

### **MINUTES**

## ORDINARY MEETING OF COUNCIL

19 MARCH 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, 19 MARCH 2019 AT 3.07 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 3.07pm and welcomed those in attendance.

#### 2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

#### 2.1 ATTENDANCE

<u>Councillors</u> – I B Collard (Shire President), J Elgin (Deputy Shire President), F Johnson, J C Lobb, J E Morton, F J Peczka and J K Rule

<u>Staff</u> – A Cook (Chief Executive Officer), Z Edwards (Acting Executive Manager Corporate and Community Services), A Butcher (Executive Manager Operations), B Kelly (Acting Executive Manager Regulatory and Development Services), K Bacon (Manager Statutory Planning) and O Edwards (Governance/Minute Officer).

<u>Gallery</u> – There was one member of the public present in the Gallery.

#### 2.2 APOLOGIES

Councillor W Fewster

#### 2.3 LEAVE OF ABSENCE

Councillor J Court

#### 3. <u>DISCLOSURES OF INTEREST</u>

Nil

#### 4. PUBLIC QUESTION TIME

4.1 RESPONSES TO PUBLIC QUESTIONS PREVIOUSLY TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

Nil

#### 5. <u>PETITIONS, DEPUTATIONS AND PRESENTATIONS</u>

5.1 PETITIONS

Nil

5.2 **DEPUTATIONS** 

Nil

5.3 PRESENTATIONS

Nil

#### 6. <u>APPLICATIONS FOR LEAVE OF ABSENCE</u>

An Application for Leave of Absence has been submitted by Councillor James Morton for the Ordinary Council Meeting 16 April 2019.

#### **RESOLUTION**

MOVED: Councillor Peczka SECONDED: Councillor Johnson

That Council approve Councillor Morton's Application for Leave Of Absence for the Ordinary Council Meeting on 16 April 2019.

**CARRIED UNANIMOUSLY** 

#### 7. CONFIRMATION OF MINUTES

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Elgin

That the Minutes of the Ordinary Council meeting held on 19 February 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 DISPOSITION OF PROPERTY - SUBLEASE TO OPTUS FOR INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT - LOT 14226 (RESERVE 49174) NILGEN ROAD, NILGEN

Location:	Lot 14226 (Reserve 49174) Nilgen Road, Nilgen			
File:	RES/7			
Author:	Lee-Anne Burt – Governance Officer			
Reporting Officer:	Aaron Cook – Chief Executive Officer			
Report Date:	19 March 2019			
Refer:	18 July 2017 Item 11.3.6			
Appendices:	Nil			

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To consider making a determination under s. 3.58(4)(c)(ii) of the *Local Government Act 1995* (the Act) that a valuation carried out more than six months before a proposed disposition is a true current indication of the value of the property.

#### **BACKGROUND**

At its meeting on 18 July 2017, Council resolved to agree "in principle' to sublease a portion of Lot 14226 (Reserve 49174) Nilgen Road, Nilgen to Optus for the purpose of installing low impact telecommunications equipment.

The "in principle" agreement was subject to:

- Optus agreeing to meet all costs associated with the market valuation and advertising associated with the disposition of property requirements under the Act and also to meeting all legal fees associated with preparation of any resulting lease document;
- 2. Confirmation being received from Telstra that it had no objection to the proposal; and
- 3. The sublease being endorsed by the Department of Parks and Wildlife.

Council also resolved to authorise the Chief Executive Officer to progress the disposition of property as required by the Act and to report back to Council in the event of any submissions being received. Should no submissions be received, then the Chief Executive Officer was authorised to negotiate a sublease agreement with Optus.

Following confirmation being received of Optus' preparedness to meet all costs required by Council, and of Telstra's non-objection to the proposal, a market valuation was undertaken by McGees on 31 October 2017, who recommended that the market rent for the subject site be set at \$4,750 per annum, exclusive of GST.

The necessary statutory advertising was then undertaken, with no submissions being received. However, subsequent investigation has revealed that the required sublease agreement was never progressed.

Optus has now advised that it is intending to proceed with installation of its equipment under Schedule 3 of the *Telecommunications Act 1997*, which allows telecommunications entities to equip sites in the absence of an executed lease agreement, on the understanding that a lease will be formalised in due course.

#### **COMMENT**

Action is now required to negotiate a sublease agreement with Optus in accordance with Council's resolution of 18 July 2017.

Section 3.58(c) of the Act requires that a disposition of property may only be carried out on the basis of a valuation undertaken less than six months before the proposed disposition, unless Council resolves to declare that it believes the valuation to be a true indication of the value at the time of the proposed disposition. In this instance, the market rental valuation provided by McGees dated 31 October 2017 is clearly outside the six month validity period.

In January 2019 McGees provided a verbal confirmation that, in their opinion, it is very unlikely that the value of the subject property has changed to any significant degree over the ensuing two years, and that a further valuation would not be worthwhile. That being the case, it is recommended that Council resolve to declare that it believes the 31 October 2017 valuation to be a true indication of the property value at this point. This will then enable officers to proceed with the preparation of a suitable sublease agreement.

As Council is aware, the land on which the mast is located is part of Reserve 49174 which is controlled by the Department of Biodiversity, Conservation and Attractions. The mast site is leased from the Department by the Shire of Gingin. The previous lease agreement expired on 31 December 2018, and the Department is currently progressing the preparation of a new lease.

One of the conditions of the head lease is that any sublease agreements must be subject to endorsement by the Department. In this instance the Department has confirmed that it would support a sub-lease to Optus based on the terms of the previous lease, although it has also advised that the sublease may need to be renegotiated in the event that any of the relevant conditions differ between the previous lease and the new lease.

#### 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

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET IMPLICATIONS**

Nil

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Infrastructure and Development				
Objective	3 – To effectively manage growth and provide for community through the				
	delivery of community infrastructure in a financially responsible manner				
Outcome	3.3 Connectivity and Accessibility				
	The Shire's community infrastructure supports connectivity and				
	accessibility				
Key Service	Community Infrastructure				
Areas					
Priorities	3.3.3 Advocate for improved telecommunications infrastructure.				

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Elgin SECONDED: Councillor Johnson

#### **That Council:**

- 1. Declare that the market rental of the mast and ground space to be subleased to Optus Pty Ltd for the installation of telecommunications equipment on Lot 14226 (Reserve 49174) Nilgen Road, Nilgen is \$4,750 per annum, excluding GST in accordance with a market rental valuation undertaken on 31 October 2017.
- 2. Confirm that this declaration is made on the basis that Council believes the valuation to be a true indication of the current market rental value of the property concerned.

CARRIED UNANIMOUSLY

#### 11.1.2 2018 COMPLIANCE AUDIT RETURN

FILE:	COR/29
AUTHOR:	Lee-Anne Burt – Governance Officer
REPORTING OFFICER:	Aaron Cook – Chief Executive Officer
REPORT DATE:	19 March 2019
REFER:	Nil

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To receive and consider the Audit and Governance Committee's recommendation with respect to the Shire of Gingin Compliance Audit Return for the period 1 January 2018 to 31 December 2018.

#### BACKGROUND

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

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

The Shire of Gingin's 2016 and 2017 Compliance Audit Returns were conducted internally. In the interests of good governance and ensuring accountability, Administration has committed to have every third Return completed by an external consultant, and to that end DL Consulting was engaged to undertake the 2018 Compliance Audit Return.

The consultant attended the Shire's Administration Centre on 30 - 31 January 2018 to complete his preliminary enquiries.

The completed Compliance Audit Return (Appendix 1) was presented to Council's Audit Committee on 19 March 2018. After considering the consultant's report, the Committee resolved to:

- Acknowledge and report the results of the 2018 compliance audit process to Council; and
- 2. Recommend that Council adopt the 2018 Compliance Audit Return for the period 1 January 2018 to 31 December 2018, as shown in Appendix 1.

#### COMMENT

It is very pleasing to report that, at the conclusion of the audit, the Shire of Gingin was found to have achieved 100% compliance for the audit period. In his letter of findings, the auditor has advised as follows:

The compliance audit provides both the CEO and the Council with an additional element of accountability through an independent check on internal management systems, procedures and record keeping, and if further demonstrates the Shire's emphasis on good governance, compliance, and best practice.

The Governance staff provided all necessary assistance and explanations required during the audit.

It is important to note that the actual compliance audit process is a detached, retrospective examination of minute, multifaceted, and ambiguous statutory detail specified by the Local Government Act 1995 and associated regulations. Significant, the audit excludes the actual working environment and pressures of the day-to-day operational circumstances and other priorities that exist in the pragmatic management of the wide range of functions and issues experienced in a growing and diverse local government such as the Shire of Gingin. The overall compliance requirement to observe "all written law" places an onerous responsibility on the CEO of a rural local government.

The standard of compliance was exemplary for the 2018 return, with an achievement of 100% compliance; and as no advisory matters were identified this letter represents the report that would normally be prepared.

To achieve such a high level of compliance is a significant indicator in respect of the management of the Shire, and it is particularly noteworthy when taking into consideration the constraints that exist in staffing and other operating conditions arising from the growth and multiplicity of functions required to be performed.

#### STATUTORY ENVIRONMENT

Local Government (Audit) Regulations 1996

Reg 14 – Compliance audits by local governments

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

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET IMPLICATIONS**

Nil

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

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

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Peczka SECONDED: Councillor Johnson

#### **That Council:**

- 1. Acknowledge the results of the 2018 compliance audit process.
- 2. In accordance with the recommendation of the Audit and Governance Committee, adopt the 2018 Compliance Audit Return for the period 1 January 2018 to 31 December 2018, as shown in Appendix 1.

**CARRIED UNANIMOUSLY** 

## **APPENDIX 1**



#### Gingin - Compliance Audit Return 2018

#### Certified Copy of Return

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

No	Reference	Question	Response	Comments	Respondent
1	s3.59(2)(a)(b)(c) F&G Reg 7,9	Has the local government prepared a business plan for each major trading undertaking in 2018.	N/A	No Major Trading Undertakings	Olivia Edwards
2	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2018.	N/A	No Major Land Transactions	Olivia Edwards
3	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2018.	N/A	No Land Transactions	Olivia Edwards
4	s3.59(4)	Has the local government given Statewide public notice of each proposal to commence a major trading undertaking or enter into a major land transaction for 2018.	N/A		Olivia Edwards
5	s3.59(5)	Did the Council, during 2018, resolve to proceed with each major land transaction or trading undertaking by absolute majority.	N/A		Olivia Edwards



No	Reference	Question	Response	Comments	Respondent
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority.	N/A		Olivia Edwards
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing.	N/A		Olivia Edwards
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17.	N/A		Olivia Edwards
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations.	Yes		Olivia Edwards
5	s5,18	Has Council reviewed delegations to its committees in the 2017/2018 financial year.	Yes	19/06/2018 Council Meeting	Olivia Edwards
6	s5.42(1),5.43 Admin Reg 18G	Did the powers and duties of the Council delegated to the CEO exclude those as listed in section 5.43 of the Act.	Yes	A-1-	Olivia Edwards
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority.	Yes		Olivia Edwards
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing.	Yes		Olivia Edwards
9	s5.44(2)	Were all delegations by the CEO to any employee in writing.	Yes		Olivia Edwards
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority.	Yes		Olivia Edwards
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees.	Yes		Olivia Edwards
12	s5.46(2)	Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2017/2018 financial year.	Yes		Olivia Edwards
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required.	Yes		Olivia Edwards

# Disclosure of Interest No Reference Question Response Comments Respondent 1 s5.67 If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68). Yes Olivia Edwards 2 s5.68(2) Were all decisions made under section 5.68(1), and the extent of participation allowed, recorded in the minutes of Council and Committee meetings. N/A Olivia Edwards

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No	Reference	Question	Response	Comments	Respondent
3	s5.73	Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made.	Yes		Olivia Edwards
4	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly elected members within three months of their start day.	Yes		Olivia Edwards
5	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly designated employees within three months of their start day.	Yes		Olivia Edwards
6	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2018.	Yes		Olivia Edwards
7	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2018.	Yes		Olivia Edwards
8	s5.77	On receipt of a primary or annual return, did the CEO, (or the Mayor/ President in the case of the CEO's return) on all occasions, give written acknowledgment of having received the return.	Yes		Olivia Edwards
9	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained the returns lodged under section 5.75 and 5.76	Yes		Olivia Edwards
10	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70 and 5.71, in the form prescribed in Administration Regulation 28.	Yes		Olivia Edwards
11	s5.88 (3)	Has the CEO removed all returns from the register when a person ceased to be a person required to lodge a return under section 5.75 or 5.76.	Yes		Olivia Edwards
12	s5.88(4)	Have all returns lodged under section 5.75 or 5.76 and removed from the register, been kept for a period of at least five years, after the person who lodged the return ceased to be a council member or designated employee.	Yes		Olivia Edwards
13	s5.103 Admin Reg 34C & Rules of Conduct Reg 11	Where an elected member or an employee disclosed an interest in a matter discussed at a Council or committee meeting where there was a reasonable belief that the impartiality of the person having the interest would be adversely affected, was it recorded in the minutes.	Yes		Olivia Edwards
14	s5.70(2)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to the Council or a Committee, did that person disclose the nature of that interest when giving the advice or report.	Yes		Olivia Edwards



No	Reference	Question	Response	Comments	Respondent
15	s5.70(3)	Where an employee disclosed an interest under s5.70(2), did that person also disclose the extent of that interest when required to do so by the Council or a Committee.	N/A		Olivia Edwards
16	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees.	Yes	Yes - Maintained on website	Olivia Edwards

Disposal of Property						
No	Reference	Question	Response	Comments	Respondent	
1	s3.58(3)	Was local public notice given prior to disposal for any property not disposed of by public auction or tender (except where excluded by Section 3.58(5)).	N/A	m hans write	Olivia Edwards	
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property.	N/A		Olivia Edwards	

No	Reference	Question	Response	Comments	Respondent
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act.	Yes		Olivia Edwards
2	s7.1B	Where a local government determined to delegate to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority.	N/A		Olivia Edwards
3	s7.3	Was the person(s) appointed by the local government to be its auditor, a registered company auditor.	Yes	Greg Godwin 310219 David Tomasi 15724 Wen-Shien Chai 299761	Olivia Edwards
4	s7.3, 7.6(3)	Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council.	N/A	No appointment required - contract until June 2020	Olivia Edwards
5	Audit Reg 10	Was the Auditor's report for the financial year ended 30 June 2018 received by the local government within 30 days of completion of the audit.	Yes	Audit completed on 12/12/2018 - letter received on 18/12/2018	Olivia Edwards
6	s7.9(1)	Was the Auditor's report for the financial year ended 30 June 2018 received by the local government by 31 December 2018.	Yes	received on 18/12/2018	Olivia Edwards
7	S7.12A(3)	Where the local government determined that matters raised in the auditor's report prepared under s7.9 (1) of the Act required action to be taken by the local government, was that action undertaken.	N/A	No Matters Identified	Olivia Edwards

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No	Reference	Question	Response	Comments	Respondent
8	S7.12A (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be	N/A	No Matters Identified	Olivia Edwards
		taken by the local government, was a report prepared on any actions undertaken.		The second is	
9	S7.12A (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be taken by the local government, was a copy of the report forwarded to the Minister by the end of the financial year or 6 months after the last report prepared under s7.9 was received by the local government whichever was	N/A	No Matters Identified	Olivia Edwards
	-	the latest in time.			
10	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit.	N/A	No appointment required - contract until June 2020	Olivia Edwards
11	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit.	N/A	No appointment required - contract until June 2020	Olivia Edwards
12	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit.	N/A	No appointment required - contract until June 2020	Olivia Edwards
13	Audit Reg 7	Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor.	N/A	No appointment required - contract until June 2020	Olivia Edwards
14	Audit Reg 7	Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor.	N/A	No appointment required - contract until June 2020	Olivia Edwards
15	Audit Reg 17	Has the CEO reviewed the appropriateness and effectiveness of the local government's systems and procedures in accordance with regulation 17 of the Local Government (Audit) Regulations 1996.	Yes	completed in November 2018	Olivia Edwards
16	Audit Reg 17	If the CEO has not undertaken a review in accordance with regulation 17 of the Local Government (Audit) Regulations 1996, is a review proposed and when.	N/A		Olivia Edwards



No	Deference	0	American		
40	Reference	Question	Response	Comments	Respondent
1	s5.56 Admin Reg 19DA (6)	Has the local government adopted a Corporate Business Plan. If Yes, please provide adoption date of the most recent Plan in Comments. This question is optional, answer N/A if you choose not to respond.	Yes	15/08/2017 Council Meeting, Item 11.1.2	Olivia Edwards
2	s5.56 Admin Reg 19DA (6)	Has the local government adopted a modification to the most recent Corporate Business Plan. If Yes, please provide adoption date in Comments. This question is optional, answer N/A if you choose not to respond.	No		Olivia Edwards
3	s5.56 Admin Reg 19C (7)	Has the local government adopted a Strategic Community Plan. If Yes, please provide adoption date of the most recent Plan in Comments. This question is optional, answer N/A if you choose not to respond.	Yes	Yes 2017/2027 Council Meeting Item 11.1.6	Olivia Edwards
4	s5.56 Admin Reg 19C (7)	Has the local government adopted a modification to the most recent Strategic Community Plan. If Yes, please provide adoption date in Comments. This question is optional, answer N/A if you choose not to respond.	No		Olivia Edwards
5	S5.56	Has the local government adopted an Asset Management Plan. If Yes, in Comments please provide date of the most recent Plan, plus if adopted or endorsed by Council the date of adoption or endorsement. This question is optional, answer N/A if you choose not to respond.	Yes	in 2013, currently being reviewed on an Asset Class basis	Olivia Edwards
6	S5.56	Has the local government adopted a Long Term Financial Plan. If Yes, in Comments please provide date of the most recent Plan, plus if adopted or endorsed by Council the date of adoption or endorsement. This question is optional, answer N/A if you choose not to respond.	Yes	2017/18	Olivia Edwards
7	S5.56	Has the local government adopted a Workforce Plan. If Yes, in Comments please provide date of the most recent Plan plus if adopted or endorsed by Council the date of adoption or endorsement. This question is optional, answer N/A if you choose not to respond.	Yes	2015, currently under review	Olivia Edwards



No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised.	Yes	19/12/2017 Council Meeting, Item 15.1	Olivia Edwards
2	s5.36(4) s5.37(3), Admin Reg 18A	Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A.	Yes	CEO position only	Olivia Edwards
3	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4).	Yes	contract sighted and final remuneration was within parameters advertised	Olivia Edwards
4	Admin Regs 18E	Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only).	Yes	certified by WALGA	Olivia Edwards
5	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.	N/A	No new appointments made	Olivia Edwards



Department of Local Government, Sport and Cultural Industries

No	Reference	Question	Response	Comments	Respondent
1	s5.120	Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer.	Yes	CEO is complaints officer	Olivia Edwards
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that result in action under s5.110(6)(b) or (c).	Yes	no complaints in 2018	Olivia Edwards
3	s5.121(2)(a)	Does the complaints register maintained by the complaints officer include provision for recording of the name of the council member about whom the complaint is made.	Yes		Olivia Edwards
4	s5.121(2)(b)	Does the complaints register maintained by the complaints officer include provision for recording the name of the person who makes the complaint.	Yes		Olivia Edwards
5	s5.121(2)(c)	Does the complaints register maintained by the complaints officer include provision for recording a description of the minor breach that the standards panel finds has occured.	Yes	7-63	Olivia Edwards
6	s5.121(2)(d)	Does the complaints register maintained by the complaints officer include the provision to record details of the action taken under s5.110(6)(b) or (c).	Yes		Olivia Edwards

No	Reference	Question	Response	Comments	Respondent
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more	N/A	No tenders called	Olivia Edwards
		than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)).			
2	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than inviting tenders for a single contract.	N/A		Olivia Edwards
3	F&G Reg 14(1) & (3)	Did the local government invite tenders via Statewide public notice.	N/A	No tenders called	Olivia Edwards
4	F&G Reg 14 & 15	Did the local government's advertising and tender documentation comply with F&G Regs 14, 15 & 16.	N/A	No tenders called	Olivia Edwards

8 of 11



No	Reference	Question	Response	Comments	Respondent
5	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer, notice of the variation.	N/A	No tenders called	Olivia Edwards
6	F&G Reg 16	Did the local government's procedure for receiving and opening tenders comply with the requirements of F&G Reg 16.	N/A	No tenders called	Olivia Edwards
7	F&G Reg 18(1)	Did the local government reject the tenders that were not submitted at the place, and within the time specified in the invitation to tender.	N/A	No tenders called	Olivia Edwards
8	F&G Reg 18 (4)	In relation to the tenders that were not rejected, did the local government assess which tender to accept and which tender was most advantageous to the local government to accept, by means of written evaluation criteria.	N/A	No tenders called	Olivia Edwards
9	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17.	N/A	No tenders called	Olivia Edwards
10	F&G Reg 19	Was each tenderer sent written notice advising particulars of the successful tender or advising that no tender was accepted.	N/A	No tenders called	Olivia Edwards
11	F&G Reg 21 & 22	Did the local governments's advertising and expression of interest documentation comply with the requirements of F&G Regs 21 and 22.	N/A		Olivia Edwards
12	F&G Reg 23(1)	Did the local government reject the expressions of interest that were not submitted at the place and within the time specified in the notice.	N/A		Olivia Edwards
13	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services.	N/A		Olivia Edwards
14	F&G Reg 24	Was each person who submitted an expression of interest, given a notice in writing in accordance with Functions & General Regulation 24.	N/A		Olivia Edwards
15	F&G Reg 24AD(2)	Did the local government invite applicants for a panel of pre-qualified suppliers via Statewide public notice.	N/A	7	Olivia Edwards
16	F&G Reg 24AD(4) & 24AE	Did the local government's advertising and panel documentation comply with F&G Regs 24AD(4) & 24AE.	N/A		Olivia Edwards



Department of
Local Government, Sport
and Cultural Industries

No	Reference	Question	Response	Comments	Respondent
17	F&G Reg 24AF	Did the local government's procedure for receiving and opening applications to join a panel of pre-qualified suppliers comply with the requirements of F&G Reg 16 as if the reference in that regulation to a tender were a reference to a panel application.	N/A	March Colonia	Olivia Edwards
18	F&G Reg 24AD(6)	If the local government to sought to vary the information supplied to the panel, was every reasonable step	N/A		Olivia Edwards
		taken to give each person who sought detailed information about the proposed panel or each person who submitted an application, notice of the variation.			
19	F&G Reg 24AH(1)	Did the local government reject the applications to join a panel of prequalified suppliers that were not submitted at the place, and within the time specified in the invitation for applications.	N/A		Olivia Edwards
20	F&G Reg 24AH(3)	In relation to the applications that were not rejected, did the local government assess which application (s) to accept and which application(s)	N/A		Olivia Edwards
		were most advantageous to the local government to accept, by means of written evaluation criteria.			
21	F&G Reg 24AG	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers, comply with the requirements of F&G Reg 24AG.	N/A		Olivia Edwards
22	F&G Reg 24AI	Did the local government send each person who submitted an application, written notice advising if the person's application was accepted and they are to be part of a panel of pre-qualified suppliers, or, that the application was not accepted.	N/A		Olivia Edwards
23	F&G Reg 24E	Where the local government gave a regional price preference in relation to a tender process, did the local government comply with the requirements of F&G Reg 24E in	N/A	No Regional Price Preference Policy Adopted	Olivia Edwards
		relation to the preparation of a regional price preference policy (only if a policy had not been previously adopted by Council).			
24	F&G Reg 24F	Did the local government comply with the requirements of F&G Reg 24F in relation to an adopted regional price preference policy.	N/A	No Regional Price Preference Policy Adopted	Olivia Edwards
25	F&G Reg 11A	Does the local government have a current purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$150,000 or less.	Yes	Policy 3.10 Purchasing	Olivia Edwards



I certify this Compliance Audit return has been adopted	d by Council at its meeting on	
Signed Mayor / President, Gingin	Signed CEO, Gingin	

### 11.1.3 SHIRE OF GINGIN LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2018

File:	LAW/1
Author:	Lee-Anne Burt
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	19 March 2019
Refer:	20/11/2018 Item 11.1.2
	21/08/2018 Item 11.1.3
Appendices:	Local Government Property Amendment Local Law
	2018
	2. Local Government Property Local Law 2004

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

SHIRE OF GINGIN

To consider making an undertaking to the Joint Standing Committee on Delegated Legislation to amend the Shire of Gingin Local Government Property Amendment Local Law 2018.

#### **BACKGROUND**

At its meeting on 20 November 2018, Council resolved to adopt the Shire of Gingin Local Government Property Amendment Local Law 2018.

In accordance with the requirements of the *Local Government Act 1995*, the Local Law was subsequently published in the Government Gazette on 11 December 2018 and then submitted to the Joint Standing Committee on Delegated Legislation (JSCDL) with the required Explanatory Memorandum and Checklist for review.

The Local Law came into effect on 26 December 2018.

On 21 February 2019, the Shire received correspondence advising that the Shire of Gingin Local Government Property Amendment Local Law 2018 (the amendment local law) was considered by the JSCDL on 20 February 2019, at which time four incorrect references to clauses were identified which, in the Committee's opinion, may potentially create an unintended effect. Accordingly, the JSCDL requires the following amendments to be made:

- 1. In clause 5(c) delete the reference to '2.8(2)(g)' and insert '2.8(1)(g)' in its place.
- 2. In clause 5(d) delete the reference to '2.8(2)(h)' and insert '2.8(1)(h)' in its place.
- 3. In clause 21(e) delete reference to 5.7.1(a) and insert 5.7(1)(a) in its place.
- 4. In clause 21(e) delete reference to 5.7.1(b) and insert 5.7(1)(b) in its place.

The JSCDL has requested that Council provide the following undertakings by 26 March 2019:

- 1. That the Shire will, when the amendment local law is next reviewed or amended, amend the local law to:
  - a. Amend clauses 5(c), 5(d) and 21(e); and
  - b. Make all necessary consequential amendments.
- 2. That until the Amendment Local Law is amended in accordance with Undertaking 1:
  - a. The Shire will not enforce the local law in a manner contrary to Undertaking 1;
     and
  - b. Where the local law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

#### COMMENT

The Shire of Gingin Local Government Property Amendment Local Law 2018 and the Shire of Gingin Local Government Property Local Law 2004 (the principal local law) are provided for Council's information as **Appendix 1** and **Appendix 2** respectively.

The affected clauses in the amendment local law relate to very minor text changes to the principal local law. It is not envisaged that the identified errors are likely to significantly impact on the enforcement of the principal local law, and this position is supported by the fact that the JSCDL does not require the amendments to be made until the next scheduled review of the local law, which will be in four years' time.

The JSCDL does, however, require that Council acknowledge the required amendments and provide an undertaking that they will be attended to at the appropriate time.

#### STATUTORY ENVIRONMENT

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

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET IMPLICATIONS**

Nil

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

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

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Peczka

That Council provide an undertaking to the Joint Standing Committee on Delegated Legislation that the Shire will:

- 1. When the Shire of Gingin Local Government Property Amendment Local Law is next amended or reviewed, amend the Local Law to:
  - a. Amend clauses 5(c), 5(d) and 21(e); and
  - b. Make all necessary consequential amendments.
- 2. Until the Local Law is amended in accordance with Undertaking 1:
  - a. Not enforce the Local Law in a manner contrary to Undertaking 1; and
  - b. Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

**CARRIED UNANIMOUSLY** 

## **APPENDIX 1**

#### Local Government Act 1995

#### Shire of Gingin

#### Local Government Property Amendment Local Law 2018

Under the powers conferred on it by the *Local Government Act 1995* and all other relevant powers enabling it, the Council of the Shire of Gingin resolved on 20 November 2018 to make this local law.

#### 1. Title

This local law may be cited as the Shire of Gingin Local Government Property Amendment Local Law 2018.

#### 2. Commencement

This local law commences 14 days after the day on which it is published in the Government Gazette.

#### 3. Principal Local Law

This local law amends the *Shire of Gingin Local Government Property Local Law 2004* as published in the *Government Gazette* on 13 September 2004 and as amended in the *Government Gazette* on 10 October 2006.

#### 4. Clause 1.2 amended

In Clause 1.2 -

- (a) In the definition for "Authorized Person" delete "authorized" and insert "authorised" wherever it appears in the definition.
- (b) Insert new definitions in alphabetical order as follows:

"Code" means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities as published by the Chief Health Officer, pursuant to the provisions of section 344A(2) of the Health (Miscellaneous Provisions) Act 1911;

"Health Act" means the Health (Miscellaneous Provisions) Act 1911;

"local public notice" has the same meaning as in section 1.7 of the Act;

"nuisance" means -

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the heath of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of a person;
- anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and

1

 (c) anything a person does on public or private land which detracts from or interferes with the enjoyment or value of lands owned by another person;
 and

"waste" includes matter -

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the Waste Avoidance and Resource Recovery Act 2007 to be waste.;
- (c) Amend the definition for "liquor" by deleting "Licensing" and substituting "Control"; and
- (d) Amend the definition for "trading" in paragraph (d) by deleting "and".

#### 5. Clause 2.8 amended

In Clause 2.8 -

- (a) After the clause title insert clause 2.8(1A) as follows -
  - (1A) In this clause -

"premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

- (b) Delete clause 2.8(3);
- (c) In clause 2.8(2)(g), delete "and";
- (d) In clause 2.8(2)(h), delete the full stop and insert "; and"; and
- (e) After clause 2.8(2)(h) insert the following -
  - (i) bring, ride or drive an animal.

#### 6. Clause 3.2 amended

In clause 3.2(5) insert "or where the requirements of subclauses (3) or (4) have not been satisfied" at the end of the clause.

#### 7. Clause 3.4 amended

In clause 3.4 -

- (a) In clause 3.4(2), insert "the generality of" between "limiting" and "clause"; and
- (b) In clause 3.4(2)(h), delete "Licensing" and insert "Control".

#### 8. Clause 3.9 amended

In clause 3.9(2) delete "mutatis mutandis" and insert "with appropriate modification".

#### 9. Clause 3.11 amended

In clause 3.11 delete "authorized" and insert "authorised" wherever it appears in the clause

#### 10. Clause 3.13 amended

In clause 3.13 -

- (a) In clause 3.13(1)(o), delete "or" at the end of the clause;
- (b) In clause 3.13(1)(p), delete the full stop and insert a semi colon; and
- (c) After clause 3.13(1)(p) insert the following -
  - (q) deposit or store anything on local government property; or
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.

#### 11. Clause 3.15 amended

In clause 3.15(1)(a) delete "Licensing" and insert "Control".

#### 12. Clause 3.16 amended

In clause 3.16 -

- (a) In clause 3.16(a), delete "authorized" and insert "authorised"; and
- (b) In clause 3.16(d), delete "Licensing" and insert "Control".

#### 13. Clause 4.1 amended

In clause 4.1 -

- (a) In clause 4.1(a), delete "or".
- (b) In clause 4.1(b), delete the full stop and insert "; or".
- (c) After clause 4.1(b) insert the following:
  - (c) creating a nuisance.

#### 14. Clause 4.2 amended

in clause 4.2 -

(a) Renumber clause 4.2(1) and 4.2(2) as 4.2(2) and 4.2(1), respectively; and

(b) In subclause 4.2(1), delete "subclause (1)" and insert "this clause".

#### 15. Clause 4.3 amended

In clause 4.3 -

- (a) Renumber clause 4.3(1) and 4.3(2) as 4.3(2) and 4.3(1), respectively; and
- (b) In subclause 4.3(2), delete "authorized" and substitute "authorised".

#### 16. Clause 5.1 amended

In clause 5.1 -

- (a) After the clause title, redesignate the remaining clause text as subclause (1);
- (b) In clause 5.1(1) -
  - (i) Delete "authorized" and insert "authorised"; and
  - (ii) Delete ", may direct to leave or shall remove or cause to be removed from";
- (c) In clause 5.1(1)(a)(i) -
  - (i) delete "under the age of 6 years" and substitute "minimum age as specified in the Code"; and
  - (ii) delete "of 14 years" and substitute "as specified in the Code";
- (d) After clause 5.1(1)(a)(i) insert the following -
  - (iia) under the minimum age as specified in the Code and who is accompanied by a responsible person over the age as specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;

and

- (e) After clause 5.1(1) insert the following:
  - (2) If a person referred to in subclause 5.1(1)(a) or subclause 5.1(1)(b) is in a pool area, a Manager or an authorised person must
    - (a) direct the person to leave; and
    - (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

#### 17. Clause 5.3 amended

In clause 5.3(2) delete "authorized" and insert "authorised".

#### 18. Clause 5.4 amended

In clause 5.4 -

- (a) In clause 5.4(2), delete "authorized" and insert "authorised"; and
- (b) In clause 5.4(4), delete "authorized" and insert "authorised".

#### 19. Clause 5.5 amended

In clause 5.5 -

- (a) In clause 5.5(b), delete "and";
- (b) In clause 5.5(c), delete the comma and insert "; and"; and
- (c) After clause 5.5(c) insert the following -
  - (d) not interfere with, obscure, obstruct or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment,

#### 20. Clause 5.6 amended

In clause 5.6 delete "authorized" and insert "authorised".

#### 21. Clause 5.7 amended

In clause 5.7 -

- (a) Renumber clause 5.7 as clause 5.7(1);
- (b) In clause 5.7(1)(a), delete "or";
- (c) In clause 5.7(1)(b), delete the full stop and substitute "; or";
- (d) After clause 5.7(1)(b) insert the following -
  - (c) families, then, when the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

and

- (e) After clause 5.7(1) insert the following -
  - (2) Clause 5.7.1(a) and clause 5.7.1(b) do not apply to a child when accompanied by a parent, guardian or caregiver, where the child is –
    - (a) under the age of eight years; or

(b) otherwise permitted by an authorised person to use the relevant entry.

#### 22. Clause 5.8 amended

In clause 5.8(1)(d) delete "authorized" and insert "authorised".

#### 23. Clause 6.1 amended

In clause 6.1 delete "authorized" and insert "authorised" wherever it appears throughout the clause.

#### 24. Clause 7.5 amended

In clause 7.5(d) insert "the" between "paid" and "fee".

#### 25. Clause 7.6 amended

In clause 7.6 delete "authorized" and insert "authorised" wherever it appears throughout the clause.

#### 26. Clause 7.11 amended

In clause 7.11 delete "authorized" and insert "authorised" wherever it appears throughout the clause.

#### 27. Clause 8.1 amended

In clause 8.1-

- (a) Delete the clause title and substitute "Objections and Appeals".
- (b) In the final sentence of the clause:
  - (i) delete "regulations" and substitute "regulation"; and
  - (ii) delete "and 34".

#### 28. Clause 9.1 amended

In clause 9.1 delete "authorized" and insert "authorised" wherever it appears throughout the clause.

#### 29. Clause 9.2 amended

In clause 9.2 -

- (a) Delete "authorized" and substitute "authorised"; and
- (b) Insert ", or temporarily suspend a person from," between "leave" and "local".

#### 30. Clause 9.4 amended

After the clause heading insert the following -

(1A) In this clause -

"costs" of the local government includes its administrative costs.

#### 31. Clause 10.4 amended

In clause 10.4(3) delete "authorized" and insert "authorised".

#### 32. Schedule 1 amended

Delete Schedule 1 and insert the following -

#### SCHEDULE 1

#### PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY (\$)
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(2)	Behaviour detrimental to property	125
4.4	Under influence of liquor or prohibited drug	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Consuming food or drink in prohibited area	125
5.5	Failure to comply with sign or direction on beach	125
5.6	Unauthorised entry to fenced or closed local government property	125
5.7	Gender not specified using entry of toilet block or change room	125
5.8(1)	Unauthorised presence of animal on aerodrome	350
5.8(2)	Animal wandering at large on aerodrome – person in charge	350
5.8(3)	Animal wandering at large on aerodrome - owner	350
6.1(1)	Unauthorised entry to function on local government property	125
7.3	Unauthorised use of any part of jetty which is closed or under repair or construction	125
7.4	Mooring of boats in unauthorised manner	125
7.5	Unauthorised mooring of a boat to jetty	125
7.6	Failure to remove moored boat on direction of authorised person	125
7.7	Launching of boat from jetty without consent	125

7.8	Mooring when not ready to load or discharge cargo, at	125
	times not permitted or for longer than permitted	
7.9	Unlawful storing of goods on jetty	125
7.10	Removing goods from jetty during other than permitted hours	125
7.11	Failure to remove cargo on jetty on direction of authorised person	125
7.12	Unauthorised deposit of bulk cargo on jetty	125
7.14	Fishing from jetty or bridge so as to obstruct a boat or	125
	another person	
10.1	Failure to comply with notice	250

Dated this d	ay of 20
The Common Seal of the Shire of Ging was affixed by authority of a resolution of the Council in the presence of:	gin ) ) ) )
I B COLLARD Shire President	A COOK Chief Executive Officer

# **APPENDIX 2**

## Shire of Gingin

LOCAL GOVERNMENT PROPERTY LOCAL LAW (2004)

Local Government Act 1995

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#### Local Government Act 1995

## Shire of Gingin

## LOCAL GOVERNMENT PROPERTY LOCAL LAW (2004)

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gingin resolved on the Twenty-first day of October 2003 to make the following local law.

### PART 1 - PRELIMINARY

## Citation

1.1 This local law may be cited as the Shire of Gingin Local Government Property Local Law (2004).

#### **Definitions**

- 1.2 In this local law unless the context otherwise requires -
  - "Act" means the Local Government Act 1995;
  - "applicant" means a person who applies for a permit under clause 3.2;
  - "authorized person" means a person authorized by the local government under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;
  - "boat" means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;
  - "building" means any building which is local government property and includes a -
  - (a) hall or room;
  - (b) corridor, stairway or annexe of any hall or room; and
  - (c) jetty;
  - "CEO" means the chief executive officer of the local government;
  - "commencement day" means the day on which this local law comes into operation;
  - "Council" means the council of the local government;
  - "date of publication" means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

"determination" means a determination made under clause 2.1;

"district" means the district of the local government;

"function" means an event or activity characterised by all or any of the following -

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (e) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

"liquor" has the same meaning as is given to it in section 3 of the *Liquor Licensing Act* 1988;

"local government" means the Shire of Gingin;

"local government property" means anything except a thoroughfare -

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the Land Administration Act 1997; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

"Manager" means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person's assistant or deputy;

"permit" means a permit issued under this local law;

"permit holder" means a person who holds a valid permit;

"person" does not include the local government;

"pool area" means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

"sign" includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

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Management of Gingin Recreation Ground published in the Government Gazette dated 24 March 1969.

Management, Use and Letting of Gingin Agriculture Hall, Guilderton Recreation Centre and the Lancelin Hall published in the Government Gazette dated 1 October 1964.

Reserves and Foreshores published in the Government Gazette dated 27 January 1984.

- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

#### Division 1 - Determinations

#### Determinations as to use of local government property

- 2.1 (1) The local government may make a determination in accordance with clause 2.2
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.

### Procedure for making a determination

- 2.2 (1) The local government is to give local public notice of its intention to make a determination.
  - (2) The local public notice referred to in subclause (1) is to state that
    - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
    - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and

- (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply;
     or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to -
  - (a) consider those submissions; and
  - (b) decide -
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

## Discretion to erect sign

2.3 The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

#### Determination to be complied with

2.4 A person shall comply with a determination.

## Register of determinations

- 2.5 (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
  - (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### Amendment or revocation of a determination

- 2.6 (1) The Council may amend or revoke a determination.
  - (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
  - (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

## Division 2 - Activities which may be pursued or prohibited under a determination

## Activities which may be pursued on specified local government property

- 2.7 (1) A determination may provide that specified local government property is set aside as an area on which a person may –
  - (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (e) fly or use a motorised model acroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) launch, beach or leave a boat;
  - (f) take or use a boat, or a particular class of boat;
  - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (h) play or practice –

- (i) golf or archery;
- (ii) pistol or rifle shooting, but subject to the compliance of that person with the Firearms Act 1973; or
- (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- ride a bicycle, a skateboard, roller-blades, a sand-board or a similar device;
   and
- (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular
  - (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

## Activities which may be prohibited on specified local government property

- 2.8 (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -
  - (a) smoking on premises;
  - (b) riding a bicycle, a skateboard, roller-blades, a sand-board or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;

- (e) taking or using a boat, or a particular class of boat;
- (f) the playing or practice of -
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
  - (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons;
     and
  - (e) may distinguish between different classes of the activity.
- (3) In this clause –

"premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

## Division 3 - Transitional

## Signs taken to be determinations

- 2.9 (1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
  - (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

#### **PART 3 - PERMITS**

#### Division 1 - Preliminary

## **Application of Part**

3.1 This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

### Division 2 - Applying for a permit

## Application for permit

- 3.2 (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
  - (2) An application for a permit under this local law shall -
    - (a) be in the form determined by the local government;
    - (b) be signed by the applicant;
    - (c) provide the information required by the form; and
    - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
  - (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
  - (4) The local government may require an applicant to give local public notice of the application for a permit.
  - (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

## Decision on application for permit

- 3.3 (1) The local government may
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
  - (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

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(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

#### Division 3 - Conditions

## Conditions which may be imposed on a permit

- 3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to -
  - (a) the payment of a fee;
  - (b) compliance with a standard or a policy of the local government adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application:
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
  - (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued
    - (a) when fees and charges are to be paid;
    - (b) payment of a bond against possible damage or cleaning expenses or both;
    - (c) restrictions on the erection of material or external decorations;
    - (d) rules about the use of furniture, plant and effects;
    - (c) limitations on the number of persons who may attend any function in or on local government property;

- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Licensing Act 1988;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

#### Imposing conditions under a policy

## 3.5 (1) In this clause -

- "policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).
- (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).
- (4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

## Compliance with and variation of conditions

3.6 (1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

#### Division 4 - General

### Agreement for building

3.7 Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

## Duration of permit

- 3.8 A permit is valid for one year from the date on which it is issued, unless it is -
  - (a) otherwise stated in this local law or in the permit; or
  - (b) cancelled under clause 3.12.

### Renewal of permit

- 3.9 (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
  - (2) The provisions of this Part shall apply to an application for the renewal of a permit mutatis mutandis.

## Transfer of permit

- 3.10 (1) An application for the transfer of a valid permit is to -
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferce of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
  - (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
  - (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

## Production of permit

3.11 A permit holder is to produce to an authorized person her or his permit immediately upon being required to do so by that authorized person.

## Cancellation of permit

- 3.12 (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a
  - (a) condition of the permit; or
  - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
  - (2) On the cancellation of a permit the permit holder -
    - (a) shall return the permit as soon as practicable to the CEO; and
    - (b) is to be taken to have forfeited any fees paid in respect of the permit.

#### Division 5 - When a permit is required

#### Activities needing a permit

- 3.13 (1) A person shall not without a permit -
  - (a) subject to subclause 3, hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted -
    - with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;

- (g) unless an employee of the local government in the course of her or bis duties or on an area set aside for that purpose -
  - (i) drive or ride or take any vehicle on to local government property; or
  - (ii) park or stop any vehicle on local government property;
- (h) conduct a function on local government property;
- (i) charge any person for entry to local government property, unless the charge is for entry to land or a building bired by a voluntary non-profit organisation;
- (j) light a fire on local government property except in a facility provided for that purpose;
- (k) parachute, hang glide, abscil or base jump from or on to local government property;
- (1) erect a building or a refuelling site on local government property;
- (m) make any excavation on or erect or remove any fence on local government property;
- (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
- (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

## Permit required to camp outside a facility

- 3.14 (1) In this clause -
  - "facility" has the same meaning as is given to it in section 5(1) of the Caravan Parks and Camping Grounds Act 1995.
  - (2) This clause does not apply to a facility operated by the local government.

- (3) A person shall not without a permit -
  - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.

### Permit required for possession and consumption of liquor

- 3.15 (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless
  - (a) that is permitted under the Liquor Licensing Act 1988; and
  - (b) a permit has been obtained for that purpose.
  - (2) Subclause (1) does not apply where the liquor is in a sealed container.

## Division 6 - Responsibilities of permit holder

#### Responsibilities of permit holder

- 3.16 A holder of a permit shall in respect of local government property to which the permit relates -
  - ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
  - (b) leave the local government property in a clean and tidy condition after its use;
  - (c) report any damage or defacement of the local government property to the local government; and
  - (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Licensing Act 1988 for that purpose.

## PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

## Division 1 - Behaviour on and interference with local government property

### Behaviour which interferes with others

- 4.1 A person shall not in or on any local government property behave in a manner which -
  - (a) is likely to interfere with the enjoyment of a person who might use the property;
  - (b) interferes with the enjoyment of a person using the property.

#### Behaviour detrimental to property

- 4.2 (1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.
  - (2) In subclause (1) –

'detrimental to the property' includes -

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

### Taking or injuring any fauna

- 4.3 (1) A person shall not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorized under a written law to do so.
  - (2) In this clause –

"animal" means any living thing that is not a human being or plant; and

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

## Intoxicated persons not to enter local government property

4.4 A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

## No prohibited drugs

4.5 A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

## Division 2 - Signs

#### Signs

- 4.6 (1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
  - (2) A person shall comply with a sign erected under subclause (1).
  - (3) A condition of use specified on a sign creeted under subclause (1) is -
    - (a) not to be inconsistent with any provision of this local law or any determination; and
    - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## PART 5 – MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

## Division 1 - Swimming pool areas

## When entry must be refused

- 5.1 A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who
  - (a) in her or his opinion is -
    - under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
    - suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
    - (iii) under the influence of liquor or a prohibited drug; or
  - (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

## Consumption of food or drink may be prohibited

5.2 A person shall not consume any food or drink in an area where consumption is prohibited by a sign.

#### Division 2 - Beaches

### Powers of surf life saving club members

- 5.3 (1) Subject to subclause (2), the local government may authorize under section 9.10 of the Act the members of a surf life saving club to perform all or any of the following functions in relation to a beach -
  - (a) patrol any beach;
  - (b) carry out any activity on any beach;
  - (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
  - temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
  - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Under subclause (1), the local government shall authorize only those members who have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorized.
- (3) Under subclause (1), the local government may authorize members generally, or in relation to particular times, days or months.

## Authorizing other persons

- 5.4 (1) A local government may authorize, under section 9.10 of the Act, a person to perform all or any of the functions referred to in clause 5.3(1) in relation to a beach.
  - (2) Under subclause (1), the local government shall authorize only those persons who, in the reasonable opinion of the local government, are competent to perform the functions referred to in clause 5.3(1) in respect of which they are authorized.
  - (3) Under subclause (1), the local government may authorize a person generally, or in relation to particular times, days or months.
  - (4) Where the local government has authorized members of a surf life saving club under clause 5.3(1) and a person under subclause (1) in relation to the same beach,

so that they can perform all or any of the functions referred to in clause 5.3(1) contemporaneously, the local government is to specify which authorization is rendered ineffective when both are exercised.

## Persons to comply with signs and directions

## 5.5 A person shall -

- (a) not act in contravention of any sign erected on a beach under clause 5.3(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club; and
- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(c),

notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in clause 5.4(1).

## Division 3 - Fenced or closed property

### No entry to fenced or closed local government property

5.6 A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorized to do so by the local government.

## Division 4 - Toilet blocks and change rooms

## Only specified gender to use entry of toilet block or change room

- 5.7 Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by
  - (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
  - (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

## Division 5 - Aerodrome (airport)

## Access of animals restricted

- 5.8 (1) A person shall not bring an animal on to an aerodrome unless -
  - (a) the person is a person referred to in section 8 of the Dog Act 1976 acting in accordance with that provision;
  - (b) the animal is being air freighted from the aerodrome;

- (c) the animal has been air freighted to the aerodrome; or
- (d) the person is authorized to do so by the local government.
- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.
- (3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

### PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

## No unauthorized entry to function

- 6.1 (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorized, except
  - (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.
  - (2) The local government may exempt a person from compliance with subclause (1)(b).

## **PART 7 - JETTIES AND BRIDGES**

## Division I - Preliminary

#### Interpretation

- 7.1 (1) This Part only applies to bridges and jetties which are local government property.
  - (2) In this Part
    - "jetty" means any jetty, pier, wharf or landing place which is local government property; and
    - "bulk cargo" means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

#### Division 2 - Consents and fees

## Application for consent and application fee

7.2 (1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.

- (2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.
- (3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.
- (4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.
- (5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

## Division 3 - Prohibitions on use of jetty

#### When use of jetty is prohibited

- 7.3 A person shall not land at, use or go on any part of a jetty which is -
  - (a) under construction or repair; or
  - (b) closed,

unless that person has first obtained the consent of the local government.

## Division 4 - Mooring boats to jetties

## Method of mooring boat

7.4 A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

## Division 5 - When boats may remain at jetty

## When boat may remain moored

- 7.5 A person in control of a boat shall not moor or make fast the boat to a jetty unless -
  - (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
  - (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government;
  - (c) the loading or discharging of cargo or other goods is in progress in accordance with Division 7; or

(d) where the boat is used at that time for commercial purposes, the person has first paid fee (if any) for such mooring or making fast to the local government.

## Authorized person may order removal of boat

7.6 Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorized person.

## Division 6 - Launching of boats

#### Restrictions on launching

7.7 A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.

## Division 7 - Cargo or other goods

### Loading and discharging

- 7.8 A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods-
  - (a) until the eargo or other goods are ready to be loaded or discharged; or
  - (b) without the consent of the local government
    - (i) between the hours of 6.00pm to 6.00am on the next day; or
    - (ii) for longer than 2 consecutive hours.

## Outgoing cargo not to be stored on jetty

- 7.9 A person in control of cargo or other goods intended for loading on to a boat shall -
  - (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
  - (b) load them on to the boat as soon as practicable after the boat is moored or fastened to or alongside the jetty.

## Removal of incoming cargo from jetty

7.10 Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

#### Authorized person may direct removal

7.11 An authorized person may direct a person who, in the opinion of the authorized person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.

#### Handling of bulk cargo

7.12 Except with the prior consent of the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.

#### Division 8 - Polluting surrounding area

#### Polluting surrounding area

7.13 A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

## Division 9 - Fishing from jetties and bridges

## Limitations on fishing

- 7.14 A person shall not -
  - (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
  - (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

#### PART 8 - OBJECTIONS AND APPEALS

## Application of Division 1, Part 9 of the Act

- 8.1 When the local government makes a decision as to whether it will -
  - (a) grant a person a permit or consent under this local law; or
  - (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

## PART 9 - MISCELLANEOUS

## Authorized person to be obeyed

9.1 A person on local government property shall obey any lawful direction of an authorized person and shall not in any way obstruct or hinder an authorized person in the execution of her or his duties.

### Persons may be directed to leave local government property

9.2 An authorized person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

#### Disposal of lost property

9.3 An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

## Liability for damage to local government property

- 9.4 (1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of
  - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that property.
  - (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

#### PART 10 - ENFORCEMENT

### Division 1 - Notices given under this local law

### Offence to fail to comply with notice

10.1 Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

## Local government may undertake requirements of notice

10.2 Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

## Division 2 - Offences and penalties

#### Subdivision 1 - General

#### Offences and general penalty

- 10.3 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
  - (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

## Subdivision 2 - Infringement notices and modified penalties

#### Prescribed offences

- 10.4 (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
  - (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
  - (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that —
    - (a) commission of the prescribed offence is a relatively minor matter; and
    - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

## Form of notices

- 10.5 (1) For the purposes of this local law -
  - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
  - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (a) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

## Division 3 - Evidence in legal proceedings

### Evidence of a determination

- 10.6 (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
  - (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
  - (3) Subclause (2) does not make valid a determination that has not been properly made.

### SCHEDULE 1

### PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY
		S
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.2	Consuming food or drink in prohibited area	100
5,5	Failure to comply with sign or direction on beach	100
5.6	Unauthorized entry to fenced or closed local government property	100
5.7	Gender not specified using entry of toilet block or change room	100
5.8(1)	Unauthorized presence of animal on aerodrome	300
5.8(2)	Animal wandering at large on aerodrome – person in charge	300
5.8(3)	Animal wandering at large on aerodrome owner	300
6.1(1)	Unauthorized entry to function on local government property	100
7.3	Unauthorized use of any part of jetty which is closed or under repair or construction	100
7.4	Mooring of boats in unauthorized manner	100
7.5	Unauthorized mooring of a boat to jetty	100

7.6	Failure to remove moored boat on direction of authorized	100
	person	
7.7	Launching of boat from jetty without consent	100
7.8	Mooring when not ready to load or discharge cargo, at times	100
	not permitted or for longer than permitted	
7.9	Unlawful storing of goods on jetty	100
7.10	Removing goods from jetty during other than permitted hours	100
7.11	Failure to remove cargo on jetty on direction of authorized	100
	person	
7.12	Unauthorized deposit of bulk cargo on jetty	100
7.14	Fishing from jetty or bridge so as to obstruct a boat or another	100
	person	
10.1	Failure to comply with notice	200

Dated this Thirty-first day of March 2004.

The Common Seal of the Shire of	)
Gingin was affixed by authority of	-)
a resolution of the Council in the	)
presence of:-	-)

G E MORTON Shire President S D FRASER Chief Executive Officer

## 11.1.4 MANAGEMENT RESPONSIBILITY - RESERVE 42188 (LOT 11742) BELL ROAD, COONABIDGEE

Location:	Reserve 42188 (Lot 11742) Bell Road, Coonabidgee	
File:	LND/102	
Author:	Lee-Anne Burt – Governance Officer	
Reporting Officer:	Aaron Cook – Chief Executive Officer	
Report Date:	19 March 2019	
Refer:	Nil	
Appendices:	1. Location Plans	

## **DISCLOSURES OF INTEREST**

Nil

## **PURPOSE**

To consider a request from the Department of Planning, Lands and Heritage for confirmation that Council is willing to accept management responsibility for Reserve 42188 (Lot 11742) Bell Road, Coonabidgee.

## **BACKGROUND**

Correspondence has been received from the Department of Planning, Lands and Heritage (the Department), advising that Lot 11742 was ceded to the Crown as a result of a freehold subdivision. Lot 11742 was subsequently reserved for the purpose of Pedestrian Access Way and identified as Reserve 42188.

The Department advises that it is now in the process of formalising tenure over the land, and seeks confirmation from Council that it is willing to accept management responsibility for the reserve.

Lot 11742 is located at the eastern end of Bell Road in the Frogmore Rural Industry zone. Plans showing the location of the land in question are attached as **Appendix 1**.

## COMMENT

A search of the property record held by Landgate has revealed that Lot 11742 was in fact created in 1988 and has remained as an unmanaged reserve for the past 30 years.

Although the Department's correspondence implies that, as an unvested facility, the reserve is considered to be under the control of the local government, information obtained from the Landgate website states that ...a reserve is not always placed under the care, control and management of a management body. Such reserves are known as unmanaged reserves and remain under the administration of the Minister for Lands. This information is dated October 2018.

It would therefore appear that there is no obligation on Council to accept management responsibility for Reserve 42188 if it does not consider that management control would be of benefit to the Shire.

The subject lot is long and narrow, measuring approximately 180m by 5m, and runs east from the eastern terminus of Bell Road between two privately-owned properties to the western boundary of Reserve 39159 (Lot 10555). Reserve 39159 runs parallel to the Brand Highway and accommodates the Dampier to Bunbury Natural Gas Pipeline. The Management Order for Reserve 39159 is held by the relevant Minister.

The Department advises that Reserve 42188 has been set aside for the purpose of Pedestrian Access Way. However, its location does not appear to link any points for which pedestrian access would be required.

The Shire's Executive Manager Operations has assessed the property and advises that, although it is theoretically wide enough to provide single vehicle access in the event of an emergency, a substantial portion of the land is currently blocked by vegetation which would probably require a clearing permit to remove. Depending on the species of vegetation concerned, it is possible that the Shire would be required to provide an environmental offset in order to obtain a clearing permit. In any event, the specified purpose of Pedestrian Access Way would seem to prohibit use of the reserve by vehicles.

Most importantly, the reserve terminates at the western boundary of the gas pipeline reserve and therefore does not provide access through to the Brand Highway. That being the case, even if Council did see value in a pedestrian access way in this location, permission would still need to be obtained from the Minister for Energy in order for the access way to cross Reserve 39159.

In view of the above, it is not considered that acceptance of management responsibility for Reserve 42188 would be of benefit to the Shire of Gingin.

In the event that Council does wish to accept management responsibility for Reserve 42188, then there may be costs involved in fencing the reserve along both boundaries to delineate it from adjoining private property.

## STATUTORY ENVIRONMENT

SHIRE OF GINGIN

Land Administration Act 1997
Part 4 – Reserves
Section 46 – Care, control and management of reserves

## **POLICY IMPLICATIONS**

Nil

## **BUDGET IMPLICATIONS**

In the event that Council does wish to accept management responsibility for Reserve 42188, then there may be costs involved in fencing the reserve along both boundaries to delineate it from adjoining private property, and for clearing.

It is estimated that such costs should not exceed \$5,000.

## STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

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

## **VOTING REQUIREMENTS – SIMPLE MAJORITY**

## COUNCIL RESOLUTION/OFFICER RECOMMENDATION

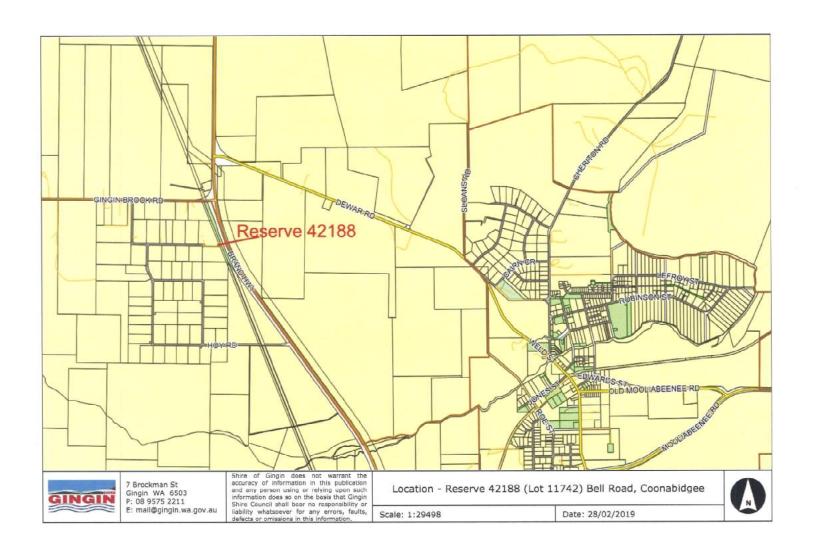
MOVED: Councillor Elgin SECONDED: Councillor Rule

That Council advise the Department of Planning, Lands and Heritage that it does not wish to accept management responsibility for Reserve 42188 (Lot 11742) Bell Road, Coonabidgee.

**CARRIED UNANIMOUSLY** 

# **APPENDIX 1**





#### 11.1.5 DEVELOPMENT OF POLICY ON FRACKING WITHIN THE SHIRE OF GINGIN

File:	ENV/32
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	19 March 2019
Refer:	17 January 2017 Item 11.1.2
Appendices:	Nil

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To consider a resolution arising from the Annual General Meeting of Electors held on 19 February 2019.

#### **BACKGROUND**

Fracking is the process of drilling down into the earth before a high-pressure water mixture is directed at the rock to release the gas inside. Water, sand and chemicals are injected into the rock at high pressure which allows the gas to flow out to the head of the well.

#### COMMENT

At the Annual Meeting of Electors held at Guilderton on 22 December 2016, the following resolution was carried:

Moved Julia Mateljan, seconded Jill Brown that Council develop a policy to exclude fracking from the Shire of Gingin.

CARRIED 44-5

At Council's ordinary meeting held on 16 May 2017, the following resolution was carried:

Moved Councillor Ammon, seconded Councillor Aspinall that:

- 1. Council not formulate a policy position with respect to fracking in the Shire of Gingin at this point in time.
- 2. Council's view is that this is not a matter for Council to decide on as it has no control over fracking, which is governed by the State government (through the Department of Mines and Petroleum).

CARRIED UNANIMOUSLY

At the Annual Meeting of Electors held in Gingin on 19 February 2019, the following resolution was carried:

Moved Jennifer Walker, seconded Jill Brown that Council have a policy to not support unconventional gas/fracking within the Shire of Gingin.

CARRIED 43-2

Section 5.33 of the Local Government Act 1995 states as follows:

5.33 Decisions made at electors' meetings

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable
  - (a) at the first ordinary council meeting after that meeting; or
  - (b) at a special meeting called for that purpose.

Since the Annual Meeting of Electors, further information has been received from Jennifer Walker and Jill Brown together with a request to meet with Council to discuss the formulation by Council of a position on fracking. Arrangements have been made for Ms Walker and Ms Brown to meet with Council at the Concept Forum on 2 April 2019

In order to comply with the requirements of the *Local Government Act 1995*, the resolution arising from the Annual Meeting of Electors held on 19 February 2019 must be presented to the 19 March 2019 Ordinary Council meeting for consideration. It is therefore recommended that, at this meeting, Council receive and note the Electors' Meeting resolution, and resolve to defer further consideration of the matter until the Council meeting on 16 April 2019. This will enable Council to meet with Ms Walker and Ms Brown prior to deciding a formal position.

#### STATUTORY ENVIRONMENT

Local Government Act 1995

Part 5 – Administration

Division 2 – Council meetings, committees and their meetings and electors' meetings Section 5.33 – Decisions made at electors' meetings

#### **POLICY IMPLICATIONS**

Nil at this stage. Council may ultimately decide to formulate an official policy on fracking in the Shire of Gingin.

#### **BUDGET IMPLICATIONS**

Nil at this stage. It is not known whether the adoption of a policy on fracking will have any financial implications for the Shire of Gingin.

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Natural Environment
Objective	2. To develop the Shire's capacity to support the conservation of natural
	assets and undertake sustainable resource management
Outcome	2.1 The Shire's ecological services and natural assets are respected and
	enhanced
Key Service	Conservation and Environmental Management
Areas	
Priorities	2.2.2 Support alternative energy sources

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Peczka SECONDED: Councillor Johnson

#### **That Council:**

- 1. Receive and note the resolution arising from the Annual General Meeting of Electors held on 19 February 2019; and
- 2. Request Administration to prepare a report on the matter of fracking in the Shire of Gingin for further consideration at the Ordinary Meeting of Council to be held on 16 April 2019.

**CARRIED UNANIMOUSLY** 

# 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 &					
	Community Services					
Report Date:	19 March 2019					
Refer:	Nil					
Appendices:	Statement of Financial Position for the Period to 28     February 2019					

#### **DISCLOSURES OF INTEREST**

Nil

#### **COMMENT**

The following are presented for Council's consideration:

- 1. Statement of Financial Position for the period to 28 February 2019.
- 2. List of Paid Accounts for the period to 28 February 2019 in accordance with the following summary of activity:

PAYMENT TYPE	\$
Municipal	
EFT	657,916.14
Cheque	13,980.14
Direct Debit	169,799.39
Total (Municipal)	841,695.67
Trust	511.59
Bank Statement	
Bank Fees and Charges	5,703.22
Wages and Salaries	277,080.58
Police Licensing	68,192.75
LA Office Rent	643.38
Messages on Hold	573.58
Total (Bank Statement)	352,193.51
TOTAL EXPENDITURE	1,193,889.18

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 2017-2027

Focus Area	Governance			
Objective	5. To demonstrate effective leadership, governance and advocacy on			
	behalf of community			
Outcome 5.1 Values				
	Our Organisational/business values are demonstrated in all that we do.			
Key Service Financial Management				
Area				
Priorities	Nil			

# **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Elgin SECONDED: Councillor Morton

#### **That Council:**

- 1. Endorse the Statement of Financial Position as at 28 February 2019; and
- 2. Endorse the List of Paid Accounts for the period ending 28 February 2019.

**CARRIED UNANIMOUSLY** 

# **APPENDIX 1**





# MONTHLY FINANCIAL REPORT

(Containing the Statement of Financial Activity)

# FOR THE PERIOD OF 1 JULY 2018 TO 28 FEBRUARY 2019

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 1996

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#### Key Information

#### Report Purpose:

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

#### Items of Significance:

The material variance adopted by the Shire of Gingin for the 2018/19 year is \$10,000 or 10% whichever is the greater. The following selected items have been highlighted due to the amount of the variance to the budget or due to the nature of the revenue/expenditure.

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

Prepared by: Karina Leonhardt Reviewed by: Ziggy Edwards Date Prepared: 12/03/2019

#### Statement of Financial Activity by Program

	Current Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
OPENING FUNDING SURPLUS (DEFICIT)	1,509,994	1,509,994	1,105,430	(404,564)	(26.79)%	Variance relates to adjustment for Leave Liability not included in Budget calculation.
REVENUE FROM OPERATING ACTIVITIES						
GENERAL PURPOSE FUNDING	1,121,521	747,648	959,736	212,088	28.37%	Greater than anticipated recovery of legal costs. Timing of rate income received.
GENERAL PURPOSE FUNDING - RATES	7,937,123	7,928,107	7,895,417	(32,690)	(0.41)%	
GOVERNANCE	50	32	1,257	1,225	3,827.00%	Fines Enforcement legal expenses recovered.
AW ORDER PUBLIC SAFETY	567,488	378,264	519,358	141,094	37.30%	BRPC Grant Funded by DFES in full. MAF Mitigation Funding operating grant received.
EDUCATION & WELFARE	105,500	70,328	63,517	(6,811)	(9.69)%	
HEALTH	316,848	211,208	281,105	69,897	33.09%	Includes Voluntary Fly Levy raise which will vary
HOUSING	22,200	14,784	15,937	1,153	7.80%	
COMMUNITY AMENITIES	1,491,573	1,432,565	1,674,181	241,616	16.87%	Includes Coastal Erosion Voluntary Levy that will vary. Greater than anticipated income received at the Lancelin and Gingin refuse sites to date.
RECREATION & CULTURE	234,708	156,408	113,019	(43,389)	(27.74)%	RBFS Boat Launch Facility Planning Study Acquittal completed, submitted and awaiting payment in March 2019. Reduced contributions towards timing of projects.
TRANSPORT	179,057	119,360	258,249	138,889	116.36%	Government Direct Road Grants and Roads to Recovery Road Grants received. Portion of Ag Lime Route Funding for Orange Springs Road received to date.
ECONOMIC SERVICES	1,687,847	1,125,152	1,055,566	(69,586)	(6.18)%	
OTHER PROPERTY & SERVICES	325,550	217,016	303,011	85,995	39.63%	Greater than anticipated insurance reimbursements received to date.
TOTAL REVENUE	13,989,465	12,400,872	13,140,351	739,479	5.96%	
EXPENDITURE FROM OPERATING ACTIVITIES						
GENERAL PURPOSE FUNDING	(359,061)	(239,344)	(398,424)	(159,080)	(66.47)%	Increase in debt collection charges which relate significantly to properties currently being sold to recover monies owed to Council.
GOVERNANCE	(1,086,849)	(724,368)	(669,693)	54,675	7.55%	
LAW ORDER PUBLIC SAFETY	(1,516,634)	(1,015,574)	(1,044,873)	(29,299)	(2.88)%	

DUCATION & WELFARE   (213.405) (143.8151) (135.844)   8.367   5.82%   4.6411   (806.727) (543.415) (511.833)   31.562   5.31%   4.96816   4.96818   4.96816   4.96818   4.96816   4.96818   4.96816   4.96818   4.96816   4.96818   4.96816   4.96818   4.9681		Current Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
COMMUNITY AMENITIES   C2,798,660    (27,612)   (13,894)   (13,718)   49,696   Less than anticipated maintenance works and utility experiments   C2,798,660    (1,877,333)   (1,378,615)   499,718   26,57%   Journal required at end of year to recognise waste mana salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green waste kerbside multi-not completed. Reduced salaries and wages allocation. Green salaries and wages allocation. Green waste kerbside multi-not of staff.  Depreciation.  Timing of roads maintenance works. Roads depreciation recognised at end of year allocation recognised. Timing of produced allocation. Perfect the maintenance and wages allocation. Waste to be transferred to waste. Timing of produced allocation. Perfect the maintenance and wages allocation. Waste to end of staff.  Depreciation.  Variation in depreciation to date – end of year allocation recognised. Timing of passet disposals.  Accrued inter	DUCATION & WELFARE	Column Co		(135,484)	8,367	5.82%	
OMMUNITY AMENITIES (2.798,660) (1.877,333) (1,378,615) 498,718 26.57% Journal required for Council houses to date. Journal required at end of year recognise waste mana salaries and wages allocation. Green waste kerbside multiple and completed. Reduced salaries and wages due to move of staff.  ECREATION & CULTURE (3,233,764) (2.168,653) (2,443,143) (274,490) (12,66)% Depreciation. Green waste kerbside multiple and completed. Per cognised at end of year of staff.  CONOMIC SERVICES (1,466,484) (980,942) (828,047) 152,895 15.59% Depreciation. Wages to be transferred to waste. Timing of cognised at end of year. Depreciation. Wages to be transferred to waste. Timing of single Benefit Tax quality payment. Less than budgete maintenance expenditure for Guilderton Caravan Park. Depreciation.  OTAL EXPENSES (16,608,199) (11,114,143) (9,814,492) 1,299,651 11.69% Depreciation.  OTAL EXPENSE (16,608,199) (11,114,143) (9,814,492) 1,299,651 11.69% Deprecia	EALTH	(808,727)	(543,415)	(511,833)	31,582	5.81%	
Salaries and wages allocation. Green waste kerbside multinot completed. Reduced salaries and wages due to move of staff.  RANSPORT (4,481,577) (2,990,714) (1,611,754) 1,378,960 46.11% Timing of roads maintenance works. Roads depreciation recognised at end of year.  CONOMIC SERVICES (1,466,484) (980,942) (828,047) 152,895 15.59% Finespherefit 78, quarterly payment. Less than budgete maintenance expenditure for Guilderton Caravan Park.  DOTAL EXPENSES (602,530) (402,337) (778,731) (376,394) (93,55)% Depreciation.  DIJUST ROCK DEPRECIATION 4,333,416 2,888,832 2,050,285 (838,547) (29,03)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  Timing of asset disposals.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,864 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  Timing of asset disposals.  DIJUST (ROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,864 (131,414) (86,30)% Variation in depreciation to date – end of year allocations required.  Timing of asset disposals.  Timing of plant replacement.  Timing of plant replacement.  Timing of years in requ	OUSING	(40,509)	(27,612)	(13,894)	13,718	49.68%	Less than anticipated maintenance works and utility expenses required for Council houses to date.
CECREATION & CULTURE   (3,233,764)   (2,168,653)   (2,443,143)   (274,490)   (12.66)%   Depreciation.   Depreciation.   Depreciation.   Depreciation.   Depreciation.   Depreciation.   Timing of roads maintenance works. Roads depreciation recognised at end of year.   CONOMIC SERVICES   (1,466,484)   (980,942)   (828,047)   152,895   15.59%   Depreciation.   September   Depreciation.   Depreciat	DMMUNITY AMENITIES -	(2,798,660)	(1,877,333)	(1,378,615)	498,718	26.57%	Journal required at end of year to recognise waste managem
RANSPORT (4,481,577) (2,990,714) (1,611,754) 1,378,960 46.11% Timing of roads maintenance works. Roads depreciation recognised at end of year.  CONOMIC SERVICES (1,466,484) (980,942) (828,047) 152,895 15.59% Depreciation. Wages to be transferred to waste. Timing of roads maintenance works. Roads depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of roads maintenance works. Roads depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of roads maintenance works. Roads depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of roads maintenance works. Roads depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of roads maintenance works. Roads depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of plant replacement. Parks. Depreciation recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised maintenance expenditure for Guilderton Caravan Park.  Depreciation. Wages to be transferred to waste. Timing of glant income recognised maintenance expenditure for Guilderton Caravan Park.  DIUST ACCEUDED FROM DISPOSALS 11.69%  Variation in depreciation to date — end of year allocation.							not completed. Reduced salaries and wages due to movemen
CONOMIC SERVICES (1,466,484) (980,942) (828,047) 152,895 15.59% recognised at end of year.  Depreciation. Wages to be transferred to waste. Timing of part income received.  The property & SERVICES (602,530) (402,337) (778,731) (376,394) (93.55)% Depreciation.  Total EXPENSES (16,608,199) (11,114,143) (9,814,492) 1,299,651 11.69% Depreciation.  DIJUST BACK DEPRECIATION 4,333,416 2,888,832 2,050,285 (838,547) (29,03)% Variation in depreciation to date – end of year allocations required.  DIJUST (PROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Timing of asset disposals.  DIJUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  MOUNT ATTRIBUTABLE TO OPERATING 1,833,814 4,327,829 5,426,840 1,039,327 24,01% ON-OPERATING GRANTS, SUBSIDIES AND ON-OPERATING GRANTS, SUBSIDIES AND SONGERS 20,911 84,288 111,156 26,868 31,88% Timing of grant income received.  DIRCHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60,41% Timing of works – Fire Shed (Gingin Colocation) URCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (10,19,622) 2,246,062 68,78% Timing in line with roads program.  Depreciation. Wages to be transferred to waste. Timing of plant replacement.  Pepringe Benefit Tax quarterly payment, Less than budgete maintenance expenditure for Guilderton Caravan Park.  Depreciation. Wages to be transferred to waste. Timing emine tready and the properties of the properties	CREATION & CULTURE	(3,233,764)	(2,168,653)	(2,443,143)	(274,490)	(12.66)%	Depreciation.
THER PROPERTY & SERVICES (602.530) (402.337) (778.731) (376.394) (93.55)% Depreciation.  OTAL EXPENSES (16.608.199) (11.114.143) (9.814.492) 1,299.651 11.69%  PENING ACTIVITIES EXCLUDED FROM UDGET  DIUST BACK DEPRECIATION 4,333.416 2.888.832 2.050.285 (838,547) (29.03)% Variation in depreciation to date – end of year allocations required.  DIUST (PROFIT)/LOSS ON ASSET DISPOSALS 119,132 152.268 20.854 (131.414) (86.30)% Timing of asset disposals.  DIUST ACCRUED INTEREST ON LOANS 0 0 29.842 -29.842 (100)% Accrued interest adjustment required.  MOUNT ATTRIBUTABLE TO OPERATING 1,833,814 4,327,829 5,426,840 1,039,327 24,01%  MOUNT ATTRIBUTABLE TO OPERATING 5,006,278 3,604,144 1,917.727 (1.686,417) (46.79)% Timing of grant income received.  ONT-PERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917.727 (1.686,417) (46.79)% Timing of plant replacement.  PROCEEDS FROM DISPOSAL OF ASSETS 200,911 84,288 111,156 26,868 31,88% Timing of plant replacement.  JIRCHASE LAND AND BUILDINGS (1.046,207) (636,976) (252,175) 384,801 60,41% Timing of works – Fire Shed (Gingin Colocation)  JIRCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1.019,622) 2,246,062 68,78% Timing in line with roads program.  JIRCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19,43% Lancelin Back Beach Carpark and Regional Playground - V	RANSPORT	(4,481,577)	(2,990,714)	(1,611,754)	1,378,960	46.11%	
OTAL EXPENSES (16,608,199) (11,114,143) (9,814,492) 1,299,651 11.69%  PENING ACTIVITIES EXCLUDED FROM UDGET  DUIST BACK DEPRECIATION 4,333,416 2,888,832 2,050,285 (838,547) (29,03)% Variation in depreciation to date – end of year allocations required.  DIUST (PROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Timing of asset disposals.  DIUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  DIUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  TIMING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46,79)% Timing of grant income received.  DIVENTING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46,79)% Timing of plant replacement.  DIVECHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60,41% Timing of works – Fire Shed (Gingin Colocation)  DIRCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68,78% Timing in line with roads program.  DIRCHASE INFRASTRUCTURE ASSETS – PARKS (755,348) (501,856) (404,351) 97,505 19,43% Lancelin Back Beach Carpark and Regional Playground - VALLAGED (10,000)	ONOMIC SERVICES	(1,466,484)	(980,942)	(828,047)	152,895	15.59%	Depreciation. Wages to be transferred to waste. Timing of Fringe Benefit Tax quarterly payment. Less than budgeted maintenance expenditure for Guilderton Caravan Park.
### PENING ACTIVITIES EXCLUDED FROM UDGET  DJUST BACK DEPRECIATION	THER PROPERTY & SERVICES	(602,530)	(402,337)	(778,731)	(376,394)	(93.55)%	Depreciation.
DJUST BACK DEPRECIATION 4,333,416 2,888,832 2,050,285 (838,547) (29,03)% Variation in depreciation to date – end of year allocations required.  DJUST (PROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86,30)% Timing of asset disposals.  DJUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  MOUNT ATTRIBUTABLE TO OPERATING 1,833,814 4,327,829 5,426,840 1,039,327 24,01%  NYESTING ACTIVITIES  ON-OPERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46,79)% Timing of grant income received.  DINCHASE INFRASTRUCTURE ASSETS 200,911 84,288 111,156 26,868 31.88% Timing of plant replacement.  JRCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% Timing in line with roads program.  JRCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19,43% Lancelin Back Beach Carpark and Regional Playground - v	OTAL EXPENSES	(16,608,199)	(11,114,143)	(9,814,492)	1,299,651	11.69%	A DESIGNATION OF THE PROPERTY AND ADDRESS OF
DJUST (PROFIT)/LOSS ON ASSET DISPOSALS 119,132 152,268 20,854 (131,414) (86.30)% Triming of asset disposals.  DJUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  MOUNT ATTRIBUTABLE TO OPERATING 1,833,814 4,327,829 5,426,840 1,039,327 24.01%  CTIVITIES  ON-OPERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46.79)% Triming of grant income received.  ONTRIBUTIONS  ROCEEDS FROM DISPOSAL OF ASSETS 200,911 84,288 111,156 26,868 31.88% Triming of plant replacement.  URCHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60.41% Triming of works - Fire Shed (Gingin Colocation)  URCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% Triming in line with roads program.  URCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19.43% Lancelin Back Beach Carpark and Regional Playground - v							
DJUST ACCRUED INTEREST ON LOANS 0 0 29,842 -29,842 (100)% Accrued interest adjustment required.  MOUNT ATTRIBUTABLE TO OPERATING 1,833,814 4,327,829 5,426,840 1,039,327 24.01%  NVESTING ACTIVITIES  ION-OPERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46.79)% Timing of grant income received.  ONTRIBUTIONS  ROCEEDS FROM DISPOSAL OF ASSETS 200,911 84,288 111,156 26,868 31.88% Timing of plant replacement.  URCHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60.41% Timing of works - Fire Shed (Gingin Colocation)  URCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% Timing in line with roads program.  URCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19.43% Lancelin Back Beach Carpark and Regional Playground - v	DJUST BACK DEPRECIATION	4,333,416	2,888.832	2,050,285	(838,547)	(29.03)%	Variation in depreciation to date – end of year allocations required.
MOUNT ATTRIBUTABLE TO OPERATING  1,833,814  4,327,829  5,426,840  1,039,327  24.01%  CTIVITIES  INVESTING ACTIVITIES  ON-OPERATING GRANTS, SUBSIDIES AND  5,006,278  3,604,144  1,917,727  (1,686,417)  (46.79)%  Timing of grant income received.  ONTRIBUTIONS  ROCEEDS FROM DISPOSAL OF ASSETS  200,911  84,288  111,156  26,868  31.88%  Timing of plant replacement.  URCHASE LAND AND BUILDINGS  (1,046,207)  (636,976)  (252,175)  384,801  60.41%  Timing of works − Fire Shed (Gingin Colocation)  URCHASE INFRASTRUCTURE ASSETS − ROADS  (5,354,890)  (3,265,684)  (1,019,622)  2,246,062  68.78%  Timing in line with roads program.  URCHASE INFRASTRUCTURE ASSETS − PARKS  (755,348)  (501,856)  (404,351)  97,505  19.43%  Lancelin Back Beach Carpark and Regional Playground − v	DJUST (PROFIT)/LOSS ON ASSET DISPOSALS	119,132	152,268	20,854	(131,414)	(86.30)%	Timing of asset disposals.
CTIVITIES  IVESTING ACTIVITIES  ON-OPERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46.79)% ▼ Timing of grant income received.  ONTRIBUTIONS  ROCEEDS FROM DISPOSAL OF ASSETS 200,911 84,288 111,156 26,868 31.88% ▼ Timing of plant replacement.  URCHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60.41% ▼ Timing of works − Fire Shed (Gingin Colocation)  URCHASE INFRASTRUCTURE ASSETS − ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% ▼ Timing in line with roads program.  URCHASE INFRASTRUCTURE ASSETS − PARKS (755,348) (501,856) (404,351) 97,505 19.43% ■ Lancelin Back Beach Carpark and Regional Playground − v	DJUST ACCRUED INTEREST ON LOANS	0	0	29,842	-29,842	(100)%	Accrued interest adjustment required.
ON-OPERATING GRANTS, SUBSIDIES AND 5,006,278 3,604,144 1,917,727 (1,686,417) (46.79)% Timing of grant income received.  ONTRIBUTIONS  ROCEEDS FROM DISPOSAL OF ASSETS 200,911 84,288 111,156 26,868 31.88% Timing of plant replacement.  URCHASE LAND AND BUILDINGS (1,046,207) (636,976) (252,175) 384,801 60.41% Timing of works – Fire Shed (Gingin Colocation)  URCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% Timing in line with roads program.  URCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19.43% Lancelin Back Beach Carpark and Regional Playground - v	CTIVITIES	1,833,814	4,327,829	5,426,840	1,039,327	24.01%	
JRCHASE INFRASTRUCTURE ASSETS - ROADS       (5,354,890)       (3,265,684)       (1,019,622)       2,246,062       68.78%       Timing in line with roads program.         JRCHASE INFRASTRUCTURE ASSETS - PARKS       (755,348)       (501,856)       (404,351)       97,505       19.43%       Lancelin Back Beach Carpark and Regional Playground - v	ON-OPERATING GRANTS, SUBSIDIES AND	5,006,278	3,604,144	1,917,727	(1,686,417)	(46.79)%	Timing of grant income received.
JRCHASE INFRASTRUCTURE ASSETS - ROADS (5,354,890) (3,265,684) (1,019,622) 2,246,062 68.78% Timing in line with roads program.  JRCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19.43% Lancelin Back Beach Carpark and Regional Playground - v	OCEEDS FROM DISPOSAL OF ASSETS	200,911	84,288	111,156	26,868	31.88%	Timing of plant replacement.
JRCHASE INFRASTRUCTURE ASSETS - PARKS (755,348) (501,856) (404,351) 97,505 19.43% Lancelin Back Beach Carpark and Regional Playground - v	IRCHASE LAND AND BUILDINGS	(1,046,207)	(636,976)	(252,175)	384,801	60.41%	Timing of works – Fire Shed (Gingin Colocation)
13.45.75 Edit Edit Sack Secti Carpaix and Regional Playglottic	IRCHASE INFRASTRUCTURE ASSETS - ROADS	(5,354,890)	(3,265,684)	(1,019,622)	2,246,062	68.78%	Timing in line with roads program.
not yet commenced.	IRCHASE INFRASTRUCTURE ASSETS - PARKS	(755,348)	(501,856)	(404,351)	97,505	19.43%	Lancelin Back Beach Carpark and Regional Playground - work not yet commenced.

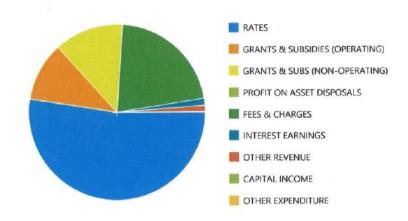
	Current Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
PURCHASE PLANT AND EQUIPMENT	(1,529,791)	(961,064)	(244,976)	716,089	74.51%	Refer to plant replacement program.
PURCHASE FURNITURE AND EQUIPMENT	(116,880)	(77,896)	(62,470)	15,426	19.80%	Timing of purchases.
PURCHASE FOOTPATHS	(165,009)	(110,000)	(106,690)	3,310	3.01%	
PURCHASE OTHER INFRASTRUCTURE	(54,000)	(35,984)	(30,241)	5,743	15.96%	Timing - Construction of Redfield Park Bus Shelter.
PURCHASE INFRASTRUCTURE SEWERAGE	(400,000)	(266,664)	0	266,664	100.00%	Guilderton Caravan Park Waste Water project not yet underwater
AMOUNT ATTRIBUTABLE TO INVESTING ACTIVITIES	(4,214,936)	(2,167,692)	(91,642)	2,076,051	95.77%	
FINANCING ACTIVITIES						
PROCEEDS FROM NEW DEBENTURES	455,740	314,068	0	(314,068)	(100.00)%	No loan applications have yet been completed.
PROCEEDS FROM SELF-SUPPORTING LOANS	6,353	4,232	0	(4,232)	(100.00)%	Gingin Sale Yards - invoice raised at end of year.
TRANSFERS TO RESERVES (RESTRICTED ASSETS)	(263,158)	(60,352)	(27,239)	33,113	54.87%	End of financial year process.
TRANSFERS FROM RESERVES (RESTRICTED ASSETS)	742,074	270,068	0	(270,068)	(100.00)%	End of financial year process.
REPAYMENT OF DEBENTURES	(205,446)	(160,108)	(159,402)	706	0.44%	
SELF-SUPPORTING LOANS RAISED	(55,740)	(47,404)	0	47,404	100.00%	Ledge Point Country Club Cool Room completed – timing of completion. Gingin Campdraft Club Power Supply – not yet progressed.
PROCEEDS FROM ADVANCES	11,986	7,984	11,986	4,002	50.12%	Higher than budgeted income received.
RESTRICTED CASH	179,319	89,544	15,227	(74,317)	(82.99)%	End of year process.
AMOUNT ATTRIBUTABLE TO FINANCING	871,128	418,032	(159,428)	(577,460)	(138.14)%	
CLOSING FUNDING SURPLUS(DEFICIT)	0	4,088,163	6,281,201	2,133,354	52.18%	

# Statement of Financial Activity by Nature & Type

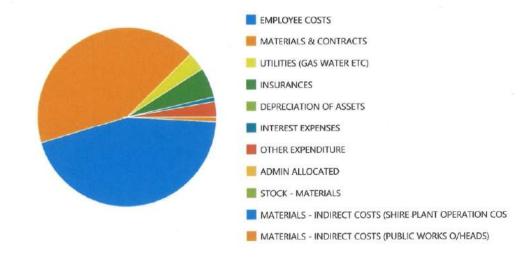
	Current Budget	Current YTD Budget	YTD Actual	Var \$	Var %
OPENING FUNDING SURPLUS (DEFICIT)	1,509,994	1,509,994	1,105,430	(404,564)	(26.79)%
REVENUE FROM OPERATING ACTIVITIES	1,505,554	1,505,557	,,,,,,,,,	***************************************	
RATES	7,937,123	7,928,107	7,895,417	(32,690)	(0.41)%
GRANTS & SUBSIDIES (OPERATING)	1,788,983	1,192,568	1,627,311	434,743	36.45%
PROFIT ON ASSET DISPOSALS	0,700,303	0	33,603	33,603	100%
FEES & CHARGES	3,879,071	3.024.045	3,219,548	195,503	6.46%
INTEREST EARNINGS	244,000	162,640	198,318	35,678	21.94%
OTHER REVENUE	140,288	93,512	162,644	69,132	73.93%
OTHER REVENUE	0	0	3,510	3,510	100%
TOTAL REVENUE	13,989,465	12,400,872	13,140,351	739,479	5.96%
EXPENDITURE FROM OPERATING ACTIVITIES	13,303,403	12,400,012	13,140,331	, 33, 113	3.3070
EMPLOYEE COSTS	(5,450,925)	(3,633,272)	(3,500,043)	133,229	3.67%
MATERIALS & CONTRACTS	(5,076,938)	(3,385,376)	(3,244,592)	140,784	4.16%
	(450,650)	(300,260)	(256,557)	43,703	14.56%
UTILITIES (GAS WATER ETC)	100000000000000000000000000000000000000	(272,054)	(416,810)	(144,756)	(53.21)%
INSURANCES	(355,268)	(2,888,832)	(2,050,285)	838,547	29.03%
DEPRECIATION OF ASSETS	(4,333,416)	(92,589)	(63,449)	29,140	31.47%
INTEREST EXPENSES	(130,778)	(462,424)	(225,759)	236,665	51.18%
OTHER EXPENDITURE	(691,091)	The second second		24,959	31.43%
LOSS ON SALE OF ASSETS	(119,132)	(79,416)	(54,457)	(2,080)	(2,600.00)%
ADMIN ALLOCATED	(1)	80	50000000		(100)%
STOCK - MATERIALS		COLOR DE COL	(540)	(540)	11.69%
TOTAL EXPENSES	(16,608,199)	(11,114,143)	(9,814,492)	1,299,651	11.09%
OPENING ACTIVITIES EXCLUDED FROM BUDGET		2 000 022	2 050 205	1030 F 13	(20.02)()
ADJUST BACK DEPRECIATION	4,333,416	2,888,832	2,050,285	(838,547)	(29.03)%
ADJUST (PROFIT)/LOSS ON ASSET DISPOSALS	119,132	152,268	20,854	(131,414)	(86.30)%
ADJUST ACCRUED INTEREST ON LOANS	0	0	29,842	(29,842)	(100)%
AMOUNT ATTRIBUTABLE TO OPERATING ACTIVITIES	1,833,814	4,327,829	5,426,840	1,039,327	24.01%
INVESTING ACTIVITIES	5 005 070	2501411	4 047 727	(4 505 447)	(46.70)0/
NON-OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS	5,006,278	3,604,144	1,917,727	(1,686,417)	(46.79)%
PROCEEDS FROM DISPOSAL OF ASSETS	200,911	84,288	111,156	26,868	31.88%
PURCHASE LAND AND BUILDINGS	(1,046,207)	(636,976)	(252,175)	384,801	60.41%
PURCHASE INFRASTRUCTURE ASSETS - ROADS	(5,354,890)	(3,265,684)	(1,019,622)	2,246,062	68.78%
PURCHASE INFRASTRUCTURE ASSETS - PARKS	(755,348)	(501,856)	(404,351)	97,505	19.43%
PURCHASE PLANT AND EQUIPMENT	(1,529,791)	(961,064)	(244,976)	716,089	74.51%
PURCHASE FURNITURE AND EQUIPMENT	(116,880)	(77,896)	(62,470)	15,426	19.80%
PURCHASE FOOTPATHS	(165,009)	(110,000)	(106,690)	3,310	3.01%
PURCHASE OTHER INFRASTRUCTURE	(54,000)	(35,984)	(30,241)	5,743	15.96%
PURCHASE INFRASTRUCTURE SEWERAGE	(400,000)	(266,664)	0	266,664	100.00%
AMOUNT ATTRIBUTABLE TO INVESTING ACTIVITIES	(4,214,936)	(2,167,692)	(91,642)	2,076,051	95.77%
FINANCING ACTIVITIES					
PROCEEDS FROM NEW DEBENTURES	455,740	314,068	0	(314,068)	(100.00)%
PROCEEDS FROM ADVANCES	11,986	7,984	11,986	4,002	50.12%
PROCEEDS FROM SELF-SUPPORTING LOANS	6,353	4,232	0	(4,232)	(100.00)%
TRANSFERS TO RESERVES (RESTRICTED ASSETS)	(263,158)	(60,352)	(27,239)	33,113	54.87%
TRANSFERS FROM RESERVES (RESTRICTED ASSETS)	742,074	270,068	0	(270,068)	(100.00)%
ADVANCES FROM COMMUNITY GROUPS					
REPAYMENT OF DEBENTURES	(205,446)	(160,108)	(159,402)	706	0.44%
SELF-SUPPORTING LOANS RAISED	(55,740)	(47,404)	0	47,404	100.00%
RESTRICTED CASH	179,319	89,544	15,227	(74,317)	(82.99)%
AMOUNT ATTRIBUTABLE TO FINANCING ACTIVITIES	871,128	418,032	(159,428)	(577,460)	(138.14)%
CLOSING FUNDING SURPLUS(DEFICIT)	0	4,088,163	6,281,201	2,133,354	52.18%



Operating Revenue



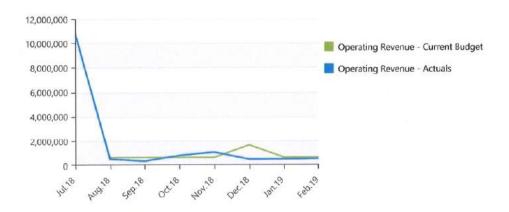
#### Operating Expenditure



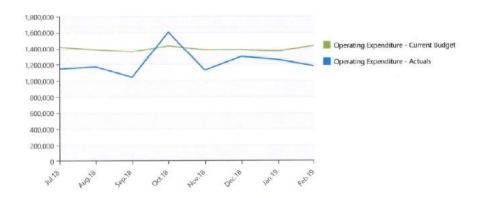


#### Shire of Gingin Financial Statement of Activity 1 July 2018 to 28 February 2019

# Operating Revenue - Budget V Actual



#### Operating Expenditure - Budget V Actual

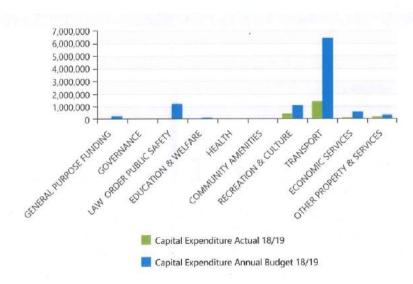


#### Shire of Gingin Financial Statement of Activity 1 July 2018 to 28 February 2019

#### Acquisition of Assets & Other Non-Capital Expenditure

#### By Program

	Capital Expenditure Actual 18/19	Capital Expenditure Annual Budget 18/19
GENERAL PURPOSE FUNDING	27,239	253,546
GOVERNANCE	1,291	2,500
LAW ORDER PUBLIC SAFETY	56,881	1,205,400
EDUCATION & WELFARE	0	105,000
HEALTH	26,066	28,066
COMMUNITY AMENITIES	40,845	74,362
RECREATION & CULTURE	473,560	1,060,387
TRANSPORT	1,397,045	6,339,240
ECONOMIC SERVICES	158,276	571,610
OTHER PROPERTY & SERVICES	173,650	306,357
TOTAL	2,354,852	9,946,468

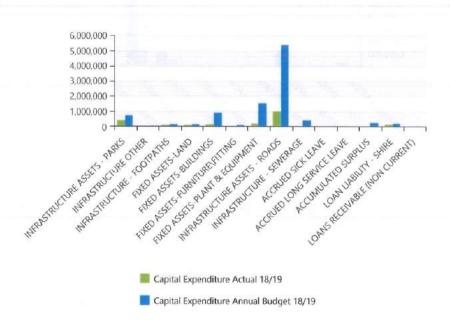


#### Shire of Gingin Financial Statement of Activity 1 July 2018 to 28 February 2019

#### Acquisition of Assets & Other Non-Capital Expenditure (cont.)

# By Nature & Type

	Capital Expenditure Actual 18/19	Capital Expenditure Annual Budget 18/19
ACCRUED SICK LEAVE	3,641	0
ACCRUED LONG SERVICE LEAVE	44,063	0
LOAN LIABILITY - SHIRE	159,402	205,446
FIXED ASSETS-LAND	119,152	170,000
FIXED ASSETS-BUILDINGS	133,024	876,207
FIXED ASSETS-FURNITURE\FITTING	62,470	116,880
FIXED ASSETS-PLANT & EQUIPMENT	244,976	1,529,791
INFRASTRUCTURE ASSETS - ROADS	1,019,622	5,354,890
HISTORY BOOKS	-17	0
INFRASTRUCTURE ASSETS - PARKS	404,351	755,348
INFRASTRUCTURE OTHER	30,241	54,000
INFRASTRUCTURE - FOOTPATHS	106,690	165,009
LOANS RECEIVABLE (NON CURRENT)	0	55,740
INFRASTRUCTURE - SEWERAGE	0	400,000
ACCUMULATED SURPLUS	27,239	263,158
TOTAL	2,354,852	9,946,468



# Disposal of Assets

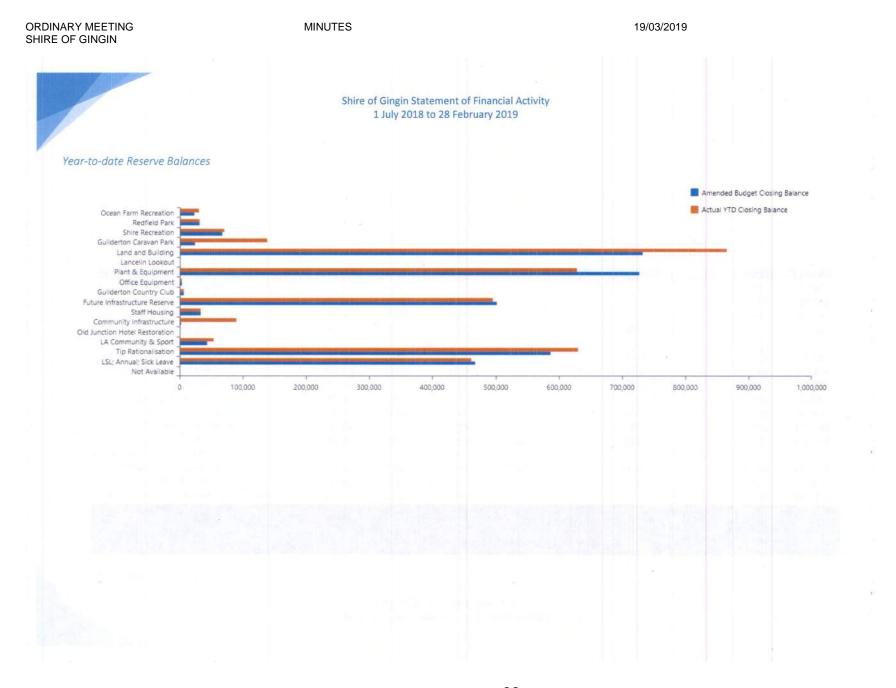
Disposal of Assets	Annual Budget	Actuals
DS LAW ORDER PUBLIC SAFETY		
SALE OF ASSETS	THE PERSON NAMED IN	
05118010 Sale Of Vehicles (Fire)		35,000
05318015 Sale Of Ranger's D/Cab Utility 4wd GG073	15,000	
05318020 Sale Of Ranger's D/Cab Utility 4wd GG074	15,000	
Total SALE OF ASSETS	30,000	35,000
LOSS ON SALE OF ASSETS		
05107400 Loss On Sale Of Assets		-35,615
05307400 Loss On Sale Of Assets	-26,798	
Total LOSS ON SALE OF ASSETS	-26,798	-35,615
Total 05 LAW ORDER PUBLIC SAFETY	3,202	-615
11 RECREATION & CULTURE		
LOSS ON SALE OF ASSETS		100
11307400 Loss On Sale Of Assets		-6,590
Total LOSS ON SALE OF ASSETS		-6,590
Total 11 RECREATION & CULTURE		-6,590
12 TRANSPORT		
SALE OF ASSETS		
12318203 Sale of Husqvana Mower Mower GG095	4,000	6,600
12318341 Sale of Trailer GG025	500	
12318918 Sale of Mitsubishi Bobtail GG060	25,455	
12318929 Sale of Kanga GG040	4,400	
12318945 Sale GG061 - Ford Utility	2,000	
12318954 Sale of Mitsubishi Canter Truck GG048	25,000	
12318960 Sale of Bomag Roller GG029	40,000	
Total SALE OF ASSETS	101,355	6,600
PROFIT ON SALE OF ASSETS	CONTRACT PARTY OF	
12317500 Profit On Sale Of Assets		1,092
Total PROFIT ON SALE OF ASSETS		1,092
LOSS ON SALE OF ASSETS		
12307400 Loss On Sale Of Assets	-92,334	-12,252
Total LOSS ON SALE OF ASSETS	-92,334	-12,252
Total 12 TRANSPORT	9,021	-4,560
14 OTHER PROPERTY & SERVICES	Name of the Party	
SALE OF ASSETS		
14218115 Sale Of Vehicle 0GG Chief Executive Officer	69,556	69,556
Total SALE OF ASSETS	69,556	69,556
PROFIT ON SALE OF ASSETS	A SERVICION MATERIALISM	THE STATE
14217500 Profit On Sale Of Assets		32,511
Total PROFIT ON SALE OF ASSETS		32,511
Total 14 OTHER PROPERTY & SERVICES	69,556	102,067
TOTAL	81,779	90,302

# Information on Borrowings

Loan	Opening Balance	New Loan	Principal (Actuals)	Principal (Budget)	Principal Outstanding (Actual)	Principal Outstanding (Budget)	Interest (Actuals)	Interest (Budget)
100 GG Medical Centre	416,984	0	26,066	26,066	390,918	390,918	11,635	11,635
103 GG Sale Yards	65,000	0	3,129	3,177	61,871	61,823	188	144
111 Wannamal West Road	600,000	0	16,565	16,565	583,435	583,435	30,195	30,195
114 Guilderton Country Club Extensions	650,000	0	15,256	15,529	634,744	634,471	15,513	15,241
120 Regional Hardcourt Facility	433,000	0	9,599	9,760	423,401	423,240	10,177	10,017
123 Lot 44 Weld St	300,000	0	7,066	7,189	292,934	292,811	6,939	6,816
124A Regional Hardcourt Facility	369,587	0	9,589	9,688	359,998	359,899	6,072	5,973
126 Loan 126 Gingin Aquatic Centre Tiling	150,000	0	13,836	13,836	136,164	136,164	3,724	3,724
127 Seabird Seawall Extension	213,897	0	19,797	19,797	194,100	194,100	4,523	4,523
128 Lancelin Caravan Park Assets	200,000	0	38,501	38,501	161,499	161,499	4,323	4,321
129 Gingin Horseman's Club Campdraft Facility Power Supply	0	30,740	0	0	0	30,740	0	0
130 Ledge Point Country Club Cool Room	0	25,000	0	0	0	25,000	0	0
131 Guilderton Caravan Park Waste Water	0	400,000	0	0	0	400,000	0	0
TOTAL	3,398,468	455,740	159,404	160,108	3,239,064	3,694,100	93,289	92,589

#### Cash-Backed Reserves

Reserve	Opening Balance	Amended Budget Interest Earned	Actual Interest Earned	Amended Budget Transfers-In (+)	Actual Transfers-In (+)	Amended Budget Transfers-Out (-)	Actual Transfers-Out (-)	Amended Budget Closing Balance	Actual YTD Closing Balance
01 LSL; Annual; Sick Leave and Staff Contingency	457,923	10,015	3,556					467,938	461,479
02 Office Equipment Reserve	2,841	342	22					3,183	2,863
03 Plant and Equipment Reserve	623,669	2,989	4,843	169,556		47,216		748,998	628,512
04 Lancelin Lookout Reserve									
05 Land and Buildings Reserve	858,805	17,852	6,669	8,600		152,900		732,357	865,474
06 Guilderton Caravan Park Reserve	137,226	1,198	1,066			115,000		23,424	138,292
07 Shire Recreation Development Reserve	69,861	23,989	543			27,302		66,548	70,404
08 Redfield Park Reserve	30,366	581	236					30,947	30,601
09 Ocean Farm Recreation Reserve	30,068	714	234			7,635		23,147	30,302
10 Tip Rationalisation Reserve	625,112	13,608	4,854			52,000		586,720	629,967
11 Lancelin Community Sport and Recreation Reserve	53,292	956	414			10,960		43,288	53,706
12 Old Junction Hotel Reserve									
13 Community Infrastructure	89,201	1,707	693			89,061		1,847	89,893
14 Staff Housing Reserve	32,383	620	251					33,003	32,634
15 Future Infrastructure Reserve	491,055	10,375	3,813					501,430	494,869
16 Guilderton Country Club Reserve	5,846	56	45					5,902	5,892
TOTAL	3,507,648	85,002	27,239	178,156		502,074		3,268,732	3,534,888



#### Net Current Assets

M01: Current Assets	Actual YTD (18/19)	Balance Forwarded
CURRENT ASSETS		
Cash - Unrestricted	4,213,520	87,251
Cash - Restricted Reserves	3,534,888	3,507,648
Cash - Restricted General	760,906	760,906
Rates - Current	2,122,504	1,098,376
Sundry Debtors	317,948	805,936
Inventories	62,403	30,494
Total Current Assets:	11,012,167	6,290,611
LESS: CURRENT LIABILITIES		
Payables	(248,178)	(652,090)
Employee Provisions	(947,900)	(995,603)
Accrued Interest on Loans	0	(29,840)
Long Term Borrowings (Current)	(46,042)	(205,444)
Total Current Liabilities:	(1,242,120)	(1,882,977)
Total	9,770,047	4,407,635
Less: Cash - Restricted Reserves	(3,534,888)	(3,507,648)
Add: Current Portion of Debentures	46,042	205,444
NET CURRENT ASSET POSITION	6,281,201	1,105,430

# Rating Information

Rating Informa		Rates - Property Count	Rateable Value	General Rate	Minimum Rate	Interim Rate	Ex Gratia Rates	Other	TOTAL
03010005 Grv - Townsites	8.5169	1,761	28,789,481	2,451,971					2,451,971
03010006 Grv - Other	8.5169	957	15,379,672	1,309,871					1,309,871
3010010 Uv - Rural	0.4960	454	272,021,000	1,349,224					1,349,224
3010015 Uv - Other	0.4960	1	2,800,000	13,888					13,888
3010018 Uv - Intensive	0.8821	123	63,980,000	564,368					564,368
3010025 Grv - Townsites	@ \$1017	870	6,627,132		884,790				884,790
03010026 Grv - Other	@ \$1017	718	3,971,566		730,206				730,206
3010030 Uv - Rural	@ \$1285	377	68,663,490		458,745				458,745
3010035 Uv - Other	@ \$1285	3	653,000		29,555				29,555
3010038 Uv - Intensive	@ \$2285	93	15,279,185		212,505				212,505
3010045 Interim Rates						-4,333			-4,333
3010046 Interims - Back R	lates					-21,359			-21,359
3010060 Uv - Ex Gratia Ra	tes						4,892		4,892
3010078 Concession - Inte	ensive							-88,906	-88,906
TOTAL	ALCOHOLD !	5,357	478,164,526	5,689,322	2,315,801	-25,692	4,892	-88,906	7,895,417

# Trust Funds

Trust Type	Opening Balance A	mount Received	Amount Paid	Closing Balance
CAR PARKING CASH IN LIEU	13,013.71			13,013.71
BOND	12,487.04		(5,000.00)	7,487.04
COMMUNITY GROUPS TRUST	4,292.94			4,292.94
DOROTHY WEDGE TRUST	6,326.70			6,326.70
EXCAVATION BONDS	26,095.92			26,095.92
FOOTPATH/CROSSOVER BONDS	5,981.80			5,981.80
LANDSCAPING BOND	49,767.08			49,767.08
OLD JUNCTION HOTEL TRUST	1,742.94			1,742.94
OTHER BONDS/TRUSTS	21,117.04	1,381.45	(728.91)	21,769.58
PUBLIC OPEN SPACE	45,715.17			45,715.17
REHABILITATION BONDS	85,831.51			85,831.51
SUBDIVISION BONDS	207,138.50			207,138.50
SECOND HAND DWELLINGS BONDS	47,638.50			47,638.50
STAFF TRUST	22,655.23	39,108.00	(53,568.00)	8,195.23
TRUST INTEREST	3,749.90	2,263.19	(52.42)	5,960.67
TREE PLANTING BONDS	5,456.22			5,456.22
TOTAL	559,010.20	42,752.64	(59,349.33)	542,413.51

# 11.2.2 REQUEST FOR REFUND OF OVERPAID RATES – LOT 3917 (733) MIMEGARRA ROAD, NILGEN

Location:	Lot 3917 (733) Mimegarra Road, Nilgen
File:	RAV/1; FIN/46-1819
Reporting Officer:	Ziggy Edwards - Acting Executive Manager Corporate & Community Services
Report Date:	19 March 2019

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To consider a refund of variation from Differential Minimum Rates to UV – Rural Minimum Rate for each year during the period 2011/12 to 2017/18 due to change of use from UV – Intensive to UV – Rural.

#### **BACKGROUND**

Local governments are empowered to impose differential general rates subject to Section 6.33 of the *Local Government Act 1995*.

In 2011/12 the Shire of Gingin introduced differential rating for intensive use properties and has continued to do so up to and including 2018/19.

In 2011/12 differential rates were raised for Lot 3917 (733) Mimegarra Road, Nilgen with no objection being received. Each subsequent year differential rates have been raised for this property with no objections being received.

Following receipt of the 2018/19 rates notice the landowner contacted the Shire's Rates Department questioning why they were being charged differential intensive rates as there was no intensive use being conducted on the land.

The owner of the property has completed a Statutory Declaration which states as follows:

That the rural property situated at 733 Mimegarra Road Nilgen in the Shire of Gingin Western Australia with rating assessment number A2119 is used for grazing only and not for intensive use as stated on the Rates Notices received issued by the Shire of Gingin in August 2018. The property has not been used for intensive agriculture and specifically not as a vineyard at any time and specifically not between 2011 and 2018, during which years the Shire of Gingin has classified the property as intensive for rating purposes.

It is pertinent to note Tagasaste (Lucerne Trees) is being grown on the property, however, this is not deemed to be an intensive use.

Section 6.39 (2)(b) of the *Local Government Act 1995* (the Act) provides Council with the ability to amend the rate record for the five years preceding the current financial year. Additionally, section 6.12 of the Act empowers Council to grant concessions or write off any amount of money that is owed to the local government.

At its meeting held 16 October 2018, Council considered an application for change of use from UV – Intensive to UV – Rural for the period 2011/12 to 2017/18, refund of variation from Differential Minimum Rates to UV – Rural Minimum Rate for each year during the period and correction of 2018/19 rates levied, pertaining to 733 Mimegarra Road, Nilgen.

Council considered the following options:

- 1. Amend the Rate Book and credit the difference between the differential intensive rates levied and the UV-Rural rates that would have been applicable for the five year period from 2013/14 to 2017/18, less the outstanding UV-Rural rates for 2018/19, equating to a credit of \$17,319.11 to Assessment 2119; and
- 2. Amend the 2018/19 rates levied from UV-Intensive to UV-Rural from 1 July 2018.

The following table shows the individual amounts comprising this proposal:

Year	Differential UV-	UV - Rural Rates	Difference
	Intensive Rates Levied	Levied	
	Levieu		
2013/14	\$6,892.76	\$3,593.49	(\$3,299.27)
2014/15	\$7,232.13	\$3,861.63	(\$3,370.50)
2015/16	\$7,761.78	\$4,137.05	(\$3,624.73)
2016/17	\$7,995.79	\$4,263.20	(\$3,732.59)
2017/18	\$8,135.42	\$4,337.35	(\$3,798.07)
	\$38,017.88	\$20,192.72	(\$17,825.16)
2018/19	Rates outstanding af	\$506.05	
	of rating		
	Total Credit (if appro	ved)	(\$17,319.11)

Council's resolution, as per below, supported the officer recommendation.

#### That Council:

- 1. Amend the Rate Book for Lot 3917 (733) Mimegarra Road, Nilgen from UV-Intensive to UV-Rural:
- 2. Credit the amount of \$17,319.11 to rates assessment 2112 for Lot 3917 (733) Mimegarra Road, Nilgen, being the difference in rates levied as a result of the change of use for the period 1 July 2013 to 30 June 2019; and
- 3. Require the credit to remain on the property assessment until offset by future years rates levied.

CARRIED BY ABSOLUTE MAJORITY

8-0

#### COMMENT

The property owner was advised of Council's resolution by email on 19 October 2018. In response to this correspondence, the Shire subsequently received a letter, objecting to Council's decision to credit the rate assessment. The correspondence suggested that Council had misinterpreted the Act and that the overpaid rates should be refunded to the property owners.

Upon receipt of this letter, Shire Officers requested legal advice from the Shire's legal advisory McLeod's Barristers & Solicitors who advised that their interpretation of the Act was consistent with Mr Mazza's and that a refund of the overpaid portion of rates must be paid to the property owners.

#### STATUTORY ENVIRONMENT

Local Government Act 1995
Part 6 – Financial management
Division 4 – General financial provisions
Section 6.12 – Power to defer, grant discounts, waive or write off debts
Division 6 – Rates and service charges
Section 6.39 – Rate record

#### POLICY IMPLICATIONS

Nil

#### **BUDGET IMPLICATIONS**

If Council accedes to this request and agrees with the Officer's recommendation, there will be an impact to the Budget of the amount of \$17,319.11. Savings would need to be identified during the mid-year Budget Review to offset this reduction in rates income.

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

Focus Area	Governance
Objective	5. To demonstrate effective leadership, governance and advocacy on
	behalf of community
Outcome	5.1 Values
	Our Organisational/business values are demonstrated in all that we do.
Strategy	Financial Management

# **VOTING REQUIREMENTS – ABSOLUTE MAJORITY**

#### OFFICER RECOMMENDATION

That Council refund to the owners of Lot 3917 (733) Mimegarra Road, Nilgen the amount of \$17,519.11, being the difference in rates levied on the property for the period 1 July 2013 to 30 June 2019 as a result of the change of use, from UV intensive to UV Rural.

#### SUBSTANTIVE MOTION WITH AMENDMENT

Number the officer recommendation as Part 1 of the resolution and insert a new Part 2.

MOVED: Councillor Elgin SECONDED: Councillor Rule

#### **That Council:**

- 1. Refund to the owners of Lot 3917 (733) Mimegarra Road, Nilgen the amount of \$17,519.11, being the difference in rates levied on the property for the period 1 July 2013 to 30 June 2019 as a result of the change of use, from UV intensive to UV Rural; and
- 2. Factor this amount in for payment at the commencement of the 2019/20 financial year.

CARRIED BY ABSOLUTE MAJORITY

7-0

#### **REASON FOR AMENDMENT**

Council was of the view that it would be appropriate to mention when the proponent will receive the refund.

# 11.3. PLANNING AND DEVELOPMENT

# 11.3.1 APPLICATION FOR AMENDED DEVELOPMENT APPROVAL - PROPOSED OUTBUILDING AND STORAGE ON LOT 22 (44) BELL ROAD, COONABIDGEE

File:	BLD/3729			
Applicant:	High Steel Buildings Pty Ltd			
Location:	Lot 22 (44) Bell Road, Coonabidgee			
Owners:	Abuklea Pty Ltd/ Loganville Pty Ltd			
Zoning:	Rural Industry			
WAPC No:	N/A			
Author:	James Bayliss –Statutory Planning Officer			
Reporting Officer:	Bob Kelly – Acting Executive Manager Regulatory and			
	Development Services			
Report Date:	22 March 2019			
Refer:	16 October 2018 Item 11.3.4			
	22 December 2018 Item 11.3.2			
Appendices:	Location Plan, Aerial and Applicant's Proposal			

#### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To consider an Application for Development Approval for an Outbuilding to be used for storage purposes on Lot 22 (44) Bell Road, Coonabidgee.

#### **BACKGROUND**

At the Ordinary Council Meeting on 16 October 2018 Council resolved to approve two outbuildings on the subject land resulting in an area of 988.8m<sup>2</sup>. The applicant then sought a minor amendment to the previous approval which included separating the two sheds by 10 metres to avoid additional building requirements that arose as part of the building permit process. Council resolved to support the amendment at its meeting on 22 December 2018.

The applicant now seeks a further amendment to the dimensions of 'Shed 2', specifically raising the wall height from 7.5m to 7.6m and the ridge height from 8.3m to 8.85m.

The subject property is 8.5 hectares in area and currently contains an existing outbuilding that is relatively dilapidated and appears to be unused. The eastern portion of the site consists of crushed limestone hardstand with the western portion having recently been cleared and backfilled to create further hardstand. The western portion of the site is subject to a compliance investigation for alleged unauthorised clearing of a conservation category wetland and does not form part of this approval.

The proposal includes two outbuilding's which consist of 'Shed 1' and 'Shed 2' as outlined on the submitted plans. Shed 1 is 26.5 metres in length and 18.7 metres in width equating to an area of 495.55m² and Shed 2 is 24 metres in length and 18.7 metres in width equating to an area of 448.80m². The height of Shed 1 remains unchanged with a 6m wall height and 7.6m ridge height.

The applicant seeks approval for the outbuilding to be used for storage purposes, with the items to be stored consisting predominantly of machinery associated with drilling operations, trucks, trailers and piping amongst other things.

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

#### COMMENT

#### Community Consultation

In this instance the only potentially affected adjoining land is owned by the Shire of Gingin (the Shire's Frogmore Depot). Therefore, the matter is presented for Council's consideration rather than undertaking the usual advertising process.

#### LOCAL PLANNING FRAMEWORK

# Local Planning Scheme No. 9 (LPS 9)

The subject lot is zoned Rural Industry under LPS 9. The objectives of the Rural Industry zone are to:

a) Provide for a range of industrial land uses on rural-living sized lots where people can work and live on the same property.

Storage is considered to be a 'D – Discretionary' use within the Rural Industry zoning.

The land use 'Storage' is defined as follows:

"Premises used for the storage of goods, equipment, plant or materials"

The proposal seeks approval to use the outbuilding for the purpose of storing equipment associated with the landowner's drilling company as advised above. An extract of the applicable development standards outlined in 'Table 2 - Site Requirements' for Rural Industry zoned land is provided below, with the proposed dimensions indicated:

Table 2 -	- Site Requi	rements				
Zone	Minimum S	Setback		Maximum Plot Ratio	Maximum Site	Minimum Landscaping
	Front	Side	Rear		Coverage	
Rural Industry	Permitted: 20m	Permitted: 20	Permitted: 20m	Permitted: 0.5	Permitted: 50%	5% of site area  – screening of non-residential uses from
	Provided: 20m	Provided: 20m	Provided: >20m	Provided: <0.5	Provided: <50%	street is required.
	Complies	Complies	Compiles	Complies	Complies	Provided: Nil  Condition to require screening

The application complies with the above requirements with the exception of screening provisions to the street. Clause 4.8.4.4 of LPS 9 states:

"A person shall not use land for open storage purposes unless it is screened from public view by a fence or wall to the satisfaction of the local government."

Given the site is used for open storage currently and the construction of the outbuilding will enable a significant amount of material to be relocated within the outbuilding, screening is not considered necessary at this stage. It is also noted that in this instance the subject site has very limited frontage to the primary street (Bell Road) due to the lot configuration and therefore screening will offer limited benefit to the visual amenity of the streetscape.

Once the outbuilding is erected and equipment relocated, it is intended to inspect the property to ascertain any areas being used for 'outdoor storage' which does require development approval. This will be addressed in conjunction with the compliance investigation relating to clearing undertaken to increase the hardstand area, which was to be used for outdoor storage purposes. It is considered appropriate to deal with any screening requirement as part of this process once the existing material has been rearranged and an appropriate screening location can be established.

#### Parking

'Table 3 – Parking Requirements' under LPS 9 designates the amount of parking required for the proposed land use based on the gross leasable area of the development. In this instance the land use 'storage' is not identified within Table 3 - Parking Requirements. As such clause 4.7.2.5 is applicable, which 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."

The parking ratio that is generally applied to a storage use is 1 bay per  $100m^2$  of gross leasable area, as per the 'warehouse' land use under Table 3, which Administration considers to be of a similar nature to that of storage. The total amount of leasable area is  $988m^2$ , therefore 9.8 (10) car bays are required in order to satisfy LPS 9. The proposed development indicates parking for five vehicles, however it is noted the area is considerable in size with ample room for sufficient parking should the need arise. The provision of parking is deemed appropriate due to the nature of the storage use and given that no members of the public will frequent the property.

Clause 4.7.2.1 provides for provisions for parking, access for loading and unloading of vehicles with an extract of the applicable points for mixed business zoned land outlined below:

- "(a) No land or buildings shall be developed unless provision is made for an area clear of the street for the purpose of loading or unloading goods or materials.
- (b) The local government will seek to ensure that the majority of servicing vehicles will be able to leave and enter the street in a forward direction.
- (c) Parking, loading and unloading and access, complete with necessary drainage, signs and marking as required by the local government, shall be provided prior to any occupation of the development or at such time as may be agreed.
- (d) External servicing areas shall be established and maintained to the satisfaction of the local government."

The loading/unloading of goods or materials can occur from any portion of the hardstand area or within the confines of the outbuilding which avoids the need to provide a dedicated loading bay. In the event the land use changes in the future, appropriate line marking can be undertaken at the time if it is deemed that a dedicated loading/unloading bay is required. The remaining provisions in relation to servicing are deemed to be satisfied.

The general development standards outlined in LPS 9 for the Rural Industry zone require all developments to provide at least one refuse storage area readily accessible to service vehicles and screened from view of a public street by a closed fence, wall or screen landscaping no less than 1.8 metres in height. The proposed land use will not generate waste and therefore the requirement for a refuse storage area is not considered to be necessary. Any future change of use development applications can address the provision of a refuse storage area if required.

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

SPP 3.7 provides a foundation for land use planning to address bushfire risk management. The subject lot is designated as being bushfire prone. Given the land use proposed is for storage purposes, the two outbuildings are deemed to be non-habitable. SPP 3.7 provides for exemptions for non-habitable structures from requiring a BAL assessment to be prepared. In the event the outbuildings are reclassified as habitable in the future then a BAL can be requested and addressed accordingly.

# **Summary**

Administration is of the view that the amendment does not generate any adverse issues and is supported.

In view of the above assessment, the outbuilding and storage use can be accommodated on the subject lot in the location proposed. The owner is aware that any future change to the land use or design layout may require a development application and any additional provisions of the Scheme that need to be satisfied will be addressed accordingly.

#### STATUTORY ENVIRONMENT

Local Planning Scheme No.9
Part 3 – Zones and the Use of Land
3.2.5 Objectives of the Zones
3.4.2 Interpretation of Zoning Table
Part 4 – General Development Requirements
4.8.4 – Rural Industry Zone

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET IMPLICATIONS**

Nil

#### STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2017-2027

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

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Johnson

That Council grant Amended Development Approval for the proposed Outbuilding and Storage on Lot 44 (22) Bell Road, Coonabidgee 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. Stormwater from all roofed and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin;
- 3. The finished floor level of the Outbuilding must be set at the existing average natural ground level to the satisfaction of the Shire of Gingin;
- 4. The outbuilding shall not be used for human habitation; and
- 5. The existing crossover shall be upgraded to the satisfaction of the Shire of Gingin.

#### **Advice Notes**

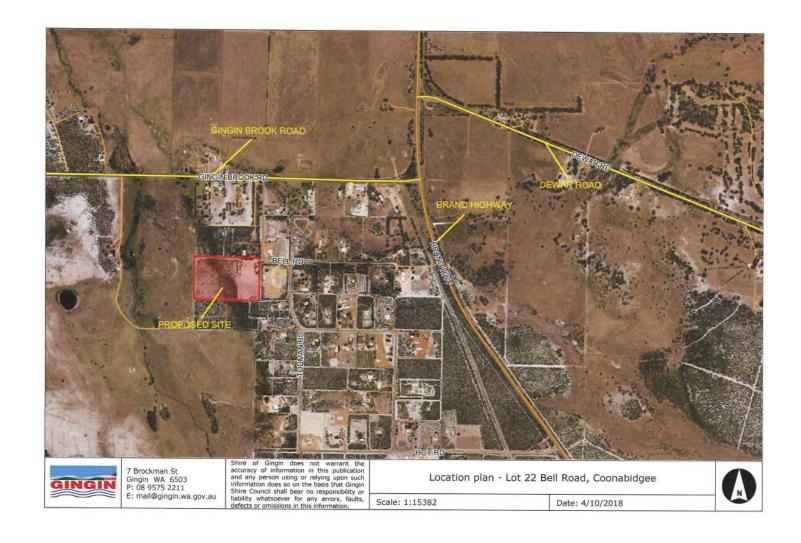
- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the Planning and Development Act 2005;
- Note 2: If the development subject to this approval is not substantially commenced 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: The existing vegetation on the property may be associated with a Conservation Category Wetland. Please contact the Department of Water and Environmental Regulation (DWER) prior to the removal of any vegetation;
- Note 6: 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 7: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property;
- Note 8: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment;
- Note 9: Please note the outdoor storage occurring at the subject property will require retrospective development approval issued by the Shire of Gingin; and
- Note 10: Any required upgrades to the existing crossover are subject to the approval of the Shire of Gingin. A "Vehicle Crossover Application" is required to be submitted and approved prior to the commencement of any remedial works to the crossover.

**CARRIED UNANIMOUSLY** 

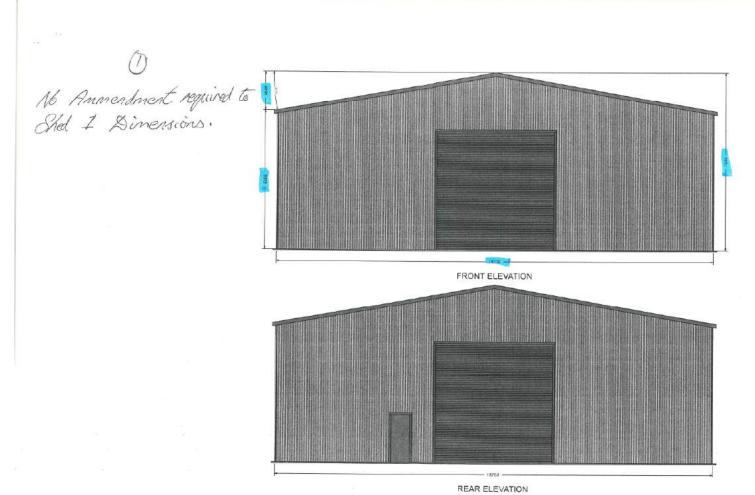
ORDINARY MEETING

SHIRE OF GINGIN











23 Corbett ST, Gnowangerup Western Australia 6335 T; 1300 74 1300 | F; 1300 75 13 www.shedspan.com.au

CIVIL 6 STRUCTURAL ENGINEERS
CLIENT Drilling Contractors Australia Trevo

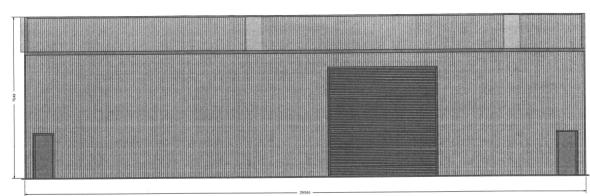
14/02/2019

CLIENT Drilling Contractors Australia Trevor & Mafcerti NG TITLE, End Elevations

SCALE 1:104.899 DATE 15-02-2019

Job Number Highline-180529065005





LEFT ELEVATION

RIGHT ELEVATION



23 Corbett ST, Gnowangerup Western Australia 6335 T: 1300 74 1300 | F: 1300 75 1 www.shedspan.com.au

CAMILO PINEDA MORENO
Beng MEAUXI RPENG
RPEN 15602 TEP EC4\*817 (MC)

EMERALD

END BOTTO FUT TO Service To 14/02/2019

CIVIL 6 STRUCTURAL ENGINEERS

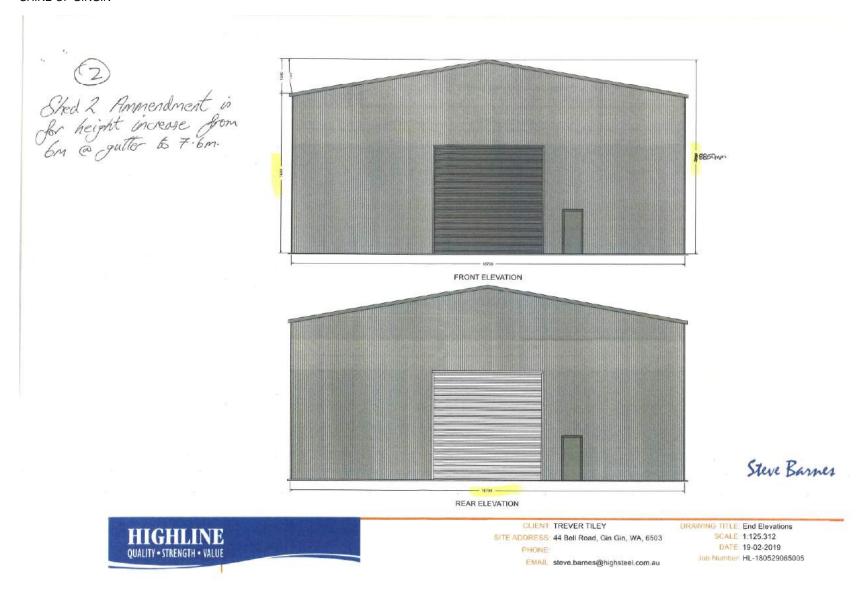
CLIENT: Drilling Contractors Australia Trevo

COMMERCIAL INILISTRAL PESIDENTIAL FORENSE STEE, DETAILINE: ADDRESS 44 Bell Road, Gin Gin, WA, 6503

PHONE

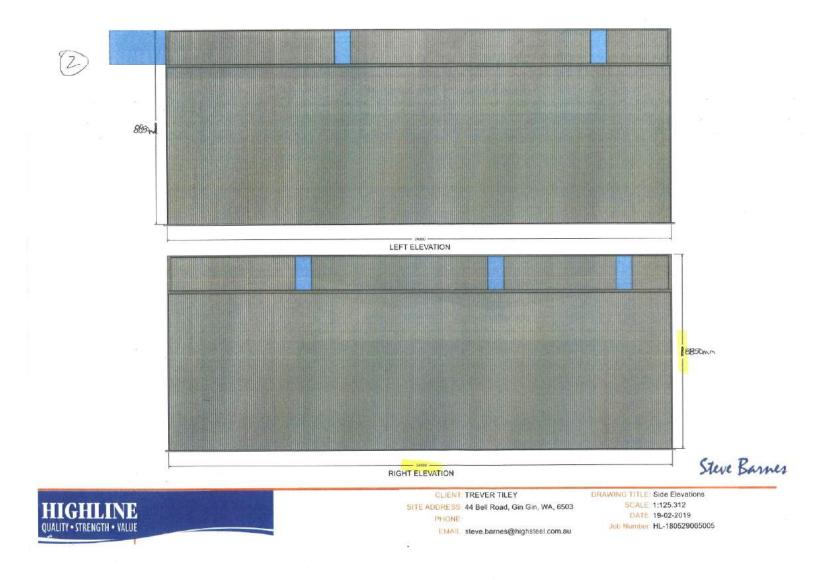
EMAIL steve.barnes@highsteel.com.au

CLIENT: Drilling Contractors Australia Trevor & Marching TITLE: Side Elevations SCALE: 1:118.514 DATE: 15-02-2019 Job Number, Highline-180529065005



ORDINARY MEETING MINUTES SHIRE OF GINGIN

S 19/03/2019



# 11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED STAFF WORKERS ACCOMMODATION ON LOT 212 (1180) COWALLA ROAD, WANERIE

File:	BLD/5101		
Applicant:	Grant Trethewey		
Location:	Lot 212 Cowalla Road, Wanerie		
Owner:	Grant Trethewey		
Zoning:	General Rural		
WAPC No:	N/A		
Author:	James Bayliss- Statutory Planning Officer		
Reporting Officer:	Bob Kelly – Acting Executive Manager Regulatory and		
	Development Services		
Report Date:	19 March 2019		
Refer	15 April 2014 Item 11.1.3		
Appendices	Location Plan/Aerial Photograph		
	2. Development Plans		
	3. Previous Approval		
	4. Schedule of Submissions		

### **DISCLOSURES OF INTEREST**

Nil

#### **PURPOSE**

To consider an Application for Development Approval for proposed Staff/Workers' Accommodation on Lot 212 (1180) Cowalla Road, Wanerie.

#### BACKGROUND

The subject property currently contains an Irrigated Horticulture (Mangoes) use which was approved by Council on 25 July 2002. On 15 April 2014, Council resolved to approve Staff/Workers Accommodation. This approval was never implemented by the applicant and has since lapsed.

The current proposal for Staff/Workers' Accommodation varies somewhat from the previous approval and has been assessed as an entirely new proposal. The applicant has advised that the primary use of the dwelling will be to accommodate a relative on a permanent basis and it would therefore generally be considered as an ancillary dwelling. This notwithstanding, the proponent would like the flexibility to house temporary workers associated with the irrigated horticulture use being undertaken on the property. As such, staff/workers' accommodation is deemed the most appropriate land use classification to provide this flexibility to the applicant.

A location plan and aerial photograph are included as **Appendix 1**. The proposed development plans and previous approval are included as **Appendices 2 and 3** respectively.

### COMMENT

SHIRE OF GINGIN

# 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 one general comment which requested the same conditions imposed on the earlier approval be transferred to the current application.

A Schedule of Submissions and Recommended Responses has been provided as **Appendix 4.** 

# **PLANNING FRAMEWORK**

# Local Planning Scheme No 9 (LPS 9)

The subject lot is zoned General Rural 20 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.

The land use 'Staff/Workers Accommodation' 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 zoning table designates 'Staff/Workers Accommodation' as an "A" use in the General Rural zone, meaning the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;

# **General Rural Development Standards**

The following table outlines development standards applicable to the General Rural Zone.

19/03/2019

	[
Part 4 - General Development	Officer comment
Requirements	
4.8.6.2 No more than one single dwelling	It is acknowledged that seasonal picking
house shall be erected on a lot zoned	results in agriculture intensive land uses
General Rural unless the Local	employing temporary workers for a period of
Government is satisfied that an additional	time. The officer is satisfied that it is
house is necessary or desirable for the	desirable for land uses of this nature to
continuation of a bona fide agricultural	accommodate employees on the subject
activity, and is satisfied that the land can be	site without any adverse impacts to
adequately serviced, surrounding amenity	adjoining landowners.
is not adversely impacted on or any other	
consideration it considers relevant.	
4.8.6.3 The presence of more than one	N/A.
dwelling unit on a lot in the General Rural	
zone shall not be considered by itself to be	
sufficient grounds for subdivision.	
4.8.6.4 No dwelling shall be erected unless	An appropriate condition can be imposed to
the lot is connected to a reticulated water	address this clause.
supply or the local government is satisfied	
that there is an adequate potable water	
supply consisting of a roof water tank of not	
less than 90,000 litres, a bore, well, spring,	
soak or dam.	
4.8.6.5 Fencing shall conform to the	N/A. No fencing proposed.
standard of rural fencing in the district, and	
the use of solid panel fencings except in the	
immediate vicinity of the residence will only	
be permitted with the approval of local	
government.	The decision of the second
4.8.6.6 No natural vegetation shall be	The development area is clear of
removed without prior written approval of	vegetation.
local government, unless its removal is	
necessary for construction of a building,	
firebreak or boundary fence.	No advaga viewal improata requit from the
4.8.6.7 The siting and design of any	No adverse visual impacts result from the
buildings on any lot should not significantly	proposed dwelling due to the large setbacks
impact on the natural vegetation or visual	provided.
landscape amenity of the site.	NI/A
4.8.6.8 The keeping of horses, sheep, goats	N/A.
and other grazing animals, where	
permitted, shall not exceed the stocking	
rates recommended by Agriculture Western	
Australia for the applicable pasture types.	NI/A
4.8.6.9 Local government may, at its	N/A
discretion, permit the land uses "retirement	
village" and "aged persons	

accommodation" in the General Rural zone, but only within the Gingin townsite (as defined by the suburb boundary), and
subject to appropriate zoning of the site at a
later stage.

### Table 2 - Site Requirements

In accordance with Table 2 of LPS 9, all development shall be set back a minimum 20 metres from all lot boundaries. The proposed development is set back beyond 20 metres and therefore satisfies the applicable setback provisions.

# Further comments

It should be noted that the maximum number of inhabitants of the staff/workers' accommodation is six and they must be directly employed by the existing use operating on the site. Any departure from this would result in a reclassification of the dwelling and further approval would be required from the local government.

# **Summary**

In view of the above assessment Administration is of the view that the proposed staff/workers' accommodation is able to satisfy the applicable planning framework and conditional support is recommended.

### STATUTORY ENVIRONMENT

Local Planning Scheme No. 9
Part 3 – Zones and the Use of Land
3.2.7 General Rural Zone
3.3 Zoning Table
Part 4 – General Development Requirements
4.8.6 - General Rural Zone
Schedule 1 – Definitions

### **POLICY IMPLICATIONS**

Nil

#### **BUDGET IMPLICATIONS**

Nil

## STRATEGIC IMPLICATIONS

SHIRE OF GINGIN

Shire of Gingin Strategic Community Plan 2017-2027

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

### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule SECONDED: Councillor Johnson

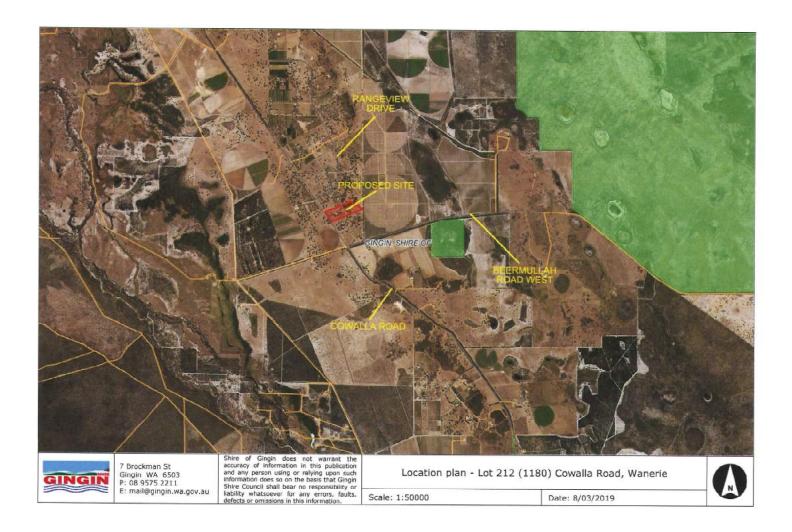
That Council grant Development Approval for Staff/Workers' Accommodation on Lot 212 (1180) Cowalla Road, Wanerie subject to the following conditions:

- 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 'Staff/Workers' Accommodation' only and shall comply with the definition prescribed in Local Planning Scheme No. 9 (as amended) at all times;
- 3. The Staff/Workers' Accommodation shall only accommodate up to six persons at any one time;
- 4. The landowner is required to keep up to date records of employees residing in the Staff/Workers' Accommodation and shall provide the Shire of Gingin with a copy of such records within 14 days upon request; and
- 5. The Staff/Workers' Accommodation shall be connected to an adequate potable water supply consisting of a roof water tank of not less than 90,000 litres, a bore, well, spring, soak or dam.

# **Advice Notes**

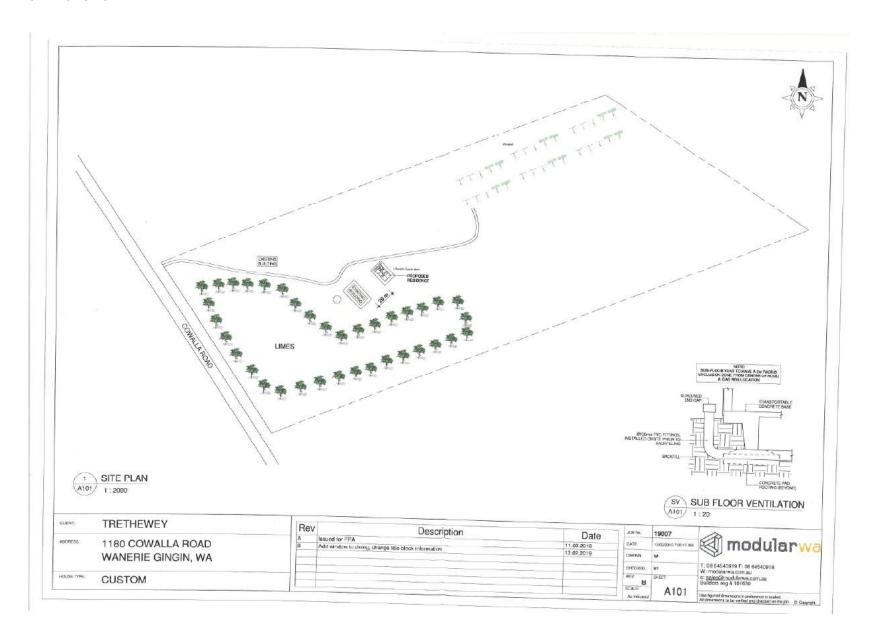
- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision under Part 14 of the *Planning and Development Act 2005*;
- Note 2: If the development subject to this approval is not substantially commenced 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 approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licences required under any other law, and to commence and carry out development in accordance with all relevant laws;
- Note 6: The operation will be required to comply with the *Environmental Protection* (Noise) Regulations 1997;
- Note 7: It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property;
- Note 8: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment;
- Note 9: The definition of Staff/Workers Accommodation for the purpose of this approval is 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".

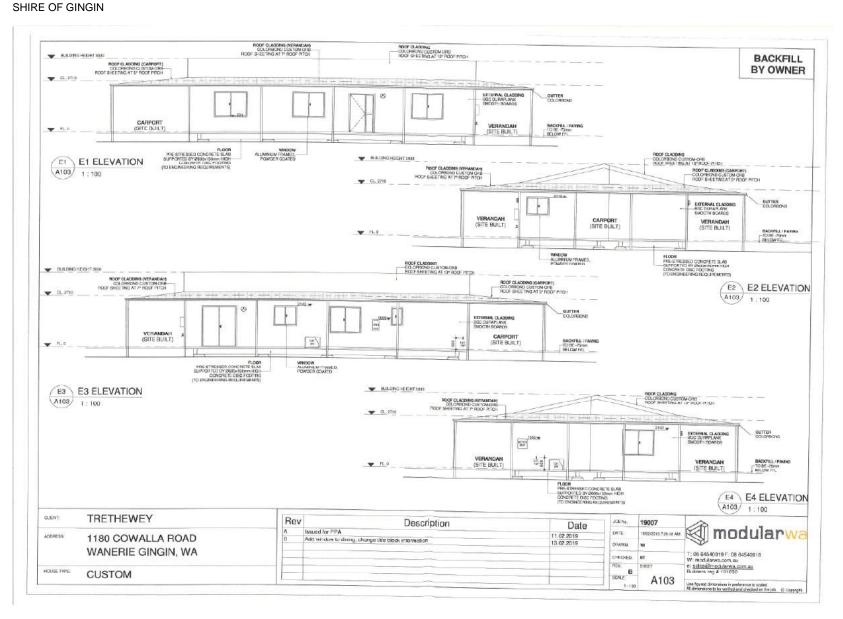
**CARRIED UNANIMOUSLY** 

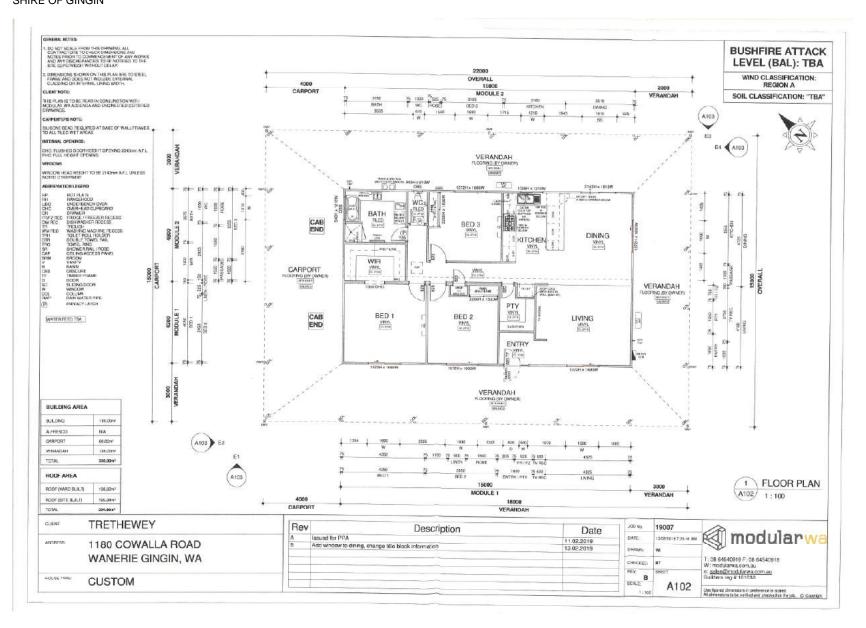




MINUTES









OCP83004

7 Brockman Street, Gingin, Western Australia 6503 Telephone (08) 9575 2211 Facsimile (08) 9575 2121 Email: mail@gingin.wa.gov.au Web: www.gingin.wa.gov.au

Mr G R Trethewey 1180 Cowalla Road WANERIE WA 6503

Dear Mr Trethewey

APPLICATION FOR PLANNING APPROVAL - PROPOSED STAFF/WORKERS' ACCOMMODATION ON LOT 212 COWALLA ROAD, WANERIE

I refer to your Application for Planning Approval received by the Shire on 7 February 2014, for the abovementioned development.

Council considered your proposal at its Meeting on 15 April 2014, and I am pleased to advise that your Application has been approved, subject to the conditions that are outlined on the attached Schedule 9: Notice of Determination on Application for Planning Approval.

If you are aggrieved by any condition imposed in this Approval, you may apply for reconsideration with the Council within 28 days of this approval or apply for a review to the State Administrative Tribunal, pursuant to the provisions of Part 14 of the *Planning and Development Act*, 2005.

I trust this is to your satisfaction and should you have any queries, please contact the Planning Department.

Yours sincerely

**KEVIN TANG** 

**MANAGER STATUTORY PLANNING** 

LE:Ivo

Our ref:

BLD/5101 P1093

Enc:

Schedule 9: Notice of Determination on Application for Planning Approval & Approved

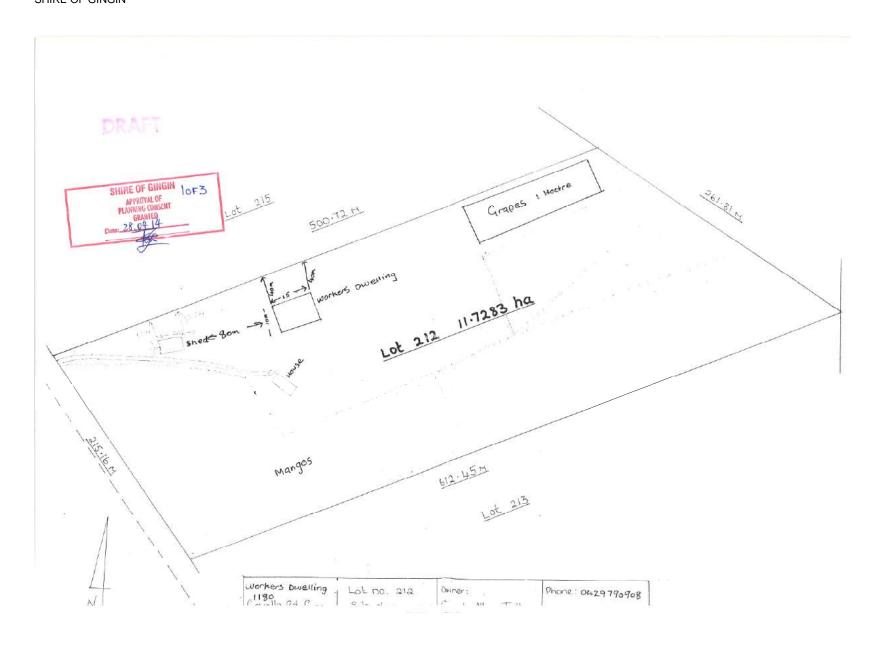
Plans

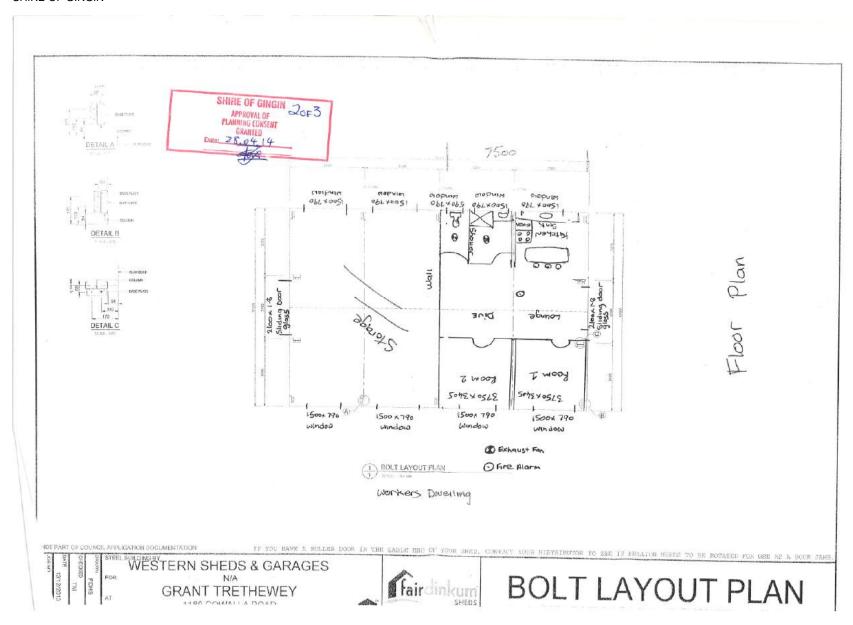
6. The Applicant, prior to the commencement of development, shall prepare and lodge a notification on the land title of the subject lot advising the Staff/Workers' Accommodation on the land is to be used in accordance with the development approval issued by the Shire of Gingin.

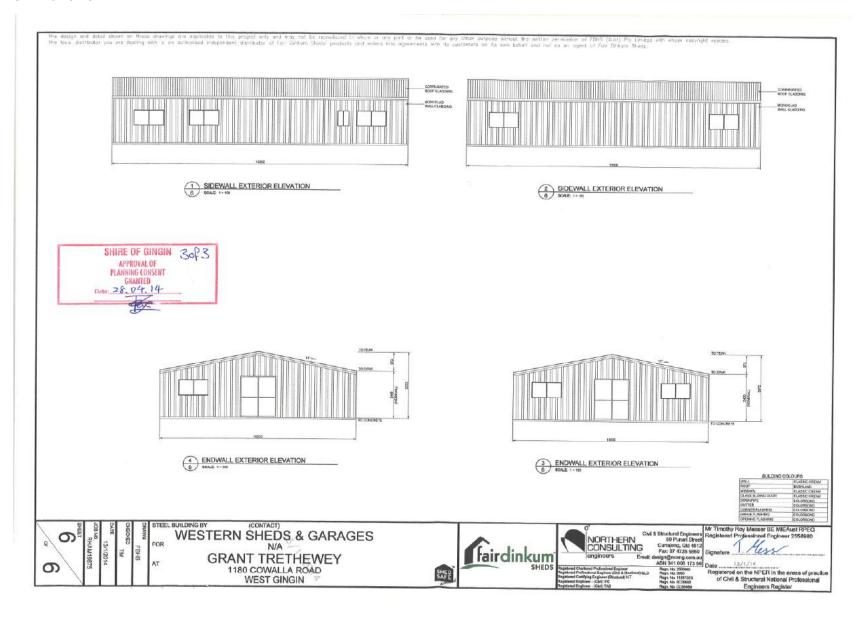
#### **Advice Notes**

- A. 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 the Health Act 1911 which are to be approved by the Shire of Gingin's Manager Building Services and/or Executive Manager Regulatory Services prior to issuing a Building Permit.
- B. The approval of the Health Department of Western Australia is required for onsite effluent disposal for the development, prior to the commencement of works.
- C. This approval is for Staff/Workers Accommodation only.
- Fire Separation will be required at the development between the Storage and Staff/Workers' Accommodation.
- Note 1: If the development, the subject of this Approval, is not substantially commenced within a period of 2 years, or such other period as specified in the Approval after the date of the determination, the Approval shall lapse and be of no further effect.
- Note 2: Where an Approval has so lapsed, no development shall be carried out without the further consent of the Local Government having first been sought and obtained.
- Note 3: If the Applicant is aggrieved by a Refusal to Approve his/her application or, where Approved, is aggrieved by any Condition imposed in that Approval, he/she may apply for a Review to the State Administrative Tribunal, pursuant to the provisions of Part 14 of the *Planning and Development Act*, 2005 against such refusal or imposition of such aggrieved Condition.
- Note 4: Such application for Review must be lodged within 60 days of the determination via the form available from the State Administrative Tribunal, Level 4/12 St Georges Terrace, Perth or GPO Box U1991, Perth WA 6845 or <a href="www.sat.justice.wa.gov.au">www.sat.justice.wa.gov.au</a> or from Council's Offices and should be accompanied by the relevant fee detailed in Schedule 18 of the State Administrative Tribunal Regulations, 2004.

MANAGER STATUTORY PLANNING 28 April 2014







# SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

# APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED STAFF WORKERS ACCOMMODATION AT LOT 212 (1180) COWALLA ROAD, WANERIE

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	The Submitter makes the following general comment:	
		"Previous approval granted 15th April 2014 (BLD/5101 P1093) would request Council impose the same conditions on this application (attached). No indication on included plans actual size of the dwelling. We understand they need to accommodate an elderly parent but given that the vineyard has the water off and vines cut off I doubt 4-6 people would be exclusively employed on the lot."	

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

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

### **DISCLOSURES OF INTEREST**

Nil

### **PURPOSE**

SHIRE OF GINGIN

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. As a result of the proposed alterations, the outbuilding is deemed to be over height. The subject lot is 1055.4m² in area and situated on the corner of Prince Street and De Burgh Street, Ledge Point. Access to the outbuilding is derived from Prince Street.

The existing outbuilding is 12.4 metres in length and 7.5 metres in width, equating to an area of 93m<sup>2</sup>. The proposed alterations include raising the existing wall height from 3.6 metres to 4.8 metres and the existing ridge height from 4.82 metres to 6.32 metres. The outbuilding has a nil side (southern) boundary setback.

It should be noted the landowner has commenced construction works without the required approvals issued by the Shire. Administration has advised the landowner to cease work until the relevant approvals have been obtained. It should also be noted the building contractor is a registered builder and therefore should be fully aware of the approvals process.

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.

The proposal also seeks variations to Local Planning Policy 2.1 – Residential Outbuildings (LPP 2.1) with respect to the proposed wall height and ridge height. As such, Council consideration is required.

A location plan and a copy of the applicant's proposal are attached as **Appendices 1** and **2**, respectively. Site photographs are provided at **Appendix 3** showing the partially constructed rear wall.

## 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 three written comments objecting to the proposed development.

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

#### 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.

It is the officer's opinion that the proposal does not satisfy this objective.

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 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, particularly if outbuildings of this nature are common within the residential zone.

# State Planning Policy 3.1 - Residential Design Codes of Western Australia

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:

SHIRE OF GINGIN

'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 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 4.82 metres tapering to a ridge height of 6.32 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. This results in the existing streetscape likely being adversely impacted by way of visual bulk as a result of the proposed development. It is also noted the outbuilding currently has a nil side setback. This exacerbates undesirable visual bulk on the adjoining property to the south.

The assessment also acknowledges the impact of the proposed development on not only the amenity of the existing streetscape, but the likely future amenity of the locality which is shaped by the R-Codes and LPP 2.1. Should structures that are incidental to the predominant residential building be permitted to a scale of this nature on residential zoned land, the future amenity of the locality is unlikely to resemble a residential environment.

The officer is of the view that the proposed development does not satisfy the relevant design principle outlined above. Furthermore, Local Planning Policy 2.1 (LPP 2.1) considered the Design Principles when determining the maximum dimensions for outbuildings within the Shire and it should be noted that the application varies the maximum wall and ridge heights.

# <u>Local Planning Policy 2.1 – Residential Outbuildings</u>

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
Ledge Point	Area	120m <sup>2</sup>	93m <sup>2</sup> - compliant
(1001m <sup>2</sup> -4000m <sup>2</sup> )	Wall Height	3.6m	4.8m – non-compliant
	Overall Height	5.0m	6.32 – non-compliant

The proposed outbuilding exceeds the maximum wall height by 1.2 metres and the ridge height by 1.32 metres. There are no relevant objectives under LPP 2.1 to assess the variations against, therefore the primary objectives are those outlined under LPS 9 within the Residential zone.

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 dimensions in the above table were created having regard to the Design Principles outlined in the R-Codes and the associated impacts in terms of building bulk/scale. The maximum standards were created to prevent unwanted built form and prescribe standards to prevent excessively large outbuildings being constructed.

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

In accordance with Schedule 2, Part 9, Clause 67 of the deemed provisions, the local government is to have due regard to a range of matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application.

Consideration has been given to the following matters outlined in the deemed provisions with officer comments:

(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

### Comment:

As outlined above, the proposed development does not satisfy objective (b) of the Residential zone under LPS 9.

(g) Any local planning policy for the Scheme area;

### Comment:

As outlined above, the proposed development does not comply with Clause 3.5 - Scale of Outbuilding Development outlined in LPP 2.1.

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

#### Comment:

The matters contained within the above clause have been addressed within the preceding report. In summary, the setback of the outbuilding contributes to adverse impacts on residents of adjoining land and visibility to the streetscape. The detrimental impacts are a result of the excessively large scale of the outbuilding.

### Conclusion

In summary, the proposal seeks a variation to LPP 2.1 and the R-Codes. The variations sought are not considered to satisfy the relevant objective of LPS 9, do not satisfy the relevant design principles of the R-codes nor accord with the intent of LPP 2.1. The proposal is therefore not 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 2017-2027

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

### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

### COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson SECONDED: Councillor Peczka

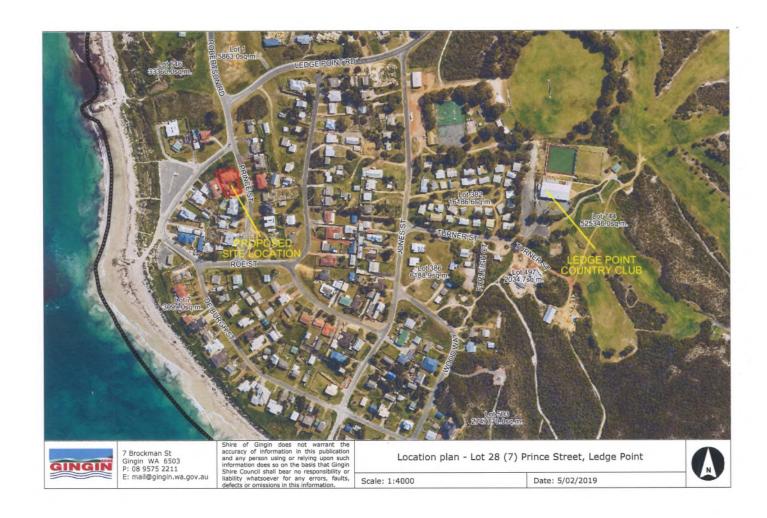
That Council refuse Development Approval for a proposed over height outbuilding on Lot 28 (7) Prince Street, Ledge Point under clause 68 (2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- 1. The scale and setback of the outbuilding does not demonstrate compliance with the Design Principles of Clause 5.4.3 of State Planning Policy 3.1 Residential Design Codes of Western Australia;
- 2. The scale of the outbuilding does not satisfy the objectives of the Residential zone under Local Planning Scheme No. 9 nor does it satisfy Local Planning Policy 2.1 Residential Outbuildings; and
- 3. The scale and setback of the outbuilding do not satisfy clause 67 (m) of the deemed provisions.

# **Advice Notes**

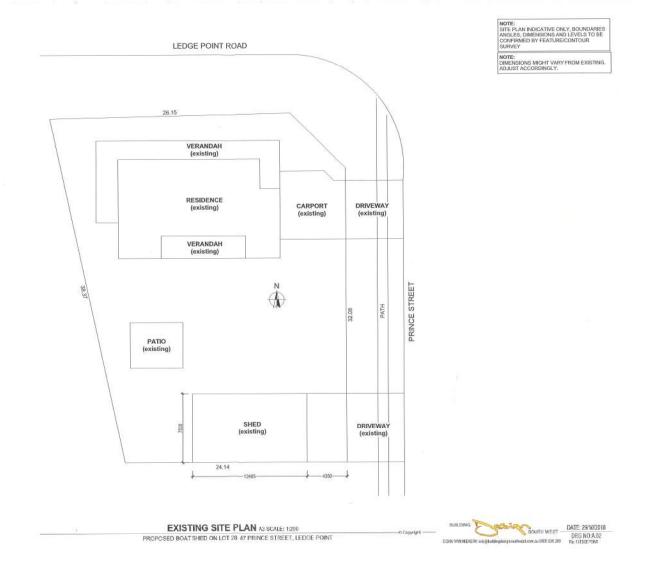
Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.

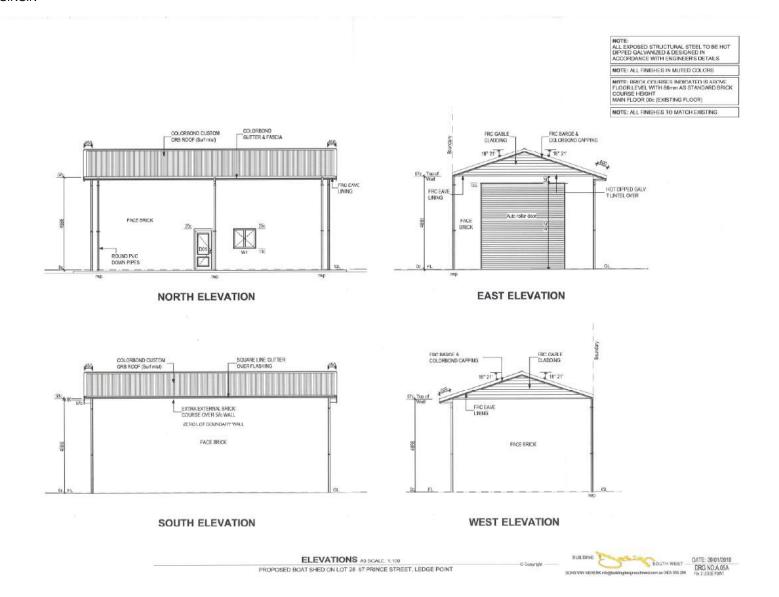
**CARRIED UNANIMOUSLY** 





## **APPENDIX 2**

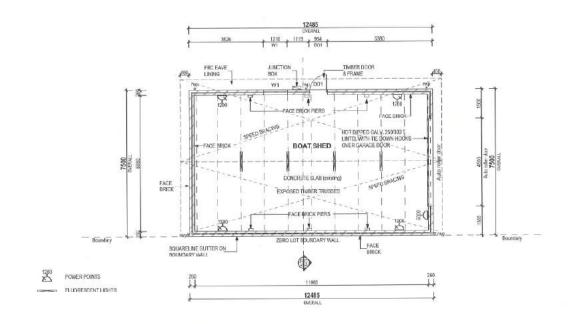




NOTE: ALL MATERIALS AND WORKMANSHIP TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS

NOTE: DO NOT SCALE FROM DRAWING, PLEASE CONTACT DESIGNER SHOULD ADDITIONAL INFORMATION BE REQUIRED

INSULATION: REFER TO ENERGY EFFICIENCY REPORT



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AREA
Area
93.64
93.64 m²

FLOOR PLAN AS SCALE: 1:100 PROPOSED BOAT SHED ON LOT 28 #7 PRINCE STREET, LEDGE POINT



# **APPENDIX 3**

ORDINARY MEETING SHIRE OF GINGIN MINUTES

19/03/2019





## **APPENDIX 4**

### SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

### APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED OUTBUILDING AT LOT 28 (7) PRINCE STREET, LEDGE POINT

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	The Submitter does not support the proposal and makes the following comment:	
		"I object to the proposed 4.8m + 6.32m outbuilding heights. The existing southern wall height is already 3.5m in height."	Noted.
2.	Ratepayer	The Submitter does not support the proposal and makes the following comment:	
		"We don't approve of the proposed addition to this outbuilding. The new size will block a major part of our ocean views which will devalue our property. It will also be an eyesore at that size, it shouldn't be allowed to be built in a residential area. This type of building belongs in an industrial zoned area."	Noted.
3.	Ratepayer	The Submitter <b>does not support</b> the proposal and makes the following comment:	
		"Height of proposed building eyesore and far exceeds existing."	Noted.

#### 11.4. OPERATIONS

Nil

#### 12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

### 13. COUNCILLORS' OFFICIAL REPORTS

#### 13.1 AUSTRALIAN COASTAL COUNCIL CONFERENCE

FILE:	GOV/20-1
COUNCILLOR:	Frank Johnson
REPORT DATE:	19 March 2019

Councillor Johnson reported on his attendance at the Australian Coastal Councils Conference, 5 March through to 8 March 2019.

Many of the presentations at the conference showed that communities and local governments, throughout Australia, use a variety of solutions to address their particular problems, from rock revetments to sand scraping, but all involved a high level of community engagement. It was also clear that managed retreat was not thought to be the only solution available. I took from it that we can, and should engage with our communities to help them and ourselves, protect what we have in whichever way all consider to be the best option. From many of the presentations it was clear that community involvement, the imparting of knowledge, the ensuring discussion between parties and the inclusiveness of the process were paramount in advancing a solution.

On top of that, the coastal issues survey conducted by the Australian Coastal Councils Association in January and February 2019, really brings to the fore the enormity of the problem that coastal erosion and adaptation presents for all Coastal Councils throughout Australia, not just ours. We need to acknowledge that small councils, such as ours, may not have the resources to go it alone. It was clear in the survey results that a large percentage of coastal councils saw the need for Federal and State Government involvement in addressing the problem, particularly financial support, variation of grant requirements specifically for coastal erosion and adaptation, and other forms of support as they arise. It was clear that the attendees at the conference saw the problem exacerbating and as a result, felt that pressure needs to be put on Federal and State governments to provide such assistance.

What I got from the conference was confirmation that anything is possible if will, knowledge and inclusivity are applied to a task. As Councillor Elgin noted previously, we only have five kilometres of coastline that needs protection and I believe we can help bring about positive change, such as protecting Grace Darling Park and putting in groynes at Seabird to further enhance the seawall and bring back the beach. This can be undertaken by looking for partnerships (as we are), with entities such as DFES and others, by lobbying State Government and their various departments and by comprehensive engagement with our communities. Often policy is regarded as set in stone but it is, and should be dynamic.

#### 13.2 HINCHCLIFFE LOOKOUT OPENING – 9 MARCH 2019

LOCATION:	Lancelin
FILE:	GOV/20-1
COUNCILLOR:	John Elgin
REPORT DATE:	19 March 2019

Councillor Elgin reported on his attendance at the Hinchcliffe lookout opening on Saturday, 9 March 2019. It was a wonderful experience to see the community involvement and special thanks to the Lancelin District Community Association (LDCA).

After the opening of stage one of the lookout, everyone was invited to Harold Park for a barbecue.

Councillor Elgin also mentioned that the lookout is a great asset and will continually improve, it was great to be a part of this opening.

#### 13.3 AUSTRALIAN COASTAL COUNCILS CONFERENCE

FILE:	GOV/20-1
COUNCILLOR:	John Elgin
REPORT DATE:	19 March 2019

Councillor Elgin thanked Councillor Johnson for sharing his wonderful experience at this conference, the information he brought back has enlightened his thoughts and will help Council plan for present and future erosion concerns.

ORDINARY MEETING SHIRE OF GINGIN

#### 19/03/2019

#### 13.4 ESPERANCE BUSHFIRE

LOCATION:	Esperance
FILE:	GOV/20-1
COUNCILLOR:	Frank Peczka
REPORT DATE:	19 March 2019

Councillor Peczka reported that he was part of the second deployment of fire fighters to attend the major fires in Esperance, along with fellow Councillor Morton who was in the first deployment. Councillor Peczka explained how it was a different experience in terms of scale of controlling the fire and environment, the fire burnt over 300,000 hectares encompassing seven fires over a three week period with State-wide support.

Councillor Peczka also mentioned how the locals of Esperance really appreciated all the fire brigades that were deployed to help.

#### 13.5 GINGIN TRIATHLON - 17 MARCH 2019

LOCATION:	Gingin
FILE:	GOV/20-1
COUNCILLOR:	Sam Collard
REPORT DATE:	19 March 2019

Councillor Collard reported on his attendance at the Gingin Triathlon on Sunday, 17 March 2019. It was well supported by community and Councillor Collard expressed sincere thanks to the Shire staff who participated and helped run the event.

Councillor Collard mentioned that the Triathlons, both Lancelin and Gingin, have been the most positive events in the Shire this year. It was good to see all ages, shapes and sizes participating in the event.

#### 13.6 SHIRE TRIATHLONS

FILE:	GOV/20-1
COUNCILLOR:	Frank Peczka
REPORT DATE:	19 March 2019

Councillor Peczka endorsed the comments made by Councillor Collard in relation to the Shire Triathlons. It has been well communicated in the triathlon circuit developed in the region. Both triathlons hit records of attendance this year. Shire of Moora will hold their triathlon this weekend, Sunday 24 March 2019. Councillor Peczka advised that residents from Lancelin will be attending, it is great to see these events growing through the rural region.

#### 14. <u>NEW BUSINESS OF AN URGENT NATURE</u>

#### RESOLUTION

MOVED: Councillor Peczka SECONDED: Councillor Johnson

That Item 14.1 Pyrolysis Plant be accepted as a New Business of an Urgent Matter in accordance with the Shire of Gingin Meeting Procedure Local Law 2014.

#### **CARRIED UNANIMOUSLY**

#### 14.1 PROPOSED PYROLYSIS PLANT

FILE:	A4444
Reporting Officer:	Shire President I B (Sam) Collard
Report Date:	19 March 2019
Refer:	Nil
Appendices:	Nil

#### **DISCLOSURE OF INTEREST**

Nil

#### COMMENT

Council was provided with a verbal summary of outcomes of discussions held in Concept Forum prior to commencement of the Council meeting with respect to the status of the Pyrolysis Plant.

#### **VOTING REQUIREMENTS – SIMPLE MAJORITY**

#### COUNCIL RESOLUTION

MOVED: Councillor Peczka SECONDED: Councillor Johnson

#### That Council acknowledge:

- 1. Advice received from the Department of Planning, Lands and Heritage with respect to rejection of the proposed lease of Lot 11089 Lancelin Road, Lancelin for the development of a pyrolosis plant; and
- 2. That the community will be advised of this outcome in due course via a Shire of Gingin media release.

**CARRIED UNANIMOUSLY** 

#### 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 3.41 pm.

The next Ordinary Meeting of Council will be held in Council Chambers at the Shire of Gingin Administration Centre, 7 Brockman Street, Gingin on Tuesday, 16 April 2019 commencing at 3.00 pm.

Councillor I B Collard Shire President 16 April 2019