Shire business outside normal working hours.

Use of such vehicle during periods of leave is not permitted. Vehicles are to remain at the Shire Depot during periods of leave, except in exceptional circumstances when the Chief Executive Officer has approved vehicle usage.

Where approval has been granted by the Chief Executive Officer, staff will pay all fuel costs during the period of leave.

Officers who **have** negotiated private use of a motor vehicle as part of their Salary Package are permitted private use in accordance with the terms and conditions of their Employment Contract.

Any employee who has negotiated either commuting or private use of a Shire owned vehicle will **maintain** the vehicle in a clean, fair and presentable condition internally and externally. All Officers allocated Shire owned vehicles will **ensure** that the **vehicle** is not damaged, marked or inappropriately used, and will also be responsible for advising the Shire's Plant Mechanic of any scheduled servicing or mechanical repairs required as soon as practically possible.

The Chief Executive Officer reserves the right to inspect all Shire owned vehicles issued to authorised officers for commuting or private use for any unfair wear and tear, markings, damage caused by unreasonable treatment, or unauthorised use. Excluding legitimate insurance claims, any breaches or neglectful damage noted by the Chief Executive Officer will be repaired by the Shire and all costs associated with detailing and returning the vehicle to its full and former condition will be borne by the relevant authorised officer.

The Chief Executive Officer reserves the right, where there is sufficient evidence that a Shire owned vehicle is not being maintained in accordance with this Policy, to issue a written notice giving seven days to address any breaches. Where an authorised officer fails to comply with such notice, the Chief Executive Officer may review the commuting or private use provisions for that officer and suspend or remove such provisions as deemed necessary.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011 AMENDED: 18 SEPTEMBER 2012

2.10 Licensing of Shire Vehicles/Plant

All licensed shire vehicles and plant shall bear "GG" registration plates.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.11 Staff Uniforms

- a. The Shire of Gingin will contribute an amount, as specified in the Annual Budget, towards the purchase of staff uniforms and or executive dress to the satisfaction of the Chief Executive Officer.
- Staff shall be eligible for initial uniform subsidy on satisfactory completion of three months' probationary period, or as agreed by the Chief Executive Officer.
- c. A Corporate name badge is provided for each staff member.
- d. In regard to the general deportment of all staff, the wearing of such items as jewellery, body piercing, tattoos, hairstyles etc are to be within generally accepted professional standards and in the event that there is any doubt as to whether or not this meets the standard, the Chief Executive Officer is to have absolute discretion to determine what is acceptable in regard to professional standards.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.12 Protective Clothing

Protective clothing shall be provided to all staff members, the issue of such clothing being in accordance with the requirements of the relevant Occupation Safety and Health Legislation and/or Employee Awards.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.13 Conferences - Study Tours

OBJECTIVE

To determine the nature and extent of the Council's representation by staff at conferences, study tours, seminars or conventions.

POLICY

1. State and National Professional Conferences

- 1.1 The Chief Executive Officer and Senior Employees are encouraged to attend the annual State conference (if any) relating to their profession.
- 1.2 The Chief Executive Officer and Senior Employees are encouraged to attend, biennially, the national conference (if any) relating to their profession.

<u>Note</u>: Where the Officer's professional organisation does not convene a State Conference, the Officer is encouraged to attend the corresponding national conference on an annual basis.

- 1.3 Funds for attendance at State and national professional conferences are to be provided in each annual budget under the provision for staff training.
- 1.4 The Chief Executive Officer is authorised to approve the attendance of staff at State and national conferences in accordance with the following guidelines:
 - Budget authority and funding arrangements are to be considered;
 - The Chief Executive Officer is to ensure that attendance will be beneficial to the officer and to the Shire of Gingin; and
 - c. The Officer is to provide a report on the issues, outcomes etc of the conference, with recommendations as appropriate, and the report is to be presented to Council.

2. Other Conferences and Study Tours

Provision is to be made in each year's Budget for an appropriate sum to cover staff attendance at other conferences and study tours. The Chief Executive Officer may approve or refuse staff attendance at other conferences or study tours.

GOVERNANCE REFERENCES

Statutory Compliance	N/A
Industry Compliance	N/A
Organisational Compliance	N/A

Review Cycle	Bi-annual	Next Review	2016
Department	Office of the Chief Execu	tive Officer	

Version	Decision Reference	Synopsis
1.	18/05/1995	Policy adopted.
2.	20/05/2014 – Item 11.1.1	Policy amended by deleting reference to conference attendance by elected
		members. Elected member conference attendance now addressed in Policy
		1.29 – Councillors' Entitlements.

2.14 Study Leave

- (a) Employees may be granted time off with pay and this time should not exceed four (4) hours per week for:
 - attendance at subjects of approved courses, which are only available during normal working hours;
 - (ii) to sit for the annual examinations of any approved course of study; subject to the conditions set out in this policy statement.
- (b) Approval is conditional, in every case, on:
 - (i) the course being undertaken on a part-time basis
 - (ii) the employee completing the equivalent of the first full year of the course
 - (iii) the course being relevant to the employee's career with the Shire, and likely to be of substantial value to Local Government
 - (iv) the employee undertaking an acceptable formal study load in his or her own time which is to be a minimum formal study load of four hours per week
 - (v) the employee making good progress with his or her studies.
- (c) Employees undertaking examinations arising from studies of subjects associated with the normal Local Government duties and which, therefore, are beneficial to the Shire of Gingin and the employee, shall be entitled to be paid time off for such examinations if during normal working hours.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.15 Statutory Advertising

Statutory advertisements shall be placed in "The West Australian" newspaper, and/or Community Newspapers where considered appropriate by the Chief Executive Officer.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.16 Community Services Directory

Administration shall support the compilation of an annual Community Services Directory giving details of the services offered by the Shire, ward boundaries and Councillors, and all the Recreational and other Community Groups registered within the Shire of Gingin.

ADOPTED: COUNCIL 18 MAY 1995 AMENDED: 20 JANUARY 2004 REVIEWED: 19 APRIL 2011

80

2.17 Distribution of Political Material

No political material from any party may be handed out on Shire Premises, except where those buildings have been hired for the express purpose of a function by that candidate

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.18 Equal Opportunity Act

This Shire of Gingin recognises its legal obligations under the *Equal Opportunity Act*, 1984, and will actively promote equal employment opportunity based solely on merit, to ensure that discrimination does not occur on the grounds of gender, marital status, pregnancy, race, disability, religious, or political convictions.

All employment training with this Shire will be directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the minimum requirements for such training.

All promotional policies and opportunities with this Shire will be directed towards providing equal opportunity to all employees, provided their relevant experience, skills and ability meet the minimum requirements for such promotion.

All offers of employment within this Shire will be directed towards providing equal opportunity to prospective employees provided their relevant experience, skills and ability meet the minimum requirements for engagement.

This Shire will not tolerate harassment within its workplace. Harassment is defined as any unwelcome, offensive action or remark concerning a person's race, colour, language, ethnicity, political or religious convictions, gender, marital status or disability.

The equal employment opportunity goals of this Shire are designed to provide an enjoyable, challenging, involving, harmonious work environment for all employees where each has the opportunity to progress to the extent of their ability.

A copy of this Policy 2.18 to be provided to all new employees.

2.18.1 Promotion of Women in Local Government

Statement of Commitment, Goals and Objectives

A. Statement of Commitment

- We acknowledge that in Local Government women are under represented both as elected members and as senior members of administrations and that their increased participation in both of these arenas should be encouraged.
- We agree to review our own policies and practices to ensure that no discrimination or impediment exists, and will take action to ensure that barriers to women's full participation in Local Government are removed.

81

 We will work to create and support an environment in Local Government which is harassment-free and that encourages the expression of and respect for a wide range of views.

B. Goals

- To increase the number of and participation of women in Local Government so that Councils more clearly represent and/or reflect the communities they serve, by
 - increasing the number of women as elected members and Mayors, and
 - increasing the number of women as CEO/General Managers, second and third level managers.

C. Objectives

- 1. To create a Shire and communities where women feel able to fully participate and share their skills, knowledge and experience.
- 2. To work towards an harassment-free, and participative Shire where opinions and differences are respected.
- 3. To develop a climate of understanding among Councillors, CEOs/General Managers and senior staff of the need for the initiatives in this Framework and to enlist their support.
- 4. Where women choose women-only training and networking, to gain acceptance and support of their participation in these activities.

ADOPTED: COUNCIL 18 MAY 1995 ITEM 2.18.1 ADDED BY RESOLUTION: 02.0097 7 MAY 2002 REVIEWED: 19 APRIL 2011

2.19 Smoking:

- (a) Smoking is prohibited in the following areas or circumstances:
 - Where there are clear safety considerations including but not limited to:
 - Whilst using or handling flammable, volatile or toxic substances
 - Within storage areas for flammable, combustible or volatile substances
 - Within areas displaying signage
 - Confined spaces such as pits or manholes.

- All Shire owned or leased buildings including but not limited to:
 - Administration buildings, Civic Centre car park, council chambers, libraries, activity and leisure centres, workshops, pound, out station buildings, toilets, sheds, stores, heritage offices, halls and rooftops.
 - Within 10 metres of an entrance or exit to a building, where people may need to pass through smoke or where the smoke could enter the building.
 - Within 10 metres of any windows or air conditioning intakes.
 - All Shire of Gingin owned, leased or rented motor vehicles, passenger vehicles, medium and heavy vehicles, plant and machinery.
 - While attending clients, visitors, service users or serving the public.
 - During paid work time (Employees and contractors may smoke in their designated lunch break).
 - All employees and contractors/consultants that smoke during their designated lunch break are to consider other people. When out of doors and the smoke is affecting a person in the vicinity, the smoker is to move far enough away that the smoke will not come into contact with others.
 - If a smoker is asked to extinguish a cigarette or move away from an area, they will comply with the request.
 - Members of the public should be discouraged from smoking in prohibited areas by means such as "No Smoking" signs, and if necessary be informed of the Shire's policy and request them not to smoke.
- (b) The Shire of Gingin support the introduction of appropriate education programmes to assist smokers in ceasing smoking and also disseminating information on the health affects of smoking.
- (c) All levels of staff will actively support this policy.
- (d) Suitable and sufficient signs will be provided throughout all buildings and other designated non-smoking areas.

ALCOHOL OR OTHER DRUGS

Employees must not consume or have in their possession any unauthorized alcohol or illicit drugs during working hours. If testing is indicated and required by the Chief Executive Officer, Manager or the staff supervising officer it will be performed by an approved Medical Practitioner and comply with the relevant Australian Standards.

For Cause Testing

Testing may be required to confirm or rule out the presence of alcohol or drugs in the following circumstances:

Following accidents or incidents;

- Following a high potential near miss incident;
- Where an individual's erratic, unusual or dangerous behaviour raises concern that the employee may be under the influence of alcohol or other drugs;
- Upon the request of any other person in the work place who has reasonable grounds to believe that an individual may be affected by non-authorised alcohol consumption or other drugs, and where the Manager/Supervisor also believes that this may be the case;
- If any evidence is found of possible alcohol or other drug use at work (e.g.
 drug paraphernalia, alcohol containers on work sites or in vehicles) and a
 Manager or Supervisor can identify with reasonable certainty those who may
 have been involved; and
- As a component of a Return to Work Plan where an employee has previously tested positive.

The testing will be at the cost of the Shire of Gingin unless the result of the test is positive. The employee will be responsible for the cost of a positive test. In the event that the employee is found to be unfit to perform their duties, the employee will be required to use accrued entitlement to leave or unpaid leave for all related absences from work including the day of assessment.

A positive alcohol test will be a blood alcohol content of 0.05g/100ml or more.

A test result which reveals a drug concentration higher than the cut-off levels referred to in the current version of AS4308 is deemed to be a positive result.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.20 Corporate Credit Cards

OBJECTIVE

To clearly specify which members of staff are authorised to hold and operate Shire of Gingin corporate credit cards, the limits applicable to each of those members of staff and the internal controls relating to the use of corporate credit cards.

POLICY

The Shire of Gingin operates a corporate credit card for use by Executive Officers for Shire business. The following credit limits are applicable:

Chief Executive Officer	\$10,000
Executive Manager Corporate and Community Services	\$ 5,000
Executive Manager Operations	\$ 5,000
Executive Manager Regulatory and Development Services	\$ 5,000
Community Emergency Services Manager	\$ 2,000
Mechanic	\$ 2,000

The use of all corporate credit cards is subject to the following controls:

- Corporate credit cards may not be used to obtain cash advances, over-the-counter cash withdrawals or ATM transactions, or for the purchase of bank cheques, travellers' cheques or foreign currency.
- 2. The loss or misplacing of a corporate credit card must be reported to the Executive Manager Corporate and Community Services immediately.
- All corporate credit cards must be returned to the Executive Manager Corporate and Community Services upon notification of termination of employment, or resignation from the employ of the Shire of Gingin.
- Cardholders must ensure that their corporate credit card is acquitted within five working days following the end of the calendar month, and that appropriate documentation, including tax invoices, is provided.
- 5. Corporate credit cards are to be utilised for the purchase of goods and services on behalf of the Shire of Gingin only and may not be used for personal expenditure.
- 6. Cardholders must ensure that their corporate credit card is maintained in a secure manner to prevent loss, theft or misuse, and that no copies of the full credit card number and expiry date are kept.
- 7. The Chief Executive Officer reserves the right to suspend a corporate credit card should a cardholder fail to acquit the card in a timely fashion, repeatedly fail to provide tax invoices to support acquittal, or otherwise act in contravention of any part of this policy.

GOVERNANCE REFERENCES

Statutory Compliance	N/A
Industry Compliance	N/A
Organisational Compliance	N/A

Review Cycle	Bi-annual	Next Review	In conjunction with review of Policy Manual
Department	Financial Services		

Version	Decision Reference	Synopsis
1.	18/05/1995	Policy adopted
2.	21/05/2013	Amended - CEO's limit increased to \$10,000 and EMFS, EMPES and EMRS
		added. Previous policy title "Mastercards" changed.
3.	18/02/2014 - Item 11.1.3	Conditions of use 1-5 incorporated into policy. Position titles updated.
4.	21/04/2015 - Item 11.1.3	CESM position added with a limit of \$2000.
5.	15/09/2015 - Item 11.1.4	MBS position added with a limit of \$2,000
6.	18/04/2017 – Item 11.4.1	Operations Manager, Mechanic and Lower Coastal Maintenance Officer added with limits of \$2,000
7.	20/06/2017 – Item 11.1.4	Executive Manager Operations amended to Executive Manager Operations — Construction, Executive Manager Regulatory Services, Manager Operations and Lower Coastal Maintenance Officer deleted, Executive Manager Planning and Development, Executive Manager Asset and Building Maintenance Supervisor added. Conditions of use amended.
8.	21/11/2017 - Item 11.5.1	Townsite Maintenance Supervisor (Upper Coastal) added with limit of \$2,000.
9.	29/11/2017 – by CEO under Del. 1.17	Building Maintenance Supervisor amended to Townsite Maintenance Supervisor (Gingin and Lower Coastal) following change of position title.
10.	18/01/2018 — by CEO under Del. 1.17	Defunct position of Manager Building Services deleted.
11.	20/11/2018 – Item 11.5.1	Positions of Townsite Maintenance Supervisor (Upper Coastal) and Townsite Maintenance Supervisor (Gingin/Lower Coastal) deleted.
12.	06/12/2018 - by CEO	Defunct position of Manager Building Services deleted - incorrect version of
	under Del. 1.17	Policy inadvertently adopted by Council 20/11/2018 Item 11.5.1.
13.	19/09/2019 - by CEO	Position titles for Executive Manager Operations and Executive Manaer
	under Del. 1.17	Regulatory and Development Services updated. Defunct position of Executive
		Manager Assets deleted.

2.21 Severance Pay

SECTION 5.50 OF THE LOCAL GOVERNMENT ACT

- (a) The purpose of this Policy is to set down the maximum severance payable to terminating employees for the purpose of section 5.50 (1) of the Local Government Act (the "Act"). Note however these severance payments may be exceeded at the discretion of Council subject to any maximum amount prescribed or provided for by regulations in accordance with section 5.50 (3)."
- (b) A terminating employee is entitled to severance pay and benefits in accordance with:
 - Any federal or state award or industrial agreement applicable to that employee
 - (ii) Any applicable provisions within the employee's contract of employment
 - (iii) Any applicable award or order made by a federal or state industrial tribunal arising from the circumstances of that employee being specifically brought before that tribunal, subject to any right of appeal
 - (iv) Where Council so agrees, any recommendation made by a Federal or State Industrial Commissioner arising from the circumstances of that employee being specifically brought before that Commissioner.
- (c) Where a dismissed employee has taken, or is proposing to take, litigation for alleged unfair dismissal, Council may decide to settle to avoid expensive litigation.

Matters to be taken into consideration by Council as to whether it will seek a settlement and, if so, the extent of any financial offers, may include:

- the strength of the respective cases in any litigation
- the cost of legal advocacy and support
- · the cost of witnesses
- the cost of travel and accommodation in running the case
- the cost of having staff tied up in the preparation and hearing of the case
- the disruption to operations.

(d) Redundancy

Redundancy benefits shall be made pursuant to the Shire of Gingin's Redundancy Policy. This does not preclude the Shire from agreeing to a higher severance benefit where clauses (a) or (b) above apply.

Redundancy benefits are:

- A maximum period of notice possible but in any event no less than 4 weeks or payment in lieu of notice to a maximum of 4 weeks.
- (ii) Payment of 2 weeks pay.

- (iii) Plus 2 weeks pay for each completed year of service with the local government.
- (iv) The maximum payable under (ii) and (iii) shall be 26 weeks pay.
- (v) Where an employee has been employed with the Local Government for a minimum of 5 years, pro rata long service leave shall be provided if the employee is not otherwise entitled to pro rata long service leave under the Local Government Long Service Leave Regulations.
- (vi) All other pro rata entitlements payable under the appropriate award or agreement to a terminating employee.
- (vii) Where the employee was originally engaged from a distant location, reasonable relocation assistance may be provided to the place of engagement or another place (at a cost no more than relocation to original point of hire). Relocation assistance will be at Council's discretion and considered according to circumstances.
- (viii) Where the circumstances of a retrenched employee are such that it will be extremely difficult for that employee to find another job, Council may exercise its discretion to provide additional benefits to such employees. In this event details of the total redundancy package for such an employee shall be published in accordance with Section 5.50 (2) of the Act.

Council may decide to settle in a situation where an employee, due to illness or impairment is unable to perform his/her job and there has been mutual agreement that employment must end.

Matters to be taken into consideration by Council in determining the extent of any financial offers may include:

- the length of service
- the conscientiousness of the employee over the past employment
- the value of the employee's service having regard to position(s) held and the regard given by Council to the employee's contribution
- · the length of time to retirement
- the personal circumstances of the employee including family responsibility, future employment prospects and alternative sources of income
- possible exposure to litigation if the employee was dismissed having regard to obligations of the Shire under the State Equal Opportunity Act, the Commonwealth Disability Discrimination Act and the Commonwealth Workplace Relations Act.

- (e) The term "weeks pay" means the normal weekly salary or wage payable to the employee including any penalty rates normally paid but excluding overtime or intermittent payments. The term also includes salary or wages specifically sacrificed for additional non-award benefits but does not include the value of any non-award benefit normally provided for the employee's position (such as a vehicle in the case of a senior position, the normal superannuation provided to all employees etc).
- (f) Nothing in this Policy prevents Council from determining that in special circumstances, terminating employees may be paid additional monies or provided additional benefits where justified. If Council so determines, details of the severance pay and benefits shall be published in accordance with section 5.50 (2) of the Act.

ADOPTED: COUNCIL 18 MAY 1995 REVIEWED: 19 APRIL 2011

2.22 Redundancy

(a) Background

The need for a pro-forma redundancy policy arises because of changes and challenges faced by Local Government:

- "Hilmer", the National Competition Policy, accountability for delivery, cost efficient services demanded by electors, competitive tendering and contracting-out.
- (ii) New trends in WA Local Government requiring a re-evaluation of existing structures and services, and ways and means of reacting to demands from the State Government and the electors.
- (iii) The possibility of future amalgamations of local governments, splits of existing large Local Governments and changes in boundaries.

(b) Commission TCR Standard

The Commission's standard award minimum is the so-called "TCR" standard arising from the Full Bench Termination, Change and Redundancy Decisions. Some organisations have recently chosen to apply higher benefits, which have been included in some enterprise agreements. Nevertheless the appropriate award provisions will continue to apply and this policy is to be read in conjunction with the provisions of the Local Government Industry Award 2010.

(c) Consultation

The Local Government will consult employees likely to be affected by any proposed change as to the need for and/or reason for the change and no definite decision will be made until this process has been followed.

Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with their union or unions.

The discussions shall take place as soon as is practicable after the employer has made a definite to terminate the position, and cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.

For the purposes of the discussion the employer shall as soon as practicable provide in writing to the employees concerned and their Union(s), all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected and the number of workers normally employed and the period over which terminations are likely to be carried out.

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interest(s).

(d) Transfers within the Organisation

- (i) Wherever possible and practical, appropriate employees should be offered a transfer to other positions within the enterprise and also offered the necessary and reasonable training to effect a successful transition.
- (ii) Where an employee is transferred to other duties for the purpose of avoiding retrenchment and those duties attract lesser rate of pay than the incumbents previous position, the Local Government will make up the difference between the two rates of pay for a period of twelve months (or 2 years in the case of employees covered by clause 6 below). After this time, the lesser rate will apply.

(e) Service Benefits

Where a position has been made redundant and a suitable transfer has not been possible, an employee may be retrenched on the following basis:

- A maximum period of notice possible but in any event no less than 4 weeks or payment in lieu of notice to a maximum of 4 weeks;
- (ii) Payment of 2 weeks pay;
- (iii) Plus 2 weeks pay for each completed year of service with the Local Government;

- (iv) The maximum payable under (i) and (iii) shall be 26 weeks pay provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date;
- (v) Where an employee has been employed with the Local Government for a minimum of 5 years, pro rata long service leave shall be provided if the employee is not otherwise entitled to pro rata long service leave under the Local Government Long Service Leave Regulations;
- (vi) All other pro rata entitlements payable under the appropriate award or agreement to a terminating employee will be paid;
- (vii) During the notice period the employee shall be allowed reasonable time off from the job without loss of pay to attend employment interviews or other similar activities to assist the employee find employment.
- (viii) Where the employee was originally engaged from a distant location, reasonable relocation assistance may be provided to the place of engagement or another place (at a cost no more than relocation to original point of hire). Relocation assistance will be at Council's discretion and considered according to circumstances;
- (ix) Where the circumstances of a retrenched employee are such that it will be extremely difficult for that employee to find another job, Council may exercise its discretion to provide additional benefits to such employees. In this event, details of the total redundancy package for such an employee shall be published in accordance with section 5.50 (2) of the Local Government Act, 1995.
- (x) The term "weeks pay" means the normal weekly salary or wage payable to the employee including any penalty rates normally paid but excluding overtime or intermittent payments. The term also includes salary or wages specifically sacrificed for additional non-award benefits but does not include the value of any non-award benefit normally provided for the employee's position (such as a vehicle in the case of a senior position, the normal superannuation contribution provided to all employees etc.)
- (f) Local Government Boundary Changes, Amalgamations and Break-Ups
 - (i) Where a restructuring of Local Government boundaries (such as a break up of a Local Government or an amalgamation of Local Governments) results in a surplus of employees, Schedule 2.1 clause 11 (4) of the Local Government Act, 1995 provides for two years guaranteed employment except where employer and employee are able to agree to a mutually acceptable severance package.
 - (ii) Clauses (c) and (e) above will apply. If a transfer is arranged, the "no reduction" provision in clause (e) (ii) will apply for two years.

- (iii) Where a transfer is not possible, retrenchment will be offered on the basis of clause (e) above. Additional benefits may be offered in accordance with clause (e) (ix) in an endeavour to reach a mutually acceptable severance package.
- (iv) If agreement on a severance package is not possible, the employee will be offered work for two years on conditions no less favourable than the existing contract of employment.
- (v) At any time during the two years additional employment the Local Government and employee may re-open negotiations in an endeavour to reach agreement on a mutually acceptable severance package.
- (vi) Where an employee remains in employment for two years pursuant to schedule 2.1 of the Local Government Act, 1995 and is then made redundant, there will be no entitlement to the redundancy benefits provided in Clause (e). Redundancy benefits in accordance with the appropriate award will still apply.

(g) Counselling

- Counselling by a professional counselling service shall be available for any employee who has been or is to be retrenched.
- (ii) In appropriate circumstances an outplacement service may also be offered. In this event no payment in lieu of such service will be made.

(h) Termination During Notice

An employee who has been given notice of retrenchment in accordance with clause (e) may terminate during the period of notice and shall be entitled to the same benefits and payments as if he/she had remained until the expiry of the notice. Provided that in such circumstances, the employee shall not be entitled to payments in lieu of notice.

(i) Alternative Work

- (i) Should the Local Government have made suitable arrangements for alternative employment and the employee is not consequently unduly prejudiced, the additional benefits over and above the appropriate award arising from this Policy shall not apply.
- (ii) In addition the Local Government may make application to the Commission to have the award severance pay prescription varied in the case of such an employee according to the particular circumstances.

(j) Exclusions

- (i) Benefits provided under this Policy which go beyond the appropriate award shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty.
- (ii) This Policy does not apply in the case of casual or temporary employees who were engaged for a specific time period or for a specific reason or specific task, project or program.
- (iii) This Policy also does not apply to an employee engaged on a fixed term contract where the term of the contract expires.

ADOPTED: COUNCIL 18 OCTOBER 1997 REVIEWED: 19 APRIL 2011

2.23 Occupational Safety and Health

The Shire of Gingin regards the promotion of sound and effective Occupational Safety and Health practices as a common objective for the CEO, Managers, Supervisors, Employees and Contractors.

The Policy of the Shire of Gingin is to ensure that every employee works in an environment where direct efforts are made to prevent accidents, injury and disruption to employees' health from foreseeable work hazards.

The Shire of Gingin acknowledges a duty to achieve their objectives by:

- Providing and maintaining a safe working environment.
- Providing adequate training and instruction to enable employees to perform their work safely and effectively.
- Investigating all actual and potentially injurious occurrences in order to eliminate the cause, and reduce the level of risk.
- Conforming with current legislation, regulations, codes of practice, and appropriate national standards; and
- Continuously improve the standard of occupational safety and health for all employees.

Employees have a duty of co-operation in the attainment of these objectives by:

- Working with care for their own safety and that of other employees, contractors and public who may be affected by their acts or omissions.
- Reporting conditions which appear to be unsafe to their supervisor.
- Co-operating in the fulfilment of the obligations placed on their employer.
- Assisting in the investigation and the reporting of any accidents with the objective of introducing measures to prevent re-occurrence.

The Shire of Gingin will provide the time and resources necessary to implement this Policy and maintain regular reviews to ensure this Policy remains relevant to all stakeholders.

The responsibility for implementing the policy rests with the Chief Executive Officer.

The Principal Environmental Health Officer is assigned the authority to act as the Safety Co-ordinator and is responsible for initiating and driving all Safety and Health strategies on behalf of the Chief Executive Officer.

ADOPTED: COUNCIL 18 DECEMBER 1997 REVIEWED: 19 APRIL 2011

2.24 Staff Housing and Maintenance of the Property

Accommodation may be provided for staff, as determined by the Chief Executive Officer, in consultation with the Shire President.

Such determination will be subject to the availability of suitable Shire owned housing.

Staff who have been allocated a Shire owned house will be required to water the lawns and gardens. The front and rear yards are to be mowed as required so that they are neat and tidy and of a reasonable standard. The front and rear yards must be free of disused material and accumulated rubbish.

The Shire will present a Shire house to any new occupant in a clean, fair and reasonable condition internally and externally. All occupiers allocated Shire owned housing will maintain the house I a clean, fair and reasonable state internally and externally, ensuring that the house is not damaged, marked, altered and inappropriately ventilated. Occupiers will also be responsible for the care and maintenance of all fixtures, fittings and chattels which accompany the house from the time they occupy to the time they vacate the house.

The Shire reserves the right to review all Shire owned housing at least annually and more frequently as deemed necessary by the Chief Executive Officer. Any unfair wear and tear, damage, markings, unauthorised alterations and damage caused by inadequate ventilation (ie mould build-up, obnoxious odours etc) will be repaired by the Shire and all costs associated with returning the house to its full and former condition will be borne by the occupant (staff member).

Where there is sufficient evidence that a Shire house is not being maintained in accordance with this Policy, Council reserves the right to review the 'subsidised weekly rental' paid by the occupant (staff member), giving 14 days written notice of any increase as deemed necessary by the Chief Executive Officer.

ADOPTED: COUNCIL 17 APRIL 1997 REVIEWED 19 APRIL 2011 AMENDED: 17 JULY 2012

2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances

- (a) An employee, with five or more years service with the Shire, whose position becomes redundant and who as a result, receives a bona fide redundancy payment/settlement from the Shire, shall be entitled to, in addition to the redundancy payment/settlement, a payment equal to the cash equivalent of one half (½) of the unused portion of sick leave accrued for that period of time he/she was an employee of the Shire of Gingin.
- (b) An employee, with five or more years service with the Shire, who has reached the age of fifty five (55) years and who retires from the Shire and such retirement is a bona fide retirement from working life, shall be entitled to a payment equal to the cash equivalent of one half (½) of the unused portion of sick leave accrued for that period of time he/she was an employee of the Shire of Gingin.

ADOPTED: COUNCIL 18 APRIL 1998

REVIEWED: 19 APRIL 2011

2.26 Loss of Driver's Licence (Shire of Gingin Employees)

OBJECTIVE

To outline the possible outcomes if an employee loses their driver's licence or if their driver's licence lapses (or is invalidated) and such licence is needed in order for the employee to satisfactorily perform their duties.

"loss of licence" for the purpose of this policy shall include lapse, cancellation, failure to renew, non-issue of renewal, suspension and cancellation.

POLICY

It is essential that employees maintain certain skills and qualifications in order to satisfactorily undertake their duties.

The need for a valid driver's licence is one such qualification that is needed in many positions. In the event that an employee loses their driver's licence, then their ability to perform their duties may be negatively impacted.

The following will apply in all instances of loss of licence by an employee of the Shire of Gingin:

- Employees are required to notify their supervisor/manager of their loss of licence at the earliest possible opportunity.
- Any employee who does not hold a valid driver's licence must not operate any Shire
 of Gingin vehicle. Operation of a vehicle without a valid driver's licence is a violation
 of the law and has the potential to invalidate the Shire's vehicle insurance policy.

Employees found to be operating Shire vehicles without a valid driver's licence will be subject to disciplinary action.

3. Where an employee's position requires that they hold a valid licence and that employee loses their licence, then the employee's immediate Supervisor and Divisional Manager, together with the Chief Executive Officer, shall formulate a strategy to deal with the situation based on the individual merits of the case.

Factors that shall be taken into account include:

- The extent to which the employee is required to use the Shire's vehicles in performing the functions of their role;
- The reasons for loss of licence:
- Whether alternative duties/suitable vacancies are available;
- The employee's length of service, work performance and behaviour record; and
- The length of time before the employee will gain an extraordinary licence or regain their driver's licence.
- 4. The Chief Executive Officer shall be responsible for making the final decision as to whether employment shall continue.

96

- The employee must be advised of their right to appeal any decision through the appropriate dispute resolution process.
- In the event that an employee's services are terminated, then that person may reapply for employment, should a suitable vacancy be advertised, once they have regained their licence.
- 7. In the event that an employee is redeployed to an alternative position, then such redeployment shall be in effect only until the employee's licence is reinstated. However, the Shire may choose to have the employee remain in the alternative position if it is believed that the employee will re-offend during work hours and compromise the Shire's duty of care to the community.
- Any employee redeployed to an alternative position following a loss of licence shall
 receive the relevant rate of pay under their Award for the alternative position for so
 long as they are incumbent therein.
- In keeping with the Shire's duty of care to the community, employees who have previously lost their licence due to a drink/drug driving charge may be required, at the discretion of the Chief Executive Officer, to undergo a breath test before and after the use of a Shire vehicle.

Alcoholism/Substance Abuse

In instances where an employee loses their licence due to a drink or drug driving charge, attempts must be made to ascertain whether or not the employee has an underlying behavioural problem.

It is recognised that alcoholism and drug abuse are illnesses which cause socio-economic problems for individuals and the community as a whole. People who suffer from alcoholism or drug addiction require treatment, support and counselling to overcome their addiction.

Employees who believe that the loss of their licence is the result of a problem with alcohol or other substance abuse may be assisted by the Shire to access rehabilitation and counselling. The provision of any assistance of this type is at the complete and total discretion of the Chief Executive Officer.

No employee will be forced to participate in a rehabilitation programme against their will. However, where a substance abuse problem exists, willingness to admit the problem and address the underlying issues may result in more favourable consideration by the Shire with respect to supporting the employee through the transitional period of recovery.

APPLICATION OF POLICY

This policy applies to all employees of the Shire of Gingin. All employees must read this policy and be familiar with its contents prior to operating any Shire of Gingin vehicle.

VARIATION TO POLICY

This policy may be varied from time to time at the discretion of the Chief Executive Officer.

GOVERNANCE REFERENCES

Statutory Compliance	N/A
Industry Compliance	N/A
Organisational Compliance	N/A

Review Cycle	Bi-Annual	Next Review	2015
Department	Office of the Chief Execu	tive Officer – Hum	an Resources

Version	Decision Reference	Synopsis
1.	16/07/2013 - Item 11.1.1	New policy adopted.

2.27 Voluntary Superannuation Contributions

OBJECTIVE

To set out the criteria for the payment of additional superannuation contributions to employees.

POLICY

Preamble

Under the provisions of the *Superannuation Guarantee* (Administration) Act 1992 (Commonwealth), the Shire of Gingin is obliged to pay a percentage of the ordinary time earnings of its employees (including part-time and casual employees) who are 18 years of age or over, and who are paid \$450 (before tax) a month, into a complying superannuation fund or retirement savings account. The compulsory percentage payable is as determined by the Federal Government from time to time.

The Shire of Gingin and its employees may also make additional voluntary contributions to a complying fund or account.

Policy

- 1. The Shire of Gingin will match voluntary contributions made by all employees on a dollar for dollar basis, up to a maximum of 5%.
- 2. The Shire's contribution will be capped at a maximum of 5% for all employees engaged after the adoption of this policy.
- 3. Unless conditions of employment dictate otherwise, staff employed by the Shire of Gingin before or at the date of adoption of this policy who make a voluntary contribution of 5% will be eligible for the previous Shire contribution of 6% until such time as the compulsory minimum Superannuation Guarantee rate reaches 10.5%. The Shire's voluntary contribution will then reduce to 5%, in keeping with Part 1 of this policy.

GOVERNANCE REFERENCES

Statutory Compliance	Superannuation Guarantee (Administration) Act 1992
Industry Compliance	N/A
Organisational Compliance	N/A

Review Cycle	Biennial	Next Review	2016
Department	Office of the CEO - HR		

Version	Decision Reference	Synopsis
1.	21/10/2014 - Item 11.1.4	Policy adopted.

2.28 Application of the Common Seal to Withdrawals of Caveat

OBJECTIVE

To expedite the clearance of withdrawals of caveat associated with the payment of outstanding monies.

POLICY

The Shire President and Chief Executive Officer (or Chief Executive Officer alone in instances where application of the Common Seal is not required) are authorised to execute Withdrawals of Caveat that have been lodged to secure outstanding monies.

Before executing any Withdrawal of Caveat under this Policy, the Chief Executive Officer must be satisfied that appropriate arrangements have been put in place for the payment of such outstanding monies.

This policy will be superseded in the event that Council resolves to adopt a policy dealing with the execution of documents.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 – s9.49A
Industry Compliance	N/A
Organisational Compliance	N/A

Review Cycle	Bi-annual	Next Review	2017
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.	21/04/2015	Policy adopted

2.29 Employee Recognition - Length of Service

OBJECTIVE

To provide for the formal recognition of years of service by Shire of Gingin employees, in accordance with s. 5.50 of the *Local Government Act 1995*.

DEFINITIONS

Continuous Employment. includes long service leave, study leave, sick leave and compassionate leave. In calculating an anniversary date for the purposes of applying the policy, the definition <u>does not</u> include periods of leave taken without pay, maternity leave, or any other type of approved leave where the employee remains an employee of the Shire but is not paid for the period of absence by the Shire.

APPLICATION

The policy applies to all permanent part time and full time employees and those who may have, from time to time, been both a full time and part time employee, with the exception of instances where employment is terminated by the Shire as a result of misconduct or unsatisfactory performance of duties on the part of the employee.

No differentiation will be made between part time and full time employment for the purposes of applying the policy. Set terms will apply regardless of whether employment over the term has been on a part time or full time basis.

POLICY

1. Recognition Upon Resignation or Cessation of Service

 The following will apply to employees who are leaving the employ of the Shire of Gingin after a period of continuous employment.

5-10 years	\$50 (net) for each year of service	
10 years and over	\$500 (net), plus \$100 (net) for each year served after 10	
	years to a maximum of \$5000	
	Farewell function to be offered	

- All payments will be processed through the payroll system and will be subject to tax.
- All payments will be "grossed up" to include any tax payable.
- iii. Payments are not subject to GST.
- b. In instances where an employee is forced to retire through ill health just short of their 10 year milestone, then the CEO shall place the matter of a farewell function (if desired) for that employee before Council for consideration.

2. Recognition of Service Milestones

The Shire of Gingin will recognise continuous years of employment beginning at five years and continuing for each subsequent five year period served, as follows:

- Employees reaching their five, ten and 15 year milestones will be presented with a service badge and certificate by the CEO at a staff morning or afternoon tea.
- b. Employees reaching a 20 year milestone or above will be presented with a service badge, certificate and gift (to a maximum value of \$250) by the Shire President at the annual Shire Christmas function.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 s. 5.50	
	Local Government (Administration) Regulations 1996 – Reg 19A	
Industry Compliance	N/A	
Organisational Compliance		

Review Cycle	Bi-annual	Next Review	In conjunction with review of Policy Manual
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1	17/10/2017 - Item 11.1.1	Policy adopted

2.30 Organisational Structure and Designated Senior Employees

OBJECTIVE

To establish:

- The Chief Executive Officer's (CEO) role and responsibilities in relation to the Shire's organisational structure; and
- Those positions designated by Council as Senior Employees for the purposes of s. 5.37 of the Local Government Act 1995 (the Act).

POLICY

- 1. Organisational Structure (Refer s. 5.2 of the Act)
 - The CEO shall be responsible for the preparation of an appropriate organisational structure for administering the Shire.
 - The CEO shall keep the Council informed of changes to the organisational structure.
 - c. If the Council is not satisfied that an appropriate organisational structure exists, then the Council shall, by resolution, direct the CEO to establish a structure in accordance with any advice provided by the Council.
- 2. Senior Employees (Refer s. 5.37 of the Act)
 - a. The following positions are classified as "Senior Employees" for the purposes of the Act:
 - i. Executive Manager Assets;
 - Executive Manager Corporate and Community Services;
 - iii. Executive Manager Operations-Construction; and
 - iv. Executive Manager Planning and Development.
 - The CEO is to inform the Council of any proposal to employ or dismiss a Senior Employee.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 s. 2.7, s. 5.2, s. 5.37 and s. 5.41
Industry Compliance	Relevant industrial awards and agreements
Organisational Compliance	N/A

Review Cycle	Bi-annual	Next Review	In conjunction with review of Policy Manual
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.	17/11/2017 – Item 11.1.2	New policy adopted.

APPENDIX 2

POLICY 2.30 ORGANISATIONAL STRUCTURE AND DESIGNATED SENIOR EMPLOYEES

OBJECTIVE

To establish:

- The Chief Executive Officer's (CEO) role and responsibilities in relation to the Shire's organisational structure; and
- To clarify the roles of the Council and the Chief Executive Officer in relation to the Shire's organisational structure.
- To establish those positions designated by Council as Senior Employees for the purposes of s. 5.37 of the Local Government Act 1995 (the Act).

POLICY

1. Organisational Structure (Refer s. 5.2 of the Act)

Section 5.2 of the Act states that the ...council of a local government is to ensure that there is an appropriate structure for administering the local government.

Section 5.41 of the Act states that the CEO is responsible, amongst other things, for ...the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees).

In order to provide clarification with respect to the two separate roles, the following recognitions are made:

- a. The CEO shall be responsible for the preparation of an appropriate organisational structure for administering the Shire <u>and shall ensure that Council is satisfied with the proposed structure.</u>
- b. The CEO shall keep the Council informed of changes to the organisational structure, <u>including the creation of new positions</u>.
- Any changes to the organisational structure proposed by the CEO must be contained within the constraints of the budget in effect at the time.
- ed. If the Council is not satisfied that an appropriate organisational structure exists, then the Council shall, by resolution, direct the CEO to establish a structure in accordance with any advice provided by the Council.
- e. The Council has no input into the employment, management supervision, direction and dismissal of individual employees other than the CEO, and Senior Employees within the constraints of s.5.37 of the Act.

2. Senior Employees (Refer s. 5.37 of the Act)

Section 5.37 provides that a local government may designate employees or persons belonging to a class of employee to be senior employees. If a local government does elect to determine certain positions as "senior employee" positions, then the CEO must inform the Council of any proposal to employ or dismiss a senior employee.

A Council may elect under s.5.37(2) of the Act to accept or reject the CEO's recommendation on the appointment or dismissal of a senior employee, but its considerations must be limited to comment on the application of s.5.40 Principles affecting employment by local government, as follows:

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

In the event that a Council rejects the CEO's recommendation on a senior employee appointment or dismissal, then it must provide the CEO with its reasons for doing so.

The following positions are classified as "Senior Employees" for the purposes of the Act:

- i. Executive Manager Assets;
- Executive Manager Corporate and Community Services;
- bii. Executive Manager Operations-Construction; and
- ciii. Executive Manager Regulatory and Development Services Planning and Development.
- The CEO is to inform the Council of any proposal to employ or dismiss a Senior Employee.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 s. 2.7, s. 5.2, s. 5.37 and s. 5.41		
Industry Compliance	Relevant industrial awards and agreements		
Organisational	N/A		
Compliance			

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2023
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.	17/11/2017 – Item	New policy adopted.
	11.1.2	

APPENDIX 3



POLICY MANUAL

POLICY 2.31 (DRAFT) TRANSACTION CARDS

OBJECTIVE

To provide the Chief Executive Officer with a framework of principles to guide the fulfilment of their statutory duties for establishing and implementing appropriate systems and procedures for incurring expenditure and making payments specific to Transaction Cards.

The policy:

- 1. Ensures efficient and effective procurement and payment operations.
- 2. Minimises the risk of misuse, fraudulent or corrupt use.
- 3. Defines allowable and prohibited uses.
- Defines management and oversight obligations.
- Defines Cardholder duty of care and responsible use obligations.

POLICY

Definitions

Cardholder means an <u>employee</u> who has been authorised by the CEO to incur expenditure by means of a Transaction Card.

Transaction Card means a card facility (which may include credit, store, parking, cabcharge and fuel cards) approved for use in lieu of cash transactions to incur expenditure for goods and services for the purposes of the Shire of Gingin's business activities only, in accordance with relevant Shire of Gingin policies.

Management Oversight and Reporting

Legislation

- a. Section 6.5(a) of the Local Government Act 1995 prescribes the Chief Executive Officer's (CEO) duty to ensure that proper accounts and records of the transactions and affairs of the Local Government are kept in accordance with regulations.
- b. The Local Government (Financial Management) Regulations 1996 prescribe:

- in Regulation 5, the Chief Executive Officer's duties to ensure efficient systems and procedures are established for the proper authorisation of incurring of liabilities and the making of payments; and
- ii. In Regulations 11(1)(a) and (2), the requirement for Local Government to develop procedures that ensure effective security for the authorisation and payment of accounts and for the authorised use of payment methods, including credit cards.

2. Determining When Transaction Card Facilities are Appropriate

- Transaction Card facilities may be implemented and maintained where the card facility provides benefit to the Shire of Gingin's operations by ensuring:
 - goods and services can be obtained in a timely and efficient manner to meet the business needs of the Shire of Gingin;
 - ii. financial management and accounting standards are met; and
 - iii. purchasing and payment functions are secure, efficient and effective.
- Transaction Card facility providers will only be acceptable where, in the opinion of the CEO, they:
 - Provide appropriate and sufficient statement, administration and acquittal controls that enable the Shire of Gingin to sufficiently administer the facility; and
 - ii. Provide the Shire of Gingin with protection and indemnification from fraudulent unauthorised transactions.

3. Management Oversight

The Chief Executive Officer shall determine and implement systems and procedures adequate to ensure:

- Assessment and selection of Transaction Card facilities suitable to the efficient and effective operations of the Shire of Gingin;
- b. Authorisation and appointment of suitably eligible Cardholders;
- c. Cardholder duties and responsibilities are documented and Cardholders provided with training; and
- Monitoring and auditing of Transaction Card activities is planned and reported.

4. Reporting

The Chief Executive Officer will ensure that acquitted transaction statements for each Transaction Card facility are provided to Council as part of the monthly financial reporting regime.

5. Misuse, Misconduct and Fraudulent Use

Any alleged misuse of Transaction Cards will be investigated, and may be subject to disciplinary procedures.

Where there is reasonable suspicion of misconduct or fraudulent activity arising from Transaction Card facilities, the matter will be reported to the appropriate regulatory agency subject to the requirements of the *Public Sector Management Act 1994* and the Corruption, Crime and Misconduct Act 2003.

The duty to notify the Corruption and Crime Commission or the Public Sector Commission (as appropriate) of misconduct does not affect any obligations under the *Public Interest Disclosure Act 2003* or the requirement to comply with statutory obligations under any other Act, including reporting suspected criminal activity to WA Police.

6. Principles for Transaction Card Usage

Allowable Transactions

- Transaction Card facilities may only be used where:
 - the expenditure is directly arising from a Shire of Gingin operational business activity for which there is an Annual Budget provision;
 - ii. the expenditure is in accordance with legislation, the Shire of Gingin's Purchasing Policy, Code of Conduct and any conditions or limitations applicable to the individual Cardholder;
 - iii. the procurement of the required goods or services is impractical or inefficient if undertaken via a purchase order, or is not able to be obtained other than by a Transaction Card;
 - iv. supplier surcharges (fees) on transactions are minimised and only allowable where the alternative method of obtaining the supply (i.e. by purchase order) is more onerous, not cost effective or there is no alternative mode of supply;
 - hospitality expenditure may only occur when it is in accordance with any relevant policy of the Shire of Gingin, or is undertaken with the express written permission of the CEO;
 - vi. official travel, accommodation and related expenses may only occur in accordance with Shire of Gingin policies and procedures;
 - vii. accounts payable payments are made in accordance with Shire of Gingin policies relating to purchasing and procurement; and
 - viii. a sufficient record of each transaction is obtained and retained in the local government record.
- b. Allowable transaction modes include:

- in-person and over the counter retail purchases;
- ii. telephone or facsimile purchasing;
- iii. mail order purchasing and subscriptions; and
- iv. internet purchasing.

Prohibited Transactions

- a. The Shire of Gingin prohibits the use of Transaction Card facilities for:
 - cash advances;
 - ii. incurring expenses which are personal or private (i.e. any expenditure which is not an approved Local Government activity);
 - iii. making deposits onto the Card, whether to offset misuse or otherwise;
 - iv. incurring Capital expenditure;
 - incurring expenditure for goods or services which are subject to a current supplier contract;
 - incurring expenses which are not in accordance with legislation, the Shire
 of Gingin Purchasing Policy, the Annual Budget and/or the conditions or
 limitations relevant to the individual Cardholder;
 - vii. expenses for which another Transaction Card is the approved facility (i.e. the Corporate Credit Card is not to be used for purchasing fuel or oil, as the Fuel Card is the approved facility for that purpose);
 - viii. splitting expenditure to avoid compliance with the Purchasing Policy or to negate limits or conditions applicable to the Cardholder; and
 - ix. incurring expenses for the primary purpose of obtaining personal advantage through the transaction (i.e. membership or loyalty rewards).
- b. For clarity, Elected Members are prohibited from using Shire of Gingin Transaction Cards as the *Local Government Act 1995* does not provide authority for an Elected Member to incur liabilities on behalf of the local government. The Act limits local governments to only paying Elected Member allowances and reimbursing Elected Member expenses.
- 7. Cardholder duty of care and responsible use obligations
 - a. A Cardholder is required to:
 - keep the Transaction Card and access information in a safe manner protected from improper use or loss;

- ii. only use the Transaction Card for allowable purposes and not for prohibited purposes;
- iii. obtain, create and retain local government records that evidence transactions;
- iv. acquit the reconciliation of Transaction Card usage in the required format and within required timeframes. The onus is on the cardholder to provide sufficient detail for each transaction to avoid any potential perception that a transaction may be of a personal nature;
- return the Transaction Card to the Shire of Gingin before termination of employment, inclusive of reconciliation records; and
- vi. reimburse the Shire of Gingin the full value of any unauthorised, prohibited or insufficiently reconciled expenditure.
- b. Benefits obtained through use of a Transaction Card (i.e. membership or loyalty rewards) are the property of the Shire of Gingin and may only be used for Shire of Gingin business purposes. Such benefits must be relinquished by the Cardholder to the Shire of Gingin. Under no circumstances may such benefits be retained as a personal benefit.

8. Transaction evidence

- a. A sufficient transaction record must include the following minimum information:
 - i. invoice and/or receipt that includes; the date, company name, address, ABN, amount and any GST amount included; and
 - ii. where an invoice and/or receipt <u>cannot</u> be obtained, the Cardholder must provide a Statutory Declaration, in accordance with the Oaths, Affidavits and Statutory Declarations Act 2005, detailing the nature of the expense and sufficient information to satisfy the requirements of subclause (a) above.
- b. Where a Transaction Card is used to incur an expense for hospitality, the transaction record must include for the purposes of Fringe Benefits Tax calculations and probity:
 - the number of persons entertained;
 - ii. the names of any employees in that number; and
 - iii. the purpose of providing the entertainment or hospitality.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 Section 6.5(a)
	Local Government (Financial Management) Regulations 1996 Regs 5 & 11(1)(a) &
	(2)
	Public Sector Management Act 1994
	Corruption, Crime and Misconduct Act 2003
	Oaths, Affidavits and Statutory Declarations Act 2005

Industry Compliance	Department of Local Government, Sporting and Cultural Industries Guideline No.11 -	
	Use of Corporate Credit Cards	
Organisational Compliance	onal Compliance Shire of Gingin Policy 3.10 Purchasing	
	Shire of Gingin Code of Conduct	

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2023
Department	Corporate and Community Services		

Version	Decision Reference	Synopsis

APPENDIX 4



POLICY MANUAL

POLICY 2.32 (DRAFT) GRATUITIES

OBJECTIVE

To outline the circumstances in which gratuity payments may be made to an employee of the Shire of Gingin. This policy should be read in conjunction with section 5.50 of the *Local Government Act 1995* (WA) and *Local Government Administration Regulations 1996* (WA), specifically Regulation 19a.

POLICY

When an employee leaves their employment or is made redundant, they may be given a good or service as a token of appreciation for their commitment and service to the Shire of Gingin.

A gratuity payment is paid in addition to any amount which an employee is entitled to under a contract of employment or industrial instrument. This policy does not form a contractual entitlement for any employee of the Shire of Gingin.

Commitment

The Shire of Gingin is committed to recognising long serving employees within the parameters set by the *Local Government Act 1995* and the associated regulations.

Eligibility for gratuity payments

A gratuity payment entitlement is subject to completed years of service and is only payable at the time an employee finishes their employment with the Shire for one of the following reasons:

- resignation (not as a result of any performance management or investigation or disciplinary process being undertaken by the Shire);
- retirement; or
- redundancy.

An employee is not eligible to receive a gratuity payment under this policy where an employee:

- has been dismissed for any reason other than redundancy; or
- resigns following commencement of a disciplinary investigation or performance management process.

Prescribed amounts of gratulty payments

The total gratuity payment made to any employee cannot exceed the value limitations imposed by Regulation 19A of the *Local Government (Administration) Regulations* 1996, which are as follows:

Employee Category	Value Limitation
A person who accepts voluntary severance by resigning as an employee and who is not	The value of the person's final annual remuneration
a CEO or a senior employee whose	
employment is governed by a written contract in accordance with s.5.39 of the	
Local Government Act 1995	
All other employees	\$5,000

Within the above constraints, the following will apply:

Employees leaving after ten years of continuous service with the Shire of Gingin

Eligible to receive an Eligible Termination Payment (ETP) through the payroll system to the value of \$500.00 (net), plus \$100.00 (net) for each year served after ten years. The payment is to be grossed up to include the tax payable.

Employees leaving after five to ten years of continuous service with the Shire of Gingin

Eligible to receive an ETP payment through the payroll system up to the value of \$500.00 (net), calculated at \$50.00 (net) for each year of service. The payment is to be grossed up to include the tax payable.

3. Employees leaving after less than five years of continuous service with the Shire of Gingin

An ETP payment through the payroll system shall be at the discretion of the Chief Executive Officer, but shall be of a value less than \$250.00 (net), calculated at \$50.00 (net) for each year of service. The payment is to be grossed up to include the tax payable.

- 4. Part Pay Out of Accrued Sick Leave (cl. (b) Policy 2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances)
 - Cl. (b) of Policy 2.25 (repealed) will continue to apply to those employees employed before [date of adoption of this policy].

Employees in this category who are 55 years of age or older and who have been employed by the Shire of Gingin for a continuous period of five years or more will be entitled, upon retirement, to a payment of 50% of the cash value of unused sick leave accrued as an employee of the Shire.

The above prescribed gratuity payments are not subject to GST.

Determining continuous service

For the purpose of this policy, continuous service shall be deemed to include:

- any period of absence from duty on approved annual leave, long service leave, paid compassionate leave, paid personal/carer's leave and public holidays;
- Any period of authorised paid absence from duty necessitated by sickness of or injury to the employee up to a maximum of three months in each calendar year, but not including leave without pay or parental leave; or
- any period of absence that has been supported by an approved worker's compensation claim up to a maximum absence of 12 months.

For the purpose of this policy, unless otherwise determined by Council resolution, continuous service does not include:

- any period of unauthorised absence from duty;
- any period of unpaid leave; or
- any period of absence from duty on unpaid parental leave.

Financial liability for taxation

An employee who accepts a gratuity payment, either as a gift or monetary payment, is responsible for any attributable tax liability arising for the employee and/or the Shire.

Payments in addition to this policy

The Shire of Gingin may, by resolution, determine to make a gratuity payment that is greater than prescribed in this policy but does not exceed the amount prescribed in Administration Regulation 19A, subject to Local Public Notice requirements prescribed in section 5.50(2) of the Act.

The Shire is prohibited by section 5.50 of the Act from making any payment to an employee finishing their employment which exceeds the amount prescribed in Administration Regulation 19A.

Financial implications

The Shire of Gingin acknowledges that at the time the policy was introduced, the financial implications to the Shire of Gingin were understood and that these financial implications had been investigated based on the workforce position current at that time.

The Shire of Gingin will take reasonable steps to notify employees prior to the variation of this policy or the introduction of any new gratuity policy.

Consequences of breaching this policy

This policy constitutes a lawful instruction to employees. Any breaches of the policy may lead to disciplinary action.

Variation to this policy

The Council may periodically review this policy and may, by resolution, amend or revoke this policy or adopt a new policy. The Shire will take reasonable steps to notify employees when the policy is amended or revoked or a new policy is adopted by the Council.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 s. 5.50	
	Local Government (Administration) Regulations 1996 Regulation 19A	
Industry Compliance	Nil	
Organisational Compliance	Shire of Gingin Code of Conduct	

POLICY ADMINISTRATION

Review Cycle	Biennial	Next Review	
Department	Office of the CEO - HR		

Version	Decision Reference	Synopsis
1.		

APPENDIX 5



POLICY MANUAL

POLICY 2.34 (DRAFT) EXECUTION OF DOCUMENTS

OBJECTIVE

To establish guidelines for the execution of documents and the application of the Shire of Gingin Common Seal, in accordance with s.9.49A of the *Local Government Act 1995*.

SCOPE

This policy applies to all Shire officers preparing documents for execution and/or who have been authorised through the provisions of this policy to execute documents on behalf of the Shire

Executing documents through the use of the Common Seal or by signing a document does not constitute the decision to undertake a particular course of action. A Council resolution or a decision under delegated authority is required prior to executing any resulting documents.

In instances where:

- 1. legislation; or
- 2. the formal requirements of a Commonwealth or State department, authority or agency (as described in a policy or procedure); or
- a Council decision;

expressly specifies a particular manner in which a document is to be executed, then that course of action is to take precedence over this policy.

Should ambiguity arise over what category might apply to a document, then the higher category is to take precedence.

POLICY

Section 9.49A of the *Local Government Act 1995* requires that, in order for a document to be executed by a local government, there must either be:

- 1. A Council resolution to:
 - a. apply the Common Seal to that particular document; or
 - b. permit the application of the Seal to a range of documents which includes the document in question; or

1

A Council resolution authorising the Chief Executive Officer or another employee, or an agent of the Shire, to sign documents on behalf of the Shire.

The following categories set out how various types of document should be dealt with.

Category 1A Documents

Category 1A documents require a specific resolution of Council to sell, lease or enter into an agreement, as well as an authority to affix the Common Seal. For example, in the case of the sale of land, the Council resolution would need to both approve the sale, and authorise the affixing of the Common Seal to the resulting deed of sale.

- Deeds of Agreement and Release and Memorandums of Understanding in relation to the sale or purchase of, or other commercial dealings in relation to, Shire-owned land (including equitable interests).
- 2. Local Planning Schemes and Scheme Amendments.
- Lease documents relating to the commercial lease of Shire owned or controlled land, including (but not limited to):
 - New lease agreements;
 - Extension of lease where a further term is not provided under the original lease;
 - c. Variation of lease;
 - d. Assignment of lease;
 - e. Surrender of lease;

except where delegated authority has been granted.

Local laws.

Category 1B Documents

Category 1B documents are to be sealed as part of a "class of documents" authorised by Council to be executed under the Common Seal without a specific Council resolution to affix the Seal.

Note: Although the document may not require a Council resolution to affix the Seal, a Council decision may still be required before undertaking the particular course of action that results in the document requiring execution.

- Agreements relating to grant funding, where the funder requests that the agreement be executed under Seal.
- 2. Debenture documents for loans which Council has resolved to raise.

- Any other legal and service agreements or contracts not already listed in this policy which require the Seal to be affixed.
- Other documents relating to land matters including lodgement of caveats, memorials, leases, transfers, deeds, licences, covenants, easements and withdrawal of such instruments.
- 5. Sublease of a portion of a premises by the Lessee.
- 6. Minor variation of lease provided it does not alter the substantive terms of the lease as approved by Council (for example, changes to a process within the lease, updating of contact details etc).

Category 2 Documents

Category 2 documents do not require the Common Seal to be affixed in order to be executed.

Under s.9.49A(4), Council authorises the officers listed in the table below to sign documents on behalf of the Shire of Gingin.

Document Description	Authority to Execute
Documents required to enact a decision of	Chief Executive Officer
Council (other than Category 1A and 1B	Relevant Executive Manager
documents)	
Documents required to enact a decision	Chief Executive Officer
made under delegated authority or as a	Relevant Executive Manager
condition of approval given under delegated	Officer with delegated authority
authority	
Documents required in the management of	Chief Executive Officer
land as a landowner	
Documents required to be signed as the	Chief Executive Officer
management body of Crown land where a	
decision is being made under delegated	
authority	

Category 3 Documents

Category 3 documents are those documents that are created in the normal course of business and are consistent with Shire policies and procedures.

These documents include (but are not limited to):

- Agreements in the normal course of business for the purchase of goods or services identified within the adopted budget. Signing must be in accordance with Council's Policy 3.10 Purchasing and any other relevant policies or delegations.
- 2. General correspondence.
- Other documents necessary to the day to day functioning of the administration.

Category 3 documents do not require a specific authorisation through this policy. As part of the day to day operations of the Shire, they are administered by the Chief Executive Officer under s.5.41(d) of the *Local Government Act 1995*.

Other Matters Relating to the Execution of Documents

- Where possible, documents requiring execution must be duly executed by the other parties to the document before being executed by the Shire of Gingin (either by application of the Common Seal or by signature). Exceptions may arise in regard to Scheme Amendment and Structure Plan documents, which may be certified prior to certification by the Western Australian Planning Commission.
- 2. Documents should be executed in original (paper) form.
- 3. Details of all transactions where the Common Seal has been affixed shall be recorded in a register kept by the Chief Executive Officer, with such register to record each date on which the Common Seal was affixed to a document, the nature of the document, and the parties to the document. The register is to record each transaction by an identifying sequential number and this number is to be recorded against the Common Seal as it is affixed (refer * shown in examples below).
- 4. Sealing clauses are to be in accordance with the following:
 - Category 1A documents (where the Common Seal is affixed by specific resolution of Council)

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	Common Seal noil in the prese	of the Shire of Gin ence of:	gin was affix	ed by a	uthority of a	resolution	of the	
	ERT NAME OF RE PRESIDEN	PRESIDENT] T				((\$	Common Seal to be	
[INS	ERT NAME OF	CEO]					stamped	*2222
b.	Category circumstar	1B documents	(where	the (Common	Seal is	affixed in	other
	ED: Common Seal	20 of the Shire of Gin	gin was a ff ix	ed in th	e presence	of:		
	ERT NAME OF RE PRESIDEN	PRESIDENT] T					Common eal to be	ĺ
- 1	ERT NAME OF EF EXECUTIVE					1	stamped	*2222

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 – s.2.5(2) Local governments created as bodies corporate Local Government Act 1995 – s.5.42 Delegation of some powers and duties to CEO Local Government Act 1995 – s.9.49A(4) Execution of documents	
Industry Compliance	N/A	
Organisational Compliance	mpliance Council Policy 3.10 Purchasing	
	Shire of Gingin Delegated Authority Register	

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.		

11.2. CORPORATE AND COMMUNITY SERVICES

11.2.1 LIST OF PAID ACCOUNTS FOR THE PERIOD ENDING 28 FEBRUARY 2021

File:	FIN/25	
Author:	Tania Ladner – Accounts Payable Officer	
Reporting Officer:	Les Crichton – Executive Manager Corporate and	
	Community Services	
Report Date:	16 March 2021	

DISCLOSURES OF INTEREST

Nil

PURPOSE

For Council to note the payments made in February 2021.

BACKGROUND

Council has delegated authority to the Chief Executive Officer (CEO) to exercise his 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 \$1,752,374.50 were paid during the month of February 2021.

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) Municipal Fund cheques Municipal Fund directs debits	\$1,167,451.66 \$762.51 \$220,256.02 \$1,388,470.19
Ba	ank Statement	
•	Bank fees and charges Wages and salaries Police licensing Office rent	\$5,680.74 \$293,706.17 \$63,867.40 \$650.00 \$363,904.31

Trust Fund \$0

Total Expenditure \$1,752,374.50

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 allocations.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Balcombe SECONDED: Councillor Vis

That Council note all payments made by the Chief Executive Officer under Delegation 2.1 for February 2021 totalling \$1,752,374.50, as detailed in the schedule provided to Councillors comprising:

•	Municipal Fund electronic funds transfers (EFT)	\$1,167,451.66
•	Municipal Fund cheques	\$762.51
•	Municipal Fund directs debits	\$220,256.02

Bank Statement

•	Bank fees and charges	\$5,680.74
•	Wages and salaries	\$293,706.17
•	Police licensing	\$63,867.40
•	Office rent	\$650.00

Trust Fund \$0

CARRIED UNANIMOUSLY

11.3. REGULATORY AND DEVELOPMENT SERVICES

11.3.1 APPLICATION FOR DEVELOPMENT APPROVAL - TEMPORARY SEA CONTAINER (STORAGE) ON LOT 149 DAVIESIA FAIRWAY, GINGINUP

File:	BLD/7249		
Applicant :	Desmond Winter		
Location:	Lot 149 Daviesia Fairway, Ginginup		
Owner:	Desmond Winter and Zalha Winter		
Zoning:	Rural Living		
WAPC No:	N/A		
Author:	James Bayliss – Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer:	Nil		
Appendices:	Location Plan and Aerial Image		
	2. Development Plans		
	3. Schedule of Submissions and Recommended		
	Responses		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed Use Not Listed (Outbuilding) on Lot 150 Daviesia Fairway, Ginginup.

BACKGROUND

The subject lot is 10,009m² and is currently vacant. The landowners have advised that their intention for the property is to construct a single house and outbuilding in conjunction with one another, however they seek approval to begin installing the outbuilding prior to the single house. This enables construction material and equipment to be securely stored during construction works.

It should be noted that in order for the proposed structure to be considered as a traditional outbuilding, it must be associated with a dwelling. An outbuilding is not permitted as a standalone structure on an otherwise vacant lot. As such, given the subject site does not contain a dwelling nor is there any current building permit for a dwelling to be erected on the property, the officer is unable to approve the proposed structure under delegation.

This notwithstanding, the landowners have provided development plans for the single house intended to be constructed, which is located within the designated building envelope and would therefore be exempt from the need to obtain development approval. A building permit will be rquired, and the lodgement of a building permit application to the Shire is imminent.

The proposed Use Not Listed (Outbuilding) is 12.2 metres in length and 9.2 metres in width, equating to an area of 112.6m². The proposed wall height is 3.3 metres tapering to an overall height of 4.2 metres. The structure is located within the designated building envelope.

A location plan and aerial image are attached as **Appendix 1**.

A copy of the outbuilding development plans is attached as **Appendix 2**.

A copy of the indicative single house plans is attached as **Appendix 3**.

COMMENT

Community Consultation

The proposal was not advertised to surrounding landowners as the overall development is located within the building envelope and would ordinarily be exempt from the need to obtain development approval. The only variation as such is the order in which construction is proposed to occur, which results in the officer being unable to consider the matter under delegation.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

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

- a) protect the rural environment and landscape;
- b) accommodate single dwellings at very low densities on individual allotments beyond the urban areas;
- c) restrict and limit the removal of natural vegetation and encourage revegetation where appropriate;
- d) prevent threats to the amenity of the zone and impacts on wildlife and native vegetation caused by the grazing of livestock;
- e) avoid increased fire risk to life and property through inappropriately located and designed land use, subdivision and development; and
- f) provide for a suitable level of physical and community infrastructure.

Clause 3.4.2 of LPS 9 outlines the process in dealing with uses not listed in the Zoning Table:

3.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

- b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of the clause 9.4 in considering an application for planning approval; or
- c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

The proposal is deemed to be consistent with the objectives of the Rural Living zone, and is therefore permitted subject to relevant conditions.

Given that the ability of the proposal to satisfy LPS 9 is reliant upon a dwelling being constructed, it is recommended that an appropriate condition be imposed to ensure the landowners follow through on their commitment to build a dwelling in conjunction with the outbuilding, and requiring the structure to be removed if this does not occur.

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

The Regulations are 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 72 of the Deemed Provisions, 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."

The above clause permits time limited approvals to be imposed. The rationale behind the time limited condition has been outlined above.

Conclusion

In summary, the proposed Use Not Listed (Outbuilding) can be appropriately regulated via conditions of approval. On that basis the officer recommends conditional support for the development.

STATUTORY/LOCAL LAW IMPLICATIONS

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

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2 Objectives of the Zones
3.2.6 Rural Living Zone
3.4.2 Interpretation of the Zoning Table (Use Not Listed)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Morton

That Council grant Development Approval for a Temporary Sea Container (Storage) on Lot 149 Daviesia Way, Ginginup subject to the following conditions:

- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications, including any directions written in red ink by the Shire, unless otherwise conditioned in this Approval;
- 2. Within 14 days from installation, the sea container is to be painted a neutral colour and is to be kept in good condition thereafter;

- 3. This Approval is only valid for a period of 12 months from the date of this Approval, and shall expire on 16 March 2022, at which time the sea container is to be removed from the property; and
- 4. The sea container is not to be used for human habitation.

Advice Notes

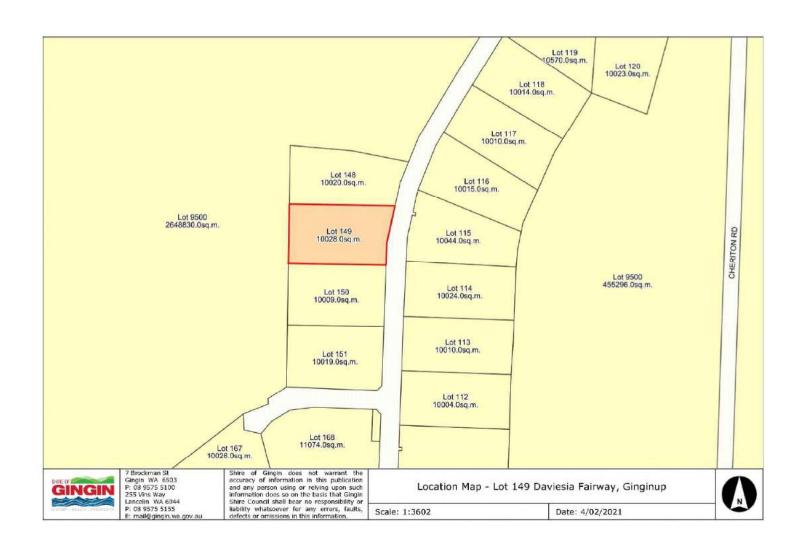
- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: 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 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 the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.

CARRIED UNANIMOUSLY

16/03/2021

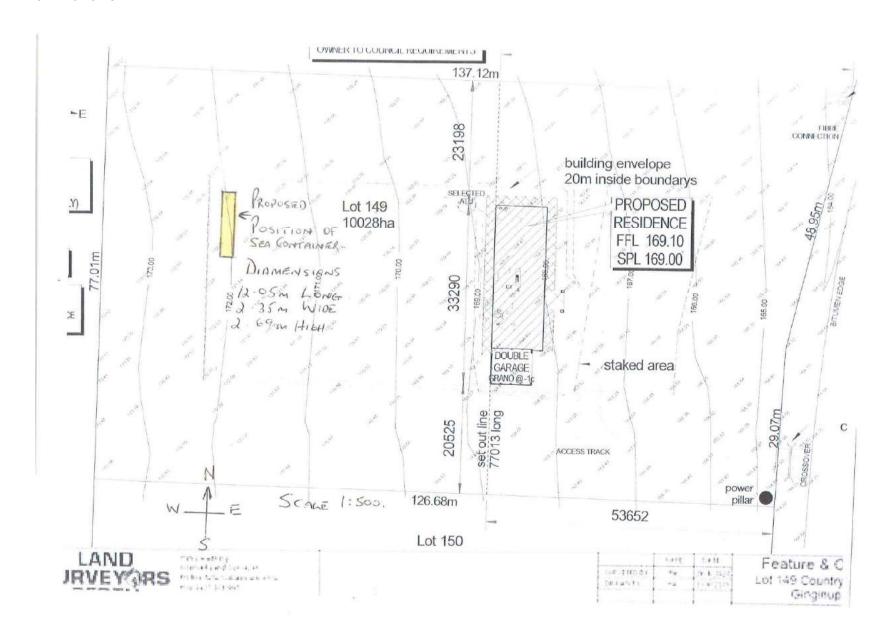
APPENDIX 1

MINUTES





APPENDIX 2



APPENDIX 3

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

DEVELOPMENT APPLICATION: TEMPORARY SEA CONTAINER (STORAGE) ON LOT 149 DAVIESIA FAIRWAY, GINGINUP

No.	Submitter	Submission details	Recommended response
1	Ratepayer	The submitter provides the following General Comment:	Noted.
		We have no objection to the adjoining landowners' proposal.	
2.	Ratepayer	The submitter provides the following General Comment:	Noted.
		We have no comments on this application	

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED USE NOT LISTED (OUTBUILDING) ON LOT 150 DAVIESIA WAY, GINGINUP

File:	BLD/7248
Applicant:	Ellenbrook Sheds and Patios
Location:	Lot 150 Daviesia Fairway, Ginginup
Owner:	Alison Baumer and Vardon Brown
Zoning:	Rural Living
WAPC No.	N/A
Author:	James Bayliss – Statutory Planning Officer
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and
	Development Services
Report Date:	2 March 2021
Refer:	Nil
Appendices:	Location Plan and Aerial Image
	Outbuilding Development Plans
	3. Indicative Dwelling Plans

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed Use Not Listed (Outbuilding) on Lot 150 Daviesia Fairway, Ginginup.

BACKGROUND

The subject lot is 10,009m² and is currently vacant. The landowners have advised that their intention for the property is to construct a single house and outbuilding in conjunction with one another, however seeks approval to begin installing the outbuilding prior to the single house. This enables construction material and equipment to be securely stored during construction works.

It should be noted that in order for the proposed structure to be considered as a traditional outbuilding, it must be in associated with a dwelling. An outbuilding is not permitted as a standalone structure on the otherwise vacant lot. As such, given the subject site does not contain a dwelling nor is there any current building permit for a dwelling to be erected on the property, the officer is unable to approve the proposed structure under delegation.

This notwithstanding, the landowners have provide development plans of the single house intended to be constructed which is located within the designated building envelope and would therefore be exempt from the need to obtain development approval, simply the need to obtain a building permit. The lodgement of a building permit application to the Shire is imminent.

The proposed Use Not Listed (Outbuilding) is 12.2 metres in length and 9.2 metres in width, equating to an area of 112.6m². The proposed wall height is 3.3 metres tapering to an overall height of 4.2 metres. The structure is located within the designated building envelope.

A location plan and aerial image are attached as **Appendix 1**.

A copy of the outbuilding development plans is attached as **Appendix 2**.

A copy of the indicative single house plans is attached as **Appendix 3**.

COMMENT

Community Consultation

The proposal was not advertised to surrounding landowners as the overall development is located within the building envelope and would ordinarily be exempt from the need to obtain development approval. The only variation as such is the order in which construction is proposed to occur, which results in the officer being unable to consider the matter under delegation.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

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

- a) protect the rural environment and landscape;
- b) accommodate single dwellings at very low densities on individual allotments beyond the urban areas;
- restrict and limit the removal of natural vegetation and encourage revegetation where appropriate;
- d) prevent threats to the amenity of the zone and impacts on wildlife and native vegetation caused by the grazing of livestock;
- e) avoid increased fire risk to life and property through inappropriately located and designed land use, subdivision and development; and
- f) provide for a suitable level of physical and community infrastructure.

Clause 3.4.2 of LPS 9 outlines the process in dealing with uses not listed in the Zoning Table:

3.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –

a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

- b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of the clause 9.4 in considering an application for planning approval; or
- c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

The proposal is deemed to be consistent with the objectives of the Rural Living zone, and is therefore permitted subject to relevant conditions.

Given whether or not the proposal is able to satisfy LPS 9 is reliant upon a dwelling being constructed, it is recommended that an appropriate condition be imposed to ensure the landowners follow through on their commitment to build a dwelling in conjunction with the outbuilding and if this does not occur, the structure is to be removed.

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

The Regulations are 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 72 of the Deemed Provisions, 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."

The above clause permits time limited approvals to be imposed. The rationale behind the time limited condition has been outlined above.

Conclusion

In summary, the proposed Use Not Listed (Outbuilding) can be appropriately regulated via conditions of approval. On that basis the officer recommends conditional support for the development.

STATUTORY/LOCAL LAW IMPLICATIONS

Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2 – Deemed Provisions for Local Planning Schemes Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2 Objectives of the Zones
3.2.6 Rural Living Zone
3.4.2 Interpretation of the Zoning Table (Use Not Listed)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Vis SECONDED: Councillor Johnson

That Council grant Development Approval for a Use Not Listed (Outbuilding) on Lot 150 Daviesia Way, Ginginup subject to the following conditions:

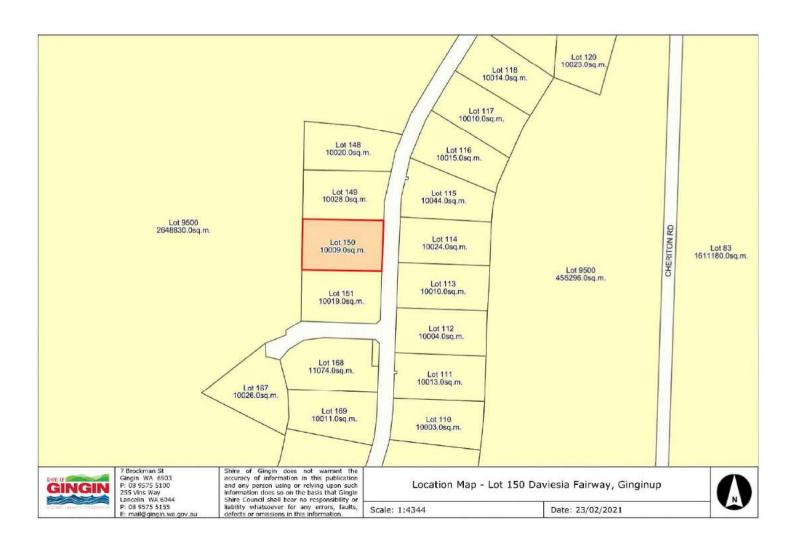
- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications, including any directions written in red ink by the Shire, unless otherwise conditioned in this Approval;
- 2. This approval is for a use not listed (outbuilding) only as indicated on the approved plans;
- 3. This approval is valid for a period of two years, expiring on 16 March 2023, at which time the use not listed (outbuilding) is to be removed from the property unless the construction of a single house has been completed;

- 4. The finished floor level of the outbuilding must be set at the existing average natural ground level to the satisfaction of the Shire of Gingin;
- 5. The outbuilding is not to be used for human habitation or any other industrial or any commercial use; and
- 6. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin.

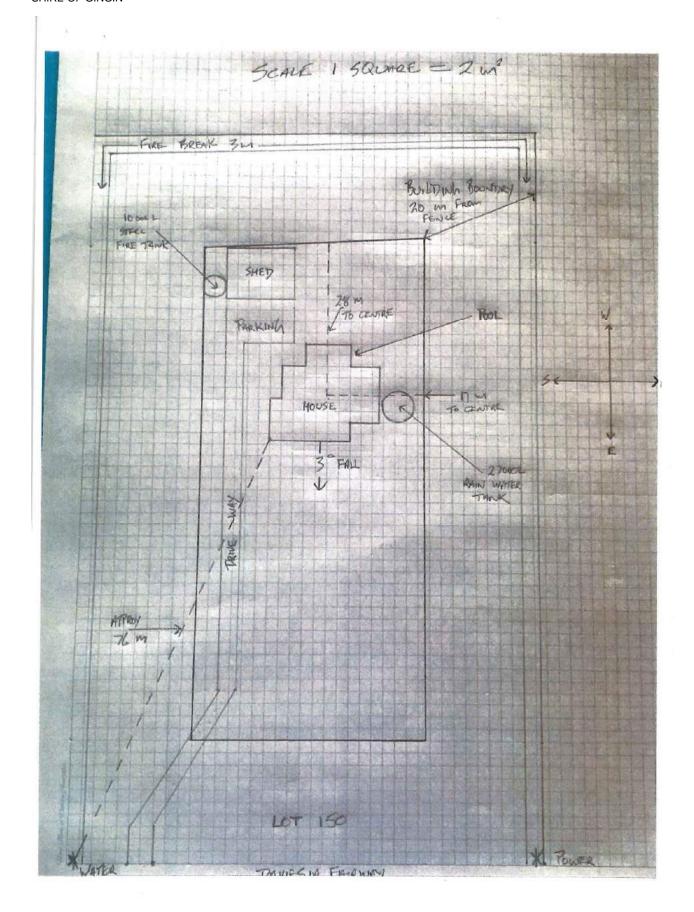
Advice Notes

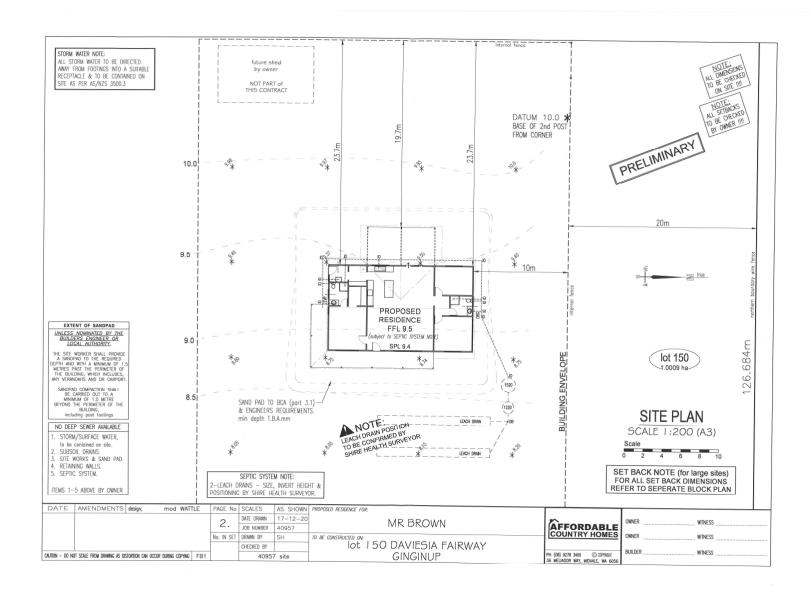
- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: 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 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 the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.
- Note 6: Should the single house be constructed within the two year approval period, the structure will be classified under the planning framework as an 'outbuilding' and will therefore be subject to an exemption from the need to obtain further development approval under Schedule A, Clause 61 (m) of Local Planning Scheme No. 9.

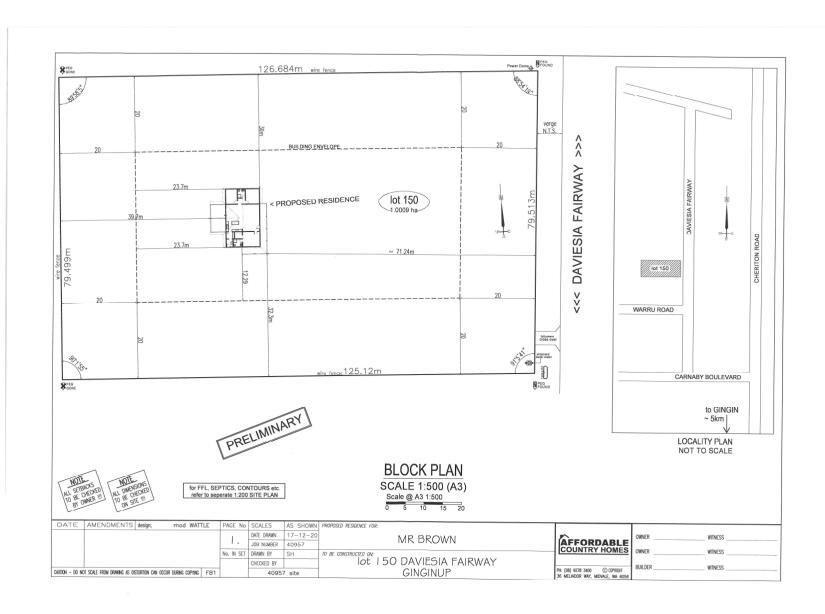
CARRIED UNANIMOUSLY

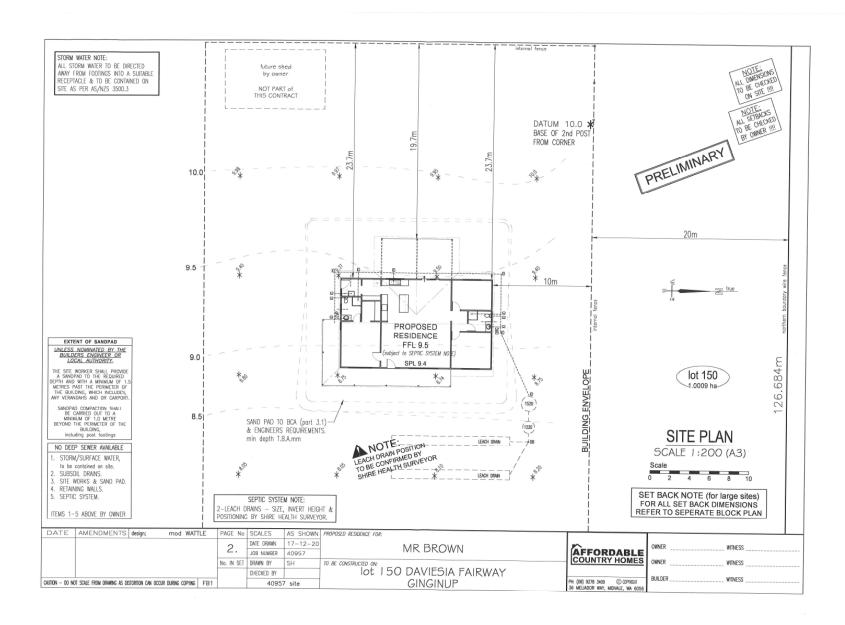


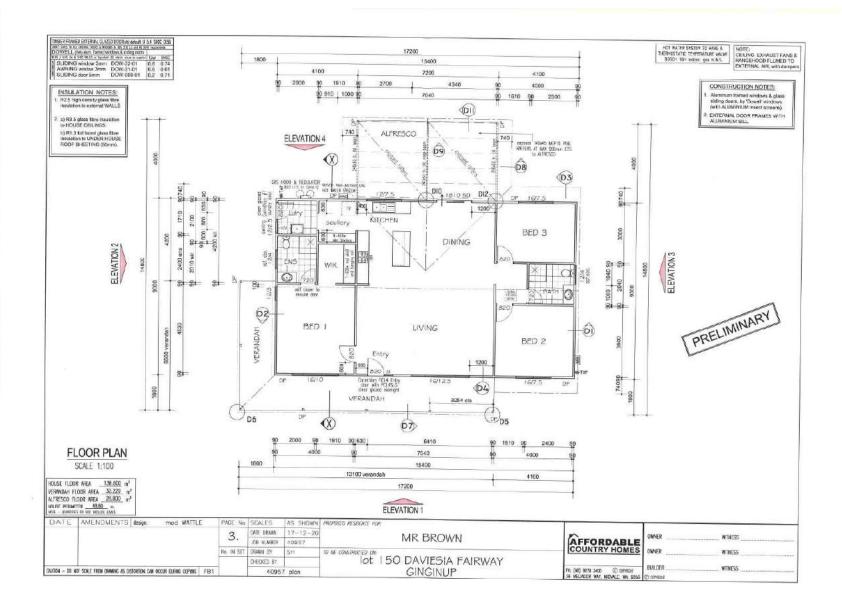


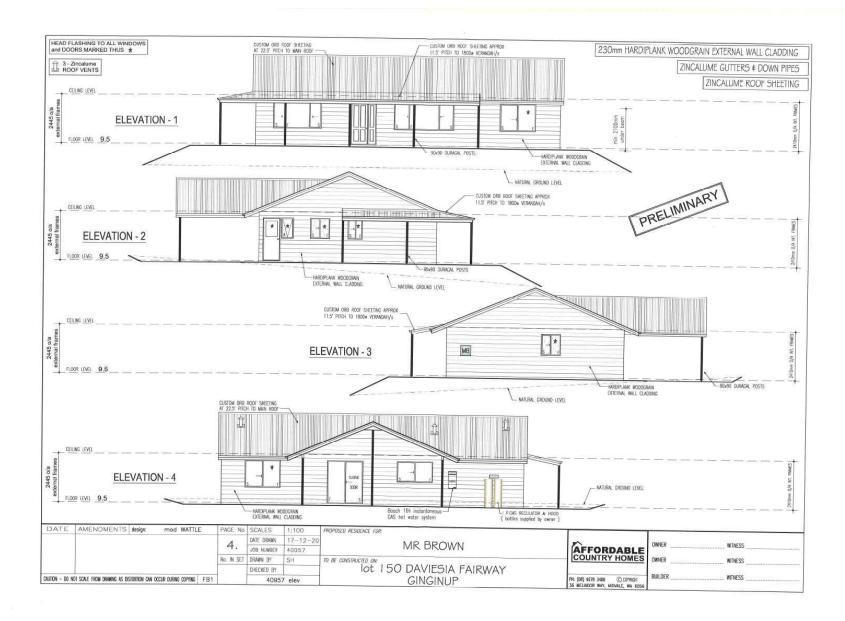












11.3.3 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED EXTRACTIVE INDUSTRY ON LOT 11 (356) SAPPERS ROAD, NILGEN

File:	BLD/7222				
Applicant:	Harley Dykstra				
Location:	Lot 11 (356) Sappers Road, Nilgen				
Owner:	Murray Rudd and Lesley Rudd				
Zoning:	General Rural				
WAPC No:	N/A				
Author	James Bayliss - Statutory Planning Officer				
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and				
	Development Services				
Report Date:	16 March 2021				
Refer	Nil				
Appendices	Location Plan and Aerial Photograph				
	2. Applicants Proposal				
	3. Schedule of Submissions and Recommended				
	Responses				
	4. Shire of Gingin crossover specification				

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed Extractive Industry (Sand) on Lot 11 (356) Sappers Road, Nilgen.

BACKGROUND

The subject lot is 100 hectares in area which comprises of predominantly yellow sandplain soils, with approximately 25.7ha of the property being utilised for grazing purposes and the remainder of the site comprising either remnant vegetation or tagasaste plantation. The property contains a single house located on the south-eastern portion of the property.

It is proposed that Stage 1 of the extractive industry development will be located within the vacant grazing land in the south western corner of the subject allotment. Stage 2 will commence within the vacant grazing land, but will extend north into the tagasaste plantation. The overall Extractive Industry footprint covers an area of 18.6 hectares.

The material being extracted consists of sand, which is to be used as part of the prospective purchaser's civil construction operation and also sold commercially.

The application includes the construction of an undercover storage facility which consists of two 40 foot sea containers connected via a 'dome shelter' roof. The structure is 16.8 metres in length and 12.2 metres in width with an overall ridge height of 6.1 metres. The operator's machinery will be stored undercover with sundries able to be securely locked within the sea containers. The structure is set back significantly (100+ metres) from the lot boundaries. Copies of a Location Plan and aerial photograph are provided as **Appendix 1**.

The applicant has provided a comprehensive report in support of the application and the officer does not intend to duplicate the information submitted. The applicant's proposal is provided as **Appendix 2**.

COMMENT

Community Consultation

The application was advertised in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015.* This included advertising to surrounding landowners, a development sign placed on the verge of the property and a notification on the Shire's website, all for a period of 28 days.

One community stakeholder submission was received which clarified information pertaining to water licensing. This was interpreted as a general comment and did not amount to an objection.

The application was also advertised to the following State agencies for a period of 42 days in accordance with clause 66 of the *Planning and Development (Local Planning Scheme)* Regulations 2015:

- Department of Water and Environmental Regulation (DWER);
- Department of Mines, Industry Regulation and Safety (DMIRS);
- Department of Planning Lands and Heritage (DPLH);
- DPLH Aboriginal Heritage Council;
- Department of Health (DoH); and
- Department of Biodiversity, Conservation and Attractions (DBCA).

A copy of the Schedule of Submissions and Recommended Responses, including correspondence from State Agencies is provided as **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Strategy 2012 (LPS)

The LPS notes the significance of the Shire's contribution to Basic Raw Materials which service development within the region and to the metropolitan region.

Section 2.5.4 of the Strategy states the following:

"The Shire of Gingin is under increasing pressure for extractive industry development as the resource base lessens in the metropolitan area and the urban development front moves northwards.

The availability of basic raw materials for extraction, particularly in areas adjacent to the coast, is enhanced by the containment of urban nodes and limitation on further rural residential development in proximity to the coastal margin.

SHIRE OF GINGIN

Protection and management of these resources should be in line with WAPC Statement of Planning Policy No 2.4 Basic Raw Materials."

16/03/2021

The limesand deposit has not been identified under 'Draft State Planning Policy 2.4 – Basic Raw Materials Policy' (2018) and the Guilderton to Kalbarri Sub-regional Strategy. This is discussed further in the below report.

Local Planning Scheme No. 9 (LPS 9)

The subject lot is zoned "General Rural" under LPS 9. The objectives of the General Rural zone 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.

An Extractive Industry is an "A" use within the General Rural zone, which means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the Deemed Provisions.

It should also be noted that an extractive industry is also regulated under an Extractive Industry Licences (EIL) that is issued by the Shire in accordance with the Shire of Gingin Extractive Industries Local Law 2004, which sets out further operational obligations.

Setbacks

In accordance with 'Table 2 – Site Requirements' of LPS 9, all development shall be set back a minimum 20 metres from all lot boundaries. The proposed extraction area is set back a minimum of 100 metres from the nearest (western) lot boundary.

4.8.10 Extractive Industries

- 4.8.10.1 Local government may consider applications for extractive industries in the General Rural zone where the sites have not been identified within an SCA under clause 5.4.
- 4.8.10.2 In considering applications for extractive industries, local government will have regard for the zone objectives.

4.8.10.3 Local government will also consider the potential impact of the extractive industry in regard to surrounding land uses (both existing and future) and may apply conditions to manage the potential impacts, such as noise, dust, odour and amenity.

Comment:

The above provision outlines that resources not identified under the LPS are still able to be utilised, subject to a relevant planning assessment. The relevant considerations outlined under clause 4.8.10.3 above are duplicated under the Deemed Provisions.

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)</u>

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 matters are considered to be relevant with the Officer comments outlined below:

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

Comment

The officer is of the view that the proposed land use is compatible within the rural environment, mainly due to rural land generally being large in area and best suited to provide adequate buffer distances to adjoining properties and sensitive land uses.

Surrounding land is privately owned and generally used for intensive agriculture purposes, with the exception of the adjoining rear allotment which is owned by the State of Western Australia. Given the setbacks provided, there are unlikely to be any adverse impacts to surrounding properties.

- (n) The amenity of the locality including the following:
 - (i) Environmental impacts of the development;
 - (ii) The character of the locality;

Comment

The development area is generally clear of remnant vegetation. The area is not identified for threatened and priority flora or fauna, nor as a threatened and priority ecological community. The development utilises existing access tracks to avoid land clearing. The environment impacts appear to be minimal.

The character of the area consist of intensive agricultural pursuits, with relatively large lot sizes typically of general rural zoned land. The character of the area is unlikely to be impacted.

(o) The likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource:

Comment

As indicated above, the likely effect on the natural environment is minimal. There are no surface water features on the subject land. Relevant conditions of approval can capture the need to provide a Rehabilitation Plan, which at a minimum will outline the land re-contouring and rehabilitation works at the conclusion of each stage of extraction. The applicant has advised that extraction will proceed progressively within each stage, with rehabilitation taking place behind the extraction front. The active working area at any one time is not expected to be more than 1ha.

Extraction will be relatively shallow and not typically exceeding 2m below the natural surface of the land (58m AHD). The operator has indicated higher grade sand (plasterers sand) may be available at depths between 6m -7m below the natural surface of the land. If located, the higher grade sand would be excavated from small holes across the extraction area and would be incidental to the primary extraction of yellow sand. At its deepest extraction point the pit floor would not fall below an AHD height of 53m in localised areas, depending on the availability of the resource. This still provides at least a 5m separation distance between the pit floor and the expected ground water height.

- (s) The adequacy of -
 - (i) The proposed means of access to and egress from the site; and
 - (ii) Arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

Comment

The property is accessed via Sappers Road, which is a two-lane bitumen sealed road that forms part of Aglime Route 2 and is classed as suitable for RAV 4 vehicles. The development intends to utilise a combination of vehicles, being pocket road trains, semi-trailers or smaller vehicles if required. It is anticipated that the majority of the excavated material will be transported towards Lancelin utilising Indian Ocean Drive.

The existing crossover servicing the property is currently inadequate to cater for the traffic generated by the development. The applicant has acknowledged within the submission that the existing crossover will be upgraded with compacted bitumen profiling. The Shire's Operations Department has requested that the crossover be upgraded and sealed in accordance with 'Crossover Specification B' as outlined within the Shire's Crossover Specification which is provided as **Appendix 4**.

Limestone road base will be utilised to construct a driveway from the existing entrance gate along the boundary of the property, through to the proposed extraction area. This driveway will be adequately maintained with a water cart utilised for dust suppression when required. Over time, the operator intends to install recycled bitumen profiling over the access way to further reduce dust.

The area dedicated to loading, manoeuvring and parking of vehicles is large in size and is viewed as being satisfactory.

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

Comment

The comments received from State agencies reinforce the need to impose conditions relating to rehabilitation and dust management which are typically applied to extractive industries. The DBCA has suggested that an Environmental Hygiene Management Plan be developed and implemented to prevent the spread of weeds and disease.

The comments from DPIRD note that the soil types identified on the subject land have high capability to accommodate broad acre and irrigated horticulture, which is evident through prevailing land uses in the area. The applicant has provided a response to DPIRD's comments and the officer largely concurs with those comments.

State Government Policies

The State Government has various State Planning Policies that apply to developments of this nature, such as the following:

- State Planning Policy 2.4 Basic Raw Materials (SPP 2.4) (draft);
- State Planning Policy 2.5 Rural Planning (SPP 2.5); and
- Guilderton to Kalbarri Sub Regional Strategy.

It is acknowledged that many areas of consideration outlined under the SPPs are a duplication of the matters already discussed above. The general theme is that basic raw material deposits should be identified, set aside and protected to ensure that the resource can be used without causing land use conflict.

One noteworthy consideration is that sequential land use planning is encouraged which means extraction and subsequent rehabilitation can take place on a programmed basis. This can be achieved via a Staging and Rehabilitation Plan which work hand in hand to ensure that, at the cessation of the development, the land can be utilised for general rural purposes.

<u>Environmental Protection Authority's (EPA) Guidance Statement No. 3 – Separation</u> Distances between Industrial and Sensitive Land Uses (Guidance Statement)

The Guidance Statement recommends a buffer distance of between 300m - 500m (depending on the size) between an extractive industry (sand extraction) and sensitive land uses (i.e. dwellings). The nearest sensitive land use is located on neighbouring Lot 12 which contains a dwelling.

The dwelling is over 500m from the proposed Application Area. An agriculture intensive (horticulture) land use is located on neighbouring Lot 200, being approximately 190m from the proposed application area but only 60 metres from the access road.

The Guidance Statement does not identify horticulture as a sensitive land use, however noting the comment from DPIRD that dust on horticultural crops may affect their growth and productivity, the proximity of the access road to the adjoining pivot does cause some concern.

Shire of Gingin - Extractive Industries Local Law 2004 (as amended)

The Local Law guides the formal licensing of extractive industries throughout the Shire to monitor ongoing operational aspects of the use. The proponent has addressed section 2.2 of the Local Law in its submission under 'Table 3 - Extractive Industry Proposal'. The officer is of the view that the information provided is adequate to issue a license in the event that Council is supportive of the development. The licence would be issued once relevant conditions of development approval have been fulfilled.

Further Planning Considerations

Although the Shire's Extractive Industries Local Law 2004 (as amended) does capture various operational components, it is pertinent to ensure various management plans are captured as conditions of development approval.

Generally management plans would include dust, staging, noise, landscaping, rehabilitation and traffic management. These components can be conveniently captured in a singular Site Management Plan (SMP) for ease of reference. Furthermore, the land easily meets the buffer requirements and therefore negates the need for a noise management plan and no additional landscaping is required.

Conclusion

The officer is of the view that the subject land can accommodate the proposed extractive industry, provided that appropriate planning conditions and management plans are in place to ensure off site impacts can be controlled in a manner that won't adversely affect the amenity of the locality and will uphold the objectives of the General Rural zone.

STATUTORY/LOCAL LAW IMPLICATIONS

Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2 – Deemed provisions for local planning schemes Local Planning Scheme No. 9
Part 4 – Zones and the Use of Land
3.2 - Objectives of the Zones
3.2.7 - General Rural

Shire of Gingin Extractive Industries Local Law 2004 (as amended)

State Planning Policy 2.4 – Basic Raw Materials State Planning Policy 2.5 – Rural Planning

Environmental Protection Authority's (EPA) Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses (Guidance Statement)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	Infrastructure and Development	
Objective	pjective 3. To effectively manage growth and provide for community through	
	delivery of community infrastructure in a financially responsible manner.	
Outcome	3.1 Development new and existing developments meet the Shire's	
	Strategic Objectives and Outcomes.	
Key Service	Building and Planning Permits	
Areas		
Priorities	3.1.1 Support strategies that facilitate commercial development.	

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Vis SECONDED: Councillor Peczka

That Council grant Development Approval for an Extractive Industry on Lot 11 (356) Sappers Road, Nilgen subject to the following conditions:

- 1. The land use and development shall be undertaken 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. All works required to satisfy a condition of this approval are required to be installed/constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development;

- 3. The approved extraction area is limited to 18.6 hectares as outlined on the approved plans;
- 4. The predominant extraction depth shall be limited to 58 AHD with incidental areas targeting higher grade sand limited to 53 AHD to the satisfaction of the Shire of Gingin. The extractive industry shall not at any time intercept the water table;
- 5. Prior to the commencement of the approved use, the landowner/operator is required to upgrade the existing crossover at their expense, in accordance with Crossover Specification Type B outlined within the Shire's Crossover Specification Drawing Number SoG/STD-04 dated January 2021. The landowner/operator shall maintain the crossover in a good condition thereafter to the satisfaction of the Shire of Gingin;
- 6. Prior to commencement of the approved use, a Site Management Plan (SMP) shall be submitted to and approved by the Shire of Gingin. The SMP is to be implemented thereafter to the satisfaction of the Shire of Gingin;
- 7. Prior to commencement of the approved use, the landowner/operator shall demonstrate to the satisfaction of the Shire of Gingin that an adequate water supply has been secured to service the development;
- 8. Prior to commencement of the approved use, a Rehabilitation Bond in the amount of \$1,916.00 is to be paid to the Shire of Gingin;
- 9. Materials associated with the approved development are not to be stockpiled within 20 metres from the lot boundary. Stockpiled material is limited to a height of 4.5 metres from natural ground level;
- 10. The approved development can only operate between the following hours:

Monday - Saturday: 6:00am to 6:00pm; and

11. The sea containers as indicated on the approved plans are to be painted a neutral colour and are to be kept in good condition thereafter.

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: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: The operation is required to comply with the *Environmental Protection* (Noise) Regulations 1997.

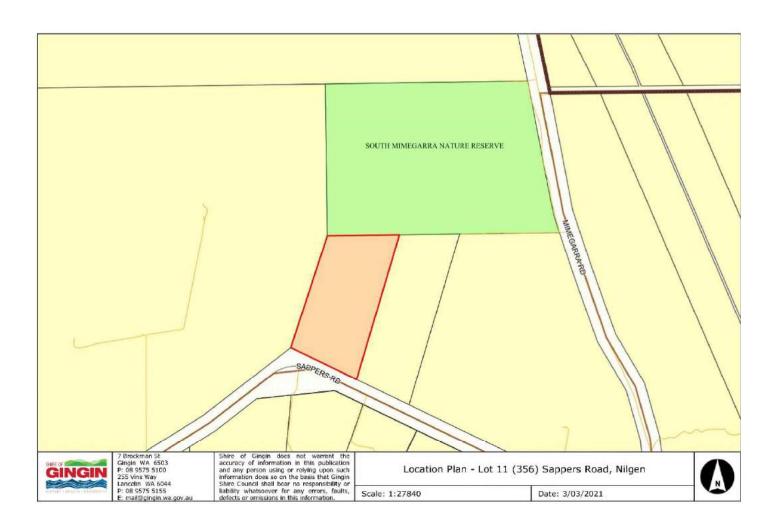
SHIRE OF GINGIN

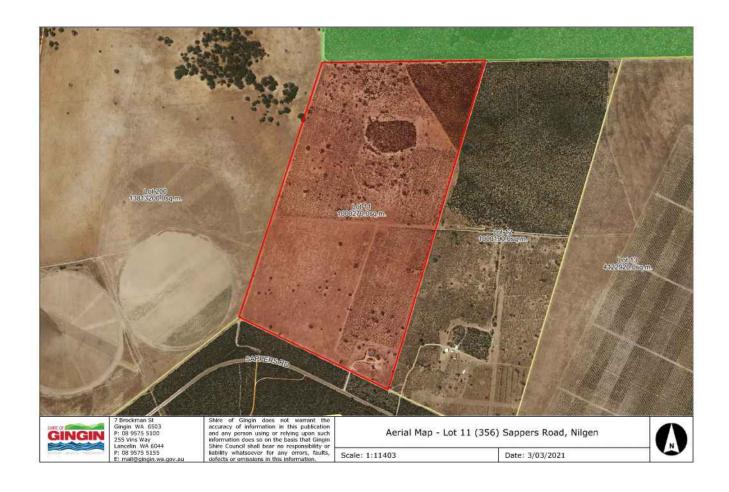
- Note 4: In relation to the lodgement of a Site Management Plan, this at a minimum is to outline the following:
 - a. Rehabilitation Plan Proposed contouring and rehabilitation works during and at the conclusion of the extraction stage are to be specified. This is to also include decommissioning works should the extraction pit/approved development be mothballed for a period of 12 months or longer and/or decommissioned.
 - Dust Management Plan Dust suppression methods for access ways, trafficked areas and stockpiles are to be outlined and the inclusion of a complaints register system specified.
 - c. Staging Plan The Staging Plan is to outline the staging of the extraction works within the two areas delineated on the approved plans.
 - d. Weed and Disease Management Detail the management of grasses, weeds and disease nuisances within the development area.
- Note 5: The development requires an Extractive Industry License to be issued by the Shire of Gingin prior to extraction occurring and requires periodical renewal in accordance with the Shire's Extractive Industries Local Law 2004 (as amended).
- Note 6: Please be advised that the Shire of Gingin will not issue an Extractive Industry License should the annual (or as required) survey plan be inconsistent with the approved plans or accompanying documentation forming part of this approval, or if rehabilitation works are incomplete.
- Note 7: Once rehabilitation works have been finalised, the landowner/operator may apply to the Shire of Gingin for the rehabilitation bond to be returned.
- Note 8: Backfilling the excavation pits with landfill is prohibited.
- Note 9: In relation to the upgrade of a new crossover, please note that a crossover application form is to be submitted to the Shire's Operations Department which can be found on the Shire's website at the following link:

 https://www.gingn.wa.gov.au/services/operations.aspx
- Note 10: Please be advised that clearing of native vegetation is prohibited in Western Australia, unless the clearing is authorised by a clearing permit obtained from the Department of Water and Environmental Regulation or is of a kind that is exempt in accordance with Schedule 6 of the Environmental Protection Act 1986 or Environmental Protection (Clearing of Native Vegetation) Regulations 2004.
- Note 11: Please be advised that the property may be re-rated to reflect the change in intensification and use approved as part of this application.

- Note 12: The proponent is encouraged to contact the Department of Water and Environmental Regulation's Swan Avon Region office on 6250 8000 to discuss water management options.
- Note 13: If any interception of groundwater occurs, work shall cease and an advice notice provided to the Department of Water and Environmental Regulation within 48 hours, followed by agreed remedial action.
- Note 14: The proponent is reminded of obligations under the *Aboriginal Heritage Act* 1972 in relation to the discovery of unknown heritage places during excavations.

CARRIED UNANIMOUSLY





Development Application / Extractive Industry Licence

Lot 11 Sappers Road, Nilgen







SHIRE OF GINGIN

DOCUMENT CONTROL

Control Version	Date	Status	Distribution	Comment
Α	24/11/2020	Draft	DM	For QA
В	30/11/2020	Draft	Client	For Comment
С	2/12/2020	Final	Shire	For Processing

Prepared for: Lancelin Sands Date: 2 December 2020

Prepared by: Job No: 22508 TD Reviewed by: DM Ref:

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TABLE OF CONTENTS

DOCON	MENT CONTROL	
DISCLA	AIMER	II
APPEN	DICIES INDEX	ıv
1. IN	TRODUCTION	1
	JBJECT LAND	
2.1.	Property Description, Ownership and Locality	
2.1.	Tanagraphy	
2.2.	Topography Geology and Soils	4
2.4.	Groundwater Hydrology	4
2.4.	Vegetation	4
2.5.	Aboriginal Heritage	0
2.7.	Bushfire Prone Areas	
3. PL	ANNING FRAMEWORK	
3.1.	Shire of Gingin Local Planning Scheme No. 9	8
3.2.	Shire of Gingin Local Planning Strategy	9
3.3.	Guilderton to Kalbarri Sub-Regional Strategy	9
3.4.	State Planning Policy 2.4 – Basic Raw Materials	10
3.5.	State Planning Policy 2.5 – Rural Planning	11
3.6.	Environmental Protection Authority Guidance Statement No. 3	11
3.7.	Shire of Gingin Extractive Industries Local Law	11
4. PR	ROPOSED DEVELOPMENT	12
4.1.	Development Overview	12
4.2.	Nature of operation and duration	12
4.3.	Stages of excavation	12
4.4.	Proposed depth of extraction	13
4.5.	Proposed Site Access and Movement	13
4.6.	Proposed hours of operation	14
4.7.	Excavation Program and traffic Generation	14
4.8.	Site operations	14
4.9.	Dust management	14
4.10.	Noise management	
4.11.	Drainage Management	15
4.12.	Management of existing vegetation	15
4.13.	Management of visual impacts	
4.14.	Proposed Improvements	
5. RE	HABILITATION AND DECOMMISSIONING PROGRAM	19
5.1.	Objectives	
5.2.	Rehabilitation activity	19
5.3.	Ongoing maintenance	
5.4.	Final clean-up	



APPENDICIES INDEX

APPENDIX A Development Plans

APPENDIX B Certificate of Title



INTRODUCTION

This application for development approval of an Extractive Industry at Lot 11 Sappers Road, Nilgen (the subject land), has been prepared by Harley Dykstra on behalf of the prospective purchaser of the lot (KB Riley & Sons Pty Ltd trading as Lancelin Sands). Lancelin Sands is a transport and earthmoving company which intends to purchase the subject land and operate a sand extraction pit within the proposed development area. It is concurrently sought with this development approval that an Extractive Industry Licence (EIL) also be issued over the proposed development area in favour of Lancelin Sands (the licensee). Collectively the application for development approval and EIL is referred to as 'the Application' for the purpose of this report.

Lancelin Sands wish to gain approval to extract sand from the site for the purposes of using the product as part of their civil construction operations and also to sell the extracted product commercially.

The purpose of this report is to provide planning justification for the proposal in order to assist the Shire of Gingin to consider this application in detail and grant approval, subject to appropriate conditions.

The subject lot comprises a 100.0271ha regular shaped allotment which has a 748.16m frontage to Sappers Rd. The site is zoned General Rural under the Local Planning Scheme with a large portion of the site previously established as a Tagasaste plantation, which is not considered to be commercially viable.

There is some remnant vegetation over the subject land, the majority of which is to the northern parts of the lot. The application for Extractive Industry development is over a 18.6577ha portion, positioned along the western boundary of the allotment (the Application Area).

Plans illustrating the nature and extent of development are included at Appendix A.

A residence is located in the south eastern corner of the subject allotment with an all-weather gravel driveway extending from Sappers Rd and providing vehicle access to the residence. It is proposed that the current crossover be utilised for the Extractive Industry use with upgrades completed to ensure adequacy for heavy transport vehicles.



SUBJECT LAND

2.1. Property Description, Ownership and Locality

Lot 11 is situated on the northern side of Sappers Rd located approximately 3.6km north west from the intersection of Sappers Rd and Mimegarra Rd (Figure 1).

The subject land is located along Aglime Route 2 which extends from Lancelin through to Goomalling, via the townships of Regans Ford, New Norcia and Calingiri (see Figure 2). Sappers Rd is a 'Regional Distributor Road' and according to Main Roads HVS network mapping, a 27.5m Oversize B-Double is permitted along this road.

Surrounding lots are predominately zoned 'General Rural'. South Mimegarra Nature Reserve adjoins the rear boundary of the subject land being reserved for 'Parks and Recreation'. Adjoining and surrounding uses typically include rural, farming and horticultural activities.

Surrounding allotments are privately owned with the exception of the adjoining rear allotment which is owned by the State of Western Australia.

The 100.0271ha allotment comprises yellow sandplain soils with approximately 25.7ha utilised for grazing and the remainder of the site comprising either remnant vegetation or the tagasaste plantation (**Figure 3**). It is proposed that stage 1 of the extractive industry development will be located within the vacant grazing land in the south western corner of the subject allotment. Stage 2 will commence within the vacant grazing land however extend north into the tagasaste plantation.

A relatively modern four bedroom, two bathroom brick home is located in the south eastern corner of the subject allotment. Water tanks, a domestic solar bore and a machinery shed are positioned in proximity to the residence.

The subject land is currently owned by Lesley Rudd and Murray John Ellwood Rudd and is under contract to KB Riley and Sons Pty Ltd.

The property details are shown in **Table 1** below. A copy of the Certificate of Title is available in **Appendix B**.

An easement burden in favour of Western Power is located in the south eastern corner of the subject allotment. The easement is approximately 5m wide by 118m long and positioned along the front boundary. The easement is not considered to have an impact on the proposed development.

LOT NO.	PROPERTY ADDRESS	LANDOWNER	AREA	VOL.	FOLIO	PLAN NO.
11	356 SAPPERS RD,	RUDD, LESLEY	100.0271	2096	424	P 21851
	NILGEN	RUDD, MURRAY JOHN ELLWOOD				

Table 1 – Summary of Land Details





Figure 1 – Locality Plan



Figure 2 - Aglime Route 2 (Roads 2030)







Figure 3 Tagasaste plantation over the subject. (Source: realestate.com)

2.2. Topography

The Pre-Extraction Site Plan located under **Appendix A** indicates the subject land has a gentle undulation across the Application Area. Contours along the front boundary of the lot commence at approximately 80mAHD and gently fall to 60mAHD moving northward. A 60mAHD gully is located through the centre of the allotment. A 70mAHD elevation extends from the north western boundary of the subject land in a south easterly direction. 60mAHD gullies are located on either side of the 70mAHD elevation.

2.3. Geology and Soils

The subject land is considered to be part of the Spearwood System which comprises sand dunes and plains.

The Spearwood System is typically characterised as pale yellowish brown, medium to coarse grained, sub-angular to well-rounded quartz, trace of feldspar, shell debris, variably lithified, surface kankar, of eolian origin (Department of Industry and Resources — DOIR Geology Mapping 2000).

2.4. Groundwater Hydrology

There are no surface water features on the subject land. Information from the Bureau of Meteorology Australian Groundwater Explorer provides some data on a number of local bores which in turn can be used to inform groundwater levels relative to the natural surface of the subject land.

The most recent data from a nearby bore (3.1km away, see **Figure 4** and **Figure 5** overpage) indicates that ground water levels were at 47.76 mAHD in April 2014. A prior reading of the same bore, dated April 2010, indicates a ground water level of 48.43mAHD.





Figure 4 - Distance to Nearby Bore

We note that the subject land is considered to be within the hydrozone known as "Coastal Plain". The zone is considered to have a low salinity risk and a stable ground water trend.

On the basis of the above information we have drawn the conclusion that a broadly similar water level (mAHD) would be applicable relative to the subject allotment. We have conservatively adopted 48mAHD as the approximate ground water level for the subject land, although ground water levels are likely to be below this level in consideration of the trend exhibited in **Figure 5**.

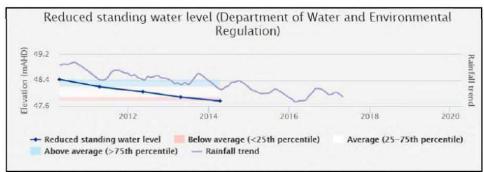


Figure 5 - Trend of Water Levels from Nearby Bore

The extraction proposed to occur onsite is considered to be fairly conservative, with stage 1 and 2 pits not exceeding a depth of 58mAHD. The distance between the Finished Pit Level (FPL) and the extrapolated ground water level is considered to be 10m. The operator has also indicated that slightly higher grade sand may be available at depths of 6-7m below the natural surface of the land. If available and incidental to the main sand extraction, the operator intends to excavate this higher grade sand from small holes which will not be below 53mAHD.

To our knowledge, the Shire of Gingin has previously required Finished Pit Levels to be not less than 0.5m above the ground water level. In the case of this application, the separation between the groundwater and the deepest potential excavation will be more than adequate.



There appears to be no water licences registered over the subject allotment however it is noted that a private domestic solar bore is located close to the main residence.

The client has indicated that an agreement will be entered into for the purchase or lease of a portion of a water licence currently allocated to the owners of 407 Sappers Rd, situated directly to the south of the subject land, across Sappers Road. The water licence (id number 109824) is for an allocation of 358,100Kl which exceeds the requirements of the current licensee. The subject land and water licence 109824 are situated within the Perth – Superficial Swan aquifer, Lancelin sub area and Gingin ground water area. The area is fully allocated and the DWER (Department of Water and Environmental Regulation) Operation Policy 5.13: Water entitlement transactions for Western Australia, allows for water transactions and provides a framework for those transfers.

Subject to obtaining relevant approvals, the operator will drill a new bore in an area between the two stages of the proposed extraction area. The water will be pumped from this bore into three poly water tanks, and then utilised for dust suppression. The proposed bore will also be utilised for monitoring of ground water levels during the excavation of the proposed extraction pit.

2.5. Vegetation

Some remnant vegetation is evident at the northern end of the subject allotment, however, is outside of the proposed Application Area. Stage 2, within the proposed Application Area, extends into a portion of the previously established (non-viable) tagasaste plantation.

Given the proposed Application Area remains outside of the existing remnant vegetation, the risk of infecting the local bushland with *Phytophthora* dieback is very low. The vehicle movements will be restricted to the limestone driveway and the Application Area.

2.6. Aboriginal Heritage

A search of the Aboriginal Heritage Inquiry System confirms the subject is not located within or in proximity to any aboriginal heritage places and hence is not considered to be an issue relevant to this proposal.

The operator is aware of and will comply with their obligations under the Aboriginal Heritage Act 1972 in relation to the discovery of previously unknown sites during excavations.

2.7. Bushfire Prone Areas

According to the map of Bushfire Prone Areas, portions of the subject land are identified as bushfire prone, due to the remnant vegetation to the northern end of the allotment and the bushland contained within the road reserve (refer to **Figure 6**). Stage 1 of the Application Area is considered to be outside the bushfire prone area. Stage 2 of the proposed Application Area may extend marginally into the bushfire prone area. It is also noted that the proposed development is a sand extraction pit which is not likely to be considered a fire hazard. The proposed buildings will be located centrally within the parent site and therefore well outside of the bushfire prone areas.

Guidelines for Planning in Bushfire Prone Areas, under State Planning Policy 3.7, allows for discretionary decision making which has regard to the scale of the development and risk to property, people and infrastructure. The Application is considered to represent a low risk land use and the risk to property, people and infrastructure is also considered to be low given the limited occupation of the application area contained within the Bushfire Prone Area. It is our view that a BAL assessment is not required or reasonable given the above reasoning.





Figure 6 - Bushfire Prone Areas Map



PLANNING FRAMEWORK

3.1. Shire of Gingin Local Planning Scheme No. 9

The subject site is currently zoned 'General Rural', under the Shire of Gingin Local Planning Scheme No. 9 (LPS 9), as are the allotments on either side of the subject land and the land to the south of Sappers Rd. The land adjoining the northern boundary of the subject is reserved for 'Parks and Recreation', as is the Crown land located on the eastern side of Mimegarra Rd, within the Shire of Gingin. The nearest 'Rural Living' zoning is located approximately 7.5km west of the subject land. An excerpt of the Shire's zoning map is included at **Figure 7** (below).

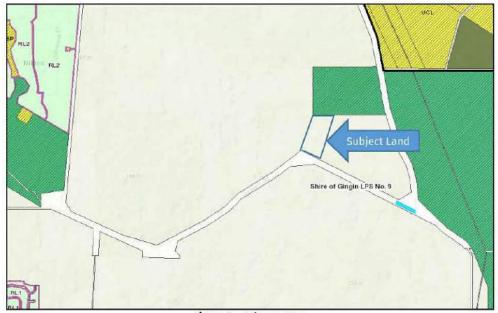


Figure 7 – Scheme Map

Clause 3.2.7 of the Scheme sets out the following objectives for the 'General Rural' zone:

- a) Manage land use changes so that the specific local rural character of the zone is maintained or enhanced;
- 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;
- 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.



Extractive Industry is identified as an "A" use within the General Rural Zone meaning that the use is permitted at the discretion of the local government by granting planning approval following advertising.

The local planning scheme outlines general development standards which requires all development within land zoned 'General Rural' shall be setback a minimum of 20m from all boundaries. The proposed development will meet this requirement.

The scheme also addresses extractive industries specifically as follows:

4.8.10.1	Local government may consider applications for extractive industries in the General
	Rural zone where the sites have not been identified within an SCA under clause 5.4.
	AMD 14 GG 08/04/16

- 4.8.10.2 In considering applications for extractive industries, local government will have regard for the zone objectives. AMD 14 GG 08/04/16
- 4.8.10.3 Local government will also consider the potential impact of the extractive industry in regard to surrounding land uses (both existing and future) and may apply conditions to manage the potential impacts, such as noise, dust, odour and amenity. AMD 14 GG 08/04/16

It is considered the Application is consistent with the above provisions given it is not within a SCA, is capable of satisfying the zone objective and will not impact on surrounding uses via the application of appropriate conditions.

3.2. Shire of Gingin Local Planning Strategy

The Shire of Gingin Local Planning Strategy identifies that there is "...increasing pressure for extractive industry development as the resource lessens in the metropolitan area". The strategy identifies that there is a need to protect the Basic Raw Materials (BRM) in the region until such time as they can be extracted.

A key environmental issue within the Strategy is the potential impact extractive activities have on the landscape in rural areas. The visual amenity impact of the proposed development is considered to be minimal, primarily due to the low intensity nature of the extractive use, no requirement for clearing of native vegetation, site topography and effective screening of the site provided by the vegetation within the Sappers Road Reserve.

A key economic objective of the Strategy is to "...facilitate more intensive and diversified use of rural land for higher value products" which includes the extraction of basic raw material. The proposal is considered to be consistent with the above objective.

3.3. Guilderton to Kalbarri Sub-Regional Strategy

The Guilderton to Kalbarri Sub-Regional Strategy, identifies that this sub-region '...contains a variety of minerals and basic raw materials and is strategically placed to provide value to the broader region's major resource projects'. The document also identifies that currently the majority of extraction of Basic Raw Minerals (BRM) occurs south of Dongara- Denison, north of Jurien Bay and North of Cervantes. It is expected that these resources will become depleted overtime and further resources will be required. The subject land is not specifically identified in this document as a site which contains Basic Raw Minerals.



The Sub-Regional Strategy also recommends that major freight be redirected away from Indian Ocean Drive and to routes such as The Brand Hwy, Great Northern Hwy and the Aglime Routes. The subject land is located along Aglime Route 2 which is classified as part of the Restrictive Access Vehicle 4 (RAV 4) network. This would permit pocket road trains and B-Doubles with a maximum length of 27.5m. The intent of our client to utilise transport trucks, no greater in size than a pocket road train, to cart the extracted material primarily back to Lancelin via Aglime route 2 and over a small portion of Indian Ocean Drive, which is part of the '27.5m Oversize B-Double Network'.

3.4. State Planning Policy 2.4 - Basic Raw Materials

The current WAPC State Planning Policy 2.4 – Basic Raw Materials, was gazetted in July 2000. Since this date an updated Draft State Planning Policy 2.4 has been advertised. Submissions for comment on this planning policy closed on the 25/01/2019 however the updated version of the SPP2.4 has not yet been implemented.

The objectives of the current State Planning Policy 2.4 area as follows:

- · identify the location and extent of known basic raw material (BRM) resources;
- protect Priority Resource Locations, Key Extraction Areas and Extraction Areas from being developed for incompatible land uses which could limit future exploitation;
- ensure that the use and development of land for the extraction of basic raw materials does not adversely affect the environment or amenity in the locality of the operation during or after extraction:
- provide a consistent planning approval process for extractive industry proposals including the early consideration of sequential land uses.

The draft policy seeks to enable the responsible extraction of Basic Raw Materials (BRM) while ensuring the protection of people and the environment. The application of this policy provides the foundation for land use planning to address the sustainable management of BRM in Western Australia. Applicable to this proposal, the following objectives of the policy are as follows:

- a) Provide guidance to facilitate the planning of BRM extraction from sites, where such extraction is considered appropriate on planning and environmental grounds;
- (c) ensure considerations relating to the extraction of BRM and the regional importance of the materials are taken into account in the early stages of the planning process including scheme amendments, planning strategies and structure plans;
- (e) prioritise the extraction and availability of BRM through the identification of sequential use sites and planned extraction and remediation as appropriate for the final intended land use;
- (f) ensure that the use and development of land for extraction of BRM, during or after extraction, avoids, minimises and mitigates detrimental impacts on the community and environment, including water resources and biodiversity values, while allowing for future use, consistent with long term planning.

With regard to the above current state policy objectives, the Application meets the objectives as outlined as follows:

- The proposed extractive industry is within a region known for the availability of BRM resources
- Due to the location, low intensity nature, minimal visual intrusion and site management procedures, the development will have no adverse impact on the environment or amenity of the area.
- The ongoing and final remediation works will allow the subject land to its original condition and use as a rural allotment.



3.5. State Planning Policy 2.5 - Rural Planning

The intent of the rural planning policy is to 'protect and preserve Western Australia's rural land assets due to the importance of their economic, nature resource, food production, environmental and landscape values.'

The policy objectives are as follows:

- (a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses; (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;
- (e) avoid and minimise land use conflicts;
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- (g) protect and sustainably manage environmental, landscape and water resource assets.

The policy document specifically addresses the extraction of basic raw materials outside the Perth and Peel planning regions. Broadly, the policy document encourages the protection and extraction of basic raw materials and sequential land use planning and appropriate rehabilitation.

3.6. Environmental Protection Authority Guidance Statement No. 3

The Environmental Protection Authority Guidance Statement No. 3, outlines that Extractive Industry uses, specifically sand and limestone extraction which does not require grinding or milling works (as is the case with this proposal), has a required buffer distance of 300m – 500m (depending on the size of the development) from sensitive land uses. Whilst the total proposed Application Area extends over 18.6577ha, the intensity of the development is considered to be relatively low, in terms of proposed frequency of use, hours of operation, transport movements and annual extraction tonnage/volumes.

The nearest sensitive land use is considered to be neighbouring Lot 12 which contains a residence. The residence is over 500m from the proposed Application Area.

An agriculture intensive (horticulture) land use is located on neighbouring Lot 200 being approximately 190m from the proposed application area. The guidance statement does not identify horticulture as a sensitive land use. The proposed management of the subject site will mitigate any impact on this land use. In fact, intensive agriculture and extractive industries are compatible adjoining land uses.

3.7. Shire of Gingin Extractive Industries Local Law

The Shire of Gingin, under the Local Government Act, has prepared an Extractive Industry Local Law to outline the due process for determining Extractive Industry Licence applications made to the Shire. The Application is able to satisfy all of the regulations as stipulated within the local law to allow for an appropriately staged and located development to operate in a manner that will support the local construction industry whilst having no adverse impact on surrounding rural activity, or the locality more generally.





4.1. Development Overview

KB Riley and Sons Pty Ltd trade as Lancelin Sands. The company is a family owned transport and earth moving company with a business premises in the Lancelin township. The company was originally established in 1981 and provides earthmoving, bobcat and excavation services to Lancelin, Gingin and surrounding areas.

The operator (Lancelin Sands) has submitted an offer to purchase the subject land and intends to extract sand from the Application Area. Primarily the extraction will focus on the lower grade "builders' sand", however may include "plasterers sand", if it becomes apparent that this resource is also available. It is noted that the extraction of "plasterers' sand" will remain incidental to the extraction of the lower grade "builders sand".

The Development Plan set (Appendix A), outlines:

- the location of the subject land with regards to haulage routes and proximity of surrounding land uses;
- a Pre-Extraction Site plan identifying the subject boundaries, existing contours and proposed Application Area;
- an Extraction Plan outlining finished pit level and contours, offsets from boundaries and surrounding land uses, location of improvements and windrows;
- Floor Plans and Elevation of the proposed dome shelter structure.

4.2. Nature of operation and duration

The proposed daily operations onsite are outlined below.

Machinery located onsite when extraction works are in progress may include the following:

- A loader for the purpose of removing top soil, excavating required material and loading each trailer;
- · A watercart for dust suppression.

The duration of works onsite are anticipated to occur over a 20 year period. As per the Shire of Gingin Extractive Industry Local Law (2004) the Extractive Industry Licence (EIL) will extend for a maximum term of 5 years at which point an extension to the licence will likely be applied for.

It is noted that no chemicals will be required to be stored onsite.

4.3. Stages of excavation

It is proposed that the Application Area will include two stages (refer to **Extraction Plan**). Stage 1 will be located on the southern side of the Application Area and located within pastured land. Extraction will begin at the northern end of Stage 1 and generally proceed south.

Extraction will proceed progressively within each stage, with rehabilitation taking place behind the extraction front. The active working area at any one time is not expected to be more than 1ha.

Once the resource in stage 1 has been exhausted, extraction from stage 2 will commence and rehabilitation of the final extraction areas of stage 1 will occur concurrently. Stage 2 extraction will commence in the southern portion of this stage and generally proceed north with rehabilitation taking place behind the extraction front.



4.4. Proposed depth of extraction

Extraction will be relatively shallow not typically exceeding 2m below the natural surface of the land (58mAHD at its lowest point). The operator has indicated that higher grade sand (plasters sand) may be available at depths between 6m-7m below the natural surface of the land. If located, the higher grade sand would be excavated from small holes across the Application Area and would be incidental to the primary extraction of yellow sand at a depth no greater than 2m. At its deepest extraction point the Application Area would not fall below an AHD height of 53m, in localised areas, depending on the availability of the resource.

4.5. Proposed site access and movement

The proposed Extractive Industry will utilise the existing crossover from Sappers Rd up to the existing entrance gate to the subject lot. The crossover will be upgraded with compacted bitumen profiling. Limestone road base will be utilised to construct a driveway from the existing entrance gate along the boundary of the property, through to the proposed Application Area. This driveway will be adequately maintained with the water cart utilised for dust suppression when required.

The excavation site will be securely fenced, and gateways locked when the site is not actually in use. Warning signs will be located along each boundary of the fenced excavated area, not more than 200m apart and not less than 1.8m high or less than 1m wide. The warning signs will contain the wording "DANGER EXCAVATIONS KEEP OUT". These requirements are set out as the Obligations of the Licensee which must be met under the Extractive Industries Local Law 2004.

The trucks utilised for transport will be pocket road trains or smaller vehicles if required (likely to alternative being a 6 wheeler truck with trailer). The transport vehicles will enter the site from both the east and west direction of Sappers Rd. Aglime Route 2 will provide access to both Indian Ocean Drive and the Brand Hwy. It is anticipated that the majority of the excavated material will be transported towards Lancelin utilising Indian Ocean Drive. The portion of Indian Ocean Drive between the intersection of K.W. Road and Lancelin Road is approximately 2km and is part of the '27.5m Oversize B-Double Network.' This section of road can only be used as access to pick-up goods or deliver goods and drivers must carry documentation as proof of local delivery/pickup. These conditions will be adhered to by the client.

Sappers Road is a two-lane bitumen sealed road which is part of Aglime Route 2 and classed as suitable for RAV 4 vehicles. Aglime Route 2 has been allocated for upgrades as a priority. Work on this route was initially flagged by the state government in 2017 and has more recently received additional funding. It is understood that upgrades to Sappers Rd have already been completed and upgrade works along Orange Spring Road is currently underway.



Figure 8 - Street View Aspect of Current Access (Source: Google Maps)

Application for Development Approval and Extractive Industry Licence Lot 11 Sappers Road, Nilgen



4.6. Proposed hours of operation

The typical hours of operation will be 7:00am to 5:00pm, Monday to Friday inclusive. It is possible that the operator may be required to operate till 1:00pm Saturday during peak periods, however no operations will occur on Sundays or public holidays.

4.7. Excavation program and traffic generation

Due to the nature of the industry, the intensity of the extraction will fluctuate depending on the demand for the material being extracted. To satisfy a typical contract the operator may be required to transport 300 tonnes per day, which would equate to 6 pocket road train loads (12 transport movements). The maximum anticipated extraction could reach 500 tonnes per day or 10 pocket road train loads (20 transport movements).

As previously mentioned, the rate of extraction will be demand driven and hence intermittent. The above examples relate to operations during a typical supply contract and the maximum anticipated extraction rate during peak demand. During the first 5 years of operation it is not anticipated that these levels would be sustainable over the course of a year, and total extraction levels will average around 10,000 tonnes per annum. The total average extraction rate (for the first 5 years) equates to 200 pocket road train loads per annum (400 truck movements). The projected average number of pocket road train movements (in and out) over the course of 1 year equates to approximately 1.6 per day of operation (excluding potential Saturday operations). The client may also choose to utilise smaller trucks (as of right vehicles up to 19m in length) in order to better access delivery locations. The truck movement annual averages and the depth of the extraction further point to the low intensity nature of the proposed Extractive Industry.

4.8. Site operations

The following activities are expected as part of the on-going operation of the site:

- Removal and Stockpiling of Topsoil A loader will be utilised to remove approximately 250mm of topsoil which will be stored in windrows up to a height of 4m. Windrows are to be constructed with a batter of 1:6 to ensure minimal erosion of the stockpile during winter periods. The topsoil windrows will be located along the eastern and southern extents of stage 1 and, during stage 2 along the eastern extent of that stage. The windrows will be offset approximately 10m from the extent of the extraction area.
- Sand excavation and loading Excavation of the sand material will only occur on demand and no stock piling of sand will be required. The loading of the trucks and excavation will be completed by a loader.
- Final contouring and topsoil respread The loader would be used to undertake spreading and earthworks as part of site rehabilitation once extraction work of a particular stage (or substage) has been completed.

4.9. Dust management

Dust may be generated by excavation, truck loading, truck movements and wind action on exposed surfaces. The stripping of the topsoil is likely to generate the most dust movement. During the excavation, dust generation potential is much lower.

No dry topsoil stripping will occur when the wind speed is greater than 25km/hr. No dry excavation or truck loading will occur in wind speeds greater than 40km/hr. Given the progressive nature of the rehabilitation work the area of exposed sand will be limited to 1ha at any given time.



All excavation of sand by the loader is to occur perpendicular to the active face and work up the face to limit dust.

Once the trucks have been loaded with the extracted sand, they will be covered in a tarpaulin prior to leaving the site.

The positioning of the windrows will be located as such to mitigate the impact of the dust on the neighbouring horticultural activity. The horticultural use itself is considered to be a potentially dust generating activity and typically landscaped vegetation plantings would be required between the horticultural use and adjoining land. A landscaped vegetation screen does not appear to have been a requirement for the approval of the neighbouring horticultural use.

In addition to the above measures dust suppression watering will be carried out as required on topsoil windrows, the limestone driveway and other disturbed surfaces.

4.10. Noise management

Noise impacts from the excavation are minimal due to the distance from sensitive surrounding land uses.

The mechanical equipment used at the extraction pit will be limited to the loader and transport trucks. Standard exhaust noise reduction equipment will be affixed to the operating machines. No blasting or rock breaking is required on this site.

4.11. Drainage Management

Drainage Management will to be adequately managed within the site.

The soil profile is considered to be highly porous which will generate little or no runoff under any but the most extreme rainfall conditions. The pit will capture any runoff which will occur, where it will infiltrate to the groundwater within a few hours.

4.12. Management of existing vegetation

No clearing of remnant vegetation is to occur onsite. The tagasaste plantation within stage 2 will be removed by the operator prior to the commencement of stage 2. It is the intention of the applicant to return the land within stage 2 to pasture post excavation works.

4.13. Management of visual impacts

The potential for visual impacts from Sappers Road is highly unlikely given the dense bushland contained within the road reserve (some 100m in width) between the constructed road and the boundary of the subject land. Further, the topography of the site will effectively shield the pit from external view.





Figure 9 - Aspect from Sappers Rd towards proposed Application Area of Subject lot.

The nearest neighbouring residence (Lot 12) is located approximately 572m away from the proposed Application Area in a south easterly direction. In relation to the proposed stage 1 Application Area the residence is in a slightly more elevated position. Extraction of stage 1 will occur in a north to south direction, into the elevation of the land, this will limit the visual impact on the neighbouring residence.

Stage 2 may be slightly more visually evident to the residence on neighbouring Lot 12, however given the distance from the proposed Application Area (approximately 650m from the residence to stage 2), the view of the sand pit will be limited and the overall visual impact negligible.



Figure 10 – Approximate Aspect from Residence Situated on Lot 12 (source: realcommercial.com.au)



4.14. Proposed Improvements

The operator is proposing to install two sea containers with a dome cover, three water tanks and a self-bunded fuel tank between stage 1 and 2 of the proposed Application Area.

The two sea containers will measure 12.2m in length, 2.4m in width and 2.6m in height. A steel framed dome shelter with an arch height of 3.5m and span of 12m will be attached to the sea containers. This will form a protective shelter for the onsite machinery, which will assist when undertaking minor maintenance work and provide for some secure storage.

The three water tanks will have a capacity of 125,000l each and be filled from a newly drilled bore. The water tanks are likely to have a diameter between 8.5m and 9m, with a wall height of approximately 2m.

The self-bunded fuel tank is transportable in nature and will be source of refuelling for the Loader and Water Cart onsite.

The current residence onsite will act as a site office for the proposed development. This will negate the need for the applicant to provide additional improvements within the Application Area.

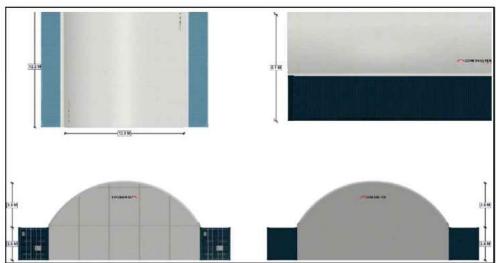


Figure 11 - Proposed Dome Shelter (Source: domeshelter.com.au)





Figure 12 – Proposed Dome Shelter (Source: domeshelter.com.au)





REHABILITATION AND DECOMMISSIONING PROGRAM

5.1. Objectives

The primary objective of the rehabilitation and decommissioning program is to ensure that following the completion of the extractive industry the site is restored and rehabilitated to a condition similar to which it was prior to the commencement to the development.

5.2. Rehabilitation activity

The rehabilitation process will be progressive and completed behind the extraction front. 1ha of active/open sand extraction will be permitted at any one time. In the event a condition of approval requires a payment of a Rehabilitation Bond, the bond amount could be applied in a 'rolling' manner, where the bond amount is held against only the active 1ha area (not for the entire application).

Rehabilitation of a completed stage (or substage) will consist of recontouring/levelling that area and respreading the topsoil, previously set aside and stored in windrows, to a depth of approximately 250mm. If required, the rehabilitated surface will be seeded with pasture.

The rehabilitation of stage 1 would include a return of the area to an appropriate level condition to enable future broadacre rural use. Stage 2 is currently partly utilised as a tagasaste plantation; it is the intention of the application to also rehabilitate this land area back to pasture to a natural contour level. The final pit level at the completion of operations (58mAHD) with maximum batter of 1:3 is referenced on the Extraction Plan at **Appendix A**.

5.3. Ongoing maintenance

Maintenance and monitoring will occur following the completion of extraction activities and on final decommissioning of the site:

- · Periodic watering by the water truck as required during summer periods;
- · Weeds are to be controlled bi-annually or as the need requires by the license holder; and
- Repair erosion damage as required.

5.4. Final clean-up

Upon completion of all works and extraction, the final site clean-up will be completed as part of decommissioning. The access track will remain for the purpose of acting as a fire break. The onsite self-bunded fuel tank will be removed. The water tanks, sea containers with dome and bore will remain for the use of the rural allotment post extraction.



CONCLUSION

Development approval for an Extractive Industry use is sought on behalf of Lancelin Sands the prospective purchaser of Lot 11 Sappers Road, Nilgen as detailed in this report.

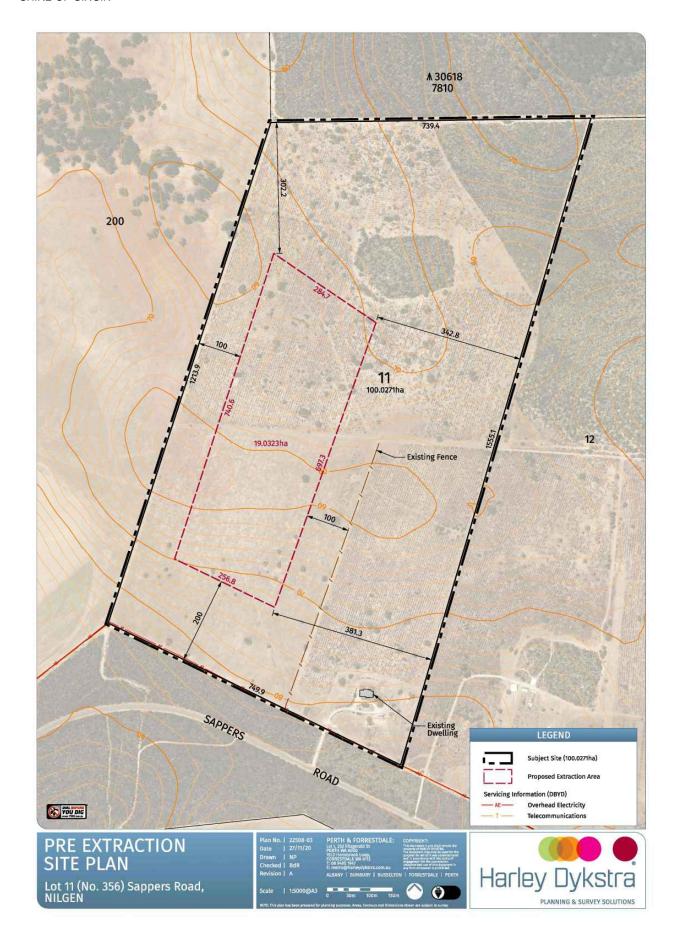
The proposed Extractive Industry development application is justified as follows:

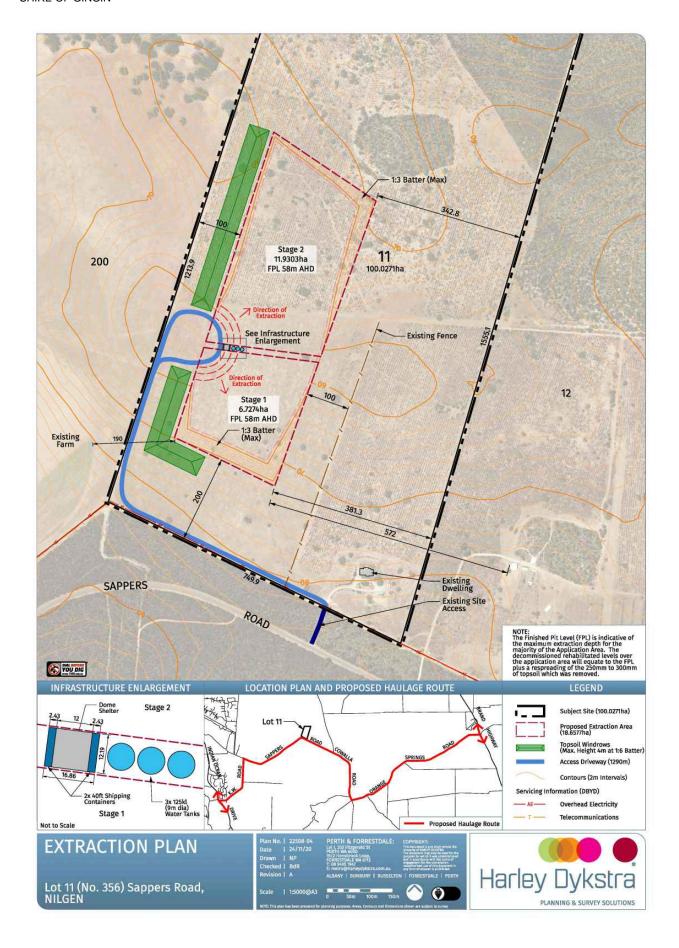
- This proposal seeks to extract a basic raw material, required to service a demand for this
 resource which is not otherwise locally available to the operator;
- The property is well located with good access to transport links of suitable capacity and construction;
- The proposed extractive industry use will be of a relatively low intensity;
- The proposed development is well positioned within the parent allotment as to have no significant impact on remnant vegetation, neighbouring landowners and other environmental factors;
- Extractive works onsite are to be appropriately conducted and sequentially implemented to minimise the impact of the site to surrounding landholders;
- Rehabilitation work will be completed to a standard which will ensure the amenity and character of the broader area is appropriately maintained and the use of the land for rural purposes following the completion of the extraction activity.

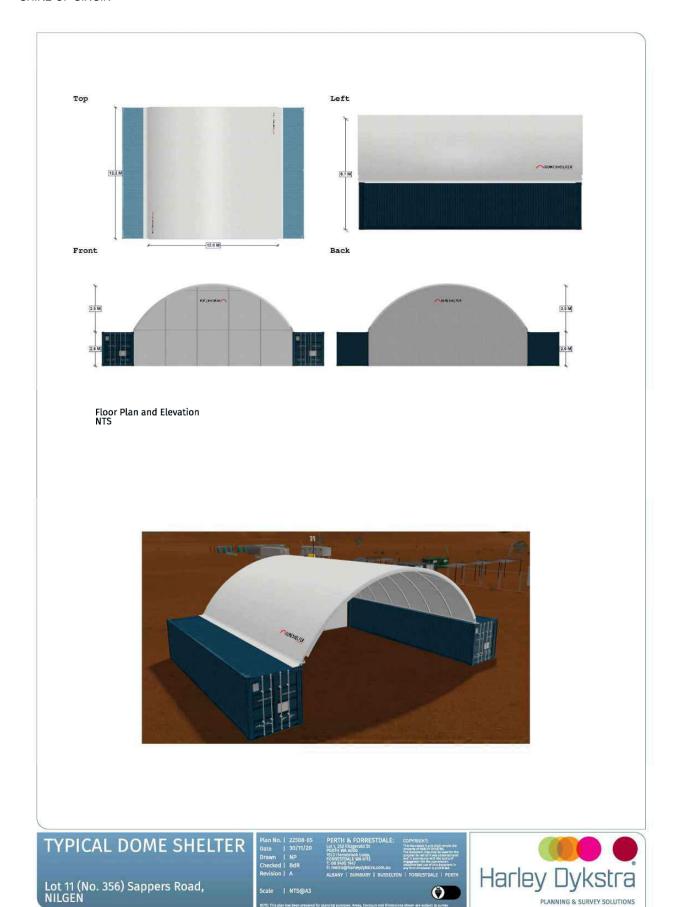
On the basis of the description and rationale provided within this report, it is respectfully requested that the Shire of Gingin review this application and approve the proposed extractive industry development and issue an extractive industry licence.



APPENDIX A | DEVELOPMENT PLANS







APPENDIX 3

ORDINARY MEETING MINUTES 16/03/2021 SHIRE OF GINGIN

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED DEVELOPMENT APPLICATION – PROPOSED EXTRACTIVE INDUSTRY (SAND) AT LOT 11 (356) SAPPERS ROAD, NILGEN

No.	Submitter	Submission Detail	Applicant's Response	Recommended Response
1.	DMIRS	No objection. General comments provided.	Noted.	Noted.
2.	DoH	No objection. Recommends preparation of a Dust Management Plan and associated complaints register.	Noted. It is anticipated preparation and implementation of a Dust Management Plan would be required as a condition of development approval.	Noted.
3.	DPIRD	No objection, but provides comments in relation to the following matters:	Noted.	Noted.
		i) Use of High Quality Agricultural Land	The proposal seeks to use approximately 18.6ha of this 100ha property for sand extraction. At the completion of this temporary land use, the sand extraction site is intended to be returned to broad acre agricultural activity. Whilst acknowledging the Guilderton - Kalbarri Subregional Strategy promotes agricultural land use within the Sub-region, it also recognises some forms of agriculture, such as horticulture, is reliant on a sufficient supply of groundwater being available, as well as land capability and crop suitability being further investigated and confirmed. The Strategy also recognises the importance of maintaining a reliable supply of Basic Raw Materials, including sand for development and construction purposes, particularly where such resources are unconstrained by vegetation or other environmental factors. This proposal is consistent with the Local Planning Scheme objectives for General Rural zoned land and is supported by relevant state planning policies relating to use of rural land. The proposal achieves a suitable balance between use of the land for broadacre agricultural activity and providing for diversified rural land use (in this case sand extraction).	

ORDINARY MEETING

SHIRE OF GINGIN

			ii)	Dust Suppression	
	ii) Dust Suppression	ii) Dust Suppression		It is anticipated preparation and implementation of a Dust Management Plan would be required as a condition of development approval.	
		iii) Rehabilitation	iii)	Rehabilitation	
		m, ronasmaton		Soils	
				Rehabilitation of a completed stage (or substage) will consist of recontouring/levelling that area and respreading the topsoil previously set aside and stored in windrows to a depth of approximately 250mm. If required, the rehabilitated surface will be seeded with pasture. Following rehabilitation, it is envisaged the site will be returned to a condition that is at least equivalent to its productive capacity prior to the sand extraction activity. Separation from Groundwater The depth of extraction will be relatively shallow, not typically exceeding 2m below the natural surface of the land. The finished level of the pit following extraction activity and rehabilitation will be well in excess of 1m above the water table. A condition to this effect could be included as part of the development approval.	
4.	DWER	Advises the proposed development has the	Not	ed. In the event the proponent is unable to negotiate the	Noted.
	3.,_,	potential to impact on water values and management and provides recommendations to mitigate risk.	pur and alte pur	chase of a portion of the groundwater entitlement from other licenced user in the area, they will investigate trative arrangements to secure water for dust suppression poses, including applying to DWER for a licence to struct a well/bore and for the use of groundwater.	
5.	Ratepayer	The submitter does support the proposal and makes the following general comments: "Correction – RE: water licence reference (paragraph 2 of p6 of the Development Application).		ed. Refer to Applicant's response to DWER submission	Noted.

We, the owners of -- as referred to in the document, do indeed have a water licence of 358,100KI but this allocation does not exceed our requirements and is currently fully used in our farm operations.

Our farm is however on the market for sale and the water licence will be sold with the farm, although part of the allocation may be sold separately to an interested local party. The allocation is not available for lease.

Although we have spoken informally with the proponents of this Development Application, we have made no commitment to sell our lease or water allocation to any party and are continuing negotiations with various parties interested in the purchase of both our property and our water licence allocation."



Your ref: BLD7222 P2114

Our ref: PLH00014-2021

Enquiries: Sacorae Burgoyne Ph (08) 6551 7963

Mr James Bayliss Statutory Planning Officer Shire of Gingin

Via email: mail@gingin.wa.gov.au

Dear Mr Bayliss

PROPOSED EXTRACTIVE INDUSTRY ON LOT 11 SAPPERS ROAD, NILGEN

Thank you for your letter dated 23 December 2020 seeking comment from the Department of Planning, Lands and Heritage (DPLH) regarding proposed extractive industry on Lot 11 (356) Sappers Road, Nilgen.

A review of the Register of Places and Objects as well as the DPLH Aboriginal Heritage Database and the information provided by the Shire of Gingin concludes that the proposed work is not within the boundary of any known Aboriginal heritage site or place to which the *Aboriginal Heritage Act 1972* (AHA) may apply. Please note that as no comprehensive Aboriginal heritage surveys have been undertaken over the land, it is unknown if there is Aboriginal heritage present.

Therefore based on the information held by DPLH no approvals under the AHA are required in this instance.

I acknowledge Section 2.6 Aboriginal Heritage of the *Development Application / Extractive Industry Licence* that the operator is aware of and will comply with their obligations under the *Aboriginal Heritage Act 1972* in relation to the discovery of unknown heritage places during excavations.

Should you have any queries in relation to the above, please contact Ms Sacorae Burgoyne, Heritage Officer, on (08) 6551 7963, or email Sacorae.burgoyne@dplh.wa.gov.au.

Yours sincerely

Sacorae Burgoyne

HERITAGE OFFICER, ABORIGINAL HERITAGE OPERATIONS

(February 2021



Department of Biodiversity, Conservation and Attractions





Your ref.

BLD/7222 P2114

Our ref.

P46467

Enquiries: Phone: Chris Stewart 9688 6000

Email:

chris.stewart@dbca.wa.gov.au

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

Dear Mr Bayliss

DEVELOPMENT APPLICATION: PROPOSED EXTRACTIVE INDUSTRY (SAND), ADDRESS: LOT 11 (356) SAPPERS ROAD, NILGEN

Thank you for your letter of 23 December 2020 regarding proposed extractive industry at Lot 11 (356) Sappers Road, Nilgen.

The Department of Biodiversity, Conservation and Attractions offers the following comment;

- The proposal indicates a 300m physical vegetated buffer between the northernmost edge
 of the extraction site and South Mimegarra Nature Reserve boundary. DBCA strongly
 supports this measure.
- It is recommended an Environmental Hygiene Management Plan (both for weeds and Phytophthora disease) be developed and implemented, to prevent the spread of weeds and disease.

If you have any queries regarding this matter, please contact Moora District Manager, Chris Stewart on 9688 6000.

Yours sincerely

Nigel Sercombe REGIONAL MANAGER

Mx Sere Oul

Midwest Region

3 February 2021

Midwest Region: 1st Floor, The Foreshore Centre, 201 Foreshore Drive, Geraldton
Phone: (08) 9964 0901 Fax: (08) 9964 0977
Postal Address: PO Box 72, Geraldton, Western Australia 6531

www.dbca.wa.gov.au



Your ref BLD7222 P2114
Our ref A2813/201901

Enquiries Steven Batty - 9222 3104

Steven BATTY@dmirs.wa.gov.au

James Bayliss
Planning Officer
Shire of Gingin
Sent by Email — mail@gingin.wa.gov.au and James.Bayliss@gingin.wa.gov.au
Gingin WA 6503

Dear Mr Bayliss

SHIRE OF GINGIN - DEVELOPMENT APPLICATION - PROPOSED EXTRACTIVE INDUSTRY SAND - LOT 11 - 356 SAPPERS ROAD NILGEN

Thank you for your letter dated 23 December 2020 inviting comment on the above development application for the proposed Extractive Industry Licence for Sand at Lot 11, 356 Sappers Road Nilgen — Shire of Gingin.

Although EIL's fall outside the *Mining Act 1978*, information on mineral resources, including basic raw materials, is of importance to the Geological Survey and Resource Strategy Division, within DMIRS. The information is used in our MINEDEX database, which is a source of information for our State-wide resource mapping system - GeoView. The locations and status of basic raw material extraction sites are also valuable inputs to our resource assessment and land use planning role.

Our aim is for the database to be a comprehensive and up-to-date source of information on all mining-related activities throughout the State. It is a database that is used to inform other government agencies, as well as the general public, of the location of mines and mineral resources. You are encouraged to use it whenever researching information on mineral or petroleum resources, and including basic raw materials.

Thank you for the opportunity to note this proposal. DMIRS has determined this proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy, and basic raw materials. It would be appreciated if DMIRS continues to be notified of all applications for EIL's in the Shire of Gingin and that all future correspondence is addressed to the Executive Director of the Geological Survey and Resource Strategy Division and submitted electronically to records@dmirs.wa.gov.au

Yours sincerely

Dr Steven Batty

Senior Geologist — Land Use Planning

Minerals and Petroleum Resources Directorate

14/01/2021

000250.Steven.BATTY Release Classification: - Departmental Use Only Mineral House 100 Plain Street East Perth Western Australia 6004
Postal address: Locked Bag 100 East Perth WA 6892
Telephone +61 8 9222 3333 Facsimile +61 8 9222 3862
www.dmirs.we.gov.au
ABN 69 410 325 356



Your Ref: BLD/7222 P2114 Our Ref: F-AA-17929 D-AA-21/11824 Contact: Vic Andrich 9222 2000

Mr Aaron Cook Chief Executive Officer Shire of Gingin PO Box 510 GINGIN WA 6503

Attention: James Bayliss, Statutory Planning Officer

Via email: mail@gingin.wa.gov.au

Dear Mr Cook

DEVELOPMENT APPLICATION - PROPOSED EXTRACTIVE INDUSTRY (SAND) - LOT 11 (#311) SAPPERS ROAD, NILGEN

Thank you for your letter of 25 August 2020 requesting comments from the Department of Health (DOH) on the above proposal.

The DOH has no objection to the proposal however the proponents should have a dust management plan and complaints register to address any potential dust issues that may arise.

Should you have any queries or require further information please contact Vic Andrich on 9222 2000 or ehinfo@health.wa.gov.au

Yours sincerely

Hazel Upton

ACTING EXECUTIVE DIRECTOR

90. leptor

ENVIRONMENTAL HEALTH DIRECTORATE

14 January 2021



Your reference: BLD7222 P2114 Our reference: LUP 1012 Enquiries: Angela Stuart-Street

Mr Aaron Cook Chief Executive Officer Shire of Gingin PO Box 510 GINGIN WA 6503

Email: mail@gingin.wa.gov.au

Date: 22 January 2021

Dear Aaron

Proposed extractive industry, Lot 11 Sappers Rd, Nilgen

Thank you for inviting the Department of Primary Industries and Regional Development (DPIRD) to comment on the above proposal. The target of the proposed extractive industry is to take yellow sand for use in construction operations and for commercial sale.

DPIRD does not object to the proposal but offers the following comments:

High Quality Agricultural Land:

- DPIRD's Soil-landscape mapping identifies that the property containing the
 proposed extractive industry is located in the Spearwood 1 map unit. This has
 gently undulating rises dominated by Yellow and Pale deep sands, over Tamala
 limestone in areas.
- The dominant yellow soils are assessed as having high capability for broadacre and irrigated agriculture, and as such, are identified as being High Quality Agricultural Land. The high volume of established annual and perennial horticultural businesses surrounding the targeted property emphasises the significance that this area has to the agricultural industry.
- As described in the Guilderton to Kalbarri Sub-Regional Strategy, "areas of highly productive soils are found in the area – including Spearwood type sands – all versatile and fertile soils which are the foundation for high quality agricultural land and are important, finite assets for the agricultural industry".
- Stated under the Aims of the Scheme in the Shire of Gingin Local Planning Scheme No 9, Section 1.6 part (i) is to "ensure that the use and development of rural land is both compatible and complementary to traditional livestock, grazing and agricultural activities".

3 Baron-Hay Court, South Perth 6151 Locked Bag 4 Bentley Delivery Centre 6983 Telephone +61 (0)8 9368 3333 enquiries@dpird.wa.gov.au dpird.wa.gov.au ABN: 18 951 343 745

- In part 3 of the Scheme (Zones and the use of land), Section 3.2.7-General Rural Zone objectives, also includes part (b) stating the objective to "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".
- These objectives support the State Planning Policy 2.5 Rural Planning, which emphasises careful planning to prevent any compromise of existing, future and potential primary production on rural land.

Dust suppression:

- Over 70% of this area has a high to extreme hazard for wind erosion, due to the loose sandy nature of the dominant soils and prevailing winds.
- The impact of dust on horticultural crops may affect their growth and productivity.
- DPIRD recommends careful management for dust suppression and wind erosion for the stockpiled topsoil and extraction operations.
- For horticulture crops shelterbelts, windbreaks and additional irrigation to annual crops to maintain soil dampness – particularly between crop rotations – all reduce erosion risk.

Rehabilitation

- DPIRD expects that the soils on the property will be returned to the same, or better, productive quality as a result of the site rehabilitation – for both horticulture and dryland agriculture.
- The final depth to the watertable for the site after mining needs to be suitable for both horticulture and dryland agriculture, with a minimum depth of 1 metre to groundwater.

I trust these comments inform you on this matter. If you have any queries, please contact Angela Stuart-Street at (08) 9780 6124 or angela.stuart-street@agric.wa.gov.au.

Yours sincerely

Dr Melanie Strawbridge

Director Agriculture Resource Management Assessment

Sustainability and Biosecurity

Mulanie Brawbłogo



 Your ref:
 BLD/7222 P2114

 Our ref:
 RF49-11, PA 039313

 Enquiries:
 Diana Nussey, Ph 6250 8014

 Email:
 diana.nussey@dwer.wa.gov.au

James Bayliss Shire of Gingin PO Box 510 GINGIN WA 6503

Via email - mail@gingin.wa.gov.au

Dear James,

Development Application: Proposed Extractive Industry (Sand) – Lot 11 (356) Sappers Road, Nilgen

Thank you for providing the above referral for the Department of Water and Environmental Regulation (Department) to consider. The Department has identified that the proposed development has the potential to impact on water values and management. Key issues and recommendations that should be addressed are provided below:

The proposed development is located within the Gingin Groundwater Area, proclaimed under the *Rights in Water and Irrigation Act* (1914) (RiWI Act), where there may be a requirement to obtain a licence to construct a well/bore and for the use of groundwater. The issue of a licence is not guaranteed but if issued will contain a number of conditions including the quantity of water that can be pumped each year.

The Department advises that there is currently no licence to take groundwater on the property and notes that the proponent intends to purchase or lease a portion of entitlement from another licenced user in the area to secure their water needs. The proponent is encouraged to contact the Department's Swan Avon Region office on 6250 8000 to discuss water management options.

If you would like more information regarding this matter, please contact Diana Nussey on 6250 8014 or diana.nussey@dwer.wa.gov.au.

Yours sincerely,

Diana Nussey A/Senior Natural Resource Management Officer Planning Advice Swan Avon Region

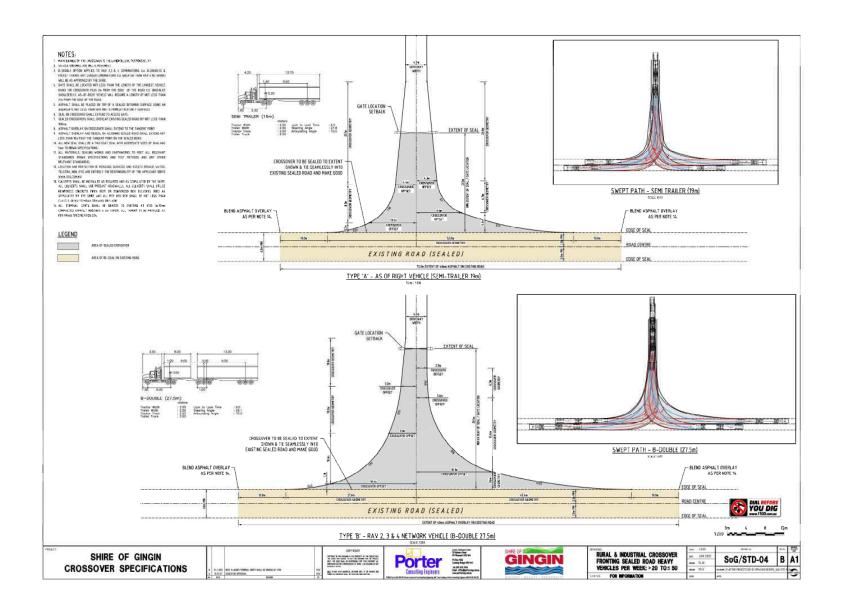
29 January 2021

Swan Avon Region

7 Ellam Street Victoria Park WA 6100 Telephone: 08 6250 8000 Facsimile: 08 6250 8050

0230 8000 Pacamine, 00 0230 8030

APPENDIX 4



11.3.4 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED SINGLE HOUSE ON LOT 44 (41) GORDON STREET, GUILDERTON

File:	BLD/7255		
Applicant:	Plunkett Homes Lot 44 (41) Gordon Street, Guilderton		
Location:	Lot 44 (41) Gordon Street, Guilderton		
Owner:	Linda Arnold and Michael Arnold		
Zoning:	Residential R12.5/20		
WAPC No:	N/A		
Author:	James Bayliss – Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer	Nil		
Appendices	Location Plan & Applicant's Proposal		
	2. Schedule of Submissions and Recommended		
	Response		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed Single House on Lot 44 (41) Gordon Street, Guilderton.

BACKGROUND

The subject lot is 1246m² in area with the natural ground level (NGL) sloping from the rear (north) portion of the property towards the front (southern) portion of the site. The subject lot is currently vacant.

The development seeks two variations to the deemed-to-comply provisions of State Planning Policy 7.3 – Residential Design Codes (R-Codes) in relation to the following:

- Proposed retaining wall 600mm in height where it abuts the side (south-eastern) lot boundary in lieu of 500mm;
- Proposed retaining wall 1000mm in height where it abuts the side (western) lot boundary in lieu of 500mm.

Council consideration is required as an objection was received during community consultation.

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

COMMENT

SHIRE OF GINGIN

Community Consultation

The application was advertised to adjoining landowners abutting the side boundaries 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 submission objecting to the development due to the finished floor level (FFL), but supporting the retaining wall variations. The officer notes that the FFL of 17.68 is compliant with the R-Codes and did not form part of the variations being advertised. This notwithstanding, the submission has been addressed within the report.

A copy of the Schedule of Submissions and Recommended Responses is attached as **Appendix 2**.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

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.

Clause 4.3.2 of LPS 9 requires land with a dual coding to be assessed at the lower density (R12.5) unless the property is connected to reticulated sewerage. In this instance the lot is not serviced by deep sewer.

<u>State Planning Policy 7.3 - Residential Design Codes of Western Australia</u>

The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia. When a development proposal does not satisfy the deemed-to-comply provisions, the application is assessed against the associated 'design principles' to determine whether the variation is acceptable.

Clause 5.3.8 – Retaining Walls is applicable in this instance. The officer has also provided an assessment against Clause 5.3.7 – Site Works in response to comments provided as part of the consultation process. Table 1 below outlines the relevant Design Principles:

Design Principles	Officer Comments
5.3.8 – Retaining Walls	
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 clause 5.3.7 and 5.4.1.	P 8 - The proposed retaining walls cater largely for excavation works, not filling of the site. The location being up to the lot boundary appears logical to maximise space without causing any bulk related issues on adjoining properties. No detrimental impact on adjoining properties has been identified.
5.3.7 – Site Works	
P7.1 – Development that considers and responds to the natural features of the site and requires minimal excavation/fill.	P7.1 - The design incorporates both cut and fill of the land, predominantly consisting of excavation in the northwest portion of the property to enable a level pad for construction. The design responds to the natural lay of the land, hence both excavation and fill as opposed to simply filling. The small portion of fill in the south-eastern corner of the building area is minimal when considering the lot boundary ground levels and is viewed as being acceptable.
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.	P7.2 - It is evident that excavation/fill is necessary given the topography of the site. As clearly depicted on elevation 1, the FFL corresponds to the average natural ground level (NGL) as viewed from Gordon Street. The significant front setback further alleviates any perceived bulk issue. Furthermore, the development is single storey and could arguably impose far greater bulk should the applicant have sought to build to the maximum building heights permissible under the R-Codes.
Table 1 Design Principles - Applicants comments	The officer cannot identify any potential adverse impacts on the adjoining properties caused by the FFL.

Table 1 Design Principles - Applicants comments

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject site is indicated as being bushfire prone in Department of Fire and Emergency Services (DFES) online mapping and thus SPP 3.7 is applicable. The submitted BAL assessment provides a BAL 12.5 rating which is appropriate. The risk is considered to be low. There is a risk of ember attack. The construction elements are expected to be exposed to a heat flux not greater than 12.5kW/m².

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)</u>

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:

(y) Any submissions received on the application; Officer Comment

The submission from the adjoining landowner objecting to the proposal has been largely addressed in the above assessment. In relation to the general comments regarding the south-eastern lot boundary becoming a thoroughfare, the officer notes that it would be compatible with the abutting land to the south-east which happens to be used as a vehicle thoroughfare.

The objection is not supported in this instance and the officer is of the view that the design principles of the relevant clauses have been suitably addressed.

Summary

Considering the above assessment, the officer is of the view that the proposed development is consistent with the planning framework and as such should be supported subject to conditions.

STATUTORY/LOCAL LAW IMPLICATIONS

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

Shire of Gingin Local Planning Scheme No. 9.

State Planning Policy 7.3 - Residential Design Codes of Western Australia

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	Infrastructure & Development		
Objective	3. To effectively manage growth and provide for community through the delivery infrastructure in a financially responsible manner.		
Outcome	3.1 New and existing developments meet the Shire's Strategic Objectives and Outcomes.		
Key Service	Building and Planning permits		
Areas			
Priorities	Infrastructure & Development		

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Morton

That Council grant Development Approval for proposed Single House on Lot 44 (41) Gordon Street, Guilderton subject to the following conditions:

- 1. The land use and development shall be undertaken 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. The approved retaining wall and footings abutting the property boundaries must be constructed wholly within the subject allotment. The external surfaces of the retaining wall shall be finished to a professional standard, to the satisfaction of the Shire of Gingin;
- 3. Stormwater from all roofed, paved and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin;
- 4. Prior to occupation of the development, the Applicant/Owner shall execute and provide to the Shire of Gingin a notification pursuant to Section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers as follows:
 - Bushfire Prone Area This lot is located in a bushfire prone area. Additional planning and building requirements may apply to development on this land.
- 5. Prior to occupation of the development, a crossover designed and constructed to the satisfaction of the Shire of Gingin is to be installed from Gordon Street at the applicant/landowners cost.

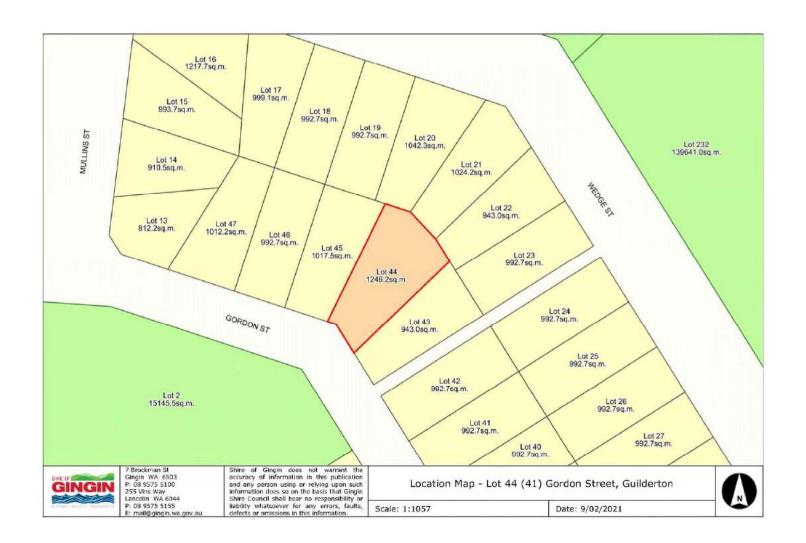
Advice Notes:

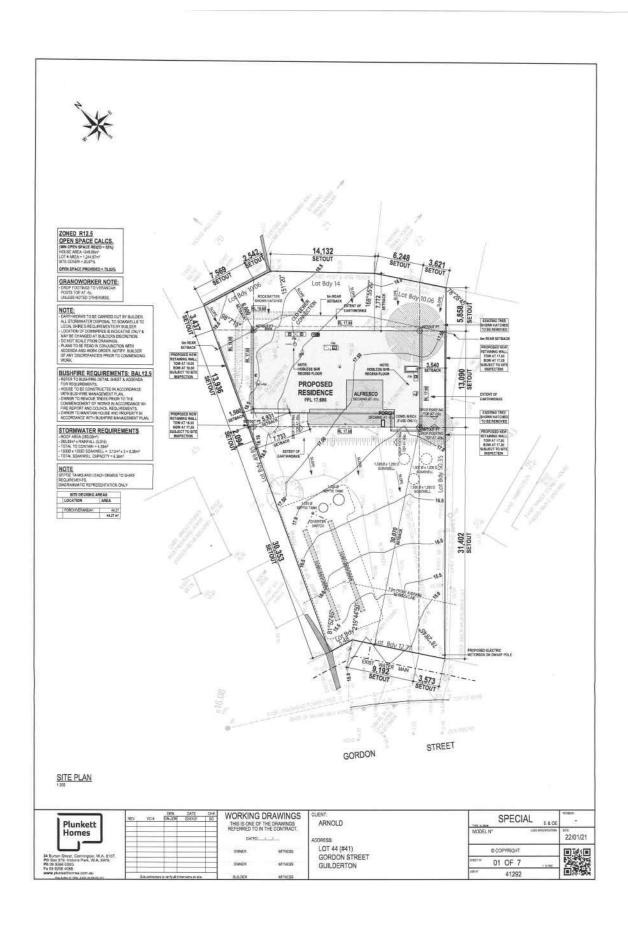
- Note 1: If you are aggrieved with the conditions of this approval you have the right to request the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: 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 4: This planning approval shall not be construed as an approval or support of any kind for any other planning related application (including subdivision) on the subject land.
- 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 allotment.
- Note 6: A 'Vehicle Crossover Application' is required to be submitted to and approved by the Shire of Gingin prior to the installation of a crossover.
- Note 7: This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should you wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, you must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act 1961*.

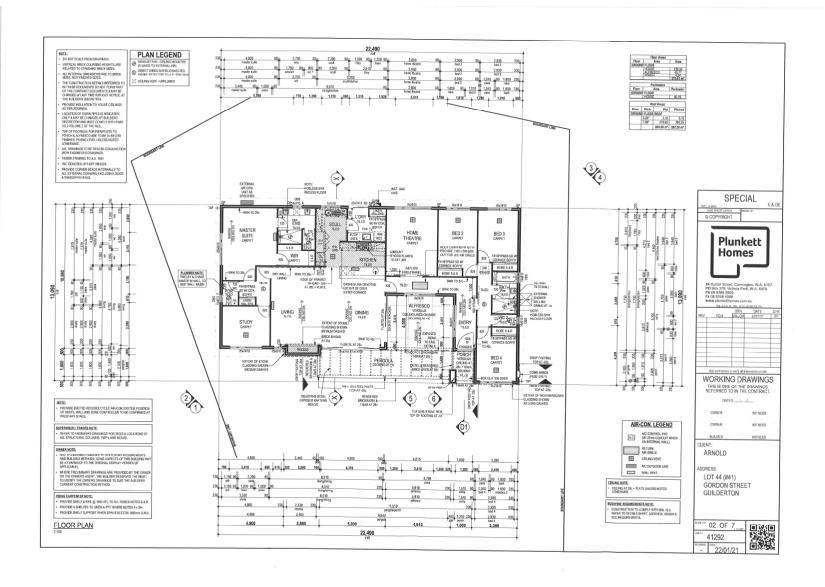
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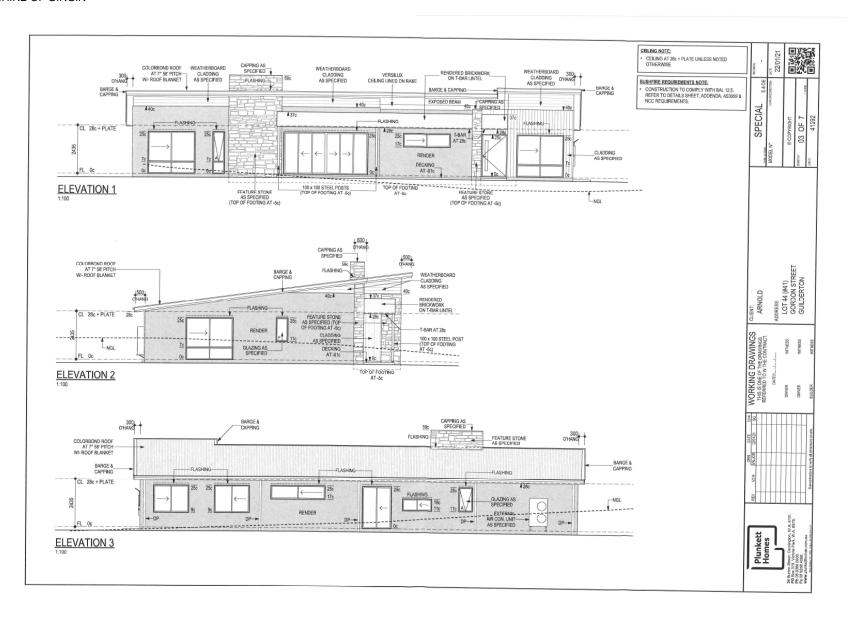
APPENDIX 1

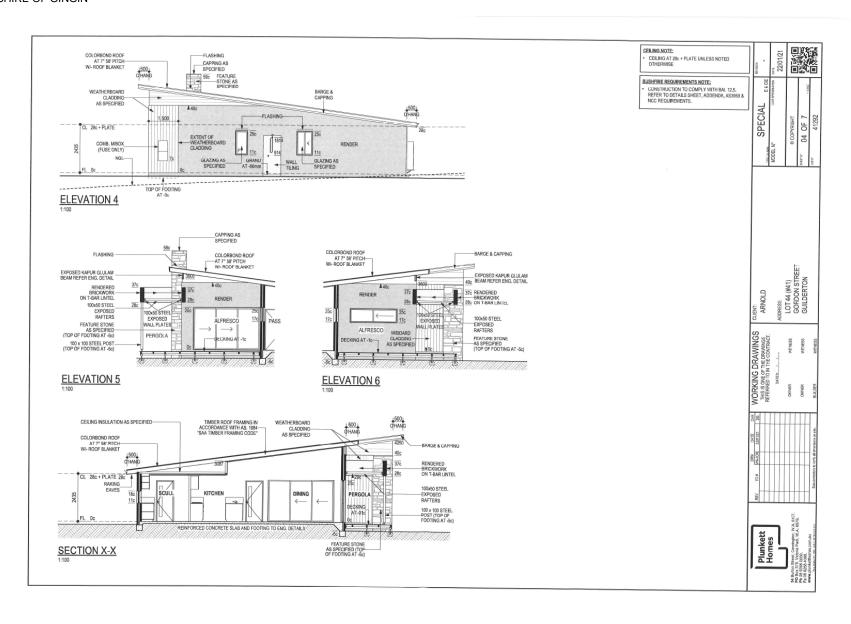
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APPENDIX 2

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

DEVELOPMENT APPLICATION: PROPSED SINGLE HOUSE ON LOT 44 (41) GORDON STREET, GUILDERTON

No.	Submitter	Submission details	Recommended response
1	Ratepayer	The submitter does not support the proposal and provides the following general comment:	
		"We object to raising the height of the floor level due to the impact to surrounding properties.	Noted. The finished floor level did not form part of advertising as this component of the design is compliant with the R-Codes, thereby being as of right. This notwithstanding, an assessment against the design principles is provided in the report and concluded that no unacceptable impact will result.
		We will support the western lot boundary at 1000mm tapering to 500mm. We will support the south-eastern lot boundary at 0mm to 100mm.	Noted.
		The design lends itself to the south-eastern lot boundary becoming a main access thoroughfare and congregation point, in addition to longer term drainage issues."	Noted.

11.3.5 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED AMENDMENT TO CONDITIONS OF PLANNING APPROVAL FOR COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE ON LOT 10 (1340) WANNAMAL ROAD WEST, BOONANARRING

File:	BLD/2337		
Applicant:	Westpork Pty Ltd Lot 10 (1340) Wannamal Road West,		
	Boonanarring		
Location:	Lot 10 (1340) Wannamal Road West, Boonanarring		
Owner:	Westpork Pty Ltd		
Zoning:	General Rural		
WAPC No:	N/A		
Author:	Kylie Bacon - Manager Statutory Planning		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
_	Development Services		
Report Date:	16 March 2021		
Refer	Item 11.1.10 17 December 2013		
	Item 11.3.2 22 January 2019		
Appendices	Location Plan/Aerial Photograph		
	2. Applicant's Report and Approved Plans		
	3. Extract from Council Minutes 22 January 2019		
	4. Schedule of Submissions and Recommended		
	Responses		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for amendments to conditions of planning approval for the composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring.

BACKGROUND

The subject property currently contains the Mindarra Piggery which is operated by Westpork Pty Ltd. In November 2013, Westpork applied for development approval for a Composting Facility on land adjacent to the Mindarra 4 complex. The application was approved by Council on 17 December 2013 and in 2016, Westpork received Works Approval from the Department of Water and Environmental Regulation (DWER). The 2013 conditional Development Approval has since expired and subsequently the applicant lodged a new Development Application in October 2018 which Council gave conditional Development Approval for at its Ordinary Council Meeting (OCM) on 22 January 2019.

The report presented to Council at its January OCM (Item 11.3.2) provides a comprehensive overview of the proposal and is provided for Council's reference as **Appendix 3**.

It is not intended to duplicate that assessment in this report, but simply to address the proposed amendments to various conditions of approval with a brief overview of the planning framework.

The Applicant now seeks to amend Condition 5 of that approval to achieve consistent wording and category limits between the Shire's current Development Approval and DWER's Works Approval. Through the process of amending Condition 5, to achieve consistency and the tidying up of previous errors, the amendment to the wording of Condition 4 and a new Condition 6A is also required. Lastly the addition of Advice Note 16 is required to further explain the Shire's requirements regarding the updated Traffic Impact Assessment that is required in Condition 8.

The relevant conditions and proposed amendments (in bold) are outlined below:

- 4. "The development shall at all times comply with the definition of composting facility as outlined under Local Planning Scheme No. 9 (as amended). The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process".
 - "The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes, including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process. However, this condition shall not preclude the blending of benign waste with composted organic wastes provided the quantity of benign waste does not exceed the amount specified in Condition 5."
- 5. "The annual tonnage of waste received shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of solid waste (green waste and benign waste); and
 - b. 50, 000 tpa of liquid waste (grease trap waste, pond and stormwater)"
 - "The annual tonnage of waste <u>received</u> shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of shredded green waste;
 - b. 20,000 tpa nitrogenous solid waste;
 - c. 10,000 tpa benign waste; and
 - d. 50,000 tpa of liquid waste (grease trap waste, pond and stormwater).
- 6A. "The compost manufacturing and soil blending <u>output</u> shall not exceed 80,000 tonnes per year".

A location plan and aerial photograph are attached as **Appendix 1**. The applicant's report and Approved Plans are attached as **Appendix 2**.

ORDINARY MEETING SHIRE OF GINGIN

COMMENT

Community Consultation

The application was advertised to surrounding landowners and published on the Shire's website, and a development sign was placed on the verge of the property for a period of 21 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015.* One submission was received objecting to the proposed amendments.

A Schedule of Submissions and Recommended Responses is attached as **Appendix 4**.

Furthermore, the proposal was advertised to the Department of Water and Environmental Regulation (DWER), which has advised that the "Works approval W5632/2014/1 and the new licence application submitted for that operation seems to be consistent with the requested amendment of the development approval".

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:
- 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.

The land use 'composting' is defined as follows:

"Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions".

The zoning table designates ""Composting" as an "A" use in the General Rural zone, meaning the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;

The proposal outlines that liquid wastes are intended to be brought to site and used in the composting process. The definition of a composting facility specifically excludes the use of listed waste and the officer has some concerns that such waste may be brought to site under the proposal. Wash down from industry processes is unlikely to be considered 'organic' and therefore would not be permitted as per the definition of 'composting' under LPS 9.

The officer is of the view the proposal can be conditioned to prevent any 'liquid wastes classed as Listed Waste' from being taken to the property or used in the composting process. It is therefore considered that 'Composting' is the appropriate land use classification.

Notwithstanding, the incidental use of some benign (inorganic) materials to be blended with composted wastes is noted. The blending of benign waste is limited in extent and incidental to the composting process and does not alter the essential character of the composting use for the purposes of classification.

It is also noted that Council has previously approved a composting facility on the subject property and accepted that the objectives of the zone have been satisfied.

General Rural Development Standards

Setbacks

In accordance with Table 2 of LPS 9, all development shall be set back a minimum 20 metres from all lot boundaries. The composting facility including all related infrastructure is set back more than 20 metres from the lot boundary. The proposal therefore satisfies the provisions of LPS 9 Table 2 - Site Requirements. Additional buffer requirements are applicable as outlined in the January 2019 OCM report.

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions).</u>

In accordance with Schedule 2, Part 9, Clause 77(1)(b) of the Deemed Provisions, the local government can amend or delete any condition to which the approval is subject to.

The Development Application Report and the Environmental Assessment and Management Plan submitted in October 2018 contained errors with contradictory information at various points in the proposed volumes of the various types of waste to be processed at the composting facility. Therefore, this led to a Development Approval condition that conflicts with DWERS's Works Approval.

The correct input volumes are as follows:

- 'a. 60, 000 tpa of shredded green waste
- b. 20,000 tpa nitrogenous solid waste
- c. 10,000 tpa benign waste; and
- d. 50,000 tpa of liquid waste (grease trap waste, pond and stormwater)'.

The above input volumes have been reflected in the amendment of Condition 5.

The finished product of composting and soil blending remains unchanged at 80,000 tpa, however this was not a condition in the most recent Development Approval.

Therefore, in the event that Council approves the amendments, a new Condition 6 (as outlined above in the report) has been included to reflect the 80,000 tpa of the finished product (output).

It should be noted that the volumes of input material (shredded green waste, nitrogenous solid waste and benign waste) exceed the output of the finished composting material/product. The reason for this is, as described in the applicant's report; 'composting by nature is a variable process. Ingredients vary in moisture content, the dry matter component contains both organic and inorganic matter'. Moisture requirements vary depending on season (i.e. higher water requirements in summer) and 'there is also a natural variation in how ingredients are broken-down and what the level of moisture is in the finished product'.

Traffic Implications

Planning and Development (Local Planning Scheme) Regulation 2015 (Deemed Provisions)

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 matters are considered to be relevant that are as a result of the amendments to the conditions (i.e. traffic impact).

- (s) The adequacy of
 - (i) The proposed means of access to and egress from the site; and
 - (ii) Arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

Comment

Access to the site is via a crossover located on Wannamal Road West which is unsealed on this section. Vehicle access to the site is proposed to be via Brand Highway and Wannamal Road West with a new crossover constructed just to the west of Mindarra Springs Road (unmade).

The vehicle movements generated by the composting facility are as follows:

- Up to 10 staff vehicles per day;
- Liquids incoming: 27 B-Double liquid tankers per week; and
- Green waste incoming: 59 pocket road trains per week. The pocket road trains bringing
 in green waste will also take out finished compost so no additional trucks are required
 for outgoing product.

The application fails to mention the traffic generated from the delivery of inputs being 20,000 tpa of nitrogenous solid waste and 10,000 tpa benign waste.

The applicant lodged a Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers. The Shire reviewed the TIA and noted the traffic generation for the development only deals with vehicles per day which essentially allocates the same value (one vehicle movement) for each type of vehicle. It would be a more accurate representation of traffic if the Equivalent Standard Axles (ESA) were stipulated. This would then be a true representation of the wear and deterioration of the existing pavement (and seal) that would be encountered. The traffic data used is for a virtual week and does not represent accurately the different classes of vehicles (light through to heavy vehicles, 12 classes in total). Heavy vehicle axle loadings should be separated from light vehicles.

The TIA doesn't acknowledge concessional loading (the Accredited Mass Management Scheme, (AMMS)) for Wannamal Road West. Wannamal Road West is currently approved for AMMS Level 2 with conditions (approval from the Shire must be obtained in writing). The applicant currently has contractors using RAV Network 4 with AMMS Level 2 delivering to site. AMMS will need to be assessed in the TIA as this will affect the life of the existing pavement.

The comments in the conclusion that an additional 30 heavy vehicle movements per day (from the development) is not considered to increase the likelihood of crashes to an unacceptable level requires review, considering that there is an unsealed section of road. The proposed development will increase the maximum number of heavy vehicle movements from the existing 12 per day to 30 (an increase of 250% to the development) which will undoubtedly increase dust and therefore greatly reduce visibility and increase the safety risk. The increased dust also equates to the rapid deterioration of the unsealed pavement.

Given the above comments, and the extra traffic generated by delivery of nitrogenous solid waste and benign waste, the existing conditions that form part of the January 2019 Development Approval are still appropriate to resolve any concerns.

Summary

In view of the above assessment Administration is of the view that the proposed composting facility satisfies the applicable planning framework and the subject land is able to accommodate the development without unacceptable adverse impacts to adjoining properties.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2.7 General Rural Zone
3.3 Zoning Table
Part 4 – General Development Requirements
4.8.6 - General Rural Zone
Schedule 1 – Definitions

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

Environmental Protection Authority Guidance Statement No. 3 - Guidance for the Assessment of Environmental Factors Western Australia (In Accordance with the *Environmental Protection Act 1986)* - Separation Distances between Industrial and Sensitive Land Uses

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

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	Infrastructure & Development
Objective	3. To effectively manage growth and provide for community through the
	delivery of community infrastructure in a financially responsible manner.
Outcome 3.1 Development	
	New and existing development meet the Shire's Strategic Objectives and
	Outcomes.
Key Service	Building & Planning Permits
Areas	
Priorities	3.1.1 Support strategies that facilitate commercial development

VOTING REQUIREMENTS – SIMPLE MAJORITY

OFFICER RECOMMENDATION

MOVED: Councillor Morton SECONDED: Councillor Peczka

That Council approve amended conditions of development approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring as follows:

- 1. The land use and development shall be undertaken in accordance with the approved plans dated 29 January 2019 and specifications, including any directions written in red ink or modifications required as a consequence of any condition(s) of this approval;
- 2. All works required to satisfy a condition of this approval and the operation of the development, are required to be installed/constructed/maintained/undertaken in accordance with the conditions of this approval, approved plans and planning report (including attached reports) for the life of the development;

- 3. This approval is for a composting facility and associated infrastructure as indicated on the approved plans;
- 4. The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process. However, this condition shall not preclude the blending of benign waste with composted organic wastes provided the quantity of benign waste does not exceed the amount specified in condition 5;
- 5. The annual tonnage of waste received shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of shredded green waste;
 - b. 20,000 tpa nitrogenous solid waste;
 - c. 10,000 tpa benign waste; and
 - d. 50,000 tpa of liquid waste (grease trap waste, pond and stormwater);
- 6A. The compost manufacturing and soil blending output shall not exceed 80,000 tonnes per year;
- The landowner/operator is required to keep up to date records of waste received and shall provide the Shire of Gingin with a copy of such records within 14 days upon request;
- 7. The Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers shall be updated/amended to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the amended TIA (including all drafts);
- 8. Prior to operation of the development, the landowner shall enter into a deed of agreement for contributions to the maintenance and upgrade of Wannamal Road West to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the deed (including all drafts); and
- 9. The Bushfire Attack Level (BAL) Assessment prepared by Smith Consulting Bushfire Consultants on 14 September 2018 shall be implemented and maintained thereafter to comply with a maximum BAL-19 rating.

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 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: 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: This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licences required under any other law, and to commence and carry out development in accordance with all relevant laws.
- Note 6: The applicant/landowner is reminded that this Development Approval is not to be interpreted as an approval to remove native vegetation without a clearing permit issued by the Department of Water and Environmental Regulation (DWER). This includes vegetation to be removed to satisfy bushfire ratings.
- Note 7: It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016* in order to minimise the effects of stable flies on the community.
- Note 8: The operation will be required to comply with the *Environmental Protection* (Noise) Regulations 1997.
- Note 9: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.
- 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: The definition of Composting Facility for the purpose of this approval is as follows: "Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions".

- Note 12: It should be noted that the composting facility will require works approval and/or licensing requirements under Part V of the *Environmental Protection Act 1986* which is to be issued by the Department of Water and Environmental Regulation (DWER).
- Note 13: It should be noted that the existing water license may require amendment by the Department of Water and Environmental Regulation (DWER).
- Note 14: Please be advised that further to this approval, an Offensive Trade License may be required prior to commencement of operations. Please contact the Shire of Gingin's Environmental Health Department in this regard.
- Note 15: In respect to Condition 8, at a minimum the Traffic Impact Assessment (TIA) is to be updated taking into account the traffic comments made in the report under the heading *Planning and Development (Local Planning Scheme) Regulations 2015* (Deemed Provisions).
- Note 16: Please be advised that the amended Deed of Agreement shall be prepared by a suitably qualified traffic engineer and shall take existing and proposed increased heavy traffic volumes for the development into consideration.

AMENDMENT

MOVED: Councillor Morton SECONDED: Councillor Peczka

That Council amend Condition 8 by deleting the words "to the satisfaction of the Shire of Gingin" and inserting ", with the Deed to be submitted to Council for final approval."

CARRIED UNANIMOUSLY

The amendment was incorporated into the Substantive Motion, which was then put.

COUNCIL RESOLUTION

MOVED: Councillor Morton SECONDED: Councillor Peczka

That Council approve amended conditions of development approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring as follows:

 The land use and development shall be undertaken in accordance with the approved plans dated 29 January 2019 and specifications, including any directions written in red ink or modifications required as a consequence of any condition(s) of this approval;

- 2. All works required to satisfy a condition of this approval and the operation of the
 - development, are required to be installed/constructed/maintained/undertaken in accordance with the conditions of this approval, approved plans and planning report (including attached reports) for the life of the development;
- 3. This approval is for a composting facility and associated infrastructure as indicated on the approved plans;
- 4. The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process. However, this condition shall not preclude the blending of benign waste with composted organic wastes provided the quantity of benign waste does not exceed the amount specified in condition 5;
- 5. The annual tonnage of waste received shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of shredded green waste;
 - b. 20,000 tpa nitrogenous solid waste;
 - c. 10,000 tpa benign waste; and
 - d. 50,000 tpa of liquid waste (grease trap waste, pond and stormwater);
- 6A. The compost manufacturing and soil blending output shall not exceed 80,000 tonnes per year;
- 6. The landowner/operator is required to keep up to date records of waste received and shall provide the Shire of Gingin with a copy of such records within 14 days upon request;
- 7. The Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers shall be updated/amended to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the amended TIA (including all drafts);
- 8. Prior to operation of the development, the landowner shall enter into a deed of agreement for contributions to the maintenance and upgrade of Wannamal Road West ", with the Deed to be submitted to Council for final approval." The landowner(s) shall be responsible for all costs associated with the preparation of the deed (including all drafts); and
- 9. The Bushfire Attack Level (BAL) Assessment prepared by Smith Consulting Bushfire Consultants on 14 September 2018 shall be implemented and maintained thereafter to comply with a maximum BAL-19 rating.

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 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: 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: This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licences required under any other law, and to commence and carry out development in accordance with all relevant laws.
- Note 6: The applicant/landowner is reminded that this Development Approval is not to be interpreted as an approval to remove native vegetation without a clearing permit issued by the Department of Water and Environmental Regulation (DWER). This includes vegetation to be removed to satisfy bushfire ratings.
- Note 7: It is advised that the proposal should at all times comply with the Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016 in order to minimise the effects of stable flies on the community.
- Note 8: The operation will be required to comply with the *Environmental Protection* (Noise) Regulations 1997.
- Note 9: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.
- 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.

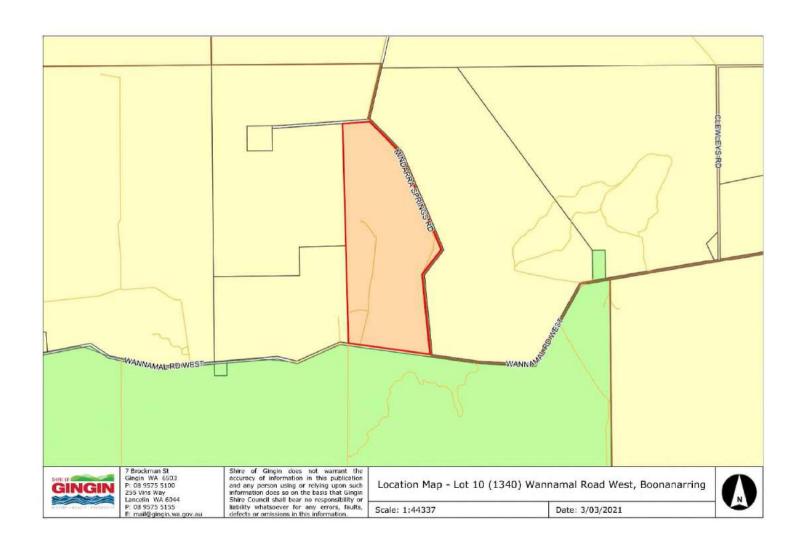
- Note 11: The definition of Composting Facility for the purpose of this approval is as follows: "Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions".
- Note 12: It should be noted that the composting facility will require works approval and/or licensing requirements under Part V of the *Environmental Protection Act 1986* which is to be issued by the Department of Water and Environmental Regulation (DWER).
- Note 13: It should be noted that the existing water license may require amendment by the Department of Water and Environmental Regulation (DWER).
- Note 14: Please be advised that further to this approval, an Offensive Trade License may be required prior to commencement of operations. Please contact the Shire of Gingin's Environmental Health Department in this regard.
- Note 15: In respect to Condition 8, at a minimum the Traffic Impact Assessment (TIA) is to be updated taking into account the traffic comments made in the report under the heading *Planning and Development (Local Planning Scheme)*Regulations 2015 (Deemed Provisions).
- Note 16: Please be advised that the amended Deed of Agreement shall be prepared by a suitably qualified traffic engineer and shall take existing and proposed increased heavy traffic volumes for the development into consideration.

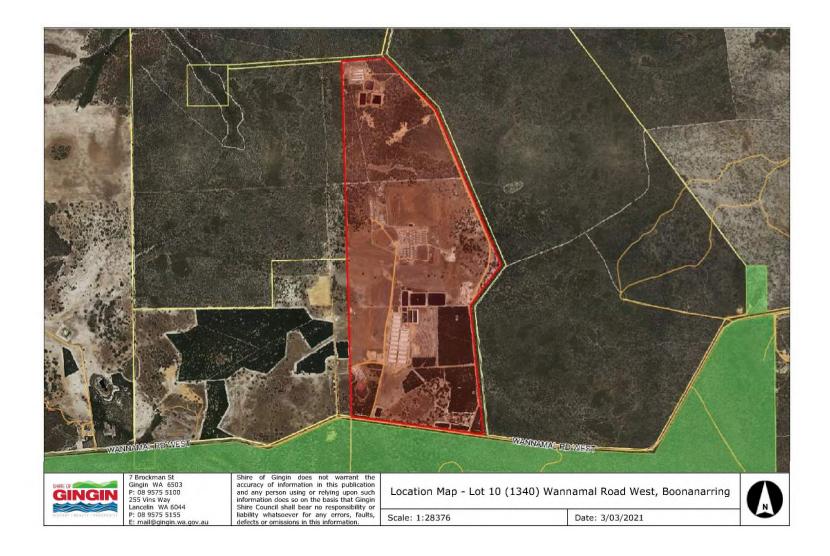
CARRIED UNANIMOUSLY

REASON FOR AMENDMENT

To ensure that Council has the opportunity to review the potential financial impost on the Shire of Gingin.

APPENDIX 1





APPENDIX 2



15 December 2022

Our Ref: POR GIN

POR GIN/201215LLGA_Development Approval Amendment v3

Chief Executive Officer Shire of Gingin PO Box 510 GINGIN WA 6503

Attention: Kylie Bacon, Manager Statutory Planning

Dear Sir/Madam

RE: REQUEST FOR AMENDMENT TO CONDITIONS OF PLANNING APPROVAL FOR COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE AT LOT 10 WANNAMAL ROAD WEST, BOONANARING

Burgess Design Group, on behalf of our client, Westpork Pty Ltd, writes seeking the Shire's assistance to amend the Conditions of Development Approval for the composting facility at Lot 10 Wannamal Road West, Boonanarring.

In support of our application, please find enclosed the following:

- One (1) signed Clause 86 (1) Form of Application for Development Approval;
- One (1) MRS Form 1 Application for Planning Approval; and,
- One (1) copy of the Certificate of Title.

Conditions of Development Approval

The Development Approval issued by the Shire includes the following Condition No.5:

'The annual tonnage of waste received shall not exceed the following tonnages per annum:

a. 60, 000 tpa of solid waste (green waste and benign waste); and

b. 50, 000 tpa of liquid waste (grease trap waste, pond and stormwater)."

BURGESS GROUP TOWN PLANNING + URBAN DESIGN

101 Edward Street Perth WA 6000 PO Box 8779 Perth Business Centre WA 6849 P [08] 9328 6411 F [08] 9328 4062 www.burgessdesigngroup.com.au ABN 31 790 649 540 ACN 161 577 144 Planovators Pty Ltd ATF Planovators Unit Trust T/A Burgess Design Group

YOUR PROJECT . OUR PASSION

town planning + urban design

Conditions of Works Approval W5632/2014/1

The Current Works Approval issued by the Department of Environment contains the following limits:

"The annual tonnage of waste received shall not exceed the following tonnages per annum:

- a. 60, 000 tpa of solid waste green waste
- b. 20,000 tpa nitrogenous solid waste
- c. 10,000 tpa benign waste;
- d. 50,000 tpa ⁽¹⁾ of liquid waste (grease trap waste, pond and stormwater) and
- e. 80,000 tpa of finished compost
 - (1) Works Approval issued 4 March 2016 granted 50,000 tpa of liquid waste. The Works Approval was subsequently reviewed, with the review issued 21 November 2016. The review document amended the wording around the acceptance of liquid waste to "To allow for the acceptance of controlled (liquid) waste".

Westpork maintains the position that the facility requires 30,000 – 50,000 tpa of liquid waste and the Operating License application will reflect these limits."

Errors in Original Application / Consistency in Approval Documents

It has come to our client's attention that the submitted Development Application Report and the Environmental Assessment and Management Plan contained errors in the proposed volumes of the various types of waste that were to be processed at the facility. The two submitted application documents contain contradictory information at various points regarding the volumes of waste in each category (as categorised in the Environmental Regulations 1987) and differ from the Department of Environment Works Approval.

Our client seeks to amend the Development Approval to achieve consistent wording and category limits between the Shire's Development Approval and the Department of Environmental Regulations Works Approval.

Application Documents

The Development Application Report dated October 2018, prepared by Larry Smith Planning, contains advice on page (ii) under the heading Proposed Composting Facility as follows:

"The facility will take up to 200,000 m³ (or approximately 60,000 tpa) of solid waste (green waste, nitrogenous waste and benign waste) and 30,000 tpa to 50,000 tpa of liquid waste (grease trap, pond water, stormwater, and some washdown from industry processes)."

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The above information was taken directly from the supporting Environmental Assessment and Management Plan dated September 2018, prepared by Strategen Environmental that contains the same paragraph on Page 2 under the heading "Description of Facility".

This is the source of the error in the two application documents and resulting Development Approval Conditions.

The intended volumes of proposed solid waste inputs are represented more accurately in the Development Application Report on Page 13 and again in the supporting Strategen report on Page 16. These volumes are shown in the lifted text below:

"Details of proposed solid waste (and solid) inputs are as follows:

- shredded green waste (primary source of carbon) will be the predominant ingredient. The expected amount is approximately up to 50 000 tpa;
- nitrogenous solid wastes. Those wastes that are compostable such as foodstuffs, vegetable matter, manure, malting sludge, other food wastes, spoiled fertilisers, etc. Annual volumes for each individual type will vary; however, the expected total volume is approximately up to 20,000 tpa. Pig manures from other facilities are not permitted to come onto the property for biosecurity reasons and to protect the health of the Westpork herd. Manures and pond sludge from the Westpork herd shall be the only pig matter entering the composting facility
- benign solid waste. Non-biodegradable wastes, which are beneficial for the soil. These wastes
 include bentonite clays, plasterboard and other minerals, such as clays, granite dust and
 gypsum to create a soil mix to suit a particular specification. The expected volume is
 approximately up to 10 000 tpa;
- blending ingredients that are not composted. These include soil, peat, sand and sawdust sourced from local quarries and suppliers for the purpose of creating soil mixes when blended with compost.'

Details of proposed liquid waste inputs are as follows:

- 'nitrogenous liquid wastes. Bulk liquids comprised of predominantly water that contain biodegradable contaminants that are non-toxic, digestible by compost microorganisms and do not contain elevated concentrations of heavy metals, hydrocarbons, salts or pesticides. These include grease trap, pond water, stormwater and some washdown water from industry processes (i.e. from the cleaning of trucks and earthmoving equipment). The volume to be managed without any liquid discharges to the environment from the process is approximately 30,000 to 50 000 tpa (see Section 4.7);
- other liquid wastes beneficial for plant health, such as phosphoric acid and wool scouring wastes.

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 Only small volumes are expected and have been included in the estimation in point 1 of this list."

DER Works Approval

It is also noted that a copy of the DER Works Approval was also included in the Larry Smith Planning Application Report at Appendix 1A that shows the approved volumes.

Cate gory num ber	Category description	Category production or design capacity	Premises production or design capacity
Category 67A	Compost manufacturing and soil blending: premises on which organic material (excluding silage) or waste is stored pending processing, mixing, drying or composting to produce commercial quantities of compost or blended soils.	1000 tonnes or more per year.	80 000 tonnes per year.
DER Category 61	Liquid waste facility: premises on which liquid waste produced on other premises (other than sewerage waste) is stored, reprocessed, treated or irrigated.	100 tonnes or more per year.	30,000 - 50 000 tonnes per year.

Requested Amendment to Condition

Our client now seeks the support of the Shire to amend the conditions of the Development Approval to reflect the intended volumes of waste that should have been sought in the original application.

Category / Number	Category description	Premises production or design capacity
Output -	Compost manufacturing and soil blending: premises on	80 000 tonnes
DER	which organic material (excluding silage) or waste is	per year.
Category	stored pending processing, mixing, drying or composting to produce	
67A	commercial quantities of compost or blended soils.	
Input	Shredded green waste (primary source of carbon) will be the	60,000 tonnes
	predominant ingredient.	per annum
Input	Nitrogenous solid wastes. Those wastes that are compostable such as	20,000 tonnes
	foodstuffs, vegetable matter, manure, malting sludge, other food	per annum
	wastes, spoiled fertilisers, etc.	

PRO GIN | 201215LLGA_Development Approval Amendment v3

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Input	Benign solid waste. Non-biodegradable wastes, which are beneficial for the soil. These wastes include bentonite clays, plasterboard and other minerals, such as clays, granite dust and gypsum to create a soil mix to suit a particular specification.	10,000 tonnes per annum
Input	Pig manures and mortalities from the adjoining Westpork piggery. Pig manures from other facilities are not permitted to come onto the property for biosecurity reasons and to protect the health of the Westpork herd. Manures and pond sludge from the Westpork herd shall be the only pig matter entering the composting facility	
Input -	Liquid waste facility: premises on which liquid waste	30,000 -
DER	produced on other premises (other than sewerage waste) is stored,	50,000 tonnes
Category 61	reprocessed, treated or irrigated.	per year.

Composting by its nature is a variable process. Ingredients vary in moisture content; the dry matter component contains both organic and inorganic matter. The ratio of incoming ingredients varies from week to week and throughout the different season as does the moisture requirements of the process (e.g. higher water requirements in summer). There is also natural variation in how ingredients are broken-down and what the level of moisture is in the finished compost.

Given the input volumes prescribed above, and the natural variation of the composting process Westpork and Bio-Organics (the operator of the facility) modelling suggest the facility will produce approximatly. 65,000 – 70,000 tonnes of finished compost, well below the DER license capacity for the facility of 80,000 tpa. The rated output of 80,000 tonnes of finished compost includes the component made from the piggery waste. Westpork consider the facility will likely to only be able to produce approximately 68,112 tonne of finished composting.

Bio-Organics has advised that under the current Works Approval, the facility is a 67A "composting and soil blending" facility. Soils are not necessarily a 'waste' or a 'product'. Sawdust, clay, sand, topsoil and peat are other examples. Some are called 'waste' and some are not, depending on the context.

What's important is that none of the solid materials referred to here are "controlled wastes".

Sand and other similar mixing ingredients which are not composted (i.e. what is collectively called "benign solid waste") is within the description of 67A and what we have always proposed. Some are mixed prior to screening finished compost and others (like plasterboard) are not as they need to be crumbled up for a homogenous mix. They are blended, not composted.

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"Benign" means they are not odorous, not composted, not organic, and there is no microbiological transformation. Sawdust might be a point of difference, but in this context, sawdust is only blended to finished compost when making special soil mixes like our "veggie soil mix". It is not composted or a waste. It is not used in the same way as green waste (even though it is also made of wood). It is a by-product from sawmills. It is a 'waste' to them but sold as a 'product' by us (Bio-Organics). It is not a controlled waste or a solid waste under the prescriptions of the EP Act.

"Solid" meaning it is not a liquid.

"Waste" meaning it is a by-product or recycled or upcycled ingredient. The goal is to recycle wherever possible. "Waste" does not mean "controlled waste" or something problematic.

The specific attention given to plasterboard can be addressed quite simply. Most of the plasterboard we have received came from BGC when they failed to pass inspection or had been slightly damaged by moisture. It is no longer a sellable product, so it is, technically, a 'waste'. Plasterboard is essentially gypsum with a paper backing. Gypsum is a very useful ingredient in soil mixes as it helps retain moisture and nutrients. It is sold as a soil improving 'product' in gardening stores.

Bio-Organics has suggested that the Shire could consider expanding the definitions of the approval to include "soil blending" under their definition of "composting", more closely resembling the WA Environmental Protection Act 1986. Alternatively, sand or clay or other benign solids (whether from a quarry or recycled/used materials) imported for the purpose of blending with compost to improve its beneficial properties without increasing any external impact (emissions), may not need to be an activity regulated by the Shire when forming part of a 67A licensed facility.

To be clear, the site is not a transfer/sorting station for demolition waste. Plasterboard will be sourced from anyone who handles that material, but it will only be accepted in a 'clean' state (i.e. not mixed with anything else), and ready for use in our products and processes.

Bio-Organics intend to use any and all ingredients that are beneficial to the composting process and/or improve the finished products. Plasterboard has been one of those ingredients successfully recycled at Oakford which enhances our products and benefits the end user. Given the cost for landfill and push for more recycling, our proposal perfectly fits government policies on reducing waste.

Conclusion

We seek the Shire's approval to amend the conditions of Development Approval to reflect the originally intended waste volumes for the site and to have consistency between both State and Local Government.

The proposed amendments are considered to be consistent with the supporting documents submitted with the original application, and reflect the DER's Works Approval for the site.

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We hereby respectfully request Council's amendment to the conditions of Development Approval.

Should you require any additional information or wish to discuss this matter further, please do not hesitate to contact the undersigned on 9328 6411.

Yours faithfully

BURGESS DESIGN GROUP

MARK SZABO

ASSOCIATE DIRECTOR

Enc

- 1 x Clause 86 (1) Form of Application for Development Approval
- 1 x MRS Form 1 Application for Planning Approval
- 1 x copy of the Certificate of Title and associated documents

CC

Westpork Pty Ltd



Perth Dilhorn House, 2 Bulwer Street Perth WA 6000 T (08) 9227 2600 F (08) 9227 2699

2 March 2021

Kylie Bacon Shire of Gingin 7 Brockman Street Gingin WA 6053

Dear Kylie,

RE: Westpork Composting Facility Lot 10 Wannamal Road West, Boonanarring

Aurora Environmental, on behalf of Westpork Pty Ltd, provide this response to the Shire of Gingin's correspondence dated 21st January 2021 (K. Bacon, Manager Statutory Planning) regarding the environmental aspects of the planning approval amendment for the proposed composting facility on part of Lot 10 Wannamal Road West Boonanarring.

The concerns from a local stakeholder regarding the potential impact on environmental amenity with regards to odour, noise, truck movements and dust are noted and addressed below.

• Odour

The current amendment application has been submitted to align the planning application with raw materials approved by the existing DWER works approval (W5632/2014/1 – Amendment 2 issued 19 March 2019) that has been assessed and approved for the site. No increase in total compost production is sought.

With regard to the leachate and the supplementary pond facilities, the supplementary pond has been constructed for a number of years at the premise and will be used for holding stormwater runoff following high rainfall events. The leachate pond is located 372m from the eastern boundary and given the proximity to the existing treatment system associated with the piggery operation, the small 40m by 40m pond it is unlikely to have an offsite impact.

Noise, Truck Movements and Dust

The Shire of Gingin has liaised with Westpork and agreed that Westpork shall contribute to the upgrade and sealing of Wannamal West Road (Alister Butcher – Works Manager) which will minimize all dust and noise emission associated with the transport of materials to and from the premise. Low truck speeds within the premise will be maintained to minimize dust generation.

With regard to the soil blending component of the operation, this material is not composted and hence does not form part of the composting process, and volumes will remain incidental compared with the total compost volume.

Aurora Environmental WPK2018-010 007 V1 2 March 2021

Page 1 of 2

Westpork Mindarra Composting

Based on discussions with the Shire of Gingin (2 March 2021) no further feedback has been received following referral of the application to DWER. In the event that further issues arise, please do not hesitate to contact me should you require any further information.

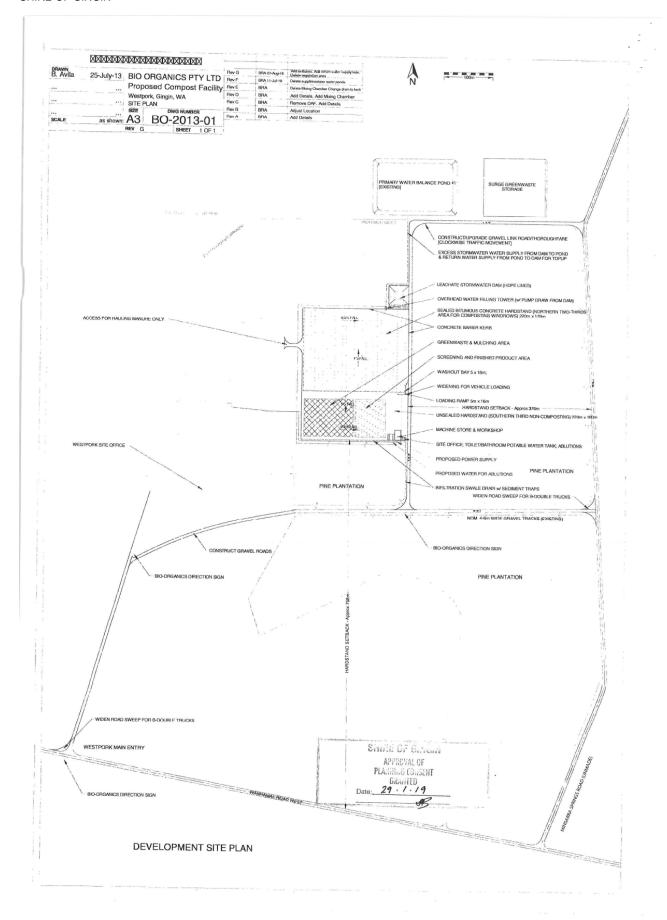
Regards,

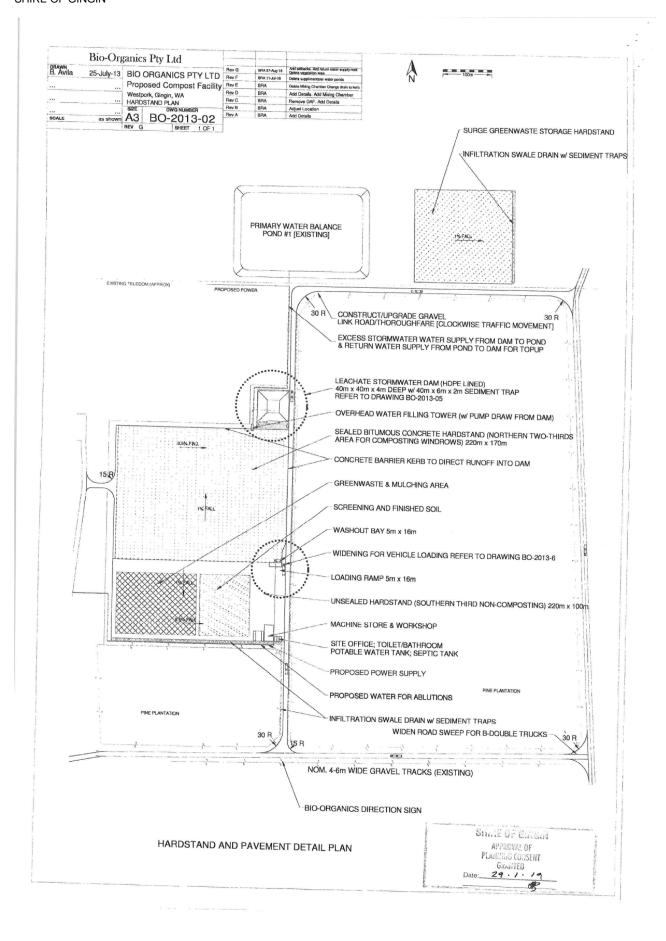
Kate McCormack Senior Environmental Engineer

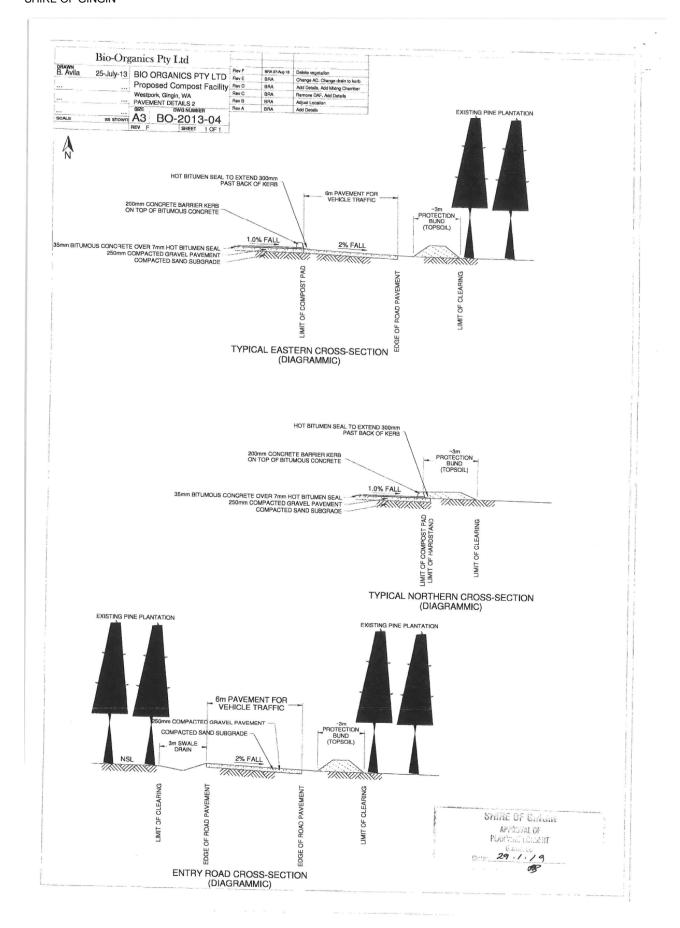
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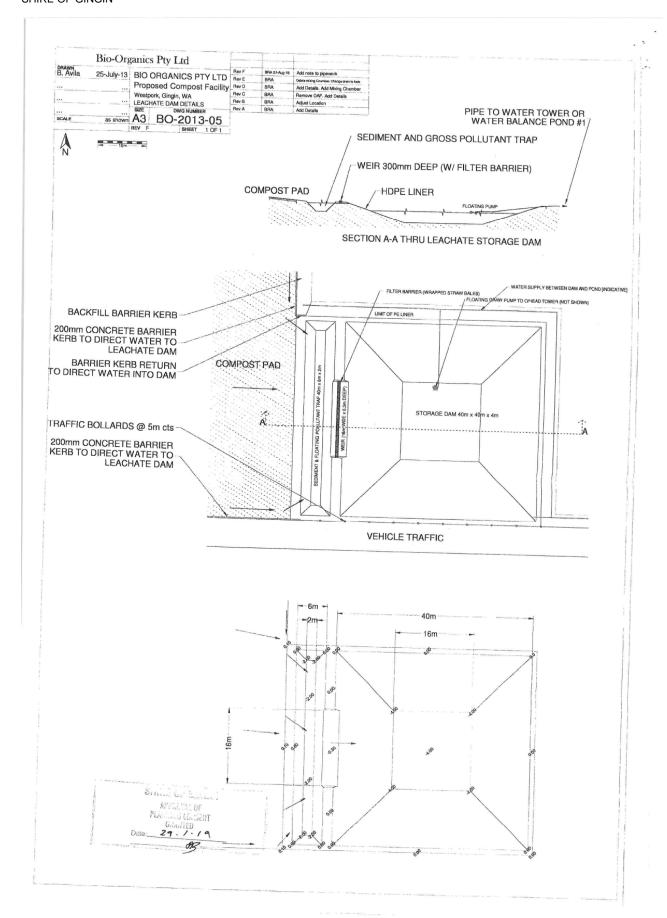
Aurora Environmental WPK2018-010_007_V1 2 March 2021

Page 2 of 2











APPENDIX 3

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE ON LOT 10 (1340) WANNAMAL ROAD WEST, BOONANARRING

File:	BLD/2337		
Applicant:	Westpork Pty Ltd		
Location:	Lot 10 (1340) Wannamal Road West, Boonanarring		
Owner:	Westpork Pty Ltd		
Zoning:	General Rural		
WAPC No:	N/A		
Author:	James Bayliss, Acting Manager Statutory Planning		
Reporting Officer:	Kylie Bacon – Executive Manager Planning and		
	Development		
Report Date:	22 January 2019		
Refer	17 December 2013 Item 11.1.10		
Appendices	Location Plan/Aerial Photograph		
	Development Plans		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring.

BACKGROUND

The subject property currently contains the Mindarra Piggery which is operated by Westpork Pty Ltd. In November 2013, Westpork applied for development approval for a Composting Facility on land adjacent to the Mindarra 4 complex. The application was approved by Council on the 17 December 2013 and in 2016 Westpork received Works Approval from the Department of Water and Environmental Regulation (DWER) for the facility.

The Development Approval issued by the Shire has since expired. Accordingly, the purpose of this application is to seek development approval from Council for a revised composting facility. The composting facility will be built by Westpork in accordance with the Works Approval issued by DWER.

At all times Westpork will retain ownership of the facility. Once built, Bio-Organics Pty Ltd will need to hold a licence from DWER to operate the facility under lease from Westpork. Bio-Organics have previously operated a similar facility in Oakford. The day to day operations of the composting facility will be managed in accordance with the license conditions attached to DWER's operating license. As part of the operating license DWER will place monitoring and reporting conditions on the facility.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The subject property is 310 hectares in area and is situated on the north side of Wannamal Road West. The site currently operates as a piggery with a total capacity of 65,000 animals. The southern two thirds of the site are mostly cleared and contains three of the four piggery units. The northern third of the site comprises mostly remnant vegetation and includes the fourth piggery unit of the site. The land to the immediate east and north (Lot 2) comprises remnant woodland while the land to the west (Lot 5450) is primarily remnant woodland with the exception of the southernmost portion which has been cleared for grazing.

The land to the west contains a gravel pit operated by the Shire. The Boonanarring Nature Reserve is situated opposite Lot 10 on the south side of Wannamal Road West. The closest occupied residences to the subject site are located approximately 3.5km to both the east and the west. Two unoccupied and condemned residences are located on the adjacent Lot 5450 to the west.

The proposed Composting Facility is to be located to the immediate east of the Mindarra 4 unit on cleared land and will utilise the waste and daily mortality from the Mindarra property in the composting process. It is anticipated that all solid waste generated from the Mindarra property (straw based, screen waste, pond sludges and dead pigs) will be re-cycled into the composting process and eliminate the need for these materials to be disposed of on-site or exported off-site.

Composting Facility

The proposed Composting Facility comprises the following:

- Composting green waste and carbon-rich wastes with various nitrogenous liquid and solid wastes (including pig carcasses and manure) to produce compost and soils for home, commercial and agricultural use;
- Processing and pasteurising green waste of manufacture high-quality mulches for home, commercial and agricultural use; and
- Soil blending for compost product.

The facility will take up to 200,000 m³ (or approximately 60,000 tonne per annum (tpa)) of solid waste (green waste, nitrogenous waste and benign waste) and 30,000 tpa to 50 000 tpa of liquid waste (grease trap, pond water, stormwater, and some wash-down from industry processes). Only waste that can be processed in a timely manner will be accepted by the facility.

The facility will comprise a six hectare sealed hardstand area that will be used for composting and non-composting activities and a surge green waste area. Liquid waste will be directly applied to the windrows on a 'just in time' basis immediately on arrival. During manufacture, compost is formed into windrows of up to 160 m long. Stormwater and leachate runoff from the composting hardstand area is directed to a dedicated leachate dam located adjacent the composting area. The leachate pond has a capacity of 3,300 m³. Water collected in the leachate pond will be re-used back into the composting process or for dust control. The leachate pond will be constructed with an HDPE liner. If large amounts of green waste are received, the surge green waste area will temporarily store the waste until it can be processed on the main hardstand. Surge green waste will be temporarily stored on a 1.6 ha hardstand area located in the northern portion of the site.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The existing Primary Water Balance Pond is proposed to be used to accommodate any excess volume of water collected in the leachate dam. It is proposed that all solid waste ingredients (other than green waste) to be composted will be handled in a just-in-time manner to avoid storing of ingredients on areas other than the compost area, where possible. All liquid waste ingredients are proposed to be added to the compost rows as they arrive on site.

The compost facility will not be open or advertised to the public and there is no public access to the existing piggery. Day-to-day composting related activity will normally be undertaken from 7:00 am to 5:00 pm Monday to Saturday. Vehicle movements may occur outside of the proposed operating hours, but the principle site activities will be limited to Monday to Saturday. The proposed operating times fall within the current activities of the piggery, which operates seven days per week.

A location plan and aerial photograph are included as **Appendix 1**. The development plans are included as **Appendix 2**. Due to the size of the document the accompanying Applicant's Report has been circulated separately to Councillors for their information and can be located in the Shire's Record Management System as Record IPA199503.

COMMENT

Community Consultation

The application was advertised to surrounding landowners, published on the Shire's website and social media platform and a development sign was placed on the verge of the property for a period of 21 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015.* No written submissions have been received by the Shire.

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:

- 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.

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

The land use 'composting facility' is defined as follows:

'Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions'.

The zoning table designates a 'Composting Facility' as an "A" use in the General Rural zone, meaning the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions.

The definition of a composting facility specifically excludes the use of listed waste. However, the proposal outlines that liquid wastes are intended to be brought to site and used in the composting process, and the reporting officer has some concerns that listed waste may be brought to site as part of this process. Wash down from industry processes is unlikely to be considered 'organic' and therefore would not be permitted as per the definition of 'composting' under LPS 9.

The officer is of the view that the proposal can be conditioned to prevent any 'liquid wastes classed as Listed Waste' from being taken to the property or used in the composting process. It is therefore considered that 'Composting Facility is the appropriate land use classification.

It is also noted Council has previously approved a composting facility on the subject property and accepted that the objectives of the zone have been satisfied.

General Rural Development Standards

Setbacks

In accordance with Table 2 of LPS 9, all development shall be set back a minimum 20 metres from all lot boundaries. The composting facility, including all related infrastructure, is setback further than 20 metres from the lot boundary. The proposal therefore satisfies the provisions of LPS 9 Table 2 - Site Requirements. Additional buffer requirements are applicable as outlined in the report below.

Planning and Development (Local Planning Scheme) Regulation 2015 (Deemed Provisions)

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 matters are considered to be relevant, with the officer comments outlined below:

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

Comment

The development is proposed to co-exist with the existing piggery operating on the property. The impact of the development from a height, bulk, scale and appearance perspective is deemed to be relatively minor due to the large setbacks to nearby lot boundaries.

- (n) The amenity of the locality including the following:
 - (i) Environmental impacts of the development;
 - (ii) The character of the locality;
 - (iii) Social impacts of the development;

Comment

The development area is located on a relatively cleared portion of the subject property to limit any vegetation removal. The proponent engaged Strategen Environmental to undertake an Environmental Assessment and Management Plan which did not identify any environmental risks.

- (s) The adequacy of
 - (i) The proposed means of access to and egress from the site; and
 - (ii) Arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

Comment

Access to the site is via a crossover located on Wannamal Road West which is unsealed in this section. Vehicle access to the site is proposed to be via Brand Highway and Wannamal Road West with a new crossover constructed just to the west of Mindarra Springs Road (unmade).

The vehicle movements generated by the composting facility are as follows:

- Up to 10 staff vehicles per day;
- Liquids incoming: 27 B-Double liquid tankers per week; and
- Green waste incoming: 59 pocket road trains per week. The pocket road trains bringing
 in green waste will also take out finished compost so no additional trucks are required
 for outgoing product.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The applicant lodged a Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers. The Shire's Operations Department reviewed the TIA and noted the traffic generation for the development only deals with vehicles per day which essentially allocates the same value (one vehicle movement) for each type of vehicle. It would be a more accurate representation of traffic if the Equivalent Standard Axles (ESA) were stipulated. This would then give a true representation of the wear and deterioration of the existing pavement (and seal) that would be encountered. The traffic data used is for a virtual week and does not represent accurately the different classes of vehicles (light through to heavy vehicles, 12 classes in total). The heavy vehicle axle loadings should be separated from the light vehicles.

The TIA doesn't acknowledge concessional loading (the Accredited Mass Management Scheme, AMMS) for Wannamal Road West. Wannamal Road West is currently approved for AMMS Level 2 with conditions (approval from the Shire must be obtained in writing). The applicant currently has contractors using RAV Network 4 with AMMS Level 2 delivering to site. AMMS will need to be assessed in the TIA as this will affect the life of the existing pavement.

The comments in the conclusion that an additional 30 heavy vehicle movements per day (from the development) is not considered to increase the likelihood of crashes to an unacceptable level requires review considering that there is an unsealed section of road. The proposed development will increase the maximum number of heavy vehicle movements from the existing 12 per day to 30 (an increase of 250% to the development) which will undoubtedly increase dust and therefore greatly reduce visibility and increase the safety risk. The increased dust also equates to the rapid deterioration of the unsealed pavement.

Given the above comments, appropriate conditions have been recommended which are expected to resolve any concerns.

Environmental Protection Authority Guidance Statement No. 3 - Guidance for the Assessment of Environmental Factors Western Australia (In Accordance with the Environmental Protection Act 1986) - Separation Distances between Industrial and Sensitive Land Uses

The EPA's Guidance Statement recommends the following separation distances for a compost facility with respect to odour:

- 1,000 m for manures, mixed food/putrescible and vegetative food waste
- 150 m for green waste.

The EPA Draft Environmental Assessment Guideline for Separation distances between industrial and sensitive land uses recommends the following separation distances:

- Liquid waste facility 1,000 m
- Composting facility case by case.

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

The existing buffer exceeds the recommended distances prescribed above. DWER assessed the risk of odour impacts from the facility as moderate and acceptable subject to the proposed management controls and regulatory controls which will be applied through the operating licence.

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

SPP 3.7 provides a foundation for land use planning to address bushfire risk management. The subject lot is designated as being partially bushfire prone. The proposed facility will be separated from any grassland by bare earth roads and vehicle manoeuvring areas that vary in width from 20 metres to 50 metres. The site office, machine store and workshop which form part of the proposed composting facility will be located a minimum of 31 metres from the adjacent pine plantation. The BAL was identified as being BAL-19.

Summary

In view of the above assessment Administration is of the view that the proposed composting facility satisfies the applicable planning framework and the subject land is able to accommodate the development without unacceptable adverse impacts to adjoining properties.

STATUTORY ENVIRONMENT

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2.7 General Rural Zone
3.3 Zoning Table
Part 4 – General Development Requirements
4.8.6 - General Rural Zone
Schedule 1 – Definitions

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

Environmental Protection Authority Guidance Statement No. 3 - Guidance for the Assessment of Environmental Factors Western Australia (In Accordance with the *Environmental Protection Act 1986*) - Separation Distances between Industrial and Sensitive Land Uses

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

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Infrastructure & Development		
Objective	3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner.		
Outcome	3.1 Development New and existing development meet the Shire's Strategic Objectives and Outcomes.		
Key Service Area	Building & Planning Permits		
Priorities	3.1.1 Support strategies that facilitate commercial development		

VOTING REQUIREMENTS - SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Peczka

That Council grant development approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring subject to the following conditions:

- The land use and development shall be undertaken in accordance with the approved stamped plans and specifications, including any directions written in red ink or modifications required as a consequence of any condition(s) of this approval;
- All works required to satisfy a condition of this approval and the operation of the development, are required to be installed/constructed/maintained/undertaken in accordance with the conditions of this approval, approved plans and planning report (including attached reports) for the life of the development;
- 3. This approval is for a composting facility and associated infrastructure as indicated on the approved plans;
- 4. The development shall at all times comply with the definition of composting facility as outlined under Local Planning Scheme No. 9 (as amended). The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process.
- 5. The annual tonnage of waste received shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of solid waste (green waste and benign waste); and
 - b. 50, 000 tpa of liquid waste (grease trap waste, pond and stormwater)

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

- The landowner/operator is required to keep up to date records of waste received and shall provide the Shire of Gingin with a copy of such records within 14 days upon request;
- 7. The Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers shall be updated/amended to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the amended TIA (including all drafts);
- Prior to operation of the development, the landowner shall enter into a deed of agreement for contributions to the maintenance and upgrade of Wannamal Road West to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the deed (including all drafts); and
- The Bushfire Attack Level (BAL) Assessment prepared by Smith Consulting Bushfire Consultants on 14 September 2018 shall be implemented and maintained thereafter to comply with a maximum BAL-19 rating.

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: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011, Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911*, which are to be approved by the Shire of Gingin;
- Note 5: This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licences required under any other law, and to commence and carry out development in accordance with all relevant laws;
- Note 6: The applicant/landowner is reminded that this Development Approval is not to be interpreted as an approval to remove native vegetation without a clearing permit issued by the Department of Water and Environmental Regulation (DWER). This includes vegetation to be removed to satisfy bushfire ratings;

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

- Note 7: It is advised that the proposal should at all times comply with the Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016 in order to minimise the effects of stable flies on the community;
- Note 8: The operation will be required to comply with the *Environmental Protection* (Noise) Regulations 1997;
- Note 9: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property;
- 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: The definition of Composting Facility for the purpose of this approval is as follows: "Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions";
- Note 12: It should be noted that the composting facility will require works approval and/or licensing requirements under Part V of the *Environmental Protection Act 1986* which is to be issued by the Department of Water and Environmental Regulation (DWER);
- Note 13: It should be noted that the existing water license may require amendment by the Department of Water and Environmental Regulation (DWER);
- Note 14: Please be advised that further to this approval, an Offensive Trade License may be required prior to commencement of operations. Please contact the Shire of Gingin's Health Department in this regard; and
- Note 15: Please be advised that the amended Deed of Agreement shall be prepared by a suitably qualified traffic engineer and shall take existing and proposed increased heavy traffic volumes for the development into consideration.

CARRIED UNANIMOUSLY

APPENDIX 4

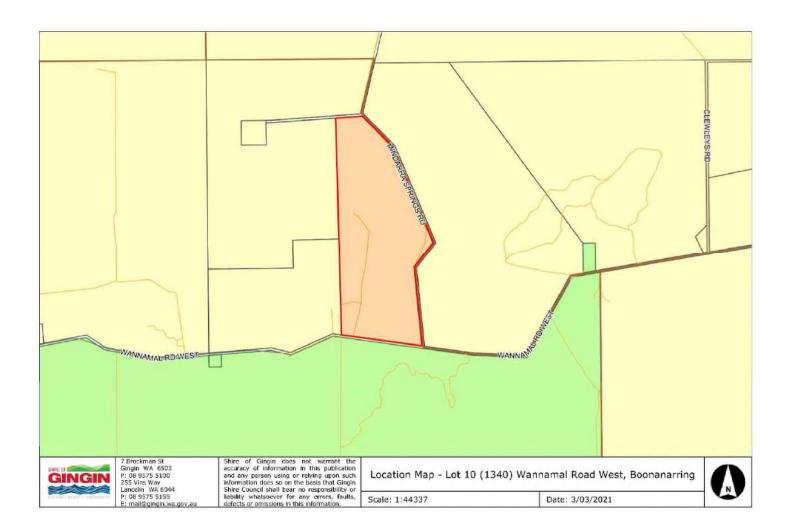
SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED DEVELOPMENT APPLICATION – PROPOSED AMENDMENT TO CONDITIONS OF EXISTING PLANNING APPROVAL FOR THE APPROVED COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE

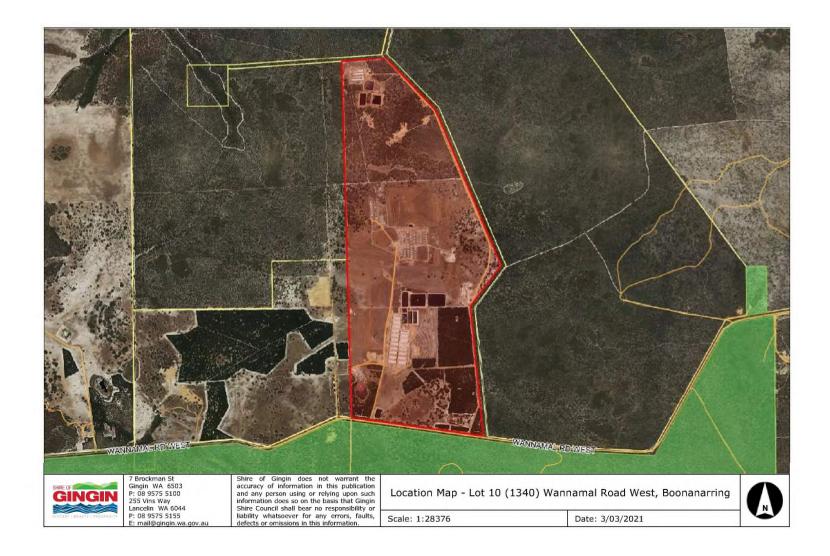
No.	Submitter	Submission Detail	Recommended Response	
1.	Ratepayer	The submitter does not support the proposal and makes the following general comments:	Proposed Amendments/Increased Volumes of Material	
		"We do not support the proposed amendments and increase in capacity of the Composting Facility. We have strong concerns that the proposal will impact the environmental amenity and value of our property from increased odour, noise, truck movements and dust from unsealed roads.	The amendments are not for an increase in the volume of compost to be produced. The original development application always outlined the composting output of 80,000 tpa as per the DWER Works Approval.	
		The buffer to the current effluent pond on Lot 10 is only 275 metres from the Eastern boundary on Lot 2. The Proposal is seeking an extra 30,000tpa of solid waste for composting, which is a 50% increase. The submission states there will also be a 250% increase in truck movements resulting in noise and dust from the unsealed Wannamal	The original application also outlined the intended volumes of waste however there was some contradictory information at various points between the submitted Development Application Report and the Environmental Assessment and Management Plan.	
		Road West as well as the internal access roads servicing the Composting Facility with a new proposed main access crossover very near our Eastern Boundary on Lot 2 which we view as a major impact and should be located a reasonable distance away from our common boundary as Lot 10 has large frontage to Wannamal Road West to do so."	The current amendment that is before Council is to achieve consistency in the wording and category limits between the Shire's Development Approval Conditions and DWER Works Approval. While it may be a perceived increase of 30,000 tpa of composting ingredients, the original development application did outline the correct volumes but was unfortunately overlooked by conflicting information. Furthermore, the design of the facility is not being amended as it was always designed to cater for the volumes that is the subject of this amendment.	
			The application is an alignment of raw materials to what has been approved by the DWER within the Works Approval and has subsequently been reviewed by DWER who have advised the following:	
			"Works approval W5632/2014/1 and the new licence application submitted for that operation seems to be consistent with the requested amendment of the development approval".	

Buffer to current effluent pond As previously noted in the original application; "The effluent evaporation pond is not deemed to be a significant contributor to odour emissions as advised by the Department of Water and Environmental Regulation (DWER). The DWER advised the following": "Evaporation ponds at piggeries are not a significant source of odour and DWER has formed the preliminary opinion that the additional evaporation pond will not increase odour emissions". The proposed development is an improvement to the current system and is therefore considered to be an advantage to the treatment of wastewater at the site. Furthermore, DWER's assessment has been based upon the volumes of the inputs and output of the final composted material that are the subject of this amendment and do not compound any amenity issues. Lastly, the actual location of pond is not the subject of this amendment. The pond is already constructed and has been for a number of years. The pond is located is towards the middle of the property and is surrounded by an evaporative pond that is part of the piggery's operations. **Traffic** Please refer to the officer's comment in the report under the heading 'Traffic Implications'

APPENDIX 1



16/03/2021



APPENDIX 2



15 December 202₽

Our Ref:

POR GIN/201215LLGA_Development Approval Amendment v3

Chief Executive Officer Shire of Gingin PO Box 510 GINGIN WA 6503

Attention:

Kylie Bacon, Manager Statutory Planning

Dear Sir/Madam

DE.

REQUEST FOR AMENDMENT TO CONDITIONS OF PLANNING APPROVAL FOR COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE AT LOT 10 WANNAMAL ROAD WEST, BOONANARRING

Burgess Design Group, on behalf of our client, Westpork Pty Ltd, writes seeking the Shire's assistance to amend the Conditions of Development Approval for the composting facility at Lot 10 Wannamal Road West, Boonanarring.

In support of our application, please find enclosed the following:

- One (1) signed Clause 86 (1) Form of Application for Development Approval;
- One (1) MRS Form 1 Application for Planning Approval; and,
- One (1) copy of the Certificate of Title.

Conditions of Development Approval

The Development Approval issued by the Shire includes the following Condition No.5:

The annual tonnage of waste received shall not exceed the following tonnages per annum:

a. 60, 000 tpa of solid waste (green waste and benign waste); and

b. 50, 000 tpa of liquid waste (grease trap waste, pond and stormwater)."

BURGESS GROUP TOWN PLANNING + URBAN DESIGN

101 Edward Street Perth WA 6000 PO Box 8779 Perth Business Centre WA 6849 P [08] 9328 6411 F [08] 9328 4062 www.burgessdesigngroup.com.au
ABN 31 790 649 540 ACN 161 577 144 Planovators Pty Ltd ATF Planovators Unit Trust T/A Burgess Design Group

YOUR PROJECT . OUR PASSION

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Conditions of Works Approval W5632/2014/1

The Current Works Approval issued by the Department of Environment contains the following limits:

"The annual tonnage of waste received shall not exceed the following tonnages per annum:

- a. 60, 000 tpa of solid waste green waste
- b. 20,000 tpa nitrogenous solid waste
- c. 10,000 tpa benign waste;
- d. 50,000 tpa ⁽¹⁾ of liquid waste (grease trap waste, pond and stormwater) and
- e. 80,000 tpa of finished compost
 - (1) Works Approval issued 4 March 2016 granted 50,000 tpa of liquid waste. The Works Approval was subsequently reviewed, with the review issued 21 November 2016. The review document amended the wording around the acceptance of liquid waste to "To allow for the acceptance of controlled (liquid) waste".

Westpork maintains the position that the facility requires 30,000 – 50,000 tpa of liquid waste and the Operating License application will reflect these limits."

Errors in Original Application / Consistency in Approval Documents

It has come to our client's attention that the submitted Development Application Report and the Environmental Assessment and Management Plan contained errors in the proposed volumes of the various types of waste that were to be processed at the facility. The two submitted application documents contain contradictory information at various points regarding the volumes of waste in each category (as categorised in the Environmental Regulations 1987) and differ from the Department of Environment Works Approval.

Our client seeks to amend the Development Approval to achieve consistent wording and category limits between the Shire's Development Approval and the Department of Environmental Regulations Works Approval.

Application Documents

The Development Application Report dated October 2018, prepared by Larry Smith Planning, contains advice on page (ii) under the heading Proposed Composting Facility as follows:

"The facility will take up to 200,000 m³ (or approximately 60,000 tpa) of solid waste (green waste, nitrogenous waste and benign waste) and 30,000 tpa to 50,000 tpa of liquid waste (grease trap, pond water, stormwater, and some washdown from industry processes)."

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The above information was taken directly from the supporting Environmental Assessment and Management Plan dated September 2018, prepared by Strategen Environmental that contains the same paragraph on Page 2 under the heading "Description of Facility".

This is the source of the error in the two application documents and resulting Development Approval Conditions.

The intended volumes of proposed solid waste inputs are represented more accurately in the Development Application Report on Page 13 and again in the supporting Strategen report on Page 16. These volumes are shown in the lifted text below:

"Details of proposed solid waste (and solid) inputs are as follows:

- shredded green waste (primary source of carbon) will be the predominant ingredient. The expected amount is approximately up to 50 000 tpa;
- nitrogenous solid wastes. Those wastes that are compostable such as foodstuffs, vegetable matter, manure, malting sludge, other food wastes, spoiled fertilisers, etc. Annual volumes for each individual type will vary; however, the expected total volume is approximately up to 20,000 tpa. Pig manures from other facilities are not permitted to come onto the property for biosecurity reasons and to protect the health of the Westpork herd. Manures and pond sludge from the Westpork herd shall be the only pig matter entering the composting facility
- benign solid waste. Non-biodegradable wastes, which are beneficial for the soil. These wastes
 include bentonite clays, plasterboard and other minerals, such as clays, granite dust and
 gypsum to create a soil mix to suit a particular specification. The expected volume is
 approximately up to 10 000 tpa;
- blending ingredients that are not composted. These include soil, peat, sand and sawdust sourced from local quarries and suppliers for the purpose of creating soil mixes when blended with compost.'

Details of proposed liquid waste inputs are as follows:

- 'nitrogenous liquid wastes. Bulk liquids comprised of predominantly water that contain biodegradable contaminants that are non-toxic, digestible by compost microorganisms and do not contain elevated concentrations of heavy metals, hydrocarbons, salts or pesticides. These include grease trap, pond water, stormwater and some washdown water from industry processes (i.e. from the cleaning of trucks and earthmoving equipment). The volume to be managed without any liquid discharges to the environment from the process is approximately 30,000 to 50 000 tpa (see Section 4.7);
- other liquid wastes beneficial for plant health, such as phosphoric acid and wool scouring wastes.

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 Only small volumes are expected and have been included in the estimation in point 1 of this list."

DER Works Approval

It is also noted that a copy of the DER Works Approval was also included in the Larry Smith Planning Application Report at Appendix 1A that shows the approved volumes.

Cate gory num ber	Category description	Category production or design capacity	Premises production or design capacity
Category 67A	Compost manufacturing and soil blending: premises on which organic material (excluding silage) or waste is stored pending processing, mixing, drying or composting to produce commercial quantities of compost or blended soils.	1 000 tonnes or more per year.	80 000 tonnes per year.
DER Category 61	Liquid waste facility: premises on which liquid waste produced on other premises (other than sewerage waste) is stored, reprocessed, treated or irrigated.	100 tonnes or more per year.	30,000 - 50 000 tonnes per year.

Requested Amendment to Condition

Our client now seeks the support of the Shire to amend the conditions of the Development Approval to reflect the intended volumes of waste that should have been sought in the original application.

Category / Number	Category description	Premises production or design capacity
Output -	Compost manufacturing and soil blending: premises on	80 000 tonnes
DER	which organic material (excluding silage) or waste is	per year.
Category	stored pending processing, mixing, drying or composting to produce	
67A	commercial quantities of compost or blended soils.	
Input	Shredded green waste (primary source of carbon) will be the	60,000 tonnes
	predominant ingredient.	per annum
Input	Nitrogenous solid wastes. Those wastes that are compostable such as	20,000 tonnes
	foodstuffs, vegetable matter, manure, malting sludge, other food	per annum
	wastes, spoiled fertilisers, etc.	

PRO GIN | 201215LLGA_Development Approval Amendment v3

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Input	Benign solid waste. Non-biodegradable wastes, which are beneficial for the soil. These wastes include bentonite clays, plasterboard and other minerals, such as clays, granite dust and gypsum to create a soil mix to suit a particular specification.	10,000 tonnes per annum
Input	Pig manures and mortalities from the adjoining Westpork piggery. Pig manures from other facilities are not permitted to come onto the property for biosecurity reasons and to protect the health of the Westpork herd. Manures and pond sludge from the Westpork herd shall be the only pig matter entering the composting facility	
Input - DER Category 61	Liquid waste facility: premises on which liquid waste produced on other premises (other than sewerage waste) is stored, reprocessed, treated or irrigated.	30,000 – 50,000 tonnes per year.

Composting by its nature is a variable process. Ingredients vary in moisture content; the dry matter component contains both organic and inorganic matter. The ratio of incoming ingredients varies from week to week and throughout the different season as does the moisture requirements of the process (e.g. higher water requirements in summer). There is also natural variation in how ingredients are broken-down and what the level of moisture is in the finished compost.

Given the input volumes prescribed above, and the natural variation of the composting process Westpork and Bio-Organics (the operator of the facility) modelling suggest the facility will produce approximatly. 65,000 – 70,000 tonnes of finished compost, well below the DER license capacity for the facility of 80,000 tpa. The rated output of 80,000 tonnes of finished compost includes the component made from the piggery waste. Westpork consider the facility will likely to only be able to produce approximately 68,112 tonne of finished composting.

Bio-Organics has advised that under the current Works Approval, the facility is a 67A "composting and soil blending" facility. Soils are not necessarily a 'waste' or a 'product'. Sawdust, clay, sand, topsoil and peat are other examples. Some are called 'waste' and some are not, depending on the context.

What's important is that none of the solid materials referred to here are "controlled wastes".

Sand and other similar mixing ingredients which are not composted (i.e. what is collectively called "benign solid waste") is within the description of 67A and what we have always proposed. Some are mixed prior to screening finished compost and others (like plasterboard) are not as they need to be crumbled up for a homogenous mix. They are blended, not composted.

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"Benign" means they are not odorous, not composted, not organic, and there is no microbiological transformation. Sawdust might be a point of difference, but in this context, sawdust is only blended to finished compost when making special soil mixes like our "veggie soil mix". It is not composted or a waste. It is not used in the same way as green waste (even though it is also made of wood). It is a by-product from sawmills. It is a 'waste' to them but sold as a 'product' by us (Bio-Organics). It is not a controlled waste or a solid waste under the prescriptions of the EP Act.

"Solid" meaning it is not a liquid.

"Waste" meaning it is a by-product or recycled or upcycled ingredient. The goal is to recycle wherever possible. "Waste" does not mean "controlled waste" or something problematic.

The specific attention given to plasterboard can be addressed quite simply. Most of the plasterboard we have received came from BGC when they failed to pass inspection or had been slightly damaged by moisture. It is no longer a sellable product, so it is, technically, a 'waste'. Plasterboard is essentially gypsum with a paper backing. Gypsum is a very useful ingredient in soil mixes as it helps retain moisture and nutrients. It is sold as a soil improving 'product' in gardening stores.

Bio-Organics has suggested that the Shire could consider expanding the definitions of the approval to include "soil blending" under their definition of "composting", more closely resembling the WA Environmental Protection Act 1986. Alternatively, sand or clay or other benign solids (whether from a quarry or recycled/used materials) imported for the purpose of blending with compost to improve its beneficial properties without increasing any external impact (emissions), may not need to be an activity regulated by the Shire when forming part of a 67A licensed facility.

To be clear, the site is not a transfer/sorting station for demolition waste. Plasterboard will be sourced from anyone who handles that material, but it will only be accepted in a 'clean' state (i.e. not mixed with anything else), and ready for use in our products and processes.

Bio-Organics intend to use any and all ingredients that are beneficial to the composting process and/or improve the finished products. Plasterboard has been one of those ingredients successfully recycled at Oakford which enhances our products and benefits the end user. Given the cost for landfill and push for more recycling, our proposal perfectly fits government policies on reducing waste.

Conclusion

We seek the Shire's approval to amend the conditions of Development Approval to reflect the originally intended waste volumes for the site and to have consistency between both State and Local Government.

The proposed amendments are considered to be consistent with the supporting documents submitted with the original application, and reflect the DER's Works Approval for the site.

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We hereby respectfully request Council's amendment to the conditions of Development Approval.

Should you require any additional information or wish to discuss this matter further, please do not hesitate to contact the undersigned on 9328 6411.

Yours faithfully

BURGESS DESIGN GROUP

MARK SZABO

ASSOCIATE DIRECTOR

Enc

- 1 x Clause 86 (1) Form of Application for Development Approval
- 1 x MRS Form 1 Application for Planning Approval
- 1 x copy of the Certificate of Title and associated documents

rr

Westpork Pty Ltd



Perth
Dilhorn House, 2 Bulwer Street
Perth WA 6000
T (08) 9227 2600
F (08) 9227 2699

2 March 2021

Kylie Bacon Shire of Gingin 7 Brockman Street Gingin WA 6053

Dear Kylie.

RE: Westpork Composting Facility Lot 10 Wannamal Road West, Boonanarring

Aurora Environmental, on behalf of Westpork Pty Ltd, provide this response to the Shire of Gingin's correspondence dated 21st January 2021 (K. Bacon, Manager Statutory Planning) regarding the environmental aspects of the planning approval amendment for the proposed composting facility on part of Lot 10 Wannamal Road West Boonanarring.

The concerns from a local stakeholder regarding the potential impact on environmental amenity with regards to odour, noise, truck movements and dust are noted and addressed below.

• Odour

The current amendment application has been submitted to align the planning application with raw materials approved by the existing DWER works approval (W5632/2014/1 – Amendment 2 issued 19 March 2019) that has been assessed and approved for the site. No increase in total compost production is sought.

With regard to the leachate and the supplementary pond facilities, the supplementary pond has been constructed for a number of years at the premise and will be used for holding stormwater runoff following high rainfall events. The leachate pond is located 372m from the eastern boundary and given the proximity to the existing treatment system associated with the piggery operation, the small 40m by 40m pond it is unlikely to have an offsite impact.

Noise, Truck Movements and Dust

The Shire of Gingin has liaised with Westpork and agreed that Westpork shall contribute to the upgrade and sealing of Wannamal West Road (Alister Butcher — Works Manager) which will minimize all dust and noise emission associated with the transport of materials to and from the premise. Low truck speeds within the premise will be maintained to minimize dust generation.

With regard to the soil blending component of the operation, this material is not composted and hence does not form part of the composting process, and volumes will remain incidental compared with the total compost volume.

Aurora Environmental WPK2018-010 007 V1 2 March 2021

Page 1 of 2

Westpork Mindarra Composting

Based on discussions with the Shire of Gingin (2 March 2021) no further feedback has been received following referral of the application to DWER. In the event that further issues arise, please do not hesitate to contact me should you require any further information.

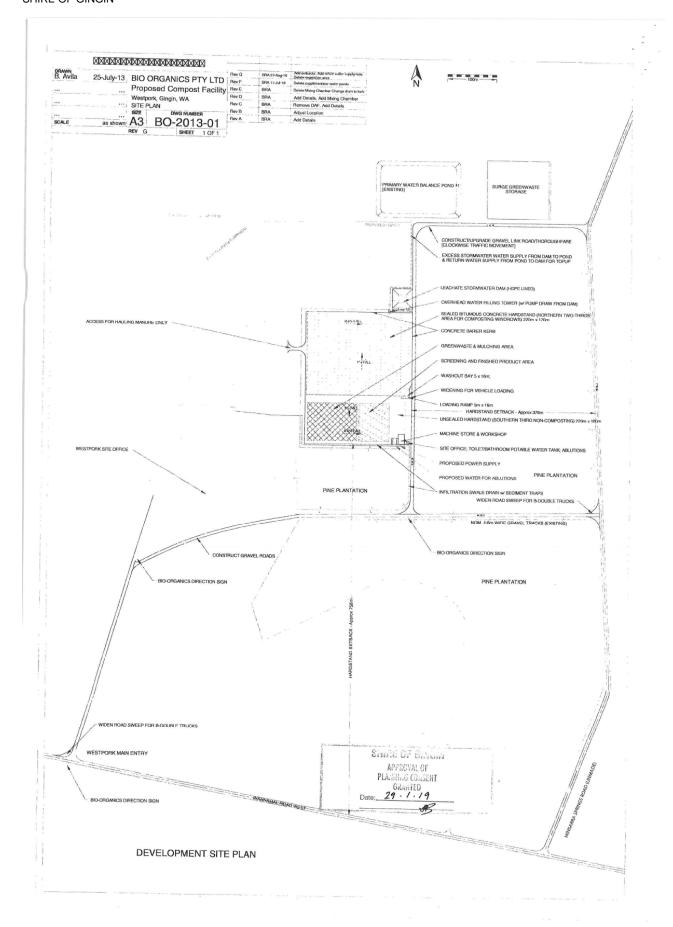
Regards,

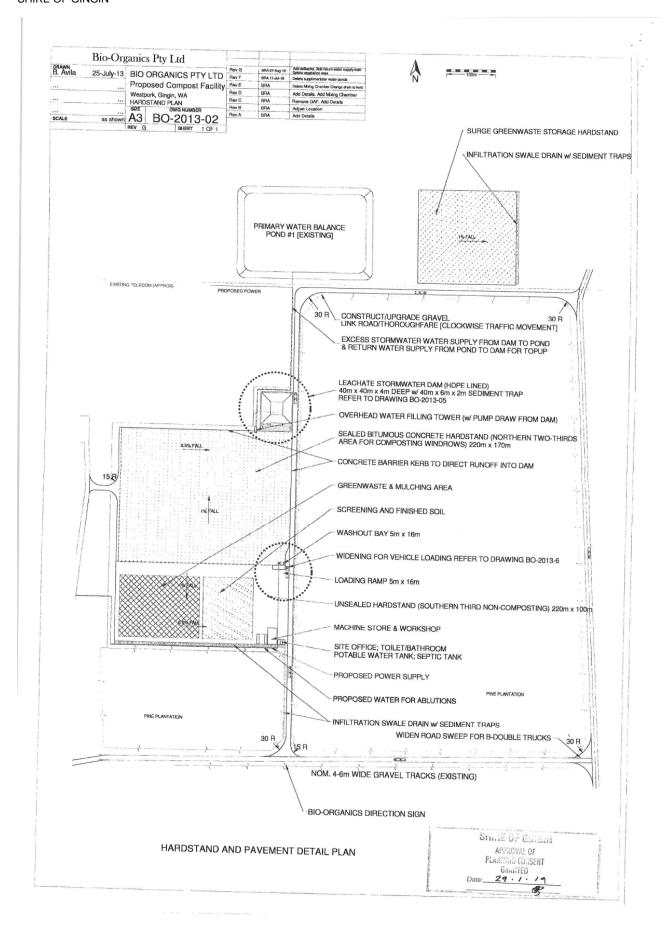
Kate McCormack Senior Environmental Engineer

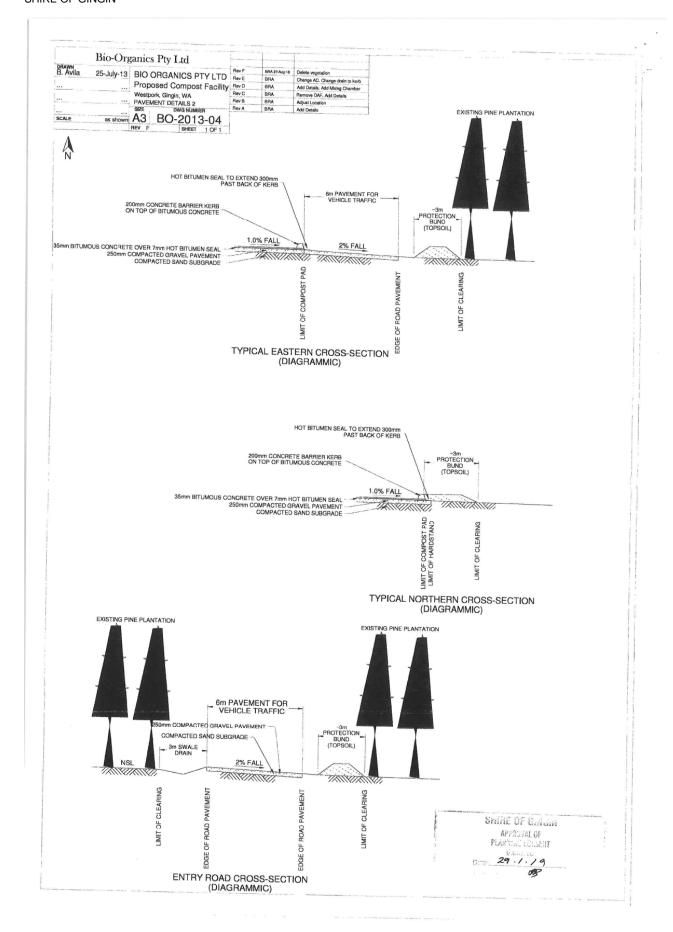
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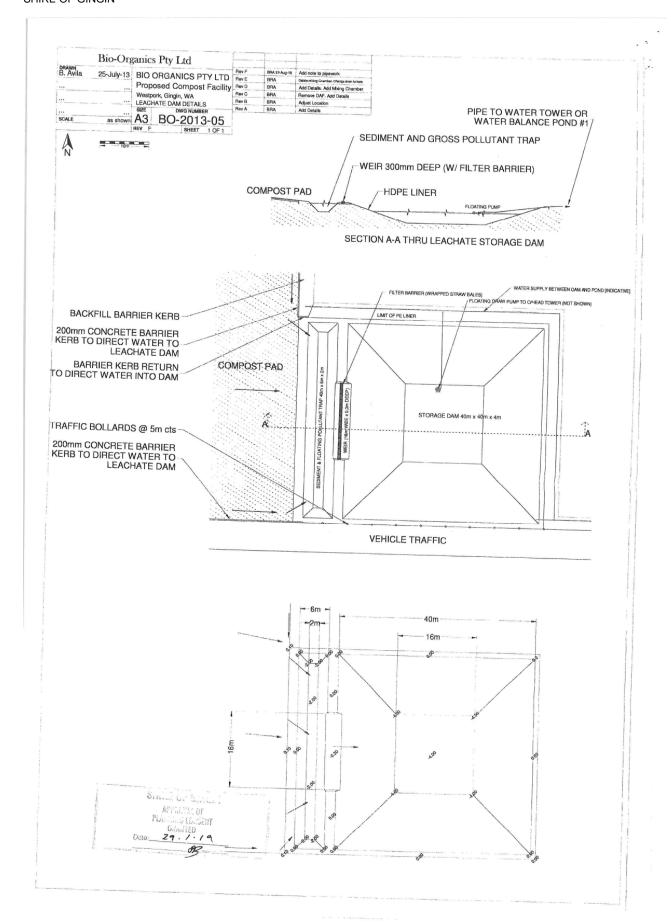
Aurora Environmental WPK2018-010_007_V1 2 March 2021

Page 2 of 2











APPENDIX 3

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE ON LOT 10 (1340) WANNAMAL ROAD WEST, BOONANARRING

File:	BLD/2337		
Applicant:	Westpork Pty Ltd		
Location:	Lot 10 (1340) Wannamal Road West, Boonanarring		
Owner:	Westpork Pty Ltd		
Zoning:	General Rural		
WAPC No:	N/A		
Author:	James Bayliss, Acting Manager Statutory Planning		
Reporting Officer:	Kylie Bacon – Executive Manager Planning and		
_	Development		
Report Date:	22 January 2019		
Refer	17 December 2013 Item 11.1.10		
Appendices	Location Plan/Aerial Photograph		
	2. Development Plans		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring.

BACKGROUND

The subject property currently contains the Mindarra Piggery which is operated by Westpork Pty Ltd. In November 2013, Westpork applied for development approval for a Composting Facility on land adjacent to the Mindarra 4 complex. The application was approved by Council on the 17 December 2013 and in 2016 Westpork received Works Approval from the Department of Water and Environmental Regulation (DWER) for the facility.

The Development Approval issued by the Shire has since expired. Accordingly, the purpose of this application is to seek development approval from Council for a revised composting facility. The composting facility will be built by Westpork in accordance with the Works Approval issued by DWER.

At all times Westpork will retain ownership of the facility. Once built, Bio-Organics Pty Ltd will need to hold a licence from DWER to operate the facility under lease from Westpork. Bio-Organics have previously operated a similar facility in Oakford. The day to day operations of the composting facility will be managed in accordance with the license conditions attached to DWER's operating license. As part of the operating license DWER will place monitoring and reporting conditions on the facility.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The subject property is 310 hectares in area and is situated on the north side of Wannamal Road West. The site currently operates as a piggery with a total capacity of 65,000 animals. The southern two thirds of the site are mostly cleared and contains three of the four piggery units. The northern third of the site comprises mostly remnant vegetation and includes the fourth piggery unit of the site. The land to the immediate east and north (Lot 2) comprises remnant woodland while the land to the west (Lot 5450) is primarily remnant woodland with the exception of the southernmost portion which has been cleared for grazing.

The land to the west contains a gravel pit operated by the Shire. The Boonanarring Nature Reserve is situated opposite Lot 10 on the south side of Wannamal Road West. The closest occupied residences to the subject site are located approximately 3.5km to both the east and the west. Two unoccupied and condemned residences are located on the adjacent Lot 5450 to the west.

The proposed Composting Facility is to be located to the immediate east of the Mindarra 4 unit on cleared land and will utilise the waste and daily mortality from the Mindarra property in the composting process. It is anticipated that all solid waste generated from the Mindarra property (straw based, screen waste, pond sludges and dead pigs) will be re-cycled into the composting process and eliminate the need for these materials to be disposed of on-site or exported off-site.

Composting Facility

The proposed Composting Facility comprises the following:

- Composting green waste and carbon-rich wastes with various nitrogenous liquid and solid wastes (including pig carcasses and manure) to produce compost and soils for home, commercial and agricultural use;
- Processing and pasteurising green waste of manufacture high-quality mulches for home, commercial and agricultural use; and
- Soil blending for compost product.

The facility will take up to 200,000 m³ (or approximately 60,000 tonne per annum (tpa)) of solid waste (green waste, nitrogenous waste and benign waste) and 30,000 tpa to 50 000 tpa of liquid waste (grease trap, pond water, stormwater, and some wash-down from industry processes). Only waste that can be processed in a timely manner will be accepted by the facility.

The facility will comprise a six hectare sealed hardstand area that will be used for composting and non-composting activities and a surge green waste area. Liquid waste will be directly applied to the windrows on a 'just in time' basis immediately on arrival. During manufacture, compost is formed into windrows of up to 160 m long. Stormwater and leachate runoff from the composting hardstand area is directed to a dedicated leachate dam located adjacent the composting area. The leachate pond has a capacity of 3,300 m³. Water collected in the leachate pond will be re-used back into the composting process or for dust control. The leachate pond will be constructed with an HDPE liner. If large amounts of green waste are received, the surge green waste area will temporarily store the waste until it can be processed on the main hardstand. Surge green waste will be temporarily stored on a 1.6 ha hardstand area located in the northern portion of the site.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The existing Primary Water Balance Pond is proposed to be used to accommodate any excess volume of water collected in the leachate dam. It is proposed that all solid waste ingredients (other than green waste) to be composted will be handled in a just-in-time manner to avoid storing of ingredients on areas other than the compost area, where possible. All liquid waste ingredients are proposed to be added to the compost rows as they arrive on site.

The compost facility will not be open or advertised to the public and there is no public access to the existing piggery. Day-to-day composting related activity will normally be undertaken from 7:00 am to 5:00 pm Monday to Saturday. Vehicle movements may occur outside of the proposed operating hours, but the principle site activities will be limited to Monday to Saturday. The proposed operating times fall within the current activities of the piggery, which operates seven days per week.

A location plan and aerial photograph are included as **Appendix 1**. The development plans are included as **Appendix 2**. Due to the size of the document the accompanying Applicant's Report has been circulated separately to Councillors for their information and can be located in the Shire's Record Management System as Record IPA199503.

COMMENT

Community Consultation

The application was advertised to surrounding landowners, published on the Shire's website and social media platform and a development sign was placed on the verge of the property for a period of 21 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015.* No written submissions have been received by the Shire.

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:

- Manage land use changes so that the specific local rural character of the zone is maintained or enhanced;
- 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;
- 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.

ORDINARY MEETING MINUTES SHIRE OF GINGIN

22/01/2019

The land use 'composting facility' is defined as follows:

'Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions'.

The zoning table designates a 'Composting Facility' as an "A" use in the General Rural zone, meaning the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions.

The definition of a composting facility specifically excludes the use of listed waste. However, the proposal outlines that liquid wastes are intended to be brought to site and used in the composting process, and the reporting officer has some concerns that listed waste may be brought to site as part of this process. Wash down from industry processes is unlikely to be considered 'organic' and therefore would not be permitted as per the definition of 'composting' under LPS 9.

The officer is of the view that the proposal can be conditioned to prevent any 'liquid wastes classed as Listed Waste' from being taken to the property or used in the composting process. It is therefore considered that 'Composting Facility is the appropriate land use classification.

It is also noted Council has previously approved a composting facility on the subject property and accepted that the objectives of the zone have been satisfied.

General Rural Development Standards

Setbacks

In accordance with Table 2 of LPS 9, all development shall be set back a minimum 20 metres from all lot boundaries. The composting facility, including all related infrastructure, is setback further than 20 metres from the lot boundary. The proposal therefore satisfies the provisions of LPS 9 Table 2 - Site Requirements. Additional buffer requirements are applicable as outlined in the report below.

Planning and Development (Local Planning Scheme) Regulation 2015 (Deemed Provisions)

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 matters are considered to be relevant, with the officer comments outlined below:

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

Comment

The development is proposed to co-exist with the existing piggery operating on the property. The impact of the development from a height, bulk, scale and appearance perspective is deemed to be relatively minor due to the large setbacks to nearby lot boundaries.

- (n) The amenity of the locality including the following:
 - (i) Environmental impacts of the development;
 - (ii) The character of the locality;
 - (iii) Social impacts of the development;

Comment

The development area is located on a relatively cleared portion of the subject property to limit any vegetation removal. The proponent engaged Strategen Environmental to undertake an Environmental Assessment and Management Plan which did not identify any environmental risks.

- (s) The adequacy of
 - (i) The proposed means of access to and egress from the site; and
 - (ii) Arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

Comment

Access to the site is via a crossover located on Wannamal Road West which is unsealed in this section. Vehicle access to the site is proposed to be via Brand Highway and Wannamal Road West with a new crossover constructed just to the west of Mindarra Springs Road (unmade).

The vehicle movements generated by the composting facility are as follows:

- Up to 10 staff vehicles per day;
- Liquids incoming: 27 B-Double liquid tankers per week; and
- Green waste incoming: 59 pocket road trains per week. The pocket road trains bringing
 in green waste will also take out finished compost so no additional trucks are required
 for outgoing product.

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

The applicant lodged a Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers. The Shire's Operations Department reviewed the TIA and noted the traffic generation for the development only deals with vehicles per day which essentially allocates the same value (one vehicle movement) for each type of vehicle. It would be a more accurate representation of traffic if the Equivalent Standard Axles (ESA) were stipulated. This would then give a true representation of the wear and deterioration of the existing pavement (and seal) that would be encountered. The traffic data used is for a virtual week and does not represent accurately the different classes of vehicles (light through to heavy vehicles, 12 classes in total). The heavy vehicle axle loadings should be separated from the light vehicles.

The TIA doesn't acknowledge concessional loading (the Accredited Mass Management Scheme, AMMS) for Wannamal Road West. Wannamal Road West is currently approved for AMMS Level 2 with conditions (approval from the Shire must be obtained in writing). The applicant currently has contractors using RAV Network 4 with AMMS Level 2 delivering to site. AMMS will need to be assessed in the TIA as this will affect the life of the existing pavement.

The comments in the conclusion that an additional 30 heavy vehicle movements per day (from the development) is not considered to increase the likelihood of crashes to an unacceptable level requires review considering that there is an unsealed section of road. The proposed development will increase the maximum number of heavy vehicle movements from the existing 12 per day to 30 (an increase of 250% to the development) which will undoubtedly increase dust and therefore greatly reduce visibility and increase the safety risk. The increased dust also equates to the rapid deterioration of the unsealed pavement.

Given the above comments, appropriate conditions have been recommended which are expected to resolve any concerns.

Environmental Protection Authority Guidance Statement No. 3 - Guidance for the Assessment of Environmental Factors Western Australia (In Accordance with the Environmental Protection Act 1986) - Separation Distances between Industrial and Sensitive Land Uses

The EPA's Guidance Statement recommends the following separation distances for a compost facility with respect to odour:

- 1,000 m for manures, mixed food/putrescible and vegetative food waste
- 150 m for green waste.

The EPA Draft Environmental Assessment Guideline for Separation distances between industrial and sensitive land uses recommends the following separation distances:

- Liquid waste facility 1,000 m
- Composting facility case by case.

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

The existing buffer exceeds the recommended distances prescribed above. DWER assessed the risk of odour impacts from the facility as moderate and acceptable subject to the proposed management controls and regulatory controls which will be applied through the operating licence.

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

SPP 3.7 provides a foundation for land use planning to address bushfire risk management. The subject lot is designated as being partially bushfire prone. The proposed facility will be separated from any grassland by bare earth roads and vehicle manoeuvring areas that vary in width from 20 metres to 50 metres. The site office, machine store and workshop which form part of the proposed composting facility will be located a minimum of 31 metres from the adjacent pine plantation. The BAL was identified as being BAL-19.

Summary

In view of the above assessment Administration is of the view that the proposed composting facility satisfies the applicable planning framework and the subject land is able to accommodate the development without unacceptable adverse impacts to adjoining properties.

STATUTORY ENVIRONMENT

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2.7 General Rural Zone
3.3 Zoning Table
Part 4 – General Development Requirements
4.8.6 - General Rural Zone
Schedule 1 – Definitions

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

Environmental Protection Authority Guidance Statement No. 3 - Guidance for the Assessment of Environmental Factors Western Australia (In Accordance with the *Environmental Protection Act 1986*) - Separation Distances between Industrial and Sensitive Land Uses

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

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

ORDINARY MEETING SHIRE OF GINGIN MINUTES

22/01/2019

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Infrastructure & Development		
Objective	3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner.		
Outcome	3.1 Development New and existing development meet the Shire's Strategic Objectives and Outcomes.		
Key Service Area	Building & Planning Permits		
Priorities	3.1.1 Support strategies that facilitate commercial development		

VOTING REQUIREMENTS - SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Peczka

That Council grant development approval for a proposed composting facility and associated infrastructure on Lot 10 (1340) Wannamal Road West, Boonanarring subject to the following conditions:

- The land use and development shall be undertaken in accordance with the approved stamped plans and specifications, including any directions written in red ink or modifications required as a consequence of any condition(s) of this approval;
- All works required to satisfy a condition of this approval and the operation of the development, are required to be installed/constructed/maintained/undertaken in accordance with the conditions of this approval, approved plans and planning report (including attached reports) for the life of the development;
- 3. This approval is for a composting facility and associated infrastructure as indicated on the approved plans;
- 4. The development shall at all times comply with the definition of composting facility as outlined under Local Planning Scheme No. 9 (as amended). The development shall only accept and process compostable organic wastes and shall not accept and process any non-organic wastes including but not limited to listed waste, radioactive waste, hazardous waste or wash down from industry process.
- 5. The annual tonnage of waste received shall not exceed the following tonnages per annum:
 - a. 60, 000 tpa of solid waste (green waste and benign waste); and
 - b. 50, 000 tpa of liquid waste (grease trap waste, pond and stormwater)

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

- The landowner/operator is required to keep up to date records of waste received and shall provide the Shire of Gingin with a copy of such records within 14 days upon request;
- 7. The Traffic Impact Assessment (TIA) prepared by Shawmac Traffic Engineers shall be updated/amended to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the amended TIA (including all drafts);
- Prior to operation of the development, the landowner shall enter into a deed of agreement for contributions to the maintenance and upgrade of Wannamal Road West to the satisfaction of the Shire of Gingin. The landowner(s) shall be responsible for all costs associated with the preparation of the deed (including all drafts); and
- The Bushfire Attack Level (BAL) Assessment prepared by Smith Consulting Bushfire Consultants on 14 September 2018 shall be implemented and maintained thereafter to comply with a maximum BAL-19 rating.

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: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the Building Act 2011, Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911, which are to be approved by the Shire of Gingin;
- Note 5: This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licences required under any other law, and to commence and carry out development in accordance with all relevant laws;
- Note 6: The applicant/landowner is reminded that this Development Approval is not to be interpreted as an approval to remove native vegetation without a clearing permit issued by the Department of Water and Environmental Regulation (DWER). This includes vegetation to be removed to satisfy bushfire ratings;

ORDINARY MEETING MINUTES 22/01/2019 SHIRE OF GINGIN

- Note 7: It is advised that the proposal should at all times comply with the Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016 in order to minimise the effects of stable flies on the community;
- Note 8: The operation will be required to comply with the *Environmental Protection* (Noise) Regulations 1997;
- Note 9: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property;
- 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: The definition of Composting Facility for the purpose of this approval is as follows: "Means the controlled process whereby compostable organic wastes, which may include liquid organic wastes, but not any liquid wastes classed as Listed Waste, Radioactive Waste or Hazardous Waste, are pasteurised and microbiologically transformed under aerobic and thermophilic conditions";
- Note 12: It should be noted that the composting facility will require works approval and/or licensing requirements under Part V of the *Environmental Protection Act* 1986 which is to be issued by the Department of Water and Environmental Regulation (DWER);
- Note 13: It should be noted that the existing water license may require amendment by the Department of Water and Environmental Regulation (DWER);
- Note 14: Please be advised that further to this approval, an Offensive Trade License may be required prior to commencement of operations. Please contact the Shire of Gingin's Health Department in this regard; and
- Note 15: Please be advised that the amended Deed of Agreement shall be prepared by a suitably qualified traffic engineer and shall take existing and proposed increased heavy traffic volumes for the development into consideration.

CARRIED UNANIMOUSLY

APPENDIX 4

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED DEVELOPMENT APPLICATION – PROPOSED AMENDMENT TO CONDITIONS OF EXISTING PLANNING APPROVAL FOR THE APPROVED COMPOSTING FACILITY AND ASSOCIATED INFRASTRUCTURE

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	The submitter does not support the proposal and makes the following general comments:	Proposed Amendments/Increased Volumes of Material
		"We do not support the proposed amendments and increase in capacity of the Composting Facility. We have strong concerns that the proposal will impact the environmental amenity and value of our property from increased odour, noise, truck movements and dust from unsealed roads.	The amendments are not for an increase in the volume of compost to be produced. The original development application always outlined the composting output of 80,000 tpa as per the DWER Works Approval.
		The buffer to the current effluent pond on Lot 10 is only 275 metres from the Eastern boundary on Lot 2. The Proposal is seeking an extra 30,000tpa of solid waste for composting, which is a 50% increase. The submission states there will also be a 250% increase in truck movements resulting in noise and dust from the unsealed Wannamal Road West as well as the internal access roads servicing the	The original application also outlined the intended volumes of waste however there was some contradictory information at various points between the submitted Development Application Report and the Environmental Assessment and Management Plan.
		Composting Facility with a new proposed main access crossover very near our Eastern Boundary on Lot 2 which we view as a major impact and should be located a reasonable distance away from our common boundary as Lot 10 has large frontage to Wannamal Road West to do so."	The current amendment that is before Council is to achieve consistency in the wording and category limits between the Shire's Development Approval Conditions and DWER Works Approval. While it may be a perceived increase of 30,000 tpa of composting ingredients, the original development application did outline the correct volumes but was unfortunately overlooked by conflicting information. Furthermore, the design of the facility is not being amended as it was always designed to cater for the volumes that is the subject of this amendment.
			The application is an alignment of raw materials to what has been approved by the DWER within the Works Approval and has subsequently been reviewed by DWER who have advised the following:
			"Works approval W5632/2014/1 and the new licence application submitted for that operation seems to be consistent with the requested amendment of the development approval".

Buffer to current effluent pond As previously noted in the original application: "The effluent evaporation pond is not deemed to be a significant contributor to odour emissions as advised by the Department of Water and Environmental Regulation (DWER). The DWER advised the following": "Evaporation ponds at piggeries are not a significant source of odour and DWER has formed the preliminary opinion that the additional evaporation pond will not increase odour emissions". The proposed development is an improvement to the current system and is therefore considered to be an advantage to the treatment of wastewater at the site. Furthermore, DWER's assessment has been based upon the volumes of the inputs and output of the final composted material that are the subject of this amendment and do not compound any amenity issues. Lastly, the actual location of pond is not the subject of this amendment. The pond is already constructed and has been for a number of years. The pond is located is towards the middle of the property and is surrounded by an evaporative pond that is part of the piggery's operations. **Traffic** Please refer to the officer's comment in the report under the heading 'Traffic Implications'

11.3.6 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED ANIMAL HUSBANDRY - INTENSIVE (BROILER SHED EXTENSIONS) AND MACHINERY SHED ON LOT 3694 (209) AIRFIELD ROAD, BAMBUN

File:	BLD/1564		
Applicant:	Rex Edmondson Nominees Pty Ltd		
Location:	Lot 3694 (209) Airfield Road, Bambun		
Owner:	Rex Edmondson Nominees Pty Ltd		
Zoning:	General Rural		
WAPC No:	N/A		
Author:	Kylie Bacon – Manager Statutory Planning		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer:	15 May 2018 Item 11.3.1		
Appendices	Location Plan and Applicant's Proposal		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for the expansion of four poultry sheds at an existing Animal Husbandry (Intensive) Commercial Broiler Farm and a Machinery Shed on Lot 3694 (209) Airfield Road, Bambun.

BACKGROUND

The Shire is in receipt of an Application for Development Approval to extend the existing four broiler sheds. Each extension consists of 33m. The Poultry Farm has approval for six broiler sheds, although currently five are constructed.

The shed extensions increase the sheds from 127 metres to 160 metres in length, 18.2 metres in width and 5.6 metres in overall pitch height and can house an additional 11,050 birds.

This proposal represents an increase of 44,400 birds, taking the total farming operation to a maximum of 332,500 birds at any one time.

The proposed Machinery Shed measures 17 metres in width by 20 metres in length, 3.5m wall height and 5 metres overall height.

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

COMMENT

Community Consultation

The proposal was publicly advertised on the Shire's website, via a sign placed adjacent to the development site and to the surrounding landowners for a period of 14 days. No submissions were received.

Furthermore, the proposal was advertised to the Department of Water and Environmental Regulation (DWER) which does not object to the proposal.

PLANNING FRAMEWORK

Local Planning Scheme No. 9

The subject land is zoned General Rural (GR40) under Local Planning Scheme No. 9 (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;
- Maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and water course 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.

Under LPS 9, the definition of Animal Husbandry – Intensive is as follows:

Animal Husbandry – Intensive – means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots.

Animal Husbandry – Intensive is an 'A' use in the General Rural zone, meaning that the land use is not permitted unless Council has exercised its discretion to approve subject to advertising in accordance with clause 64 of the Deemed Provisions.

The expansion of the existing poultry farm is considered to be consistent with the above objectives.

LPS 9 does not have any specific provisions relating to Animal Husbandry – Intensive and/or poultry farm developments in the General Rural zone.

Any development (cl 4.1) is to comply with the provisions of the Scheme, including the minimum standards for development as specified in Table 2 – Site Requirements.

As there are no specific requirements specified for Animal Husbandry – Intensive uses, the Council must determine the relevant requirements to be complied with, having regard to the predominant use, objectives and development standards of the General Rural zone (cl 3.2.7 and cl 4.8.6 respectively) and clause 67 of the Deemed Provisions.

Relevant standards under 'Clause 4.8.6 – General Rural Zone' are addressed below:

4.8.6.7 The siting and design of any buildings on any lot should not significantly impact on the natural vegetation or visual landscape amenity of the site.

Officer comment

The proposed shed extensions are within an already established poultry farm and will not impact on the removal of natural vegetation or landscape amenity.

Local Planning Scheme No. 9 - Table 2 Site Requirements

Setbacks

In accordance with Table 2 of LPS 9, all buildings shall be set back a minimum 20 metres from all lot boundaries.

The proposed shed extensions and machinery shed are to be set back in excess of LPS 9 site requirements.

It is noted, however, that the poultry farming operation is also subject to setback buffer distances under the Environmental Protection Authority - Separation Distances between Industrial and Sensitive Land Uses No. 3, June 2005 and the Environmental Code of Practice for Poultry Farms in WA which are discussed in further detail below.

Landscaping

A visit to the subject site established that the existing vegetation screening the poultry sheds is in place and sufficient.

Access/Egress

The property has access/egress to Airfield Road, which is a local road under the care and control of the Shire of Gingin.

Airfield Road connects to Brand Highway, which is a State Road under the care and control of Main Roads WA.

With respect to traffic numbers the applicant has advised the following:

With regards to extra vehicle movement required, there will be an extra 64 truck movements per year.

The proposed shed extensions will notably increase heavy vehicle movements to the site. However, the existing crossover servicing the lot is sufficient to cater for the increase in traffic numbers.

Car Parking

The poultry operation is provided with internal loading and parking areas and will continue to function as is.

Water Supply

The existing poultry farm has a current Water Extraction Licence No. (GWL153583 (5)) which has a water allocation of 121150kL/annum. The applicant has advised that the current water licence entitlement is sufficient for the proposed expansion.

Potential Impacts

It is anticipated that there will be no significant environmental amenity impacts as a result of noise, odour or dust given the significant setbacks being proposed from the boundaries. The location of the proposed poultry shed will be screened from Airfield Road by the existing sheds and vegetation screening. It is not anticipated that any visual amenity concerns will arise as a result of this proposal.

Buffer Areas/External Policies

The following State policies and guidelines have been prepared to act as a policy guide for local governments in determining applications for poultry farms:

- The Western Australian Planning Commission (WAPC) State Planning Policy No. 2.5 Rural Planning Policy September 2015 (SPP 2.5);
- Western Australian Broiler Growers Association and Poultry Farmers Association of Western Australia – Environmental Code of Practice for Poultry Farms in Western Australia, May 2004 (Environmental Codes); and
- Environmental Protection Authority Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses No. 3, June 2005 (EPA Guidance Statement).

State Planning Policy No. 2.5 Rural Planning Policy (SPP 2.5)

The WAPC SPP 2.5 has been prepared to act as a policy guide for local governments in determining applications for poultry farms. With respect to assessing separation distances, the Policy refers to the Environmental Code and the Environmental Protection Authority's (EPA) Guidance Statement which is discussed in further detail below.

<u>Guidance for the Assessment of Environmental Factors – Separation Distances between</u> Industrial and Sensitive Land Uses No. 3

The EPA's Guidance Statement with respect to buffer distances between poultry farms and sensitive land uses recommends a buffer distance of 300m – 1000m depending on size. However, it does not provide a breakdown of the size of a poultry farm in relation to the buffer distance required.

The poultry shed extensions do not impact upon the existing buffer to the nearest residential dwelling located to the north-west on Lot 3693 Airfield Road (approximately set back 600m). This is considered to be an appropriate buffer distance.

Environmental Code of Practice for Poultry Farms in Western Australia

Table 1: Recommended Minimum Buffer Distances

Facility	Poultry Shed (same farm operator)	Poultry Sheds (different operator)	Existing or future residenti al zone land	Existing or future rural residenti al zone	Farm boundary	Water supply bores	Wetlands waterway & flood ways	Water Table
New free range poultry sheds	20m between enclosure s	1000m	500m	300m	100m	50m from discharge area	50m	-
Proposed Shed	Complies	Complies	NA	NA	Complies >100m	Existing sheds – won't impact upon existing water supply bores	NA	NA

The proposal complies with the Environmental Code of Practice with respect to the buffer distances outlined above.

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

SPP 3.7 provides a foundation for land use planning to address bushfire risk management. The subject lot is designated as being partially bushfire prone, with the proposed development footprint being outside the area recognised as being bushfire prone. Notwithstanding this, given the land use proposed is Animal Husbandry – Intensive, Planning Bulletin 111/2016 provides for poultry sheds to be exempt from requiring a BAL assessment to be undertaken.

Summary

In view of the above assessment Administration is of the view that the site is capable of accommodating the poultry shed extensions and that the application is consistent with the planning framework applicable.

STATUTORY/LOCAL LAW IMPLICATIONS

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

State Planning Policy 2.5 – Rural Planning Policy (SPP 2.5)

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

Western Australian Broiler Growers Association and Poultry Farmers Association of Western Australia – Environmental Code of Practice for Poultry Farms in Western Australia, May 2004

Environmental Protection Authority Guidance Statement No. 3 – Guidance for Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	Infrastructure and Development	
Objective	3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner.	
Outcome	3.1 Development new and existing developments meet the Shire's Strategic Objectives and Outcomes.	
Key Service	Building And Planning Permits	
Areas		
Priorities	ities 3.1.1 Support strategies that facilitate commercial development.	

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Peczka SECONDED: Councillor Johnson

That Council grant Development Approval for the expansion of four poultry sheds at an existing Animal Husbandry (Intensive) Commercial Broiler Farm and a Machinery Shed on Lot 3694 (209) Airfield Road, Bambun in accordance with the approved plans, subject to the following conditions:

- 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 approval is for the expansion to the existing four poultry sheds (as outlined on the approved plans) increasing the bird capacity in each shed to 55,300 and a Machinery Shed;
- 3. Poultry shed design and management, management of stock feed, water, waste products and all other aspects of the poultry farm operation shall comply with the management guidelines set out in the Western Australian Broiler Growers Association and Poultry Farmers Association of Western Australia Environmental Code of Practice for Poultry Farms in Western Australia, May 2004 unless otherwise approved by the Shire of Gingin;
- 4. All uncontaminated stormwater runoff from buildings and roadways shall be drained into the stormwater basins on the property to the satisfaction of the Shire of Gingin; and
- 5. Prior to commencement of site works for the development, the Applicant/Owner is required to submit for approval a Waste Management Plan in accordance with the Western Australian Broiler Growers Association and Poultry Farmers Association of Western Australia Environmental Code of Practice for Poultry Farms in Western Australia, May 2004 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: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011, Building Regulations 2012* and *Health Act 1911*, which are to be approved by the Shire of Gingin.

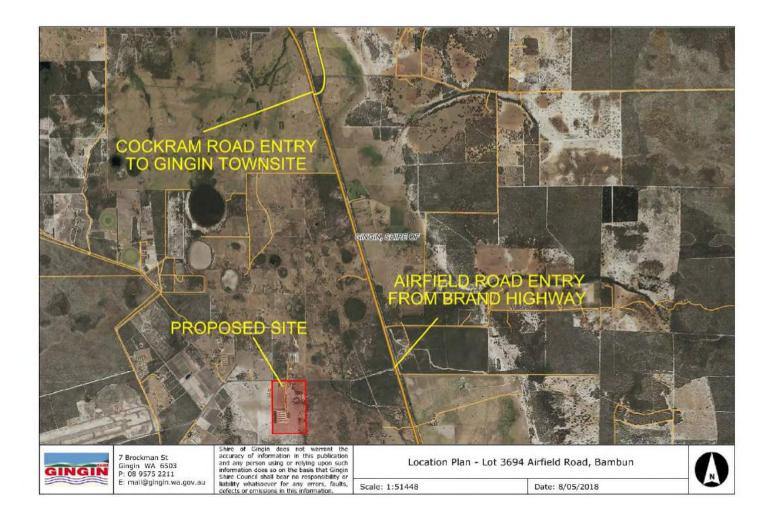
- Note 4: The Department of Health advises that any form of pest control using pesticides must comply with the *Health (Pesticides) Regulations 2011*.
- Note 5: It is advised that the proposal should at all times comply with the Biosecurity and Agriculture Management (Stable Fly) Management Plan 2013 in order to minimise the effects of stable flies on the community.
- Note 6: It is an offence to clear native vegetation without the authority of a permit from the Department of Water and Environmental Regulation unless the clearing is exempt from a permit.
- Note 7: It is recommended that the applicant liaise with the Department of Water and Environmental Regulation in relation to whether the existing water license is affected in any way as a result of additional poultry shed.
- Note 8: 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.

CARRIED UNANIMOUSLY

APPENDIX 1

ORDINARY MEETING

SHIRE OF GINGIN

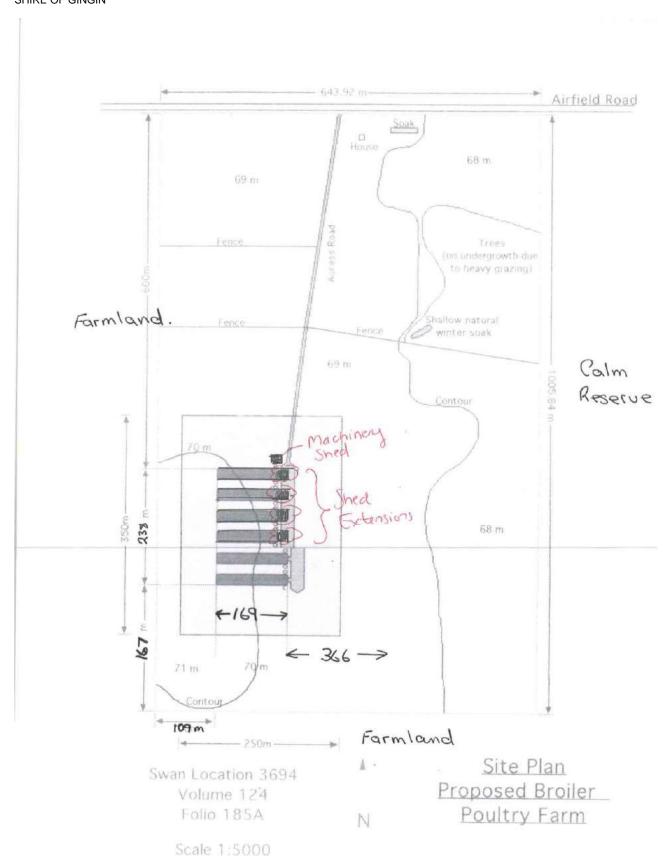


ORDINARY MEETING

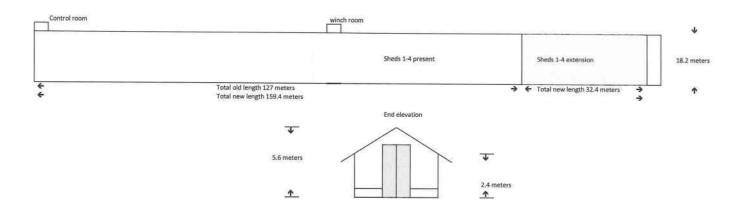
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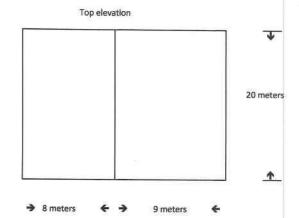




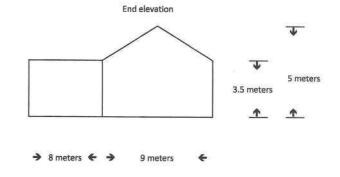
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Proposed Machinery Shed.



Workshop Plan



11.3.7 APPLICATION FOR SUBDIVISION APPROVAL REFERRAL - PROPOSED TWO LOT SUBDIVISION (HOMESTEAD LOT) ON LOT 500 NABAROO ROAD, COWALLA

File:	LND/604		
Applicant:	Harley Dykstra		
Location:	Lot 500 Nabaroo Road, Cowalla		
Owner:	Harry & Sheila Hibbert		
Zoning:	General Rural (Uncoded)		
WAPC No:	160412		
Author:	Matthew Tallon - Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Executive Manager of Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer:	N/A		
Appendices	Location Plan and Aerial Image		
	2. Applicant's Proposal		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider a proposal to subdivide Lot 500 Nabaroo Road, Cowalla into two lots addressing the exceptional circumstance for Homestead Lots under Development Control Policy 3.4 – Subdivision of Rural Land.

BACKGROUND

The Western Australian Planning Commission (WAPC) is the responsible authority for subdivision approvals in Western Australia. Subdivision applications are registered by the Department of Planning, Lands and Heritage (DPLH) then referred to relevant State Government agencies and the local government for comment. As such, this subdivision proposal has been referred to the Shire of Gingin for comment.

The subject lot is 109 hectares in area and currently accommodates a Nature Based Caravan Park and a Single House with associated structures. The site is accessed via Nabaroo Road from the south-west and Cowalla Road from the east.

The proposed subdivision seeks approval to create two green title lots, resulting in Lot A being 92.669 hectares in area and Lot B being 16.7 hectares in area.

The matter is being presented to Council as the assessing officer is of the view that the subdivision proposal is not consistent with Local Planning Scheme No. 9 and does not meet the exceptional circumstances for the subdivision of Rural land under Development Control Policy 3.4 (DCP 3.4).

A location plan and aerial image are attached as **Appendix 1**.

A copy of the applicant's proposal and accompanying plans is attached as Appendix 2.

COMMENT

Community Consultation

Not applicable.

Local Planning Scheme No. 9 (LPS 9)

The subject land is zoned General Rural 30 (UNCODED) under LPS 9. The relevant zone-specific development standards are outlined below with officer comments.

4.8.6.1 In the General Rural zone lot sizes shall comply with the following standards:

Code	Minimum Lot Size	
GR10	10 Hectare	
GR 20	20 Hectare	
GR 30	30 Hectare	
GR 40	40 Hectare	
Uncoded	Further subdivision will not be	

Further subdivision will not be supported unless it meets the exceptional circumstance requirements for subdivision under WAPC

Development Control Policy 3.4.

Comment:

As the subject lot does not have a minimum lot size coding under LPS 9, the subdivision must be in accordance with an exceptional circumstance requirement as listed under DCP 3.4. In this instance the applicant is seeking subdivision under clauses 6.2 and 6.6.

4.8.6.3 The presence of more than one dwelling unit on a lot in the General Rural zone shall not be considered by itself to be sufficient grounds for subdivision.

Comment:

The lot currently contains one single house and a caravan park.

- 4.8.6.10 Prior to any subdivision and development of GR coded land, a structure plan may be required to address issues including:
 - (i) Access;
 - (ii) Building exclusion zones;
 - (iii) Bushfire management:
 - (iv) Servicing; and
 - (v) Environmental features and buffers.
- 4.8.6.11 Notwithstanding clause 4.8.6.10, a structure plan may not be required in support of proposals on GR coded land where identified issues may be addressed through the provision of technical information.

Comment:

SHIRE OF GINGIN

Given the scale of the proposed subdivision, the requirement to prepare a structure plan is deemed to be unnecessary as the above matters are able to be demonstrated appropriately.

Under LPS 9, the following objectives apply to the General Rural zone:

a) Manage land use changes so that the specific local rural character of the zone is maintained or enhanced;

Comment:

This proposal seeks to excise a single house and a caravan park to be on two separate titles. The single house has not previously been related to an agricultural land use on the subject lot and appears to be the dwelling in place for the managers/owners of the caravan park land use. This proposal is for subdivision only and does not include any land use changes.

b) Encourage and protect broad acre agricultural activities such as grazing and more intensive agriculture 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;

Comment:

The balance lot does not contain any areas of open pasture or cleared land capable of accommodating agricultural (primary produce) development. As such the predominant use on the balance lot remains wholly as a caravan park which is reliant on non-conforming use rights to continue. As noted above, this subdivision is unlikely to influence agricultural investment/development when considering the onsite parameters and the presence of a caravan park onsite.

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

Comment:

The lot boundary is strategically proposed along an existing access track/firebreak. The subdivision proposal does not include any indicative clearing for the purpose of achieving the separate titles.

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.

Comment:

This proposal allows for an additional single house to be developed on the balance lot as it only contains a caravan park development.

It is advised that the current lot was previously excised from the now Lot 501 Cowalla Road. As such the two subdivision applications increase the initial ability for one sensitive land use to three. The increase is of course only impactful at such a time as surrounding landowners seek to undertake more intensive agricultural/primary produce developments.

<u>Development Control Policy 3.4 - Subdivision of Rural Land (WAPC)</u>

Development Control Policy 3.4 - Subdivision of Rural Land (DCP 3.4) sets out the principles used by the WAPC in determining applications for the subdivision of rural land. Part 6 of DCP 3.4 sets out 'circumstances under which rural subdivision may be considered' and is divided into six subcategories which are outlined below:

- 6.1 Significant physical divisions;
- 6.2 Subdivision for other purposes;
- 6.3 Property rationalisation to improve land management;
- 6.4 Conservation of heritage buildings and places;
- 6.5 Conservation of biodiversity and natural heritage; and
- 6.6 Homestead lots.

The applicant is seeking the WAPC's support on the basis of Exceptional Circumstance 6.6 – Homestead Lots. The following is stated under the Homestead Lots provision under DCP 3.4. Officer comments are also provided.

The creation of homestead lots is intended to allow primary producers to continue to occupy their dwelling when they cease to farm, and provide settlement opportunities in areas where land fragmentation is limited and unlikely to increase. Homestead lots are to be created in a manner that is consistent with the rural character and landscape of a locality. Homestead lots may be facilitated through boundary rationalisation or the creation of a new lot.

Homestead lots may therefore be created to enable an approved existing house on a rural lot to continue to be occupied provided that:

Officer comment

The dwelling on the subject lot does not relate to any agricultural land use, as noted above it relates to a Caravan Park which is not an agricultural land use. This subdivision is unlikely to influence agricultural development in the future with the homestead lot retaining minimal capacity for a rural pursuit venture, while the balance lot is dominated by a tourism use exercising non-conforming use rights. The intent of this exceptional circumstance is therefore not relevant in considering the subdivision of un-coded General Rural land.

(a) the land is in the DC 3.4 Homestead lot policy area (refer Appendix 2);

Officer comment

The subject lot is within the Homestead Lot policy area number 23 (Gingin).

(b) the homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources;

Officer comment

The proposed homestead lot is 16ha.

(c) there is an adequate water supply for domestic, land management and fire management purposes;

Officer comment

The single house is serviced by a potable water supply for domestic purposes via rainwater tank(s). The caravan park is serviced with a potable water supply as is required by the development approval.

(d) the dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;

Officer comment

The single house is connected to electricity via infrastructure from Nabaroo Road. The caravan park is serviced with electricity via Cowalla Road.

(e) the homestead lot has access to a constructed public road;

Officer comment

The proposed homestead lot has access via an existing crossover and driveway to/from Nabaroo Road which is constructed to an unsealed standard.

The balance lot retains its primary access via Cowalla Road with frontage to Nabaroo Road, allowing the ability to provide an additional crossover should it be required.

(f) the homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;

Officer comment

No buffers apply to the land use Agriculture – Extensive which seems to be occurring on the south adjoining lot. Should an agriculture intensive land use be proposed on the future balance lot or any adjoining lots, the development would have to achieve the buffers and, where this is not possible, screening and management practices would need to be put in place to ensure that levels of amenity are not affected, irrespective of subdivision occurring.

Should the balance lot be effectively cleared and developed for Agriculture – Intensive development, then it is unlikely that the dwelling would be beyond the required buffer distances and the abovementioned attenuation would be required.

It is noted however that a single house in a rural locality cannot expect the same levels of amenity experienced on Residential zoned land.

(g) a homestead lot has not been excised from the farm in the past;

Officer comment

There are no records suggesting that a homestead lot subdivision has previously been approved. There are however records of the parent lot, being Lot 300 Nabaroo Road (now Lot 500 Nabaroo Road and Lot 501 Cowalla Road), originally originally being subdivided to excise the open pasture land area (Lot 501) and the native vegetation area, selling off the remainder for farming purposes.

(h) the balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property; and

Officer comment

The balance lot is capable of accommodating the continued operation of the non-conforming land use (Nature Based Caravan Park). However there are no signs of any current agricultural land use, and as the site is mostly covered in native/remnant vegetation the potential for agricultural development in the future is improbable.

Neither the balance lot nor the homestead lot is out of character with respect to the prevailing lot sizes and for much of the locality (to the west). However this fragmented subdivision of land within the General Rural zone is unfounded and furthers the introduction of sensitive land uses in an area that is otherwise suitable for primary produce. The presence of two land uses on a General Rural lot is not suitable grounds for subdivision.

(i) the dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.

Officer comment

The single house appears to be approved by the Shire's Building Department and of a habitable standard.

The application also includes comments with respect to clause 6.2 of DCP 3.4 which states the following:

New lots for existing or proposed land uses such as recreation facilities, public utilities, rehabilitation of degraded land, extractive industries, or uses necessary to the rural use of the land such as abattoirs and processing works (including buffers), may be created through subdivision. The WAPC may approve subdivision for these purposes if a development approval has been granted, or where development of the intended land use has substantially commenced. Where appropriate the WAPC may preclude sensitive land uses on the new lot(s).

Officer comment

The applicant has stated that the non-conforming use (Caravan Park) which is legally enjoying its rights to continue is a recreation facility and therefore grounds for subdivision.

Administration asserts that a caravan park is not a recreational facility or a land use that is anticipated in the General Rural zone. Therefore, the exceptional circumstance is not relevant in this instance.

Further Comment

The overall intent of this exceptional circumstance (clause 6.6) is sentimental in nature, allowing longstanding and multigenerational farmers to continue to reside in their homestead while selling off the agricultural land (balance lot) for its continued use when they cease to farm. In this instance, there is no history or presence of agricultural land uses on the subject lot and with the substantial amounts of native/remnant vegetation and the presence of a caravan park, this subdivision does not influence agricultural land uses on the balance lot as is expected for the purpose of the exceptional circumstance for the subdivision of rural land.

<u>Summary</u>

Based on the above assessment, the officer is of the view that the proposed subdivision contravenes LPS 9 and does not satisfy DCP 3.4 as outlined in the preceding report. As such it is recommended that the Shire advise the WAPC of the above and advise that the application is not supported.

STATUTORY/LOCAL LAW IMPLICATIONS

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

Development Control Policy 3.4 - Subdivision of Rural Land (WAPC)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

OFFICER RECOMMENDATION

That Council not support the proposed two lot subdivision of Lot 500 (1393) Nabaroo Road, Cowalla for the following reasons:

- 1. The proposal does not comply with clause 4.8.6 of Local Planning Scheme No. 9; and
- 2. The proposal does not demonstrate compliance with Development Control Policy 3.4 Subdivision of Rural Land.

ALTERNATIVE MOTION

MOVED: Councillor Morton SECONDED: Councillor Vis

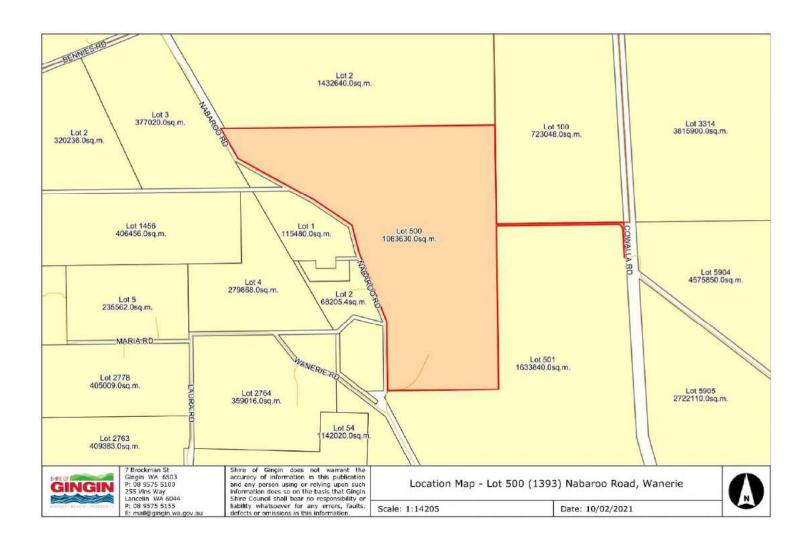
That Council provide unconditional support to the proposed two lot subdivision of Lot 500 (1393) Nabaroo Road, Cowalla.

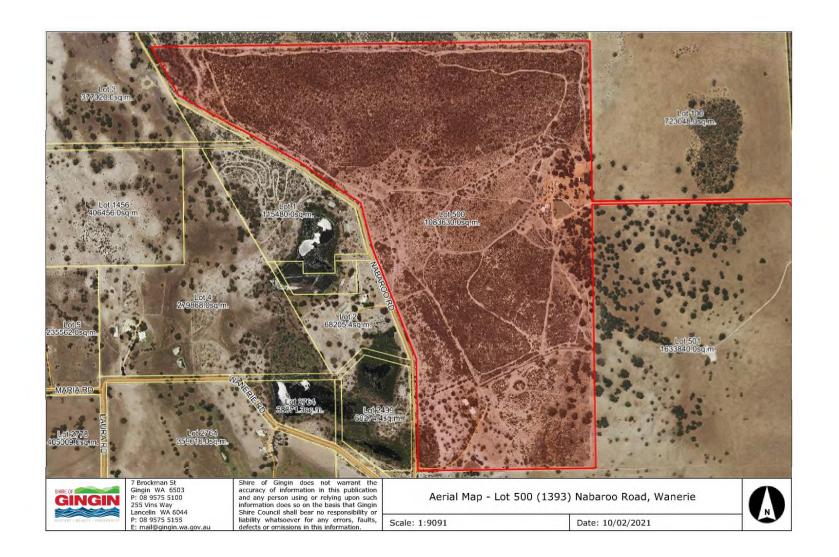
CARRIED UNANIMOUSLY

REASON FOR ALTERNATIVE MOTION

Council is of the view that the resultant lot sizes are not out of character within the locality and the proposed subdivision will enable the land to be used more effectively.

APPENDIX 1





APPENDIX 2



Our Ref: 22430 - 20210112 - WAPC - QA: DM

12 January 2021

Western Australian Planning Commission Locked Bag 2506 PERTH WA 6000



ATTENTION: PLANNING IMPLEMENTATION DIVISION

Dear Sir/Madam,

PROPOSED SUBDIVISION - LOT 500 (NO. 1393) NABAROO ROAD, WANERIE

Harley Dykstra, on behalf of the landowners, is pleased to submit this application for the proposed subdivision of Lot 500 (No. 1393) Nabaroo Road, Wanerie for consideration and determination by the Western Australian Planning Commission (WAPC). In support of this application the following has been provided:

- A copy of the current Certificate of Title (Appendix A);
- A letter of consent from the landowners:
- A copy of the Plan of Subdivision (Appendix B); and
- A copy of the Back to Nature Caravan Park Development Approval (Appendix C)
- A copy of the letter received from the Department of Planning Lands and Heritage on 24 November 2020 (Appendix D).

Payment of \$3,487.00, being the prescribed fee for a two-lot subdivision, will be made via the WAPC's online eLodgement portal.

SUBJECT LAND & CONTEXT

Lot 500 has an area of 109.4356ha with legal frontage to Nabaroo Road and Cowalla Road. The property currently accommodates the Back to Nature Caravan Park on proposed Lot A and the landowner's dwelling and associated outbuildings on proposed Lot B. Access to the Caravan Park is obtained from Cowalla Road via a battle-axe driveway while access to the dwelling and outbuildings on proposed Lot B is via Nabaroo Road. An aerial photograph has been included overleaf at Figure 1.

The subject land is located approximately 18.8km south east of the Ledge Point town site, approximately 17.2km north west of the Gingin Brook Road/Cowalla Road intersection, and approximately 750m south of the Bennies Road/Cowalla Road intersection. A Location Plan has been included at Figure 2 (overleaf).

A summary of the land particulars is provided in Table 1 (below) and the Certificate of Title is attached at Appendix A.

LOT NO.	PROPERTY ADDRESS	LANDOWNER	AREA	VOL.	FOLIO	PLAN NO.
500	1393 Nabaroo Road,	Harry Hibbert	109.4356	2767	782	62882
	Wanerie	Sheila Hibbert	ha			

TABLE 1 - LAND SUMMARY

PERTH & FORRESTDALE

Level 1, 252 Fitzgeraio 301001 15/2 Hensbrook Loop, Forrestdale T: 08 9495 1947 E: metro@harleydykstra.com.au Level 1, 252 Fitzgerald Street, Perth T: 08 9228 9291

ABN 77 503 764 248

Albany

Bunbury

Busselton

Forrestdale

Perth

www.harleydykstra.com.au







FIGURE 1 - AERIAL PHOTOGRAPH



PROPOSED SUBDIVISION Lot 500 (No. 1393) Nabaroo Road, Wanerie

Page | 2



PROPOSED SUBDIVISION

On 28 October 2020, Harley Dykstra wrote to the Department of Planning Lands and Heritage seeking advice on the potential for subdivision of the subject land. On 24 November 2020, Harley Dykstra received a letter from Tim Reed the Acting Planning Manager of Regional South Land Use Planning, concluding that the proposed subdivision could be contemplated under the State and Local planning frameworks (see **Appendix D**). Therefore, Harley Dykstra has prepared this application on behalf of the landowner.

The attached Plan of Subdivision (Appendix B), proposes the subdivision of Lot 500 (No. 1393) Nabaroo Road into a total of two (2) lots. Access to the Caravan Park on Lot A will continue to be obtained from Cowalla Road via a battle-axe driveway while access to the dwelling and outbuildings on proposed Lot B will continue to be via Nabaroo Road. All structures currently found on the subject land will be retained as part of this proposal.

PLANNING FRAMEWORK & SUPPORTING RATIONALE

Shire of Gingin Local Planning Scheme No. 9 (LPS 9)

The subject land is predominately zoned 'General Rural' with a small triangular portion to the north east being zoned 'General Rural Coded 40' under the Shire if Gingin Local Planning Scheme No.9 (LPS 9). Clause 4.8.6 of LPS 9 sets out the permissible lot sizes within the 'General Rural' Zone. For areas that are uncoded, the following provision is applicable:

"Further subdivision will not be supported unless it meets the exceptional circumstance requirements for subdivision under WAPC Development Control Policy 3.4."

A response to the exceptional circumstance requirements for subdivision as listed under WAPC Development Control Policy 3.4 is included below.

WAPC Development Control Policy 3.4

The Western Australian Planning Commission's Development Control Policy 3.4 (DC 3.4) – Subdivision of Rural Land sets out specific criteria which, if met, enable rural subdivision to be supported. Clause 6.6 'Homestead Lots' makes provision for lots to be created on rural land where an existing house on a large rural property continues to be occupied and where a number of provisions are complied with. Compliance with the provisions is demonstrated below:

- a) The subject land is located within the Homestead Lot Policy Area Gingin (23).
- b) DC 3.4 generally requires homestead lots to be between 1 and 4ha or up to 20ha to respond to the landform and include features such as existing outbuildings, services or water sources. The proposed homestead lot has been sized to accommodate the existing dwelling and its associated infrastructure and to respect existing firebreaks.
- c) The existing dwelling is connected to a reticulated electricity supply separate from the Caravan Park supply.
- d) The existing dwelling is already serviced by an adequate water supply for domestic, land management and fire management purposes, which has operated effectively over many years.
- e) The homestead lot has access to Nabaroo road via an existing driveway and crossover.
- f) The proposed homestead lot contains an existing residence which is setback in excess of 100m from neighbouring rural land uses.
- g) A homestead lot has not been excised from the larger landholding in the past.

PROPOSED SUBDIVISION

Lot 500 (No. 1393) Nabaroo Road, Wanerie

Page | 3



- Proposed Lot A will remain suitable for the continuation of its current land use, and is consistent with the prevailing lot sizes in the locality.
- i) The existing dwelling on proposed Lot B is of habitable standard.

For the reasons set out above, the proposed subdivision is able to satisfy the requirements of Clause 6.6 of DC 3.4. In addition, it should be noted that this proposal will of itself not result in the intensification of the existing caravan park nor will it impact on the ability of the balance lot (Lot B) to be used for agricultural purposes in the future.

In addition to the above, it is noted Clause 6.2 of DC 3.4 provides for subdivision for a range of other purposes by stating the following:

New lots for existing or proposed land uses such as recreation facilities, public utilities, rehabilitation of degraded land, extractive industries, or uses necessary to the rural use of the land such as abattoirs and processing works (including buffers), may be created through subdivision. The WAPC may approve subdivision for these purposes if a development approval has been granted, or where development of the intended land use has substantially commenced."

Harley Dykstra considers this clause further supports the proposal given that the Back to Nature Caravan Park which is an already established and approved land use, which is not dissimilar to a recreation facility. While it is noted 'Caravan Park' is a use no longer permitted in the 'General Rural' zone under LPS 9, the Caravan Park will continue to operate legally by exercising its non-conforming use right (see 24 February 2004 Development Approval attached at **Appendix C**).

WAPC SPP 2.5 - Rural Planning

This proposal is entirely consistent with the relevant objectives of State Planning Policy No. 2.5 – Rural Planning, and in particular, complies with clause 5.3 and 6.5 relating to subdivision of rural land. The proposal also has due regard to clause 6.5.1 relating to the provision of a suitable water supply and electricity supply (further details are provided at Section 5.0 of this report).

Significantly, the proposed subdivision will not reduce the ability of either lot to continue to be used for rural purposes.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

The Western Australian Planning Commission's State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) and accompanying Guidelines for Planning in Bushfire Prone Areas, sets out specific guidelines and requirements for subdivision and development in order to preserve life and reduce the impact of bushfire on property and infrastructure.

As identified by the Department of Fire and Emergency Services (DFES) mapping (Figure 3), the site is identified as bushfire prone. A bushfire management plan has not been prepared in support of this application given that the proposal will of itself not result in the intensification of development or land use in a bushfire prone area nor result in an increase in residents or employees. Having regard to the pragmatic approach advocated in Planning Bulletin 111 in relation to subdivision applications of this type, a bushfire management plan is not necessary to support this proposal.

In addition to the above, the subdivision has been designed in such a way that the proposed boundary between Lot A and Lot B will generally follow an existing firebreak. This will allow the firebreak to be retained to ensure bushfire threat continues to be appropriately managed in accordance with the Shire of Gingin Annual Firebreak Notice.

PROPOSED SUBDIVISION Lot 500 (No. 1393) Nabaroo Road, Wanerie

Page | 4





FIGURE 3 - DFES BUSHFIRE PRONE MAPPING

PLANNING RATIONALE

- The subject land is predominately zoned 'General Rural' (uncoded) under LPS 9. For areas that are uncoded, LPS 9 states that further subdivision will not be supported unless it meets the exceptional circumstance requirements for subdivision under WAPC Development Control Policy 3.4. The proposal is considered to be able to meet all exceptional circumstance requirements listed under Development Control Policy 3.4.
- As also concluded by the DPLH in the letter dated 24 November 2020 (see Appendix D), the proposed subdivision will not result in the intensification of the existing caravan park, nor will it impact on the ability of the balance lot to be used for agricultural purposes in the future.
- This proposal is entirely consistent with the relevant objectives of State Planning Policy No. 2.5 Rural Planning.
- In accordance with the exemptions contained in Planning Bulletin 111 Planning in Bushfire Prone Areas, a
 bushfire management plan has not been prepared given that this proposal of itself will not result in the
 intensification of development or land use in a bushfire prone area nor result in an increase in residents or
 employees.

PROPOSED SUBDIVISION

Lot 500 (No. 1393) Nabaroo Road, Wanerie



SERVICING

Roads

The surrounding road network has already been established and constructed. Access to the Caravan Park on Lot A will continue to be obtained via a battle-axe driveway from Cowalla Road which is constructed to a sealed standard, while access to the dwelling and outbuildings on Lot B will continue to occur via Nabaroo Road.

Power

An electricity service is located within the road reserves. Separate connections are currently provided to the Caravan Park on Lot A and the existing dwelling and outbuildings on Lot B.

Water & Effluent Disposal

A reticulated water supply is not available to the subject land, or in close proximity to the land. The proposed subdivision is and will continue to be serviced with an adequate sustainable and potable water supply for domestic and firefighting purposes.

Effluent disposal will continue to occur via the already established on-site effluent disposal methods.

The proposed lots are appropriately sized to ensure that stormwater is able to continue to be appropriately managed on site.

CONCLUSION

The proposed subdivision of Lot 500 (No. 1393) Nabaroo Road, Wanerie is consistent with the zoning of the land under the Shire of Gingin Local Planning Scheme No. 9, the provisions of State Planning Policy 2.5, and the exceptional circumstances in which subdivision may be supported as contained in Development Control Policy 3.4. Therefore, in view of the abovementioned considerations and the conclusion of the letter received from the Department of Planning Lands and Heritage dated 24 November 2020, support for the attached Plan of subdivision is sought.

We trust that the information provided above and enclosed is sufficient for the WAPC's purposes and respectfully request the WAPC's consideration and determination of this application at its earliest convenience. Please do not hesitate to contact the undersigned should you have any queries regarding this application.

Yours sincerely

Benjamin Houweling

Town Planner

HARLEY DYKSTRA PTY LTD

E-mail: benh@harleydykstra.com.au

PROPOSED SUBDIVISION Lot 500 (No. 1393) Nabaroo Road, Wanerie

Page | 6

APPENDIX B | PLAN OF SUBDIVISION



APPENDIX C | BACK TO NATURE CARAVAN PARK
DEVELOPMENT APPROVAL



APPENDIX 5 NOTICE OF APPROVAL OF PLANNING CONSENT

7 Brockman Street, Gingin, 6503 Tel. 08 9575 2211 Fax 08 9575 2121

Name and Address of Applicant/Owner:

Harry & Sheila Hibbert, RMB 300 Wanerie Road, Wanerie

Description of Land:

Lot 300 of 2535 Wanerie Road, Wanerie

Planning Consent for the Application dated the First day of December 2000 and the plans attached thereto for a Nature Based Caravan Park on Lot 300 of 2535 Wanerie Road, Wanerie, is granted subject to the following conditions:

- 1. The land use and development shall be undertaken generally in accordance with the approved plans, including any amendments made in red ink, in a manner that is deemed to comply, to the satisfaction of the Chief Executive Officer.
- 2. No indigenous trees or scrub or other substantial vegetation may be felled or removed without further approval of Council except those which are:
 - Dead, diseased or are dangerous.
 - For the purpose of a firebreak required by a regulation or by-law except that in order to preserve the amenity of the area Council may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation.
 - For the purpose of constructing a building in a location approved by Council;
- 3. The crossover, vehicular access, circulation and turning areas, together with parking bays shall be constructed to a road base standard (e.g. limestone) and thereafter maintained to the satisfaction of Council.
- 4. Arrangements being made with Council for upgrading of the access onto Cowalla Road, including a location and specification that ensures adequate traffic safety, to the satisfaction of Council.
- External walls of all buildings and facilities to be constructed of new materials of a colour/texture to avoid a reflective or bright colour finish.
- 6. Provision of potable water supply to the satisfaction of Council.
- 7. Provision of ablution facilities and associated effluent disposal systems in accordance with Caravan Parks and Camping Ground Regulations and Health Department requirements.

This is not a building licence. A separate application is required for a building licence.

-2-

Harry & Sheila Hibbert

24 February 2004

- 8. Preparation and implementation of a Fire Management Plan prior to commencement of the proposed land use to the satisfaction of Council. The Fire Management Plan is to address matters including but not limited to strategic access/egress, water supply points, low fuel zones, firebreaks (etc).
- The location of all caravan/camping sites are to be restricted to a maximum distance of 100m from the approved internal driveway system as depicted on the approved plan.

Advice Notes

- Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of Part 4 of the Building Regulations 1989 and the Health Act 1911 which are to be approved by the Shire's Principal Building Surveyor and Principal Environmental Health Officer prior to the issue of the building licence.
- Prior to the installation of a water bore, a licence is to be obtained from the Water and Rivers Commission.
- 3. Any signage proposed as part of this development may require a Sign Licence. You are advised to liaise with Council's Principal Building Surveyor in this regard.
- 4. The approval of the Health Department of WA is required for onsite effluent disposal for the development, prior to the commencement of works.
- 5. You are advised that structures such as shed enclosures over bores or pumps may require a building licence from Council, and in any event must have a minimum boundary setback of 20m.
- The development is subject to compliance with the Caravan Parks and Camping Grounds Act 1995 and the Caravan Parks and Camping Grounds Regulations 1997
- 7. With regard to Condition 4 above, the Applicant is advised that Council is prepared to support this proposal on the proviso that access to the subject Lot can be achieved through Lot 201 Cowalla Road, as depicted on the approved plan. In the event that the landowner of Lot 201 withdraws consent for this access way, alternative access arrangements will need to be made to the satisfaction of Council.
- Note 1: If the development the subject of this Consent is not substantially commenced within a period of 2 years, or such other period as specified in the Consent after the date of the decision, the Consent shall lapse and be of no further effect.

This is not a building licence. A separate application is required for a building licence.

-3-

Harry & Sheila Hibbert

24 February 2004

- Note 2: Where a Consent has so lapsed, no development shall be carried out without the further consent of the Council having first been sought and obtained.
- Note 3: If an Applicant is aggrieved by this decision there is a right of appeal pursuant to the provisions of Part V of the Town Planning Act. An appeal must be lodged within 60 days of the Council's decision.

David Maiorana
PRINCIPAL PLANNER
(On behalf of the Chief Executive Officer)

24 February 2004

This is not a building licence. A separate application is required for a building licence.

APPENDIX D | DPLH LETTER - 24 NOVEMBER 2020



Our ref:

Enquiries: Mai Yau (6551 9274)

Transmitted via email only: benh@harleydykstra.com.au

Dear Ben

LOT 500 NABAROO ROAD, WANERIE

Thank you for your letter dated 28 October 2020, seeking subdivision advice on the potential to create a homestead lot at Lot 500 Nabaroo Road, Wanerie (the subject site). Apologies for the delay in this response.

Based on the information provided, the proposal could be contemplated under the State and local planning framework.

It appears that the existing use on the balance lot is a caravan park, which is not permitted in the General Rural zoned under TPS 9. As a general principle, development should not be made unlawful or illegal. It is recommended that confirmation be provided that the caravan park is operating legally, such as exercising a non-conforming use right. However, it is acknowledged that some records may not be available, and this may not be possible to provide.

Notwithstanding, the proposed concept plan does not result in the intensification of the existing caravan park, nor does it impact the balance lot from being used for agricultural purposes in the future. In this respect, the proposed concept plan may also be supported (attached).

Please note that advice will need to be sought from servicing authorities regarding the subject lands ability to provide an adequate water supply, waste disposal and reticulated power which may require further consideration or raise issues not covered in this letter. Naturally, if the application was to be refused, you may seek a review of the decision from the State Administrative Tribunal.

Should you wish to discuss any aspect of this advice, please contact Mai Yau on 6551 9274 or by email at mai.yau@dplh.wa.gov.au.

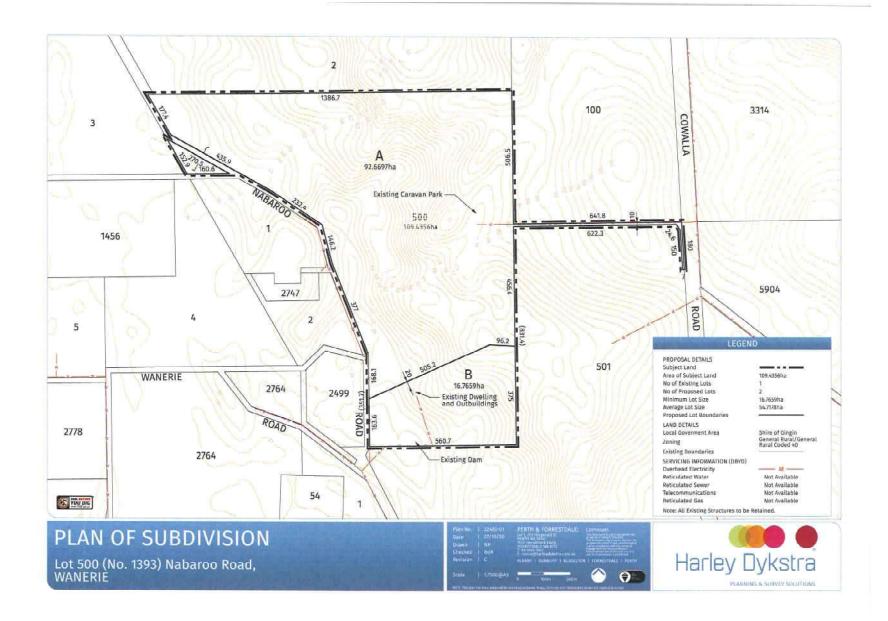
Yours sincerely

Tim Reed

A/Planning Manager, Regional South

Land Use Planning

24 November 2020





11.3.8 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED SINGLE HOUSE ON LOT 10 STARBUSH WAY, GINGINUP

File:	BLD/7230	
Applicant:	Red Ink Homes	
Location:	Lot 10 Starbush Way, Ginginup	
Owner:	Cameron Prince and Alyssa Uklorn	
Zoning:	Rural Living	
WAPC No:	N/A	
Author:	James Bayliss – Statutory Planning Officer	
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and	
	Development Services	
Report Date:	16 March 2021	
Refer:	Nil	
Appendices	Location Plan and Aerial Image	
	2. Development Plans	
	3. Schedule of Submissions and Recommended	
	Responses	
	4. BAL Contour Map	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a Single House on Lot 10 Starbush Way, Ginginup.

BACKGROUND

The subject lot is 12,661m² and is currently vacant. The land tapers from the rear (northern) portion of the property towards the front (southern) portion of the site. The site works associated with the single house extend beyond the building envelope, being set back 16.4 metres from the side (eastern) boundary and 18.2 metres from the side (western) boundary in lieu of 20 metres. The development includes a water tank which is set back 5.7 metres from the side (western) lot boundary.

Council consideration is required due to an objection being received during community consultation.

A location plan and aerial image is attached as **Appendix 1**.

A copy of the development plans are attached as **Appendix 2**.

COMMENT

SHIRE OF GINGIN

Community Consultation

The application was advertised to the adjoining 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 two submissions, one objecting to the development due the orientation of the garage and the other advising of no comment. The officer notes that the garage is set back 20.9 metres from the lot boundary and is therefore compliant from a setback perspective.

The submitter raised concern with the orientation of the garage which provides for vehicle access closer to the western lot boundary. Vehicle access is not required to be a set distance from the boundary or to be orientated in any particular way. On that basis the submitters comment does not amount to grounds for refusal.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

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

- a) protect the rural environment and landscape;
- b) accommodate single dwellings at very low densities on individual allotments beyond the urban areas;
- restrict and limit the removal of natural vegetation and encourage revegetation where appropriate;
- d) prevent threats to the amenity of the zone and impacts on wildlife and native vegetation caused by the grazing of livestock;
- e) avoid increased fire risk to life and property through inappropriately located and designed land use, subdivision and development; and
- f) provide for a suitable level of physical and community infrastructure.

LPS 9 does not define a 'single house' and therefore the definition outlined under State Planning Policy 7.3 - Residential Design Codes of Western Australia (r-codes) is applied, which states:

"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."

The rainwater tank is considered to be an external fixture, which is defined under the R-Codes as:

"These are utilities, equipment, plant or other structures which are necessary for a dwelling to achieve efficient, comfortable and environmentally sustainable operating outcomes and may include; solar collectors, <u>rainwater storage tanks</u>, clothes drying structures, communications and power and water infrastructure, letterboxes, or other fixtures as necessary for the residential use of the buildings on-site."

A Single House is a 'P-permitted' use within the Rural Living zone.

Development Standards

The development standards outlined under 'Clause 4.8.5 – Rural Living Zone' of LPS 9 are provided below with offer comments:

LDC No. 0	Officer Comments
LPS No. 9	Officer Comments
Part 4 - General Development	
Requirements	
4.8.5.2 No more than one dwelling will be	No more than 1 dwelling is proposed.
permitted on a lot zoned Rural Living.	
4.8.5.3 Where land zoned Rural Living	The site abuts rural land to the north and
adjoins rural uses with buffer	is located beyond the 100m buffer.
requirements, dwellings shall be setback	
a minimum of 100m from the relevant	
boundary(s) nearby to the adjoining rural	
uses, or such other setback distance as	
may be specified on an adopted Structure	
Plan.	
4.8.5.4 No dwelling shall be erected	The property is connected to a reticulated
unless the lot is connected to a reticulated	water supply.
water supply or the local government is	
satisfied that there is an adequate potable	
water supply consisting of a roof water	
tank of not less than 90,000 litres, a bore,	
well, spring, soak or dam.	
4.8.5.5 Fencing shall conform to the	Boundary fencing is existing and consists
standard of rural fencing in the district,	of a 'rural' type fence. No additional
and the use of solid panel fencings except	fencing is proposed.
in the immediate vicinity of the residence	
will only be permitted with the approval of	
local government.	No. 100 Control of the Control of th
4.8.5.6 No natural vegetation shall be	No vegetation is proposed to be removed.
removed without prior written approval of	The development area is vacant.
local government, unless its removal is	
necessary for construction of a building,	
firebreak or boundary fence.	

4.8.5.7 The siting and design of any buildings on any lot should not significantly impact on the natural vegetation or visual landscape amenity of the site.	The dwelling is located within the building envelope, the area set aside for this specific purpose. The only variation relates to earthworks, which have no impact from a visual bulk perspective.
4.8.5.8 The keeping of horses, sheep, goats and other grazing animals, where permitted, shall not exceed the stocking rates recommended by Agriculture Western Australia for the applicable pasture types.	Noted. No rural pursuit is proposed.
4.8.5.9 Notwithstanding clause 4.8.5.8, within the Sovereign Hill Estate a maximum of two dry sheep equivalents per hectare can be applied in respect of domestic use, to avoid soil degradation.	Noted. The proposed development is not located within the Sovereign Hill Estate.
4.8.5.10 Subdivision and development of land, including fencing and firebreaks are to accord with an approved structure plan.	Noted.
4.8.5.11 No further subdivision is permitted in the Rural Living zone unless provided for in an approved structure plan.	Noted.

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)</u>

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:

(y) Any submissions received on the application

Officer Comment

The proposed development complies with the development standards applicable to the Rural Living zone, with the exception of the earthworks encroaching 1.9 metres into the setback area on the western side and 3.6 metres on the eastern side. Having external fixtures within the setback area is not uncommon and no objection has been raised from the abutting landowner to the east.

The submission from the adjoining landowner to the west has not substantiated how the 1.9 metre setback variation to earth works will detrimentally impact on their property, rather has provided comment on dissatisfaction of a design element of the dwelling (garage orientation) which is compliant.

It is not uncommon for vehicle access to be within setback areas and LPS 9 does not prohibit this. The future orientation of a living space on the submitter's property is not grounds to refuse a garage or associated site works.

The objection is not supported in this instance and the officer is of the view that the relatively minor variation to site works is appropriate and does not adversely affect the adjoining property.

State Planning Policy 3.7 – Planning in Bushfire Prone areas

The subject site is indicated as being bushfire prone by the Department of Fire and Emergency Services (DFES) online mapping and therefore SPP 3.7 is applicable. The Guidelines for Planning in Bushfire Prone Areas outline that if a BAL Contour Map has been prepared for a previous subdivision approval, this may be used in place of a BAL assessment where the decision-maker is satisfied the BAL Contour Map is sufficient.

The developer prepared a Bushfire Management Plan (BMP) in support of the subdivision which included a BAL contour map. An extract of the BAL contour map is provided as **Appendix 4** which outlines the subject site as having a low BAL rating.

The applicant will likely be required to submit a site-specific BAL assessment as part of the building permit process to ensure the dwelling is constructed to the relevant Australian Standard, however the planning framework views the risk as being low.

The property title already contains a bushfire prone notification as required by a condition of subdivision approval and as such a duplicate requirement is not necessary as a condition of development approval.

Conclusion

In summary, the proposed single house and associated site works variation is not anticipated to have an adverse effect on the amenity of adjoining properties. On that basis the officer recommends conditional support for the development.

STATUTORY/LOCAL LAW IMPLICATIONS

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

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2 Objectives of the Zones
3.2.6 Rural Living Zone
3.4.2 Interpretation of the Zoning Table (Use Not Listed)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

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 10 Starbush Way, Ginginup subject to the following conditions:

- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications, including any directions written in red ink by the Shire, unless otherwise conditioned in this approval;
- 2. This approval is for a single house only as indicated on the approved plans; and
- 3. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin.

Advice Notes:

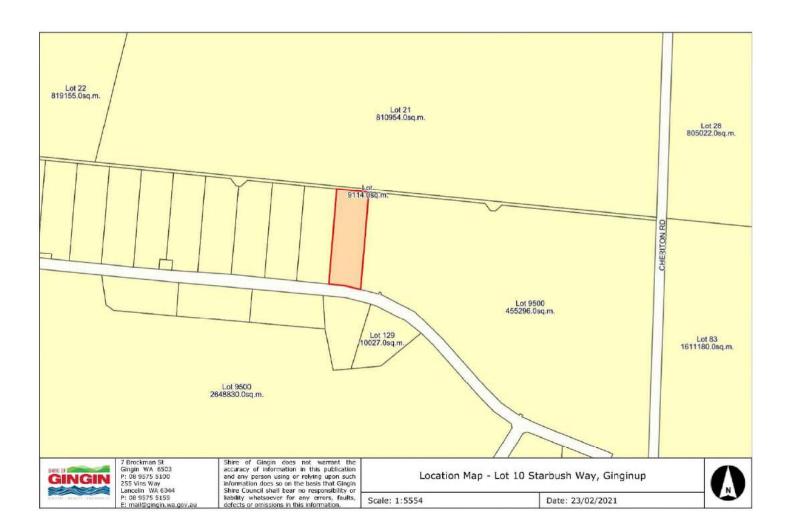
- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.

- Note 3: 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 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 the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.

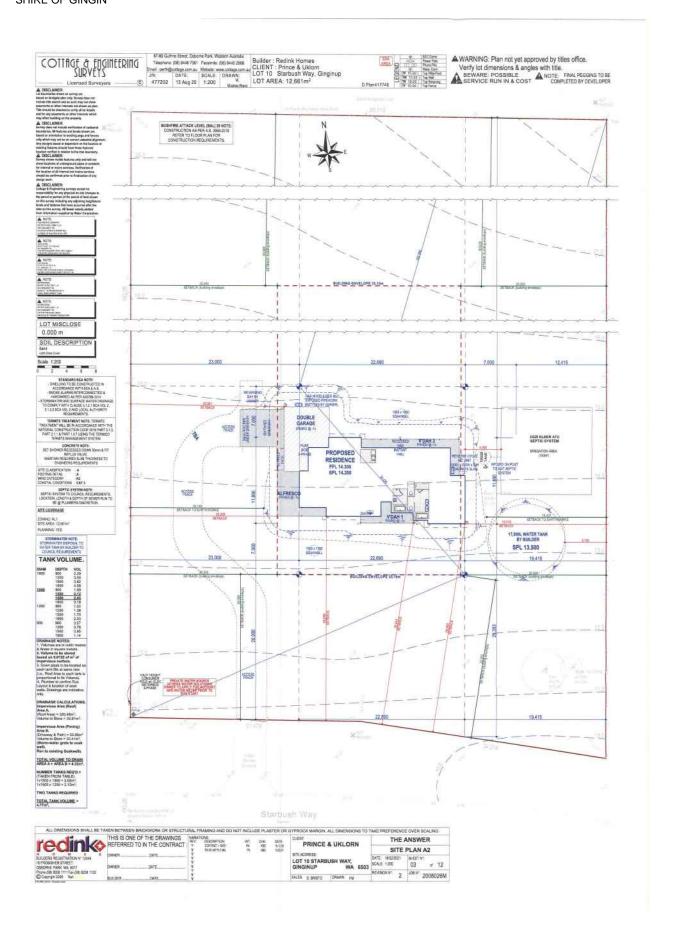
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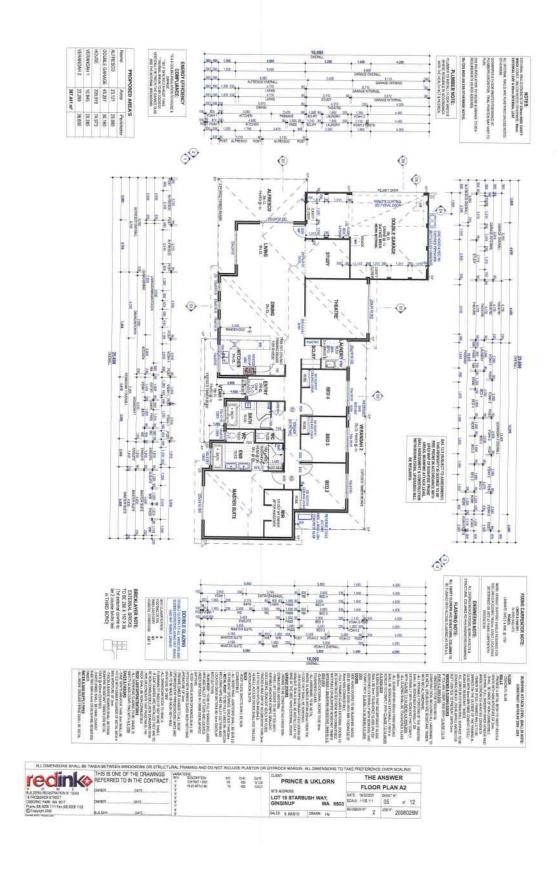
APPENDIX 1

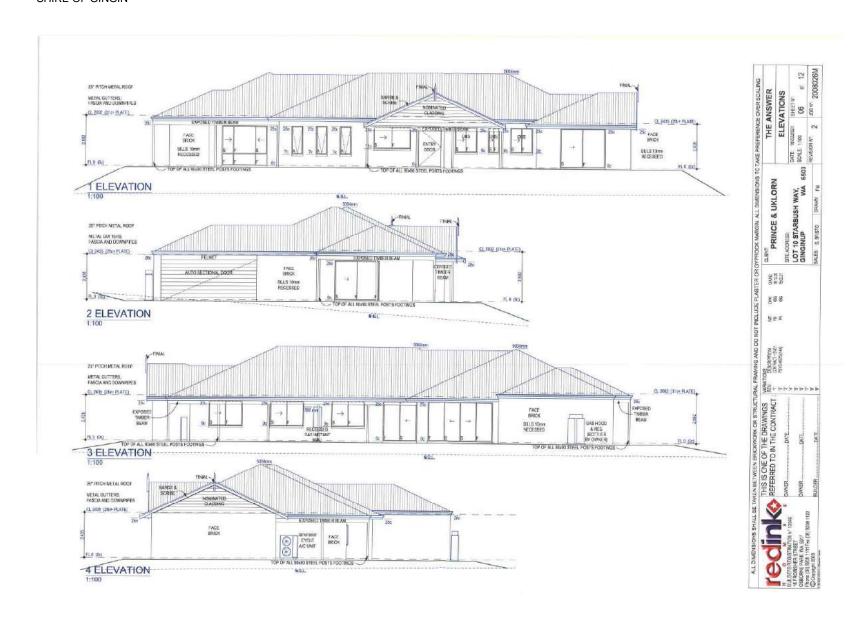
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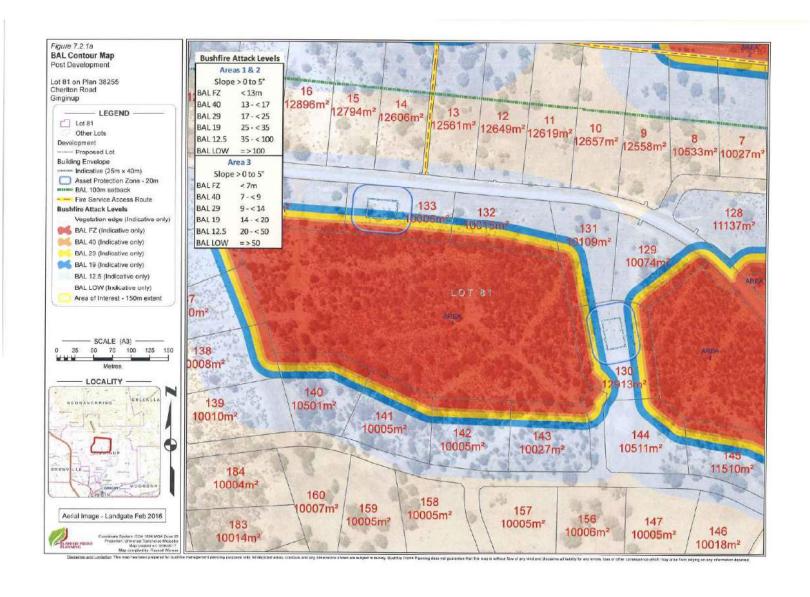
ORDINARY MEETING

SHIRE OF GINGIN

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

DEVELOPMENT APPLICATION: SINGLE HOUSE ON LOT 10 STARBUSH WAY, GINGINUP

No.	Submitter	Submission details	Recommended response
1	Ratepayer	The submitter does not support provides the following General Comment:	
		"Concern of orientation of garage and the accessway which will be opposite planned living areas of a future home on Lot we query why the garage is not positioned facing road and away from neighbours. By placing the garage on the eastern side, not only is there a building envelope but it brings vehicle movement unnecessarily close to neighbour living areas."	Noted. Refer to Council report for officer comments.
2.	Ratepayer	The submitter provides the following General Comment: We have no comments	Noted.



11.3.9 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED OUTBUILDING AT LOT 76 (6) LEFROY STREET, GINGIN

File:	BLD/7001		
Applicant:	Eco Sheds and Homes		
Location:	Lot 76 (6) Lefroy Street, Gingin		
Owner:	D & L Boyle		
Zoning:	Residential R2		
WAPC No:	N/A		
Author:	Matthew Tallon – Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer:	Nil		
Appendices	Location Plan and Applicant's Proposal		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed Outbuilding at Lot 76 (6) Lefroy Street, Gingin.

BACKGROUND

The Shire has received an Application for Development Approval for a proposed outbuilding on the subject lot, which is 1.2 ha in area. The property currently contains an existing single house which has recently been developed.

The proposal seeks approval for an outbuilding 16 metres in length and 9 metres in width, equating to an area of 144m². The proposed wall height is 3.6 metres with a pitch of 4.81 metres. The outbuilding is located at the rear of the single house on the subject lot, set back 6 metres from the side (eastern) boundary and approximately 200 metres from the rear (northern) boundary.

The proposal seeks variations to Clause 5.4.3 – Outbuildings of State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes) in regards to the wall height, overall height and overall area of the outbuilding. The proposal also seeks a variation to LPP 2.1 with respect to the proposed overall area and overall height of the outbuilding.

This report is being presented to Council as Administration does not have the authority to support an Outbuilding that does not meet the provisions of Local Planning Policy 2.1.

A location plan and a copy of the applicant's proposal are attached as **Appendix 1**.

COMMENT

Community 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 Schemes)* Regulations 2015. During the advertising period one submission was received by the Shire in support of the proposal.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

The subject land is zoned Residential R2 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."

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 relevant objective of the Residential zone under LPS 9 in this instance is outlined below:

"b) Maintain and enhance the residential character and amenity of the zone."

The proposed heights are not considered to be detrimental to the residential character of the area with respect to the existing built form and are consistent with the provisions of the Shire's Local Planning Policy for Residential Outbuildings. The proposed variations are minor in nature and do not represent a built form that is inconsistent with the locality. The subject lot is three times the minimum lot size for an R2 residential lot, and as such the overall scale is appropriate.

Special Control Area 1 – River Environs Management Area

The northern section of the subject lot is identified as being within the above Special Control Area 1 (SCA 1). The purpose of the SCA is:

To retain the physical and biological features along the waterway necessary for the healthy functioning of the waterway in terms of water conveyance, water quality and ecological functions.

To provide for recreational activities and facilities where appropriate and managed.

As the proposed development is not located within SCA 1 and is not subject to the 1 in 100 year flood plain, no considerations are required for the purpose of the SCA.

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 does not meet with the deemed-to-comply provisions, the application is assessed against the associated design principles to determine whether the variation is acceptable. The R-Codes define an 'Outbuilding' as:

"An enclosed non-habitable structure that is detached from any dwelling."

The deemed-to-comply provisions of the R-Codes relating to Outbuildings stipulate, amongst other things, that the overall collective floor area cannot exceed $60m^2$, and that a wall height of 2.4 metres and an overall height of 4.2 metres are not to be exceeded. The proposed wall height is 3.6 metres, with an overall height of 4.81 metres and an overall outbuilding area of $144m^2$. The relevant design principle for Outbuildings is as follows:

"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."

The outbuilding is positioned at the rear of the lot. This provides a substantial setback from the front lot boundary, which does assist in alleviating adverse visual impacts on the existing streetscape. This notwithstanding, the overall area of the outbuilding is significant. However, when considering the size of the lot and the locality, the development is in keeping with its setting and is cognisant of the built form visual amenity of neighbouring properties. This is discussed in further detail with respect to Local Planning Policy 2.1 – Residential Outbuildings (LPP 2.1) below.

Local Planning Policy 2.1 – Residential Outbuildings

The Shire adopted LPP 2.1 in January 2013 to complement the provisions of the R-Codes relating to outbuildings to better reflect community expectations.

'Clause 3.5 – Scale of Outbuilding Development' outlines the maximum allowable standards for outbuildings throughout the Shire based on lot size and location. The table below is applicable to the subject lot.

TOWNSITE	STANDARD	MAXIMUM	PROVIDED
Gingin > 4000m ²	Area	140m ²	Proposed 144m ² – non compliant
	Wall Height	3.6m	3.6m - compliant
	Overall Height	4.2m	4.81m – non-compliant

Wall heights are to be measured from natural ground level.

An increase of up to 10% in floor area may be applied to accommodate variation in design parameters between different shed manufacturers.

LPP 2.1 provides dimensions for the maximum allowable standards that are considered to be acceptable throughout the Shire as stated in Clause 3.5. The maximum standards were created to prevent unwanted built form and prescribe standards to prevent excessively large outbuildings being constructed.

The variation to the overall area is minor and with respect to the provisions for 10% variations is viewed as compliant.

The outbuilding is located on a portion of land that sits much lower than the existing single house.

When considering this and the proposed excavation which cuts 600mm below natural ground level (NGL) to accommodate the finished floor level (FFL) of the outbuilding, the overall height will not depict such heights once developed. Given this excavation, the height of the outbuilding is reduced with the overall height above NGL ranging between 4.21m and 4.81m (average of 4.51m). As such, the variation to the overall height, as proposed, is viewed as acceptable.

In noting the above, the officer states that the outbuilding is consistent with the character and built form of the locality experienced via large one hectare residential lots and rural living-like development.

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

The Regulations are 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:

Consideration has been given to the following matters outlined in the Deemed Provisions with officer comments:

(g) Any local planning policy for the Scheme area;

Comment:

As outlined above, the proposed development does not comply with Clause 3.5 - Scale of Outbuilding Development outlined in LPP 2.1.

(m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

Comment:

The matters contained within the above clause have been addressed within the preceding report. In summary, the proposed variations to the provisions within LPP 2.1 are very minor and when considering the lot size and locality is appropriate in its setting.

(y) Any submissions received on the application;

Comment:

No objections were raised and the south adjoining landowner has provided their written support for the proposal.

Conclusion

In summary, the proposed outbuilding seeks a variation to 'Local Planning Policy 2.1 – Residential Outbuildings' and the R-Codes. In general, Administration has not supported outbuildings in excess of the policy provisions. However, in this instance the officer is of the view that the variation to the floor area meets the provisions of the policy and the variation to the overall height is acceptable given the site works proposed and the overall built form outcome as reasoned in the above report.

STATUTORY/LOCAL LAW IMPLICATIONS

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

Local Planning Scheme No. 9

Local Planning Policy 2.1 - Residential Outbuildings

State Planning Policy 7.3 - Residential Design Codes Volume 1

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

SHIRE OF GINGIN

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Peczka

That Council grant Development Approval for an Outbuilding extension on Lot 76 (6) Lefroy Street, Gingin in accordance with the approved plans, subject to the following conditions:

- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications, unless otherwise conditioned in this Approval;
- 2. This approval is for an Outbuilding only as indicated on the approved plans;
- 3. The Outbuilding shall not be used for permanent human habitation or any industrial or commercial purposes;
- 4. The finished floor level of the Outbuilding must be in accordance with the excavation/site works annotated on the approved plans to the satisfaction of the Shire of Gingin; and
- 5. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin.

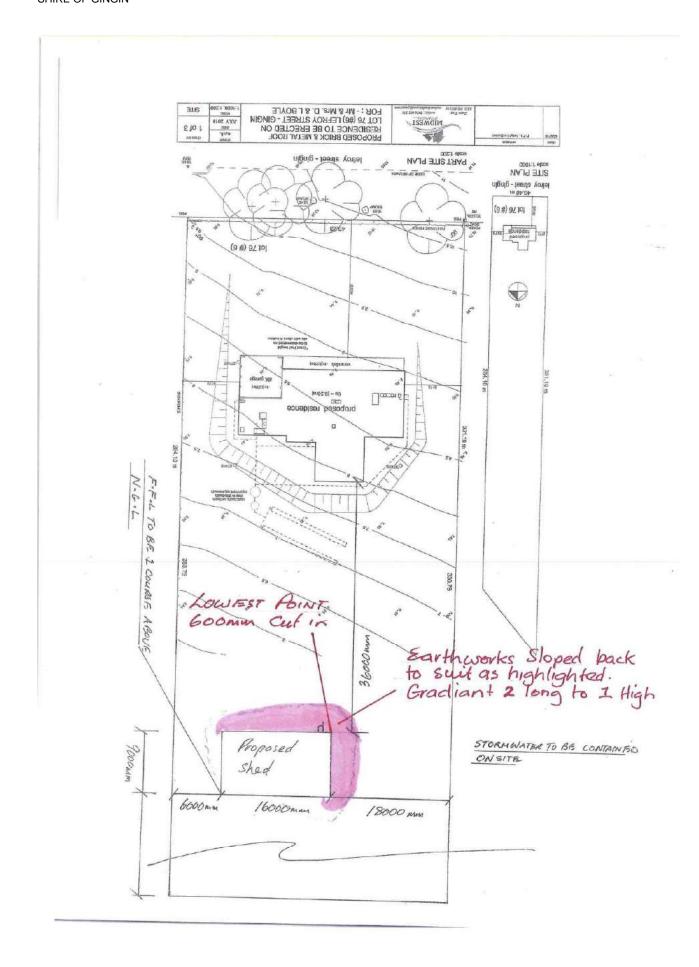
Advice Notes

- 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: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.

- Note 3: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011, Building Regulations 2012* and *Health Act 1911*, which are to be approved by the Shire of Gingin.
- Note 4: This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should you wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, you must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act* 1961.
- 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 allotment.

CARRIED UNANIMOUSLY







Elevations

http://index.ecoshedsandhomes.com.au/#VFj8q3HhDxJ/0



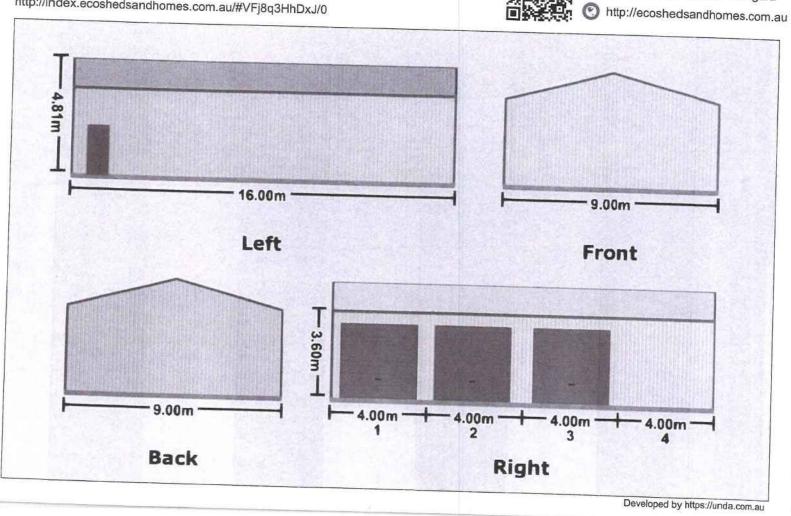


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O Unit 2 49 Berriman Dr Wangara





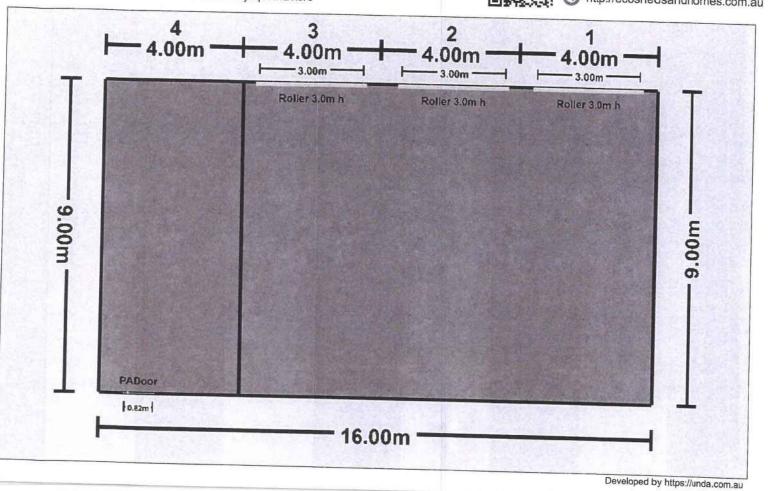


Floor Plan

http://index.ecoshedsandhomes.com.au/#VFj8q3HhDxJ/0



- 1800 940 461
- O Unit 2 49 Berriman Dr Wangara
- http://ecoshedsandhomes.com.au



11.3.10 APPLICATION FOR RETROSPECTIVE DEVELOPMENT APPROVAL - TRANSPORTABLE BUILDING AND SEA CONTAINER (STORAGE) AT LOT 21 (14) OLD MOOLIABEENEE ROAD, GINGIN

File:	BLD/7053		
Applicant:	Stephen and Helen Sampson		
Location:	Lot 21 (14) Old Mooliabeenee Road, Gingin		
Owner:	H. & S. Sampson		
Zoning:	Residential R10		
WAPC No:	N/A		
Author:	Matthew Tallon – Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and		
	Development Services		
Report Date:	16 March 2021		
Refer:	Nil		
Appendices	Location Plan and Applicant's Proposal		
	2. Site photos		

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Retrospective Development Approval for a transportable building and a sea container both for storage at Lot 21 (14) Old Mooliabeenee Road, Gingin.

BACKGROUND

The Shire is in receipt of an Application for Retrospective Development Approval for a transportable building and sea container that are currently both used for storage. The application seeks to continue this use. The applicant has stated that the sea container has been in situ for approximately 21 years.

The sea container is located to the rear of the outbuilding and is set back 2.2m from the side (east) lot boundary and 12.5m from the rear (north) boundary. The transportable building is set back 6.55m from the rear (north) boundary and 6.55m from the side (west) lot boundary. Both structures currently contain items owned by the applicant/landowner.

The existing outbuilding area in aggregate has a total area of 72m². In assessing the proposal, due regard is to be given to Local Planning Policy 1.9 – Sea Containers and 1.5 – Transportable Dwellings. For all intents and purposes of assessment the transportable is sought to be approved as an Outbuilding. The applicant also asserts that the use of the sea container is no different to that of an outbuilding and has suggested cladding the structure in order to blend in with the approved outbuilding's built form.

This report is being presented to Council as Administration does not have the authority to support development that is inconsistent with Local Planning Policy 1.9 – Sea Containers.

A location plan and a copy of the applicant's proposal are attached as **Appendix 1**.

Site photos of the development are attached as **Appendix 2**.

COMMENT

Community 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 Schemes) Regulations 2015.*

During the advertising period no submissions were received by the Shire of Gingin.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

The subject land is zoned Residential R10 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."

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 relevant objective of the Residential zone under LPS 9 in this instance is outlined below:

"b) Maintain and enhance the residential character and amenity of the zone."

The formalisation of a sea container and transportable building for storage is not anticipated in the zone and when developed without regard to the visual appearance of the development as viewed from the public realm and neighbouring properties, visual amenity impacts may arise. As transportable buildings and sea containers are generally only experienced in industrial and commercial areas, specific consideration is required with respect to visual appearance of the structures.

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 does not meet the deemed-to-comply provisions, the application is assessed against the associated design principles to determine whether the variation is acceptable. The R-Codes define an 'Outbuilding' as:

"An enclosed non-habitable structure that is detached from any dwelling."

The deemed-to-comply provisions of the R-Codes relating to Outbuildings stipulate, amongst other things, that the overall collective floor area cannot exceed $60m^2$, and that a wall height of 2.4 metres and an overall height of 4.2 metres are not to be exceeded. Considering the aggregate floor area sought for storage use, this proposal seeks $105m^2$ in lieu of $60m^2$.

"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."

The structures are located to the rear of the subject lot, with the sea container not at all visible from the front of the dwelling but partially visible from Old Mooliabeenee Road due to the vacant portion of land along that road frontage to the east.

<u>Local Planning Policy 2.1 – Residential Outbuildings</u>

The Shire adopted LPP 2.1 in January 2013 to complement the provisions of the R-Codes relating to outbuildings to better reflect community expectations.

'Clause 3.5 – Scale of Outbuilding Development' outlines the maximum allowable standards for outbuildings throughout the Shire based on lot size and location. The table below is applicable to the subject lot.

TOWNSITE	STANDARD	MAXIMUM	PROVIDED
Gingin 1001m ² > 4000m ²	Area	120m ²	Overall: ~105m ² – compliant
	Wall Height Overall Height	3.6m 5.0m	Transportable 3m - compliant 3.3m - compliant
			Sea Container 2.59m – compliant 2.59m - compliant

LPP 2.1 provides dimensions for the maximum allowable standards that are considered to be acceptable throughout the Shire as stated in Clause 3.5. The maximum standards were created to prevent unwanted built form and prescribe standards to prevent excessively large outbuildings being constructed.

Although the proposal is not necessarily for outbuildings, the above calculations are appropriate in order for Council to understand the appropriate levels of storage generally supported, regardless of how it is represented in built form.

Local Planning Policy 1.9 – Sea Containers

This policy was adopted in order to provide a position with respect to the use of sea containers in lieu of outbuildings for storage or any other developments across all zones under the LPS 9 area.

There is a general perception from local communities that Sea Containers present an industrial built form and have a negative impact on local visual amenity.

This Policy is developed to ensure there is a balanced approach between providing flexibility to use Sea Containers as temporary storage for local residents and safeguarding the amenity and landscape quality of the Shire in accordance with the Shire of Gingin Local Planning Scheme No. 9.

Section 7 of the Policy states as follows:

"Permanent use of Sea Containers is not permitted on Tourism, Residential, and Town Centre zoned land."

The clear exclusion of use of sea containers in the Residential zone effectively rules out a position to support this component of the proposal at officer level.

Under section 6, however, there are provisions for the temporary use of sea containers under the following circumstances:

- The lot has approved building plans (for a dwelling) with a constructed slab or footings;
 or
- b) The requirements of 5a) above are satisfied and the Sea Container is sited at the rear of the property, behind the dwelling under construction and in a location that will allow the Sea Container to be easily removed.
- c) At the end of the approved period the Sea Container will be removed from the lot, unless an extension time is granted by Council.

Under section 4 (Exemptions), it does state that the *Use of Sea Containers fully enclosed within a building* is exempt from development approval. As such the applicant has acknowledged a commitment to enclose the sea container in order to receive support. This in effect removes any potential visual amenity impacts and results in a consistent outbuilding built form as viewed from the adjoining property. As such it is appropriate to support the use of the sea container subject to it being enclosed with a new walled (on the rear and side of the sea container) and roofed enclosure to the satisfaction of the Shire of Gingin.

Local Planning Policy 1.5 - Transportable Dwellings

Although the Transportable Building is not proposed for a habitable land use, this policy is relevant for the consideration of the built form in the Residential zone.

The policy objectives are as follows:

- To provide guidelines for the location and development of second-hand relocated and transportable dwellings.
- To ensure that the location and development of second-hand relocated and transportable dwellings within the Shire only occurs in a manner that is consistent with the objectives of the Local Planning Scheme and relevant zoning.

The following clause within the policy is relevant.

<u>Amenity</u>

When giving consideration to an application for planning consent, Council shall give consideration to:

- 3.5.1 The building in its relocated position being rendered visually acceptable by the use of verandahs, screening or planting;
- 3.5.2 The design, scale and bulk of the proposed building being compatible with the type of buildings that exist in the locality in which it is to be erected.

As can be viewed in the site photos the transportable is presented with a colorbond like sheeting in a grey colour. The quality and age of the transportable lead to its substandard presentation which as per the intent of this policy cannot be supported in the Residential zone.

As such, the transportable will be required to be re-cladded in new materials to the satisfaction of the Shire of Gingin with plans submitted in a nominated timeframe (4 months) or for the transportable to be removed within that timeframe, whichever the applicant selects.

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

The Regulations are subsidiary legislation created under the *Planning and Development Act* 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:

Consideration has been given to the following matters outlined in the Deemed Provisions with officer comments:

(g) Any local planning policy for the Scheme area;

Comment:

As outlined above, the proposed development when considering overall aggregaate outbuilding floor area is consistent with LPP 2.1.

Consideration has been given to LPP 1.9 with respect to the continuation of the sea container on site.

Consideration has been given to LPP 1.5 with respect to the visual appearance and amenity of the transportable in situ.

(m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

Comment:

The matters contained within the above clause have been addressed within the preceding report. The built form amenity of the locality has not necessarily been damaged by the unapproved work; however the approval with remediation can uphold a higher standard of built form moving forward.

(y) Any submissions received on the application;

Comment:

No objections were raised and the south adjoining landowner has provided their written support for the proposal.

Conclusion

In summary, the proposed development is not out of character with respect to the locality and can be appropriately remediated (sea container) to remove any potential built form visual amenity impacts. As such the officer recommends that Council approve the retrospective development application subject to conditions.

STATUTORY/LOCAL LAW IMPLICATIONS

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

Local Planning Scheme No. 9

State Planning Policy 7.3 - Residential Design Codes Volume 1

Local Planning Policy 2.1 - Residential Outbuildings

Local Planning Policy 1.5 – Transportable Dwellings

Local Planning Policy 1.9 – Sea Containers

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Morton SECONDED: Councillor Vis

That Council grant Retrospective Development Approval for a Sea Container and Transportable Building (Storage) in accordance with the approved plans and subject to the following conditions:

- 1. The land use and development shall be undertaken 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. The Transportable Building and Sea Container shall not be used for permanent human habitation or any industrial or commercial purposes;
- 3. Within 120 days from the date of this approval, the Sea Container shall be either re-clad or enclosed with new material consistent with the colours and design of the adjoining outbuilding to the satisfaction of the Shire of Gingin;
- 4. Within 120 days from the date of this approval, the Transportable Building shall be re-clad in new material that is to be of a uniform colour to the satisfaction of the Shire of Gingin; and

5. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin.

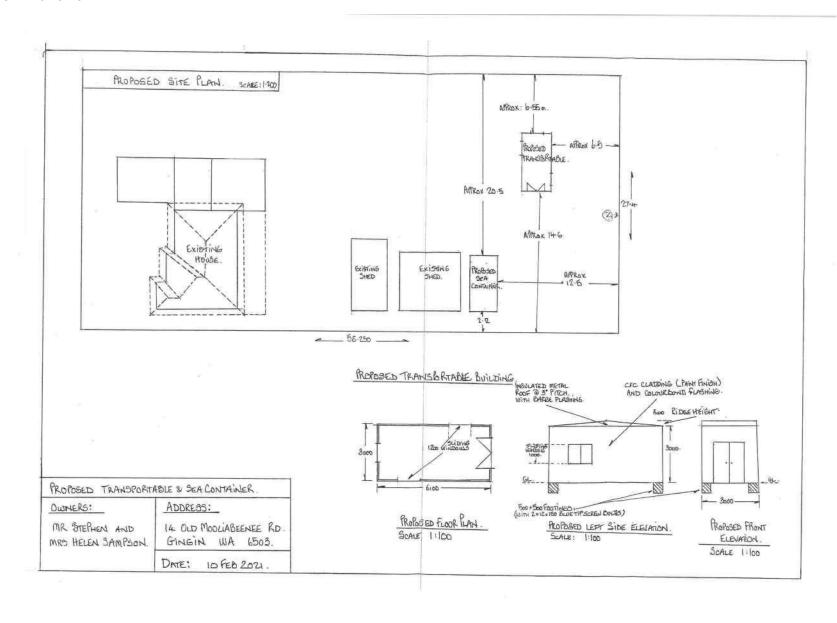
Advice Notes

- 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: Where an approval has lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 3: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011, Building Regulations 2012* and *Health Act 1911*, which are to be approved by the Shire of Gingin.
- Note 4: This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should you wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, you must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act* 1961.
- 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 allotment.
- Note 6: Should the remedial works required as part of conditions of this approval not be adhered to, the structures shall be removed from site upon written notice from the Shire of Gingin.
- Note 7: Please be advised that it is an offence to undertake development in contravention of a Development Approval under the *Planning and Development Act 2005.*

CARRIED UNANIMOUSLY

MINUTES



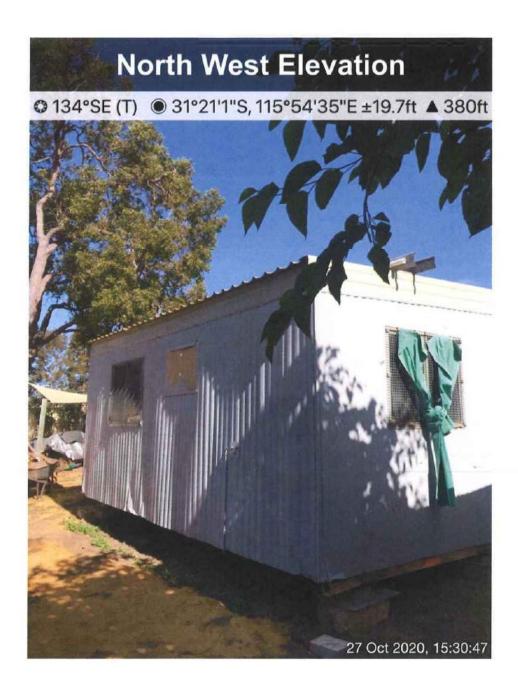


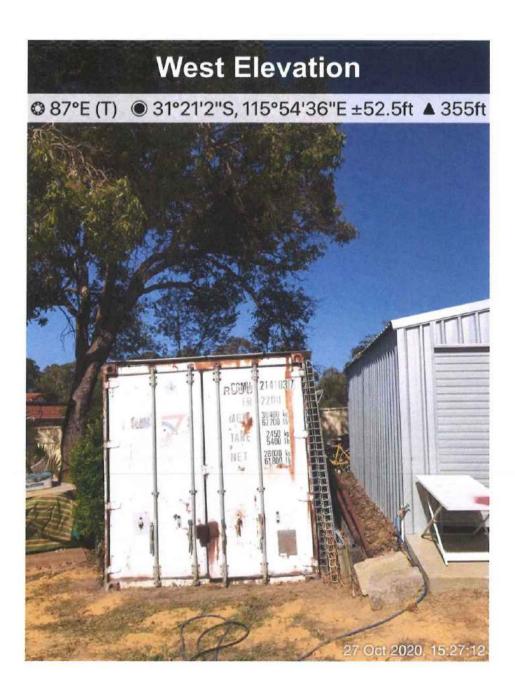
South East Elevation

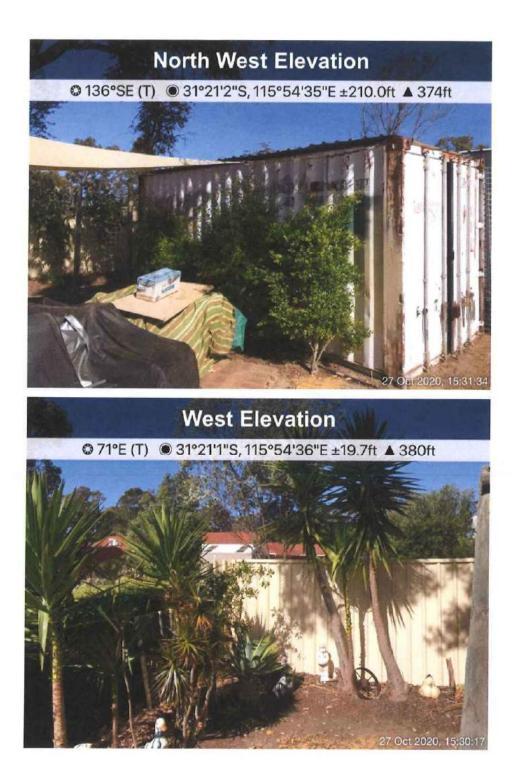


North East Elevation









11.4. OPERATIONS

11.4.1 CUNLIFFE STREET, LANCELIN - FORESHORE REDEVELOPMENT

Location:	Cunliffe Street, Lancelin	
File:	LND/54 ENV/17	
Author: Allister Butcher - Executive Manager Operations		
Report Date:	16 March 2021	
Refer:	Nil	
Appendices:	Cunliffe Street Redevelopment Design	
	2. Schedule of Submissions	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To determine the level of support from Council for the Cunliffe Street, Lancelin Redevelopment Design.

BACKGROUND

For over a decade the Shire has been working with the local community and potential funding bodies to implement a redevelopment of the carpark area on Cunliffe Street (between Grace Darling Park and Bayliss Street). The conceptual design went through a number of amendments through the consultation period previously to what the design has been based on as presented. The detailed design is, as it sounds, a detailed design of the concept design so that the Shire is able to use the detailed design for tendering and construction purposes.

Some of the works proposed to be undertaken for the redevelopment are (refer **Appendix** 1 for the design):

- Redesign of existing Cunliffe Street parking to delineate parking bays and improve access:
- Installation of grassed areas at the north and south ends of Cunliffe Street parking areas (to improve amenity and also provide rigging/derigging areas for kite and windsurfers);
- Asphalt overlays for both Cunliffe Street and Grace Darling Park parking areas;
- Remove and replace the limestone wall around the Grace Darling Park toilet block;
- Improve the façade of the limestone retaining wall from the Volunteer Marine Rescue Services (VMRS) building to the Grace Darling Park toilet block;
- Line marking for parking bays (including provision of disabled parking) at Grace Darling Park and Cunliffe Street:
- Close Hopkins Street access to beach and grass this area linking the Cunliffe Street parking area to Grace Darling Park and install a raised grassed area to the existing turfed levels at the VMRS building and dune area to the north;
- Installation of a dual use path from Bayliss Street to the existing path at Grace Darling Park near the toilet block;
- Sand renourishment across the face of Grace Darling Park;

- Installation of a boardwalk to a new gazebo located on top of the dune area opposite
 Lots 27 and 28 Cunliffe Street. The boardwalk will utilise an existing track to reduce
 environmental impacts of this aspect of the development. The boardwalk will provide
 disabled access to the gazebo; and
- Asphalt overlay for Cunliffe Street (Bayliss Street to Hopkins Street) and Hopkins Street (Cunliffe Street to Gingin Road).

The entire project has been estimated to cost \$500,000 (excluding GST) to complete.

On 24 April 2019 the Hon Christian Porter MP (Member for Pearce), announced the Federal Government would be funding \$250,000 towards the cost of the project.

The design was advertised for public comment on 15 February 2021 and closed on 28 February 2021. At the end of the advertising period 14 formal written submissions were received by the Shire. Of the 14 submissions, 7 were in support of the development as proposed, 4 were against and 3 provided general comments. The submissions can be found as **Appendix 2**.

COMMENT

Currently the detailed design for the development is 85% complete. If Council resolves to approve the design then Officers will progress the design to 100% complete. Once the final design has been received Officers will look to call for tenders to construct the redevelopment works as per the design once the funding has been released from the Federal Government. Under the funding agreement the project has to be completed by 30 June 2026.

All things going well, it is proposed that the works may commence early in the 2022 calendar year and be completed by 30 June 2022.

Given that the project value will exceed the threshold of \$250,000 under which the CEO has delegated power to accept or reject tenders, it will be necessary for the tender to be awarded by resolution of Council.

STATUTORY ENVIRONMENT

Local Government Act 1996 s3.57 Tenders for providing Goods and Services Local Government (Functions and General) Regulations 1996 Part 4 Division 2 Tenders for Providing Goods and Services

POLICY IMPLICATIONS

Council Policy 3.10 Purchasing

BUDGET IMPLICATIONS

This project has been budgeted for in the 2020/21 financial year and as such if the Design is approved by Council, the expenditure and income is proposed to be carried forward in to the 2021/22 financial year should Council approve the design.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	5. Governance
Outcome	5.1 Values – Our Organisational/ Business Values are demonstrated in
	all that we do.
Key Service	Financial Management
Areas	
Priorities	5.1.2 Increase the focus on future financial sustainability to cater for
	anticipated growth.

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Vis

That Council approve the design for the Cunliffe Street Redevelopment as per Appendix 1.

CARRIED UNANIMOUSLY

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Vis SECONDED: Councillor Johnson

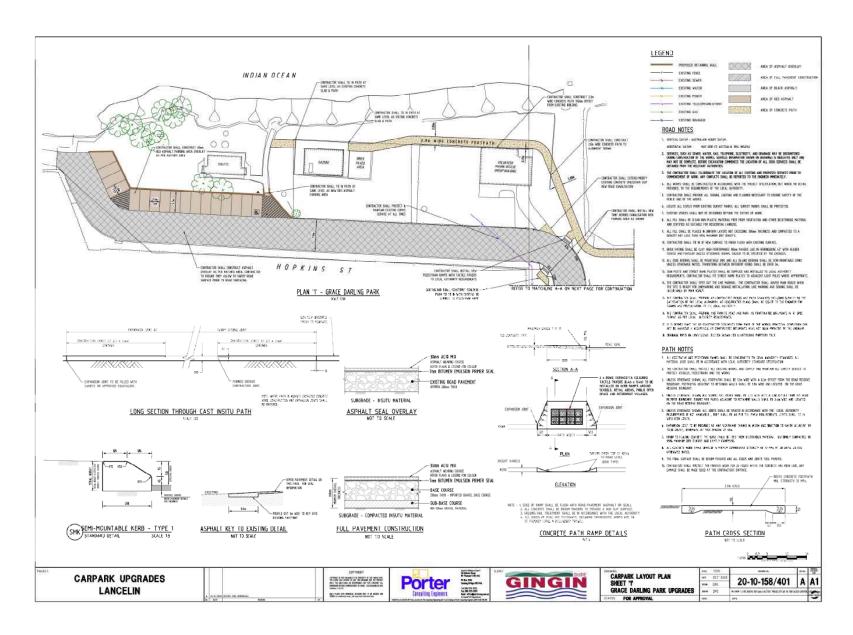
That Council agree to carry over the \$500,000 expenditure and \$250,000 income for the Cunliffe Street Redevelopment project from the 2020/21 financial year to the 2021/22 financial year.

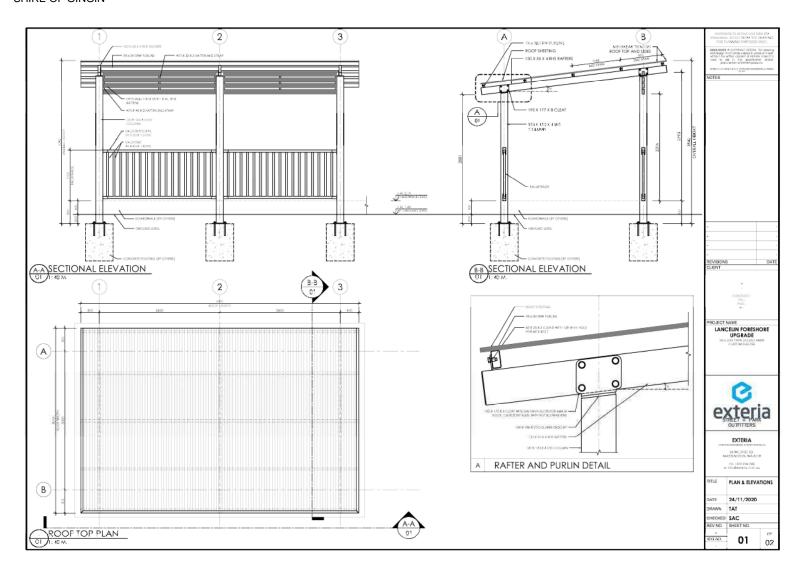
CARRIED BY ABSOLUTE MAJORITY

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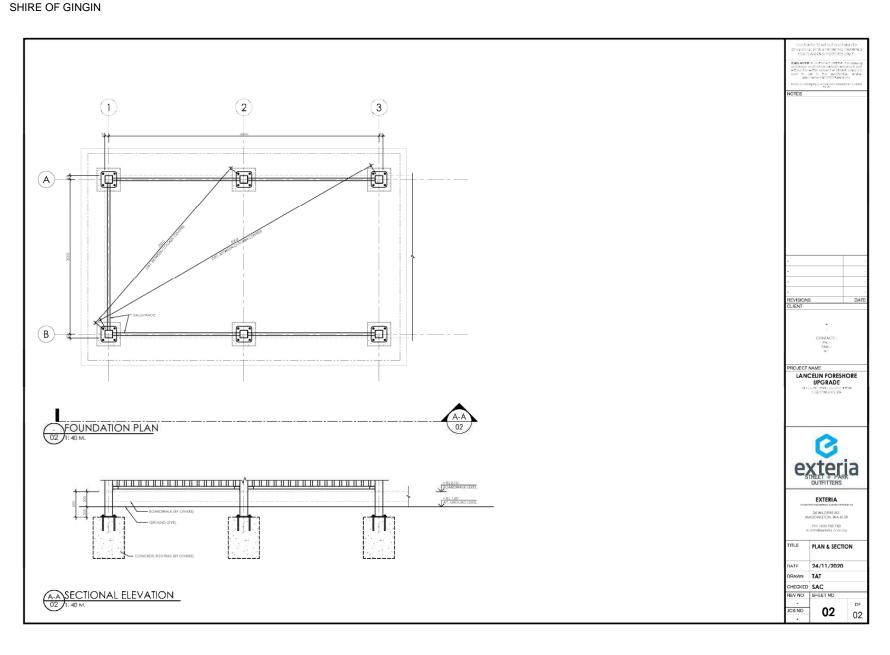
Statutory Planning Officer James Bayliss left Council Chambers at 3.40pm and did not return.

APPENDIX 1

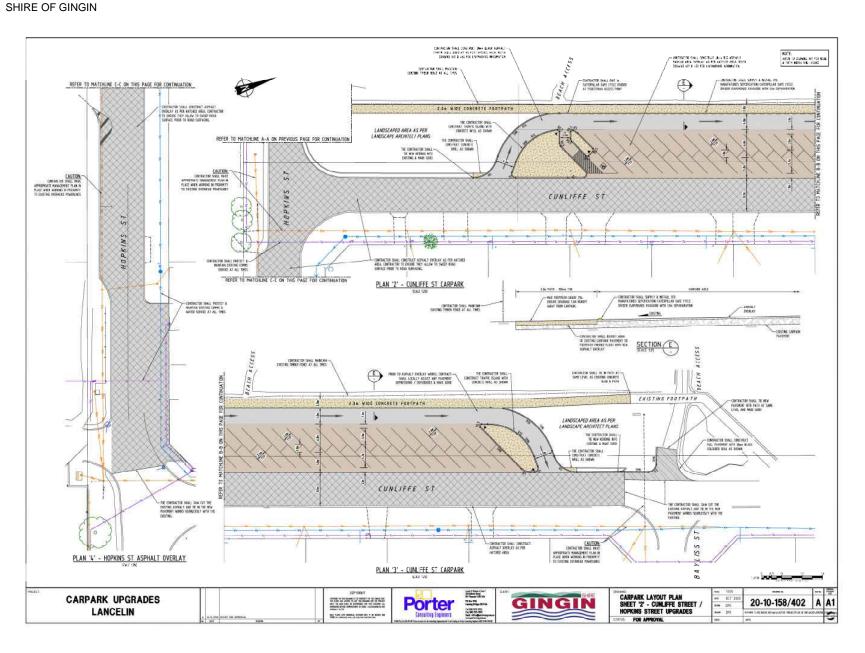


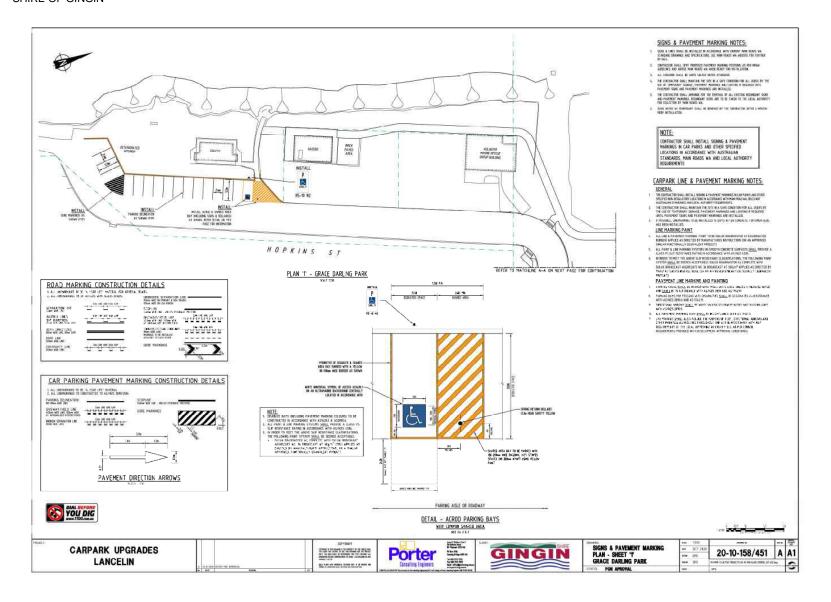


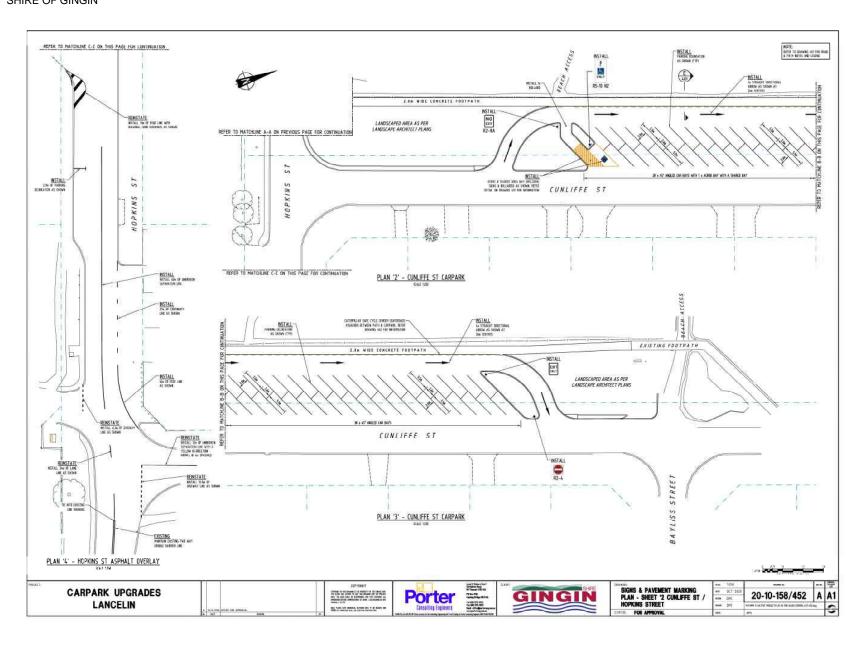
ORDINARY MEETING

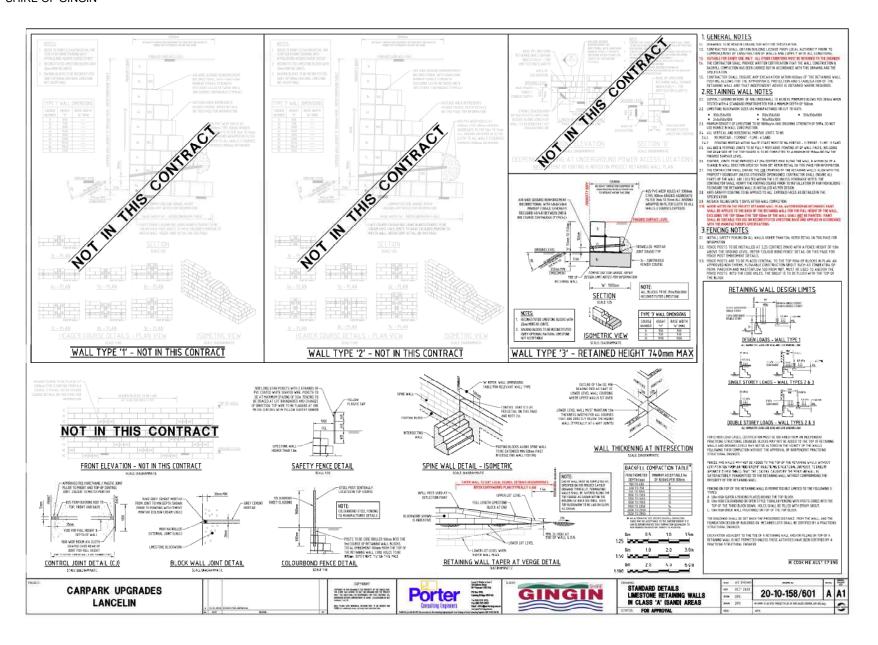


ORDINARY MEETING









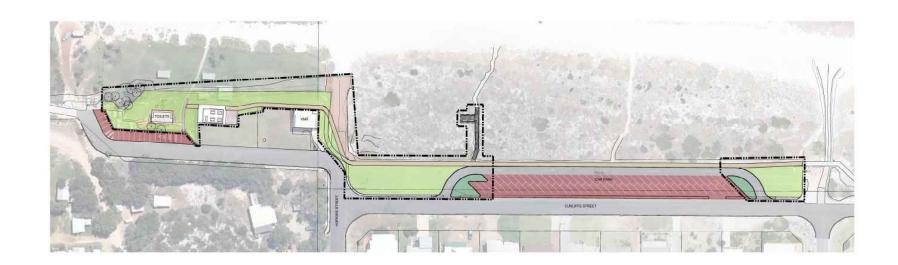
LANCELIN FORESHORE UPGRADE

LANDSCAPE ARCHITECTURAL DRAWINGS

	CONCE	PT	
DWG NO.	SHEET NAME	SCALE @ A1	REV
L0-1	COVER SHEET	N/A	Α
L1-1	LAYOUT PLAN	1:100	Α

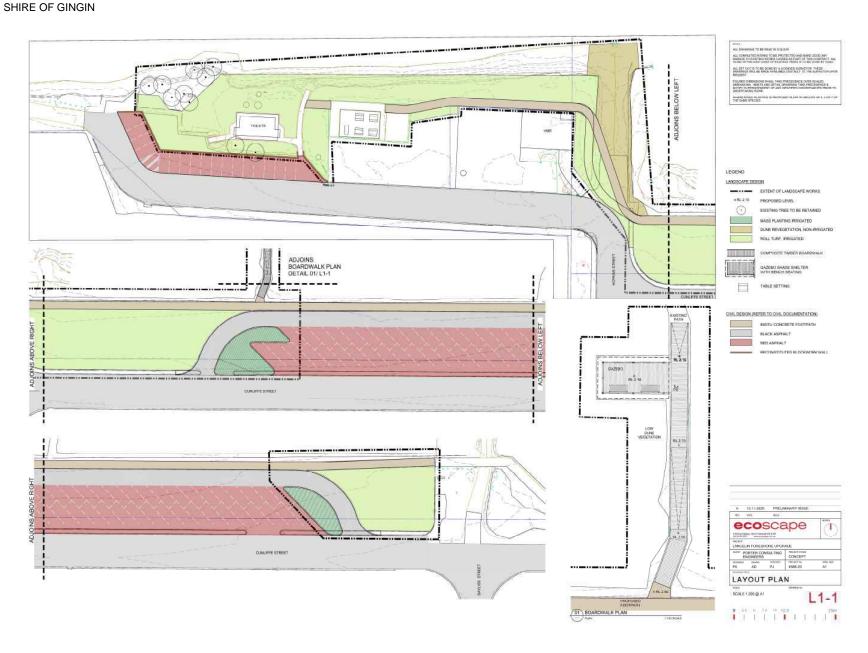


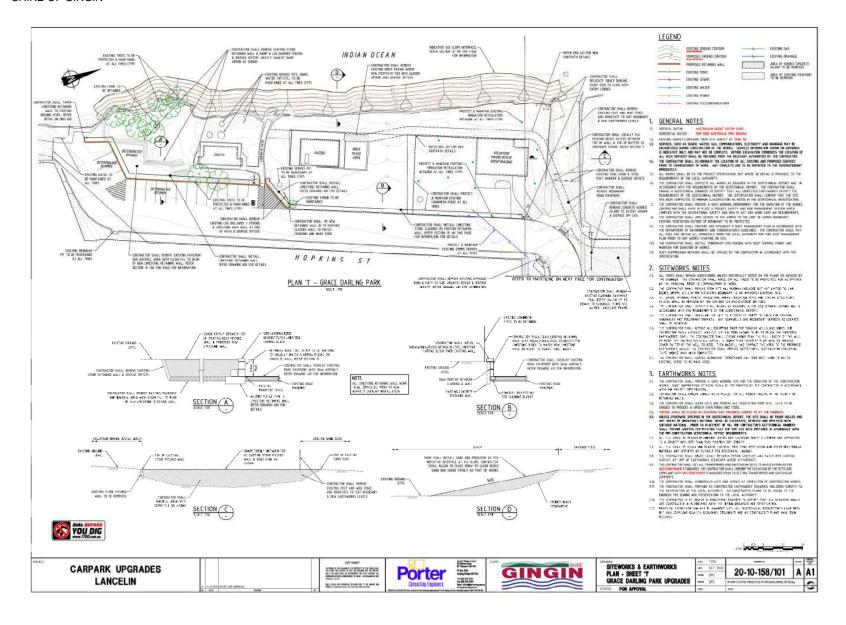
EXTENT OF LANDCAPE WORKS

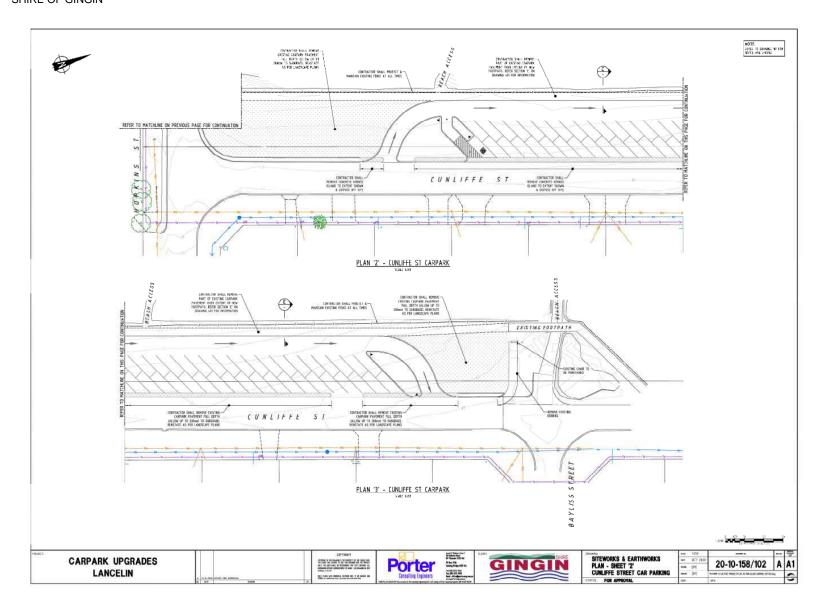




ORDINARY MEETING







APPENDIX 2

SCHEDULE OF SUBMISSIONS

LANCELIN FORESHORE DEVELOPMENT

No.	Submitter	Submission Detail
1.	Ratepayer	The submitter makes the following comment: I am writing as a concerned ratepayer of Lancelin. The Shire of Gingin have proposed a foreshore redevelopment with certain areas remaining directly on the shoreline. It also includes the reopening of the 4wd access track to Edwards Island point which is under enormous erosion pressure as it is. I am not against any
		foreshore development but this is like flogging a dead horse where the Council keep doing the same thing and it just washes away. Total waste of money.
		As you can see from the Coastal allowances map page 71 of Gingin Coastal Innundation (sic) study the new foreshore development will well and truly be gone by 2030. That is a poor investment when funds can be spent on better outcomes.
2.	Ratepayer	The submitter makes the following comment:
		Not the best. The proposal is no more than a coat of paint on existing. Better plan would be to change usage to Commercial and encourage private enterprise to establisy (sic) Tourism based businesses, such ac (sic) Coffee shops, Bakery, Clothing, eatery, Resturant (sic), etc. Something like this would bring prosperity and value to Lancelin.
3.	Ratepayer	The submitter makes the following comment:
		Fantastic
4.	Ratepayer	The submitter makes the following comment:
		Pretty good. Could have a couple more gazebo's for shade or some other form of shade large trees or shade sail.

5.	Ratepayer	The submitter makes the following comment:
		The erosion problem needs to be addressed. A permanent or at least long term solution needs to be put in place. Sand renourishment is an ongoing waste of shires resources. It is also no sure protection of the coastal assets, rather a buffer of a few days storm surge. If we see another storm surge like 2 years ago the sand will quickly go and then sea rescue building toilets etc. It would be a huge buffer to put sand bags in before the renourishment then back fill over them. They are out of sight but will give a hard line defence when the day comes and save the coastal assets. Otherwise this will be a waste of money.
6.	Ratepayer	The submitter makes the following comment:
		The carpark currently has little use except for the southern end where people park for use of the bakery and some for the use of Grace Darling Park. The probed (sic) though makes this southern carpark region grass area which would be better on the northern end. The layout of the proposed carpark is angled parking facing away from the ocean and then walk across the road access to get to the path and beach. My experience is that people would rather park facing the ocean, especially elderly and during inclement weather conditions, which would also mean that people can access the pedestrian path safely, without having to cross the carpark traffic. This is especially important for drivers and for children. Overall supportive of foreshore redevelopment yet I believe this has not being given enough detailed attention. I do have some detailed experience in the property field, hence my comments, and I have also have (sic) an understanding of the locality having owned a property in Cunliffe street for over 20 years.
7.	Ratepayer	The submitter makes the following comment:
		It's a much better option that what is currently on offer and will be warmly welcomed by locals and visitors. Of course, long term the park needs to be shored up but once fence at a time.
8.	Ratepayer	The submitter makes the following comment:
		We find it quite disturbing when this plan has been sitting on the Council books for 10 years and we are given 8 working days to lodge a submission. No time to get professional advice. Over the past 10 years 3 CEO's have come and gone, plus many Councillors and many new residents have purchased properties here who have no idea about this plan, also this plan was created when there was at least 20 metres more grass and dune protecting this area from Grace Darling Park to Edwards Island Point. So why the rush now??

		Please give the ratepayers a reasonable time to consider such huge expense in an area where all the infrastructure could be washed away by 2030? I would suggest at least another 8 days, to Monday 8th March as it is the 28th Feb is a Sunday on a long weekend. We hope you are able to facilitate this request.
9.	Politician received from Ratepayer	The submitter makes the following comment: 1. We are writing to you as concerned ratepayers' and multiple property owners' and residents of Lancelin. 2. The Shire of Gingin have proposed a foreshore redevelopment which directly exposes the development and the town to storm surge and subsequent private property and other infrastructure loss on the shoreline because they have decided to allow vehicular access to Edwards Point. 3. This absurd plan is going ahead because Council voted against the advice of their own Council Officers' recommendations and that of the local Shire appointed foreshore committee to close access to Edwards point to vehicular traffic and resolved to reopen the eroded 4wd access track to Edwards Island point which is under enormous erosion pressure even without vehicles. 4. We are not against any foreshore development and we think the original plan was ideal, but this new plan is like flogging a dead horse, where they, (the Shire of Gingin Council), keep doing the same thing over and over. It will just wash away as it always does, but this time it will a total waste of the Federal Government money you promised. There is no doubt it will wash away and this cannot be disputed based on past experience. 5. When the Council Officers' recommended closing the track the plan was to re-establish the dunes along the front of Grace Darling Park for future protection against storm surges and to move the Park back toward the caravan park into where the carpark is now and where access is for the now reopened Edward Island point access track is currently located. The old plan eliminated the Eddies Point vehicular access point and carpark and extended the park East for clarity. 6. The original plan was sensible and practical and more appealing because: a. It took the cars and vehicles off of a family beach; b. It let the sand dunes regrow from removing the daily flogging from vehicles (there is a sub group of people that don't do the right thing and they simply cannot be stopped without 24 hour mon

		7. The original and the most sensible plan gave us the six concurrent winning outcomes as noted above from your generous grant while this ridiculous and compromised replacement proposal, that goes against any practical or technical reasoning produces nothing but cars flogging up and down Eddies point and opens the Southern end of the town to inundation whilst mostly destroying the amenity of the redevelopment. 8. You can see from the Coastal allowances map page 71 of Gingin Coastal Inundation (REFER BAIRD document) study the new foreshore development will well and truly be gone by 2030. That is a poor investment when funds can be spent on the better outcomes noted at point 6 above. 9. This is a photo (page 44 BAIRD report) in the same report of the proposed reopening of the track at Edwards Island when flooded recently from a small storm surge. 10. This same report in the executive summary stated: "Inundation risk is highest for Lancelin, where the foredune provides a barrier that protects the lower lying inland areas from ocean-based flooding during extreme events. The stability of the foredune in severe storm events when subjected to elevated water level and large waves was assessed, to determine if there was potential for dune breaching which could lead to flooding of the inland area." 11. Hopefully you can see the need to be re-establishing and stabilising the frontal dunes and keeping cars away from this foredune so we can protect the town. It is absolutely essential. 12. It's simply not necessary to open just 800m of beach to vehicles as there is ample opportunity all along the beach for 4wd access just a few KM North or South of this point. It achieves no amenity or purpose to reopen it and provides a danger to people on the beach and especially children. It will only be a matter of time before something tragic happens. 13. Some (not all) of our elected Councillors' seem to be totally scared of a loudmouth or two in town by fear of being outed on social media with fake news as being anti-developme
10.	Non Ratepayer	The submitter makes the following comment:
		Not the best – any plan that does not incorporate a recreational boat ramp is not worth the paper it is printed on.

ORDINARY MEETING

SHIRE OF GINGIN

11.	Non Ratepayer	The submitter makes the following comment:
		Pretty good – the plans are great, however Dune restoration needs to also take place in front of Grace Darling Park also. Until this is done, the lawn area is only going to continue to wash away and the Shire will continue to waste money by dumping sand as a temp measure.
12.	Ratepayer	The submitter makes the following comment:
		Pretty good – I love the idea and would like to see something similar too what's on the beach on the north side. Grassed area with as many pergola type shelters and seating as possible, BBQ's, Trees and reasonable access to the beach. I don't think anything else is required at this stage.
13.	Ratepayer	The submitter makes the following comment:
		 Average – Good to see something being done to enhance the Grace Darling park area. Below are a couple of things as comment: Provide suitable wall, large bags or some form of erosion stopping at the park. The grassed area at Grace Darling Parking could be opened to the general public by removing the fence at the Lancelin Sea Search building. Those using the building can park in the carpark. The area of Hopkins street that is being closed off should be fully grassed to again provide better use by families possibly include some shade as well. Provide more seating to grassed areas. Further reduce the number of car bays and provide more grass and trees, shade shelters and possible kids playground. Prohibit cars on the beach in front of the revamped zone from Bayliss street south. Regularly remove seaweed from the beach that fouls the water and does not promote swimming especially for young families. Encourage someone to set up their coffee van.
14.	Non Ratepayer	The submitter makes the following comment: Pretty good. 1. Boardwalk is not big enough – it should be one further reaching so that there is a circular end where people can have sunset pictures (tourists etc). I am sure a tender process will weed out any extorters, though local trades should be given first opportunity as per local economy.

Disabled access to the beach seems non-existent as per diagram provided, sorely (sic) ground level decking should allow them to get to the end of the dunes if the boardwalk is not made to more an international's standard. Surely it must forge (sic) part of a Tourism stop and viewing point, investing for the greater state versus purely regional.
 Are any new business able to open as some of the local facilities are not the greatest.

11.4.2 UNBUDGETED EXPENDITURE CHERITON ROAD UPGRADE CONTRIBUTION - CLAYMONT DEVELOPMENT

File:	LND/106
Reporting Officer:	Allister Butcher - Executive Manager Operations
Report Date:	16 March 2021
Refer:	Nil
Appendices:	1. Locality Plan

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider the unbudgeted expenditure for the Shire of Gingin's contribution for the upgrade of Stage 1 of the Cheriton Road upgrade works as part of the Country Heights Estate Stage 1 subdivisional works as per the Cheriton Road Upgrade Cost Sharing Agreement (July 2016).

BACKGROUND

The Country Heights Estate (Lot 81 Cheriton Road, refer **Appendix 1** for locality plan) has been under development for approximately 20 years. At the point of being almost ready to release the lots for Stage 1 the Global Financial Crisis (GFC) struck greatly reducing the worth of the development and therefore the sale prices. There were also issues with servicing the lots with water, which was originally proposed to be sourced from the Gingin townsite and piped out to the Estate. Land tenure for pumping stations along Cheriton Road proved problematic and as such this delayed the development. The roads had been installed with some headworks including underground power and street lighting had been installed. Given all of these issues the Stage 1 works remained in place but unable to be released due to the lack of services and market availability.

In 2016 the market seemed to be picking up especially with the development of the Muchea Industrial node just south of Gingin. Claymont Development Pty Ltd (the 'Developer') sourced water within Lot 81 Cheriton Road and a service provider so the requirement to pipe water from Gingin townsite was not required. NBN has also been run from Gingin townsite in the Cheriton Road reserve and installed to all lots of Stage 1 but also provides enough capacity to service all 317 lots of the Estate.

In July 2016 the Shire renegotiated the Cheriton Road Upgrade Cost Sharing Agreement ('Agreement') which stipulates the sections of Cheriton Road to be upgraded in line with the development of the Country Heights Estate at the northern end of Cheriton Road. This was a renegotiation to the previous Agreement after the developer (Claymont Development Pty Ltd) changed the lot yield for Lot 81 Cheriton Road from approximately 170 lots (in 2006) to 317 lots (2016). The renegotiation changed the contribution levels from approximately 50% developer and 50% Shire to 95% developer and 5% Shire contribution to upgrading Cheriton Road.

As part of the Agreement the developer is to upgrade Cheriton Road in three stages:

- Stage 1
 - 2,819m from the northern extent of Marchmont Estate to Whakea Road; and
 - 392m from the unsealed section of Cheriton Road to the main access point at the southern boundary of the land.
- Stage 2
 - 1,932m from the sealed section of Cheriton Road between Whakea Road and the unsealed section of Cheriton Road.
- Stage 3
 - 1,393m which is the unsealed section of Cheriton Road from the main access point at the southern boundary of the land to the northern extent of the land.

All stages of upgrade directly relate to the stages of Development for the subdivision and the staged upgrades must be completed prior to the release of the relevant stage lots. That is, the stage 1 upgrade works must be completed prior to the Shire releasing the Stage 1 subdivision development lots. This is to ensure that the increased traffic for each of the development stages is able to use roads to a sufficient standard for the safety of all road users.

The design for the road upgrade has been approved by the Shire of Gingin to ensure that the design for the road is to a suitable standard considering all relevant Austroads and Main Roads WA Specifications. The cost to complete the Stage 1 works of the Cheriton Road upgrade has cost \$2,118,620 (excluding GST) this means that the Shire's contribution (5%) for the works is valued at \$105,931 (excluding GST).

The staged upgrade of Cheriton Road has been based on ensuring that the Developer provides an upgrade of Cheriton Road so as to provide safe access for new (and existing residents) as the traffic volumes increase in line with the development and that the developer provides a suitable level of contribution to these works. Considering the existing traffic and the proposed increase of traffic related to the development a 95% contribution by the Developer is a good outcome for the Shire.

COMMENT

At August 2020 the works were almost complete (approximately 85%) for the Stage 1 Cheriton Road Upgrade works. In order to take advantage of the Covid-19 land and building incentives (to stimulate the building industry) the Shire allowed, subject to provision of a bond by the Developer to ensure the upgrade works were complete (prior to October 2020), the release of the Stage 1 Country Heights Estate lots prior to Practical Completion for Cheriton Road Stage 1 upgrade works.

The Stage 1 Cheriton Road Upgrade was complete by October 2021 so the Bond was not required. Due to the early release of the lots there was a marked uptake on lots within Stage 1 prior to December 2020 which will be of benefit to the Shire in terms of rates revenue in time. The Cheriton Road Stage 1 upgrade works have been assessed as being completed to a good standard.

Previously there has been an annual allocation of \$75,000 carried forward since the 2017/18 financial year as an estimate for the Shire's contribution for the Cheriton Road upgrade works. Unfortunately, this \$75,000 was not carried forward to the 2020/21 fiscal year and as such there is a requirement to find the funds within the current 20/21 budget allocations to fund the \$105,931 shortfall.

The shortfall is required to be funded through direct (contract/material) costs only as the indirect (wages, overheads and plant) costs are internal costs that have been allocated across the budget and should not be reallocated as direct costs.

There have been some direct cost savings encountered within the current budget Capital Roadworks Program. These savings have been outlined in the table below:

Acct No.	Description	Budget (direct costs)	Actual (direct costs)	Variance
12259144	Dooling Road - reseal	\$53,690	\$24,413	\$29,277
12259262	Red Gully Road - reseal	\$126,240	\$85,794	\$40,446
12259275	Strickland Rd - resheet	\$116,705	\$40,400	\$76,305
			TOTAL	\$146,028

These savings provide more than enough funds to finance the Shire's 5% contribution for the Stage 1 Cheriton Road upgrade works of \$105,931. As such it is proposed the 2020/21 budget be amended as per the table below to fund the Cheriton Road Stage 1 upgrade works:

Acct No.	Description	Current Budget	Revised Budget	Surplus/Deficit
12259144	Dooling Road - reseal	\$53,690	\$24,413	\$29,277
12259262	Red Gully Road - reseal	\$126,240	\$85,794	\$40,446
12259275	Strickland Rd - resheet	\$178,330	\$142,122	\$36,208
NEW	Payment to Claymont Development Pty Ltd	\$0	-\$105,931	-\$105,931
Net Effect				NIL

STATUTORY ENVIRONMENT

Local Government Act 1995

s. 6.8 Expenditure from municipal fund not included in annual budget

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

If the 5% funding contribution for the Cheriton Road upgrade works were to be endorsed by Council, a budget amendment would be required and it is proposed to be as per the table below:

Acct No.	Description	Current Budget	Revised Budget	Surplus/Deficit
12259144	Dooling Road - reseal	\$53,690	\$24,413	\$29,277
12259262	Red Gully Road - reseal	\$126,240	\$85,794	\$40,446
12259275	Strickland Rd - resheet	\$178,330	\$142,122	\$36,208
	Payment to Claymont			
NEW	Development Pty Ltd	\$0	-\$105,931	-\$105,931
			Net Effect	NIL

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	5. Governance	
Outcome	5.1 Values - Our Organisational/ Business Values are demonstrated in	
	all that we do.	
Key Service	Financial Management	
Areas		
Priorities	5.1.2 Increase the focus on future financial sustainability to cater for	
	anticipated growth.	

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Court

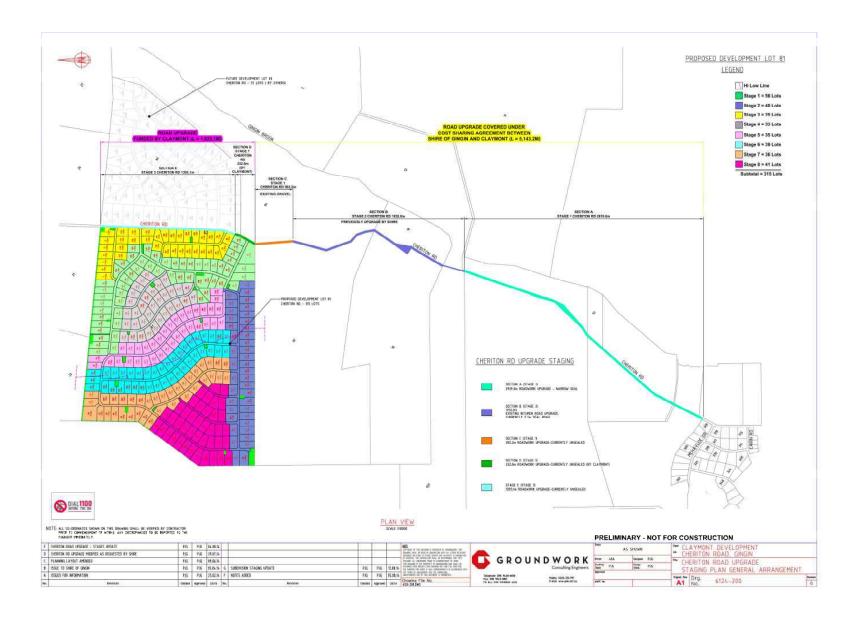
That Council:

- 1. Approve the unbudgeted expenditure of \$105,931 (excluding GST) to Claymont Development Pty Ltd for the Shire's 5% contribution to the Stage 1 Cheriton Road Upgrade works as per the Cheriton Road Upgrade Cost Sharing Agreement (2016); and
- 2. The 2020/21 budget be amended as per the table below:

Acct No.	Description	Current Budget	Revised Budget	Surplus/Deficit
12259144	Dooling Road - reseal	\$53,690	\$24,413	\$29,277
12259262	Red Gully Road - reseal	\$126,240	\$85,794	\$40,446
12259275	Strickland Rd - resheet	\$178,330	\$142,122	\$36,208
NEW	Payment to Claymont Development Pty Ltd	\$0	-\$105,931	-\$105,931
			Net Effect	NIL

CARRIED BY ABSOLUTE MAJORITY 8-0

APPENDIX 1



11.4.3 GINGIN OUTDOOR ACTIVITY SPACE - BUDGET VARIATION

Location:	Lot 66 Weld Street, Gingin WA 6503
	Lot 115 Jones Street, Gingin WA 6503
File:	A4074, A4076
Author:	Renier De Beer – Coordinator of Assets/Projects
Reporting Officer:	Allister Butcher – Executive Manager Operations
Report Date:	16 March 2021
Appendices:	

DISCLOSURES OF INTEREST

Councillor Vis disclosed an Impartiality Interest in relation to this matter as she lives in Ocean Farm and works closely with the Ocean Farm Community and Recreation Association.

Councillor Balcombe disclosed a Financial Interest in relation to Item 11.4.3 as a paid employee of a major sponsor of the project (Bendigo Bank) and as a member of the GOAS Committee.

Councillor Balcombe left Council Chambers at 3.51pm.

COUNCIL RESOLUTION

MOVED: Councillor Rule SECONDED: Councillor Morton

That Councillor Balcombe be permitted to remain in Chambers and participate in discussions and vote with respect to the GOAS Project, on the grounds that her Financial Interest is so trivial or insignificant in nature as to be unlikely to influence her conduct in relation to the matter.

CARRIED UNANIMOUSLY

Cr Balcombe returned to Council Chambers at 3.53pm and was advised of Council's decision.

PURPOSE

For Council to consider a budget variation for the Gingin Outdoor Activity Space project.

BACKGROUND

The Gingin Outdoor Activity Space (GOAS) is a major infrastructure project comprising of various recreational/leisure equipment and facilities located on Lot 66 Weld Street and Lot 115 Jones Street, Gingin. This project is jointly funded by the GOAS Community Working Group, Bendigo Bank, Department of Infrastructure, Transport, Regional Development and Communications (DITRDC), Shire of Gingin, and Developer Trust Funding (in lieu of public open space specific to Gingin).

The Gingin Outdoor Activity Space will provide significant benefit to the communities of the Shire of Gingin through enhanced community infrastructure that has improved usability and financial sustainability, will support and engage young people and children, and drive economic development through service delivery.

COMMENT

The allocated budget and funding for the Gingin Outdoor Activity Space allowed the majority of components of the project scope including optional extras (Ablution Facility and Shade Sails) to be incorporated at the point of contract award. In-kind works were to be provided towards this project from the GOAS Community Working Group, Gingin community and Shire of Gingin in addition to the allocated cash funding components. Some of the accounted in-kind works were unable to be secured and as such had to form part of the project scope/contract as cash funded components.

Construction conditions encountered onsite have varied considerably to the soil classifications for the site and the geotechnical testing has varied notably from the original scale as per the submitted proposal by the contractor. This variance in conditions has resulted in additional requirements that include but are not limited to:

- Added Engineering Compliance;
- Design compliance; and
- Difficult and extensive machine digging inclusive of rock breaking equipment that was not previously needed.

Although the varied conditions have not impacted on the completion date of the project, additional expenditure is require in order to address the issues encounter. As a result, the contractor has presented a set of variation costs required to progress project completion and achieve desired outcomes. The total funding budget (inclusive of in-kind works) and expected expenditure are shown table below:

Funding Body	Funding Amount (ex GST)	Total Expenditure (ex GST)
GOAS Community Working Group	\$38,000	The total expenditure includes all variations presented to date.
Bendigo Bank	\$150,000	
State Government (DITRDC)	\$601,890	
Developer Trust	\$34,891	
Shire of Gingin	\$220,000	
TOTAL	\$1,044,781	\$1,068,803.90

ORDINARY MEETING SHIRE OF GINGIN 16/03/2021

Officers have reviewed the variation costs comprehensively to ensure that the presented items are consistent with desired project outcomes and to verify that they are required. As part of the review, Officers have negotiated with the principal contractor to identify alternative approaches (including in-kind contributions and positive variations) to offset the unforeseen additional requirements and expenditures, but this has provided a marginal overall benefit, and it has been determined that an additional amount of \$45,000 will be required to complete the project.

It is proposed that these additional funds can be sourced from the 2020/21 budgets for the Ocean Farm Playground and the Playground Strategic Plan.

As part of the Playground Strategic Plan process, a playground inspection specialist was engaged to provide a scope for an updated maintenance/replacement program. After the completion of the inspections, reporting and minor repairs/replacements of infrastructure, a cost saving of \$25,000 (ex GST) has been achieved for the Playground Strategic Plan project. The Ocean Farm Playground replacement project identified under the previous playground replacement program has been scheduled for renewal in the current 2020/21 budget, however the updated maintenance/replacement program identified an additional four to five years of remaining useful life for the asset. The Ocean Farm Playground replacement has a budgeted amount of \$20,000 (ex GST).

It is proposed to utilise the cost savings from the Playground Strategic Plan and reallocation of funds from Ocean Farm Playground replacement to offset the additional unforeseen requirements and expenditure for the Gingin Outdoor Activity Space as per the table below:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
1113593660	Ocean Farm Playground MUN	\$20,000	\$0	-\$20,000
1113055270	Playground Strategic Plan	\$30,000	\$5,000	-\$25,000
1113591130	Regional Playground MUN	\$1,025,890	\$1,070,890	+45,000
			Net Effect	NIL

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995
Part 6 – Financial management
Division 4 – General financial provisions

Section 6.8 – Expenditure from municipal fund not included in annual budget.

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Should Council support this proposal to utilise the cost savings from the Playground Strategic Plan and reallocation of funds from Ocean Farm Playground, the adopted 2020/21 Budget will be amended as follows:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
1113593660	Ocean Farm Playground MUN	\$20,000	\$0	-\$20,000
1113055270	Playground Strategic Plan	\$30,000	\$5,000	-\$25,000
1113591130	Regional Playground MUN	\$1,025,890	\$1,070,890	+45,000
			Net Effect	NIL

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	Community Wellbeing			
Objective	Objective 1 - To support the Shire of Gingin community to be			
	inclusive, vibrant, healthy and safe through the Shire's service			
	delivery.			
Outcome	1.1 Inclusive Our community has access to a range of community			
	programs, services and initiatives that support wellbeing and			
	inclusion.			
Priorities	1.1.2 Encourage programs and facilities that engage and support			
	children and young people to stay in the Shire.			
Focus Area	Infrastructure & Development			
Objective	Objective 3 - To effectively manage growth and provide for community			
	through the delivery of community infrastructure in a financially			
	responsible manner.			
Outcome	3.2 Community Infrastructure The Shire provides fit for purpose			
	community infrastructure in a financially responsible manner.			
Key Service	Community Infrastructure			
Areas				
Priorities	3.2.1 Develop and plan community infrastructure to improve use and			
	financial sustainability.			
Focus Area	Economic Development			
Objective	Objective 4 - To support economic development through the Shire's			
	service delivery.			
Outcome	4.1 Tourist Playground An internationally acclaimed tourist			
	playground.			
Key Service	Economic Development & Tourism Infrastructure			
Areas				
Priorities	4.1.3 Source funding for the Gingin Regional Children's Playground.			

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

The Communications and Marketing Officer entered Council Chambers at 4.02pm.

OFFICER RECOMMENDATION

That Council agree to amend the adopted 2020/21 Budget by reallocating funds set aside for the Ocean Farm Playground and the Playground Strategic Plan to the Regional Playground in accordance with the following table:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
1113593660	Ocean Farm Playground MUN	\$20,000	\$0	-\$20,000
1113055270	Playground Strategic Plan	\$30,000	\$5,000	-\$25,000
1113591130	Regional Playground MUN	\$1,025,890	\$1,070,890	+45,000
			Net Effect	NIL

SUBSTANTIVE MOTION WITH AMENDMENT

Replace reference to Ocean Farm Playground account in first line of table with reference to Land and Building Reserve.

MOVED: Councillor Peczka SECONDED: Councillor Johnson

That Council agree to amend the adopted 2020/21 Budget by reallocating funds from the Land and Building Reserve and the Playground Strategic Plan to the Regional Playground in accordance with the following table:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
11369216	Land and Building Reserve	\$1,103,924	\$1,083,924	-\$20,000
1113055270	Playground Strategic Plan	\$30,000	\$5,000	-\$25,000
1113591130	Regional Playground MUN	\$1,025,890	\$1,070,890	+45,000
			Net Effect	NIL

CARRIED BY ABSOLUTE MAJORITY

8-0

Reason for Amendment

Council did not believe it was appropriate to remove funds from another community project in order to provide unbudgeted expenditure for the GOAS project.

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. COUNCILLORS' OFFICIAL REPORTS

13.1 SCOUTS WA YOUTH AWARD 2021 CEREMONY - 21 FEBRUARY 2021

File:	GOV/20-1
Councillor:	Johnson
Report Date:	16 March 2021

Councillor Johnson advised he attended the Scouts WA Youth Awards 2021 Ceremony on Sunday, 21 February, 2021, on behalf of the Shire President. There were 4 young people from Gingin Shire who received awards. They were

- 1. Niamh Allen-Brown
- 2. Kailyn Ball
- 3. Fletcher Howard
- 4. Declan Kabelka

Niamh and Kailyn were both awarded the Australian Scout Medallion for 2020, which is the 'highest award that can be earned in the Scout Section, and is considered a pinnacle of Scouting at this stage'. Fletcher Howard was awarded a Joey Scout Challenge Award for 2020 and Declan Kabelka was awarded a Cub Scout Grey Wolf Award for 2020.

Councillor Johnson extended his congratulations to each of them and expressed his sentiment that he was sure that it won't be the last award they receive. He extended a further congratulation to Gingin's Community Citizen of the Year 2020, Jane Taylor, who is the Scout Leader.

13.2 2021 INTERNATIONAL WOMEN'S DAY LUNCH - 8 MARCH 2021

Location:	Cu@Park, Gingin
File:	GOV/6
Councillor:	Balcombe
Report Date:	16 March 2021

I was invited to speak at an Intrnational Women's Day lunch for the women who work for Costa Berries yesterday at CU@Park. It was great to get to meet a diverse group of women and hear about how Costa consider women in the workplace, and for me to speak about community, family and volunteering.

It was an enjoyable couple of hours.

13.3 SEABIRD PROGRESS ASSOCIATION - ANNUAL GENERAL MEETING - 27 FEBRUARY 2021

File:	GOV/20-1
Councillor:	Johnson
Report Date:	16 March 2021

I attended the Seabird Progress Association Annual General Meeting on 27 February 2021, at which a new President and Vice President were appointed.

14. <u>NEW BUSINESS OF AN URGENT NATURE</u>

Nil

15. MATTERS FOR WHICH MEETING IS TO BE CLOSED TO THE PUBLIC

Nil

16. CLOSURE

There being no further business, the Shire President declared the Meeting closed at 4:15 pm.

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, 20 April 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 March 2021.

Councillor C W Fewster Shire President 20 April 2021