



MINUTES

ORDINARY MEETING

OF COUNCIL

15 OCTOBER 2019



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FOR
ORDINARY MEETING OF
COUNCIL
HELD ON 15 OCTOBER 2019**

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SHIRE OF GINGIN

MINUTES OF THE ORDINARY MEETING OF THE SHIRE OF GINGIN HELD IN THE COUNCIL CHAMBER ON TUESDAY, 15 OCTOBER 2019 AT 3.03 PM

DISCLAIMER

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

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

ORDER OF BUSINESS

1. DECLARATION OF OPENING

The Shire President declared the meeting open at 3.03pm and welcomed those in attendance.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

2.1 ATTENDANCE

Councillors – I B Collard (Shire President), J W Elgin (Deputy Shire President), J Court, C W Fewster, F J Johnson, J C Lobb, J E Morton, F J Peczka and J K Rule.

Staff – A Cook (Chief Executive Officer), Z Edwards (Acting Executive Manager Corporate and Community Services), A Butcher (Executive Manager Operations), B Kelly (Executive Manager Regulatory and Development Services), J Bayliss (Acting Manager Statutory Planning), M Tallon (Statutory Planning Officer) L Burt (Governance Officer) and O Edwards (Minute Officer).

Gallery – There were 16 members of the public present in the Gallery.

2.2 APOLOGIES

Nil

2.3 LEAVE OF ABSENCE

Nil

3. DISCLOSURES OF INTEREST

3.1 Aaron Cook - Chief Executive Officer Item 11.1.3 Proposed Disposition of Lots 402 and 125 Brockman Street, Gingin

The Chief Executive Officer declared an impartiality interest in Item 11.1.3 due to the fact he is a paying member of Gingym.

3.1 James Bayliss - Acting Manager Statutory Planning Item 11.1.3 Proposed Disposition of Lots 402 and 125 Brockman Street, Gingin

The Acting Manager Statutory Planning declared an impartiality interest in Item 11.1.3 due to the fact he is a paying member of Gingym.

4. PUBLIC QUESTION TIME

4.1 RESPONSES TO PUBLIC QUESTIONS PREVIOUSLY TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

Nil

5. PETITIONS, DEPUTATIONS AND PRESENTATIONS

5.1 PETITIONS

Nil

5.2 DEPUTATIONS

5.2.1 Item 11.3.1 Implementation and Agreed Treatment Option for the Lancelin Off-Road Vehicle Area Risk Assessment

Speaker/s: Darren Gerrand

The Coordinator of Ranger Services and the Senior Ranger entered Chambers at 3.14pm.

5.2.2 Item 11.3.1 Implementation and Agreed Treatment Option for the Lancelin Off-Road Vehicle Area Risk Assessment

Speaker/s: John McKeating

The Senior Ranger left Chambers at 3.20pm and returned at 3.21pm.

5.2.3 Item 11.3.1 Implementation and Agreed Treatment Option for the Lancelin Off-Road Vehicle Area Risk Assessment

Speaker/s: Bevan Henderson

5.3 PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Court

That the Minutes of:

- 1. The Ordinary Council meeting held on 17 September 2019; and**
- 2. The Special Council meeting held on 1 October 2019 be confirmed.**

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 REVIEW OF TERMS OF REFERENCE - COUNCIL COMMITTEES AND WORKING GROUPS**

File:	GOV/33
Author:	Lee-Anne Burt – Governance Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	15 October 2019
Refer:	Nil
Appendices:	<ol style="list-style-type: none">1. Amended Terms of Reference – Audit and Governance Committee2. Amended Terms of Reference – Bush Fire Advisory Committee3. Amended Terms of Reference – Guilderton Caravan Park Advisory Committee4. Amended Terms of Reference – Local Emergency Management Committee5. Amended Terms of Reference – Plant Committee6. Amended Terms of Reference – Gingin Outdoor Activity Space Technical Working Group

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider reviewing the Terms of Reference (TOR) for each of Council's committees, and those working groups for which TOR have been established.

BACKGROUND

It is Council's usual practice to undertake a review of TOR prior to appointing new committee and working group members at the first meeting of Council following an ordinary local government election. The review enables Council to ensure that TOR are still appropriate and relevant to the needs of the committees and working groups to which they relate. The process also provides an opportunity for Council to undertake an assessment of the various committees and working groups themselves.

The 2019 local government elections will take place on Saturday, 19 October 2019 and a Special Council meeting will be held on Tuesday, 22 October 2019 for the purpose of electing the Shire President and Deputy Shire President, allocation of Councillor seating in Council Chambers and appointment of representatives to Council committees and external bodies.

COMMENT

Details of proposed amendments are as follows:

1. Audit and Governance Committee (Appendix 1)

- a. Amend Membership cl. 1 to increase Committee membership from five elected members to all elected members.

This suggestion has arisen following Council's decision at its meeting on 19 January 2019 to include coordination of the CEO's performance review process as a function of the Audit and Governance Committee. The Committee is responsible for presenting a recommendation to Council for formal consideration at the conclusion of the CEO's annual performance review.

It is apparent that most Councillors would like to be able to participate in all phases of the review process.

The inclusion of all Councillors as members of an Audit Committee is not unusual and is a practice followed by a number of local governments in Western Australia.

- b. Delete Membership cl. 4 with reference to attendance by deputy members.

This clause will become redundant as a result of the proposed change to the Committee membership.

- c. Amend Operating Procedures cl. 1a) to specify that the Shire President will fill the role of Presiding Member for the Committee, rather than requiring the Committee to conduct an election for this position.

In the event that Council agrees to amend the Committee membership to include all elected members, then it is considered appropriate that the Shire President be assigned the role of Presiding Member.

- d. Delete Operating Procedures cl. 1b) requiring the CEO to conduct the election of the Presiding Member and Deputy Presiding Member.

The amendment suggested in c. (above) will remove the need for an election process to be conducted.

- e. Insert new Operating Procedures cl. 1c) to specify that the Deputy Shire President will fill the role of Deputy Presiding Member.

See comment for c. (above).

- f. Amend Operating Procedures cl. 2b) to recognise that Committee meetings can be called by a written request of the Presiding Member to the Chief Executive Officer, as well as by a decision of Council or the Committee.

In reality, most of the Shire's committees meet on an as required basis, sometimes at short notice. That being the case, it often isn't possible or practical to obtain a Council or committee resolution to call a meeting.

2. Bush Fire Advisory Committee (Appendix 2)

Amend Operating Procedures cl. 2b) to allow for Committee meetings to be scheduled by a written request of the Presiding Member to the CEO, as well as by a decision of Council or the Committee

3. Gingin Retirement Village Committee

The Gingin Retirement Village Committee was established by Council in December 2011 for the purpose of facilitating retirement accommodation in the Gingin townsite. The Committee membership currently consists of the Shire President and four Councillors, and up to six members of the Gingin Pensioners' Social Club Inc.

In the years immediately following its establishment, the Committee did undertake some valuable work in exploring various options for retirement accommodation to service the Gingin community, primarily focussed on the former medical centre site in Robinson Street. However, these proposals were ultimately found to be unviable for a number of reasons outside the control of either the Committee or Council.

The Committee has not met in nearly four years, and over that time increasing interest has been expressed by the private sector with respect to the establishment of retirement village-style facilities in the community.

It is therefore considered that the Committee has fulfilled its role to the best of its ability, and should be disbanded.

4. Gingin Water Advisory Committee

The Gingin Water Advisory Committee was originally established in July 2017 for a trial period of 12 months, with the intention that the Committee's operations would be reviewed by Council in July 2018. This review was not carried out as planned, however the Committee has only held two meetings, with the most recent being in October 2018.

The role of the Committee as stated in its TOR is to advise Council and the Shire of Gingin community on matters relevant to understanding and protecting the water resource of the Shire. In agreeing to establish the Committee for a trial period, Council made it clear that the Committee membership must include an appropriately qualified representative from the Department of Water in recognition of the fact that the Department has direct control over all water-related issues in the Shire.

It has become apparent that, in reality, there is little that a Committee of Council can achieve in this space without significant support and buy-in from the Department of Water, which has not been forthcoming to date. It would be fair to say that this has led to some frustration on the part of Committee members.

In view of the above, it is recommended that the Committee be disbanded.

5. Guilderton Caravan Park Management Committee (Appendix 3)

- a. Amend the Committee title to Guilderton Caravan Park Advisory Committee.

This amendment has been proposed in recognition of the fact that the Committee does not in fact play any role in the day-to-day management of the Guilderton Caravan Park, although it may provide input on any issues related to the management and operations of the Park that are presented to it by Administration.

- b. Amend Operating Procedures cl. 1a), 1b), 1e) and 1f) to recognise that there is no legislative requirement for the Committee to elect a Deputy Presiding Member unless it wishes to do so.
- c. Amend Operating Procedures cl. 2b) to allow for Committee meetings to be scheduled by a written request of the Presiding Member to the Chief Executive Officer, as well as by a decision of Council or the Committee.

6. Local Emergency Management Committee (Appendix 4)

- a. Amend cl. 1 under Membership to insert the position of Community Services and Events Officer (Local Recovery Coordinator) as a Voting Member and update Non-Voting Members to show Image Resources rather than Empire Oil Company (WA).

The position of Local Recovery Coordinator for the Shire of Gingin is now shared by the Shire's Coordinator Community Development and Services and Community Services and Events Officer.

- b. Amend Operating Procedures cl. 2b) to allow for Committee meetings to be scheduled by a written request of the Presiding Member to the Chief Executive Officer, as well as by a decision of Council or the Committee.

7. Plant Committee (Appendix 5)

- a. Amend Operating Procedures cl. 1a), 1b), 1e) and 1f) to recognise that there is no legislative requirement for the Committee to elect a Deputy Presiding Member unless it wishes to do so.
- b. Amend Operating Procedures cl. 2b) to allow for Committee meetings to be scheduled by a written request of the Presiding Member to the Chief Executive Officer, as well as by a decision of Council or the Committee.

8. Gingin Outdoor Activity Space Technical Working Group (Appendix 6)

Delete Operating Procedures cl. 2d), which currently requires draft agendas and minutes to be reviewed and distributed by the Presiding Member.

The preparation and distribution of committee and working group agendas and minutes is an operational task and is the responsibility of the Shire Officer appointed to provide technical advice and guidance to the committee or working group. It is inappropriate to assign any part of this responsibility to a committee or working group member.

Operating Procedures cl. 2c) specifies that it is the Presiding Member's duty to ensure that notes of meetings are kept (there is no requirement for working groups to keep formal minutes), and that these notes are circulated to members of the Working Group. This is in keeping with similar clauses in TOR for other committees and working groups.

STATUTORY ENVIRONMENT

Local Government Act 1995

Part 5 – Administration

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

Section 5.8 – Establishment of committees

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Elgin

That Council:

1. Agree to increase the membership of the Audit and Governance Committee from five elected members to nine elected members;
2. Agree to disband the Gingin Retirement Village Committee;

3. Agree to disband the Gingin Water Advisory Committee;
4. Agree to rename the Guilderton Caravan Park Management Committee as the Guilderton Caravan Park Advisory Committee;
5. Agree to amend the voting membership of the Local Emergency Management Committee by:
 - i. including the position of Community Services and Events Officer (Local Recovery Coordinator);
 - ii. including Image Resources; and
 - iii. deleting Empire Oil Company (WA); and
6. Adopt the various Terms of Reference shown as Appendices 1-6 incorporating the above amendments and further amendments as referenced in the Officer's Report.

AMENDMENT

MOVED: Councillor Peczka SECONDED: Councillor Johnson

Insert dot point 7 to read as

"7. Request that Administration investigate the re-identification of the Coastal Erosion Working Group to an advisory committee of council with a report to be prepared for Council's consideration."

CARRIED UNANIMOUSLY

THE AMENDMENT WAS INCORPORATED INTO THE SUBSTANTIVE MOTION

COUNCIL RESOLUTION

MOVED: Councillor Rule SECONDED: Councillor Elgin

That Council:

- 1. Agree to increase the membership of the Audit and Governance Committee from five elected members to nine elected members;**
- 2. Agree to disband the Gingin Retirement Village Committee;**
- 3. Agree to disband the Gingin Water Advisory Committee;**
- 4. Agree to rename the Guilderton Caravan Park Management Committee as the Guilderton Caravan Park Advisory Committee;**
- 5. Agree to amend the voting membership of the Local Emergency Management Committee by:**

- i. including the position of Community Services and Events Officer (Local Recovery Coordinator);
 - ii. including Image Resources; and
 - iii. deleting Empire Oil Company (WA);
6. Adopt the various Terms of Reference shown as Appendices 1-6 incorporating the above amendments and further amendments as referenced in the Officer's Report; and
7. Request that Administration investigate the re-identification of the Coastal Erosion Working Group to an advisory committee of Council with a report to be prepared for Council's consideration.

CARRIED UNANIMOUSLY

REASON FOR AMENDMENT

Council was of the view that the role of the Coastal Erosion Working Group was of sufficient importance to warrant it being identified as a formal committee of Council.

APPENDIX 1



TERMS OF REFERENCE

AUDIT AND GOVERNANCE COMMITTEE

15 October 2019

Name:	Audit and Governance Committee
Role/Purpose:	To support Council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, internal and external audit functions and ethical accountability.
Aims & Functions:	<ol style="list-style-type: none"> 1. To guide and assist the local government in carrying out – <ol style="list-style-type: none"> a. its functions under Part 6 (Financial Management) of the Act; and b. its functions relating to other audits and other matters related to financial management. 2. To guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 (Audit) of the Act. 3. To review a report in relation to risk management and/or internal control and/or legislative compliance given to it by the CEO under regulation 17(3) (the CEO's Report) and to: <ol style="list-style-type: none"> a. report to the Council the results of that review; and b. give a copy of the CEO's report to the Council. 4. To monitor and advise the CEO when the CEO is carrying out functions in relation to a review under: <ol style="list-style-type: none"> a. regulation 17(1) (a report in relation to risk management and/or internal control and/or legislative compliance); and b. the <i>Local Government (Financial Management) Regulations 1996</i> regulation 5(2)(c) (a report in relation to the appropriateness and effectiveness of the financial management systems and procedures of the local government). 5. To support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government. 6. To oversee the implementation of any action that the local government: <ol style="list-style-type: none"> a. is required to take by section 7.12A(3) in relation to matters raised in an Audit Report; b. has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a) for submission to the Minister addressing matters identified in an Audit Report as significant; c. has accepted should be taken following receipt of a report of a review conducted under regulation 17(1) of the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management and/or internal control and/or legislative compliance; and

	<p>d. has accepted should be taken following receipt of a report of a review conducted under the <i>Local Government (Financial Management) Regulations 1996</i> regulation 5(2)(c) in relation to the appropriateness and effectiveness of the financial management systems and procedures of the local government.</p> <p>7. To review the annual Compliance Audit Return and report the results of the review to Council in accordance with Regulation 14(3A) of the <i>Local Government (Audit) Regulations 1996</i>.</p> <p>8. To coordinate the CEO performance review process and any matters that may arise or result from that process.</p> <p>9. To perform any other function conferred on it by the <i>Local Government (Audit) Regulations 1996</i> or another written law.</p>
Membership:	<p>1. The Committee shall consist of all elected members.</p> <p>2. The CEO and employees are not members of the Committee (s7.1.A(3) and (4) <i>Local Government Act 1995</i>).</p> <p>3. The CEO and Executive Manager Corporate and Community Services will attend all meetings to provide technical advice and guidance to the Committee.</p> <p>4. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate.</p> <p>5. Committee membership shall be appointed or removed by the Council.</p> <p>6. Members must comply with the Shire's Code of Conduct.</p> <p>7. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
Operating procedures:	<p>1. Presiding Member:</p> <p>a) The Shire President will assume the role of Presiding Member.</p> <p>b) The Presiding Member will preside at all meetings.</p> <p>c) The Deputy Shire President will fill the role of Deputy Presiding Member.</p> <p>d) In the absence of the Presiding Member, the Deputy Presiding Member will assume the chair, and in his/her absence, a person is to be elected by the Committee members present to assume the Chair.</p> <p>e) The Presiding Member is responsible for the proper conduct of the Committee.</p> <p>2. Meetings:</p> <p>a) The Committee shall meet as required, but must hold a minimum of two meetings in any one calendar year.</p> <p>b) Meetings can be scheduled by a written request of the Presiding Member to the Chief Executive Officer, or by a decision of the Council or the Committee.</p>

	<p>c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible.</p> <p>d) The Presiding Member shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes.</p> <p>e) All Committee meetings will be conducted in accordance with the Shire of Gingin Meeting Procedures Local Law 2014.</p> <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of endorsed members.</p> <p>4. Reporting:</p> <p>a) The Minutes of every Committee meeting will be circulated for the information of all Councillors.</p> <p>b) Any Committee resolution requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.</p>
Appointing legislation:	The Committee is established under section 7.1A of the <i>Local Government Act 1995</i> .
Delegated Authority:	The Committee has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
1.	06/09/2005 – Item 10.2.1	Committee established and Terms of Reference adopted.
2.	22/10/2013 – Item 10.2	Terms of Reference reviewed.
3.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed.
4.	19/09/2017 – Item 11.1.3	Terms of Reference reviewed. Aims & Functions cl. 16 added. Operating procedures cl. 2c deleted. Membership cl. 1 amended to include one external person.
5.	17/04/2018 – Item 11.1.1	Membership cl. 1 amended to delete external member. Committee name changed from Audit Committee to Audit and Governance Committee.
6.	22/01/2019 – Item 11.1.1	TOR amended to align with amendments to the <i>Local Government (Audit) Regulations 1996</i> . Committee membership amended to include Shire President and a minimum of 4 other councillors. Additional function included with respect to coordination of CEO performance review process.

APPENDIX 2



TERMS OF REFERENCE

BUSH FIRE ADVISORY COMMITTEE

15 October 2019

Name:	Bush Fire Advisory Committee
Role/Purpose:	To advise Council with regard to matters relating to bush fire control within the Shire of Gingin.
Aims & Functions:	<ol style="list-style-type: none"> 1. To make recommendations to Council with respect to the appointment of Fire Control Officers; 2. To determine training requirements and strategies; and 3. To consider and make recommendation to Council with respect to all bush fire mitigation issues.
Membership:	<ol style="list-style-type: none"> 1. The Committee shall consist of the following representation: <ul style="list-style-type: none"> <u>Voting</u> <ul style="list-style-type: none"> • Shire President or delegate; • Chief Bush Fire Control Officer; • Deputy Chief Bush Fire Control Officers; and • One nominated representative from each volunteer bush fire brigade. <u>Non-Voting</u> <ul style="list-style-type: none"> • Chief Executive Officer or delegate; • One representative - Department of Fire and Emergency Services; • One representative – Department of Parks and Wildlife; • One representative – Department of Agriculture and Food; • One representative – Gingin Volunteer Fire and Rescue Service; and • One representative – Lancelin Volunteer Fire and Rescue Service. 2. A nominated deputy member may attend in place of the endorsed representative member. 3. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate. 4. Committee membership shall be appointed or removed by the Council. 5. Members must comply with the Shire's Code of Conduct.

	6. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.
Operating procedures:	<p>1. Presiding Member:</p> <ul style="list-style-type: none"> a) Council's nominated representative shall fill the position of Presiding Member at all meetings. b) In the absence of the Presiding Member, the Community Emergency Services Manager/Chief Bush Fire Control Officer will assume the Chair for the duration of that meeting. c) The Presiding Member is responsible for the proper conduct of the Committee. <p>2. Meetings:</p> <ul style="list-style-type: none"> a) The Committee shall meet as required, but must hold a minimum of four meetings in any one calendar year (March, June, September and December). b) Meetings can be scheduled by a written request of the Presiding Member to the Chief Executive Officer, or by a decision of the Council or the Committee. c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible. d) The Presiding Member shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes. e) All Committee meetings will be conducted in accordance with the Shire of Gingin Meeting Procedures Local Law 2014. <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of endorsed members.</p> <p>4. Reporting:</p> <ul style="list-style-type: none"> a) The Minutes of every Committee meeting will be circulated for the information of all Councillors. b) Any Committee resolution requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.
Appointing legislation:	The Committee is established under section 67 of the <i>Bush Fires Act 1954</i> .
Delegated Authority:	The Committee has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
1.	22/10/2013 - Item 10.3	Committee structure reviewed and Terms of Reference adopted.
2.	17/12/2013 – Item 11.1.1	Amended to include volunteer bush fire brigade representatives as voting members.
3.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed. Reference to Standing Orders Local Law deleted from Operating Procedure 2b and replaced with Meeting Procedures Local Law 2014. Reference to provision of Committee Minutes via Information Bulletin deleted from Operating Procedure 4a.
4.	19/01/2016 – Item 11.1.3	Operating Procedures Clause 1b amended to specify that Community Emergency Services Manager/Chief Bush Fire Control Officer to assume the Chair in the absence of the Presiding Member.
5.	19/09/2017 – Item 11.1.3	Terms of Reference reviewed. Operating Procedures cl. 2c deleted.

APPENDIX 3



TERMS OF REFERENCE

GUILDERTON CARAVAN PARK MANAGEMENT COMMITTEE

15 October 2019

Name:	Guilderton Caravan Park Management Committee
Role/Purpose:	To receive information on the operations of the Guilderton Caravan Park.
Aims & Functions:	<ol style="list-style-type: none"> 1. To explore expansion and growth models for the Caravan Park site and operations. 2. To consider officers' reports and provide input on any issues related to the management and operations of the Guilderton Caravan Park that may be presented to the Committee.
Membership:	<ol style="list-style-type: none"> 1. The Committee shall consist of the following representation: <ul style="list-style-type: none"> • Four Councillors; 2. The CEO and Executive Manager Regulatory and Development Services will attend all meetings of the Committee to provide technical advice and guidance only. 3. The Caravan Park Manager will attend meetings by invitation only. 4. A nominated deputy member may attend in place of the endorsed representative member. 5. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate. 6. Committee membership shall be appointed or removed by the Council. 7. Members must comply with the Shire's Code of Conduct. 8. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.
Operating procedures:	<ol style="list-style-type: none"> 1. Presiding Member and Deputy Presiding Member: <ol style="list-style-type: none"> a) The members of a Committee are to elect a Presiding Member from amongst themselves at the first meeting of the Committee and at each subsequent first meeting following an ordinary local government election in accordance with the <i>Local Government Act 1995</i>, Schedule 2.3, Division 1.

	<ul style="list-style-type: none"> b) Following the election of a Presiding Member, the members of the Committee may also elect a Deputy Presiding Member. c) The CEO or delegated nominee will attend the first meeting to conduct the election of the Presiding Member or at a subsequent meeting if a new Presiding Member is to be elected. d) The Presiding Member will preside at all meetings. e) In the absence of the Presiding Member, the Deputy Presiding Member (if one has been elected by the Committee) will assume the chair. f) In the absence of both the Presiding Member and the Deputy Presiding Member, or if a Deputy Presiding Member has not been elected, then a person is to be elected by the Committee members present to assume the Chair for that meeting. g) The Presiding Member is responsible for the proper conduct of the Committee. <p>2. Meetings:</p> <ul style="list-style-type: none"> a) The Committee shall meet as required, but must hold a minimum of two meetings in any one calendar year. b) Meetings can be scheduled by a written request of the Presiding Member to the Chief Executive Officer, or by a decision of the Council or the Committee, or at the discretion of the Committee's Presiding Member. c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible. d) The Presiding Member shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes. e) All Committee meetings will be conducted in accordance with the Shire of Gingin Meeting Procedures Local Law 2014. <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of endorsed members.</p> <p>4. Reporting:</p> <ul style="list-style-type: none"> a) The Minutes of every Committee meeting will be circulated for the information of all Councillors. b) Any Committee resolution requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.
Appointing legislation:	The Committee is established under section 5.8 of the <i>Local Government Act 1995</i> .
Delegated Authority:	The Committee has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
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1.	19/07/2011 – Item 14.2	Committee established.
2.	22/10/2013 – Item	Terms of Reference adopted.
3.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed. Aims and Functions amended by deleting 1. <i>To facilitate effective communication between the Caravan Park management body and Council</i> , renumbering 2. as 1. and inserting a new 2. Membership amended by inclusion of Caravan Park Manager as a non-voting member. Reference to Standing Orders Local Law deleted from Operating Procedure 2b and replaced with Meeting Procedures Local Law 2014. Reference to provision of Committee Minutes via Information Bulletin deleted from Operating Procedure 4a.
4.	19/09/2017 – Item 11.1.3	Terms of Reference reviewed. CEO, EMPD and Caravan Park Manager removed from committee membership. New Membership cl. 3 added. Operating Procedures cl. 2c deleted.

APPENDIX 4



TERMS OF REFERENCE

LOCAL EMERGENCY MANAGEMENT COMMITTEE

15 October 2019

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

	<p>Department of Education Gingin District High School Lancelin Primary School Yanchep District High School Two Rocks Primary School Silver Chain Tronox State Emergency Management Committee Department of Agriculture and Food Department of Health – WA Country Health Service</p> <ol style="list-style-type: none"> 2. A nominated deputy member may attend in place of the endorsed representative member. 3. The Shire's Chief Executive Officer will act as deputy member for the Shire President. 4. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate. 5. Committee membership shall be appointed or removed by the Council. 6. Members must comply with the Shire's Code of Conduct. 7. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.
Operating procedures:	<ol style="list-style-type: none"> 1. Presiding Member: <ol style="list-style-type: none"> a) The Shire President shall fill the position of Presiding Member at all meetings. b) In the absence of the Shire President, the Chief Executive Officer, as Council's appointed deputy member, will attend and assume the Chair as Presiding Member for the duration of that meeting. c) In the event that neither the Shire President or the Chief Executive Officer are present, the Community Emergency Services Manager/Chief Bush Fire Control Officer will assume the Chair as Presiding Member for the duration of that meeting. d) The Presiding Member is responsible for the proper conduct of the Committee. 2. Meetings: <ol style="list-style-type: none"> a) The Committee shall meet as required, but must hold a minimum of one meeting every three months (February, May, August and November). b) Additional meetings can be scheduled by a written request of the Presiding Member to the Chief Executive Officer, or by a decision of the Council or the Committee. c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible.

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

Version	Decision Reference	Synopsis
1.	22/10/2013 - Item 10.7	Terms of Reference adopted.
2.	16/12/2014 – Item 11.1.10	Amendments to membership and who shall chair meeting in absence of Shire President.
3.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed. Reference to Standing Orders Local Law deleted from Operating Procedure 2b and replaced with Meeting Procedures Local Law 2014. Reference to provision of Committee Minutes via Information Bulletin deleted from Operating Procedure 4a.
4.	21/03/2017 – Item 11.1.1	Amendments to membership and who shall chair meeting in absence of Shire President.
5.	19/09/2017 – Item 11.1.3	Terms of Reference reviewed. Operating procedures cl. 2c deleted.
6.	18/07/2017 – Item 11.1.3	Minimum requirement for meetings amended from March, June, September, December to February, May, August, November.

APPENDIX 5



TERMS OF REFERENCE

PLANT COMMITTEE

15 October 2019

Name:	Plant Committee
Role/Purpose:	To provide input and advice to Council with respect to the Shire of Gingin's plant replacement program.
Aims & Functions:	To assist Council in obtaining the most appropriate and cost effective plant to undertake projects and provide services within the Shire of Gingin.
Membership:	<ol style="list-style-type: none"> The Committee shall consist of the following representation: <ul style="list-style-type: none"> Five Councillors The Chief Executive Officer, Executive Manager Operations and Plant Mechanic will attend all meetings of the Committee to provide technical advice and guidance only. A nominated deputy member may attend in place of the endorsed representative member. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate. Committee membership shall be appointed or removed by the Council. Members must comply with the Shire's Code of Conduct. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.
Operating procedures:	<ol style="list-style-type: none"> Presiding Member and Deputy Presiding Member: <ol style="list-style-type: none"> The members of a Committee are to elect a Presiding Member from amongst themselves at the first meeting of the Committee and at each subsequent first meeting following an ordinary local government election in accordance with the <i>Local Government Act 1995</i>, Schedule 2.3, Division 1. Following the election of a Presiding Member, the members of the Committee may also elect a Deputy Presiding Member. The CEO or delegated nominee will attend the first meeting to conduct the election of the Presiding Member or at a subsequent meeting if a new Presiding Member is to be elected. The Presiding Member will preside at all meetings.

	<p>e) In the absence of the Presiding Member, the Deputy Presiding Member (if one has been elected by the Committee) will assume the chair.</p> <p>f) In the absence of both the Presiding Member and the Deputy Presiding Member, or if a Deputy Presiding Member has not been elected, then a person is to be elected by the Committee members present to assume the Chair for that meeting.</p> <p>g) The Presiding Member is responsible for the proper conduct of the Committee.</p> <p>2. Meetings:</p> <p>a) The Committee shall meet as required, but must hold a minimum of two meetings in any one calendar year.</p> <p>b) Meetings can be scheduled by a written request of the Presiding Member to the Chief Executive Officer, or by a decision of the Council or the Committee.</p> <p>c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible.</p> <p>d) The Presiding Member shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes.</p> <p>e) All Committee meetings will be conducted in accordance with the Shire of Gingin Meeting Procedures Local Law 2014.</p> <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of endorsed members.</p> <p>4. Reporting:</p> <p>a) The Minutes of every Committee meeting will be circulated for the information of all Councillors.</p> <p>b) Any Committee resolution requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.</p>
Appointing legislation:	The Committee is established under section 5.8 of the <i>Local Government Act 1995</i> .
Delegated Authority:	The Committee has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
1.	22/10/2013 – Item	Committee established and Terms of Reference adopted.
2.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed. Membership amended to include Plant Mechanic as non-voting member. Operating Procedure 2a amended to reduce the minimum number of meetings from 3 to 2. Reference to Standing Orders Local Law deleted from Operating Procedure 2b and replaced with Meeting Procedures Local Law 2014. Reference to provision of Committee Minutes via Information Bulletin deleted from Operating Procedure 4a.
3.	16/08/2016 – Item 11.1.4	Chief Executive Officer, Executive Manager Operations and Plant Mechanic removed from Committee membership.
4.	19/09/2017 – Item 11.1.3	Terms of Reference reviewed. Operating Procedures cl. 2c deleted.

APPENDIX 6



TERMS OF REFERENCE

GINGIN OUTDOOR ACTIVITY SPACE TECHNICAL WORKING GROUP

15 October 2019

Name:	Gingin Outdoor Activity Space (GOAS) Technical Working Group
Role/Purpose:	To progress the development of the Gingin Outdoor Activity Space Stage 1, located at the corner of Weld and Jones St, and adjacent to the Granville Centre car park.
Aims & Functions:	<ol style="list-style-type: none"> 1. To oversee and support the Design Specifications process and to determine the final design. 2. Liaise with the consultant during the Design Specifications preparation process. 3. Oversee Shire Officers preparation of the Tender documents. 4. Provide advice during the construction of the facilities should there be any changes to/amendments to the tender scope.
Membership:	<ol style="list-style-type: none"> 1. The Technical Working Group shall consist of the following representation: <ul style="list-style-type: none"> • two Councillors; • up to five members of the GOAS Community Working Group. 2. An (appointed) Shire Officer will attend each meeting to provide technical advice and guidance to the Technical Working Group (i.e. Coordinator Community Development and Services, Executive Manager Operations and/or Coordinator Assets/Projects.) 3. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate. 4. Technical Working Group membership shall be appointed or removed by consensus of Council. 5. Members must comply with the Shire's Code of Conduct. 6. The Technical Working Group has authority to second external individuals, on a voluntary basis, for their expert advice. 7. Membership will be disbanded upon completion of the construction of GOAS and the building fault period has closed.
Operating procedures:	<ol style="list-style-type: none"> 1. Presiding Member: <ol style="list-style-type: none"> a) The members of the Technical Working Group are to appoint a presiding member from amongst themselves at the first meeting of the Technical Working Group.

	<p>b) The Presiding Member must be a Councillor.</p> <p>c) In the absence of the Presiding Member a person is to be appointed by the Technical Working Group members present to lead the meeting.</p> <p>d) The Presiding Member is responsible for the proper conduct of the Technical Working Group.</p> <p>2. Meetings:</p> <p>a) The Technical Working Group shall meet as required.</p> <p>b) Technical Working Group members will be given at least 72 hours' notice of a proposed meeting where possible. However, if convenient and necessary, impromptu meetings may be held on occasions when all Technical Working Group members are present for other purposes if time permits.</p> <p>c) The Presiding Member shall ensure that notes of all meetings are kept and shall provide the Technical Working Group members with a copy of such notes.</p> <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of endorsed members.</p> <p>4. Reporting:</p> <p>Any Technical Working Group outcomes requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.</p>
Appointing legislation:	N/A
Delegated Authority:	The Technical Working Group has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
1.	16/07/2019 – 11.4.1	Adopted

11.1.2 POLICY 3.9 – PURCHASING AND ORDERING OF GOODS

File:	COR/28-1	
Author:	Lee-Anne Burt – Governance Officer	
Reporting Officer:	Aaron Cook – Chief Executive Officer	
Report Date:	19 October 2019	
Refer:	21 June 2016	Item 11.1.6
	20 June 2017	Item 11.1.3
Appendices:	1. Policy 3.9 Purchasing and Ordering of Goods	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider amending Policy 3.9 Purchasing and Ordering of Goods.

BACKGROUND

Policy 3.9 sets out those staff positions authorised to issue purchase orders, and the maximum purchase value for each position. It was adopted by Council on 2 July 2002.

COMMENT

Policy 3.9 currently provides a purchasing limit of \$500 for the position of Aquatic Centre Manager. However, most routine pool maintenance supplies, such as chemicals, are purchased in bulk, with a value exceeding \$500. This means that purchase orders for these items cannot be signed by the Aquatic Centre Manager, but must be submitted to the Executive Manager Corporate and Community Services for signature.

In the interests of increased efficiency, and given that maintenance of the Aquatic Centre facility is a core component of the Aquatic Centre Manager's duties, the Acting Executive Manager Corporate and Community Services has requested an increase in the purchasing limit for the position to \$3,000.

A revised Policy 3.9 showing the proposed amendment is provided as **Appendix 1**.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Support by Council for Administration's recommendation will result in amendment of Policy 3.9 Purchasing and Ordering of Goods.

BUDGET IMPLICATIONS

All purchasing must be undertaken in accordance with Council's adopted budget, and therefore it is not considered that amendments to Policy 3.9 Purchasing and Ordering of Goods will have any budgetary impacts.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

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

MOVED: Councillor Johnson **SECONDED:** Councillor Morton

That Council:

- 1. Approve an increased purchasing limit of \$3,000 for the position of Aquatic Centre Manager; and**
- 2. Adopt amended Policy 3.9 Purchasing and Ordering of Goods as shown at Appendix 1.**

CARRIED UNANIMOUSLY

APPENDIX 1



POLICY MANUAL

POLICY 3.9 PURCHASING AND ORDERING OF GOODS

OBJECTIVE

To clearly specify which members of staff are authorised to issue purchase orders on behalf of the Shire of Gingin and up to what value such purchase orders can relate in accordance with Policy 3.10 Purchasing.

POLICY

That the officers referenced below be authorised to issue orders for the purchase of goods and services relating to the operation of Council as follows:

Up to the value of \$100	All staff unless specified otherwise by this policy.
Up to the value of \$500	PA to Chief Executive Officer Community Services and Events Officer Governance Officer PA to Executive Manager Regulatory and Development Services Communications and Marketing Officer Coordinator Corporate Planning Assistant Building Surveyor/Administration Support Coordinator Ranger Services Upper Coastal Maintenance Officer Lower Coastal Maintenance Officer Gingin/Lower Coastal Maintenance Officer Building Maintenance Officer Operations-Construction Support Officer PA to Executive Manager Corporate and Community Services Environmental Health Support Officer
Up to the value of \$3,000	Aquatic Centre Manager Manager Guilderton Caravan Park Townsite Maintenance Supervisor (Upper Coastal/Lower Coastal) Townsite Maintenance Coordinator (Gingin/Lower Coastal) Coordinator Corporate Services Civil Engineering Intern Practice Manager Gingin Medical Centre

Up to the value of \$10,000	Principal Environmental Health Officer Community Emergency Services Manager Manager Statutory Planning Coordinator Community Development and Services Shire Mechanic/Depot Controller Coordinator Operations Coordinator Assets/Projects
Up to the value of \$50,000	Executive Manager Regulatory and Development Services Executive Manager Corporate and Community Services Executive Manager Operations
Up to the value of \$250,000	Chief Executive Officer

GOVERNANCE REFERENCES

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

POLICY ADMINISTRATION

Review Cycle	Bi-annual	Next Review	2017
Department	Financial Services		

Version	Decision Reference	Synopsis
1.	02/07/2002 – Item 10.6	Policy adopted
2.	16/11/2004 – Item 10.2.4	Assistant Works Supervisor and Swimming Pool Manager added
3.	20/01/09 – Item 11.2.4	Additional staff authorised to sign cheques
4.	07/07/2009 – Item 11.2.5	Administrative Assistant to CEO, Health/Building/Planning Administration Officer, Coastal Building and Parks Maintenance Officer and Head Gardener (Playground Inspector) added
5.	03/08/2010 – Item 11.1.2	Policy amended to reflect organisational restructure. Purchasing limits imposed.
6.	16/08/2011 – Item 11.2.2	Executive Manager Engineering Services' purchasing limit amended.
7.	18/10/2011 – Item 11.2.2	Executive Manager Health and Building Services' PA added, Parks and Gardens Supervisor deleted, Plant Mechanic purchasing limit amended
8.	17/07/2012 – Item 11.2.5	Authorisation for Maintenance Officers clarified. Reference to CEO deleted from "Up to Value of \$50,000". Reference to Councillors deleted.
9.	16/04/2013 – Item 11.1.4	Changes made to position titles to reflect organisational restructure. Purchasing authorisation to Shire President and Deputy Shire President for amounts greater than \$50,000 deleted.
10.	20/08/2013 – Item 11.1.3	Executive Manager Planning and Engineering Services replaced by Executive Manager Operations. Executive Manager Financial Services replaced by Executive Manager Corporate and Community Services. Executive Manager Planning and Engineering Services' PA replaced by PA to Planning. Works Manager deleted. Planning Officer deleted. Manager Statutory Planning and Manager Strategic Planning and Development included with limits of \$10,000. Purchasing limit for Shire Mechanic increased to \$5,000.

Version	Decision Reference	Synopsis
11.	20/08/2013 – Item 11.1.3	Executive Manager Planning and Engineering Services replaced by Executive Manager Operations. Executive Manager Financial Services replaced by Executive Manager Corporate and Community Services. Executive Manager Planning and Engineering Services' PA replaced by PA to Planning. Works Manager deleted. Planning Officer deleted. Manager Statutory Planning and Manager Strategic Planning and Development included with limits of \$10,000. Purchasing limit for Shire Mechanic increased to \$5,000.
12.	20/08/2013 – Item 11.1.3	Executive Manager Planning and Engineering Services replaced by Executive Manager Operations. Executive Manager Financial Services replaced by Executive Manager Corporate and Community Services. Executive Manager Planning and Engineering Services' PA replaced by PA to Planning. Works Manager deleted. Planning Officer deleted. Manager Statutory Planning and Manager Strategic Planning and Development included with limits of \$10,000. Purchasing limit for Shire Mechanic increased to \$5,000.
13.	21/01/2014 – Item 11.1.1	Organisational Development and Planning Officer added authorised to issue purchase orders up to the value of \$500. Environmental Health/Technical Officer and Manager Operations added and authorised to issue purchase orders up to the value of \$10,000. CEO's purchasing limit capped at \$250,000.
14.	12/11/2015 – NM9500	Position titles updated – Executive Support Officer to Community Development Officer, Organisational Planning and Development Officer to Coordinator Organisational Planning and Communication, PA to Planning to Health/Building Assistant, Ranger's Administration Officer to Coordinator Ranger Services, Environmental Health/Technical Officer to Environmental Health Officer, Manager Ranger Services to Community Emergency Services Manager and Community Development and Customer Services Officer to Coordinator Community Services.
15.	17/11/2015 – Item 11.1.7	Engineering Technical Officer added and authorised to issue purchase orders up to the value of \$500.00.
16.	21/06/2016 – Item 11.1.6	Manager IT added and authorised to issue purchase orders up to the value of \$3,000.
17.	18/10/2016 – Item 11.1.2	Manager Lancelin South End Caravan Park added with a purchasing limit of \$3,000.
18.	20/06/2017 – Item 11.1.3	Various amendments to positions and purchasing limits arising from organisational restructure.
19.	24/08/2017 – NM12174	\$500 purchasing limit for Integrated Planning and Business Improvement Officer deleted and replaced by \$500 purchasing limit for Coordinator Corporate Planning. \$2,000 purchasing limit for Coordinator Corporate Services deleted and replaced with \$3,000 purchasing limit in accordance with Council's resolution of 20/06/2017 (Item 11.1.3).
20.	15/01/2019 – NM14842	Various position titles amended to reflect organisational restructure.
21.	22/01/2019 – Item 11.1.3	Specify under "Objective" that purchasing must be in accordance with Policy 3.10 Purchasing. Add \$100 purchasing limit for all staff. Add \$500 for Environmental Health Support Officer. Add \$3,000 purchasing limit for Civil Engineering Intern. Add \$10,000 purchasing limit for Coordinator Operations and Coordinator Assets/Projects. Delete \$3,000 purchasing limit for Manager Lancelin South End Caravan Park and \$10,000 purchasing limit for Engineering Technical Officer.
22.	16/04/2019 – Item 11.1.4	Add purchasing limit of \$3,000 for Practice Manager Gingin Medical Centre
23.	29/05/2019 - NM	Position titles updated – PA Executive Manager Regulatory and Development Services, Communications and Marketing Officer, Executive Manager Regulatory and Development Services. Manager IT Services deleted.
24.	15/10/2019 – Item	Aquatic Centre Manager purchasing limit amended.

11.1.3 PROPOSED DISPOSITION OF LOTS 402 AND 125 BROCKMAN STREET, GINGIN

File:	A3255
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	15 October 2019
Refer:	Nil
Appendices:	1. Location Plan

DISCLOSURES OF INTEREST

The Chief Executive Officer disclosed an Impartiality Interest in this matter as a paying member of Gingym.

The Acting Manager Statutory Planning disclosed an Impartiality Interest in this matter as a paying member of Gingym.

PURPOSE

To consider proposals to sell and lease Lots 402 and 125 Brockman Street, Gingin respectively.

BACKGROUND

Lots 402 and 125 are situated at the intersection of Brockman Street and Robinson Street in Gingin. Although two separately surveyed parcels of land, Lots 402 and 125 are assessed contiguously and currently form a single property commonly known as the Old Telecom Line Yard (OTLY). Both lots are owned by the Shire of Gingin in freehold title.

The OTLY building located on Lot 402 is currently used by the Gingin Christian Fellowship group (GCF) at a nil rental. Council resolved on 4 August 2009 to enter into a lease arrangement with the GCF for a one year lease and ongoing thereafter with a three month notice period to terminate the lease by either party.

In June 2014 Council gave consideration to the development potential of the whole of Lots 125 and 402 Brockman Street and a portion of Lots 250 and 126 Constable Street, Gingin. Correspondence was forwarded to the GCF advising of this. A response was received from the group enquiring whether, if the building became unavailable, Council would consider making land available to set up a place of worship either via a donation or on a long term lease.

An expression of interest has been received from the owners of Gingym (currently operating in the commercial complex situated at Lot 9 (14) Brockman Street) with respect to lease of the OTLY building. The proponent advises that they have outgrown their current premises. The additional space offered by the OTLY building would allow them to increase the internal size of the gym and create a Cross Fit-style external area to accommodate additional exercises and classes.

Several meetings were held with both Gingym and the GCF, culminating in both parties making presentations to the Concept Forum on 1 October 2019.

The lease proposal put forward by Gingym was for a five year lease term with an option of a further five years, at \$1,500 per month plus outgoings (electricity and water). This would amount to a rental income for the Shire of \$18,000 per annum with all outgoings covered.

This income could then be utilised to undertake required alterations to the building (in essence, the removal of asbestos). Initially this work would only be required internally, however if a proposal was to be received from the prospective lessee in the future to extend the building, then the external and roof asbestos would be removed at that time.

Subsequent to their presentation to the Concept Forum, however, the proponent has expressed their interest in purchasing the land and building outright.

Although not being happy with the prospect of being relocated, the GFC is nevertheless understanding of Council's position. The group wishes to remain in the town but, unlike all other church groups who have their own land, will need assistance to do so. It is therefore proposed that Lot 125 be leased separately to the GCF to accommodate a new purpose built meeting room.

COMMENT

Following the presentations made to the Concept Forum on 1 October 2019, Councillors requested that Administration assess two other parcels of land as part of the consideration process. Both of these parcels were investigated but unfortunately both sites would either increase cost to the proposal significantly, or are tied to additional lots similar to the existing proposal.

A desktop indicative price has been received for the OTLY and a formal valuation will need to be received to enable the process of sale to be progressed. Initially, however, it will be necessary to move the common boundary between Lot 402 and Lot 125 several metres north to provide some space between the property boundary and the OTLY building, which will increase the area of Lot 402 and decrease the area of Lot 125 correspondingly.

In addition, separating the blocks will leave Lot 125 without power, water or septic tank connections. This will be an issue for the GCF should they install transportable building/s on the land and, as such, the group has requested that Council undertake the installation of these items to enable them to relocate. Council should consider that the provision of power, water and septic tank connections will make the land more valuable and easier to sell in the long term, and these facilities will remain an asset of the Shire even if the GCF withdraws from any lease agreement and removes their building.

The indicative price to have Lot 125 serviced is estimated at \$20,000 to connect water and power and install a septic system. In addition to these costs, there will be expenses (estimated at approximately \$5,000) related to relocating the common boundary and amending the titles of both lots to facilitate the sale of Lot 402, together with separate costs involved in facilitating the sale of the land.

It is recommended that all remaining funds from the sale would be placed into the Land and Buildings reserve, leaving Council in possession of Lot 125 Brockman Street that is fully serviced and ready to develop in the future.

The sale or lease of Lot 402 to Gingym will also result in the activation of the corner of Brockman and Robinson Streets, which is a positive for the town. Gingym are committed to removing all of the asbestos from the building which is also a large benefit for the area and the funds can be placed into Council's reserves.

STATUTORY ENVIRONMENT

Local Government Act 1995

Part 3 – Functions of local governments

Division 3 – Executive functions of local governments

Section 3.58 – Disposing of property

It will be necessary to obtain a market valuation for the property from a licensed valuer before Council can give consideration to any disposition of Lot 402.

Local Government (Functions and General) Regulations 1996

Part 6 – Miscellaneous

Regulation 30 – Dispositions of property excluded from Act s. 3.58

Under Regulation 30(2), the disposition of land to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature, and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions, is exempt from the requirements to obtain a market valuation and undergo a public submission process.

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

There will be several budget implications that will affect Council should the recommendation be supported. However, it is noted that the funds expended will be recouped from the sale price of Lot 402. It is estimated, conservatively, that Council will retain a minimum of \$100,000 that will be allocated into the Land and Buildings Reserve and in addition will receive rates for Lot 402 into the future with respect to a property for which it is currently receiving no return.

It is also to be considered that, although not a recognisable income, the value of Lot 125 will be increased due to the provision of utilities and services to the land and Council can further consider this in the future if required.

STRATEGIC IMPLICATIONS

There are a number of sections in the Corporate Strategic Plan outlining Council's commitment to providing a healthy community and seeing a growing business, in the health industry, grow into larger premises assists Council in this area.

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Infrastructure and Development</i>
Objective	<i>3 – To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.1 Development New and existing developments meet the Shire's Strategic Objectives and Outcomes</i>
Key Service Areas	<i>N/A</i>
Priorities	<i>3.1.1 Support strategies that facilitate commercial development</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

OFFICER RECOMMENDATION

That Council:

1. Support the proposal for potential sale of Lot 402 Brockman Street, Gingin for the purpose of obtaining a market valuation of the property from a licensed valuer;
2. Agree to relocation of the common boundary between Lots 402 and 125 Brockman Street, Gingin to ensure that a buffer is provided within Lot 402 between the boundary and the existing building;
3. Authorise Administration to negotiate a sale price for Lot 402 with the owner of Gingym, with a view to presenting a report for further consideration by Council;
4. Authorise Administration to prepare a draft agreement for lease of Lot 125 Brockman Street to Gingin Christian Fellowship for further consideration by Council; and
5. Authorise Administration to seek quotes for the provision of power and water, and the installation of a septic tank system, to Lot 125 Brockman Street, Gingin.

SUBSTANTIVE MOTION WITH AMENDMENT

Delete parts 4 and 5 and insert new part 4.

MOVED: Councillor Morton SECONDED: Councillor Fewster

That Council:

- 1. Support the proposal for potential sale of Lot 402 Brockman Street, Gingin for the purpose of obtaining a market valuation of the property from a licensed valuer;**
- 2. Agree to relocation of the common boundary between Lots 402 and 125 Brockman Street, Gingin to ensure that the required set back is provided within Lot 402 between the boundary and the existing building;**
- 3. Authorise Administration to negotiate a sale price for Lot 402 with the owner of Gingym, with a view to presenting a report for further consideration by Council; and**
- 4. Authorise Administration to explore other location options for the Gingin Christian Fellowship group for further consideration by Council.**

CARRIED UNANIMOUSLY

REASON FOR AMENDMENT

Council was of the view that further options for accommodation of the Gingin Christian Fellowship group should be explored.

APPENDIX 1



The Senior Ranger left the chambers at 4pm and returned at 4.03pm.

11.1.4 COASTAL EROSION MITIGATION - GRACE DARLING PARK AND EDWARD ISLAND POINT ACCESS, LANCELIN

File:	A4340; ENV/17	
Reporting Officer:	Aaron Cook – Chief Executive Officer	
Report Date:	15 October 2019	
Refer:	16 July 2019	Item 11.1.2
Appendices:	Nil	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider erosion impacts at Grace Darling Park and Edward Island Point access in Lancelin, and provide direction to the Chief Executive Officer with respect to a preferred course of action in this regard

BACKGROUND

Coastal erosion has been occurring in Lancelin Bay generally, and the vicinity of Grace Darling Park in particular, for approximately 20 years following the maximum level of sand deposit being reached. Interestingly, Grace Darling Park was created and infrastructure was placed on the reserve some time after this point. Over time the amount of infrastructure placed on the reserve has expanded to include a gazebo, public toilets, barbecue area and seating, reticulation, parking and the Volunteer Marine Rescue building.

Following development of the area erosion activity has worked to remove the deposited sand. In more recent years large sections of the Park have been lost, with infrastructure either being lost or subject to forced relocation further back into the block.

Last year a community meeting was held in Lancelin, which was attended by most Elected Members and the Chief Executive Officer (CEO), where the community in general called for action to save Grace Darling Park. Council took this recommendation on advice and formed an internal working group to look at how this community call for action could be progressed. In the interests of clarity, the initial focus of investigations was the protection of a sufficient area to preserve infrastructure on the reserve and to protect the Lancelin Caravan Park and the southern portion of the Lancelin townsite from future inundation.

The working group held meetings with key stakeholders to discuss what action was to be taken, so that these stakeholders could keep the community in general informed as to progress.

Shortly after the public meeting, the CEO wrote to the Department of Fire and Emergency Services requesting that they consider making Emergency Services Levy (ESL) funding available to assist Council to fund a proposed sea wall, as the largest piece of infrastructure on the site subject to protection was the Volunteer Marine Rescue building. However, after regular calls and emails for updates, some seven months later the Department advised that the Minister for Emergency Services was not prepared to release ESL funding for this purpose but instead had directed the Shire to seek disaster relief funding. In accordance with this advice, the CEO contacted the State Disaster Relief Coordinator and was advised promptly that this matter clearly did not meet the minimum requirements for funding either now or in the future.

At this stage Council was back to funding any works entirely from its own resources. During this time several more storms hit Lancelin and caused further erosion on site, and Council undertook sand renourishment to backfill the areas affected. However, the erosion line grew to the point that it is now affecting the Edward Island Point track and is placing the Shire's leased caravan park at potential risk.

As such, Council, through its consultations with the working group, engaged coastal engineers MP Rogers to prepare a proposal for remedial action to construct protection works in the Grace Darling Park area to safeguard the Shire's caravan park and the southern section of the Lancelin townsite.

The resulting report provided by MP Rogers identified a number of options which were considered by Council at its meeting on 16 July 2019. Ultimately, Council's preferred option was the construction of a geo synthetic textile sand bag sea wall from north of the Volunteer Marine Rescue building in a southerly direction to protect the Shire's caravan park and the access track to Edward Island Point. This recommendation was presented to the Working Group and the Stakeholders and general acceptance of this action was received by the majority.

As most would understand, there have been many in the community who have advocated for and accepted the outcome for the sea wall. On the other hand, there have been sections of the community that have criticised the decision and recommended other potential actions. This difference of opinion is understandable when dealing with such an emotive and divisive matter.

In accordance with Council's decision, MP Rogers was then engaged to undertake the necessary design work, and the Shire continued to pressure the State wherever possible for funding. It should be noted that the Shire had already applied for five grants from the State that included:

1. Financial Contribution to construct the sea wall in Lancelin;
2. Sand re-nourishment at Seabird;
3. Inundation Study for the Shire;
4. Assessment of existing and proposed groynes; and
5. Coastal Management Plan grant.

The CEO also met with coastal engineers from the City of Wanneroo to inspect works, including a very large geo textile sea wall, recently undertaken within the City. This meeting alerted the CEO to the additional issues that Council could face if a sea wall was constructed, specifically the need to continually undertake sand renourishment in front of the wall to maintain a beach. This concern was subsequently raised with Council.

Some four weeks ago the Department of Transport and Planning arranged a meeting to explain why the Shire of Gingin was only successful with one grant application, being the Inundation Study for the Shire. It was advised that, should Council want the State to seriously consider assisting with erosion issues in Lancelin or elsewhere in the Shire, then an inundation study would need to be completed. In essence, if Council proceeds with the construction of the proposed Lancelin sea wall, then the State will not fund infrastructure works to save a reserve, a park or the infrastructure on it or provide assistance in the future. What Council representatives took from this meeting was that, because the sea wall construction is not supported by Council's adopted Coastal Hazard Risk Management and Adaptation Plan (CHRMAP), then if the Shire proceeds with the construction of a sea wall based on the information at hand, it would effectively be on its own and any further issues that may arise as a result of the construction would have to be addressed using Shire resources.

The Department suggested that, as funds for the preparation of an inundation study had been approved, this project should be completed to determine where the risk really lies within the Shire. This could then be used as a guide in directing potential infrastructure works instead of acting in response to currently occurring erosion. It was also suggested that Council apply for a Coastal Management Plan Assistance Program Grant, as this will also provide information that can be used to look at relocating assets when required and prepare for where they are to go.

Both of these reports would then be incorporated into the CHRMAP, and this document updated on the basis of the new information contained in the reports. Obviously any changes to the CHRMAP will be dependent on this new information. However, if the inundation study shows significant risk to the Lancelin townsite then serious consideration must be given by the State to how private landowners' land and property risk is to be managed.

A completed inundation study will also allow Council to lobby the State to take positive action with respect to the three Category 2 "hotspots" within the Shire of Gingin, in the form of a comprehensive study into why erosion is occurring, how it is expected to develop in the future, what possible short term and long term actions can be taken (if any), how these actions are to be funded and, if no action is to be taken, how the State and Federal Governments will deal with affected landowners who will be forced to retreat.

COMMENT

The outcomes of several meetings with various Departments, were discussed at the Concept Forum on 1 October 2019, with the consensus being that Administration would prepare an item for Council's consideration at its meeting on 15 October 2019.

In the intervening period, Administration has received a detailed design and cost estimate from MP Rogers for the proposed sea wall. The as constructed cost estimate for the project is \$1.2 million.

It is estimated that the life of the sea wall could be up 15 to 20 years and as such any loan taken out for the project could potentially only be for a maximum of 20 years. It is therefore estimated that the financial cost to the Shire over the 20 years would be \$1.35 million. As such, it is expected that an estimated true cost of the sea wall could be:

Finance cost for construction and loan	\$1,600,000
Maintenance (on average \$7,500 per year)	\$ 150,000
Sand renourishment (est \$40 – 50K per year)	\$1,000,000
Removal of wall at end of life	\$ 50,000
Contingencies	\$ 100,000
Total Estimated Whole of Life Cost	\$2,765,000

This equates to an average of \$138,250 per annum.

It should be noted that this costing does not include any remedial works should the sea wall have any detrimental effect on other parts of Lancelin Bay.

It should also be borne in mind that, although the community would be clearly advised “up front” that the wall would not be a permanent structure and that ultimately it would need to be removed and other long term actions and strategies considered, it is inevitable that, over time, the expectation on Council would be to retain the wall, expand it and protect other assets across the Shire. It is not believed that this level of expectation could be achieved by a local government of this size without clear and committed assistance from the State and Federal Governments.

Taking the above into consideration, the recommendation put forward in this report, despite being very unpalatable for many in the Lancelin and other coastal communities of the Shire, is based on the position that the Shire of Gingin cannot afford to tackle this massive issue alone without State and Federal support. It is also recommended that Council revoke its previous decision made at the Council meeting on 16 July 2019 (Item 11.1.2), wherein it was resolved to undertake a tender process for the implementation of the soft wall protection option put forward by MP Rogers.

The potential for future litigation and risk through undertaking significant infrastructure works like the proposed Lancelin sea wall is not to be underestimated. It is understood that there is a risk of litigation should Council do nothing. However, given there are many other local governments throughout the State that share the same long term risk to existing housing, it is considered that there will need to be a State direction provided in the future and the Shire of Gingin will be a significant contributor to this policy development.

In the event that Council supports the report's recommendation, it is proposed that the following actions will be undertaken:

1. Completion of an inundation study for the Shire of Gingin.
2. Application for grant funding from the Coastal Management Plan Assistance Program to complete an additional study to assist with relocation of Shire assets when and if required.
3. Review and update of the Shire's CHRMAP with this additional new information.
4. Allocation, from the Coastal Erosion Levy funds, of \$40,000 per annum for sand renourishment works to be undertaken at Grace Darling Park as and when required.
5. Continued pressure to politically activate the State and Federal Governments for assistance in preparing a report into long term action to protect coastal communities.
6. Notification to the Department of Fire and Emergency Services that the Shire of Gingin will not be providing protection for the Lancelin Volunteer Marine Rescue building in the immediate future and as such the Department will need to seriously consider the future of the building
7. Establishment of trigger points within the Grace Darling Park reserve for the removal of infrastructure should erosion reach that point despite the sand renourishment program.
8. Preparation of a communication plan to notify residents of Council's intent, and actions to be progressed, in relation to this matter including a public meeting which the Department of Transport and Planning will be requested to attend.
9. Acknowledgement that the Shire of Gingin will cease any further action with respect to addressing coastal erosion through infrastructure works until such time as adequate funding is received through the State or Federal Government to undertake a full study into the reasons for erosion, environmental impacts, potential for inundation and solutions.
10. Investigation by the Shire into the potential for strategic sand placement to provide long term protection to the Shire's caravan park and other areas by bringing in sand to build dunes and establish vegetation.
11. Continued submission of applications for funding to perform coastal care works.
12. Progression by Shire officers of a proposal for the long term relocation of the Shire's public toilets from Grace Darling Park to an alternative location through the provision of a public toilet facility that will provide a minimum life span of 20-30 years.

The cost to Council of progressing the items above is primarily centred around the following:

- Preparation of inundation study - costed at an estimated \$60,000 (50% funded by Council, 50% State funding already approved);
- Preparation of Asset Relocation Program with funding from Coastal Management Plan Assistance Program (funding of up to \$75,000 potentially available with project to be 50% funded by Council); and
- Subsequent updating of the CHRMAP which is estimated at costing \$25,000 - \$30,000 and is expected to be directly funded by Council.

In addition to this, the current rate and cost of sand renourishment is up to \$20,000 per annum. If Council is prepared to take a more proactive role in sand renourishment then it is expected that this cost would increase to \$40,000 per annum; however, funding can be sought to assist and Council can access the dredged sand from the Department of Transport when this occurs.

Direct Costs to Council

Council Reports	\$ 65,000
Updating of the CHRMAP	\$ 30,000
Sand Renourishment (<i>Factored over 20 years less Being \$40K x 20 = \$800K an allocation for grants of 25% = \$200K</i>)	\$600,000
Strategic Sand placement for protection	\$100,000

Total Estimated costs **\$795,000**

This equates to an average of \$39,750 per annum

It is noted that Council will not be required to borrow funds to undertake the works listed. Additionally the costing per year will vary somewhat as sand renourishment may well be limited or not required in some years.

As this is such a significant issue for the whole Shire, in the event that Council is supportive of the recommendation then it is proposed that Administration will commence the preparation of a communication plan as a matter of urgency to advise members of the public as to Council's position. This would include representatives of relevant Departments to support the direction of Council.

As a closing statement, it is relevant to acknowledge that this issue is potentially the single largest issue that the Shire of Gingin currently faces. As Council cannot afford to tackle this issue on its own, it needs State and Federal Government assistance to be able to advance forward. As such, if Council does not comply with the requests of the State and Federal Governments then the Shire can expect to essentially be left "holding the bag". It is recognised that the situation has the ability to change quickly and action may need to be taken at short notice; however, it is hoped that this strategy will buy Council sufficient time to have the necessary reports completed and to progress the matter with the State and Federal Government.

STATUTORY ENVIRONMENT

Currently there are no statutory implications applicable to the recommendation provided to Council. This would need to be reconsidered in the event that Council elects to adopt an alternative course of action and could potentially delay the recommendation for assessment.

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

In the event that Council is supportive of the recommendation provided, then it is unlikely that any expenditure will be required from the adopted 2019/20 Budget over and above already included funds. In the event that the funding application for preparation of the Asset Relocation Program is successful and approved in time for work to commence in this financial year, then a funding source will be identified and a report submitted for Council's consideration with respect to unbudgeted expenditure.

Nevertheless, it is clear that Council will need to commit funding in future budgets to undertake the identified actions.

Councillors will be aware that the costings provided are from a desktop perspective by the author and indicated in today's dollars. These figures will be subject to change over the course of time, and are for indicative use only. However, it is predicted that the course of action proposed by the recommendation will be significantly cheaper (potentially more than 50% cheaper) than the sea wall construction. Additionally, it will present a significant reduction in the liability risk to Council in comparison with the potential for unforeseen outcomes as a result of sea wall construction.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Natural Environment</i>
Objective	<i>2 – To develop the Shire's capacity to support the conservation of natural assets and undertake sustainable resource management</i>
Outcome	<i>2.1 Conservation The Shire's ecological services and natural assets are respected and enhanced</i>
Key Service Areas	<i>Conservation and Environmental Management</i>
Priorities	<i>2.1.1 Develop a Coastal Management Policy and implement a Coastal Management Plan to protect and enhance our coast.</i>

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

Where revocation of a previous Council decision is proposed, at least three Councillors (including the mover of the revocation motion) must indicate their support for the Motion in order for it to be considered by Council. The decision to revoke a previous resolution of Council must be made by Absolute Majority.

Councillors supporting the revocation of Item 11.1.2 16 July 2019:

1. Councillor Fewster
2. Councillor Court
3. Councillor Rule

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Fewster SECONDED: Councillor Court

That Council revoke the resolution carried at the Council meeting held on 16 July 2019 with respect to Item 11.1.2 Erosion Mitigation – Grace Darling Park, as follows:

That Council:

1. ***Undertake the commencement of a tender process for the “soft” wall protection Option 2 of the MP Rogers report, installing geo textile bag protection for a length of approximately 250 to 300 metres.***
2. ***Continue to advocate and pursue Disaster Relief Funding (State/Federal) for the construction of the protection wall.***
3. ***Continue to explore other options for the long term protection of the Lancelin Bay.***
4. ***Require any tenders received to be submitted to Council for determination.***

CARRIED BY ABSOLUTE MAJORITY

6-3

For: Councillors Morton, Fewster, Rule, Elgin, Collard, Court
Against: Councillors Johnson, Lobb, Peczka

ALTERNATIVE MOTION

MOVED: Councillor Lobb SECONDED: Councillor

That Council defer consideration of this matter until its 19 November 2019 meeting to provide opportunity to inform the community.

MOTION LAPSED FOR WANT OF SECONDER

The Senior Ranger left Chambers at 4.12pm

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Elgin

SECONDED: Councillor Court

That Council agree to:

- 1. Undertake the preparation of a Shire of Gingin Inundation Study;**
- 2. Apply for funding from the Coastal Management Plan Assistance Program to enable the preparation of an Asset Relocation Program;**
- 3. Review and update the Shire's CHRMAP with new information gained as a result of Parts 1 and 2 (above);**
- 4. Allocate \$40,000 per annum from Coastal Erosion Levy funds for sand renourishment works to be undertaken as and when required, investigating the utilisation of sand from the Shire's own resources. Any funds not utilised are to be rolled over or utilised for other beach management works in restoring sand dunes;**
- 5. Continue to politically activate the State and Federal Governments for assistance into preparing a report into long term action to protect coastal communities;**
- 6. Notify the Department of Fire and Emergency Services that the Shire of Gingin will not be providing protection for the Lancelin Volunteer Marine Rescue building in the immediate future and as such the Department needs to seriously consider the future of the building;**
- 7. Establish trigger points within the Grace Darling Park reserve for the removal of infrastructure should erosion reach that point despite the sand renourishment program;**
- 8. Prepare a communication plan to notify residents of Council's intent, and actions to be progressed, in relation to this matter including a public meeting which the Department of Transport and Planning will be requested to attend to support the Shire's position;**
- 9. Acknowledge that the Shire of Gingin will cease any further action with respect to addressing coastal erosion through infrastructure works until such time as adequate funding is received through the State or Federal Government to undertake a full study into the reasons for erosion, environmental impacts, potential for inundation and solutions;**
- 10. Undertake investigation into the potential for strategic sand placement to provide long term protection to the Shire's caravan park and other areas by bringing in sand to build dunes and establish vegetation;**

- 11. Continue to apply for funding to perform coastal care works; and**
- 12. Approve the progression by Shire officers of a proposal for the long term relocation of the Shire's public toilets from Grace Darling Park to an alternative location through the provision of a public toilet facility that will provide a minimum life span of 20-30 years.**

**CARRIED
6-3**

For: Councillors Morton, Fewster, Rule, Elgin, Collard, Court
Against: Councillors Johnson, Lobb, Peczka

11.2. CORPORATE AND COMMUNITY SERVICES**11.2.1 MONTHLY FINANCIAL STATEMENT AND LIST OF PAID ACCOUNTS**

File:	FIN/25
Reporting Officer:	Ziggy Edwards – Acting Executive Manager Corporate and Community Services
Report Date:	15 October 2019
Refer:	Nil
Appendices:	Nil

DISCLOSURES OF INTEREST

Nil

COMMENT

The Statement of Financial Position for the period 30 September 2019 is unavailable for consideration at this meeting and will be presented to the Ordinary Council meeting on 19 November 2019.

The List of Paid Accounts for the period to 30 September 2019 is presented in accordance with the following summary of activity:

PAYMENT TYPE	\$
Municipal	
EFT	759,500.85
Cheque	7460.71
Direct Debit	98,944.11
Total (Municipal)	865,905.67
Trust	0.00
Bank Statement	
Bank Fees and Charges	1704.25
Wages and Salaries	285,671.54
Police Licensing	66100.25
LA Office Rent	643.38
Total (Bank Statement)	354,199.42
TOTAL EXPENDITURE	1,220,025.09

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.

STATUTORY ENVIRONMENT

Local Government Act 1995

Part 6 – Financial management

Division 3 – Reporting on activities and finance

Section 6.4 – Financial report

Local Government (Financial Management) Regulations 1996

Part 4 – Financial reports – s.6.4

Regulation 34 – Financial activity statement required each month (Act s.6.4)

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson **SECONDED:** Councillor Morton

That Council endorse the List of Paid Accounts for the period ending 30 September 2019.

CARRIED UNANIMOUSLY

11.2.2 LEASE BETWEEN SHIRE OF GINGIN AND RED CROSS AUSTRALIA - PART LOT 126 CONSTABLE STREET, GINGIN

Location:	Part Lot 126 Constable Street, Gingin
File:	A4069
Author:	Cher Groves – Community Services and Events Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	15 October 2019
Refer:	18 August 2015 Item 11.2.4
Appendices:	1. Draft Lease Document

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider a new lease between the Australian Red Cross Society and the Shire of Gingin for the outbuilding located behind the Old Road Board building on Lot 126 Constable Street, Gingin, for a period of two years with a further two year option.

BACKGROUND

Following requests from the Gingin Unit of the Australian Red Cross Society for a premises to establish a “Red Cross Op Shop”, in March 2001 Council entered into a lease agreement with Australian Red Cross WA for the premises located at the rear of the Old Road Board Building in Constable Street, Gingin.

The initial lease was for a five year term, commencing on 1 July 2000 and expiring on 30 June 2005, with the period of renewal to be subject to negotiation between the parties. A second five year lease term was granted from 1 July 2005 to 30 June 2010. A third five year lease was negotiated and expired in June 2015.

The fourth lease between the Shire of Gingin and the Australian Red Cross Society was negotiated in the format now employed by the Shire for lease arrangements involving community groups, including the standard lease term of two years plus a two year option.

Red Cross has indicated that the two year term suits its requirements.

The current lease, inclusive of the further two year term, expired on 31 July 2019.

COMMENT

The peppercorn lease template has been revised to be fair and appropriate for both the lessee and the lessor. Clauses added are Holding Over, Provision of Information, Fire Mitigation, and Disputes.

Shire Officers have been negotiating a new lease between the Shire of Gingin and the Australian Red Cross Society since May 2019, and have made several changes to the draft lease, including, at the request of Australian Red Cross, adding Annexure 3 – Asbestos Hazard Report. The Shire's Executive Manager Regulatory and Development Services undertook an asbestos assessment on 22 August 2019, and found the premises to be free from asbestos.

In addition to the two Item 8. Additional Terms and Conditions already listed in the Schedule (8.1 *Emblem Provision* and 8.2 *Insurance – Certificate of Currency*), a third has been added, being 8.3 *Lease Costs*.

Officers have reviewed these items and are satisfied that they do not contravene any of the existing provisions within the draft lease document (**Appendix 1**).

STATUTORY ENVIRONMENT

Local Government Act 1995

Part 3 – Functions of local governments

Division 3 – Executive functions of local governments

Section 3.58 – Disposing of property

Local Government (Functions and General) Regulations 1996

Part 6 – Miscellaneous

Clause 30 – Dispositions of property excluded from Act s. 3.58

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Rule

That Council:

- 1. Agree to enter into a lease agreement with the Australian Red Cross Society for the outbuilding located behind the Old Road Board building on Lot 126 Constable Street, Gingin, for a period of two years with a further two year option in accordance with the lease document shown as Appendix 1; and**
- 2. Authorise the Chief Executive Officer to progress the lease and to sign the lease document on Council's behalf.**

CARRIED UNANIMOUSLY

The Senior Ranger returned to Chambers at 4.27pm and left at 4.28pm and did not return.

APPENDIX 1



LEASE AGREEMENT

**SHIRE OF GINGIN
AND
AUSTRALIAN RED CROSS SOCIETY**

CONDITIONS

Parties

Shire of Gingin – "The Lessor"

AND

Australian Red Cross Society – "The Lessee"

Use

The premises is not to be used for any purpose other than that specified in **Item 6** of the Schedule.

The use of the premises must not cause a nuisance or inconvenience to the public or surrounding residents by virtue of activities or noise from the facility.

Premises

That portion of the outbuilding situated behind the Old Road Board building on Lot 126 Constable Street, Gingin, as depicted on the plan included as **Annexure 1**.

Term

The term of the lease is set out at **Item 2** of the Schedule. The Lessee may request the Lessor to grant a renewal of this Agreement for the further term set out at **Item 3** of the Schedule by giving written notice at least one month prior to the expiry of the initial term.

Holding Over

If the Lessor consents to the Lessee continuing to occupy the Leased Area after the expiry date, after the end of any extended term or during a lease renewal negotiation period, the Lessee is a monthly Lessee of the Leased Area and

- (a) the monthly tenancy may be terminated by either party giving to the other at least one month's notice which may expire on any day;
- (b) the rent is the same rent payable immediately before the expiry date or after the end of any extended term; and
- (c) all the other provisions of this Lease apply to the monthly tenancy except any option to extend this Lease.

Provision of Information

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Certificate of Currency or renewal certificate to be provided to the Lessor on an annual basis for each insurance policy, including Public Liability and Contents Insurance;
- (b) written advise of any changes in its office holders or its rules of Association during the Term; and
- (c) any information reasonably required by the Lessor.

RENT AND OTHER PAYMENTS

Rent

As specified in **Item 5** of the Schedule.

Outgoings

Electricity, gas, water, refuse collection and other consumable charges are the responsibility of the Lessor.

Key Bond

The Lessee will pay a bond of \$100.00 for a set of access keys to the premises prior to access being granted. If required, the bond may be withheld by the Lessor in the event that replacement of keys is required at the time of the Lessee vacating the premises.

The Lessee may request additional sets of access keys from the Lessor, if approved the Lessee is responsible for the cost of the additional access keys and to maintain a record of who is assigned the keys.

Building Bond

The Lessee will pay a building bond of \$200.00 prior to gaining access to the premises. If required, the bond may be withheld by the Lessor to make good any repairs or minor maintenance that may be necessary at the time of the Lessee vacating the premises.

Insurance

Public liability insurance in accordance with **Item 7** of the Schedule shall be maintained by the Lessee. The Lessee shall also maintain adequate and sufficient contents insurance. A copy of the certificate of currency is to be provided to the Lessor upon commencement of the lease, illustrating the full term of cover.

All cover is to be renewed annually, with a certificate of currency or renewal certificate to be provided to the Lessor on an annual basis.

Insurance for personal property is the Lessee's responsibility. All policy and certificate details are to be made available on request.

Arrangement of and payment for all public liability insurance is the responsibility of the Lessee.

TERMINATION

The Lessor may terminate this agreement by providing three months' written notice to the Lessee if at any time the building is not being used in accordance with the requirements of **Item 6** of the Schedule, maintained to the Lessor's requirements, subject to the Lessor first having given the Lessee notice of the breach and 21 days for the Lessee to rectify it.

The Lessor reserves the right to terminate the agreement in the event that the Lessee commits a breach of its obligations under the agreement and such breach is not rectified within one month of receiving written notice to do so from the Lessor.

The Lessor may terminate this agreement by providing written notice to the Lessee if at any time the building becomes fully or partially destroyed or can no longer be lawfully occupied due to the building being condemned.

Restore Premises

Before or within 14 days after termination of this agreement the Lessee must, at its expense and acting reasonably, restore the premises to a condition satisfactory to the Lessor (acting reasonably).

The Lessor will undertake an assessment and provide a checklist of items to be restored.

Property Inspections

The Lessor may conduct property inspections of the premises on an annual basis to ensure the appearance and the condition of the building is being maintained to the satisfaction of the Lessor (acting reasonably) and the *Health (Public Buildings) Regulations 1992*.

LESSEE'S RESPONSIBILITIES

Maintenance, Repair and Cleaning

The Lessee must strictly comply with the Maintenance and Cleaning Schedule included as **Annexure 2**. The Lessee is not responsible for fair wear and tear.

Where the Lessee is responsible for any damage to the premises, such damage is to be promptly repaired, at the Lessee's expense, to the satisfaction of the Lessor (acting reasonably).

Report to Council

The Lessee must report all vandalism, defects and pollution to the Lessor within 24 hours of any such occurrence being identified.

To report any issues please email mail@gingin.wa.gov.au or send via post to PO Box 510, GINGIN WA 6503. If urgent please telephone 9575 2211 during office hours.

Alterations

No alterations, additions or improvements are to be made to the premises without the written consent from the Lessor.

Alterations, additions or improvements to the premises may result in a Lease Variation as project costs, including ongoing maintenance, may be the responsibility of the Lessee.

The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

Securing the Premises

The Lessee is to ensure the premises are appropriately secured at all times. Where an alarm is present the alarm should be activated and the Lessor supplied with access codes.

Lessor's Right of Reasonable Entry

The Lessee must permit the Lessor or its authorised representative/s to enter the premises for the following purposes:

- in the event of an emergency;
- to undertake property inspections to ensure compliance with the terms of this Agreement;
- to carry out routine repairs or other work necessary to maintain the premises in good condition; and
- to carry out Capital Project works.

Hiring of the Premises

The Lessee shall not hire out or sublease the premises or any part thereof without the prior approval of the Lessor.

Fire Mitigation

- (a) Fire Prevention – Without limiting any other provision of this Lease, the Lessee must in relation to the Leased Area promptly comply with:
 - i. the *Bush Fires Act 1954* and any other laws relating to the prevention and control of fires; and
 - ii. all proper directions concerning fire prevention and control given to the Lessee by the Lessor or any Authority.
- (b) Fire Control – The Lessee must immediately :
 - i. notify the Lessor as soon as a fire is detected on the Leased Area; and
 - ii. take all reasonable and safe action which the Lessee is able to take to try to extinguish any unauthorised or uncontrolled fire on the Leased Area.
- (c) Authorised Fires – The Lessee must not do anything which causes or may cause a fire on the Leased Area unless the fire is:
 - i. not prohibited by law or by a direction of the Lessor or an Authority; and
 - ii. the fire is not dangerous and is properly controlled so that it cannot become dangerous.
- (d) Liability for Fires – The Lessee is responsible for and must pay or reimburse the Lessor for all Liabilities as a result of any fire which starts on the Leased Area unless the Lessee can prove to the reasonable satisfaction of the Lessor that the fire:
 - i. was not caused by the Lessee's negligent or unlawful act or omission or the Lessee's default under this Lease; or
 - ii. was started by a cause beyond the Lessee's reasonable control.
- (e) Risk Management Plan – Due to the nature of activities of the Lessee a Risk Management Plan may be required for certain activities and/or events undertaken

within the leased premises. This may be an additional condition of this lease agreement as specified in accordance with **Item 8**.

- (f) Failure to comply can lead to immediate termination of this lease, subject to the Lessor first having given the Lessee notice of the breach and 21 days for the Lessee to rectify it.

Smoking on Premises

The Lessee must not smoke or permit a person to smoke within the leased premises.

Comply with Legislation and Statutory Obligations

The Lessee must promptly comply with all statutes and local laws from time to time in force relating to the premises.

The Lessee must apply for, obtain and maintain in force all consents, approvals, authorities, licenses and permits required under any statute for the use of the premises.

The Lessee must not allow a person to carry out any harmful, offensive or illegal act within or around the premises.

Work within Premises

The Lessee must carry out works in accordance with Work Safe (WA) practices, being mindful of the risk to health and fire hazards.

Any works must not cause a nuisance or inconvenience to the public or surrounding residents by virtue of activities or noise from the facility.

Behaviour

The Lessee is not to allow any anti-social behaviour in or around the premises including but not limited to loud music, foul language, drunken behaviour, uncontrollable parties, fighting, acts of physical violence and unwanted entry onto neighbouring properties.

Noise Restrictions apply from 7pm to 7am.

INDEMNITY

Indemnity

The Lessee indemnifies, and shall keep indemnified, the Lessor from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or brought, maintained or made against the Lessor in respect of:

- (a) any loss whatsoever (including loss of use);
- (b) injury or damage of, or to, any kind of property or thing; and
- (c) the death of, or injury suffered by, any person,

except to the extent that such loss or damage is caused or contributed to by negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

Obligations Continuing

The obligations of the Lessee to indemnify the Lessor:

- (a) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations will be reduced by the extent of such payment.
- (b) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

Release

(1) The Lessee:

- (a) agrees to occupy and use the Premises at the risk of the Lessee; and
- (b) releases to the full extent permitted by law, the Lessor from:
 - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by; and
 - (ii) loss of or damage to the Premises or personal property of the Lessee;

except to the extent that such loss or damage is caused or contributed to by negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

(2) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

Limit of Lessor's liability

- (1) The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring, except to the extent that such loss or damage is caused or contributed to by negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

DISPUTES

a) Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (the Lessor's Representative) who shall convene a meeting within 15 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor and a nominated representative of the Lessee for the purpose of resolving the dispute (the Original Meeting).

b) Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **Disputes - clause A** of this Lease then the dispute shall be referred in writing to the Chief Executive Officer (CEO) of the Lessor who shall convene a meeting within 15 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

c) Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **Disputes - clause B** of this Lease then the dispute shall be determined by an independent arbitrator as agreed to by both parties, and the Lessor and the Lessee may each be represented by a legal practitioner, or otherwise as each party determines appropriate.

d) Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid.

SCHEDULE

ITEM 1: LAND

That portion of the outbuilding situated behind the Old Road Board building on Lot 126 Constable Street, Gingin, as depicted on the plan included as **Annexure 1**.

PREMISES

The land and buildings contained within the area shown in **Annexure 1**.

Asbestos Hazard Report, included as **Annexure 3**.

ITEM 2: TERM

Two years

ITEM 3: FURTHER TERM

Two years

ITEM 4: COMMENCEMENT DATE

1 August 2019

ITEM 5: RENT

One dollar (peppercorn) per annum.

ITEM 6: USE

Storage and non-dwelling activities of the Red Cross Gingin Unit and all uses reasonably ancillary to that purpose.

The *Building Code of Australia* classification of the building located on the premises is 10a – a non-habitable building being a private garage, carport, shed, or the like and use must comply with this classification.

ITEM 7: PUBLIC LIABILITY INSURANCE

\$20,000,000.00

ITEM 8: ADDITIONAL TERMS AND CONDITIONS

8.1 Emblem Provision

The Landlord acknowledges that the emblem and logo of the Red Cross (**Marks**) may only be used with the written consent of the Federal Minister for Defence. Any unauthorised use of the Marks is a criminal offence under Australian law.

8.2 Insurance – Certificate of Currency

Red Cross has a Global Insurance Policy managed by Marsh Insurance Brokers. While Red Cross is the Tenant, and while the global policy is in place, no other insurance obligations will apply. A certificate of currency will be provided upon request.

8.3 Lease costs

Each party must pay its own costs in connection with the preparation, negotiation and execution of this Lease.

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It is acknowledged that the Shire of Gingin and the Australian Red Cross Society agree on the above conditions and responsibilities.

Signed on behalf of the Shire of Gingin:

AARON COOK
CHIEF EXECUTIVE OFFICER

DATE

SIGNED by AUSTRALIAN RED CROSS SOCIETY
by its Authorised Representative in the
presence of:

Signature of Witness

Name of Witness (block letters)

Signature of Authorised Representative

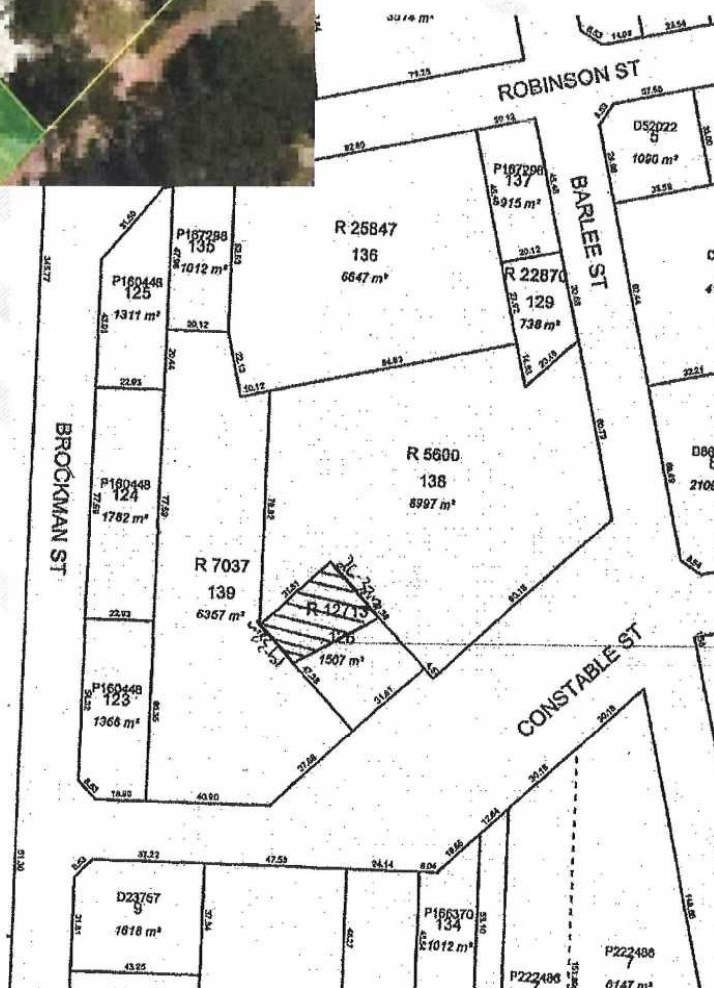
Full Name of Authorised Representative
(block letters)

Title of Authorised Representative
(block letters)

Annexure 1 – Plan of Premises



Leased Area (Crosshatched Section) –
31.81m x 26.37m x 31.9m x 19.3m



Annexure 2 – Maintenance and Cleaning

The following outlines the cleaning, maintenance and repair obligations of the Lessee for buildings that are leased under this Lease Agreement. This is to be read and adhered to in conjunction with the Lease Agreement.

The Lessor's expectation is that the Lessee is responsible for the cleaning, maintenance and repair of damage, fair wear and tear excepted, as a result of the use of the leased area.

Lessee Responsibilities:

INTERNAL

The interior of the building is to be maintained in a clean and tidy condition at all times and within the terms of the Lease, is to be kept free of dirty marks, cobwebs and vermin.

Internal	Lessee Responsibilities
Windows	To be kept clean, free from any marks and cobwebs. To be lockable and operable.
Doors	To be kept clean, free from any marks, damage and cobwebs. To be lockable and operable. Any door closers or other devices fitted should be maintained in good working order. NOTE: Locks are not to be changed without the prior approval of the Lessor. Locks must be keyed to Lessor's Master Key System.
Walls	To be kept clean, free from any marks, damage and cobwebs.
Ceilings	To be kept clean, free of cobwebs and cleaned of any temporary decoration. Penetrations for appliances such as air conditioning vents shall be kept clean and in good working order. NOTE: Any water damage or sagging to be reported to the Lessor.
Floors	To be kept clean and regularly maintained in accordance with the requirements of the type of surface i.e. carpets to be vacuumed regularly and steam cleaned annually, hard floors to be swept and mopped. Hard floors to be stripped back and resealed as required by the lessor. In kitchen areas, relevant Health requirements should be strictly complied with.
Cupboards	To be regularly cleaned with all doors, latches, drawers and shelves being in good working order. To be free from any marks or food residue.
Built in Joinery: (benches, cabinets)	To be regularly cleaned and free of debris.
Electrical Fittings	All electrical fittings such as power points, light switches and light fittings to be kept clean and in good working order and undertake testing of Residual Current Devices in accordance with AS/NZS 3760-2010 <i>In service safety inspection and testing of electrical equipment</i> . Replace light globes and fluorescent light tubes which may fail.

Fire Fighting Equipment and Exit Signs	<p>To ensure Fire Fighting Equipment is not tampered with or removed from designated area. Lessee is responsible for costs incurred for replacement, mis-use, tampered or lost Fire Fighting Equipment.</p> <p>A clear path or access should be maintained with no obstruction within 1 meter of firefighting equipment.</p> <p>The Lessee is responsible for notifying the Lessor if the Fire Evacuation Exit Signs are not in good working order.</p>
Rubbish Bins	All rubbish is to be placed in the outside Rubbish Bins in the designated bin areas / enclosures.
Security Systems	<p>The Lessee to pay all costs associated with the installation and ongoing monitoring of the security system.</p> <p>To be maintained in accordance with the supplier's instructions.</p> <p>Provide evidence of regular annual maintenance (maintenance Report) by a licensed provider.</p> <p>All Telecommunications and any other fees are to be met by the Lessee.</p> <p>Lessee to provide Access Keys and alarm codes to the Lessor.</p>
Sinks, Basins, Pedestal Pans & Cisterns	To be maintained in a clean and operable condition.
Toilets & Showers	<p>To be kept in a clean and operable condition at all times.</p> <p>Additional consumables, after usage of quarterly provision (i.e. toilet paper, paper towels) are the responsibility of the Lessee.</p> <p>All walls and floor surfaces to be kept cleaned and undamaged.</p>
<ul style="list-style-type: none"> Stove, Fans, Refrigerators, Heaters, & other White Goods 	All to be kept clean and operated in accordance with the manufacture's requirements.

EXTERNAL

The whole of the exterior of the building is to be kept in a clean and tidy condition free from cobwebs, leaves and debris/litter.

In particular, the following items must be given attention:

External	Lessee Responsibilities
Windows	To be kept clean, operable and lockable at all times.
Doors	<p>To be kept clean, free from any marks, damage and cobwebs. To be lockable and operable. Any door closers or other devices fitted should be maintained in good working order.</p> <p>NOTE: Locks are not to be changed or altered. All locks are keyed to Lessor's Master Key System. Lessee is responsible for the costs of lost keys and associated replacement.</p>
Security Screens	To be kept clean and firmly fixed. Any cobwebs to be regularly removed.
Walls	To be kept clean, free from any marks, damage and cobwebs.

Verandah	To be kept clean and free from cobwebs. To be kept clean, tidy and free from litter, rubbish, leaves and debris.
Eaves	To be kept clean and free from cobwebs.
Pathways	To be kept clear of rubbish and to be swept regularly. Vegetation surrounding the building not to be damaged or removed.
Light Fittings	To be kept clean and free from cobwebs. Replace all light globes which may fail.
Signs	Any signs installed by the Lessee, located on the building are to be regularly maintained and kept in a safe condition. Signs that may become damaged are to be replaced immediately. Any approvals or licences for signs are to be kept current.
Outdoor Sponsorship Signs	To be maintained to not less than the standard outlined above. Sponsorship Signs require approval of the Lessor before being installed.
Surrounds	To be kept clean, tidy and free from litter, rubbish, leaves and debris.
Rubbish Bins	Rubbish bins are to be kept neat and clean. To be placed in the designated areas. Bin enclosures to be kept clear of all rubbish and secured.



Lessor Responsibilities

Internal / External	Lessor Responsibilities
Gutter Cleaning	To maintain and clean guttering of natural product, including leaves, twigs and soil.
Fire Protection Equipment	To service and replace fire equipment as required.
Building Structural Repairs	To keep the premises structurally sound, maintain and repair the building structure from wear and tear.
External Drainage	To repair external drainage infrastructure failure.
Redecoration	To redecorate as required.
Air conditioning	The annual maintenance report is to be undertaken by a licensed provider.
Stove, Fans, Refrigerators, Heaters, & other White Goods	All items to be tested and tagged by a licensed provided in accordance with <i>AS/NZS 3760-2010 In service safety inspection and testing of electrical equipment</i> .
Sinks, Basins, Pedestal Pans & Cisterns	Clearing of all blockages and repairs to fittings.
Toilets & Showers	To clear all blockages. Replacement and repair of fittings such as taps, roll dispensers and coat hangers.

	A quarterly provision of consumables (i.e. toilet paper, paper towels) will be provided subject to usage (as reported on a quarterly basis plus a "group use" allocation).
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Annexure 3 – Asbestos Hazard Report

		Gingin Red Cross Shire of Gingin Asbestos Register Individual Building Report		
Address	Lot 126 Constable Street, Gingin			
Managed by	Shire of Gingin	Contact details	Bob Kelly – 08 9575 5100	
LGIS Ref #117 and #118	Description	Storage Shed Australian Red Cross Lot 126 Constable Street Gingin Date 22/08/2019 inspected This building is free of asbestos. The building is constructed solely of Colour Bond Sheeting. Single clad walls and roof internal roof lined with insulated sisalation foil.(sarking)		
Presence of Asbestos	No			
Material	Colour bond sheeting			
Locations	N/A			
Condition	Excellent			
Risk Rating	N/A			
Control Measures	N/A			
Labelled	N/A			
Date of Inspection/Review	Date of Inspection:	22 August 2019		
	Review due by:			
	Actual review date:			
Assessment completed by	Bob Kelly – Executive Manager Regulatory and Development Services			

END DOCUMENT

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11.3. REGULATORY AND DEVELOPMENT SERVICES**11.3.1 IMPLEMENTATION AND AGREED TREATMENT OPTION FOR THE LANCELIN OFF-ROAD VEHICLE AREA RISK ASSESSMENT**

Location:	Lot 14897 Bootoo Street, Lancelin
File:	RSK/15, RES/13
Author:	Sharon Smith – Coordinator Ranger Services
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and Development Services
Report Date:	15 October 2019
Refer:	Nil
Appendices:	1. LGIS Public Liability Risk Assessment - Lancelin Off-road Vehicle Area

DISCLOSURES OF INTEREST

Nil

PURPOSE

To review the LGIS risk assessment of the Lancelin Off-road Vehicle Area (LORVA) and agree on which treatment option to implement.

BACKGROUND

On 12 December 1978, the *Control of Vehicle (Off-road Areas) Act 1978* (the Act) was approved. The Act prohibited the use of vehicles in certain places, made provision as to the use of vehicles otherwise than on a road, and provided for areas where the use of off-road vehicles shall be permitted, for the registration of off-road vehicles, and for related purposes.

On 19 October 1979 under the provisions of section 3 of the Act, the Lancelin sand dunes area located at Lot 14897 Bootoo Street, Lancelin was gazetted as an Off-Road Vehicle Area.

The Lancelin Off-road Vehicle Area (LORVA) is approximately 210 ha of Unallocated Crown Land controlled by the Department of Planning, Lands and Heritage (DPLH) with administration and enforcement being undertaken by the Shire of Gingin in accordance with section 5(1) of the Act which states as follows:

Subject to the Minister, and in co-operation with the Director General, it shall be the duty of a local government to administer and enforce the provisions of this Act within its district.

Initial Management of the Area:

Since the LORVA's gazettal the Shire has implemented a number of strategies to assist with the management of the area including participation in stakeholder management groups, the development of a Risk Management Plan, the implementation and maintenance of relevant warning signage, and regular patrols of the area by Shire Rangers to provide education and enforcement.

However, despite these measures incidents continue to grow, with 1,008 injuries occurring within the area from 2015 (approximately 66 per annum). The location and the nature of the usage has a demonstrated history of serious injury resulting in substantial harm and in some cases death.

On this basis, and with probable future risks in mind, in September 2017 the Shire engaged LGIS to undertake a Public Liability Site Risk Assessment Plan of the LORVA which is attached as **Appendix 1**.

COMMENT

The LGIS Risk Assessment recommended the following treatment and management options for the Shire to implement:

- *Improve condition of main entrance track by widening and straightening the track;*
- *Provide a pull in information bay near the entrance using recommended signage and QR code links that can be scanned on mobile phones;*
- *Signage linked to tourist radio;*
- *Establish and maintain low speed zones at the front of the dune;*
- *Formalise the parking area;*
- *Locate and remove introduced hazards;*
- *Ensure Water Corporation maintains their signage;*
- *Develop a documented visitation policy;*
- *Consider use of dedicated volunteer rangers;*
- *Engage with local police;*
- *Develop a documented risk management plan; and*
- *Develop a maintenance and inspection program.*

In addition to these recommendations LGIS raised concerns regarding the current 'shared use' in the LORVA, recommending that the Shire seek legal advice regarding the implications of permitting activities other than off-road vehicle use in a gazetted off-road vehicle area.

LGIS has advised that, if Council wishes to continue to permit sandboarding in the area, then the following additional treatment and management options will be required:

- Closure of the initial parking spot to parking, which will eliminate pedestrian access along the same track as vehicles;
- Formalisation of the parking area with additional mapping signage;
- Provision of a dedicated bus parking area;

- Installation of elevated boundary markers to define the different areas that reference to the signage maps;
- Establishment of a dedicated sandboard and pedestrian access area with dedicated signage; and
- Securing of legal advice in relation to exposure from commercial operators.

Legal advice previously received from McLeods regarding permitted usage and enforcement options in the LORVA ultimately identified that whilst there is a legislative basis on which the Shire could prohibit sand boards in the LORVA, the likely reduction of the Shire's liability would be directly dependent on the Shire's ability to actually enforce the regulation.

Aligned with this legal advice, several options are provided to Council for consideration as part of this item.

Option 1 – Remove sandboarding from the LORVA and implement only the off-road vehicle recommendations from LGIS's risk assessment. Under the Act a vehicle is defined as being propelled by an engine or other mechanical source of power, therefore, sand boards are not vehicles and their use should not be permitted in the LORVA.

Council would be aware that this decision may prove unpopular and may have a negative impact on tourism for the area. In order for Council to effectively prohibit the use of sand boarding in the area, LGIS's recommendations for non-shared use would need to be implemented and consideration should be given to implementing the following additional measures:

1. Installation of appropriate signage prohibiting the use of sand boards;
2. Implementation of an extensive advertising campaign; and
3. Employment of additional resources to educate and implement the changes.

In the short term, enforcement can be facilitated by establishing signage under the Shire's existing Activities in Thoroughfares and Public Places and Trading Local Law 2004. However, this may be inadequate as a permanent solution, and Council may, therefore, be better served by the creation of a separate local law under the *Control of Vehicle (Off-road Areas) Act 1978*.

Option 2 – Council could consider outsourcing the management of the LORVA. If the Shire were to obtain a power to lease over the Off-road Vehicle Area from the DPLH for the purposes of better management then, with the Department's support, the area could be reserved for "Off-road Recreational Vehicle Use" under the provisions of the *Land Administration Act 1997*.

The DPHL could then issue the Shire with a Management Order with a power to lease or licence for up to 10 years, allowing the Shire to outsource the management of the LORVA via lease or management agreement subject to Ministerial endorsement. A correctly structured agreement or commercial proposition could provide risk transfer or risk sharing benefits to the Shire and may result in the LORVA becoming a well-managed superior facility that reduces risks to entrants and attracts more users.

Option 3 – Council could retain the ‘shared use’ proposal from LGIS through legislative process within the provisions of the Act which allow for the establishment of a local law.

The opinion of Council’s legal advisers is that the Shire does not necessarily attract further potential liability by implementing a shared use system whereby sand board and pedestrian activities are regulated in the LORVA. By not seeking to regulate those activities through the implementation of appropriate local law provisions, the Shire is already effectively permitting those activities and on that basis is already exposed to potential liability.

If the Shire can successfully implement a system by which these activities are regulated and controlled to reduce the current risks associated with those activities, then the Shire’s potential liability should be reduced. However, to allow for effective regulation of the area as ‘shared use’, Council would have to undertake the following measures:

1. Restriction or prohibition of the use of off-road vehicles in parts of the area;
2. Restriction or prohibition of the use of sand boards in other parts of the area;
3. Installation of appropriate signage in the LORVA;
4. Creation of appropriate pedestrian access to the sandboard areas;
5. Restriction of the types of vehicles currently being used in those areas of the LORVA where vehicle usage is currently taking place;
6. Coordination and communication with tour bus and commercial operators;
7. Establishment of a local law under s. 45 of the Act, with provisions that the Shire is willing and able to enforce, which further regulates activities including:
 - a. Identification of those areas of the LORVA where sandboarding is prohibited, and the conditions and requirements of use applicable to the LORVA generally;
 - b. Imposition of fees in relation to use of the LORVA by visitors and/or operators; and
 - c. Imposition of conditions on operators, which may include (for example) evidence of appropriate insurance and a requirement to provide details and information as to operations (days, times, activity types, conditions of hire, safety and risk management) and a requirement to subsequently carry out operations strictly in accordance with those plans.

It should be noted that no consultation with the Lancelin community has been undertaken with respect to this matter. However, the ultimate decision on how best to proceed with the implementation of any of the above options rests with Council and, crucially, the Shire will continue to expose itself to unnecessary liability by allowing existing activities to continue in a relatively unregulated format.

It is Administration’s recommendation that Council retain the LORVA area as shared use, with the immediate implementation of the following LGIS recommendations:

1. Improvement of the condition of the main entrance track by widening and straightening;
2. Installation of appropriate signage in the LORVA as per LGIS recommendations;
3. Coordination and communication with tour bus and commercial operators; and
4. Implementation of an appropriate local law to regulate activities within the LORVA.

Further consideration should also be given to obtaining funding and resources not only for the facilitation of the additional LGIS 'shared use' recommendations, but also to enable the ongoing enforcement and successful future management of the area, including (but not restricted to):

- Restriction or prohibition of the use of off-road vehicles in parts of the area;
- Restriction or prohibition of the use of sand boards in other parts of the area;
- Creation of appropriate pedestrian access to the sand board areas;
- Employment of additional resources for enforcement and effective management of the area; and
- Installation of elevated boundary markers or similar to define the different usage areas corresponding to the signage maps.

STATUTORY ENVIRONMENT

Control of Vehicles (Off-road Areas) Act 1978

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

It is difficult to provide advice with respect to likely budget implications as this depends on the outcome of Council's decision making process. However, \$20,500 has been allocated in the current 2019/20 budget for the immediate implementation of the LGIS recommendations.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Economic Development</i>
Objective	<i>4 – To support economic development through the Shire's service delivery</i>
Outcome	<i>4.1 Tourist Playground An internationally acclaimed tourist playground</i>

Key Service Areas	<i>Nil</i>
Priorities	<i>Nil</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

The Acting Manager Statutory Planning left Chambers at 4.34pm and returned at 4.35pm

ALTERNATIVE MOTION

MOVED: Councillors Peczka SECONDED: Councillor

That Council agree to retain the existing "shared use" nature of the Lancelin Off Road Vehicle Area (LORVA) with the immediate implementation of the following Local Government Insurance Service (LGIS) recommendations:

1. Improvement of the condition of the main "dune entrance" track by widening, straightening and resurfacing the track;
2. Improvement of the condition of the current substandard Dune Entry Vehicle Parking Area by resurfacing and enlarging;
3. Installation of identified and appropriate signage at the entrance to the LORVA and along the improved vehicle and pedestrian "dune access track" to the face of the sand boarding and vehicle designated areas; and
4. Liaise with the LORVA committee.

Councillor Fewster foreshadowed his intention to move the officer's recommendation in the event of the motion under consideration being lost.

MOTION LAPSED FOR WANT OF SECONDER

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Fewster SECONDED: Councillor Rule

That Council:

1. **Agree to retain the existing 'shared use' nature of the Lancelin Off Road Vehicle Area (LORVA) with the immediate implementation of the following LGIS recommendations:**
 - a. **Improvement of the condition of the main entrance track by widening and straightening the track;**
 - b. **Installation of appropriate signage in the LORVA as per LGIS recommendations; and**

- c. Coordination and communication with tour bus and commercial operators; and**
- 2. Request that the Chief Executive Officer investigate options for future management of the LORVA;**
- 3. Agree to progress development of a local law that will provide a mechanism to restrict sand boarders in designated areas of the LORVA and to set user fees and charges; and**
- 4. Pursue the appointment of Shire of Gingin representatives to the Control of Vehicles (Off-road Vehicle Areas) Advisory Committee to advocate and actively set guidelines for the LORVA.**

CARRIED UNANIMOUSLY

The Coordinator Ranger Services left Chambers at 4.45pm and did not return

APPENDIX 1

Public Liability Site Risk Assessment of the Lancelin Off-road Vehicle Area February 2018



Shire of Gingin





REPORT FOR: Shire of Gingin

LOCATION: Lancelin Off-road Vehicle Area

TYPE OF REPORT: Public Liability Site Risk Assessment

PREPARED BY: LGIS
Ian Proudfoot, Senior Risk Consultant

DATE OF INSPECTION: 16 September 2017 and 21 December 2017

CONFERRED WITH: Jeremy Edwards, CEO Shire of Gingin
Alan Brown, Senior Ranger Shire of Gingin

Foreword

This report is based on prevailing conditions at the time of the site visit and information provided by the Shire of Gingin. It does not imply that no other hazardous conditions exist and no liability shall be assumed by virtue of this advisory report.



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Executive Summary

Located on unallocated crown land within the Shire of Gingin, the Lancelin Off-road Vehicle Area (the LORVA) is gazetted as a "permitted area" under the Control of Vehicles (Off-road Areas) Act 1978 (WA). The terrain within the LORVA consists of sand and sand dunes with moderate up-slopes and shear drop offs, in some cases giving way to limestone cap-rock below. The shapes of the dunes are constantly changing due to strong winds. This results in variations to the riding conditions over short periods of time.

The area is open to use by motorcycles and quad bikes of all engine capacities, along with four wheel drive vehicles and buggies. Sandboarding on the dunes is also a popular activity and requires persons to access the dunes via foot. Currently a single commercial operator "Mr Extreme" conducts a hire business for sand boards and quad bikes, as well as offering joy rides in Polaris style buggies at the location¹. A second operator "Thrill Rides Perth" or "Lancelin Thrill Rides" advertises rides at the location utilising a modified Military Racing Hummer with promoted speeds of 225kmh².

With 1008 injury presentations to the Lancelin Silver Chain Nursing Centre over 15 years⁴, the location has a demonstrated history of serious incidents resulting in significant harm and in some cases death. This historical pattern includes an incident in 2003 involving a motorcyclist who suffered significant injuries after riding over the crest of a dune and onto hard rock below. The injured party commenced a protracted personal injury action

against the Shire (Coombe). The Shire was found liable at trial however it successfully defended its position on Appeal³.

To some degree in the era of Coombe, the Shire's position may have not have been as favourable as today. This position is largely due to the Shire not having the benefit of the current provisions in the Civil Liability Act 2002 (WA) relating to obvious risk and dangerous recreational activities. Whether the Shire would now escape liability in similar circumstances would still however rest on the facts of the incident at that time.

Since its gazettal, the Shire has implemented a number of strategies to assist with the management of the LORVA. This has included participation in stakeholder management groups, appointment of additional Shire Rangers and in 2008 developing a Risk Management plan. Whilst the most recent revision of the plan was in July 2009, the Shire has since made additional improvements to the LORVA including changes to existing signage, site-works and continuing to provide education and enforcement of the area via Ranger patrols.

Despite these measures incidents continue to occur. The most recent records from the WA Country Health service indicate 42 off-road related injury presentations at the Lancelin Silver Chain Nursing Centre in 2015. Of these injuries two resulted in a fatal outcome⁴.

With past incidents and the foreseeable risks in mind, the Shire should be confident it continues to do what is considered reasonable to manage its exposures and ultimately the risk of harm to those who enter the location. At the request of the Shire and to assist with informing the Shire in its decision making over the management of the LORVA, LGIS has undertaken this assessment.

¹ Mr Xtreme Thrill Rides <http://mrxxtreme.com.au/>

² Thrill Rides Perth <https://www.thrillrides.net.au/thrill-rides>

³ Shire of Gingin v Coombe [2009] WASCA 92

⁴ Lancelin Off-road Injuries Final Report 2015 - WA Country Health Service



As part of the overall assessment, LGIS commissioned the services of a trail bike consultant with experience in off-road vehicle areas to make observations of the LORVA site. Observations of the site included visible hazards and potential areas of risk.

LGIS has then examined the overall liability risk exposure to the Shire and identified the following key risk areas:

- Failure to provide reasonable measures to prevent harm to those using off-road vehicles in the LORVA.
- Failure to provide reasonable measures to prevent harm to those accessing the LORVA for purposes other than using off-road vehicles.
- Failure to provide reasonable measures to prevent harm to persons resulting from commercial ride operators in the LORVA.

Utilising the Shire's own risk framework, the above risks have been analysed considering the adequacy of existing controls and arriving at a relative risk rating. Given the inherent risks of the activities at the location and the changing nature of the terrain, the consequences (should the risks eventuate) are catastrophic. This naturally has a bearing on the existing risk ratings which are all on the high scale. Recommended treatment options have been provided to manage the risks to a level that may be considered reasonable in the circumstances. However these treatment options will have the most effect on likelihood as opposed to the consequence of the risks.

Recommended treatment options have been categorised into the following areas to align with on-site observations:

- Access - traffic and pedestrian flow
- Shared use

- Physical risks
- Management
- Signage, communication and education
- Amenities

Ultimately it is the Shire's decision whether to implement or how to prioritise the recommended treatment options, as it is recognised some may take significant planning, time and resources to realise. The Shire should therefore ensure it has a logical and documented decision making process not only from a good governance perspective but to also provide supportive evidence should its decisions ever be challenged in another claim related to the Shire's management of the LORVA.



Purpose

At the request of Jeremy Edwards, CEO, the purpose of this Risk Assessment is to identify: hazards, potential risks, liability issues and to provide practical treatment options in relation to the Lancelin Off-road Vehicle Area located within the Shire of Gingin.

Requirements

The imperative for identifying, assessing, and treating the risks covered by this review are found under statute including but not limited to: Common Law; the Occupiers Liability Act 1984; and the Civil Liability Act 2002. Where the organisation that manages and controls the site has a duty of care to those who enter and use the site they must do what is reasonably practicable to ensure that foreseeable risks are adequately treated.

Methodology

The methodology of this site risk review is as follows:

1. Onsite inspection of the Lancelin Off-road Vehicle Area to identify risks, hazards and existing controls.
2. On site discussions with relevant Shire of Gingin personnel to further identify existing controls.
3. Application of the risk management process to the issues in accordance with ISO AS/NZS 31000:2009, including:
 - a. Risk identification
 - b. Control identification and rating

- c. Risk analysis and evaluation, using the Shire's Risk Assessment Tables (Appendix A)
 - d. Treatment option identification
 - e. Comments on treatment options and recommendations (based on most suitable treatments taking into account degree of risk reduction, operational practicality and the cost and ease of implementation and ongoing maintenance)
4. Development of draft and final reports noting potential risks and liability exposures, as well as providing direction for risk treatment options.



Observations

The following key areas of observation were noted during the site inspection of the Lancelin Off-road Vehicle Area (the LORVA) 16 September 2017 and subsequent visit on 21 December 2017.

Access – Traffic and pedestrian flow

Upon entry from Beacon Road there appears to be a small parking spot to the left of the main entrance track. The main entrance track has a variety of signs on both the left and right and leads to what is designated as the parking area, marked by signage and an old fence. Vehicles can move through the main car park and enter the area itself via two entrances. Vehicles park in front of the dunes to set up base and ensure proximity to the riding area.

The main entrance track is not wide enough to safely pull over and read the area signage on the left of the track. When parked to read the signage, other vehicles have to take up the rest of the track to pass. Further on the track also has a bend/blind corner(s) where there is also evidence of sand build up on the corners. This sand build up may create:

- a narrowing area of vehicle access (particularly to non 4wd/conventional road vehicles); and
- the requirement for additional acceleration/power to manoeuvre over sandy elements.


The main entrance track leads to the designated car park and access to the LORVA can be achieved by branching left or right off the main track.

It would appear that heavy haulage vehicles associated with the mining lease area may also enter and exit the track given that signage (although damaged) is located here stating "Caution – Trucks Entering".

Pedestrians walking from the first parking spot also share the main track where vehicles are entering and exiting the area.

Two way access and acceleration over heavy sands pose a collision hazard to both pedestrians and vehicles using the track with a risk of injury and damage.



	<p>Main entrance track noting small parking spot to the left.</p> <p>Signage is positioned at the exit point from the parking spot and garbage bins are located on the edge of main entrance track.</p>		<p>Bend/blind corner(s) located on the main entrance track.</p>
	<p>Accumulation of soft sand on the section of the main entrance track closer to the designated parking area.</p>		<p>The main entrance track leading straight ahead to the designated parking area.</p> <p>Access to the ORVA can be achieved by branching left or right off the main entrance track.</p>



Shared Use

Whilst the location is designated as an Off-road vehicle (ORV) area it is in reality shared with sand boarders, tour buses, tourists, pedestrians, and commercial operators, with some promoting high speed thrill rides. There are no designated high traffic zones, slow speed areas or areas with clear speed restrictions and there is no separation of activities or guidance of behaviour, particularly in high traffic areas.

The designated parking area contains a bank of signage located along a deteriorating fence line. The business "Mr Extreme" who hires sand boards, Quad/ATV bikes and operates dune buggy rides can be seen operating from the other side of the fence line.

Beyond this area and to the foot of the dunes is largely trafficable compacted limestone surface where ORV visitors tend to unload and park, whereas Non-ORV visitors tend to park in the designated parking area. Whilst there are reasonable lines of sight across the limestone surfaced area, there is still a potential pedestrian/vehicle collision hazard with a risk of injury and damage.

Currently there is a high number of pedestrians and vehicles mixing in the same areas and on the same tracks without structure or separation. Pedestrians walk from the small parking spot (located just inside the entry from Beacon Road), along the main entrance track to the designated parking area; then from the designated parking area through the ORV area to what appears to be the main sandboarding dune. Pedestrians also walk across the dunes to other vantage points where ORVs are operating. The front sections of the dunes tend to be high traffic, mixed use where pedestrians and vehicles are interacting.

Scattered pedestrians across the dunes in an ORV area, where there are blind crests and high speed vehicle movements poses a risk of pedestrian/vehicle or vehicle/vehicle collision with the risk of injury and damage.

Sand boarding: Rangers estimate that 50% of site visitors are tour bus customers for sand boarding. Sand boards are available for hire on site and also available for hire from local businesses within Lancelin. The activity of sandboarding is not limited to a particular dune(s). Whilst there appears to be a favoured area (north and towards the mining lease) there is no designated use area for sandboarding. This results in:

- ORVs driving/riding through groups of pedestrians and sand boarders; and
- A proliferation of pedestrians and sand boarders onto front dunes being used by ORVs. These ORVs are often jumping over dune crests.

There is a potential vehicle / sand boarder collision hazard with the risk of injury and damage.



Tour buses: Tour buses enter the area and were observed parking at the base of the main sandboarding dune as well as the centre dunes where passengers disembarked and walked across the dunes and ORV riding area. During busy periods there may be up to 6 tourist buses at the ORV area at any one time. Multiple passengers alight from vehicles at once and walk up and across any of the front dunes to access the sandboarding area, or to gain a vantage point for viewing.

Given the unstructured nature of pedestrian passengers accessing the dunes it is believed that tour operators may not direct passengers to a particular dune area or provide appropriate risk warnings that this is an ORV area with high speed vehicles in operation.

Commercial ride/hire operators:





- Mr Extreme: Operating in the ORV area since 2014, Mr Extreme offers quad bikes and sand boards for hire onsite along with thrill rides as a passenger in dune buggies. Mr Extreme appears to set up a base for operations on the other side of the fence line located at the designated parking area. Other ORV area users expressed concerns that novice/first time users were riding hire quad bikes in advanced terrain with limited training and supervision. Persons hiring equipment are required to complete waiver/disclaimer forms and the business reportedly holds public liability insurance to the value of \$20 million. There is an increased risk of harm to hired ORV users riding in the ORV area who are inexperienced and unsupervised.
- Thrill Rides Perth – Lancelin Thrill Rides: The proprietor is planning on operating in the ORV area every 4 – 6 weeks. The activity involves customers being taken on high speed rides in a 750 HP H1 Military Racing Hummer. The vehicles are approved for competition use and are not registered for the road. The website promotes speeds up to 225kmh with a focus on enabling customers to "experience what it's like in the Dakar Rally". The potential speed and power of the vehicles is a potential hazard amongst shared users of the ORV area with an increased risk of harm and damage.

Sand mining: A sand mining lease operates in the general area. There is no indication of a boundary or the extent of the mining lease area and concrete blocks along with structures remain in what appears to be the mining area. Anecdotal evidence suggests:

- The area has not been remediated since mining activities, leaving holes and tractor berms that are not marked or identified.
- That when mining was in operation large trucks were moving through the recreational area.

There is a possibility that persons who are unaware of the mining area boundaries may stray into the lease area and be exposed to structural, operational as well as hidden hazards with a risk of injury and damage.



	<p>The designated parking area including fencing and signage.</p> <p>The business operator "Mr Extreme" is visible behind the signage.</p>		<p>Pedestrians and sand board riders are visible on the dunes in the background.</p> <p>The pedestrians have walked from the area of "Mr Extreme's" base through the large limestone surface area and eventually to the dunes.</p>
	<p>Vehicles accessing the southern end of the large limestone surface area.</p> <p>Pedestrians are also visible moving through the area.</p>		<p>A tour bus at the northern end of the large limestone surfaced area and the foot of the dunes.</p> <p>This bus had unloaded passengers who can be seen walking through the dunes.</p>



	<p>Extract Thrill rides Perth website.</p>		<p>Extract Thrill Rides Perth website.</p>
	<p>Signage stating "Caution - Trucks Entering", although pushed over is located where the main entrance track verges to the north.</p>		<p>Signage in front of a concrete structure located within what is believed to be the mining lease area.</p> <p>The sign states "Danger Deep Excavation" and "Danger Mine site Keep Out".</p>



Physical risks

There are multiple physical hazards in the ORV area, some of which are introduced and others that exist due to the natural terrain.

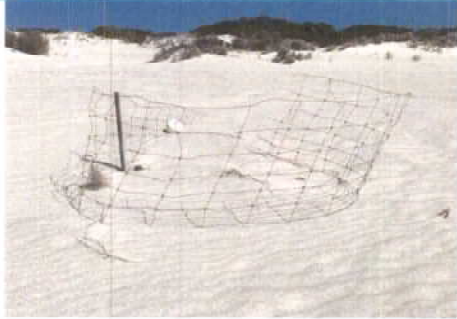



Fence line and pickets: The fence line is deteriorating, with curled wire and isolated steel pickets along its extent. The encroaching sand has covered much of the fencing infrastructure. Fencing has been removed by the Shire in the past as and when resources have allowed. Pickets and fencing wire pose a collision hazard and fencing wire is a tagging or entrapment hazard; all present a risk of injury and damage.

Dunal drop offs (razorbacks) and limestone bases: Wind conditions cause drop-offs to form on the dunes which cannot be seen when approaching the crest of the dune. Sudden drop offs with hard surfaces below pose a hazard to ORV users with a risk of injury and damage. Particularly to those ORV users approaching crests at speed and riding over the dunes without caution.

Boundary markers: Large orange boundary markers have been placed in various locations including along the southern boundary of the ORV area where it intersects with the Lancelin Water Reserve. Buried or partially buried markers pose a collision hazard with a risk of injury and damage.

Large round concrete barriers previously installed by the Shire to mark the northern boundaries are now mostly covered in sand and are largely hidden. This poses a collision hazard with a risk of injury and damage.



	Remnant post and fencing wire.		Dunal drop offs with exposed limestone bases.
	Timber marker posts located throughout the area.		Concrete wells are semi submerged within sand and in some areas these structures are damaged.



Management

Ranger presence: Rangers advised they are typically at the LORVA for around 3 hours per day and their main role is to enforce ORV registrations. This time allocation was disputed by visitors who felt rangers were normally on-site for around 10 minutes; however this had increased to a much greater presence during the site assessment time. Rangers do not provide assistance to visitors who become bogged or need assistance. A reduced Ranger presence may lead to a perceived lack of management, making conditions favourable for anti-social behaviour as well as increased risk taking behaviour.

Off-road vehicle registration: Rangers turn ORV users away from the area if their vehicles do not have current ORV Registration. Rangers report that previously up to 50% of visitors would present to the area with non-registered vehicles however this is now down to around 20%. Many visitors are unaware of the requirement for ORV registration. Currently registrations can be obtained from the Shire offices (Monday to Friday) or at a Department of Transport licensing centre. Lack of information regarding ORV registration requirements along with opportunities to purchase registrations may:

- Expose Shire Rangers to unnecessary conflict (over enforcement of registration requirements and expulsion of non-registered visitors).
- Reduce income opportunities for Lancelin businesses by turning away non-registered visitors without offering a local opportunity to rectify the situation.

Alcohol consumption and drug use: Observed and reported drinking of alcohol before and/or whilst operating vehicles and undertaking activity in areas where vehicles are used. As a result of alcohol and drug use there is an increased risk of collisions and accidents due to impaired judgement.

Signage communication and education

The current signage is generally in good condition and provides a reasonable level of information on the area. However there are multiple versions of signage that may not be located in the best position for visitor viewing.

At the time of the original site visit, signage along the main entrance track was noted as being on both the left and the right of the main entrance track. On the subsequent visit the signage on the right of the track appeared to have been removed.

When entering there is no appropriate means of pulling over to read and digest the contents of the signage before moving to the main area.

Signage (non-Shire) promoting 4 x4 vehicle recovery/towing services is also located along the main entrance track.

There is no signage targeting first time users of the area who are most likely to be at risk of not knowing about or understanding the hazards associated with dune drop-offs, the mixed use of the area and generally how the area operates.





Current signage is aimed at ORV users with no specific information regarding use of sand boards in the area.

There are differing formats of older signage located within the ORVA. Some of the information within this signage may no longer be appropriate (such as reference to area defining markers) and could better illustrate other areas such as defining the car park area where the speed is limited to 10kmh.

Shire Rangers distribute "Off-Road Vehicle Information" brochures to visitors along with Water Corporation brochures informing people to stay out of the Lancelin Water Reserve area. The Shire website also provides information regarding the area.



	<p>Detailed information and warning signage located along the main entrance track.</p> <p>This signage format is repeated at multiple locations in the ORVA including the designated car park.</p>		<p>Signage located at the designated parking area. Includes previously mentioned detailed information and warning signage.</p>
	<p>Example of older signage within the ORVA.</p>		<p>Example of older signage within the ORVA.</p>



Amenities

Rubbish: Whilst bins are only located on the main entry track, the general area was clear of rubbish with no evidence of rubbish dumping or litter being left behind.

Toilets: The lack of toilets was a priority raised by area users, particularly families and women. Users currently try to find a bush area or make their way back into town.



Injury Data

The following summary of relevant data was obtained from the Lancelin Off-Road Injuries Final Report 2015 prepared by the Western Wheatbelt Primary Health Unit. Whilst data has been monitored in the area since 1994, the report is primarily based on data collected in 2015. The report also includes data from 2001 to 2015 to allow for comparisons.

This data was collected by the Lancelin Silver Chain Nursing Centre (LSCNC) where injured persons have sought treatment from the LSCNC. It is important to note this may not be an accurate reflection of all injuries occurring at the LORVA, as an unknown number of persons may receive treatment elsewhere (travel to other hospitals, seek treatment from their GP or self-treat at home).

Data from 2001 to 2015:

- There were 1008 injury presentations at LSCNC, with an average of 66 injuries per year.
- The greatest number of injuries correlated with the long school holidays and public holiday breaks of Easter and Christmas.

Key trends in 2015

- In 2015 there were 42 injury presentations to the Lancelin SCNC for off-road injuries. This is 24 injury presentations lower than the 15 year average of 66 injuries.
- Of the total number of injury presentations 74% (31 cases) were male and 26% were female (11 cases), the number of female cases increased in 2015.
- The 25-34 year age group recorded a total of 38% (16 cases) of all injury presentations followed by the 0-14 year age group (19%, 8 cases). There was a marked increase in injuries in the 0-14 year old age group in 2015 (8 cases in 2015, compared to 4 cases in 2014, compared to 2 cases in 2013). These injuries occurred across a range of activities; however 37.5% (3 cases) were attributed to riding a 4-wheel motorbike.
- People visiting Lancelin from Perth had the highest proportion of injury presentations recorded (67%).
- The majority of injury presentations (27 cases, 64%) occurred while riding motorbikes. For the first time in at least 5 years, 4-wheel motorbikes were the most common motorbike to result in an injury.



- Sand board related injuries increased in 2015 and accounted for 19% (8 cases) of all injuries (compared to 3 cases in 2014).
- Helmets were the most common piece of safety equipment used. The majority of bike riders (2 wheel and 4 wheel) wore a helmet (24 cases, 89%). There is a declining trend over the last four years in the use of safety equipment.
- Five injury presentations (12%) reported the use of alcohol or other drugs.
- There was an increase in injuries that resulted in death in 2015 (2 cases), compared to zero cases in 2014 and 2013. Both fatalities in 2015 occurred on motorbikes (1 case on a 2-wheel and 1 case on a 4-wheel).

Injury prevention measures

Measures recommended by the Lancelin Off-Road Injuries Final Report 2015 to reduce off-road injury and damage to the environment include:

- The Lancelin ORVA injury surveillance working party should consist of representatives from WA Country Health, Silver Chain, Police, Shire of Gingin Ranger services, St John Ambulance and any other interested community representatives and meet twice yearly to action the recommendations.
- Coordinated approach to address off-road injury prevention strategies by a range of community, non-government and government groups.
- Advocate for Shire of Gingin Rangers and local Police to continue with a Ranger presence on weekends and public holidays including monitoring the registration of off-road vehicles.
- Improved delineation of the LORVA boundaries, especially around the car park area but also between the boundary of the LORVA and private property.
- To utilise social media to promote health promotion messages to ORVA users who visit from the Perth metropolitan area.
- To develop health promotion campaigns specifically targeting dehydration, fatigue, and the importance of checking the dunes before riding due to the winds changing the shape of the dunes on a daily basis. These campaigns could be launched via a promotional event on a long weekend at the LORVA and promoted via flyers, local media and social media.
- Advocate for a dedicated local Ranger for the coastal area, based in Lancelin.
- Improved infrastructure at the LORVA site which could include ablutions, Ranger station etc., which would provide a regular perception of authority.



Points of interest

Report data

There appears to be an overrepresentation of persons who are not from the Lancelin area, however it is undetermined what percentage of patients had been to the LORVA previously or who were familiar with the location and its unique conditions.

When drilling down further regarding experience:

- The majority of injuries were associated with individuals who use these vehicles 'rarely' (33.3%), with 14% being 'first time' users on vehicles.
- Of 'rarely' vehicle users, 57% were related to four-wheel bikes and 29% related to sand boards.
- Seventy five percent (75%) of 'rare' and 'first time' vehicle users were using vehicles owned by a friend/family or hire operator.

To some degree these statistics support a view that inexperienced and perhaps insufficiently informed persons accessing the area are somewhat vulnerable.

Injury prevention measures

There may be opportunities for assistance and funding from other stakeholders including the Department of Health who share a common interest with injury prevention/risk mitigation strategies. This may include improvement in the areas of education and supervision of the facility by increased Ranger presence and the provision of further information.



International Dunal Off-road Vehicle Areas

The following summary is based on research conducted by an independent trail bike consultant with experience in off-road vehicle areas and who was commissioned by LGIS. The research was conducted on well-known international sand dune off-road vehicle areas. This was limited to the USA where off-road vehicles are commonly referred to as Off Highway Vehicles (OHV). This information provides an overview of international best practice management of these types of facilities.

Glamis Sand Dunes – California

Size: 48,000Ha

Visitation: 1.4 million PA

Land manager: Bureau of Land Management (BLM) with fee management by the California Parks Company.

The BLM are very active with news, information and updates. There is an active user community.

Fees and permits: \$50 per week (\$35 if purchased off-site) or \$150 per season (Oct 1 to Apr 15). Pay stations are located throughout the recreation area accepting cash and credit cards.

Fees are used by BLM to cover operating expenditures.

The BLM also actively promotes benefits of becoming a vendor for off-site permit sales including the increase in foot traffic to participating businesses.

Area rules/requirements

Includes:

- Access permits and State OHV registration.
- Flags on vehicles
- Proper riding gear
- No drinking and riding



- Speed limits (24kph within 15m of people and 150m of main roads and camp grounds. 56kmph on main roads)
- Approval mufflers and spark arrestors.

Organised activities: Organised competitive or commercial OHV events such as sand drags, closed course racing and hill climbs are sometimes conducted. Events require special permits from the BLM.

Facilities

- Multiple campgrounds including parking pads and pit toilets
- Parking alongside main road
- Public telephones

St Anthony Sand Dunes - Idaho

Size: 17,000Ha

Visitation: Unknown

Land manager: Bureau of Land Management

Fees and permits: State OHV registration, camping fees. No fees for daily use.

Area rules/requirements

Includes:

- State OHV registration with no highway licensed vehicles in sand dunes.
- Flags on OHV's.
- Speed limit – 8kmh in campgrounds and parking areas.



Facilities: Camping and toilets

Killpecker Sand Dunes – Wyoming

Size: Second largest active sand dune field in the world, 4,500Ha of which is designated for OHV use. The remainder is wilderness study area.

Land manager: Bureau of Land Management

Fees and Permits: \$15 Wyoming ORV permit. No other fees or passes required.

Area rules/requirements

Includes:

- ORV permit
- Spark arrestors
- Noise limits
- Vehicle safety flags recommended but not a requirement
- No drinking and riding permitted

Organised activities: Night riding permitted

Facilities

- Camping in parking area
- Pit toilets and running water



Oregon Dunes – Oregon

Size: 4,000Ha – Largest coastal sand dunes in America. 50% open to OHV use.

Land manager: Bureau of Land Management

Fees and permits: State OHV registration, camping fees. No fees for day use.

Area rules/requirements

Include:

- State OHV registration
- Flags on OHV's
- Noise limitations (93Db)
- No alcohol

Facilities

- Camping and toilets
- Beach access

Organised activities: Annual Oregon Dunefest event

Commercial: ATV rentals and dune tours



Dunmont Dunes – Northern California

Size: 3,000Ha

Land Manager: Bureau of Land Management

Fees and permits: State OHV registration, \$30 entry per vehicle, holiday week pass \$40, annual permits available.

Area rules/requirements

Include:

- State OHV registration
- Flags on OHV's
- Noise limitations (96Db)
- No alcohol

Facilities

- Camping permitted but no designated area
- Vault toilets

Points of interest

All of the dunal off road vehicle areas are managed by the Bureau of Land Management (BLM). The BLM is a federal government agency within the United States Department of the Interior responsible for managing outdoor recreation, livestock grazing, mineral development, and energy production on public lands. All of the researched sites are significantly larger in size than the LORVA.



From the information obtained:

- Two of the facilities charged an entry fee
- All required vehicles to be registered with state off highway vehicle or off-road vehicle registrations.
- Two indicated speed restrictions applied in certain areas or within proximity to persons or designated areas.
- Four required and one recommended safety flags on vehicles.
- One specified riding gear.
- All provided camping and toilet facilities.
- Three provided commercial vehicle hire, tours or events.



Site Risk Information

Ref No.	Context	Risk	Causes	Controls	Existing Control Rating	Consequence Category	Consequence	Likelihood	Level of Risk	Treatment Options Recommended
1	Lancelin Off-road Vehicle Area	Failure to provide reasonable measures to prevent harm to those using off-road vehicles in the LORVA.	<p>Uncontrolled access</p> <p>Constructed/introduced hazards (e.g. barriers, fencing).</p> <p>Natural hazards (e.g. shifting sands, changing shape of dunes and rock/limestone surfaces).</p> <p>Uncontrolled traffic flow</p> <p>Multiple user types (e.g. motorcycles, quad bikes/ATV, buggies, 4WD's vehicles, high powered vehicles, tour operators, pedestrians, sand board riders).</p> <p>Incompatible user types in close proximity (e.g. high speed vehicles vs. pedestrians, sand boarders and motorcycles/quad bikes).</p> <p>Lack of area inspection and maintenance.</p> <p>Unsupervised location</p> <p>Persons unfamiliar with the location (e.g. physical and operational conditions).</p> <p>Insufficient signage, warnings and information.</p> <p>Lack of clear boundaries.</p> <p>Driver/rider/pedestrian behaviour.</p> <p>Driver/rider/pedestrian impairment from alcohol/drug use.</p> <p>Lack of education, enforcement and general management of off-road vehicles.</p> <p>Lack of controls in place for commercial hire/ride operators.</p>	<p>Separate car parking areas.</p> <p>Hazard/risk warning signage.</p> <p>Ranger patrols – Education and enforcement.</p> <p>Ad hoc inspection and maintenance.</p>	Inadequate	<p>Health</p> <p>Financial Impact</p> <p>Reputational</p>	<p>5</p> <p>5</p> <p>4</p>	<p>3</p> <p>3</p> <p>3</p>	HIGH (15)	<p>Yes:</p> <p>Refer Treatment Options Section</p>



Ref No.	Context	Risk	Causes	Controls	Existing Control Rating	Consequence Category	Consequence	Likelihood	Level of Risk	Treatment Options Recommended
2	Lancelin Off-road Vehicle Area	Failure to provide reasonable measures to prevent harm to those accessing the LORVA for purposes other than using off-road vehicles.	Uncontrolled access Natural hazards (e.g. shifting sands, changing shape of dunes and rock/limestone surfaces). Uncontrolled traffic flow Multiple user types (e.g. motorcycles, quad bikes/ATV, buggies, 4WD's vehicles, high powered vehicles, tour operators, pedestrians, sand board riders). Incompatible user types in close proximity (e.g. high speed vehicles v's pedestrians). Lack of area inspection and maintenance. Unsupervised location Persons unfamiliar with the location (e.g. physical and operational conditions). Insufficient signage, warnings and information. Lack of clear boundaries. Driver/rider/pedestrian behaviour. Driver/rider/pedestrian impairment from alcohol/drug use. Lack of education, enforcement and general management of off-road vehicles. Lack of controls in place for commercial hire/ride/tour operators.	Hazard/risk warning signage. Ranger patrols – Education and enforcement. Ad hoc inspection and maintenance.	Inadequate	Injuries Financial Reputational	5 5 4	3 3 3	HIGH (15)	Yes Refer Treatment Options Section



Ref No.	Context	Risk	Causes	Controls	Existing Control Rating	Consequence Category	Consequence	Likelihood	Level of Risk	Treatment Options Recommended
3	Lancelin Off-road Vehicle Area	Failure to provide reasonable measures to prevent harm to persons resulting from commercial ride operators in the LORVA.	<p>Uncertainties regarding management orders over the LORVA as Crown land.</p> <p>Local laws insufficiently designed to capture management and enforcement requirements of commercial operators at the LORVA.</p> <p>Lack of application, approval and vetting of commercial operators at the LORVA.</p> <p>Self-imposed commercial operator safety measures.</p> <p>Unknown level of safety and quality control of operators including (suitability of equipment, experience of operators/drivers, level of supervision and induction, extent of insurances).</p>	<p>Hazard/risk warning signage.</p> <p>Ranger patrols – Education and enforcement.</p> <p>Ad hoc inspection and maintenance.</p>	Inadequate	<p>Injuries</p> <p>Financial</p> <p>Reputational</p>	<p>5</p> <p>5</p> <p>4</p>	<p>3</p> <p>3</p> <p>4</p>	HIGH (16)	<p>Yes</p> <p>Refer Treatment Options Section</p>



Duty of Care

The Lancelin off-road vehicle area (the LORVA) is gazetted as a permitted area under the Control of Vehicles (Off-road Areas) Act 1978. We are advised by the Shire that whilst the area is under their control, the land is unallocated crown land that is not vested in the Shire.

The Shire's management and control of the area therefore cannot be characterised in the same way as its management and control of, say for example, a recreation centre. This then begs the question as to whether the Shire owes a duty of care to off-road vehicle users to the same extent as it would hypothetically owe to patrons of a Shire owned and operated recreation centre.

In our view the Shire would be seen to owe a duty of care to all entrants of the LORVA. This is by virtue of the fact that the Shire may be seen to have assumed management over the area for many years and in many ways including:

- The establishment and management of access and parking areas.
- Construction of fencing and boundary markers.
- Erection of signage.
- Actively patrolling the area for the purpose of education of entrants and enforcement of statutory and local law obligations.
- Promotion of the area through its website and other materials (e.g. brochures available at the Shire office and circulated by Rangers).
- Participation in risk workshops and development of risk plans.

- Participation in stakeholder groups (e.g. Lancelin ORV working group)
- Received and considered approaches from commercial concerns regarding their conducting of business activities at the location.

Further the Shire is well aware of a history of serious incidents from reporting received by the WA Country Health Service and having been involved as the defendant in the trial and appeal matters of Coombe⁵. As a result of this history, the Shire has demonstrated it is concerned enough to revisit its existing management of the area through the commissioning of this risk report.

In our view the Shire is an Occupier of the LORVA, within the meaning of the Occupiers Liability Act 1985 (WA), with the consequence that it owes a duty specified by s5 of that Act. The statutory duty and standard of care created by that section is not materially different to the duty and standard of care applicable at common law.

The nature of the terrain and the activities carried on or in the LORVA create a significant risk of injury to those engaging in recreational off-road activities in the area. These risks are not far-fetched or fanciful and, it then follows that the Shire owes a duty of care to users as members of the class of persons engaging in such activities. This conclusion, in our view, is not in any way controversial. Irrespective of whether the area remains in its current condition or is upgraded the Shire would still owe a duty of care to users of the LORVA.

Extent of duty

Public authorities (such as the Shire) and private citizens are subject to the same principles governing the scope and content of the duties of care. The

⁵ Shire of Gingin v Coombe [2009] WASCA 92

content of the duty of care owed by a public authority having control of large area of land to which the public have access, is not to be assessed by looking only at the particular site where the plaintiff suffered injury, but rather looking prospectively, before the injury occurred; to the entire area under the control of the authority; and by reference to the class of entrants to that area generally. The fact that the authority might, for its own purposes, encourage or promote the use of the land for a particular purpose (e.g. such as recreation, through providing identifying signage) is also a relevant consideration, as it tends toward the imposition of a more exacting duty of care.

Breach of duty

At the time of Coombe the Shire did not have the benefit of the current provisions of the Civil Liability Act 2002 (WA) relating to the obvious risk and dangerous recreational activities. The effect of this legislation is to give people the right to choose to engage in activities that carry a risk of harm (injury or death) while providing protection to land owners and managers who provide these facilities where those activities can be undertaken. These are essentially protections from liability where harm was caused by obvious risks associated with a dangerous recreational activity.

Whilst the Shire was eventually found to have not breached its duty of care in the matter of Coombe, this is not a guarantee that the adequate discharge of the Shire's duty of care would not be challenged again regarding an incident at the location or even in similar circumstances. This is of particular interest given the number of serious injuries that have continued to occur since Coombe.

There is also the consideration that other and introduced hazards may exist, such as now deteriorating fencing and markers, high speed vehicle operators and sand board operators and mining operations in the general area. These hazards may pose risks that are not considered an inherent or obvious risk of using an off-road vehicle area.



It is important to consider the position in relation to entrants other than off road vehicles users such as pedestrians and sand boarders. It would not be unreasonable to regard these classes of entrants as vulnerable to the risk of harm, given they environment they have been permitted to participate in for some time.

It is possible that the Shire could be deemed to have breached its duty of care if it fails to address these hazards and risks in a reasonable manner. A breach may also be possible if the Shire fails to maintain a system of inspection of the site to evaluate the state of the site from time to time, including changes in risk; to check signage remains legible and relevant, or where possible cordon off areas of particular risk within the site.

Unless it would be practical to do so, excluding the public from the area altogether would not be expected in order for the Shire to demonstrate reasonable attempts in discharging their duty of care.

Discharge of the duty of care. What a would a reasonable local government do in the Shire's position?

There is no general power afforded to a Local Government to refuse to manage a facility it has been specifically charged with the control and management of. Therefore demonstrating that the Shire has discharged its duty of care should be an important consideration in respect to the LORVA.

If the Shire takes appropriate steps to protect users of the area, it may be in a position to demonstrate reasonable attempts at discharging its duty of care to users of the area. Exactly what steps the Shire has to take to discharge its duty of care to users of the LORVA will depend on what a reasonable Local Government would do in the Shires circumstances, which in turn depends on various factors including:



1. The magnitude of the risk, that is, the possible severity of the consequences in failing to take action;
2. The degree of probability of the risk occurring – this would turn on factors such as whether accidents have occurred in the area in the past, the age of the persons using off road vehicles in the area, the inherent characteristics of the LORVA, whether there are any unusual or hidden features which would make certain areas of the LORVA more dangerous than others;
3. The expense, difficulty and inconvenience of taking precautions – relevant factors would be financial cost to the Shire in taking precautionary action and how practical it is to take that action, staff levels of the Shire, capacity to employ and train staff, cost of maintenance and supervision of the area;
4. The obviousness of the harm and the ability of the person entering the area to appreciate the danger for themselves;
5. Whether the user is participating in a co-ordinated group activity;
6. The age of the person entering the area; and
7. Whether the Shire knows of a specific risk of harm arising from known dangerous behaviour of users.

Duty under the Control of Vehicles (Off-road areas) Act 1978

Section 5 of the Control of Vehicles (Off-road areas) Act 1978 (the Act) imposes an express duty on local governments to administer and enforce the provisions of the Act within its area.

Under the Act a local government is also:

1. expressly empowered to make local laws to control vehicles in a permitted area and for the safety and obligations of persons who use vehicles in the area.
2. obligated, where practicable, to delineate the boundaries of the off road area and erect signs.

The Act does not specifically provide that the Local Government must maintain, upgrade or manage an off road vehicle area within its jurisdiction.

The powers afforded to and the responsibilities imposed on the Local Government by the Act, in the circumstances where the land is a Crown reserve under the management of the Local Government, effectively mean the Local Government is under both a statutory and a common law duty to take reasonable care to warn persons using the LORVA of known dangers and to take other reasonable steps to minimise the risk of injury to users of the area.

Local laws can be used to help manage the Shire's exposure to liability. For example: a requirement that persons under a certain age (say 16) be under the supervision of an adult to use the area, putting time restrictions on when people can use the area (i.e. during day light hours) and/or requiring permits for use of the area.

However it is important that the Shire should only make local laws that it is willing and able to enforce.



Treatment Options

Lancelin Off-road Vehicle Area (the LORVA) is recognised as a location where people come to participate in what may be regarded as dangerous recreational activities with an inherent risk of harm. There are certain aspects however that make the LORVA unique from other off-road vehicle (ORV) areas including: the constantly changing terrain, the introduction of non-motorised users (e.g. sand boarders) and the commercial operation of high speed vehicle rides.

The changing terrain is an environmental risk that cannot be eliminated however it would be best managed by adequate signage, communication and education. Non-motorised activities such as sandboarding, and in some cases pedestrians, would seem out of place sharing a location designated for off-road vehicles. However sandboarding has occurred at the location for a considerable time and there may be a reasonable expectation that this continues to be the case.

There are also commercial operators deriving a benefit from the location. There appears to be some uncertainty regarding the Shire's powers of management over the area and the ability of local laws to extend to commercial operators at the location. As a result, these operators appear to conduct their businesses at the location with minimal conditions or requirements imposed.

Treatment options have been provided in order to help manage the identified risks to a level that may be considered acceptable to the Shire and to address whether the Shire's response to the risks is a reasonable one in the circumstances. It is recognised that implementation of many of the treatments may take significant planning and resources.

Access – traffic and pedestrian flow

- **Improve condition of main entrance track** to the designated parking area by:
 - **Increasing track width and straightening:** To eliminate blind corners and reduced lines of sight on entry. To enable safe passing and passage of vehicles.
 - **Maintaining track surface suitable for two wheel drive access:** To allow access of all vehicles to a single parking area (the large limestone surfaced area).
- **Close initial parking spot to parking:** Will eliminate the need for pedestrians to attempt access along the same track as vehicles; or
 - **Retain parking at the initial parking spot and separate pedestrian and vehicle access:** For example by creating a pedestrian path separate from the main track, to the main sand boarding dune. This is a less favoured option as it will still require pedestrians to cross a single point on the vehicle access route on the way to the sand dunes.
- **Establish and maintain minimal (low) speed zones at the front section of the dunes:** For example less than 10kmh, first gear or walking pace. This should reduce the chances of user conflict where there is a concentration of vehicles entering and leaving the dunes. This will require speed restrictions to be reflected in signage. To a degree this can be achieved by placement of signage delineating speed restricted areas such as that suggested for the information bay (refer: Example area mapping signage and



Information bay sign 3 within [Examples of signage suggestions LORVA](#)).

- **Formalise the parking area** and make clear the larger section of the limestone surfaced area is for vehicle parking/unloading. To a degree this can be achieved by placement of signage delineating area usage such as that suggested for the information bay (refer: Example area mapping signage and Information bay sign 3 within [Examples of signage suggestions LORVA](#)).
- **Plan for dedicated tour bus parking:** By defining a bus parking area:
 - Near the base of the main sandboarding dune (Refer suggested placement - Example area mapping signage and Information bay sign 3 within [Examples of signage suggestions LORVA](#)); or
 - In the larger limestone surfaced area with a dedicated pedestrian path to the designated sandboarding dune area. This is a less favoured option as it may be difficult to maintain a dedicated path in this environment.

This will decrease the likelihood of tour bus passengers straying into areas where ORV's are operating.

Shared use

It would be beneficial for the Shire to obtain advice regarding the implications of permitting or being seen to permit activities other than off-road vehicle use in a gazetted off-road vehicle area. For example this advice may come from the Home Department of Local Government, other relevant state agencies and the Shire's legal advisors.

If the Shire wishes to continue sandboarding at the location the following is recommended:

- **Establish designated sandboarding area and dedicated pedestrian access:** Together with appropriate signage (refer Location and placement – Sandboarding area signage within [Examples of signage suggestions LORVA](#)), this will confine sandboarding to one area, keeping pedestrians from straying into areas where ORVs are operating and vehicles straying into sandboarding areas. This will also require:
 - Coordinating and communicating changes with tour bus and commercial operators; and
 - Agreeing appropriate controls with tour bus and commercial operators (ensuring: adequate customer induction, direction and supervision).
 - Suggestion to commercial operators that it is made a condition of hire that sand boards are not used outside the designated area.

It appears that the Shire has little control over commercial operators at the location. It is uncertain whether a situation giving rise to a liability on the part of an operator would implicate the Shire. This is of particular concern should the operator be inadequately insured or impecunious. It would therefore be advisable to:

- **Seek legal advice** in relation to exposures from commercial operators; and
 - the Shire's ability to impose conditions of access/use of the LORVA. For example the Shire currently has little in the way of assurances that operators at the location are



- adequately insured; and have appropriate safety management in place for their equipment and customers.
 - the potential to obtain revenue in exchange for access and use of the LORVA (e.g. review and change of local laws to allow for permits or other systems of charging as a contribution to the ongoing management and maintenance of the area).
 - **Review the potential incompatibility of high speed vehicle rides** versus other users of the LORVA. It is unlikely the high speed Hummer vehicle rides would be viewed as compatible with other users of the LORVA. If the activity cannot be excluded from the area then the Shire should investigate if intensive controls are achievable to ensure a high degree of separation of high speed rides from other users of the LORVA. For example:
 - Thrill rides to be operated in a designated area behind the front dunes, with a slow speed transport mode until past the front dunes and away from high traffic areas.
 - The operator to place temporary signage when conducting rides which provides additional warnings to area users.
- It is uncertain at what frequency the sand mining operates in the area, or if inactive when it is likely to be reactivated. It would be beneficial for the Shire to:
- Investigate on what basis a mining lease has been provided by the Department of Mines within an ORV recreational area and to determine:
 - Is this lease compatible with the area's gazettal as an off-road vehicle area
 - The obligations, requirements, processes, standards and agreements imposed on the lessee.
 - If there are obligations on the lessee to restrict access to the site and clean up the site on completion of mining works.
 - The processes in place to manage risk to the LORVA recreational activities and area visitors when mining operations/heavy vehicle movements are in progress. For example the provision of traffic management and temporary signage when in operation.
 - The Shire will also need to ensure full communication with the lessee regarding any anomalies and required changes.

Physical risks

Items that have been introduced or constructed by the Shire and have become hazards at the ORV area may expose the Shire to unnecessary liability. This is of particular concern where these items present a foreseeable risk of harm to those who enter the LORVA and where the risk of harm may not be obvious to entrants. It is recommended the Shire:

- **Locate and remove introduced hazards:** This includes:
 - Fence lines and star pickets
 - Concrete boundary markers
- Ensures that the Water Corporation maintains and keeps boundary markers clear of sand.



Management

The Shire's management of the LORVA is likely to be seen as extending beyond its obligations under the Control of Vehicles (Off-road Areas) Act 1978. Although there is some uncertainty regarding the provision of management orders over the LORVA, the Shire may be regarded as having assumed management given evidence of its control over the area.

Evidence of assumed management may include placing signage, conducting site works, engaging Rangers to educate and enforce and commissioning risk assessments such as this report over the years. These actions are entirely understandable if only in response to the number of serious injuries that have occurred. To further improve the management of the area it is recommended the Shire:

- **Develop a documented Ranger visitation policy** with increased presence during peak periods.
- **Consider the use of dedicated volunteer rangers** for increased presence including assistance with education and monitoring of the site.
- **Engage with local police** to conduct blitz style education and enforcement programs including alcohol and drug use.
- **Develop a documented:**
 - Risk management program informed by incident statistics and the Lancelin Off-road Area Management Committee.
 - Maintenance and inspection program. This should include scheduled inspections of the location and programed maintenance. For example to include:

- Regular clearing and compacting of the main entrance track to ensure it is safely navigable by 2 wheel drive vehicles
- Signage repair and replacement.

- **Explore alternative management models:** It may also be worth exploring the possibility of outsourcing management of the LORVA via lease or management agreement. A properly structured agreement is capable of providing risk transfer or risk sharing benefits for the Shire. This will require further investigation with the Home Department of Local Government and Communities to see if this is achievable with a gazetted ORV area.

The Shire will need to consider if a change in model that commercialises the LORVA would be likely to involve the charging of an entry fee. It is probable such a decision would draw negative attention to the Shire. For example criticism from: the LORVA users having previously enjoyed free public access; and the Lancelin business community who may correlate the charging of a fee with a potential decrease in area visitation and patronage of local businesses.

It is also possible a commercial proposition, properly resourced and run as a dedicated business operation may achieve a more sophisticated offering. This may result in a well-managed facility reducing risk to entrants and attracting more users, introducing the ability to host off-road vehicle events and in general creating additional business opportunities and income for the community.

Depending on the nature of a change in the management model, some of the recommendations in this report may require modification or may not be relevant. The Shire will also need to seek legal advice regarding the appropriate structure of any lease or management agreements.



- **Off-road vehicle registration agency opportunities:** The Shire may wish to approach the Department of Transport and Home Department of Local Government and Communities to explore the possibility of businesses within Lancelin operating as agencies for the sale and issue of off-road vehicle registrations. This will provide an alternative for Rangers to direct visitors to the LORVA with unregistered ORV's to where they can purchase registration both locally and outside of weekdays and office hours.

Signage communication and education

Communicating the risks at the LORVA plays an important role in discharging the Shire's duty of care at the location. This is of particular importance when warning of natural hazards associated with the terrain.

It is crucial that the right information is supplied to the right user at the right time so they can make their own informed assessment of the risk and whether it is appropriate for them to enter or undertake the activity. Signage (particularly in the absence of supervision and direction) is a significant part of managing risk at the LORVA. Whilst current signage provides good information it could benefit from some improvements, including:

- **Provision of pull in information bay** near the entrance targeting vulnerable first time visitors allowing them time to stop, consider and comprehend important information regarding the area. As well as relevant risk warnings, additional information can be added here such as "How things work around here", conditions/code of conduct, depiction of boundaries, designated areas of activity, areas where speed limitations apply, nearest toilets and other amenities (refer information bay signage including signs 1 to 3 within [Examples of signage suggestions LORVA](#)).

- Entrance signage to include a prompt to those that are new to the area to pull into the information bay (refer Location and placement – Entry signage (Stop)/Considerations for inclusion within [Examples of signage suggestions LORVA](#)).
- Tour bus operators should also be made to take their customers to the information bay or demonstrate they have provided the same information.
- It would be beneficial to consider consultation with area users when developing a code of conduct / how things work around here. This can also include research from other ORV areas modifying to suit the situation at the LORVA.

Placing a further information bay within the general parking area may provide a further reference point to relay detailed information and warnings. For example this could be at a central location closer to the dunes with signs in a triangular arrangement to capture persons within the parking area from multiple angles. An internationally recognised information symbol could be mounted in the centre of the signs at an elevated position so it is visible from a distance. This may be a future consideration for the Shire.

Examples of signage utilised at the Pinjar Off-road Vehicle Area by the Parks and Wildlife Service (formally Department of Parks and Wildlife/DPaW) has been provided in the appendices of this report. Whilst the Pinjar facility is not a dunal area, is limited to motorbikes and contains structured trails, this signage provides an example of how information can be laid out making it easy to read. This is with particular reference to the main entry/information area/bay examples. The Parks and Wildlife service may be able to provide assistance in relation to suitable signage design/designers.

- **Sandboarding signage** to be placed in the information bay, main parking area and base of the designated sandboarding dune



outlining sandboarding warnings, directing sand boarders to the sandboarding dune, warning against sandboarding down the back of the dune (very steep, short run off and rock base) and warning from sandboarding down the other dunes and the hazard of ORV's in the area (refer Location and placement – Sandboarding area signage within [Examples of signage suggestions LORVA](#)).

- **QR code links** are frequently utilised in recreational areas to take advantage of widespread smartphone use. Links can be utilised on signage so visitors can access further information such as an area induction video. "Scan this code with your phone and see a short video on how things work around here"

Under the Control of Vehicles (Off-road areas) Act 1978, where practicable Local Governments are required to delineate the boundaries of permitted ORV areas within their district by the erection or establishment of suitable notices or marks. There have been previous attempts to delineate the area boundaries with bollard style markers, however over time these markers have been covered with sand or removed.

Arguably, due to the shifting sands, it may not be practical to erect boundary markers at the LORVA. However there is an opportunity to consider if markers can be utilised to not only delineate the LORVA boundaries (and reduce the incidence of persons straying in and out of other areas) but to also delineate changes within the area. For example:

- **Elevated boundary markers** that are high enough to not be impacted by shifting sands and visible from a distance:
 - Are colour coded according to uses such as the LORVA boundary, car park area and entry, sandboarding area and ORV dune entry area (speed limited).

- Markers and colours are cross referenced within area maps on signage and "How things operate around here" signage, to assist visitors with orientation of the area.

Tourist radio: Consider providing recorded risk messages and area induction information as potential visitors to the ORV area enter Lancelin. This will require signage before town directing persons to tune in.

Existing commercial operators - an untapped resource: During Ranger absences the Shire may be able to utilise commercial operators to:

- Distribute educational material;
- Reinforce information and warnings displayed in signage;
- Educate visitors regarding safety and operation of the ORV area (including their own customers) and
- Monitor and report hazards along with unsafe/inappropriate behaviour to the Shire and Police.

It is important to note that signage design and content will be dependant on the Shire's decisions regarding area usage (e.g. designation of zones or areas for specific activities and uses). Whilst some suggestions and examples have been made in this report, the Shire may need to consider an overall signage plan for the location with input from various stakeholders and experts in design and layout.

Lancelin ORVA injury surveillance working party: The current status of this group is unknown. References within the Lancelin Off-Road Injuries Final Report 2015 suggest a number of recommendations to reduce off-road injury along with damage to the environment. Some of these recommendations look at education through social media channels and on-site promotional events. The group has also advocated for increased



ranger and police presence along with improved delineation of the LORVA boundaries.

It would be worth exploring if funding is available through sources such as the WA Country Health Service for projects involving implementing risk treatment measures at the location including the production of a suitable area induction video that may achieve a mutually beneficial outcome.

Amenities

The provision of amenities was not considered a priority; however the convenience of public toilets and ease of rubbish disposal is worth considering in the long term, given the use of the location as a recreational area.

If amenities are placed this will provide a further opportunity to capture the attention of visitors and provide information and warnings where they have the opportunity to stop, read and consider the content in signage.



Conclusion

The Lancelin Off-road Vehicle Area (the LORVA) has been in operation as a "permitted area" under gazettal of the Control of Vehicles (Off-road Areas) Act 1978 (the Act) for a considerable period of time. Whilst the Shire is required to administer and enforce the provisions of the Act, the Act does not specify the extent to which the area is to be managed. Additionally, as the area has been established on unallocated crown land, there is uncertainty regarding the Shire's ability to manage and exercise some control of the area's usage.

Over this time the area has grown in popularity, attracting tour buses, bringing passengers to the location and commercial operators offering vehicles for hire, thrill rides and non-motorised activities such as sandboarding.

This has resulted in a mix of uses at the location, some of which may seem incompatible without the appropriate controls in place. This is somewhat compounded by the fact these mixed uses have essentially operated without any imposed conditions or controls in place for a number of years.

The LORVA has a history of serious injuries including multiple fatalities, evidenced by the WA Country Health Service statistics for the location. These statistics support the notion that inexperienced and perhaps insufficiently informed persons may be vulnerable to harm at the location. There is also evidence of injury statistics associated with sandboarding and use of hired equipment at the location.

The Shire has to its credit established a number of measures over the years to assist with the management of the area. To some degree these measures may have helped place a more exacting duty of care on the Shire to visitors to the LORVA. This duty of care was challenged in the matter of Coombe where the Shire was defendant in a litigated personal injury claim.

Whilst the Coombe matter was eventually overturned by the Court of Appeal, and the incident took place before the current provisions of the Civil Liability Act 2002 (WA) relating to obvious risk and dangerous recreational activities, serious injuries continue to occur at the site.

Despite uncertainties with area management and responsibilities, the Shire should not be complacent with the current level of risk controls. This is with particular regard to the ongoing injuries at the location and the fact that the Shire's duty of care is unlikely to be a controversial point. Whether the Shire would be successful again in a personal injury action associated with the location, and can rely on the current provisions of the Civil Liability Act 2002 (WA), will depend on the facts of the incident at that time.

To assist the Shire in reviewing risk at the LORVA this report has identified the following high level risks:

- Failure to provide reasonable measures to prevent harm to those using off-road vehicles in the LORVA.
- Failure to provide reasonable measures to prevent harm to those accessing the LORVA for purposes other than using off-road vehicles.
- Failure to provide reasonable measures to prevent harm to persons resulting from commercial ride operators in the LORVA.

The report considers a number of options to treat these risks including the potential to transfer or share the risks by change of management model. Treatment options associated with the Shire retaining management of the LORVA are also provided, including the areas of:

- Access - Traffic and Pedestrian Flow
- Shared Use



- Physical Risks
- Management
- Signage, Communication and Education
- Amenities

It is recognised that to progress recommendations there are a number of areas where the Shire may need to seek clarification or advice. This includes:

- Commercial operators and the potential exposures they may pose to the Shire;
- The Shire's ability to impose conditions of access/use of the LORVA on commercial operators;
- The potential for the Shire to obtain revenue in exchange for access and use of the LORVA (e.g. review and change of local laws to allow for permits or other system of charging);
- The compatibility of the adjoining sand mine lease and obligations of lessee/operator;
- The position in relation to non-off-road vehicle activities on the site.

Ultimately the Shire may need to accept the level of risk at this location will remain less favourable in comparison to other recreational areas under its jurisdiction. However as a matter of good governance and to accept the level of risk, the Shire should be confident it has done all that is reasonable in response to the risks in an attempt to discharge its duty of care at the LORVA.

Exactly what steps the Shire has to take to discharge its duty of care to users of the LORVA will depend on what a reasonable local government would do in the Shire's circumstances. This in turn will depend on various factors that are often utilised by a court to determine if a response to the risk is a reasonable one. These factors include:

1. The magnitude of the risk, that is, the possible severity of the consequences in failing to take action.
2. The degree of probability of the risk occurring – this would turn on factors such as whether accidents have occurred in the area in the past, the age of the persons using off road vehicles in the area, the inherent characteristics of the LORVA, whether there are any unusual or hidden features which would make certain areas of the LORVA more dangerous than others.
3. The expense, difficulty and inconvenience of taking precautions – relevant factors would be financial cost to the Shire in taking precautionary action and how practical it is to take that action, staff levels of the Shire, capacity to employ and train staff, cost of maintenance and supervision of the area.
4. The obviousness of the harm and the ability of the person entering the area to appreciate the danger for themselves.
5. Whether the user is participating in a co-ordinated group activity.
6. The age of the person entering the area; and
7. Whether the Shire knows of a specific risk of harm arising from known dangerous behaviour of users.

Ultimately the decision about how best to proceed in implementing or not implementing the recommendations in this report rests with the Shire and Council. This process should be logical, justifiable and documented. We would stress there is not a fail proof option; all options carry with them



inherent risk as the Shire's duty to users is most likely to be established in any event.

Regardless of the decision over treatment options, it is important that the Shire of Gingin monitors the effectiveness of all controls, including treatment options that may become new controls, and review levels of risk with any changes to the situation. For example, ensuring controls remain effective by assessing from a design perspective, in that they appropriately mitigate the risks, and from an operational point of view, in that they still perform consistently as intended.



Appendices

Appendix A – Generic risk assessment tables

Existing Controls Ratings		
Rating	Foreseeable	Description
Effective	There is little scope for improvement.	Processes (Controls) operating as intended and / or aligned to Policies & Procedures; are subject to ongoing maintenance and monitoring and are being continuously reviewed and tested.
Adequate	There is some scope for improvement.	Whilst some inadequacies have been identified; Processes (Controls) are in place; are being addressed / complied with and are subject to periodic review and testing.
Inadequate	A need for corrective and / or improvement actions exist.	Processes (Controls) not operating as intended, do not exist, or are not being addressed / complied with, or have not been reviewed or tested for some time.



Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$250,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$250,001 - \$1,000,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$1,000,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact



Measures of Likelihood			
Level	Rating	Description	Frequency
5	Almost Certain	The event is expected to occur in most circumstances	More than once per year
4	Likely	The event will probably occur in most circumstances	At least once per year
3	Possible	The event should occur at some time	At least once in 3 years
2	Unlikely	The event could occur at some time	At least once in 10 years
1	Rare	The event may only occur in exceptional circumstances	Less than once in 15 years

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)




Risk Acceptance Criteria			
Risk Rank	Description	Criteria	Responsibility
LOW	Acceptable	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Operational Manager
MODERATE	Monitor	Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring	Operational Manager
HIGH	Urgent Attention Required	Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Director / CEO
EXTREME	Unacceptable	Risk only acceptable with excellent controls and all treatment plans to be explored and implemented where possible, managed by highest level of authority and subject to continuous monitoring	CEO / Council



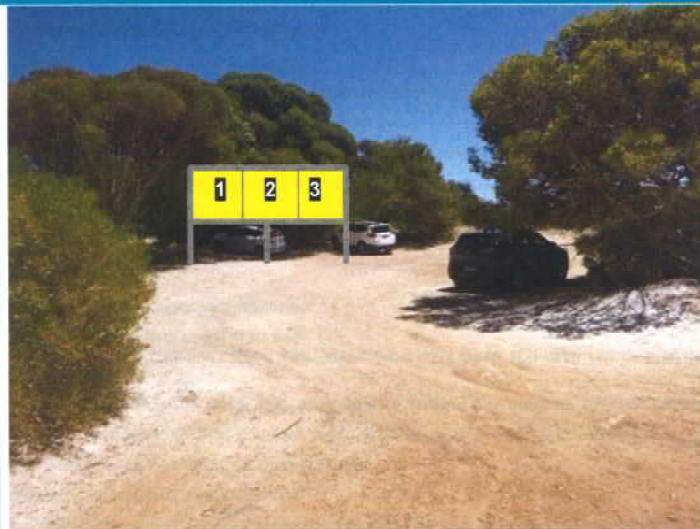
Appendix B – Signage

Examples of signage suggestions LORVA

Location and placement – Entry signage (Stop)	Considerations for inclusion
	<p>LANCELIN OFF ROAD VEHICLE AREA</p> <p>STOP</p> <p>It is a condition of entry that visitors <u>must</u> read all signage within the off-road vehicle area.</p> <p>If you are a first time visitor or are not familiar with this area, pull into the information bay and read the provided additional signage information.</p> <p>This is a two way track, stay left and proceed slowly (max 10kmh, first gear or walking pace).</p> <p>Your safety is our concern but your responsibility.</p> <p>← INFORMATION BAY</p>



Location and placement – Information bay signage



Note: This is provided as an example only. Plotting and positioning is not to scale. Suitability of signage design, use of graphics and ease of reader recognition may require specialist input.

Considerations for inclusion – Sign 1

Welcome to the Lancelin Off-road Vehicle Area

Opening hours 8:00am until 7:00pm every day. This area is regularly patrolled by rangers.

Danger – Off-road vehicle driving and riding exposes the user to inherent and obvious risks. These risks could result in personal injury or death to both participants and spectators. Deaths and serious injuries have occurred in this area.

Persons using this facility do so entirely at their own risk.

In Case of emergency – Call 000

WARNING:

Constantly changing conditions due to shifting sands.

Sand dunes are constantly changing in size and shape.

Sand dunes may end in sudden steep drop offs.

Limestone and rocks may be concealed at the base of dunes.

Beware of other vehicles, sand boarders and pedestrians at all times.

Conditions of use

Read and abide by all signage.

Road and off-road registered vehicles only permitted to be used on this site.

Helmets must be worn by all riders and passengers. Full protective gear is strongly recommended.

Seatbelts must be worn in all vehicles (where fitted).

No riding on in the back of utilities or the side of vehicles.

No rider under 8 years of age permitted.

Supervise children at all times.

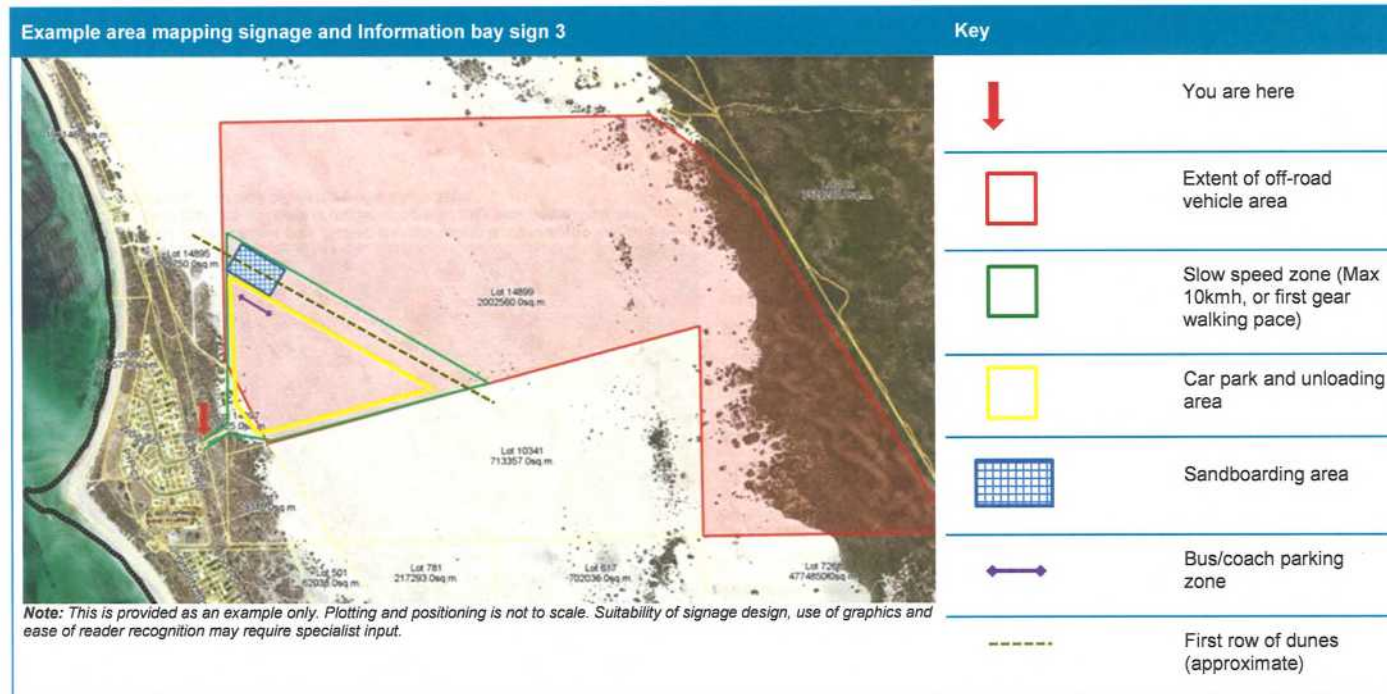
Vehicles left here after 7:00pm may be fined or removed at owners expense

Maximum speed from the point of entry, parking area and including the first row of sand dunes is 10kmh

No littering.

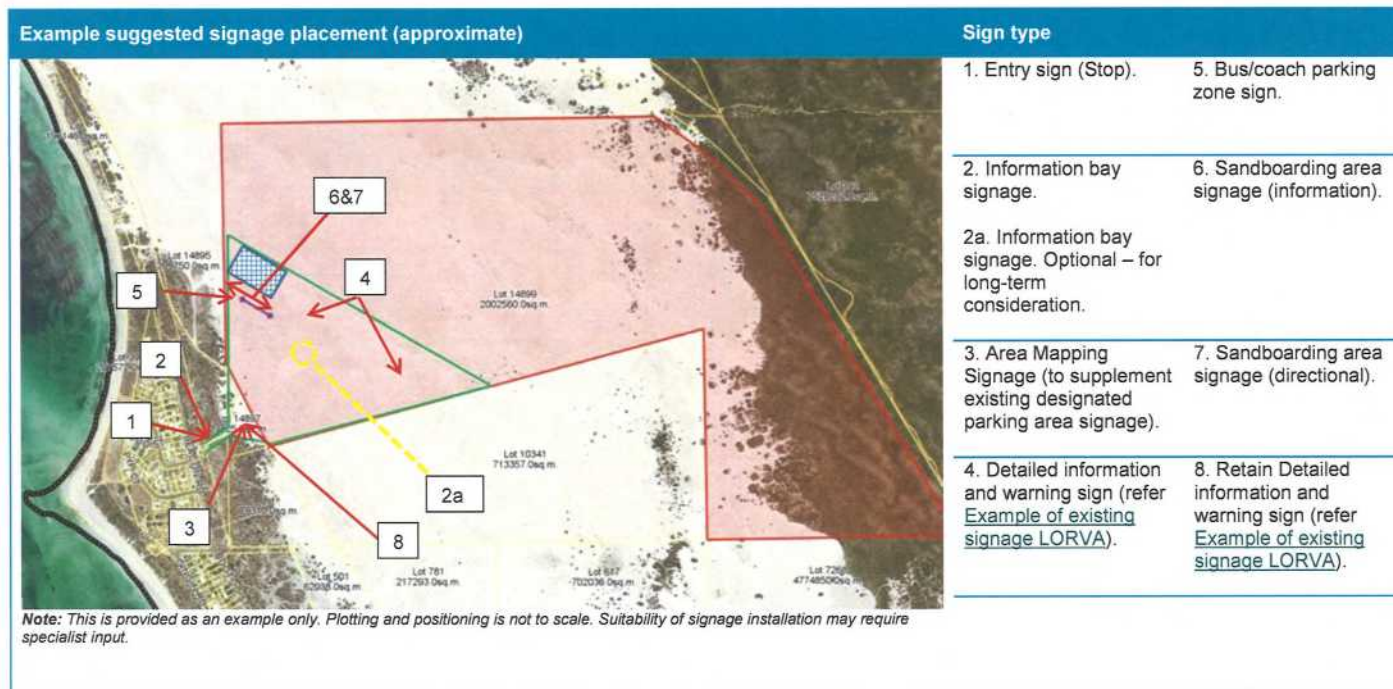


Considerations for inclusion – Information bay sign 2	
HOW THINGS WORK AROUND HERE <p>There are many different users so be on the lookout for other vehicles (including motorbikes, quadbikes buggies and 4wd's), sand boarders and pedestrians. Please stay within the gazetted off-road vehicle area as unknown hazards may exist beyond this area. Remember your safety is your responsibility so have fun but be aware of your surrounds and follow these simple guidelines.</p>	
All vehicles <p>Maintain a <u>slow speed</u> from the entrance track, through the parking and unloading areas and on the first row of dunes (maximum 10kmh. If you don't have a speedo, keep to first gear or walking pace).</p> <p>Save your off-road driving for the dunes.</p> <p>Stay away from the designated sandboarding area.</p> <p>Park away from the designated bus areas and leave room for larger vehicles to manoeuvre.</p> <p>Travel slowly around the dunes and make yourself familiar with the area and any hazards before increasing speed.</p> <p>Exercise particular care and caution when approaching dune crests and never ride or drive over crests without knowing what is on the other side.</p> <p>Always ride or drive within your capabilities.</p> <p>Travel with a friend.</p> <p><u>Be aware</u></p> <p>Constantly shifting sands in this area mean conditions can change dramatically, even in one day.</p> <p>Dunes may be undercut and steep drop-offs or crevices may be present.</p> <p>Areas of exposed rock and limestone may be present at the base of dunes</p> <p>Always check the other side of a dune before going over.</p> <p>Be on the lookout for pedestrians, sand boarders and other vehicles at all times.</p>	Sand boarders and pedestrians <p>Stay in the designated sand board area.</p> <p>Do not venture into other areas of the dunes and always be on the lookout for vehicles, pedestrians and other sand boarders.</p> <p><u>Be aware</u></p> <p>Constantly shifting sands can expose rock and other hazards.</p> <p>Always check the dunes and base of the dunes before sandboarding.</p>
General <p>Make sure you keep hydrated and stay alert.</p> <p>Don't drink alcohol or take drugs. It puts you and others at risk.</p> <p>There is no water or toilets on site, the nearest facilities are located at.....</p> <p>For details regarding off-road vehicle registration refer to (Details of where registrations obtained can be provided here, for example website).</p>	In an emergency call <p>Police, Fire, Ambulance Lancelin Silver Chain Nursing Centre: Shire of Gingin Ranger:</p> <hr/> <p>Scan this code with your phone and see a short video on how things work around here (QR CODE)</p>





Location and placement – Sandboarding area signage	Considerations for inclusion
	<p>←→ Sandboarding information signage</p> <p>SANDBOARDING AREA</p> <p>The activity of sandboarding can be dangerous and may result in personal injury.</p> <p>If you undertake this activity or enter this area you are responsible for your own safety and do so entirely at your own risk.</p> <p>Stay within the designated sandboarding zone.</p> <p>Do not venture into other areas of the dunes and always be on the lookout for vehicles and other sand boarders.</p> <p>Be aware that constantly shifting sands can change the shape of dunes and expose rocks and other hazards.</p> <p>Always check the dunes and the base of the dunes before sandboarding.</p> <p>The wearing of suitable safety gear is strongly recommended.</p> <p>Pedestrians keep clear of moving sand boards.</p> <p>Supervise children at all times.</p> <p>In case of emergency – Call 000</p>
<p><i>Note: This is provided as an example only. Plotting and positioning is not to scale. Suitability of signage design, use of graphics and ease of reader recognition may require specialist input. Location of sandboarding area may be altered where appropriate.</i></p>	<p>● Sandboarding area directional signage</p> <p>SANDBOARDING AREA</p> <p>← →</p> <p><i>(insert one of the above directional arrows on each end of the designated sandboarding area where relevant)</i></p> <p>For information refer to main sandboarding sign.</p>





Example of existing signage LORVA

Detailed information and warning sign (latest version)





Pinjar Off-Road Vehicle Area (DPaW) - Example signage

Main entry	Main entry/information area/bay	Main entry/information area/bay
Main entry/information area/bay	Car park of family trail area	Entry to car park





Pinjar Off-Road Vehicle Area (DPaW) - Example signage





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Echelon Australia trading as LGIS Risk Management
ABN 96 085 720 056

Level 3
170 Railway Parade
WEST LEEDERVILLE WA 6007
Tel +61 8 9483 8888
Fax +61 8 9483 8898



CONTACTS

Ian Proudfoot
Senior Risk Consultant
Tel +61 (8) 9483 8887
Mob +61 409 060 613
ian.proudfoot@ilta.com.au

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED STAFF/WORKERS ACCOMMODATION (EIGHT TRANSPORTABLE BUILDINGS) AND RETAINING WALL AND RETROSPECTIVE APPROVAL FOR THE RELOCATION OF EXISTING AMENITY FACILITIES (FOUR TRANSPORTABLE BUILDINGS) ON LOT 203 CARABAN ROAD, CARABAN

File:	BLD/3269
Applicant:	Saleeba Adams Architects
Location:	Lot 203 Caraban Road, Caraban
Owner:	Phung Tran Do and Tuyet Chau Huynh
Zoning:	General Rural
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning Matthew Tallon – Statutory Planning Officer
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and Development Services
Report Date:	15 October 2019
Refer:	17 September 2019 Item 11.3.3
Appendices	1. Location Plan and Applicant's Proposal 2. Previous approval for amenity facilities 3. Site Photographs 4. Schedule of Submissions and Recommended Responses

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for proposed staff/workers' accommodation (eight transportable buildings) and retaining wall, and Retrospective Development Approval for the relocation of existing amenity facilities (four transportable buildings) on Lot 203 Caraban Road, Caraban.

BACKGROUND

This proposal was considered at the Ordinary Council meeting on 17 September 2019 and the following was resolved:

"That the matter be deferred pending further information with respect to:

- 1. Why retrospective approval is being sought for the transportable units already in situ;*
- 2. Consideration of proposed buffer zones and vegetation belt with a minimum width of 40m along the eastern and southern boundaries; and*

3. *Clarification with respect to how the applicant proposes to address noise and light impacts on adjoining properties.*

CARRIED
4-3

The applicant has provided the following information in response to the above resolution:

Retrospective Approval for Existing Transportables

The original 2014 approval was granted to Nathan Troy, a contractor engaged by TCDS to undertake the works. When initially siting the buildings in the approved location it became evident to TCDS that this location was highly exposed being up on the hill and a better, less visible location existed closer to the south boundary where the land was lower and surrounded by dense large trees on the property and along the south boundary.

It was decided to relocate the siting of the buildings to this new location. TCDS assumed that the contractor had handled any approval amendments that might have been required. It is only as a result of the new application process that the error has become evident and TCDS have requested this be tidied up with retrospective approval, noting that the current location of the existing transportables is less visible to the wider surroundings and the intent was well meaning.

Buffer Zones

The minimum required boundary setback is 20m.

South - The nearest buildings are proposed at 25m from the south boundary and this boundary is heavily screened with dense tall trees providing an excellent, visually solid screening buffer.

East – The building are approx. 750m from the east boundary, a significant distance that reduces the visual impact to negligible. In addition, there is approx. 400m of natural farmland/bushland along this eastern area which provides an excellent screening buffer.

Noise

Importantly, any activity is required to comply with the Environmental Noise Regulations and processes are available if there is a breach. This is highly unlikely for the proposed accommodation use. During the day the workers are out on the farm so there will be no noise and at night the workers will be sleeping so there will be no noise. The only other activities are eating and ablutions which are quiet activities.

We don't believe that there will be any noise issues with the adjacent property to the south given that it is open farmland and certainly no issues to the east given the 750m distance.

Lighting

The accommodation buildings are low scale and residential in type. Lighting is typical low level residential type lighting, noting that the rooms are bedrooms, bathrooms, and eating areas.

We don't believe that there will be any light spill issues given the residential type of lighting, dense, solid tree screening to the south and the 750m distance to the east."

The existing agriculture intensive use operating on the subject site received development approval on 17 November 1999 and includes the adjoining property (Lot 202 Caraban Road, Caraban) to the north. The combined area of both properties is 192 hectares, with a majority of that being cropped for irrigated horticulture.

The Woodridge Rural Living Estate adjoins the subject land to the east, however 400 metres of land directly adjacent to the abutting properties does not form part of the cropping program and is used for the keeping of livestock and contains remnant vegetation providing a screening buffer.

The Applicant seeks to establish accommodation facilities onsite to cater for a portion of the existing workforce. The current workers' accommodation caters for up to 32 workers, however the applicant advises that approximately 50 persons are employed during peak periods such as spring. It is noted that workers are generally transient and travel to the site daily from various locations, mainly from the northern suburbs of the metropolitan area, given accommodation availability in proximity to the subject site is limited.

The development consists of eight transportable buildings, each of which contain four separate rooms and ablutions. The transportable buildings are 14.4 metres in length, 3.3 metres in width and have an overall height of 2.7 metres above ground level. The development includes a retaining wall 1 metre in height around the development area, and is set back 15 metres from the lot boundary at the southernmost point of the wall.

The applicant is also seeking to formalise the relocation of four existing transportable buildings that are used for amenity facilities (ablutions / meal preparations / laundry) which received development approval on 4 August 2014. The previous approval designated the development area as being set back 95 metres from the southern boundary. The revised location results in the ablution facility being located 25 metres from the southern boundary. It should be noted the landowner has already relocated these buildings, and this component is therefore retrospective.

A location plan and a copy of the applicant's proposal are provided as **Appendix 1**.

A copy of the previous approval for the existing amenity facilities is attached as **Appendix 2**.

Site photographs are provided as **Appendix 3**.

COMMENT

Community Consultation

The application was advertised to surrounding landowners, with a development sign placed on the verge of the property and a notice posted on the Shire's website for a period of 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (deemed provisions).

The Shire received 10 written comments during the advertising period objecting to the proposed development, with some comments having multiple signatories which are outlined within the Schedule of Submissions. The Shire received one comment during the advertising period in support of the proposal.

It should be noted that clause 64 of the deemed provisions outlines that the local government may advertise to owners or occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected.

Given the development is set back approximately 750 metres from the nearest rural living property in Woodridge, it was not considered that the broader Woodridge community would be impacted, and therefore only those with a common boundary to the development were consulted.

A copy of the Schedule of Submissions and Recommended Responses is provided as **Appendix 4**.

Local Planning Scheme No. 9 (LPS 9) Assessment

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

- a) *Managed the 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;*
- 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 damaged; 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 use class applicable to this application under LPS 9 is 'Staff/Workers Accommodation', which is defined as follows:

"Means shared self-contained living accommodation (separate to a single dwelling) used for the accommodation of persons directly employed in an approved activity carried out on the Lot and does not include a Caretakers Dwelling."

The use class 'Staff/Workers Accommodation' is an "A" use under LPS 9 in the General Rural Zone, meaning the land use is not permitted unless local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 64 of the deemed provisions.

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 particular requirements specified for staff/workers' accommodation, the development is considered 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.

Zone Specific Development Standards

As noted above, LPS 9 does not prescribe any specific development standards for staff/workers' accommodation, however it is considered that the clauses below raise relevant considerations.

4.8.6.2 No more than one single dwelling house shall be erected on a lot zoned General Rural unless the Local Government is satisfied that an additional house is necessary or desirable for the continuation of a bona fide agricultural activity, and is satisfied that the land can be adequately serviced, surrounding amenity is not adversely impacted on or any other consideration it considers relevant.

Officer Comment

The above demonstrates that additional accommodation can be considered when it relates to the continuation of an agricultural use, given primary industry is encouraged within the General Rural zone. In this instance, the development will compliment an existing agricultural use of significant size which generates the need to accommodate the workforce onsite. The substantial setback from Woodridge contributes to the view that no adverse impacts to the surrounding locality will arise as a result of the development.

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 development area is located on an already cleared portion of the site that is appropriately screened from Caraban Road and the nearest property to the south. The visual impact of the development on the locality is negligible.

Setbacks

In accordance with Table 2 of LPS 9, all structures shall be set back a minimum of 20 metres from lot boundaries within the General Rural zoning. The nearest building is set back 25 metres from the southern lot boundary, however the proposed retaining wall is set back ~15 metres and therefore a variation is being sought. The provision of existing screening results in the reduced setback being negligible as it will not be noticeable from the adjoining property.

Landscaping

The property contains existing vegetation along the lot boundaries which provides sufficient screening to Caraban Road and the property to the south. The development is set back approximately 750 metres from the eastern boundary and therefore has no visual impact on the properties.

Access/Egress

The property has access/egress from Caraban Road which is to a sealed standard. This development seeks to reduce rather than increase vehicle movements and therefore the current arrangement is considered adequate.

Servicing

The site is already serviced with power and water. It is considered to be the applicant/landowner's responsibility to connect to the existing supply onsite.

The Applicant has engaged a consultant to determine an appropriate effluent disposal system with the following options both being adequate.

- 6KL ATU secondary treatment system with 48m (2 x 24m) of flatbed leach drains; or
- 7820L septic primary treatment system with 80M (4 x 20m) of flatbed leach drains.

The viability and approval of the wastewater treatment infrastructure will be captured in the relevant health and building approvals.

Parking

There are no onsite parking requirements for the use class Staff/Workers' Accommodation under clause 4.7.2 of LPS 9. Clause 4.7.2.5 states:

"Where there is a use of land referred to in the Zoning Table (Table 1) for which no provision is made in respect of car parking spaces in Table 3, the car parking spaces required for that use of land shall be as determined by local government"

As the number of car parking spaces required is not explicit in the planning framework, the applicant was requested to allocate an area onsite dedicated to vehicle parking. The applicant asserts that there is a low percentage of employees owning a vehicle given the transient nature of employees and currently carpooling is common. The provision of 10 bays is therefore deemed to be adequate. In the event an overflow area is required, ample room is available onsite.

Local Planning Policy 1.5 – Transportable Dwellings (LPP 1.5)

LPP 1.5 provides guidelines for development of second hand relocated and transportable dwellings throughout the Shire and is applicable in this instance. LPP 1.5 designates second hand transportable dwellings as a 'P' permitted use within the General Rural zoning.

The amenity of transportable buildings is given particular consideration to ensure the structures are visually acceptable. In this instance, given the number of buildings, the external appearance of each structure should be consistent. The recommendation includes a condition to ensure this occurs, should support be forthcoming.

The impact the development will have on the existing streetscape is negligible as it cannot be seen from Caraban Road due to existing vegetation being present along the road frontage. The amenity of adjoining landowners remains intact, with the southern property being appropriately screened and the eastern properties being located at a considerable distance from the development area.

LPP 1.5 provides for the provision of a bond supplied to the Shire to ensure remedial works occur as outlined below:

“3.6 – Bond

As a condition of planning consent for a second-hand relocated/transportable dwelling a \$5,000 bond is to be lodged with the Shire. Bank or other guarantees are not acceptable. This money will be refunded when the following requirements have been satisfied:

- 3.6.1 The second-hand relocated/transportable dwelling is transported to the site and stumped, joined, all walls internal and external made good, all doors and windows in working order and all external surfaces repainted to the satisfaction of the Shire’s Building Surveyor, and the house complies with the Building Codes of Australia.*
- 3.6.2 All drains and plumbing are completed and the site cleared of all debris including any broken wall cladding.*
- 3.6.3 The time for completion of work is 6 months from the issue of Building License but where the external paint work or appearance of the building is considered by the Building Surveyor/Environmental Health Officer to require attention within one calendar month of the arrival of the dwelling on the site.*

3.7 Forfeiture of Bond

Failure to comply with all conditions will result in forfeiture of the bond and removal of the building unless otherwise determined by Council.”

The provision of a bond is not the only mechanism to ensure remedial works are undertaken. The Shire is able to impose relevant conditions on a development approval requesting remedial works be undertaken within a stipulated timeframe. If the condition imposed is not satisfied the Shire can follow-up the breach of development approval and can take the appropriate enforcement action if required. The *Planning and Development Act 2005* provides for significant penalties should non-compliance occur.

The officer is of the view that the appearance of the transportable buildings can be more appropriately dealt with as a condition of development approval.

Planning and Development (Local Planning Scheme) Regulations 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.

- (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;*

Officer Comment:

The development is considered to be compatible with the existing use operating onsite. It is noted that the rural land to the south is currently vacant of any sensitive land use and is used for livestock grazing. The impact of the development from a bulk, scale and appearance perspective is not considered to adversely affect the locality. The buildings are 2.7 metres in height above ground level and located on a portion of land that is appropriately screened by mature vegetation.

- (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;*

Officer Comment:

The development is not considered to have any adverse environmental impacts. The character of the locality is not considered to be adversely impacted given the existing agriculture use has been operating for a considerable time and this development is incidental to that use.

It is also noted that the farm management practices will not alter. The social impacts are not considered to be significant given the development is contained entirely within the confines of the subject site with a considerable setback\buffer provided to the adjacent rural living estate.

- (y) *Any submissions received on the application;*

Officer Comment:

The submissions received during the consultation period outlined community opposition to the development. It was noted that comments generally related to resentment of the existing agricultural operation as opposed to the development which is the subject of this application.

The permissibility and management of the existing use is not being considered as part of this assessment.

It is evident that the community does not support the proposed development, however the justification in support of this position lacks planning merit pertaining to the provision of staff/workers' accommodation.

Bushfire Planning

'State Planning Policy 3.7 – Planning in Bushfire Prone Areas' (SPP 3.7) provides a foundation for land use planning to address bushfire risk management. The subject lot is designated as being partially bushfire prone.

The entirety of the development footprint is located outside the designated area by approximately 260 metres. Although this development is not subject to bushfire considerations, given other portions of the site are impacted a relevant notification is recommended to be placed on the property title. It is also noted that irrigated horticulture is not captured as being prone to bushfire risks.

Further comments:

In relation to the document titled "Guidelines for Separation of Agricultural and Residential Land uses" prepared by the Department of Health, which was circulated at the meeting on 17 September 2019, the officer provides the following comments:

- The proposed development is not classified as a sensitive land use subject to buffer setbacks from the cropping area based on the definitions outlined below:

Sensitive land use – Land uses considered to be potentially sensitive to emissions from industry and infrastructure including residential developments, hospitals, hotels, motels, hostels, caravan parks, schools, hospitals, nursing homes, child care facilities, shopping centres, playgrounds, and some public buildings.

Residential development – Urban subdivision, low-density residential subdivision and rural allotments created primarily for residential purposes and other places used as human accommodation, excluding dwellings associated with bona fide agricultural holdings.

- Given the accommodation relates to 'bona fide agriculture uses' which is currently conducted on the property, the development is excluded from the classification of 'residential development' and therefore not deemed to be a sensitive land use. As such, the separation distances are not applicable.

Conclusion

In summary, the proposed Staff/Workers' Accommodation is considered an acceptable development in a "General Rural" zone particularly as the proposed development aims to provide a rural operation with a responsive solution that will encourage and protect the existing broad acre intensive agricultural activity as a primary use.

STATUTORY ENVIRONMENT

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
4.2 Objectives of the Zones
4.2.7 General Rural Zone

Part 5 – General Development Requirements

POLICY IMPLICATIONS

Local Planning Policy 1.5 Transportable Dwellings

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

MOTION/OFFICER RECOMMENDATION

MOVED: Councillor Fewster SECONDED: Councillor Court

That Council:

1. Grant Development Approval for Staff/Workers' Accommodation (Eight Transportable Buildings) and Retaining Wall on Lot 203 Caraban Road, Caraban subject to the following conditions:
 - a. 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;

- b. This approval is for Staff/Workers' Accommodation (Eight Transportable Buildings) and Retaining Wall only as indicated on the approved plans;
- c. The landowner is required to ensure that the development satisfies the definition of Staff/Workers' Accommodation under Local Planning Scheme No. 9 (as amended) at all times to the satisfaction of the Shire of Gingin and relates only to employees associated with the intensive agricultural use;
- d. Prior to occupation of the development, the external surfaces of the Staff/Workers' Accommodation (Eight Transportable Buildings) are to be either reclad or repainted in a matching colour and rendered visually acceptable to the satisfaction of the Shire of Gingin. The external appearance shall be kept in good condition thereafter to the satisfaction of the Shire of Gingin;
- e. Prior to occupation of the development, the car parking and manoeuvring areas shall be constructed in accordance with the development approval and thereafter maintained to the satisfaction of the Shire of Gingin;
- f. Prior to occupation of the development, the Staff/Workers' Accommodation is to be connected to a potable water supply to the satisfaction of the Shire of Gingin;
- g. Prior to occupation of the development, the Staff/Workers' Accommodation is to be connected to an approved effluent disposal system to the satisfaction of the Shire of Gingin;
- h. Any external lighting must be designed, baffled and located so as to comply with Australian Standard 4282:2019 'Control of the Obtrusive Effects of Outdoor Lighting';
- i. 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 within a bushfire prone area. Additional planning and building requirements may apply to development on this land.

- j. This approval is for up to 32 staff/workers to reside onsite within the accommodation at any one time.

Advice Notes:

- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision under Part 14 of the *Planning and Development Act 2005*.
- Note 2: If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect.

- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4: Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011* and *Public Health Act 2016*, which are to be approved by the Shire of Gingin.
- Note 5: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 6: In the event the as constructed setbacks vary from those indicated on the approved plans, then the applicant/landowner may be held responsible for formalising the actual setback dimensions.
- Note 7: The operation will be required to comply with *the Environmental Protection (Noise) Regulations 1997*.
- Note 8: Please be advised that the property may attract Differential Rating for Intensive Agriculture.
- Note 9: The development is to comply with the definition of staff/workers' accommodation under Local Planning Scheme No. 9 (as amended) which states:

Means shared self-contained living accommodation (separate to a single dwelling) used for the accommodation of persons directly employed in an approved activity carried out on the Lot and does not include a Caretaker's Dwelling.

2. Grant Retrospective Development Approval for the Relocation of Existing Amenity Facilities (Four Transportable Buildings) on Lot 203 Caraban Road, Caraban subject to the following conditions:
- a. 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;
 - b. This approval is for Amenity Facilities (Four Transportable Buildings) only as indicated on the approved plans;
 - c. Prior to occupation of the development, the external surfaces of the Amenity Facilities (Four Transportable Buildings) are to be either reclad or repainted in a matching colour and rendered visually acceptable to the satisfaction of the Shire of Gingin. The external appearance shall be kept in good condition thereafter to the satisfaction of the Shire of Gingin;
 - d. Prior to occupation of the development, the Amenity Facilities are to be connected to a potable water supply to the satisfaction of the Shire of Gingin;

- e. Prior to occupation of the development, the Amenity Facilities are to be connected to an approved effluent disposal system to the satisfaction of the Shire of Gingin; and
- f. Any external lighting must be designed, baffled and located so as to comply with Australian Standard 4282:2019 'Control of the Obtrusive Effects of Outdoor Lighting'.

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: 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 *Public Health Act 2016*, which are to be approved by the Shire of Gingin.
- Note 3: In the event the actual setback varies from that indicated on the approved plans, the landowner may be required to undertake remedial works to comply with the approved plans.
- Note 4: Please be advised that the property may attract Differential Rating for Intensive Agriculture.
- Note 5: In the event the as constructed setbacks vary from those indicated on the approved plans, then the applicant/landowner may be held responsible for formalising the actual setback dimensions.
- Note 6: The operation will be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

AMENDMENT

MOVED: Councillor Peczka SECONDED: Councillor

That Parts 1 and 2 of the Officer Recommendation be dealt with as separate motions.

AMENDMENT LAPSED FOR WANT OF SECONDER

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Fewster SECONDED: Councillor Court

That Council:

1. **Grant Development Approval for Staff/Workers' Accommodation (Eight Transportable Buildings) and Retaining Wall on Lot 203 Caraban Road, Caraban subject to the following conditions:**

- a. 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;
- b. This approval is for Staff/Workers' Accommodation (Eight Transportable Buildings) and Retaining Wall only as indicated on the approved plans;
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- d. Prior to occupation of the development, the external surfaces of the Staff/Workers' Accommodation (Eight Transportable Buildings) are to be either reclad or repainted in a matching colour and rendered visually acceptable to the satisfaction of the Shire of Gingin. The external appearance shall be kept in good condition thereafter to the satisfaction of the Shire of Gingin;
- e. Prior to occupation of the development, the car parking and manoeuvring areas shall be constructed in accordance with the development approval and thereafter maintained to the satisfaction of the Shire of Gingin;
- f. Prior to occupation of the development, the Staff/Workers' Accommodation is to be connected to a potable water supply to the satisfaction of the Shire of Gingin;
- g. Prior to occupation of the development, the Staff/Workers' Accommodation is to be connected to an approved effluent disposal system to the satisfaction of the Shire of Gingin;
- h. Any external lighting must be designed, baffled and located so as to comply with Australian Standard 4282:2019 'Control of the Obtrusive Effects of Outdoor Lighting';
- i. 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 within a bushfire prone area. Additional planning and building requirements may apply to development on this land.
- j. This approval is for up to 32 staff/workers to reside onsite within the accommodation at any one time.

Advice Notes:

- Note 1:** If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision under Part 14 of the *Planning and Development Act 2005*.
- Note 2:** If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect.
- Note 3:** Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4:** Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the *Building Act 2011* and *Public Health Act 2016*, which are to be approved by the Shire of Gingin.
- Note 5:** It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 6:** In the event the as constructed setbacks vary from those indicated on the approved plans, then the applicant/landowner may be held responsible for formalising the actual setback dimensions.
- Note 7:** The operation will be required to comply with *the Environmental Protection (Noise) Regulations 1997*.
- Note 8:** Please be advised that the property may attract Differential Rating for Intensive Agriculture.
- Note 9:** The development is to comply with the definition of staff/workers' accommodation under Local Planning Scheme No. 9 (as amended) which states:

Means shared self-contained living accommodation (separate to a single dwelling) used for the accommodation of persons directly employed in an approved activity carried out on the Lot and does not include a Caretaker's Dwelling.

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- c. Prior to occupation of the development, the external surfaces of the Amenity Facilities (Four Transportable Buildings) are to be either reclad or repainted in a matching colour and rendered visually acceptable to the satisfaction of the Shire of Gingin. The external appearance shall be kept in good condition thereafter to the satisfaction of the Shire of Gingin;**
- d. Prior to occupation of the development, the Amenity Facilities are to be connected to a potable water supply to the satisfaction of the Shire of Gingin;**
- e. Prior to occupation of the development, the Amenity Facilities are to be connected to an approved effluent disposal system to the satisfaction of the Shire of Gingin; and**
- f. Any external lighting must be designed, baffled and located so as to comply with Australian Standard 4282:2019 'Control of the Obtrusive Effects of Outdoor Lighting'.**

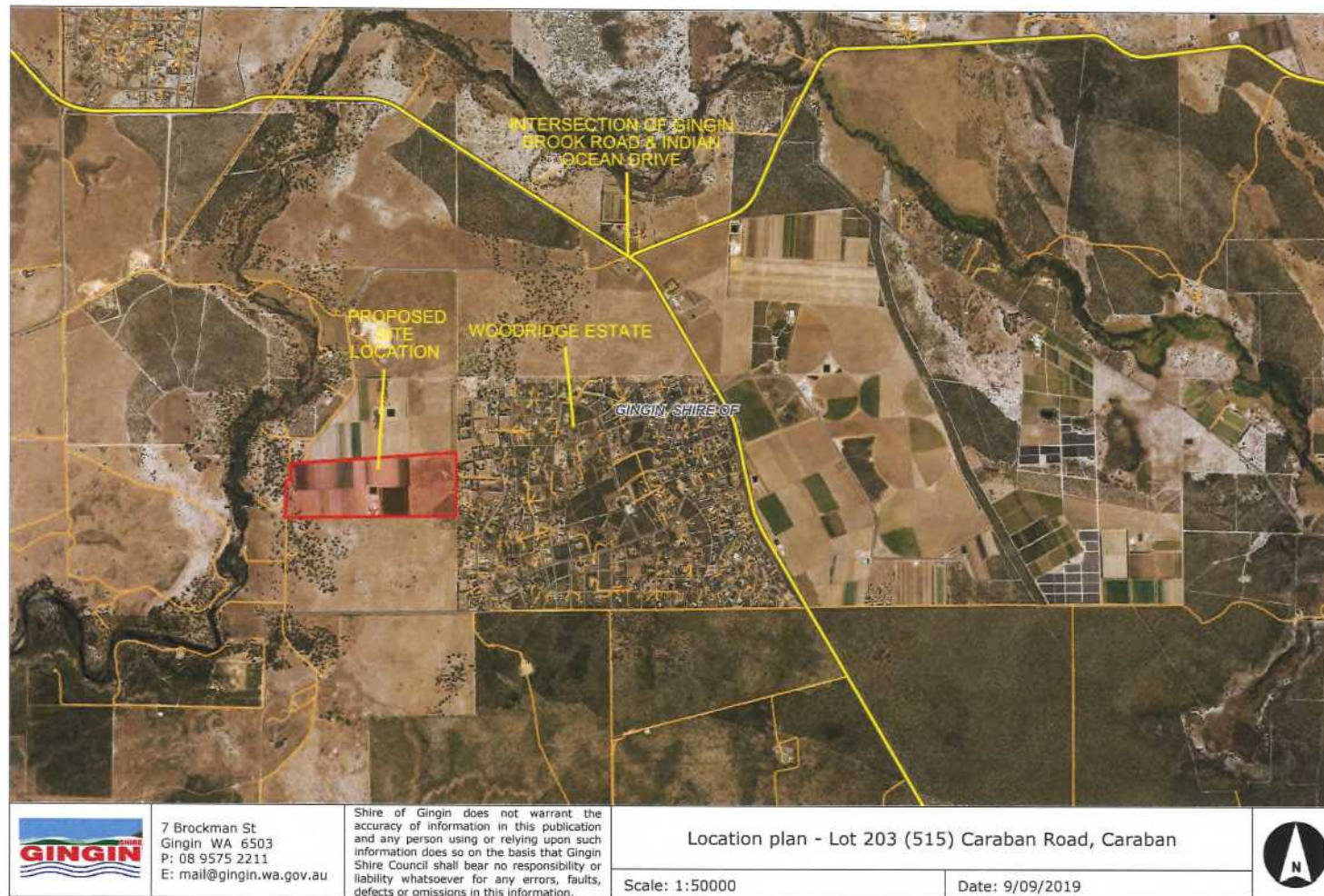
Advice Notes:

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- Note 2: 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 *Public Health Act 2016*, which are to be approved by the Shire of Gingin.**
- Note 3: In the event the actual setback varies from that indicated on the approved plans, the landowner may be required to undertake remedial works to comply with the approved plans.**
- Note 4: Please be advised that the property may attract Differential Rating for Intensive Agriculture.**
- Note 5: In the event the as constructed setbacks vary from those indicated on the approved plans, then the applicant/landowner may be held responsible for formalising the actual setback dimensions.**
- Note 6: The operation will be required to comply with the *Environmental Protection (Noise) Regulations 1997*.**

**CARRIED
7-2**

For: Councillors Morton, Fewster, Rule, Elgin, Collard, Court, Lobb
Against: Councillors Johnson, Peczka

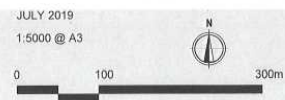
APPENDIX 1





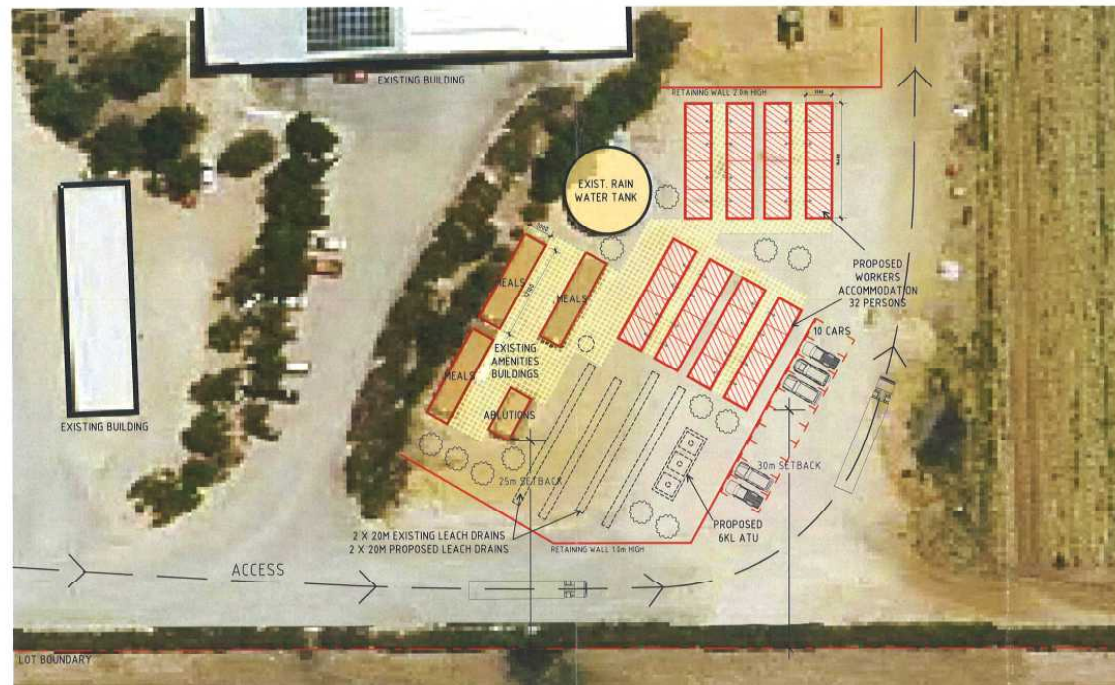


SK01
LOCATION PLAN



PROPOSED WORKERS ACCOMMODATION
T & C Do and Son
203 Caraban Road, Caraban





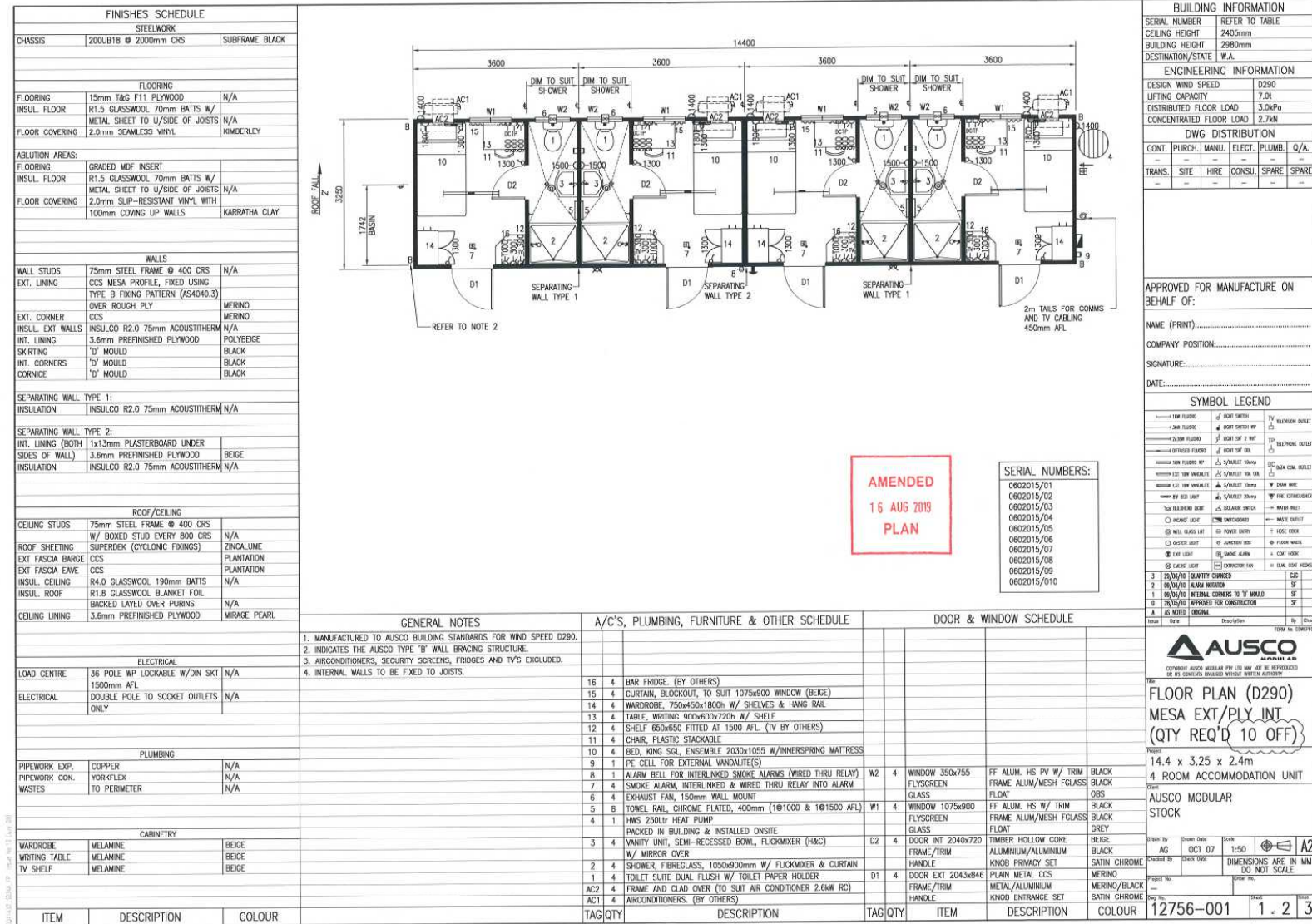
AMENDED
23 AUG 2019
PLAN

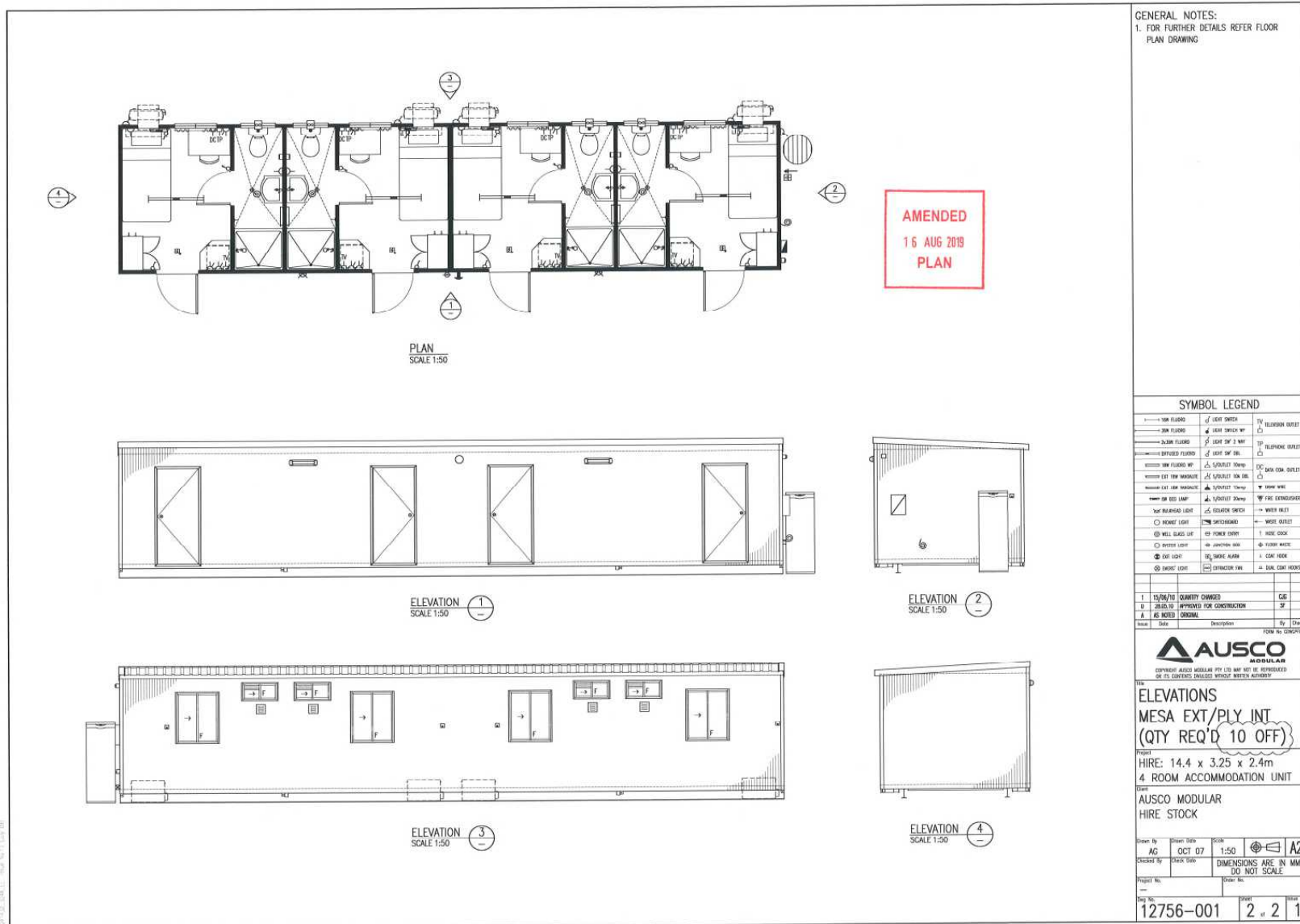
SK02(A)
SITE PLAN

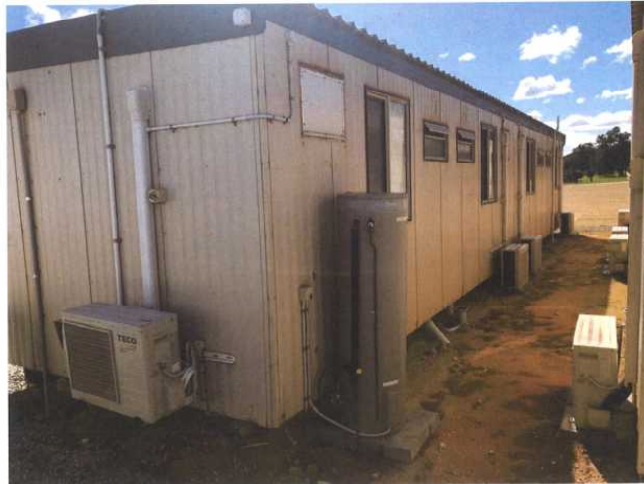


PROPOSED WORKERS ACCOMMODATION
T & C Do and Son
203 Caraban Road, Caraban









AMENDED
16 AUG 2019
PLAN

APPENDIX 2







APPENDIX 3

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

No.	Submitter	Submission Detail	Submitters details
1.	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p>"Thank you for the opportunity to comment on the proposal. We have major concerns about this proposal, in its current form, for what is in effect a small village with at least 32 people being located so close to our property boundary. The SK02 Site Plan shows the corner of the closest accommodation block at 25m, but the ablutions and meals buildings come with that 25m and closer to our boundary. Notwithstanding a 25m setback, we strongly object to the overall location of this proposal. We would agree in principle to this proposal if the whole complex was relocated to another location on their block, further away from our boundary.</p> <p>Related to this, we have biosecurity concerns. We run cattle on this block and we are LPA accredited. LPA accreditation has strict biosecurity requirements. We have an ongoing problem with refuse (plastic, plastic bottles, cans, etc.) ending up on our property. We have had stock die and inspection has shown plastic ingestion. The problem is current and is not fully being addressed. How can we be guaranteed that this problem will not increase with these accommodations?</p> <p>If such a development is approved with amendments (i.e. location), would be granted permission for similar? Thank you for your consideration of our objections to this proposal in its current form."</p>	<p>Setback</p> <p>1. Noted - Local Planning Scheme No. 9 (LPS 9) prescribes that all structures shall be set back a minimum of 20 metres from lot boundaries within the general rural zoning. The nearest building is set back 25 metres from the southern lot boundary, however the proposed retaining wall is setback ~15metres, therefore a variation is being sought. The provision of existing screening results in the reduced setback being negligible as it will not be noticeable from the adjoining property. The building themselves do not vary the development standards of LPS 9.</p> <p>Biosecurity</p> <p>2. Noted - Littering is not considered to be a biosecurity concern. Biosecurity relates to mitigating the spread of infectious disease and pests.</p> <p>General Comment</p> <p>3. Each proposal is assessed on its own merits. Staff workers accommodation is required to be associated with an agricultural land uses being undertaken on</p>

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

			the property and should correlate with the scale of that operation.
2.	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"We have just read on the Woodridge notice board about the Proposed work camp in Woodridge.</i></p> <p><i>Why have residents not been informed ???</i></p> <p><i>As this needs to be sent immediately no time to state reasons why."</i></p>	<p>Advertising</p> <p>4. The application was advertised to surrounding landowners by way of letter, published on the Shire's website and a development sign placed on the verge of the property for period of 14 days in accordance with clause 64 of the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>. Residents that are not deemed to be in proximity to the development that will not be impacted have not been contacted.</p>
3	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"My husband and I wish to raise attention to the prospect of erecting 30 dongas's . Our concern is the influx of traffic to our area Woodridge. No dongas's on the farm."</i></p>	<p>5. Dismissed - The development does not proposed 30 dongas nor does it generate additional traffic, rather reduce vehicle movements to the property.</p>
4	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"I would like to join in the protest against the Proposed Staff/worker accommodation at lot 203 Caraban Rd Caraban."</i></p>	

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

		<p><i>As I live very close to the Farm in question and have had to put up with the smells, flies and dust from the farm over the years, I find it appalling that the near residents were NOT informed personally of the now proposed invasion.</i></p> <p><i>I give you my formal protest AGAINST this application. As an added complaint I find the Shires handling of this application lacking in the care of the Woodridge residents."</i></p>	<p>Previous Approval</p> <p>6. Dismissed - The existing market garden is approved, the management and daily operation is not up for assessment as part of this development. This development relates to accommodation which caters for existing workers. This development does not contribute to odour, fly or dust issues.</p>
5.	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"(A) A camp village within Woodridge, where there are so many failures is not conducive to our residential environment.</i></p> <p><i>(B) This 'camp village' has the high potential to devalue all our properties.</i></p> <p><i>(C) Just as the residents of Gingin objected to a 'camp village' for the workers of the mine in the last year, we too oppose the same for Woodridge."</i></p>	<p>7. Dismissed - The development is not located within Woodridge.</p> <p>8. Dismissed - The notation that the development will affect land values has not been substantiated and is not a planning consideration.</p> <p>The development being referred to in Gingin was not presented to Council for determination and cannot be assumed as having been refused. The development was re-located to general rural zoned land in good faith by the applicant.</p>

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

6.	Submitter	<p>The submitter does not support the proposal and makes the following general comment: <i>"I Strongly object to the proposal to build staff/workers accommodation in Woodridge.</i></p> <p><i>Woodridge is a Residential Community In the more than 10 years that I have lived in Woodridge there has been a marked change in the make-up of the people living here. There seem to be more family groups, I have heard that there are more children in Woodridge than in Gingin. We have people living here, and moving here, for the rural residential lifestyle; a bit of space, bush, grow fruit and vegies, safe place for the kids to run around, keep some animals, peace and quiet.</i></p> <p>Noise <i>There are two properties between the property I live on and TC Do's. We can clearly hear the noise of their trucks, tractors and other machinery. Often enough this is around the clock, I have been awake at 2 or 3 in the morning listening to their machinery. A work camp of at least 32 people will add to this noise.</i></p> <p>Antisocial Behaviour <i>Over a period of 30 years I have worked many times up north, always living in work camps. Things get out of hand easily and with monotonous regularity, both within the camp and the area around the camp. This can be mitigated with facilities for the workers (noise again) and enforcement of rules, but can't prevent it.</i></p>	<p>General Comment – No response required.</p> <p>Noise Dismissed - Refer to point 6 above. This development does not relate to trucks, tractors or machinery being operated nor does it expand the existing operations.</p> <p>9. The development is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i>. Appropriate enforcement processes are available should this be breached.</p> <p>Antisocial Behaviour 10. Dismissed – General comments with respect to anti-social behaviour that may</p>
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SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

	<p>Bad Corporate Citizen A good guide to future behaviour is past behaviour. TC Do has a long history of flouting laws, regulations and requirements; trucks driving through Woodridge, the ongoing problem of fruit fly, etc. I do not believe for a moment that TC Do will faithfully and consistently follow any restrictions placed on their operations in order to prevent negative consequences for the Woodridge Community. The sanctions and fines that TC Do may have to face are trivial in relation to their operations and therefore ineffective. The costs to the Shire, and ultimately us ratepayers, of enforcing requirements and regulations are however considerable. This will lead to a bias and practice of non-enforcement.</p> <p>Benefits? What benefits, I can't see any. I think that we can assume that most, if not all, of the workers will be foreigners who will just work and take what little money they earn back with them.</p> <p>Precedent It should also be noted that a proposal to site a workers camp in Gingin was soundly defeated. A precedent has been set, what makes Woodridge any different?"</p>	<p>or may not occur is not a planning consideration.</p> <p>Bad Corporate Citizen 11. Dismissed – Not a planning consideration and subjective.</p> <p>Dismissed – The ethnicity of workers is not a planning consideration.</p> <p>Precedent 12. The development being referred to in Gingin was not presented to Council for determination. The development was re-located to general rural zoned land in good faith by the applicant.</p> <p>Precedent itself is not referenced as a planning consideration as each development application is assessed on</p>
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SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

			<p>its own merits. This notwithstanding, the Shire should be consistent with how it applies the planning framework.</p> <p>With respect to precedence as referenced in the comment, the land that the temporary workers camp was approved on has the same zoning as the subject property, therefore precedent suggest that the zoning is appropriate.</p>
7.	Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"This seems rather a large number of transportable buildings. The concern I have is the visual impact that these buildings have on adjoining properties and properties in the vicinity. People come here to enjoy the country ambience and beautiful country side."</i></p>	<p>Visual Amenity</p> <p>13. Noted. The officer concurs that the number of transportable buildings is significant and ensuring an appropriate visual appearance is maintained is important. In this instance, the development is not viewable from Caraban Road due to existing screening and topography of the land.</p> <p>The development is screened to the southern boundary via existing vegetation which mitigates any adverse visual concerns on this site.</p> <p>The development is located ~750m from the nearest property boundary in</p>

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

			Woodridge and therefore any visual impact is negligible.
8.	Late Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>"On May 5th 2014 Carabooda Market Garden was raided seizing money and guns. 3 Perth brothers arrested or running an illegal syndicate T C Do's farm was tipped off and I had 10/15 illegal workers run through the vacant block in front of my property past my house. T C Do cannot be trusted with this accommodation. "Desperate people do desperate things" It is not safe I hear the noise all day long and through the night with this accommodation I fear he will expand. I have smelt poison in air on a number of occasions and the stable fly is unbearable. I hate to whinge it's not how I operate but with my young family at stake I tell you these issues are real and eroding our quality of life please help us."</i></p>	<p>Dismissed – General comment with no relevance to this application.</p> <p>Refer to point 6, 9 and 11 above.</p>
9.	Late Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p><i>" Noise from T.C Do in the early hours will be increases with this workers camp interfering with our sleep patterns As parents of a young person concerned with 32 + extra residents opposite our property</i></p>	<p>Refer to points 6, 9, 8 and 12 above.</p> <p>14. The development is ~750 metres from the nearest property in Woodridge and</p>

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

		<p>. Gingin township residents opposed a workers camp in their residential area as we also do</p> <p>. Extra light pollution will directly affect us</p> <p>. This workers camp will devalue our property."</p>	therefore light pollution is not deemed to be an issue.
10.	Late Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p>"Our Lot no ... has only 1 neighbour in close proximity, the house is approx. 20 metres off T C Do's boundary we will have an increase of 32 + neighbours having a camp village within close view will devalue our property, our privacy will be lost and views spoilt. Currently noise and light interrupts our sleep our bedroom is the closest to the boundary this camp will increase noise, dust and light. We oppose this workers camp just as Gingin residents objected to the proposed miners camp in their town."</p>	Refer to points 6, 9, 8, 13 and 14 above.
11.	Late Submitter	<p>The submitter does not support the proposal and makes the following general comment:</p> <p>"A proposal on this scale should not even be conceivable so close to aged people and young families. Who will be held responsible should things get out of hand? Which is not unheard of. The houses broken and someone is hurt in Woodridge? Will it be T C & Do or the Shire for letting this pass? How will this be monitored and how often? With extra people, toilets, leach drains etc can you guarantee there will be no accidents (of course not) and again who would be responsible? With all this worry will it devalue our properties, surely we have enough with the fly</p>	Refer to points 6, 9, 8, and 13 above.

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 203 CARABAN ROAD, CARABAN

		<i>problem, spraying and having our groundwater contaminated since TC & Do took over this property."</i>	
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11.3.3 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED AGRICULTURE INTENSIVE (ANNUAL HORTICULTURE) AND HOLDING DAM AND APPLICATION FOR RETROSPECTIVE DEVELOPMENT APPROVAL - AGRICULTURE INTENSIVE (ANNUAL HORTICULTURE) ON LOT 200 (594) SAPPERS ROAD, NILGEN

File:	BLD/5013
Applicant:	GW Legal Lawyers
Location:	Lot 200 (594) Sappers Road, Nilgen
Owner:	Cream of the Crop Produce Pty Ltd
Zoning:	General Rural
WAPC No:	NA
Author:	James Bayliss - Acting Manager Statutory Planning
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development Services
Report Date:	15 October 2019
Refer:	Nil
Appendices	<ol style="list-style-type: none">1. Location Plan2. Applicant's Proposal (Including Amendments)3. Schedule of Submissions and Recommended Responses

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for proposed Agriculture Intensive (annual horticulture) and a holding dam, and Retrospective Development Approval for existing Agriculture Intensive (annual horticulture) on Lot 200 (594) Sappers Road, Nilgen.

BACKGROUND

The subject lot consists of a total area of 1,381 hectares and is currently used for Agriculture Intensive (annual horticulture) purposes. The property received development approval on 25 March 1996 for 'Irrigated Horticulture' which consisted of two 20 hectare pivots. At the Ordinary Council meeting on 3 November 2010 the property received development approval to install 10 wind turbines. Both of the above developments have been implemented.

The development that is the subject of this report consists of two components which are outlined below.

Retrospective Development:

As noted above, the property received development approval for the installation of two 20 hectare pivots, however the property currently contains eight pivots. It should be noted that one pivot has been decommissioned, with that area being identified as appropriate for a holding dam.

As such, the retrospective component consists of five 20 hectare pivots (100 hectares).

Proposed Development:

The proposed development consists of four 20 hectare pivots, two fixed irrigation areas and a dam.

Overall Development:

The combined development will result in 300 hectares of land dedicated to agriculture intensive (annual horticulture) purposes. The typical produce being grown includes broccoli, cabbage, lettuce, celery, carrots, onions and potatoes, all of which are continuously rotated. The development will be implemented in stages over a three year period.

It should be noted that during the officer's review of previous development approvals, aerial imagery was located from 2010 which indicates that the unauthorised pivots were already operational. The current landowner recently purchased the property and was not responsible for undertaking the unauthorised works, however has sought to formalise the development through the retrospective process.

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

A copy of the applicant's proposal, including amendments, is provided as **Appendix 2**.

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 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015*. The Shire received two submissions in relation to the development, one in support of the proposal, and one general comment.

The general comment relates to the importance of waste management to ensure adverse impacts from stable fly do not detrimentally affect the ability of their property to graze stock. The officer concurs with the comments raised and notes that appropriate farm management practises have been provided as part of the applicant's proposal.

A copy of the Schedule of Submissions and Recommended Responses is provided as **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Scheme No 9 (LPS 9)

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

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

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

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

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

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

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

Setbacks

The planting area is required to be set back a minimum of 20 metres from the lot boundaries, unless a greater setback is required (i.e. buffer/separation distances to sensitive land uses or wetlands). All components of the development are set back at least 20 metres from the lot boundary.

Local Planning Policy 1.6 – Agriculture Intensive (LPP 1.6)

LPP 1.6 defines Annual Horticulture as:

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

The ‘General Standards’ outlined within LPP 1.6 are outlined below with officer comments provided:

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

Officer Comment:

The property currently has a water license of 2.7 gigalitres. An appropriate advice note will reflect the need to obtain the relevant water licensing modifications through the Department of Water and Environmental Regulation (DWER), which the applicant is aware of as outlined within their submission.

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

Officer Comment:

The applicant is aware of the need to obtain a clearing permit should they seek to remove vegetation. It should be noted that clearing permits are processed and regulated by the DWER and an appropriate advice note reflects this. The applicant also advises that no clearing is required to implement the overall development.

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

Officer Comment:

The officer notes that the proposed development area has been strategically selected to avoid dense areas of vegetation. There are no other significant wetlands or physical characteristics onsite to consider.

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

Officer Comment:

The information submitted includes a Farm Management Plan (FMP) which outlines stable fly management, waste management and dust management and includes a contingency plan should any issues arise. It should be noted that the produce is not being packaged onsite, but is transported to a facility located in the metropolitan area. Therefore produce that is not fit for market will generally be disposed of at that location.

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

Officer Comment:

The applicant outlines within their proposal under 'Stable Fly Management' that crop remnants will be slashed and broken up via rotary hoe within two days of harvest.

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

Officer Comment:

Not applicable.

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

Officer Comment:

Ocean Farm Rural Living Estate is located approximately 5 kilometres west of the subject land and therefore outside the designated buffer area.

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

Officer Comment:

Not applicable.

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

Officer Comment:

Not applicable

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

Officer Comment:

As outlined above, the nearest 'Rural Living' estate is located outside of the recommended buffer distance.

Environmental Impact/Separation from Sensitive Land Uses

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

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

The proposal falls under the definition of a 'market garden' for the purpose of calculating the recommended buffer distance using the abovementioned policies. The recommended buffer distance is between 300-500 metres depending on size, and the closest sensitive land use (i.e. single dwelling). The distance outlined is not intended to be an absolute distance, rather a guide to avoid conflicts between land uses (i.e. spray drift etc.).

Notwithstanding the above, the closest sensitive land use is located 600 metres east of the property on Lot 11 Sappers Road, Nilgen. It should be noted that the irrigation pivot closest to this dwelling forms part of the development approval issued in 1996.

Access and Egress

The property has access/egress from Sappers Road which is to a sealed standard. The applicant advises that at peak periods between three and five B-doubles may attend the site per day. The existing crossover is considered to be of sufficient width to cater for the vehicle type and is constructed of compacted gravel. The existing crossover is of a satisfactory standard and no upgrades are recommended.

Vegetation Buffers

The Sappers Road reserve is 200 metres in overall width. The reserve adjacent to the subject property contains approximately 80 metres of dense native vegetation which acts as a visual buffer, as well as mitigating any potential impacts associated with farming operations. Given the type and health of the vegetation, it is unlikely that this vegetation will be removed in the future and therefore no further vegetation buffers are recommended to be planted.

Car Parking

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

Stable Fly

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

The Shire is still required to be satisfied that the horticultural activity manages waste appropriately on the site. The applicant's FMP has been outlined above, and it should be noted that no processing will occur onsite which ensure excess waste is kept to a minimum.

Bushfire Planning

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) provides a foundation for land use planning to address bushfire risk management. The subject lot is partially designated as being bushfire prone.

Planning Bulletin 111/2016 was prepared to assist with the implementation of measures contained within SPP 3.7. The bulletin clarifies that exemptions from the requirements should be applied pragmatically by the decision maker, and that there may be no practical reason to require a Bushfire Attack Level (BAL) report with respect to rural activities that do not involve employees being onsite for any considerable amount of time or result in an increase to the bushfire threat.

Given the nature of the proposal (annual horticulture) consisting of irrigation across the site, the officer is of the view that the development is exempt from the need to submit a BAL report.

It should be noted that the landowner has previously been required to place a notification pursuant to Section 70A of the *Transfer of Land Act 1893* on the title to the land notifying prospective purchasers that the property is within a bushfire prone area. As such, a relevant condition considering the above has not been recommended.

Water Quality Protection Note 53: Dam Construction and Operation in Rural Areas

The abovementioned water quality protection note applies to private water supply dams constructed on rural properties and was prepared by the Department of Water and Environmental Regulation (DWER) in June 2018. This note does not address technical aspects of dam construction.

Given dam construction does not require a building permit, it is recommended that the landowner seek information from qualified persons with expert geotechnical and engineering knowledge before beginning construction.

Further, dam safety is the responsibility of the dam owner. As such, the development approval does not seek to establish the structural integrity of the dam, with the onus falling on the landowner in accordance with the above-mentioned water quality protection note.

Conclusion

In view of the above assessment, the Shire is of the view that the site is capable of accommodating the overall development which consists of 300 hectares of Agriculture Intensive (annual horticulture) and a proposed dam on the subject property.

STATUTORY ENVIRONMENT

Local Planning Scheme No 9

Part 3 – Zones and the Use of Land

3.2 Objectives of the Zones

Part 4 – General Development Requirements

4.7 General Development Standards

4.8.6 General Rural Zones

Local Planning Policy 1.6 Agriculture Intensive

State Planning Policy 2.5 Rural Planning

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

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

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Elgin

That Council:

- 1. Grant Development Approval for Agriculture Intensive (annual horticulture) and a Holding Dam on Lot 200 (594) Sappers Road, Nilgen subject to the following conditions:**
 - a. The land use and development shall be in accordance with the approved plans (including any amendments marked in RED) and accompanying documentation unless otherwise conditioned by this approval;**
 - b. This approval is for an Agriculture Intensive (annual horticulture) use and Holding Dam only as indicated on the approved plans;**
 - c. The approved use shall comply at all times with the submitted Farm Management Plan dated on 20 August 2019, including amendments dated 20 August 2019, to the satisfaction of the Shire of Gingin;**
 - d. In the event dust and/or spray drift is disseminating beyond the property boundary as a result of agricultural activity being undertaken, the activity shall cease forthwith until such time as favourable weather conditions enable the activity to recommence, to the satisfaction of the Shire of Gingin;**
 - e. The area shall immediately be rehabilitated to pasture cover at the cessation of the approved use, to the satisfaction of the Shire of Gingin; and**
 - f. The existing crossover shall be maintained in a good condition to accommodate access/egress movements of typical 19m semi-trailers through the intersection of Sappers Road for the life of the development to the satisfaction of the Shire of Gingin.**

Advice Notes

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

- Note 4:** It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 5:** It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2013* in order to minimise the effects of stable flies on the community.
- Note 6:** All noise from the operation and associated equipment is required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- Note 7:** Where any native vegetation clearing is proposed, it will be necessary to contact the Department of Water and Environmental Regulation (DWER) to obtain the necessary approvals.
- Note 8:** The development may trigger the need to amend the existing water license details. It will be necessary to contact the DWER to obtain the necessary Approvals.
- Note 9:** The dam should be constructed in line with the recommendations in Water Quality Protection Note 53: Dam Construction and Operation in Rural Areas (DWER 2018)
- Note 10:** For detailed advice about the legal responsibilities of dam owners (including liability for flooding and dam safety), a qualified and experienced legal practitioner should be consulted. Dam safety is the responsibility of the dam owner.
- Note 11:** Please be advised that the property will attract Differential Rating for Intensive Agriculture in accordance with Council Policy 3.16 Rates Concession for Split Use Differential UV Intensive/UV General Properties.
- 2. Grant Retrospective Development Approval for an Agriculture Intensive (annual horticulture) use on Lot 200 (594) Sappers Road, Nilgen subject to the following conditions:**
- a.** The land use and development shall be in accordance with the approved plans (including any amendments marked in RED) and accompanying documentation unless otherwise conditioned by this approval;
 - b.** This approval is for an Agriculture Intensive (annual horticulture) use only as indicated on the approved plans;
 - c.** The development area subject to this approval relates to five 20 hectare irrigation pivots (100 hectares), all of which shall be set back a minimum of 20 metres from all lot boundaries to the satisfaction of the Shire of Gingin;

- d. The approved use shall comply at all times with the submitted Farm Management Plan dated on 20 August 2019, including amendments dated 20 August 2019, to the satisfaction of the Shire of Gingin;
- e. In the event dust and/or spray drift is disseminating beyond the property boundary as a result of agricultural activity being undertaken, the activity shall cease forthwith until such time as favourable weather conditions enable the activity to recommence, to the satisfaction of the Shire of Gingin;
- f. The area shall immediately be rehabilitated to pasture cover at the cessation of the approved use, to the satisfaction of the Shire of Gingin; and
- g. The existing crossover shall be maintained in a good condition to accommodate access/egress movements of typical 19m semi-trailers through the intersection of Sappers Road for the life of the development to the satisfaction of the Shire of Gingin.

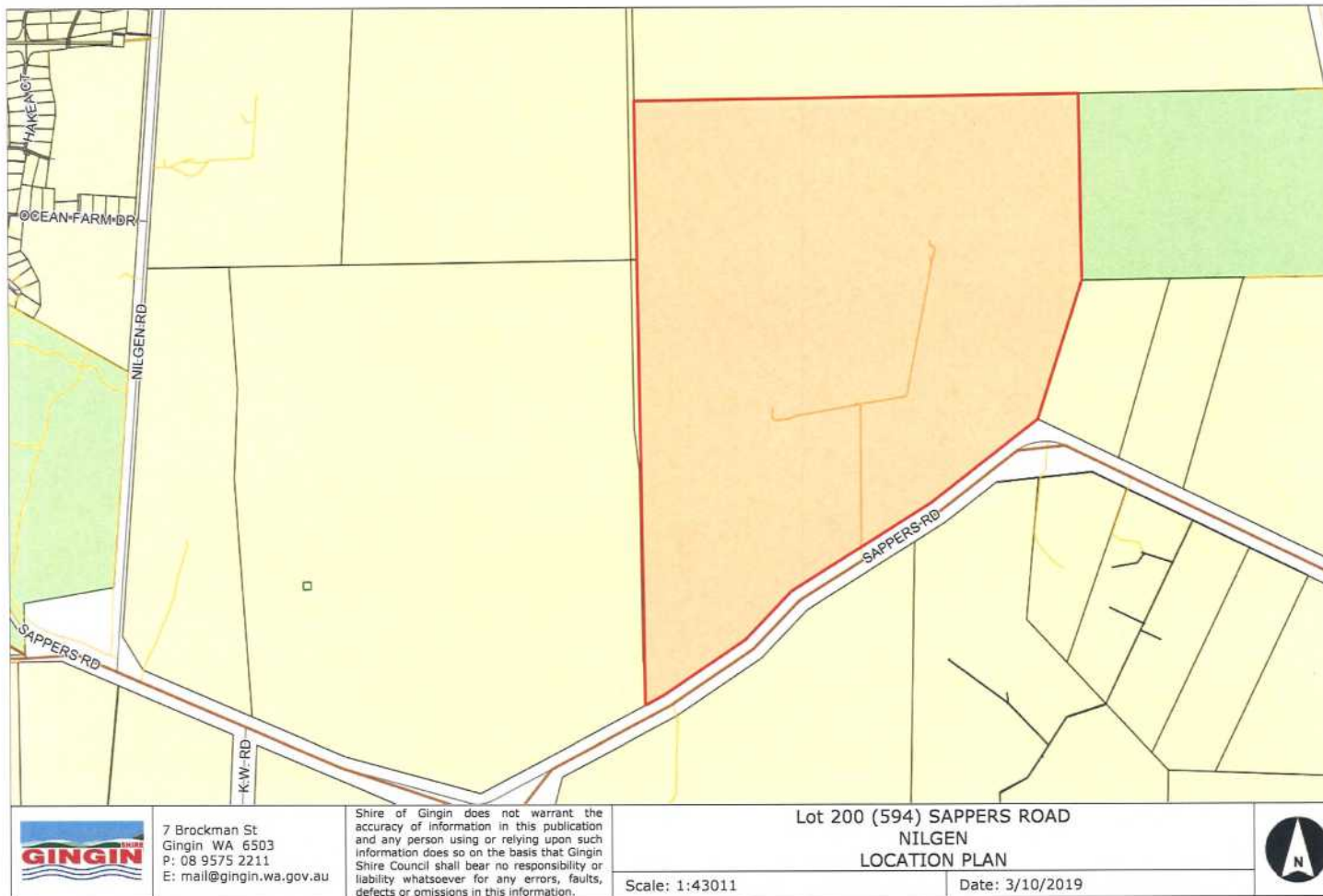
Advice Notes

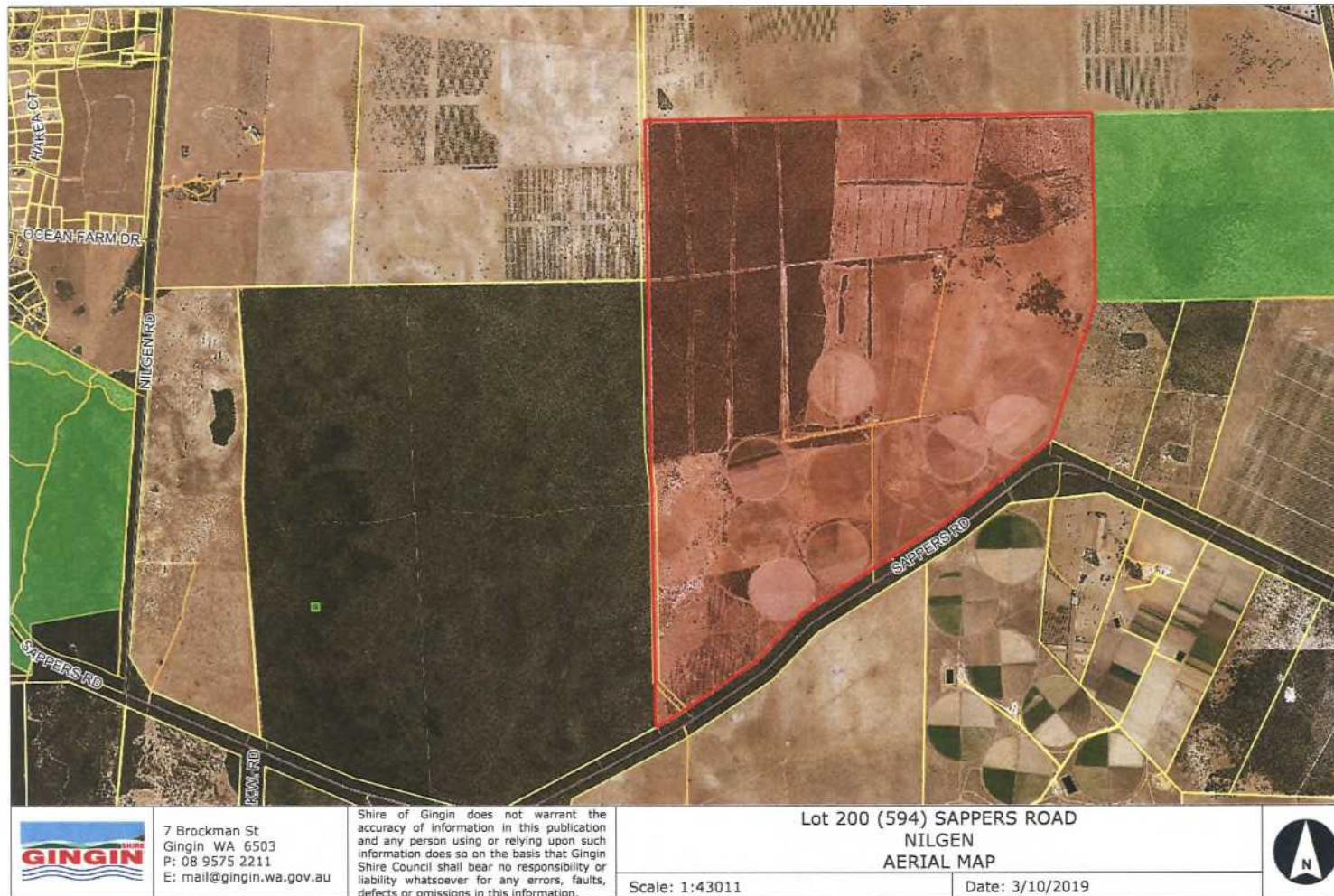
- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2: If the development subject to this approval is not substantially commenced within a period of two years, the approval shall lapse and have no further effect.
- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 5: It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2013* in order to minimise the effects of stable flies on the community.
- Note 6: All noise from the operation and associated equipment is required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- Note 7: Where any native vegetation clearing is proposed, it will be necessary to contact the Department of Water and Environmental Regulation (DWER) to obtain the necessary approvals.
- Note 8: The development may trigger the need to amend the existing water license details. It will be necessary to contact the DWER to obtain the necessary Approvals.

Note 9: Please be advised that the property will attract Differential Rating for Intensive Agriculture in accordance with Council Policy 3.16 Rates Concession for Split Use Differential UV Intensive/UV General Properties.

CARRIED UNANIMOUSLY

APPENDIX 1





APPENDIX 2



Our Ref: SG:1983
Enquires: Sindy Goodhew
Direct Line: +61 (8) 9412 6071
Email: s.goodhew@gwlegal.com.au

ABN 68 625 173 024
630 Karel Avenue
Jandakot, WA 6164
PO Box 77
Applecross, WA 6953
P: +61 8 9412 6070
E: +61 8 9412 6079
W: gwlegal.com.au

20 August 2019

Planning Department
Shire of Gingin
7 Brockman Street
GINGIN WA 6503

By email: mail@gingin.wa.gov.au; Matthew.Tallon@gingin.wa.gov.au;
pdpa@gingin.wa.gov.au

Dear Sir

**APPLICATION FOR DEVELOPMENT APPROVAL AND APPLICATION FOR
RETROSPECTIVE APPROVAL OF DEVELOPMENT
EXPANSION OF INTENSIVE AGRICULTURE (IRRIGATED HORTICULTURE AND WATER
STORAGE FACILITY/DAM)
594 (LOT 200) SAPPERS ROAD, NILGEN**

We act for Cream of the Crop Produce Pty Ltd (**Applicant**), the registered proprietors of 594
(Lot 200) Sappers Road, Nilgen (**Property**).

This letter and the enclosures referred to in it comprise an application for development
approval and application for retrospective development approval (**Application**) for the
development of irrigated horticulture and a water storage facility/dam (**Development**).
Relevant matters to the application are set out below and in the enclosures.

Site Details

1. Legal Description

- 1.1. The land is legally described at Lot 200 on Deposited Plan 302268, being the
whole of the land referred to in Volume 1366, Folio 280 (**Property**).

2. Access

- 2.1. The Property fronts and obtains access from Sappers Road. Access to the
Development will be via this existing access point, with no additional access points
required as part of the Application.

Proposed Development

3. Local Planning Scheme

- 3.1. Under the provisions of the Shire's Town Planning Scheme No.9 (TPS9) the Property is zoned General Rural.
- 3.2. The proposed Development addresses the primary objectives of the General Rural zone. Particularly, to encourage intensive agricultural activities such as horticulture as primary uses within the zone.
- 3.3. The Property has historically been used for intensive irrigated agriculture/horticulture. Our client has recently purchased the Property and the Application is for an expansion of the existing horticultural use and the construction of a Dam, along with the retrospective approval of existing irrigated horticulture on the Property.

4. Water Licence

- 4.1. The Applicant has an existing groundwater licence assigned to the Property, being GWL 62806(9), with a current allocation of 2,703,300 kilolitres (**Water Licence**).
- 4.2. Condition 1 of the Water Licence requires that the Applicant shall have the 'irrigation project' completed by 31/12/2022. The irrigation project requires the establishment of the horticultural use of the Property to allow irrigation of up to 149 hectares of vegetables.
- 4.3. The proposed Development provides for the required area necessary to complete the irrigation project (allowing for resting of ground and crop rotation).

5. Expansion of Irrigated Horticulture

- 5.1. The Irrigated Horticulture component of the proposed Development involves expanding the vegetable growing area from the 160 hectares currently developed on the Property to a total of 300 hectares.
- 5.2. Since purchasing the Property, the Applicant has been made aware that the previous owner received planning approval for 40 hectares of the 160 hectares currently developed.
- 5.3. The Applicant therefore seeks retrospective planning approval for 100 hectares of previous unauthorised irrigated horticulture. Retrospective approval for the remaining unauthorised 20 hectares is not sought as it is the proposed location of the Dam.

- 5.4. Typical crops to be farmed include, broccoli, cauliflower, cabbage, lettuce, celery, carrots, onions, potatoes which are continuously rotated according to best farming practices.
- 5.5. The expansion will occur as a staged development over a period of two (2) - three (3) years.
- 5.6. A minimum 20 metre setback is maintained from the proposed Development to any Property boundary.
- 6. Dam
 - 6.1. In addition to the cropping requirements, the Development proposes a water storage facility (**Dam**) on the Property. The Dam provides for a maximum storage of approximately 72,000 kilolitres of water to the top of the Dam.
 - 6.2. The Dam is an earth dam, lined with a UV stable membrane lining system (poly liner). See Dam Design Plan for specifications and batter detail.
 - 6.3. As well as capturing rainfall, water will be pumped from existing bores during off-peak periods and then pumped by centrifugal pump from the Dam to the existing and proposed irrigated areas onto crops.
 - 6.4. The Dam does not interfere with the bed or banks of the watercourse and will have no livestock access.
 - 6.5. The Dam is setback 950 metres from Sappers Road boundary.
 - 6.6. The Dam will undergo regular monitoring of water quality (provided by external consultant – Water Direct).
- 7. Vegetative Clearing
 - 7.1. The Development does not require any clearing of vegetation.
- 8. SPP 3.7 – Planning in Bushfire Prone Areas
 - 8.1. The Property is designated as partially bushfire prone. The majority (practically all) of the proposed Development is not within the bushfire prone zone. In any event, Planning Bulletin 111/2016 outlines the exemptions from the requirements of SPP3.7, which include those contemplated by this Application.
 - 8.2. Planning Bulletin 111/2016 provides that there may be no practical reason to require a BAL Assessment in respect to rural activities that do not involve the occupation of employees on site for any considerable amount of time and infrastructure such as dams.

- 8.3. Given the rotation of crops and resting of ground the employees involved in the horticultural activities will not increase to any more than currently onsite.
- 8.4. Taking in to account the above, the proposed Development is exempt from the requirements of SPP3.7.

Farm Management

9. Fertiliser Application

- 9.1. Irrigation will either be by pivot, or overhead sprinklers that run north to south in fixed positions.
- 9.2. The fertiliser regime will be exclusively by fertigation, wherein all major and minor mineral nutrients are dissolved in the irrigation water and applied at low concentration each times the crops are irrigated.
- 9.3. The irrigation system is currently manually controlled from diesel powered pumps and generators. The Applicant has already converted one pump to electricity and is in the process of converting the remaining to electricity. When fully converted to electricity the irrigation system is controlled by computers connected to in-bed soil sensors continuously measuring moisture and conductivity.
- 9.4. The fertiliser rates will be adjusted based on the nutrient levels of the input water. Because soil moisture and conductivity are continually monitored there is no water or fertiliser runoff.
- 9.5. A definitive soil fertiliser regime cannot be provided for every crop during all life cycles as the nutrient regime should reflect the conditions existing at the time and respond to minimise nutrient export or loss.
- 9.6. However, crop nutrient and trace element requirements are generally met by a balanced fertiliser programme, which includes N-P-K formulations that combine trace elements as well as pre-plant applications of lime/gypsum and super phosphate. Nitrogen and potash are applied throughout the growth cycle of the crop according to visual appearance of the crops, the results of the soil solution analysis and, where necessary, leaf analysis results. Foliar applications of trace elements are applied on an as needed basis.
- 9.7. The specific brands of fertiliser intended to be used for the proposed Development from time to time include:
 - (a) Calcium Nitrate;
 - (b) Calcium Ammonia Nitrate;
 - (c) DAP;

- (d) Hydro Complex (NPK Blue);
 - (e) Magnesium Nitrate;
 - (f) Potassium Nitrate;
 - (g) Sulphate of Ammonia;
 - (h) Sulphate of Potash;
 - (i) Super Copper Zinc; and
 - (j) Urea.
- 9.8. Leaf tissue analysis is undertaken to provide for further fine tuning of fertiliser formulation and ensures that fertiliser usage is efficient and minimised wherever possible.
- 9.9. The Applicant has a Crop Manager on staff who is responsible for managing the crop growth and fertiliser regime. The Applicant also utilises external agronomists from time to time.
10. Pesticides Storage and Use
- 10.1. The Applicant advises it is SQF2000 certified, supplies its produce to an interrelated independent retail chain, local shops, as well as the major chains such as Coles.
- 10.2. The use of pesticides in Australian agriculture is regulated through the Australian Pesticides and Veterinary Medicines Authority. The increasing trend in registration of products for use on food crops is to restrict the use of insecticides, fungicides and fumigants which have half-lives of no than a few days.
- 10.3. Pesticide use and residue is routinely monitored, and the Applicant has elected to use 'soft' pesticides wherever possible to avoid issues with pesticide residues.
- 10.4. The pesticides and chemicals (to be applied at rates recommended by the manufacturer) intended to be used for the proposed Development from time to time include:
- (a) Axium Plus;
 - (b) Baron WP;
 - (c) Belt 480SC;
 - (d) Delfin WG;
 - (e) Filan
 - (f) Fusilade Forte;
 - (g) Gesagard;

- (h) Lannate;
- (i) Linuron;
- (j) Mangazed;
- (k) Metador Zeon;
- (l) Momentum;
- (m) Ridomil Gold MZ WG;
- (n) Rovral Aquaflo SC500;
- (o) Select;
- (p) Success;
- (q) Tri-Base Blue; and
- (r) Totril SC250.

10.5. There is no intention to use soil fumigants on the site, as cultural methods and integrated pest management have proved adequate to control root disease and weeds are managed by frequent cultivation.

10.6. Pesticides are:

- (a) applied using a tractor-drawn boom spray in combination with appropriate wetting agents and adjuvants. Sprayers are routinely calibrated and cleaned after use; and
- (b) only sprayed when there is minimal prospect of wind drift.

10.7. All spray operators of the Applicant have undertaken Chemcert certification.

10.8. All pesticides are stored in a locked area within lockable facilities. All applications of chemicals are entered into a logbook, which is annually audited as part of the Applicant's annual quality assurance requirement.

10.9. Chemicals are tank mixed on a concrete hardstand area with adequate bunding to contain a full tank load.

11. Dust Management

11.1. The rotation of the planting means that normally soil is cultivated when moist mitigating dust risk.

11.2. Fallow areas are sown with a cover crop (such as wheat or barley) in between cropping to ensure dust risk is mitigated.

12. Waste Management

- 12.1. Empty chemical containers are stored in a contained area with a concrete base, surrounded by a metal fence. These containers are collected and disposed of offsite by Drummuster.
- 12.2. General waste is to be stored in a Cleanaway bin with a secured lid and removed as when required.
- 12.3. As packing is not being carried out on site the waste is limited to produce left behind in the paddock after harvest. This produce is rotary hoed back into the soil as part of nutrient management.

13. Contingency Plans

- 13.1. The Applicant undertakes contingency planning to ensure risks are mitigated in the event of fire, storm and chemical spills. These are set out below.
- 13.2. To address fire risk contingency plans include:
 - (a) Firebreaks are installed and maintained in accordance with Fire and Emergency Services Authority (FESA) and Shire of Gin Gin requirements;
 - (b) Buildings, storage areas and in particular fuel storage areas are maintained to prevent build-up of fire/hazardous materials; and
 - (c) Storage of chemicals is kept to a minimum.
- 13.3. To address storm risk contingency plans include:
 - (a) Fuel storage tanks are only slightly elevated above ground to avoid instability in high winds; and
 - (b) Permanent residential staff are available for rapid response to emergencies that can occur after usual business hours.
- 13.4. To address chemical spills risk contingency plans include:
 - (a) Minimising the chemical storage on site;
 - (b) Making earthmoving equipment available for temporary containment/rapid removal of spills;
 - (c) Training all staff in safe handling practices;
 - (d) Making Materials Safety Data Sheets, available in accordance with relevant Australian Standards and State Government regulations. This ensures that the correct remedial actions are undertaken; and

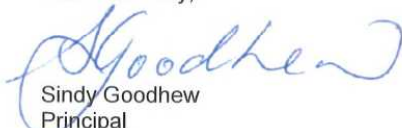
- (e) Notifying FESA and/or DWER and Conservation Pollution Response Unit of any major spills.

Documents Provided

- 14. Please find **enclosed** the following documents:
 - 14.1. Planning Application Form x 2 (1 x Retrospective Planning Application for existing development; and 1 x Planning Application for new development);
 - 14.2. Copy of Certificate of Title;
 - 14.3. Location Plan;
 - 14.4. Site Plan;
 - 14.5. Dam Design Plan;
 - 14.6. Groundwater Licence GWL62806(9); and
 - 14.7. Map of Bushfire Prone Areas – 594 Sappers Road.
- 15. In summary, the proposed Development is capable of approval and is an appropriate use for the Property, meeting the objectives of LSP 9 to encourage and protect uses such as horticulture as a primary use. The proposed Development can be developed with minimal impact and in accordance with accepted requirements and standards.

We trust the above and **attached** satisfies the requirements for development approval. However, please contact the undersigned if you have any queries or require any further information in relation to the Application.

Yours faithfully,


Sindy Goodhew
Principal
GW Legal



Our Ref: SG:1983
Enquires: Sindy Goodhew
Direct Line: +61 (8) 9412 6071
Email: s.goodhew@gwlegal.com.au

ABN 68 625 173 024
630 Karel Avenue
Jandakot, WA 6164
PO Box 77
Applecross, WA 6953
P: +61 8 9412 6070
F: +61 8 9412 6079
W: gwlegal.com.au

30 August 2019

Mr James Bayliss
Acting Manager Statutory Planning
Shire of Gingin
7 Brockman Street
GINGIN WA 6503

By email: mail@gingin.wa.gov.au; Matthew.Tallon@gingin.wa.gov.au;
pdpa@gingin.wa.gov.au

Dear Sir

**ADDITIONAL INFORMATION - 594 (LOT 200) SAPPERS ROAD, NILGEN
APPLICATION FOR DEVELOPMENT APPROVAL AND APPLICATION FOR
RETROSPECTIVE APPROVAL OF DEVELOPMENT - EXPANSION OF INTENSIVE
AGRICULTURE (IRRIGATED HORTICULTURE AND WATER STORAGE FACILITY/DAM)
("APPLICATION")**

Further to your email of 26 August 2019, the following additional information is provided by Cream of the Crop Produce Pty Ltd (**Applicant**), to support its application for development approval and application for retrospective development approval (**Application**) for the development of irrigated horticulture and a water storage facility/dam (**Development**).

Water Licence and Crop Area

1. Please find **attached** water licence referred to at 4.1 of the Application. The Application seeks approval of 300 hectares of cropping area. We note the water licence currently provides for water allocation for 149 hectares of vegetables. The Application has taken into account the future requirements in relation to irrigated horticulture on the site and consists of fixed and pivot irrigation.
2. The development will be undertaken at stages. However, the development will be substantially commenced within an 18 month period.
3. All areas designated for irrigated horticulture that are part of the Application will not be cropped at the same time. As referred to in the Application, crop rotation and resting of ground will occur as part of farming best practice.

4. Further, the Applicant is aware that if it requires additional area in which to grow crops it will be required to apply for an increase to its groundwater license or purchase other available water licences within the groundwater sub-area (all subject to DWER approval).

Boundary setback

5. A setback of 20 metres will be observed for the Development, including those areas requiring retrospective approval. Any development by the previous proprietor will be adjusted, where necessary, in order to comply with the Shire's setback requirements. The Site Plan has been amended to incorporate the required 20 metre setback.

Dust Management

6. In addition to the dust management measures identified in the Application, the generation of dust will be further controlled and reduced by:
 - 6.1. Monitoring weather conditions to ensure that activities that increase dust generation and transfer are not undertaken in adverse weather conditions.
 - 6.2. Cover crops are planted over unused areas in between cropping to ensure that dust transfer is mitigated, and topsoil is not degraded.
 - 6.3. Paddocks that are likely to generate dust are watered and the Applicant plans for increased water use during dry seasons for dust suppression (such as wetting of soil before rotary hoeing).
 - 6.4. Well used tracks are surfaced with a harder wearing surface, such as gravel, to ensure that vehicles do not disturb loose sand and dirt (or disturbance is greatly minimised).

Waste Management

7. Generally, within 24 hours (no later than 2 days) of harvest, any crop residue is slashed (where appropriate) and then deep rotary hoed (every crop) into the soil to a depth of 200mm - 300mm). This breaks up any remaining material immediately.
8. The majority of produce is transported to the Applicants produce delivery centre for packing and sorting in Canning Vale. Packing and sorting is not carried out onsite. Produce is sorted and graded at Canning Vale and rejected produce is disposed of from that facility.
9. The remaining produce is transported to the Applicants packing facility in Myalup for grading, sorting and packing.

Stable Fly Management

10. The Applicant is aware of the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016 (SFM Plan)*, the practices to be followed under the SFM Plan, and the approved measures (as updated from time to time).
11. The Applicant acknowledges that the removal of potential breeding sites of stable fly is the most effective measurement in controlling fly breeding.
12. Crops that reach maturity are harvested as soon as practicable.
13. As noted above at paragraph 6 in large areas of crop waste remaining after harvest the material are:
 - 13.1. slashed and broken up via rotary hoe, within 2 days of harvest and sprayed with a pesticide; or
 - 13.2. rotary hoed for five (5) consecutive days; or
 - 13.3. rotary hoed to a depth of 200mm - 300mm (using counter rotating rotary hoe) with soil compaction; or
 - 13.4. a combination of the approved measures above.
14. Water is turned off to the harvested paddock for a minimum of seven (7) days. If this occurs at a time of the year that dust management control is necessary, minimal irrigation is utilised to control dust and monitoring of the soil is conducted.
15. Reject produce is determined at the Applicant's produce delivery centre, referred to at paragraph 7. However, if, for any reason, reject produce remains on the property it is immediately buried in a pit and covered over with at least 500mm of soil to ensure produce does not decay and create bacterial activity that will encourage fly breeding.
16. The Applicants instructs us that animal manure is not used on crops.
17. Where pesticide is applied it is an approved pesticide being a chemical product that is effective for use in the control of Stable fly that is approved by, and registered with, the Australian Pesticides and Veterinary Medicines Authority.

Traffic

Trucks

18. Currently there are 120 hectares established (at varying stages of crop maturity) and there is one B-double every second day, which is expected to increase to one B-double per day in the near future. The truck visits to site are dependent on seasonal variations of crops. Given the whole area will not be cropped at any one time, at full capacity there could be 3 to 5 B-doubles per day attending the site.
19. The route taken by the B-doubles is the west route from Sappers Road to Canning Vale.

Employees

20. There are currently 5 working staff onsite. Three of those live onsite. Approximately 5 passenger vehicles will attend site every day. Two to three of those may contain harvesting crew, with the remaining being farm managers and consultants attending the site for shorter periods. At harvest times there will be 6-8 people in addition to those living at the site. Harvesting crews carpool and travel together to the site.
21. At full development there could be as many as 15 harvesting crew members attending site over staggered shifts (eg onion harvesting is done during the evening).
22. Passenger vehicles would use either route onto Sappers Road when leaving the property.

Amenities

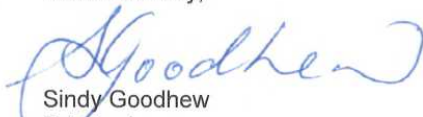
23. There are two residences on site. Potable water is provided onsite, in the form of bottled waste and is also available in the residences. The residences are made available to staff for lunch facilities and rest breaks.
24. There are four toilets available for staff in the residences onsite as well as two portable toilets. At a later date, an application for development will be made which will include a staff amenity building and toilet block with ATU.

Additional Documents Provided

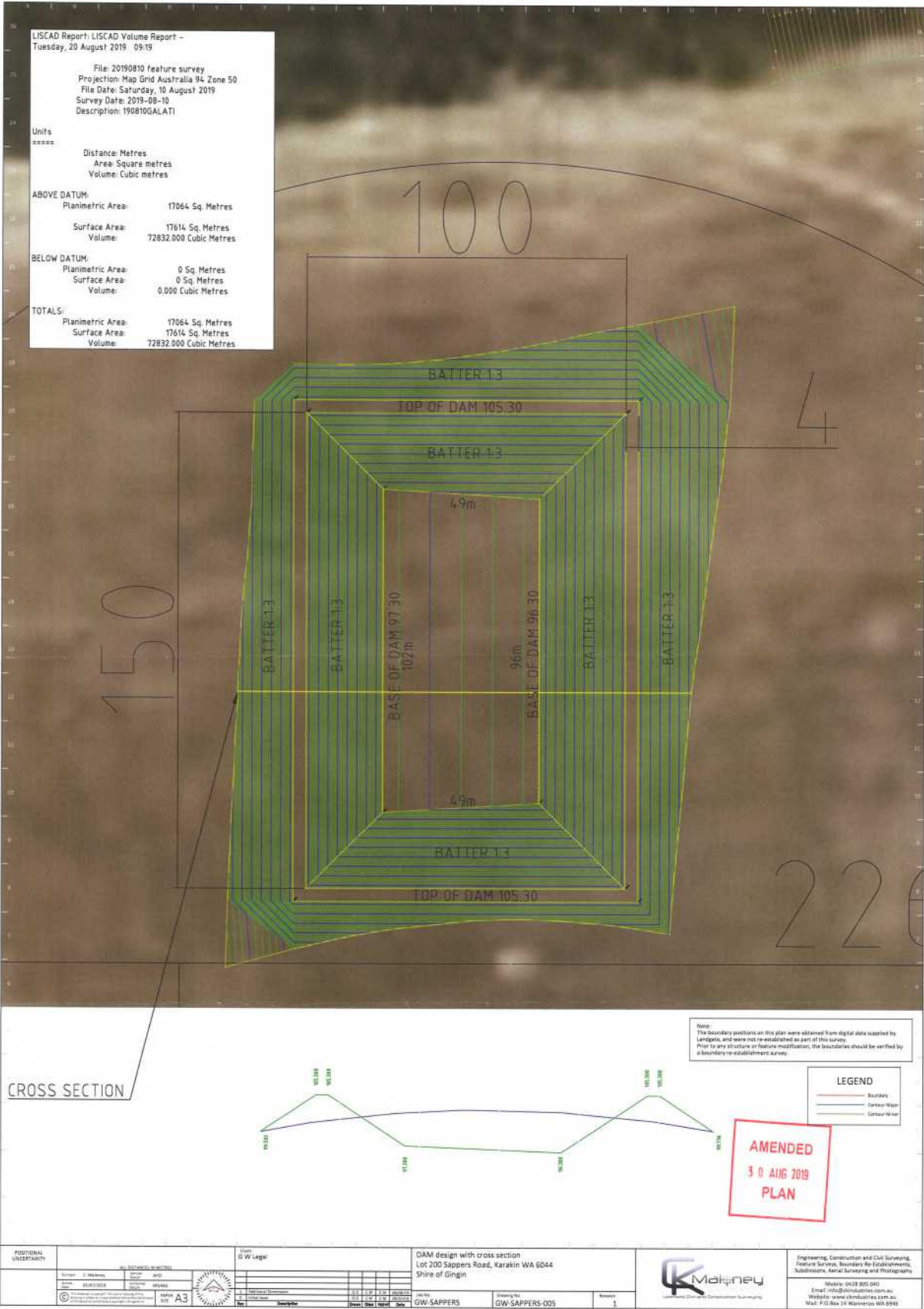
25. Please find **enclosed** the following documents:
 - 25.1. Site Plan Final;
 - 25.2. Dam Design Plan with Cross Section; and
 - 25.3. Groundwater Licence GWL62806(9).

We trust the above additional information and **attached** satisfies the requirements for development approval. However, please contact the undersigned if you have any queries or require any further information in relation to the Application.

Yours faithfully,


Sindy Goodhew
Principal
GW Legal





APPENDIX 3

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED EXPANSION OF AGRICULTURE INTENSIVE - AT LOT 200 (594) SAPPERS ROAD, NILGEN

No	Submitter	Submission Detail	Recommended Response
1.	Submitter	<p>The submitter support the proposal and makes the following comment:</p> <p><i>"Do not have any objection to the alterations as proposed."</i></p>	Noted.
2.	Submitter	<p>The submitter makes the following general comment:</p> <p><i>"The subject property ... our property, which is used for grazing. The expansion of annual horticulture in the district over the past few years has created a problem with stable fly. Further expansion, as laid in this development application, therefore concerns us. We would not be against this application if the applicants approach to horticultural waste management ensured grazing on our property would not be impacted by stable fly, and we would be pleased to work with the applicant toward an area wide approach to sustainable waste management. We therefore seek assurance that the applicant will act proactively to prevent breeding of stable fly and that the Shire continue to check stable fly management actions throughout the district and throughout the year".</i></p>	<p>Noted.</p> <p>Stable Fly is a declared pest under the <i>Biosecurity and Agriculture Management Act 2007</i> and is managed by the <i>Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016</i>. It is generally inappropriate to impose a planning condition for a regulatory aspect that is already covered under another Act of Parliament. Instead, an advice note has been added to the recommendation with respect to Stable Fly.</p> <p>The Shire is satisfied that the waste management practises will not create an environment conducive to the breeding of stable fly</p>

11.3.4 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED ALTERATIONS TO AN EXISTING OUTBUILDING ON LOT 28 (7) PRINCE STREET, LEDGE POINT

File:	BLD/6081
Applicant:	Brandon Mitchell
Location:	Lot 28 (7) Prince Street, Ledge Point
Owner:	Dwellingup Holdings
Zoning:	Residential 12.5/20
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and Development Services
Report Date:	15 October 2019
Refer:	19 March 2019 Item 11.3.3 20 June 2019 Item 11.3.5
Appendices	1. Location Plan 2. Applicant's Proposal 3. Schedule of Submissions and Recommended Responses

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for proposed alterations to an existing outbuilding on Lot 28 (7) Prince Street, Ledge Point.

BACKGROUND

The Shire has received an Application for Development Approval for proposed alterations to the existing outbuilding currently located on the property. The subject lot is 1055.4m² in area and is situated on the corner of Prince Street and De Burgh Street, Ledge Point. Access to the outbuilding is derived from Prince Street.

Council at its Ordinary Meetings on 19 March 2019 and 20 June 2019 resolved to refuse development approval for alterations to the existing outbuilding.

The proponent originally sought approval to raise the existing wall height from 3.6 metres to 4.82 metres, tapering to a ridge height of 6.32 metres. The applicant then amended the design from 3.6 metres to 4.54 metres, with the skillion design tapering upwards, away from the lot boundary, to an overall height of 5.05 metres along the northern façade. As noted above, both amendments were not supported.

The existing outbuilding (partially removed) is 12.4 metres in length and 7.5 metres in width, equating to an area of 93m². The proposed alterations forming part of this proposal include keeping the existing wall height at 3.51 metres, tapering to a ridge height of 5 metres. The outbuilding has a nil side (southern) boundary setback.

The proposed alterations seek variations to Clause 5.4.3 – Outbuildings of the Residential Design Codes of Western Australia (R-Codes) in regards to the wall height and ridge height. However, the proposal complies with the Shire's *Local Planning Policy 2.1 – Residential Outbuildings* which is outlined further below.

Council consideration is required due to an objection during the advertising process.

A location plan and a copy of the applicant's proposal are provided 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 Scheme) Regulations 2015*. The Shire received two written submissions, one in support of, and one opposed to, the development.

A copy of the Schedule of Submissions and Recommended Responses is provided at **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9)

The subject land is zoned Residential R12.5/20 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 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 deemed to be *b) Maintain and enhance the residential character and amenity of the zone.*

The proposed alterations result in an outbuilding that is deemed to be of a scale which does not maintain or enhance the residential character of the Ledge Point locality. The size of the outbuilding, with respect to the proposed wall height, is not conducive to an incidental structure on a residential property. The scale of the proposed outbuilding is likely to adversely affect the visual amenity of adjoining landowners and the locality by way of visual bulk, particularly if outbuildings of this nature become common place within the Residential zone.

State Planning Policy 3.1 - Residential Design Codes of Western Australia (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 that, amongst other things, a wall height of 2.4 metres and an overall height of 4.2 metres are not to be exceeded. The wall height proposed is 3.51 metres.

Given the proposal does not satisfy the deemed-to-comply provisions, the application is assessed against the associated 'Design Principle' which states:

'Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.'

The positioning of the outbuilding is 4.35 metres from the Prince Street frontage and is clearly visible from the street. Given the outbuilding design is consistent with that previously approved and within the maximum development standards outlined under Local Planning Policy 2.1 – Residential Outbuildings, the impact on the streetscape is deemed to be acceptable.

The officer is of the view that the proposed development does satisfy the relevant design principle outlined above.

Local Planning Policy 2.1 – Residential Outbuildings

The Shire adopted Local Planning Policy 2.1 – Residential Outbuildings (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
Coastal (1001m ² -4000m ²)	Area Wall Height Overall Height	120m ² 3.6m 5.0m	93m ² - compliant 3.51m – compliant 5m – 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. The development is consistent with the maximum development standards.

Conclusion

In summary, the proposal seeks a variation to 'Local Planning Policy 2.1 – Residential Outbuildings' and the R-Codes. The variation sought is considered to satisfy the relevant objective of LPS 9, or the relevant design principles of the R-codes. The proposal is therefore supported.

STATUTORY ENVIRONMENT

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 3.1 - Residential Design Codes of Western Australia

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Court

That Council grant Development Approval for a proposed over height and over size outbuilding on Lot 28 (7) Prince Street, Ledge Point 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. This approval is for an Outbuilding only as indicated on the approved plans;**
- 3. The Outbuilding shall not be used for human habitation or any industrial or commercial purposes;**
- 4. The approved boundary wall and footings abutting the southern boundary must be constructed wholly within the subject allotment. The external surface of the boundary wall as viewed from the adjoining property shall be finished to a professional standard, to the satisfaction of the adjoining landowner, or in the case of a dispute to the satisfaction of the Shire of Gingin;**
- 5. Stormwater from all roofed and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin; and**
- 6. The finished floor level of the Outbuilding must be set at the existing average natural ground level taken on the driveway to the satisfaction of the Shire of Gingin.**

Advice Notes

- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*;**
- Note 2: If the development subject to this approval is not substantially commenced within a period of two years, the approval shall lapse and have no further effect;**
- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained;**
- Note 4: 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 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 6:** It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property; and
- Note 7:** 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





APPENDIX 2



APPENDIX 3

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED OVERSIZE AND OVERHEIGHT OUTBUILDING AT LOT 28 (7) PRINCE STREET, LEDGE POINT

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	The Submitter supports the proposal and offers the following comments: <i>"Do not have any objections to the alterations as proposed."</i>	Noted.
2.	Ratepayer	The Submitter does not support the proposal and offers the following comments: <i>"Proposed 'surf mist' will give a direct reflection to our main living area."</i>	Noted. The officer assumes that the reference to 'surf mist' relates to the colour scheme proposed for the roof component of the outbuilding. The officer is of the view that the colour scheme is appropriate and there is no planning mechanism that can enforce an alternate finish.

11.3.5 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED EXPANSION TO EXISTING AGRICULTURE INTENSIVE (PERENNIAL HORTICULTURE - ORCHARD) USE ON LOT 2(188) BOOKINE ROAD, NEERGABBY

File:	BLD/7070
Applicant:	Daniel Williams
Location:	Lot 2 (188) Bookine Road, Neergabby
Owner:	Arthur, Daniel and Linda Williams
Zoning:	General Rural (GR20)
WAPC No:	N/A
Author:	Matthew Tallon - Statutory Planning Officer
Reporting Officer:	Bob Kelly – Acting Executive Manager Regulatory and Development Services
Report Date:	15 October 2019
Refer:	Nil
Appendices	1. Location Plan and Aerial Photograph 2. Applicant's Proposal

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed expansion to the existing Agriculture Intensive (Perennial Horticulture - Orchard) use operating on Lot 2 (188) Bookine Road, Neergabby.

BACKGROUND

The subject lot consists of a total area of 20.3432 hectares with an existing 6 hectares of cultivated land subject to an approval for Intensive Agriculture dated 1 December 1995. The subject lot also contains a dwelling with associated amenities, various sheds and a dam associated with the existing horticultural operation.

The development application approved on 1 December 1995 for Intensive Agriculture was for an initial crop of 6ha, with a view to increase up to a total of 15ha. However, the capacity of the horticultural operation and consideration of all crop types is not explicitly noted on the development approval and therefore it is not appropriate to continue the expansion of the operation in perpetuity under this approval.

This proposal seeks to expand an existing area of avocados by 2.8 hectares. The development area is proposed to be set back 10 metres from the eastern boundary, and as such Council consideration is required.

A location plan and aerial image is attached as **Appendix 1**

A copy of the applicant's proposal is attached as **Appendix 2**.

COMMENT

Community Consultation

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

PLANNING FRAMEWORK

Local Planning Scheme No 9 (LPS 9)

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

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

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

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

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

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

Local Planning Scheme No 9 Setbacks

The planting area is required to be set back a minimum of 20m from the lot boundaries, unless a greater setback is required (i.e. buffer/separation distances to sensitive land uses or wetlands). The submitted plans indicate a 10 metre setback from the eastern boundary, therefore the application seeks a variation of 10 metres. The variation is sought with the justification that a 10m setback was provided as part the initial 1995 approval, which is confirmed to be accurate.

The 10 metre variation can be considered relatively minor in the context of the location of the lot and the mitigation of any impacts to surrounding sensitive land uses. The eastern boundary of the lot is bordered by Bookine Road, increasing the distance the orchard will be from the adjoining lot.

A landscaping plan was not requested to be included in the application as the general comments provided by the applicant regarding screening are achievable and sufficient. The screening as detailed is proposed on the north and west boundaries; however the screening is required to be provided along the northern/eastern boundaries and this will be marked on the approved plan. A condition will also note the screening to be imposed in accordance with the details provided in the Farm Management Statement.

Local Planning Policy 1.6 – Agriculture Intensive (LPP 1.6)

LPP 1.6 defines ‘Perennial Horticulture’ as:

‘refers to the commercial production of all varieties of long lived fruit, vine and nut species, generally deep rooting, where land is only cultivated deeply at the initial planting stage, but may be regularly fertilised’.

The proposal is defined as Perennial Horticulture (Orchard) as per LPP 1.6. The ‘General Standards’ outlined within LPP 1.6 are outlined below with officer comments provided:

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

Officer Comment:

Noted. An appropriate advice note will reflect the potential need to obtain the relevant water licensing modifications.

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

Officer Comment:

The development site is clear of remnant vegetation.

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

Officer Comment:

The applicant has not noted any native vegetation onsite and there are no wetlands on the subject site.

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

Officer Comment:

The applicant submitted various statements regarding farm management practices which note that fruit waste will be "...spread in the inter rows of the orchard and mulched with a heavy duty frail mower to eliminate the breeding of flies". This approach is considered to be a suitable measure in mitigating fly breeding.

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

Officer Comment:

Refer to comment above.

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

Officer Comment:

Not applicable.

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

Officer Comment:

There is an existing residential dwelling located ~210 metres from the nearest point of the proposed Orchard. Vegetative screening has been noted as part of the proposal, it is noted that landscaping can be conditioned to suitably mitigate spray drift.

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

Officer Comment:

Not applicable.

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

Officer Comment:

Not applicable

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

Officer Comment:

Refer to comments made under section 3.1.8.

Environmental Impact/Separation from Sensitive Land Uses

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

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

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

The closest sensitive land use is located approximately 210 metres north-east of the development area, on Lot 26 Bookine Road, Neergabby. Notably, buffers by way of vegetative screening are required along the north and east boundaries of the development site/lot.

Reduced setbacks and crops within 500m of a sensitive premises (dwelling) generally trigger the need to provide a vegetation buffer under the Environmental Protection Authority - Guidance for the Assessment of Environmental Factors; Separation Distances between Industrial and Sensitive Land Uses (June 2005). The applicant has noted the intention to plant two to three rows of vegetative screening (Casuarinas) along the eastern and northern boundaries.

Access and Egress

The property has access/egress from Bookine Road, which is currently sealed adjacent to the subject land. The applicant has noted that due to the scale of the operation only Medium Rigid Trucks enter the property approximately 10 times per year (during harvest). The existing crossover is of a satisfactory standard and no upgrades are recommended.

Car Parking

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

Stable Fly

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

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

Bushfire Planning

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

Conclusion

In view of the above assessment, Administration is of the view that the site is capable of accommodating the proposed expansion of Agriculture Intensive (Perennial Horticulture - Orchard).

The proposal, if undertaken in accordance with the conditions of the planning approval, is consistent with the various relevant State Policies and Guidelines and the objectives of the General Rural zone.

STATUTORY ENVIRONMENT

Local Planning Scheme No 9

Part 3 – Zones and the Use of Land

3.2 Objectives of the Zones

Part 4 – General Development Requirements

4.7 General Development Standards

4.8.6 General Rural Zones

Local Planning Policy 1.6 Agriculture Intensive

State Planning Policy 2.5 Rural Planning

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

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

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

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

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Johnson

That Council grant Development Approval for an Agriculture Intensive (Perennial Horticulture - Orchard) use on Lot 2 (188) Bookine Road, Neergabby subject to the following conditions:

- 1. The land use and development shall be in accordance with the approved plans and specifications (including any amendments marked in RED) unless otherwise conditioned by this approval;**
- 2. This approval is for an Agriculture Intensive (Perennial Horticulture - Orchard) use only as indicated on the approved plan;**
- 3. The development area subject to this approval shall be limited to a maximum of 2.8 hectares and shall be set back a minimum of 20 metres from all lot boundaries, with the exception of the eastern boundary, which may be set back 10 metres to the satisfaction of the Shire of Gingin;**
- 4. The approved use shall at all times comply with the submitted Farm Management Statement lodged as part of the submission and as stamped as part of this approval, to the satisfaction of the Shire of Gingin;**
- 5. The area shall immediately be rehabilitated to pasture cover at the cessation of the approved use;**
- 6. In the event dust and/or spray drift is disseminating beyond the property boundary as a result of agricultural activity being undertaken, the activity shall cease forthwith until such time as favourable weather conditions enable the activity to recommence, to the satisfaction of the Shire of Gingin;**
- 7. Landscaping is to be provided in accordance with the annotations and markings made in RED INK on the approved plans and consistent with the screening details (vegetation types) listed in the Farm Management Statement; and**
- 8. Prior to the commencement of the use, 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 partially designated as being bushfire prone. Additional planning and building requirements may apply.

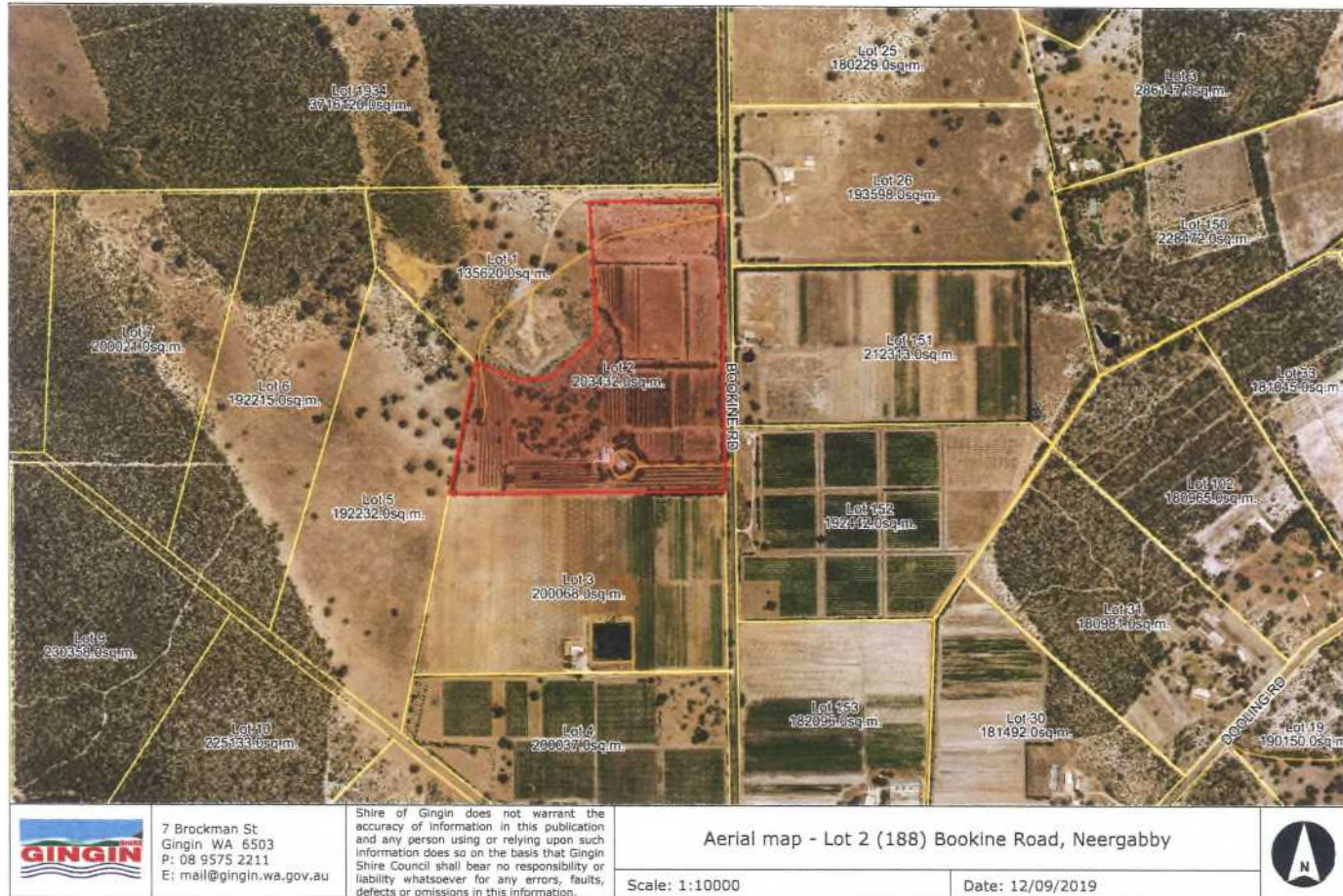
Advice Notes

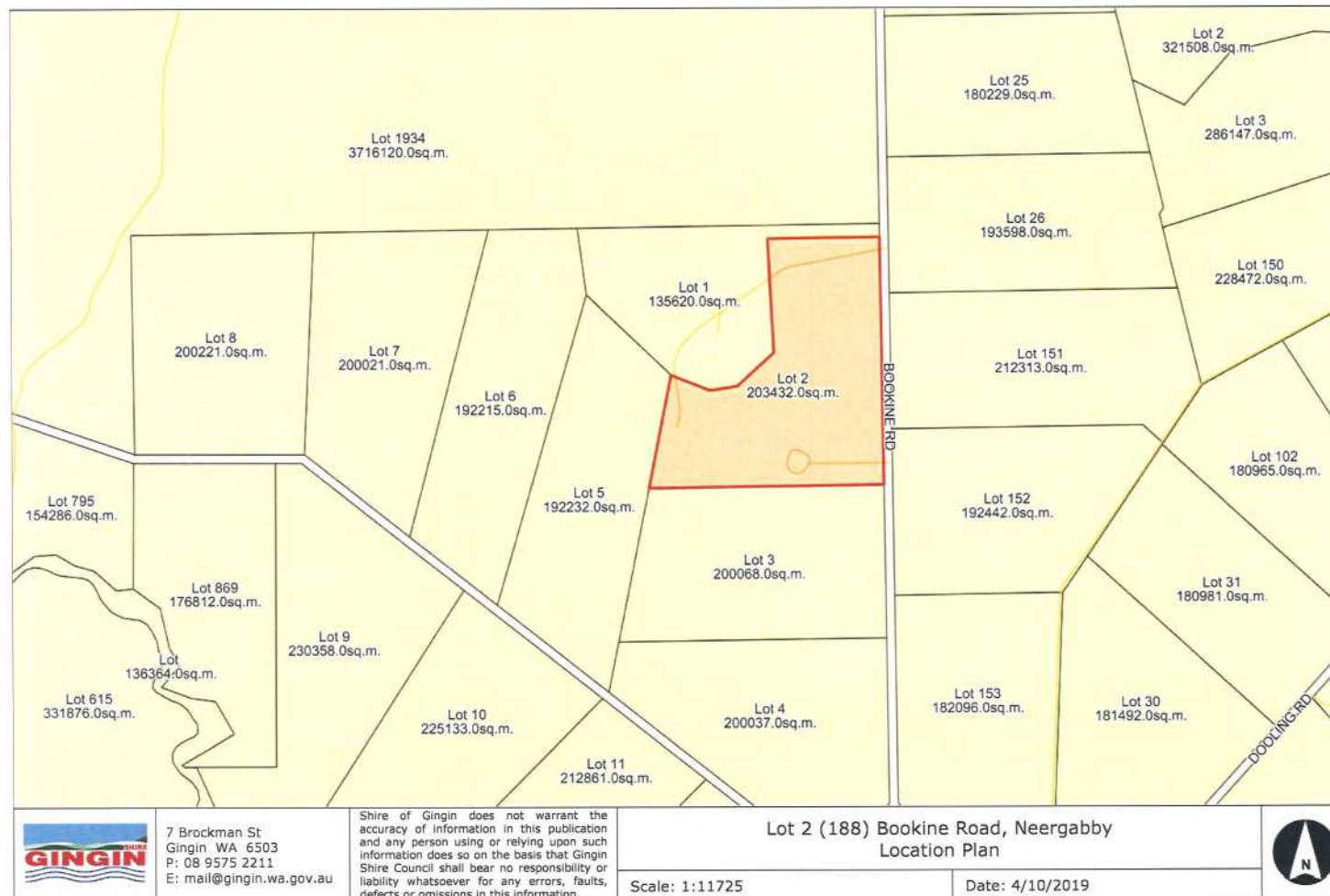
- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.**

- Note 2:** If the development subject to this approval is not substantially commenced within a period of two years, the approval shall lapse and have no further effect.
- Note 3:** Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4:** It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 5:** It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2013* in order to minimise the effects of stable flies on the community.
- Note 6:** All noise from the operation and associated equipment is required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- Note 7:** Where any native vegetation clearing is proposed, it will be necessary to contact the Department of Water and Environmental Regulation (DWER) in obtaining the necessary Approvals.
- Note 8:** The development may trigger the need to amend the existing water license details. It will be necessary to contact the Department of Water and Environmental Regulation (DWER) in obtaining the necessary Approvals.
- Note 9:** Please be advised that the property will attract Differential Rating for Intensive Agriculture in accordance with Council Policy 3.16 Rates Concession for Split Use Differential UV Intensive/UV General Properties.

CARRIED UNANIMOUSLY

APPENDIX 1





APPENDIX 2

Farm Management Plan for Lot2/188 Bookine Rd Neergabby as part of Development Application

Spray and dust management

Dust – very little if any dust is produced from this property as 90% plus is covered in grass/clover/trees etc. All interrows between fruit trees has or will be seeded with a drought tolerant grass mix to reduce dust.

Spray – All spraying is done as per current guidelines and training and certificates I gained through Auschem being –

- Delta T between 2 – 8
- Wind below 15km/h
- All pesticides sprayed at night while bees are inactive
- Records kept of all spraying activities
- Spraying equipment calibrated and in good working order

Wind break trees are currently being propagated (Casuarina fraseriana, Casuarina Cunninghamiana and Eucalyptus Megacornuts) and will be planted out in a diamond shape planting at 1 meter spacing's consisting of 2 to 3 rows on the eastern and southern boundaries and irrigated via mini sprinklers and should grow 2 plus meters each year and will be hedged to produce a thick interlocking foliage with most of the western and northern boundaries currently planted with established wind break trees.

Waste Management

All fruit waste at the end of each picking day is spread in the interrows of the orchard and mulched with a heavy duty frail mower to eliminate the breeding of flies.

Water Licensing

My current water allocation is 114800kl of which I currently use about 45000kl per year. Water is applied using under tree mini sprinklers.

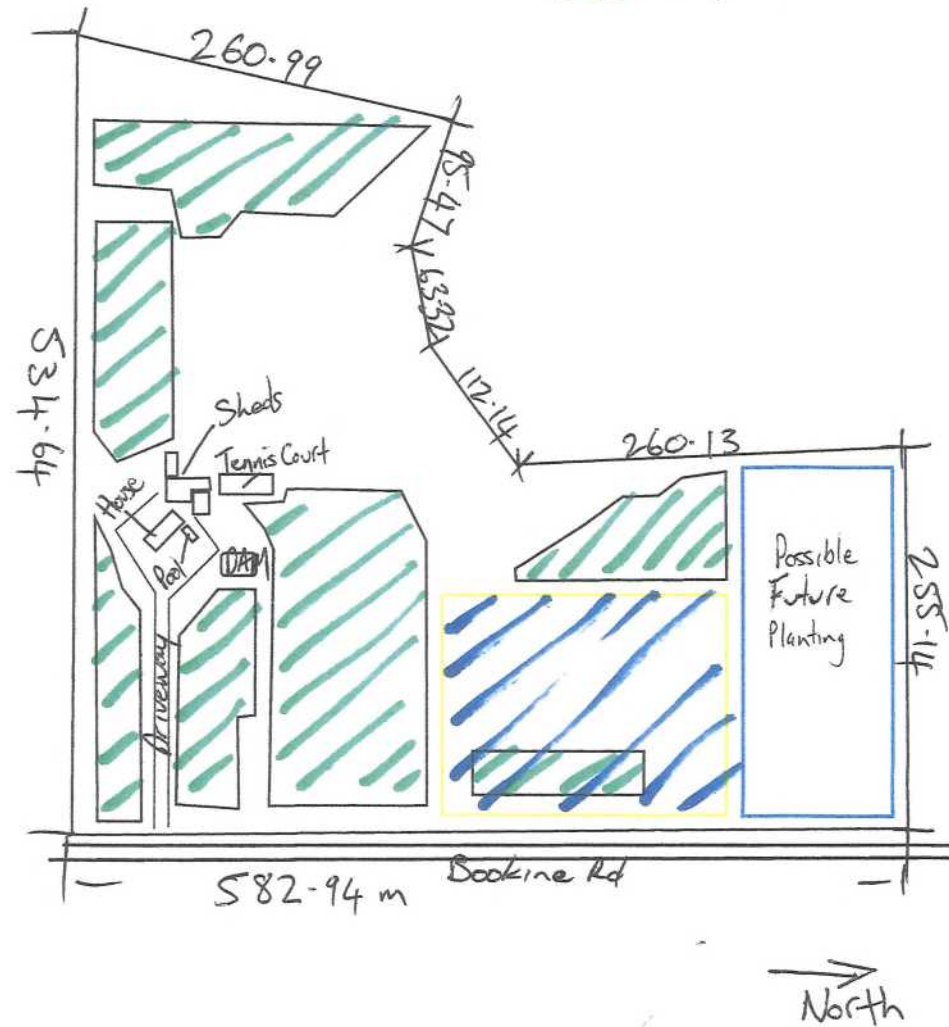
Access/Egress

We currently have the odd Medium Rigid truck that comes during harvest periods with no more than 10 times per year.

There is no additional servicing or Ancillary infrastructure

Lot 2 188 Bookine Rd Neergabby
10m Setbacks as per Shire of Gingin approval 1/12/1995

Existing Tree Plantings
Expansion Area



11.4. OPERATIONS**11.4.1 UNBUDGETED EXPENDITURE - GUILDERTON COMMUNITY LIBRARY - AIR CONDITIONING UNIT REPLACEMENT**

Location:	Lot 96 Edwards Street, Guilderton
File:	BLD/386
Author:	Renier De Beer – Coordinator Assets/Project
Reporting Officer:	Allister Butcher – Executive Manager Operations
Report Date:	15 October 2019
Refer:	Nil
Appendices:	1. Location Plan

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider the allocation of funding for the replacement of an air conditioning unit at the Guilderton Community Library.

BACKGROUND

The Guilderton Community Library is located at Lot 96 Edwards Street, Guilderton (see **Appendix 1**) and is staffed by community volunteers. The Shire has received a request to provide funding to replace an air conditioning unit at the Library.

The original air conditioning unit was grant funded by Bendigo Bank to the sum of \$2,000 and was installed in 2013. In 2016 the unit stopped functioning and repairs were made with the Shire and Guilderton Community Library both paying an equal portion towards repairs at a cost of \$344.85 each. Further repairs were undertaken at the end of 2017 when the air conditioning unit faulted again.

The Shire was made aware that the air conditioning unit had completely stopped functioning in August 2019. Officers contracted an air conditioning technician to investigate the faults and correspondence was received in September 2019 advising that repairs were not feasibility given the significant age of the unit. The contractor provided the Shire with a quote to replace the existing unit at a cost of \$2,850 (ex GST).

COMMENT

It is proposed that the air conditioning unit be replaced at the Shire's expense to ensure acceptable working conditions are provided in the Shire's building. If Council is amenable to replacing the air-conditioning unit then the unbudgeted expenditure is proposed to be funded as per the table below:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
11507040	Other Expenses – Guilderton Library	\$0	\$2850	\$2850
1142591140	Office (GG Admin) – Buildings MUN	\$144,000	\$141,150	-\$2850
			Net Effect	NIL

STATUTORY ENVIRONMENT

Local Government Act 1995

Part 6 – Financial management

Division 4 – General financial provisions

Section 6.8 – Expenditure from municipal fund not included in budget

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

If Council resolves to allocate funding for unbudgeted expenditure then the 2019/20 Budget will be amended in accordance with the following table:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
11507040	Other Expenses – Guilderton Library	\$0	\$2850	+\$2850
1142591140	Office (GG Admin) – Buildings MUN	\$144,000	\$141,150	-\$2850

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Infrastructure & Development</i>
Objective	<i>3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.2 The Shire provides fit for purpose community infrastructure in a financially responsible manner</i>
Key Service Areas	<i>Community Infrastructure</i>
Priorities	<i>3.2.1 Develop and plan community infrastructure to improve use and financial sustainability</i>

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Elgin

That Council agree to amend the adopted 2019/20 Budget in accordance with the following table:

Account	Description	Current Budget	Revised Budget	Surplus Deficit
11507040	Other Expenses – Guilderton Library	\$0	\$2850	+\$2850
1142591140	Office (GG Admin) – Buildings MUN	\$144,000	\$141,150	-\$2850
			Net Effect	NIL

**CARRIED BY ABSOLUTE MAJORITY
9-0**

APPENDIX 1



12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. COUNCILLORS' OFFICIAL REPORTS**13.1 ATTENDANCE AT THE STABLE FLY ACTION GROUP AGM – 8 OCTOBER 2019**

Location:	Gingin
File:	GOV/20-1
Councillor:	Jan Court
Report Date:	15 October 2019

Councillor Court advised that she attended the AGM of the Stable Fly action group on Tuesday 8 October 2019, together with Councillor Fewster. Councillor Court mentioned that it was very interesting to learn of the activities being undertaken. It was particularly interesting to learn of proposals to turn horticultural waste into food for cattle. Councillor Court advised there may be a planning application forthcoming in relation to this proposal.

13.2 2019 LOCAL GOVERNMENT ELECTIONS

Location:	Gingin
File:	GOV/20-1
Councillor:	Wayne Fewster
Report Date:	15 October 2019

Councillor Fewster wished his fellow Councillors Jan Court and Frank Peczka luck in the upcoming elections on Saturday, 19 October 2019.

He also expressed thanks to the Shire President, Councillor Sam Collard and Deputy Shire President Councillor John Elgin for their leadership, experience and passion for the community throughout their terms and wished them the best in their retirement.

13.3 BEERMULLAH SCHOOL REUNION – 22 SEPTEMBER 2019

Location:	Gingin
File:	GOV/20-1
Councillor:	Sam Collard
Report Date:	15 October 2019

Councillor Collard advised that he and Councillor Court attended the Beermullah School reunion on 22 September 2019 and noted it was a very enjoyable day.

The current property owners donated a plaque to mark the former school site. Some photos were taken on the day and Councillor Collard hoped that the Shire could obtain copies for archiving.

13.4 COUNCIL TERM

Location:	Gingin
File:	GOV/20-1
Councillor:	John Elgin
Report Date:	15 October 2019

Councillor Elgin requested that his thanks be passed on to all Shire staff members for their assistance during his term. Councillor Elgin stated that it had been a pleasure to deal with ratepayers and his fellow Councillors and thanked the CEO for his guidance.

14. NEW BUSINESS OF AN URGENT NATURE

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 5.02pm.

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, 19 November 2019 commencing at 3.00pm.

These Minutes are confirmed as the official record of the Ordinary Meeting of the Gingin Shire Council held on 15 October 2019.

Shire President
19 November 2019