



Agenda

Ordinary Council Meeting

Thursday 25 June 2020

Question Time

Rules

Please note that the following rules apply to Question Time:

1. The person asking the question is requested to complete a Public Question Time Form prior to asking a question at the Council meeting. This will assist in a more informed and detailed response being given at this meeting. This form is available on the Shire's website and on the desk in the gallery area of Council Chambers.
2. Questions are to be directed through the Chair, with the Chairperson having the discretion of accepting or rejecting a question or taking it on notice.
3. To enable all members of the public a fair and equal opportunity to participate in Question Time, each person shall, in the first instance, ask a maximum of Two Questions.
4. If a question is taken on notice at the meeting, it will be answered in writing and included in the following meeting's Minutes.

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Notice of Meeting

Notice is hereby given that the Ordinary Meeting of Council will be held at the Murray Shire Council, 1915 Pinjarra Road, Pinjarra on Thursday 25 June 2020 commencing at 5.30pm.

Dean Unsworth
Chief Executive Officer

1. **DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE**

Cr B Cardilini - via teleconference from Jundee Minesite, near Wiluna
Cr S Lee - via teleconference from Port Denison, WA

3. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4. **PUBLIC QUESTION TIME**

5. **PETITIONS AND APPROVED DEPUTATIONS**

6. **CONFIRMATION OF MINUTES**

- 6.1 **Ordinary Council Meeting – 28 May 2020**

Recommendation

That the Minutes of the Ordinary Council Meeting held on 28 May 2020 be confirmed as a true and correct record.

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

The Shire President's announcements will be provided as an attachment to the Minutes.

8. ANNOUNCEMENTS BY ELECTED MEMBERS

The Elected Members' announcements, as provided, will be attached to the Minutes.

9. ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE OF INTERESTS (BY PRESIDING MEMBER)**10. RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES HELD SINCE PREVIOUS MEETING OF COUNCIL****10.1 Bush Fire Advisory Committee Meeting Wednesday 3 June 2020 – Items to be dealt with separately****10.1.1 Election of Presiding Member**

File Ref: 1804-10
Previous Items: Nil
Author and Title: Ron Porter, Manager Ranger and Emergency Services
Voting Requirements: Simple Majority

Committee Recommendation

That Council endorse Cr A Rogers as the Chairperson of the Shire of Murray Bush Fire Advisory Committee (BFAC) expiring in October 2021.

In Brief

The Shire of Murray Bush Fire Advisory Committee (BFAC) is required to elect a Presiding Member.

Background

Council Committees elect the Presiding Member from within the relevant committee membership. The Presiding Member's term of appointment will expire in October 2021.

10.1.2 Election of Officers for the 2020/2021 Fire Season

File Ref: 1809
 Previous Items: Nil
 Author and Title: Ron Porter, Manager Ranger and Emergency Services
 Voting Requirements: Simple Majority

Committee Recommendation

That Council endorse the appointments of the following persons for the 2020/2021 Fire Season:

Chief Bush Fire Control Officer: Mr. Robert (Bluey) Wilson

Deputy Chief Bush Fire Control Officer: Mr. Benjamin (Ben) Armstrong

Fire Control Officers:

**Mr. Robert Wilson – West Murray VBFB
 Mr. Ben Armstrong – Dwellingup VBFB
 Mr. Douglas McLarty – Coolup VBFB
 Mr. Peter Thurkle – North Dandalup VBFB
 Mr. James (Jim) Camplin – South Yunderup / Ravenswood VBFB
 Mr. Kevin Jones – Pinjarra VFRS**

**Fire Control Officers:
(Permit Issuing Only)**

**Mr. Chris Sattler – Coolup VBFB
 Mr. Lance Pitter – Coolup VBFB
 Mr. Dave Turner – Dwellingup VBFB
 Mr. Michael Webster – North Dandalup VBFB
 Mr. Brendan Webster – North Dandalup VBFB
 Ms. Lorraine Webster – North Dandalup VBFB
 Ms. Christine Thompson JP – West Murray VBFB
 Mr. Brian Bird – West Murray VBFB**

Fire Weather Officer: Mr. Jim Camplin

Deputy Fire Weather Officer: Community Emergency Services Coordinator

**Shire Training Coordinator/s: Mr. Jim Camplin
 Community Emergency Services Coordinator**

In Brief

The Bush Fire Advisory Committee is to elect and recommend appointments required under the *Bush Fires Act 1954* and other appointments, as deemed necessary.

10.1.3 2020/2021 Firebreak Notice

File Ref: 1804
 Previous Items: Nil
 Author and Title: Gavin Stevens, Community Emergency Services Coordinator
 Voting Requirements: Simple Majority

Appendix 1**Committee Recommendation****That Council:**

1. **adopts the Shire of Murray Firebreak Notice as amended, and detailed at Appendix 1; and,**
2. **approves for a Notice to be published in the Government Gazette and a local newspaper that circulates within the district before 30 September 2020.**

In Brief

Council is requested to adopt the annual Firebreak Notice (**'Notice'**) as amended to provide clarity for enforcement by removing unattainable measures from within the notice.

Background

During 2019/2020 fire season it was identified by the Ranger and Emergency Services team the need to look at the notice for some areas of enforcement. A post fire season debrief around enforcement of the notice was conducted by the team on the 19 May 2020.

Statutory Environment

Section 33 of the *Bush Fires Act 1954* provides a local government the ability to make a Notice requiring all owners or occupiers of land within the district to take measures for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur.

Sustainability Implications

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and/or affected landowners)

The proposed amendments to the Notice will make it easier for landowners to achieve compliance.

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Moderate	The level of negative community feedback will be low if the community are adequately informed on the rationale of the proposed changes.

Consultation

- *Bush Fires Act 1954*
- Council Records
- Council Staff – enforcement officers
- Chief Bush Fire Control Officer
- Fire Control Officers
- Other Local Government Firebreak Notices

Resource Implications

Financial

The cost of advertising the Notice is provided in the annual Ranger and Emergency Services budget.

Workforce

Nil

Options

Council has the option of:

1. Endorsing the recommendation.
2. Rejecting the proposal.

Conclusion

The proposals look to build on the existing Notice to ensure it reflects current legislative requirements. It is recommended that Council endorse the BFAC Committee recommendation.

10.2 Bush Fire Advisory Committee Meeting – Wednesday 3 June 2020

File Ref: 7206
Author and Title: Donna Walker, Community Emergency Services Coordinator
Voting Requirements: Simple Majority

Appendix 2

Recommendation:

That Council receives and notes the Minutes of the Bush Fire Advisory Committee Meeting held on Wednesday 3 June 2020.

11. REPORTS OF CHIEF EXECUTIVE OFFICER AND OFFICERS

Planning and Sustainability

11.1 Cities Power Partnership – Action Pledges

File Ref:	3610-02
Previous Items:	OCM. 28 Nov 19 Item 11.1 (OCM19/247)
Author and Title:	Gemma Iseppi – Project Officer Strategic Development
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 3

Recommendation

That Council endorse the five action pledges under the Cities Power Partnership Program:

- 1. install renewable energy (solar PV and battery storage) on Council buildings;**
- 2. develop supportive planning laws to encourage residents and industry to adopt renewable energy;**
- 3. create a revolving green energy fund to finance renewable energy and energy efficiency projects;**
- 4. adopt best practice energy efficiency measures across Council buildings, and support community facilities to adopt these measures; and**
- 5. provide charging infrastructure throughout the Shire at key locations for electric vehicles.**

In Brief

- Cities Power Partnership (CPP) is a national program set up to assist Local Government to address the impacts of climate change through the sustainable use of energy.
- The Shire joined the CPP in January 2020 and the first step in the program is to commit to five action pledges to work toward over a number of years.
- The program will contribute toward the Shire's responsible management of Council and community energy use and will improve its ability to adapt to the challenges of climate change, with economic, social and environmental outcomes.

Background

In November 2019 Council endorsed joining the CPP. The Shire formally joined the program in January 2020. More than 120 Local Government authorities throughout Australia have joined the program in committing to address the impacts of climate change through the sustainable use of energy. The first step in the program is committing to five action pledges.

Report Detail

The CPP program outlines a list of action pledges across the following areas:

- renewable energy
- energy efficiency
- sustainable transport
- community advocacy

An information brochure on the CPP program that sets out the range of action pledges to choose from is included as **Appendix 3**.

The following pledges are considered the most suitable for the Shire at this time:

1. Install renewable energy (solar PV and battery storage) on Council buildings.

The Shire has already installed four solar PV systems on its buildings as set out in the following table.

Building	kW	Year
Administration	12	2014 (paid off in 2020)
DHVIC	8.64	2017
Operations Centre	30	2017
MALC	99.94	2018

Each of these systems was a ‘lease to buy’ arrangement where there was no upfront cost and the savings in power costs pay the lease payment. Once the lease is paid off, the Shire owns the system and the subsequent electricity cost savings benefit the Shire. Officers are currently investigating additional panels on the Administration building, now that the original system is paid off.

Officers will continue to investigate options for battery storage. Currently the advice received is that the benefits do not outweigh the costs in the Shire’s situation, however this may change as technology and uptake levels improve.

This pledge is considered achievable with a minimal financial cost. Every system that is installed increases the Shire’s use of renewable energy thus reducing our carbon emissions. As the systems are paid off, the Shire will also realise a financial benefit with reduced electricity costs. Savings will only increase as the cost of electricity increases.

2. Develop supportive planning laws to encourage residents and industry to adopt renewable energy.

It is anticipated that the Shire will work towards developing a suite of tools to encourage the adoption of renewable energy across the community. It is envisaged that this will largely be based on encouragement, through means such as the provision of information and potential incentives, or focussed on the land development phase, rather than a mandating option at an individual homeowner level.

Opportunities will be investigated and included in the Local Planning Strategy. The exact format of these tools is to be decided; however, it is anticipated that it may include: information sheets, modelling the long-term financial benefits of adopting renewable energy, Local Planning Policies and the potential adoption of benchmarks and targets for new developments, encouraging developers of new land developments to include renewable energy initiatives such as the Peel Business Park microgrid system. This will also include investigating the potential to encourage the adoption of measures to improve energy efficiency in new developments.

In working towards this pledge the Shire will build a framework for assisting developers and residents to adopt measures to increase the uptake of renewable energy and improve energy efficiency. This will improve the sustainability of development resulting in long-term benefits for business, the community and the Shire.

3. Create a revolving green energy fund to finance renewable energy and energy efficiency projects.

The intent of this fund is to use the realised cost savings, due to implementing renewable energy / energy efficiency projects, to finance new energy projects within the Shire.

For example, the savings in electricity costs due to the installation of solar PV on Shire buildings (once paid off) could be placed into a reserve account to then be used to fund the installation of an electric vehicle charging point within the Shire.

Where possible the green fund will be used to leverage additional grant funding, potentially allowing the Shire to undertake larger or more expensive projects within our operations, as well as providing potential to assist the community in undertaking such projects.

A number of other Councils have chosen this as an action pledge. If the Shire proceeds with this pledge, the CPP will connect Shire officers with colleagues at these Councils, enabling the Shire to share information and learn from their experiences.

Once funds are available in the Green Energy Fund, the Shire would be in a better position to take advantage of grant and partnership opportunities as they arise, rather than being tied to the annual budget process.

The exact nature of the fund, whether there was a need for cap or any other controls can be determined at the time when the fund is established.

4. Adopt best practice energy efficiency measures across Council buildings, and support community facilities to adopt these measures.

Energy efficiency is the smart use of energy, resulting in: lower energy bills, reduced exposure to fluctuating energy prices, better building amenity for staff and customers, and reduced carbon emissions.

Council may recall endorsing the allocation of funds to enable the upgrade of light fixtures with in the Murray Aquatic and Leisure Centre to LEDs earlier this year. This will result in a reduction in future electricity expenditure and associated lighting maintenance at centre, a better standard of lighting internally and externally, and reduced carbon emissions.

In adopting this pledge, it is proposed to undertake audits to determine areas of high energy use and then investigate options to improve efficiencies over time.

5. Provide charging infrastructure throughout the Shire at key locations for electric vehicles.

The electric vehicle (EV) market in Australia is expanding and is becoming an attractive option for more people. The size of the EV market is expected to rapidly grow in the coming years. There are different options including, battery electric vehicles, plug-ins and hybrids. There are also different types of charging points, with DC chargers (fast charges – full charge in around 30 minutes) being the most expensive to install. The Shire currently has a charge point in Dwellingup, which takes approximately 4 hours to fully charge. This option is significantly cheaper and simpler to install and may be a good starting point.

Installing charging infrastructure in townsites throughout the Shire has the potential to attract tourists to stop and enjoy our attractions (spend money locally) while charging their car - this could become a marketing point for the Shire. EVs have other benefits including: helping to reduce greenhouse gas emissions, air pollution and traffic noise.

Opportunities to partner with local businesses to share the initial costs and ongoing maintenance can also be investigated.

Climate change poses many challenges for our environment, infrastructure, economy and way of life. However along with these challenges also come opportunities to change current practises. Local Government has the responsibility to sustainably manage its own energy use and provide leadership for the community. In adopting these pledges, the Shire can provide leadership to our community and play its part to address the impacts of climate change by reducing emissions. This will have economic, environmental and social benefits.

Murray 2030 Strategic Community Plan

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Responsibly manage Council and community water and energy use.

Other Strategic Links

Climate Change in Western Australia – Issues Paper (Department of Water and Environmental Regulation, 1999) which includes a target to reduce net emissions to zero by 2050.

Statutory Environment

Nil

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Climate change poses many risks to our economy. It is projected that energy costs such as electricity will increase over time. By increasing the level of renewable energy and improving energy efficiency the Shire will be in a better position manage future energy costs. It is also a responsible use of ratepayer money to take steps towards sustainable energy use. In the case of EV charging points there may also be an associated economic benefit for local business where EV owners choose to stop and charge in the Shire and spend money while they wait.

Social - (Quality of life to community and/or affected landowners)

The impacts of climate change will be felt across society; however, it is well documented that the more vulnerable groups in our community are at a greater risk.

Working towards these pledges, will build the Shire and community capacity to adapt to the impacts of climate change and assist us to support our community to become more resilient.

Environment – (Impact on environment’s sustainability)

Our natural environment is part of what makes Murray an attractive place. The Shire is part of the internationally recognised South-West global biodiversity hotspot (there only 34 of these in the world) but our natural environment is particularly susceptible to climate change due to changes in temperatures, water availability, habitat loss and more frequent bushfires. Some of the results of this include extinction of species, increased algal blooms and more frequent fish kills.

In working towards sustainable energy use the Shire will reducing emissions and so contribute to reducing the impacts of climate change on the natural environment.

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Council has already endorsed joining the CPP Program and committing to the action pledges is the next step. There are no set time frames to achieve the action pledges rather a requirement to show progress over time.

Consultation

Nil

Resource Implications*Financial*

Some funding may be needed, particularly initially, to implement actions and will be considered through the budget process. Lease to buy arrangements can be used where appropriate to reduce upfront financial costs. Grant options will also be explored for specific projects. Once savings start to be realised, the Green Energy Fund can be used to fund further initiatives.

Workforce

The CPP Program can be managed within existing staffing resources.

Options

Council has the option of:

1. Endorsing the five action pledges as recommended.
2. Endorsing alternative action pledges.

Conclusion

In adopting the recommended actions pledges the Shire of Murray will have a framework to guide progress towards a sustainable energy future and show leadership in addressing the challenges of climate change.

11.2 Significant Tree Protection

File Ref:	6/6986 and DSA 315
Author and Title:	Gemma Iseppi – Project Officer Strategic Development Rod Peake – Director Planning and Sustainability
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 4

Recommendation

That Council:

1. **pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to prepare Amendment No 315 to the Shire of Murray Town Planning Scheme No. 4 to introduce provisions associated with significant tree protection, generally in accordance with that set out in Appendix 4;**
2. **pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 specifies that the Amendment is a standard amendment as it is considered not to comfortably fall within either the complex or basic amendment categories and will not result in any significant environmental, social, economic or governance impacts on land within the Scheme area;**
3. **authorises the Shire President and Chief Executive Officer to sign and seal the scheme amendment documents prepared to the satisfaction of the Director Planning and Sustainability;**
4. **authorises the amendment to be forwarded to the Environmental Protection Authority for consideration of environmental assessment in accordance with section 81 of the *Planning and Development Act*; and**
5. **following compliance with sections 81 and 82 of the Act, proceeds to advertise the amendment for a period of at least 42 days.**

In Brief

- There has been increasing community interest over the possibility of the Shire introducing protection for individual or groups of significant trees to recognise and protect these highly valued natural assets.
- Protection of significant trees will contribute to the Shire's unique character and the introduction of a significant tree list and the associated statutory protections through Town Planning Scheme No. 4 (TPS4) would contribute to the realisation the Shire's of aspirations as set out in its Strategic Community Plan.
- A scheme amendment to introduce a Significant Tree List and associated scheme provisions is therefore proposed.

Background

The idea of a Significant Tree List (STL) was presented to Councillors at the May Briefing Session and well received. In order to introduce a STL a scheme amendment is required to TPS4 to introduce provisions which would provide statutory protection to registered trees. The intent of this report is to outline the processes involved with a STL and to initiate the required scheme amendment.

Trees form an important part of our heritage and contribute to our sense of place. Many historic buildings, streetscapes and landscapes owe much of their character and charm to trees. Edenvale in Pinjarra, for example, would have a very different feel without the trees.

Many individual and groups of trees, both native and non-native, are important to our community and there is currently very little protection to ensure the preservation of these significant assets.

Some of the benefits of trees relate to:

- Biodiversity and habitat
- Urban cooling – through canopy cover and shade
- Streetscape and amenity
- Sense of place
- Mental health benefits due to a connection with nature

There is increasing interest being expressed through the community for the protection of significant trees and they are often frustrated by the lack of the Shire's ability to protect individual or groups of significant trees.

The Shire of Murray Strategic Community Plan focus areas include, 'Environment Character and Heritage' and 'Places for People'. Introducing a STL is aligned with these, and would contribute to the realisation of these aspirations for our Shire. Our significant trees contribute to the Shire's unique character.

Report Detail

Many other local governments have established a STL, including the City of Mandurah, the Shire of Serpentine Jarrahdale and the City of Joondalup. By amending TPS4 and adopting specific provisions for listed trees, the Shire will be better able to protect the trees and also provide certainty on the responsibilities associated with maintenance, declining health, development in close proximity, tree removal and damage to a listed tree.

The following 'significance' categories are proposed for the Shire of Murray STL.

1. Outstanding visual / aesthetic significance
2. Botanic / scientific significance
3. Ecological value significance
4. Historical, commemorative, cultural and social significance

These categories are the same or similar to those used by other local governments and very the National Trust.

An example of a Significant Tree in Mandurah is the Morton Bay Fig located at Stingray Point, the location of the old Peninsular Hotel. This tree is enjoyed by locals, visitors and native fauna, it also has a sign providing information about the site and the tree.

In the Shire of Murray, the Western Australian Christmas trees (*Nuytsia floribunda*) located near Ravenswood Fresh (corner of Nancarrow Way and Lloyd Avenue) and the large Tuarts (*Eucalyptus gomphocephala*) located near Lloyd Avenue are examples of trees which members of the local community have expressed a desire to protect.

The proposed provisions would operate in a very similar way to the Shire's Scheme Heritage List. Trees can be nominated by an individual, group or the Shire, and may be located on public or private land. Each nomination will be assessed by a working group, against a set of criteria (to be developed for each category), to ensure all registered trees are significant, and to try and avoid vexatious nominations.

Proposed process

1. Tree is nominated or otherwise identified for consideration. The onus will be on the nominator to outline why the tree is considered significant and provide supporting evidence.

2. Landowner will be notified of the nomination and given the opportunity to support / object to (requires evidence) the nomination.
3. Nomination to be assessed by an internal working group (exact make up to be determined, likely to include officers from Environmental Services, Planning (including heritage) and Infrastructure Services / Parks and Gardens).
4. Report prepared and all parties advised of working group outcome. If not considered significant the nomination will be rejected. If considered to be significant, a report will go to Council requesting support for inclusion on the STL. If the landowner objects to the registration they will have the opportunity to provide supporting evidence and address the meeting.
5. If Council does not support inclusion on the STL, the relevant parties will be notified explaining the reasons. If Council supports the nomination the tree will be included on the STL and all parties notified.

At this stage it is only proposed to introduce the statutory provisions under the Shire’s TPS4. Once the provisions are in place, the list will be established and a process for nominations prepared and implemented.

A copy of the general form of proposed Scheme provisions is set out in **Appendix 4**. These include provisions for the following key elements:

1. Establishment of a Significant Tree List for individual significant trees and significant tree areas;
2. Requirement for listed significant trees to be properly maintained, not be removed, altered, harmed or developed around in a way that would negatively impact the tree;
3. Requirement for development approval to be obtained before carrying out any works on a listed significant tree or works in the vicinity of a significant tree;
4. Flexibility for variations to Scheme standards and requirements as an incentive in order to encourage the protection of listed significant trees;
5. Works notices where required to protect a listed significant tree.

Murray 2030 Strategic Community Plan

Focus Area	Places for People
Aspiration	To create great places for the people through strong partnerships with the community; innovative urban design; and improve the well-being and quality of life for residents.
Strategy	Connect the natural assets, waterways, parks and reserves to the community.

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Protect and enhance natural areas and biodiversity on public and private land.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Places for People
Objective	Maximise and Connect the natural assets to the community.
Strategy	Connect the natural assets and waterways, parks and reserves to the community.

Focus Area	Environment, Character and Heritage
Objective	Protect and enhance our existing natural assets – waterways, bushland and biodiversity.
Strategy	Protect and enhance natural areas and biodiversity on public and private land.

Other Strategic Links

Nil

Statutory Environment

Planning and Development Act

Section 75 of the *Planning and Development Act (Act)* provides that a local government may amend its local planning scheme by an amendment that is either:

1. prepared by the local government, approved by the Minister and published in the Gazette; or
2. proposed by all or any of the owners of land in the scheme area, adopted with or without modification by the local government, approved by the Minister and published in the Gazette.

Planning and Development (Local Planning Schemes) Regulations

Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations* (the Regulations) requires that a resolution to prepare an amendment must:

1. specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
2. include an explanation of the reason for the local government forming that opinion.

Regulation 34 sets out the criteria for each amendment category and in particular specifies that a Standard Amendment is:

- an amendment which is consistent with the applicable region planning scheme;
- an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and
- an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; or
- any other amendment that is not a complex or basic amendment.

The Scheme Amendment is considered to meet the requirements of the Standard category in this case.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Murray’s natural assets contribute greatly to our sense of place and significant trees play a part in this. In turn this is part of what attracts people to live, visit and do business in the Shire of Murray.

Social - (Quality of life to community and/or affected landowners)

There is increasing community interest in the Shire introducing a STL. There are many positive social outcomes associated with having access to nature in our towns and suburbs. There is the potential for some private landowners to consider the nomination and listing of a tree on their property to have negative implications.

Environment – (Impact on environment’s sustainability)

Trees play an important role in providing habitat and contribute to a healthy ecosystem.

Policy Implications

There are no current Shire policies relating to the STL.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The proposed scheme amendment will only introduce the statutory provisions for a STL. Once in place there will be a nomination process that involves engagement with the landowners.

Consultation

Upon a local government resolving to prepare an amendment to a local planning scheme, section 81 of the *Act* requires it to refer the amendment to the Environmental Protection Authority (EPA) for consideration as to whether an environmental assessment is necessary under the *Environmental Protection Act*.

Following advice from the EPA that a standard scheme amendment does not require formal environmental assessment, Regulation 47 of the Regulations requires the local government to arrange advertising for a period of at least 42 days, by the following means:

1. notice in a newspaper circulating in the scheme area;
2. notice in the offices of the local government;
3. notice to each public authority that the local government considers is likely to be affected by the amendment;
4. notice on the local government’s website; and
5. as otherwise directed by the WAPC and in any other way considered appropriate by the local government.

Resource Implications

Financial

Direct costs associated with the preparation of the STL process and the associated scheme amendment can be accommodated within the existing budget limits. Once the provisions are in place there will be minor costs associated with the provision of signs for significant trees in public spaces and where needed specialist arboricultural advice on specific nominations.

Workforce

The STL can be introduced and administered within existing staffing resource levels.

Options

Council has the option of:

1. Progressing with the STL scheme amendment in the form recommended or some other form.
2. Not progressing with the STL scheme amendment.

Conclusion

A STL will provide clarity around which trees are considered to be valuable assets in the community, the nomination and assessment process, and responsibilities associated with listed trees. In amending TPS4 and introducing specific provisions, the Shire will be better able to protect listed trees through the statutory process. These trees will be protected for current and future generations to enjoy.

11.3 Review of Declared Pest Rate

File Ref:	6800
Previous Items:	OCM. 22 March 18 Item 11.1 (OCM18/053) OCM. 27 June 19 Item 11.2 (OCM19/106)
Author and Title:	Tom Lerner, Coordinator Environmental Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 5 & 6**Recommendation****That Council:**

- 1. supports the imposition of a Declared Pest Rate at the rate of 30 dollars per annum per property one hectare or more; and**
- 2. requests officers to prepare a submission during the formal advertising of the proposed Declared Pest Rate outlining Council's position.**

In Brief

- The Department of Primary Industries and Regional Development (DPIRD) is inviting submissions on the proposed Declared Pest Rate for 2020-21.
- These rates are collected by the Office of State Revenue for the control of declared pests and funds are transferred to Recognised Biosecurity Groups operating in the rated areas to fund those Groups' work.
- The Peel Harvey Biosecurity Group (PHBG) is the Recognised Biosecurity Group operating throughout the Shire of Murray and nearby local governments.
- The proposed rate remains a flat rate (fixed sum) of \$30 on each freehold lot of one hectare or more in the Harvey, Mandurah, Murray, Serpentine-Jarrahdale and Waroona local governments.

Background

In March 2018 Council resolved to support the imposition of a Declared Pest Rate within the Shire which would be imposed by the Office of State Revenue for the purpose of biosecurity management in the region and to review this after a year of operation.

In June of 2019 Council resolved to support the imposition of a Declared Pest Rate at the rate of no more than 30 dollars per annum per property of one hectare in area or more to be reviewed annually reflecting the management and control of 'Control Category 3' and 'no status' pests within Murray.

To date no formal advice has been received from DPIRD relating to the management of pests which have been unassigned a category under the Biosecurity and Agriculture Management Act 2007 (BAM Act) however management of pests in the unassigned category, public information campaigning and various successes have been achieved in this area by the PHBG.

Some of the achievements of the PHBG in 2019-20 include:

- Calicivirus releases in Coolup, North Dandalup, Pinjarra and South Yunderup;
- Provision of Tree Poppers for woody weed removal;
- Provision of declared pest information to the community including a declared weed magnet;
- Roll out of the feral scan app for the region;
- Feral Animal workshop held in Pinjarra;
- Information session held in Dwellingup;

- Weed wiper.

The PHBG 2019 Annual Report can be viewed at **Appendix 5**.

Report Detail

The Declared Pest Rates are collected by the Office of State Revenue for the control of declared pests and funds are transferred to Recognised Biosecurity Groups operating in the rated areas to fund those Groups' work. The Peel Harvey Biosecurity Group is the Recognised Biosecurity Group operating throughout the Shire of Murray and provides a regional pest management approach for the region from Serpentine-Jarrahdale through to Harvey. Funds generated by the rate are matched on a dollar for dollar basis by the State.

The public notice of the Declared Pest Rate for 2020/21 can be viewed at **Appendix 6**.

The PHBG has again requested a rate through a model which seeks to charge landowners of property one hectare or greater in area a flat rate of \$30 in order to fund its program. It is this rate that is included in the public notice.

Although the Office of State Revenue is not obliged to undertake public consultation for this rate, DPIRD has decided once again to undertake consultation for all Regional Biosecurity Groups in 2020/21.

Murray 2030 Strategic Community Plan

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Protect and enhance our existing natural assets, waterways, bushland and biodiversity

Murray 2019- 2023 Corporate Business Plan

Focus Area	Environment, Character and Heritage
Objective	Protect and enhance our existing natural assets – waterways, bushland and biodiversity.
Strategy	Protect and enhance natural areas and biodiversity on public and private land.
Project and Actions	Support biosecurity programs.

Focus Area	Environment, Character and Heritage
Objective	Proactively manage resources and reduce our carbon footprint by responsible management of water, energy fire management.
Strategy	Continue to develop partnerships with environmental groups, state departments and stakeholders.
Project and Actions	Partner with the Peel-Harvey Catchment Council, landcare groups, Peron Naturaliste Group and Peel-Harvey Biosecurity Group.

Other Strategic Links

Nil

Statutory Environment

Pests that are considered to be widespread but are still declared due to their agricultural impacts are assigned the status “C3” or “no category” under section 22 of the BAM Act.

The State government will not support action on these pests unless there is demonstrated community support for action. The methodology required to demonstrate this support under the BAM Act is through a Recognised Biosecurity Group (e.g. the PHBG).

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

If a rate is imposed then the cost to the community is \$30 per annum for each owner of land of one hectare or more in area. Multiple landholders will only be charged per valuation entity number (VEN) and not per individual lot.

If a rate is not imposed then the PHBG may fail which will lead to probable inaction in terms of pest management which could provide further cost in long term losses to agricultural activity and ultimately negate the progressive achievements already made in recent years by the PHBG.

Social - (Quality of life to community and/or affected landowners)

Pests are commonly raised as a concern by landowners within the Murray rural community and officers regularly field complaints and provide educational campaigns to deal with these ongoing issues.

If weeds are allowed to prosper unmanaged, then public spaces become degraded which can impact on local amenity and the quality of life of residents.

Environment – (Impact on environment’s sustainability)

Weeds and feral animals are by nature very successful in colonising new areas. This in turn displaces native flora and fauna. The detrimental impacts of this on an area that is a biodiversity hotspot with high levels of endemism can be catastrophic and has been widely documented.

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Moderate	The rate is not a Shire based rate. The lack of support for the rate may lead to a proliferation of pests and weeds.

Consultation

Peel Harvey Biosecurity Group

Resource Implications

Financial

Nil

Workforce

One member of staff works regularly with the PHBG on pest management issues and this is expected to continue.

Options

Council has the option of:

1. Supporting the continuation of collection of a DPR in the Shire of Murray at the proposed rate or some other rate.
2. Supporting the collection of a DPR for the next 3 years for review in 2023.
3. Not supporting the collection of a DPR.
4. Not providing a submission.

Conclusion

As with the conclusion provided in 2018 and 2019, supporting the collection of a DPR without any caveats is not recommended as there are still risks associated with many of our regional declared pests not being assigned a control category and therefore potentially not receiving compliance support along with educational and community work from the PHBG. However, the PHBG has now been established and is functioning well and making inroads into pest management for the region. It continues to be the only available mechanism under the BAM Act to deal with these pests and furthermore, is the only model by which the PHBG can receive secure annual funding that will be matched dollar for dollar by the State.

With a view to the current situation it is recommended that Council continue to support the collection of a DPR with annual review dependent on the viability and success of the PHBG in holistic pest management terms.

This will not preclude the Shire from continuing to lobby for changes to the BAM Act and for significant action to be taken on agricultural pests in the Peel and the wider South West region.

11.4 Amendment to the Town Planning Scheme 4 to Remove Discretion for a Marina at Lot 1132 (745) Carrabungup Road, Point Grey

File Ref:	CA12/1132, DSA 313, DSA314		
Previous Items:	OCM. 24 Apr 19	Item 11.4	(OCM19/058)
	OCM. 27 Jun 19	Item 11.4	(OCM19/095)
	OCM. 22 Aug 19	Item 11.2	(OCM19/168)
	OCM. 27 Feb 20	Item 14.1	(OCM20/019)
	OCM. 16 Mar 20	Item 16.1	(OCM20/047)
	OCM. 23 Apr 20	Item 11.4	(OCM20/056)
Owner:	Point Grey Development Company Pty Ltd and Plunkett Properties Pty Ltd		
Author and Title:	Rod Peake, Director Planning and Sustainability		
Declaration of Interest:	Nil		
Voting Requirements:	Simple Majority		

Appendices 7, 8, 9, 10, 11 and 12

Recommendation

That Council:

1. pursuant to Regulation 37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), resolves not to proceed to advertise Amendment No. 313 to the Shire of Murray Town Planning Scheme No. 4, given that the Western Australian Planning Commission has communicated its concern that the Council's resolution on 16 March 2020 to prepare the Amendment was passed in a meeting that was not open to the public and the Commission has indicated that it is not prepared to support the Amendment for that reason;
2. pursuant to Regulation 37(5) of the Regulations provides a copy of resolution 1, above to the Western Australian Planning Commission;
3. pursuant to Section 75 of the *Planning and Development Act 2005* (Act), resolves to prepare Amendment No 314 to the Shire of Murray Town Planning Scheme No. 4 to modify the Special Provisions for the Point Grey Special Development zone set out in Schedule 7 of the Scheme to remove discretion for planning approval of a marina, to amend or remove other provisions relating to a marina and to make consequential changes to reflect this, generally as set out in the Appendix 7;
4. pursuant to Regulation 35(2) of the Regulations, specifies that in its opinion Amendment No. 314 is a complex amendment as it is not addressed by any local planning strategy and relates to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
5. authorises the Shire President and Chief Executive Officer to sign and seal the scheme amendment documents for Amendment No. 314 prepared to the satisfaction of the Director Planning and Sustainability;
6. in accordance with Section 81 of the Act authorises the amendment to be referred to the Environmental Protection Authority for consideration of environmental assessment, and in accordance with Regulation 37(2) of the Regulations to be submitted to the Western Australian Planning Commission for it to examine the documents and advise the Shire if it considers that any modification to the documents is required before the amendment is advertised;
7. following compliance with sections 81 and 82 of the Act and advice from the Western Australian Planning Commission under Regulation 37 (4) of the Regulations, proceeds to advertise the Amendment No. 314 to Town Planning Scheme No. 4 without modification for a period of at least 60 days;

8. **reiterates its request that the Western Australian Planning Commission revoke the approved Point Grey Structure Plan, for the reasons set out in the Report Detail section of this item;**
9. **requests that the landowners commence investigations, in consultation with the Shire and other relevant stakeholders, into an alternative vision for the Point Grey land which addresses the environmental sensitivities of the land and estuary as well as contemporary planning principles and issues, including bushfire and coastal planning risk.**

In Brief

- Recent scientific research has demonstrated that ecological health and water quality in the Estuary are at concerning levels, with further degradation likely in the future due to the drying climate.
- Without a transformational approach to management, further reduction in rainfall and streamflow will likely see the system collapse, taking with it the estimated \$3.35 billion of economic value to the Region.
- Despite requests for confirmation made with a range of State Ministers, that the State will take responsibility for ongoing management of the channel, this has not been forthcoming and this is well beyond the Shire's financial and workforce capacity to accept, even with an agreement with the landowner.
- These two factors raise serious questions over the merit of the marina proceeding and led to Council resolving to prepare and advertise an amendment to Town Planning Scheme No.4 (Amendment No. 313) to remove discretion for a marina and seek the revocation of the current approved Structure Plan for Point Grey.
- Other key factors relating to bushfire and coastal risk that have evolved since the Point Grey planning framework was established also raise question over the merit of retaining a large-scale urban development at Point Grey.
- Given that the existing Special Development zone is a flexible zone, a new structure plan would be required to set out the form of subdivision and development and as the Shire is about to embark on the preparation of a Shire wide CHRMAP which will clarify coastal hazards and risks, it was considered to be premature at this stage to consider rezoning the land.
- Following commencement of work on the Shire CHRMAP and in consultation with the landowner, Council also however resolved that investigations on an alternative vision for the Point Grey land be undertaken.
- The Amendment No. 313 was referred to the Western Australian Planning Commission (WAPC) for consent to advertise the Amendment. The WAPC, following receipt of a letter from a Point Grey landowners' solicitor, has recently advised of concerns that the resolution to prepare the Amendment was undertaken confidentially during part of a Council meeting that was closed to members of the public. It says this raises questions over the validity of the initiation resolution, which potentially denied procedural fairness to the landowners and to members of the public by not allowing them the opportunity to ask questions, or be heard before Council made its Scheme amendment resolution.
- A possible solution to address this issue is for Council to resolve not to proceed to advertise Amendment No. 313 and advise the WAPC accordingly. Then, should it wish to proceed to amend TPS4, it can resolve to prepare and advertise a fresh amendment. This should be undertaken in a Council meeting that is open to the public.

Background

Point Grey is located in the southern rural part of the Shire on a promontory, surrounded on three sides by the Peel Inlet and Harvey Estuary (Peel Harvey Estuary). It is located approximately 20km from Pinjarra and 40km from Mandurah. The closest urban land is approximately 15km to the north-east in South Yunderup.

A plan showing the location of Point Grey is set out below.



The land has been substantially cleared of native vegetation, except for a variable width strip adjacent to the estuary. It is currently used for cattle grazing and contains a farm house, various outbuildings and a water treatment facility constructed to service the future urban development.

The Peel Harvey Estuary is an important part of the Peel-Yalgorup wetland system which in 1990 was designated a 'Wetland of International Importance' under the Ramsar Convention on Wetlands. The Australian Government, as a Contracting Party to the Ramsar Convention has obligations to manage listed wetlands to maintain their 'ecological character'.

The estuary also supports the recreational fishing sector, in particular the blue swimmer crab resource and in 2016, the Peel-Harvey Estuarine Fishery was certified as sustainable by the Marine Stewardship Council for the target species of blue swimmer crabs and sea mullet and was the first in the world to include the recreational sector in this certification.

Preserving the health of the Peel Harvey Estuary is central to local community values and results in significant economic benefits for the region through local tourism, commercial fisheries and recreational activities. The following values have been found to be reliant on the condition of the waterways:

- \$217 million in annual expenditure on recreational fishing activities;
- \$40 million in annual expenditure on boat maintenance and operations in the Peel;
- \$1.8 million in annual revenue generated through storing boats in marinas;
- Between \$0.9 million and \$1.7 million in annual catch from commercial fishing;
- \$318.2 million in annual tourism expenditure spent in Mandurah;
- \$3.15 million derived from the value of 9 commercial fishing licenses.

The total monetary value of ecosystem services derived from the Peel Harvey Estuary was quantified in 2013 to be approximately \$3.35 billion (2007 prices). By comparison, the Peel Region's Gross Regional Product at the time was estimated at \$5.6 billion. These estimates do not include real estate values which in 2010 were estimated would fall in value by approximately \$50,000 per property, should the Estuary system collapse.

Investigations into the urban and tourist development at Point Grey have been undertaken since the early 1990's. Point Grey was first identified in the planning framework as a future tourist node in the Western Australian Planning Commission's Inner Peel Region Structure Plan, released in 1997.

Around 270 hectares of land in Point Grey was identified as Urban Deferred and further land as Regional Open Space when the Peel Region Scheme was introduced in 2003. A strip of land on the western side of the point was retained in the rural zone to enable consideration of a proposal for an inland marina. In 2009 the Urban Deferred land was zoned Urban.

In 2011 the PRS Urban zoned land was zoned to Special Development in the Shire's TPS4. This is a flexible urban based zone that requires the approval of a Structure Plan to guide the subdivision and development of the land. The TPS4 amendment also introduced a range of Special Provisions to guide the future subdivision and development of the land. These provisions can be viewed at **Appendix 7** and in particular:

1. Identified that a marina was a use that the Shire had the discretion to approve, subject to all required environmental approvals being granted;
2. Required the preparation and approval of an Activity Centre Plan to provide detailed guidance for subdivision and development over a proposed marina village precinct;
3. Required a legal agreement to be prepared to address the long-term funding arrangements for the ongoing maintenance and asset replacement of public infrastructure within the marina precinct, including the maintenance of any marina entrance channel or navigation channel should environmental approval for any marina be granted; and
4. Required the preparation of various environmental management plans.

A Structure Plan for the Urban zoned land was also approved by the WAPC in 2011. A copy of this Structure Plan can be viewed at **Appendix 8**. The Structure Plan currently has effect until 2025 and shows a marina as the focal point of Point Grey and a Marina Village Precinct surrounding the marina, both of which form part of an overall urban development for approximately 3,000 dwellings. The marina was planned to include 300 boat pens, four boat launching ramps, associated parking areas, navigational aids, an entrance channel to the Peel Harvey Estuary and protective groynes. Although outside the Structure Plan area, it was also proposed that a 2.5km navigation channel be constructed within the estuary to link the marina with the Dawesville Channel and Indian Ocean. This was necessary to enable sufficient access to the marina near the shoreline and in particular allow deeper draft vessels to access the marina from the Dawesville Channel.

The State and Commonwealth governments have each assessed and provided environmental approval to the land-based development and to the marina, including the construction of the entrance and navigation channels.

The State environmental approval initially required substantial commencement of the marina construction by 1 August 2017. In April 2017, the substantial commencement date was extended until 28 June 2019. In September 2018, a further extension to the substantial commencement date was granted until 1 August 2022.

The Commonwealth environmental approval was initially granted in June 2014 with a condition requiring commencement by June 2019. In March 2019, an amended approval was granted with a required commencement date of March 2029.

In approving the marina and associated channel, the State Minister for Environment laid down a number of conditions predominantly relating to compliance reporting, public availability of environmental data, protection of vegetation, environmental offsets, estuarine water quality management and monitoring and dredge timing. Three of the conditions in particular are required to be complied with prior to construction activities taking place. These conditions concern transferring 10.6 hectares of privately owned foreshore land to the Crown for conservation and recreation purposes, the submission of a land purchase offset strategy and the preparation of a satisfactory Channel and Marina Management Monitoring Plan for estuary water and sediment quality.

The Commonwealth approval requires a range of management plans to be prepared and implemented prior to certain works occurring, compliance reporting and includes similar conditions as the State approval regarding the transfer of land to the Crown and an offset strategy. Management plans relate to dredging and spoil disposal management, acid sulphate soils and dewatering, construction environment management and foreshore management.

A development application for the excavation of soil within part of the footprint of a future marina as generally depicted on the approved Structure Plan and the depositing of the fill on adjacent land was submitted with the Shire in February 2019. All earthworks were proposed to be land based with no excavation taking place in the Peel Harvey Estuary. An excavation area of 4.27 hectares was proposed to the depth of 1.0m AHD to ensure that adequate clearance to the maximum groundwater level is achieved. A stockpile area of 5.43 hectares was proposed, with an average stockpile height of 2.5m and a maximum height of 3.5m. The earthworks would have resulted in the clearing and removal of 10 mature trees and around 1Ha of foreshore vegetation.

The applicant indicated that the rationale for the earthworks was to achieve substantial commencement of the marina under both the State and Federal environmental approvals. This would then entrench those approvals for the long term.

On 24 April 2019, Council considered the application and resolved to:

- “1. Refuse the application made by Roberts Day on behalf of Point Grey Development Company Pty Ltd, for Stage 1 marina earthworks at Lot 672 Carrabungup Road, Point Grey.
2. Welcome a new application once the proponent provides documentation that demonstrates the meeting of all outstanding conditions, including the financial model for dredging and maintenance of the proposed channel to the satisfaction of the Council.”

In making this decision, Council advised that this will allow it “to have the time to review progress on the condition requirements for the proposal, and to give further due diligence to the project and the financial modelling”.

The applicant subsequently lodged a new application with the Shire for essentially the same development with further explanatory information on the status of the conditions of the environmental approvals. The key area of difference was that the new application did not propose to excavate within the approximate 1Ha area covered by foreshore vegetation and therefore resulted in the retention of this vegetation.

The second application was considered by Council on 27 June 2019, where Council again refused to approve the application with the stated reason being:

“That Council and the community will not get to see an approved Capital Dredging and Spoil Disposal Plan prior to Commencement of Construction works as previously understood,

given the changes to the Commonwealth's Environmental requirements dated March 2019. Previously the Commonwealth required a Plan to be prepared and approved prior to substantial commencement of the marina which would allow the ongoing costs and impacts of the overall project to be better understood and considered. As such, given the significance of the project and the potential ongoing financial costs, the risks associated with the dredging, spoil disposal and ongoing maintenance is deemed a risk significant enough to not support the officer recommendation."

Given ongoing concerns over the environmental and financial risks associated with the marina channel, Council resolved at its August 2019 meeting that *"it will not accept responsibility for the periodic dredging of the Peel Inlet - Harvey Estuary, the associated environmental monitoring or management of water quality associated with the Point Grey marina in the event that the marina development proceeds"*. The City of Mandurah resolved in similar terms.

The applicant lodged an Application for Review of the Council's April 2019 decision with the State Administrative Tribunal (SAT). A hearing was held in October 2019 and the Application for Review was dismissed in November 2019, essentially as it considered approval of the earthworks for a future marina, in the absence of a consideration of the full marina proposal was contrary to orderly and proper planning.

The developer has since indicated that they intend to continue to pursue planning approvals for a marina and in consideration of the SAT decision will initially proceed to prepare an Activity Centre Plan for the Marina Village Precinct before lodging comprehensive development and subdivision applications for the marina.

The developers planning consultants requested the Shire and WAPC provide advice on the range of technical studies it considers necessary to support the Activity Centre Plan. A comprehensive list has been provided to the consultant by both the Shire and separately by the WAPC. The Activity Centre Plan will take significant time and cost to prepare and assess with a further SAT review option available if the applicant is aggrieved by the outcome. Given the concerns expressed over the marina channel in recent times, it was considered appropriate for Council to consider whether the local planning framework was still adequate and appropriate in current circumstances so that clear guidance can be given to the landowners and the local planning framework can be modified if found to be unsuitable.

Council at its meeting on 27 February 2020 resolved to seek a report on the:

1. *adequacy and suitability of the Shire of Murray Town Planning Scheme provisions for the Point Grey development and Marina; and*
2. *implications of this proposed development factoring in the recently released ARC Linkage Report.*

At its meeting on 16 March 2020, after considering a report on the above matters, Council subsequently resolved to prepare Amendment No.313 to remove discretion for a marina and seek the revocation of the current approved Structure Plan for Point Grey. It also resolved to request that the landowner commence investigations, in consultation with the Shire and other relevant stakeholders, into an alternative vision for the Point Grey land which addresses the environmental sensitivities of the land and estuary as well as contemporary planning principles and issues, including bushfire and coastal planning risk. This item was considered in a part of the meeting that was not open to the public, pursuant to clause 5.23 of the Local Government Act, given that it dealt with legal advice which had been obtained or which may be obtained by the Shire.

At its meeting on 23 April 2020, Council considered the detail of Amendment No. 313 and resolved to proceed to advertise it and specify that the Amendment was a complex amendment.

Amendment No. 313 was subsequently referred to the Environmental Protection Authority (EPA) for it consider if formal environmental assessment of the Amendment is necessary and to the WAPC for consent to advertise the Amendment. The EPA has now advised that the Amendment should not be assessed and that it is not necessary to provide any advice or recommendations. The WAPC, following receipt of a letter from a Point Grey landowner's solicitor, has advised on 2 June 2020 of concerns that the resolution to prepare the Amendment was undertaken confidentially during part of a Council meeting that was closed to members of the public. It says this raises questions over the validity of the initiation resolution, which potentially denies procedural fairness to the landowners and to members of the public by not allowing them the opportunity to ask questions, or be heard before Council made its Scheme amendment resolution.

The Point Grey landowner's planning consultants has written to the Shire objecting 'in the strongest possible terms' to the proposed amendment to TPS4 to remove discretion for a marina and the proposed revocation of the Point Grey Structure Plan and requested that the Shire does not proceed with requesting the advertising of the Amendment. The letter sets out the rationale for this and provides an update of the landowner's planning work that has, or is being undertaken. In particular they advise of the progress toward the preparation of an activity centre plan for the marina precinct identified on the approved structure plan and that this is planned to be lodged for the Shire's consideration in July 2020. A full copy of this letter is included as **Appendix 9** and should be considered by Council when deciding on this item.

Report Detail

The WAPC appears to have formed the view that the Shire's processes in initiating Amendment No. 313 were flawed. Whether that view is right or wrong in principle, it is within the power of the WAPC to make recommendations to Minister against approval of the Amendment and the Minister's approval is an essential step in the Scheme Amendment process.

If the Shire was to pass a fresh resolution to prepare an amendment, at a meeting open to the public, there is the prospect that the Shire would be allowed to complete the public advertising process, and be given the opportunity to convince the WAPC and the Minister that the Amendment should be supported by the WAPC and approved by the Minister.

It is therefore recommended that Council proceed on this basis.

Current status of planning and development

As a starting point it is important to note that no statutory development approvals have been granted for a marina to date. Rather, a marina is one of a number of land uses that Council has the discretion to approve within the Special Development zone. Under the existing planning framework, such an application will require a full range of planning, environmental, navigation, engineering, asset management and other considerations to be fully considered before a development approval could be considered for approval. Similarly, the dredging of the channel required for access to the marina has not received any statutory development approvals to date.

A subdivision approval for the first stage of residential lots toward the south eastern portion of the urban zoned land, together with associated local roads and parkland has been granted by the WAPC, although expired in 2019. No onsite work commenced following subdivision approval (although the developer has undertaken some work on assembling land for road widening along the access road) and no urban lots have been created to date.

Subdivision approval has also been granted by the WAPC to create 10.6Ha of foreshore land to be ceded to the Crown consistent with a condition of the environmental approval. This approval is valid until 2022. The reserves have not however been created to date.

Apart from the water treatment facility constructed in around 2012, no development has commenced in relation to the planned marina based urban development at Point Grey and the land remains rural in use and character, consistent with that of surrounding rural zoned land.

Consistent decision-making is an important element of orderly and proper planning where circumstances have not changed in any substantial way. Planning frameworks are however required to be reviewed at regular intervals to ensure that they remain relevant and appropriate to their context.

Changing Circumstances

Since the current planning framework was put in place for Point Grey there are a number of factors which have evolved that would warrant a review of the framework. The key factors are:

1. Ecological Health of the Peel Harvey Estuary

There has been increasing concern over time that the health of the Peel Harvey Estuary has been declining. Research findings from the Australian Research Council Linkage Program, led by Murdoch University and nine collaborating agencies, released in 2019 has now scientifically confirmed that the Peel-Harvey Estuary, Rivers and waterways are in very poor health and that without a transformational approach to their management, further reduction in rainfall and streamflow will see the system collapse, taking with it the estimated \$3.35 billion of economic value to the Region.

In short the study demonstrates that the Estuary now has reduced flushing due to declining river flows; water quality in the rivers has been declining despite the Dawesville Cut; ecologically the Estuary is showing signs of trouble; some of the poorly flushed parts of the estuary basin now have the highest macroalgal growths on record; several 'trouble hot-spots' have emerged across the Estuary, especially poorly flushed areas; the projected drying climate will be likely to further reduce water flows to the estuary by approximately 50% by 2050, further concentrating poor water quality and ecological problems in the Estuary. A summary of the Peel Harvey Estuary ARC Linkage Research Findings are included at **Appendix 10**. The full reports and data generated through the project are available at https://github.com/AquaticEcoDynamics/Peel_ARC.

The concerning results of the research, coupled with the obligations to manage the waterway to maintain its ecological character, the international significance of the estuary, the social and economic significance of the Estuary to the region, and the experience of other marina/canal works that have proceeded with environmental approvals with unintended results (see **Appendix 11** for case studies) raise significant questions over risking further degradation through the construction and operation of the marina and in particular the capital and ongoing maintenance dredging that will be required for the 2.5km long channel across the Estuary.

Given the environmental, social, economic and financial consequences at stake and the likelihood rating of an environmental collapse of the waterway, the level of risk to the Estuary when viewed under the Shire's Risk Management Framework is already rated as high (at least) to extreme and decisions that further risk the Estuary water quality and ecological health need to be seriously questioned. Where there is such a threat of serious, potentially irreversible damage, the approach should be to 'avoid' the risk rather than 'manage' potential consequences, to ensure that current and future generations can benefit from the opportunities presented by the values and resources of the waterway.

The ARC Linkage project developed a new state-of-the-art "Estuary Response Model" (termed PHERM) that is suited to simulate estuary conditions and assess alternative scenarios for management. To date the PHERM has been used to explore different

nutrient loading and climate change scenarios, but not the effect of the proposed marina and channel development on the Peel-Harvey Estuarine system. As such it remains unclear the extent to which the marina and channel development may exacerbate the adaptation challenges currently being faced.

Given the significance of the Estuary it is critical that further research work be undertaken to clarify the impact. An additional scope of works has therefore been sourced to assess the impacts of the proposed Marina and Channel development on the health of the Peel-Harvey Estuary, taking into account newly collected ecological survey data (including seagrass, benthic in-fauna, and sediment quality), and using the new PHERM assessment platform. Specifically, this work seeks to quantify:

1. Direct impacts of the developments i.e. the impacts within the development footprint;
2. Indirect impacts i.e. impacts manifested outside of the development envelope as a result of the development activity; and
3. Likely direct and indirect impacts considering future ocean and climate conditions.

Impacts to be considered are targeted to include key water quality, and key biota that are relevant to the Matters of National Environmental Significance (MNES) under the Federal Environment Protection and Biodiversity Conservation (EPBC) Act and dependent on the results may justify a request for the State and Federal environmental agencies to review their environmental approvals for the marina and channel development.

The scope of works includes three parts:

1. Assessment of recent ecological data relative to the development footprint;
2. Assessment of local sediment deposition and erosion patterns that would be modified by the proposed development, and associated water quality implications;
3. Assessment of potential long-term changes to the Peel-Harvey estuary hydrology and associated shifts in salinity and nutrient budgets, due to channel dredging.

This additional work is currently underway and due for completion in around August 2020.

The landowner's submission (**Appendix 9**) summarises the environmental work that has been undertaken for Point Grey and in particular reinforces that State and Federal environmental approvals are in place. The submission dismisses the significance of the ARC Linkage work as having little relevance in the vicinity of the Point Grey marina and channel suggesting it is well flushed due to the proximity of the Dawesville Channel. The Estuary however ought to be considered as a whole system and given the wider estuary is in a poor condition and the marina and channel is considered significant enough to have wider spread impacts, particularly in the context of likely future climate scenarios. The submission does not provide any new information that fundamentally addresses the Shire's concerns over environmental risks of the marina and particularly the channel.

2. Coastal Planning

Coastal planning has significantly evolved in the period since the planning framework was introduced for Point Grey. A new State Planning Policy 2.6 State Coastal Planning Policy (SPP 2.6) has been introduced in 2013. The objectives of this policy are to:

1. *ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;*
2. *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;*
3. *provide for public coastal foreshore reserves and access to them on the coast; and*

4. *protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.*

In particular the SPP 2.6 requires adequate coastal hazard risk management and adaptation planning should be undertaken where existing or proposed development or landholders are in an area at risk of being affected by coastal hazards over a 100-year timeframe. Guidelines have been prepared for the preparation of a Coastal Hazard Risk Management and Adaptation Plans (CHRMAP).

Whilst a climate change vulnerability assessment was undertaken for Point Grey in 2009-10, this does not meet with current CHRMAP guidelines. The Shire is about to commence the preparation of a CHRMAP for the entire Shire coastal area including Point Grey, with tenders recently being advertised and a report prepared for the Council to consider appointment of the successful consultant team scheduled to be presented to Council in July 2020.

The developer's coastal assessment does however provide some indication of the vulnerability of the land to the impacts of sea level rise. It suggests that the western shoreline appears to be more stable than the eastern shoreline due to the presence of courser sand as well as experiencing smaller waves. It recommends a coastal setback of 26m to 34m to the western foreshore and a 44m to 57m setback on the eastern foreshore. It concludes by suggesting there is already sufficient buffers in the proposed foreshores to accommodate the modelled setbacks for erosion.

Whilst this work will need to be reviewed as part of the upcoming Shire CHRMAP, attention is drawn to both the current floodway which extends into the area identified in the north eastern portion of the site for development and a recent SAT decision which considered SPP 2.6 and essentially determined that foreshore reserves need to be increased in width to allow for any modelled erosion over the 100-year planning horizon. This will impact development proposed for some of the coastal areas highlighted on the existing Structure Plan, even if there are no changes to the hazard lines.

The landowner's submission (**Appendix 9**) has acknowledged the above concerns and advised that further coastal assessment work is being undertaken. A draft plan included in the letter prepared by their coastal engineer shows a new 100-year hazard line showing a greater impact on the land than that highlighted in the earlier study, by up to as far as approximately 100-150m. This will be in addition to any additional foreshore reservation areas. The letter suggests that this demonstrates a manageable impact that can be addressed at the detailed subdivision stage. This will result in a piecemeal approach which is not considered to be an orderly and proper way to address the planning for hazards, coastal setbacks and foreshore reservations and underpins the concerns raised about the unsuitability of the existing approved structure plan and further the boundary of the Urban/Special Development zoned land.

3. Bushfire Planning

Planning for Bushfire Management has also significantly evolved since the planning framework was introduced for Point Grey with increasingly hotter and drier conditions and the recent experiences of bush fires within the State. The current framework includes *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) (December 2015), amended *Guidelines for Planning in Bushfire Prone Areas* (Guidelines) and the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*.

The intent of SPP 3.7 is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. The policy has the following objectives:

The Guidelines also seek to ensure that vehicular access serving a subdivision/development is available and safe during a bushfire event and in particular require two different access routes be provided, both of which connect to the public road network, provide safe access and egress to two different destinations and are available to all residents/the public at all times and under all weather conditions.

The existing Bushfire Management Plan acknowledges that access to the development will be from Greenlands and Carrabungup Roads only and that there is no other public road that is connected to the site to provide a secondary access road in and out of the site. Importantly, it is noted that even the Greenlands and Carrabungup Road access traverse substantial bushfire prone areas.

Where a developer cannot satisfactorily demonstrate that the relevant policy measures can be addressed, there is provision for performance solutions, although SPP 3.7 indicates that the decision maker should apply a precautionary principle to all strategic planning proposals, subdivision and development applications in designated bushfire prone areas.

The landowner's submission (**Appendix 9**) acknowledges the concerns raised in relation to bushfire risk and in particular the lack of a second access point into the area. It highlights that they have engaged a bushfire consultant and been in liaison with the Department of Planning Lands and Heritage bushfire policy team to discuss means to ensure that the bushfire risk can be mitigated through performance based solutions. They have indicated that the strategy will likely include focus on land use planning, building practices and construction, land management and hazard reduction, community awareness and preparation, disaster and emergency management and essential infrastructure. No acceptable bushfire management plan has been submitted to date. Despite onsite management significant concerns are still raised over the merit of planning for such a significant population and visitor attraction at Point Grey, with only a single public road access, which also traverses bushfire prone land. Even if it were possible to provide a second 'in perpetuity' and suitably designed and managed access this would also traverse bushfire prone land given the extent of bushfire prone land surrounding the urban zoned area.

4. Asset Management.

TPS4 includes provision requiring the developer to enter into an agreement to address the long-term funding arrangements for the ongoing maintenance and asset replacement of public infrastructure associated with the marina, including the maintenance of the marina entrance and navigation channels. This would include environmental monitoring and undertaking unspecified environmental contingency measures when and if necessary. A requirement for a draft legal agreement is also a requirement under the WAPC Development Control Policy 1.8.

There are significant concerns about how a sustainable financial model could be devised which does not place a significant financial risk on the community. Notwithstanding this a public agency would still need to take responsibility for management.

Both the Shire of Murray and City of Mandurah have resolved that they will not take on this responsibility. The Shire has written to the Ministers for Lands, Planning and Transport, Environment, Water, Fisheries and Local Government seeking confirmation that the State will take on this responsibility. Of those who have responded, none have accepted responsibility and the Minister for Water has indicated that this responsibility ordinarily rests with the local government. Given the likely costs involved, it is well and truly beyond the capacity of the Shire's community to accept such an obligation.

The landowner's submission (**Appendix 9**) indicates that they are preparing a Marina and Navigation Channel Maintenance and Asset Management Plan to define ongoing

costs associated with the marina and channel as well as funding models, which will be finalised in early July. They intend to use this to then initiate further discussions with the Shire and State.

Once prepared, this document may provide for an improved quantification of ongoing costs, however the fundamental issue is that a public authority will need to take responsibility for the ongoing management, particularly for the dredging of the channel. In doing so, the public authority will need to accept responsibility for funding of the management works. Even if an arrangement is put in place for the developer to fund the management costs in the short to medium term whilst they are active in the area, the public authority will need to accept responsibility should the developer default, and also to cover long-term management, once the development is completed and the developer has left the area. The fact remains that the estuary is Crown land and the State has not accepted responsibility for this ongoing management role at this time.

Appropriateness of Planning Framework for Point Grey

These factors combine to raise serious questions over the suitability and appropriateness of a substantial urban development for a community nearly half the size of the current Shire population, in a location which is situated directly adjacent to an internationally significant waterway which is experiencing water quality and ecological health threats, projected to escalate with reduced water flows in the future.

Even with comprehensive management, this scale of population will add pressure to foreshore areas, near shore ecosystems and water quality through means such as nutrient enrichment, boating access, foreshore access, access to domestic animals. The location of Point Grey within a bushfire prone area with no second emergency egress capability does not meet the key threshold criteria for development under the State's current Planning for Bushfire Framework and introduces bushfire risks to life, property and infrastructure that are not now normally allowed to proceed.

Whilst additional work is required to confirm coastal hazard levels and risks associated with sea level rise, in line with current State Planning Policy requirements, the need to extend the foreshore area to avoid the designated the flood way and provide a foreshore amenity throughout the 100-year planning horizon set out in the SPP 2.6, according to the landowner's own plan will have an impact on the extent of urban land and therefore the proposals set out on the approved Structure Plan.

The marina and in particular the associated 2.5km navigation and entrance channels required to provide boat access to the marina represents the greatest concern given:

1. the environmental risks to the Estuary's ecological health and water quality which is already under significant threat; and
2. the financial risks associated with the ongoing channel dredging which the developers modelling indicates will be required as regularly as every five years, plus the ongoing financial risk associated with monitoring and contingency environmental actions should they be required. Significantly, following approaches to relevant State Ministers, there does not appear to be any State interest in accepting responsibility for these financial risks.

Options for Changing the Planning Framework

It is considered that the new scientific research on the current health of the Estuary, the bleak future for the Estuary as climate change reduces water inflows and the consequential need identified for a transformational change in the way the Estuary and its catchment is managed, together with the lack of a responsible State agency willing to take on management responsibility for the channel, associated monitoring and

contingency environmental work, is sufficient to reconsider the appropriateness of the marina at Point Grey.

Under the circumstances, leaving the current planning framework in place, with discretion available to approve a marina is not considered an appropriate approach and does not provide a suitable, appropriate and clear planning framework to guide future planning decision making. Changing the planning framework to reflect the new information would provide clarity for the landowners on what land uses and development are considered appropriate and avoid the current situation where the landowners are proceeding to spend considerable time and money endeavouring to achieve approval to a development that may be considered by the planning agencies to be not appropriate. Options available for the Council to consider in changing the planning framework are as follows:

1. Amend the Special Provisions for the Special Development zone for Point Grey to remove discretion for a marina and request the WAPC to revoke approval to the Point Grey Structure Plan

The current special provisions specify that a marina is an 'AA' (discretionary use) in the Special Development zone, subject to the environmental approvals being granted. There are also a range of provisions that recognise the developer's intent to apply for approval for a marina.

If Council is of the view that a marina is not appropriate at Point Grey then the special provisions could be modified to change the permissibility of a marina from 'AA' (discretionary) to 'X' (not permitted) and reference in other special provisions related to a marina could be deleted, together with consequential changes.

The appropriate detail of the Amendment would be as follows:

1. Delete clause 1.3 which reads:

"1.3 Notwithstanding the provisions of Clause 5.2.1 of the Scheme, the following Uses are classified as 'AA' Uses within the Outline Development Plan -

- *Chalet Park*
- *Bed & Breakfast Accommodation*
- *Marina shall be classified as a discretionary 'AA' use subject to all required environmental approvals being granted.*
- *Educational Establishment"*

and replace this with the following:

"1.3 Notwithstanding the provisions of Clause 5.2.1 of the Scheme, the following land use permissibilities apply within this Special Development Zone:

(a) The following uses are classified as 'AA' uses:

- *Chalet Park;*
- *Bed & Breakfast Accommodation;*
- *Educational Establishment.*

(b) The following use is classified a 'X' not permitted:

- *Marina."*

2. Under the third point of clause 1.8 replace the words "...within 400 metres of the Marina village centre" with "...within 400 metres of the village centre"

3. Delete clause 1.10, which states:

“1.10 Prior to final subdivision approval (issue of clearances) for the first stage of any marina precinct as shown on the ODP, a legal agreement shall be prepared to the satisfaction of the Shire of Murray to address the long term funding arrangements by the proponent for the ongoing maintenance and asset replacement within any marina precinct, including the maintenance of any marina entrance channel or navigation channel should environmental approval for any marina be granted.”

4. At the commencement of the first paragraph of clause 1.15.3 replace the words *“The Marina Village precinct...”* with the words *“A Village precinct...”*.

5. At the commencement of the second paragraph of clause 1.15.3 replace the words *“The Marina Village precinct...”* with the words *“The Village precinct...”*.

6. Delete the third paragraph of clause 1.15.3 which states:
“The final configuration and size of any marina is subject to the environmental assessment outcome under Section 38 of the Environmental Protection Act. In the event that a marina is not granted environmental approval, the Marina Village Precinct shall be subject to a redesign to facilitate alternative ‘water focused’ development.”

7. Renumber the clauses accordingly.

The approved Point Grey Structure Plan also contains references to a marina and marina village precinct as a central element of the Structure Plan. If the discretion for approval of the marina were to be removed then the Structure Plan would require a fundamental review as well. Considering other issues referred to above such as increasing the width of the foreshore to reflect current floodway boundaries and to replace areas of foreshore erosion and also the need for a contemporary CHRMAP to determine the extent of coastal hazards affecting Point Grey, it would also be appropriate to request the WAPC to revoke the approved Point Grey Structure Plan.

2. Rezone the Point Grey land to another zone under TPS4, remove the Special Provisions for the Special Development zone and request the WAPC revoke the Structure Plan.

The Special Development zone under TPS4 is a flexible urban based zone that requires a structure plan to be prepared and approved to guide future development and subdivision.

The area of the zone is around 270Ha in area which, at conventional residential densities, could accommodate over 3,000 dwellings and a population of over 7,500 people.

Leaving aside the question of the merit of establishing a substantial population in such an isolated location, particularly if the marina component is removed, this scale of population would introduce significant management pressures on the foreshore, water quality and near shore ecosystems including the significant bird habitat adjacent to the eastern foreshore. In the context of the recent research on the estuarine health this does not seem appropriate. The landholding is also located within an area now mapped as bush fire prone with insufficient accessibility which raises significant question over whether such a zone is suitable in the context of the current Planning for Bushfire Protection framework. Changes to the coastal

planning framework and floodway mapping mean that the extent of developable area will also likely be reduced.

If Council were to consider rezoning the land to another zone, it would either need to be a zone which is consistent with the PRS Urban zone or alternatively Council would also need to request the WAPC rezone the land under the PRS.

Given that the Special Development zone is a flexible zone, a new structure plan would be required to set out the form of subdivision and development and as the Shire is about to embark on the preparation of a Shire wide CHRMAP which will clarify coastal hazards and risks, it may be premature at this stage to consider rezoning the land. Rather this should be something that is considered following commencement of work on the Shire CHRMAP and in consultation with the landowner investigations on an alternative vision for the Point Grey land.

Murray 2030 Strategic Community Plan

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Protect and enhance natural areas and biodiversity on public and private land.

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Maintain long term financial sustainability.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Environment, Character and Heritage
Objective	Protect and enhance our existing natural assets – waterways, bushland and biodiversity.
Strategy	Protect and enhance natural areas and biodiversity on public and private land.
Project and Actions	Nil

Focus Area	Capable and Accountable
Objective	Murray has a sustainable future.
Strategy	Maintain Long-Term Financial Sustainability.
Project and Actions	Nil

Other Strategic Links

South Metropolitan Peel Sub-regional Planning Framework. The Framework reflects the PRS urban zoning at Point Grey and the portion of land proposes as a marina as a Waterway.

Statutory Environment

Planning and Development Act 2005

Section 75 of the *Planning and Development Act* (the Act) provides that a Local Government may amend its local planning scheme by an amendment which is either:

1. prepared by the Local Government, approved by the Minister and published in the Gazette; or

2. proposed by all or any of the owners of land in the scheme area, adopted with or without modification by the Local Government, approved by the Minister and published in the Gazette.

Planning and Development (Local Planning Schemes) Regulations 2015

Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations* (the Regulations) requires that a resolution to prepare an amendment must:

1. specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
2. include an explanation of the reason for the local government forming that opinion.

Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations* (Regulations) defines a complex and standard amendment as follows:

complex amendment means any of the following amendments to a local planning scheme

- (a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (b) an amendment that is not addressed by any local planning strategy;
- (c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- (d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;
- (e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;

standard amendment means any of the following amendments to a local planning scheme

- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;
- (d) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
- (e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- (f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
- (g) any other amendment that is not a complex or basic amendment.

Whilst there is some argument for the Amendment to fall within either the standard or complex category, having considered the criteria under each category it is considered on balance that the most suitable fit is the complex amendment, given that the amendment is not addressed by any local planning strategy and relates to development that is of a scale, or will have an impact, that is significant relative to development in the locality.

Regulation 37 of the Regulations states:

37. *Resolution to proceed to advertise complex amendment*

- (1) *On completion of the preparation of a complex amendment to a local planning scheme or the consideration of a complex amendment to a local planning scheme proposed by an owner of land in the scheme area, the local government must resolve —*
 - (a) *to proceed to advertise the amendment to the local planning scheme without modification; or*
 - (b) *to proceed to advertise the amendment to the local planning scheme with modifications; or*
 - (c) *not to proceed to advertise the amendment to the local planning scheme.*
- (2) *If the local government resolves to proceed to advertise a complex amendment to a local planning scheme the local government must, before advertising the amendment, submit 2 copies of the proposed amendment to the Commission.*
- (3) *The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.*
- (4) *The Commission must, within 60 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the amendment to the local planning scheme is advertised.*
- (5) *If the local government resolves not to proceed to advertise a complex amendment to a local planning scheme the local government must within 21 days, or such longer period as the Commission allows, provide a copy of the resolution to the Commission.*

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The costs associated with the ongoing maintenance dredging and water quality monitoring and maintenance will be significant.

Social - (Quality of life to community and/or affected landowners)

If the marina and associated channel proceeds there will be an expectation from the Point Grey community who buy into the estate and other users of the marina that it will remain functional and accessible on an ongoing basis.

Environment – (Impact on environment's sustainability)

The dredging of the estuary has the potential for siltation and ongoing water quality impacts.

Policy Implications

WAPC's Development Control Policy 1.8 - Canal Estates and Artificial Waterway Developments. The policy sets out roles of the State agencies and local government and information required to support proposals for new artificial waterways, including marinas. This includes approval requirements, guidelines for marina design and water quality management. Of particular note in relation to the matters of asset management and the estuarine impacts outlined above, the policy includes provisions requiring:

1. A costed 25-year maintenance plan is required that includes:
 - a) costs of maintenance, dredging (including dredge spoil treatment-disposal and management), environmental monitoring and management (including

- contingency management strategies) to be implemented if environmental quality objectives are not met, and maritime structure maintenance;
- b) sources of funding; and
 - c) obligations of the proponent, local governments, lot owners and other relevant State government agencies.

The policy states that as a prerequisite to rezoning there will be a requirement for the proponent to enter into a draft deed of agreement with the local government concerning future waterways management. The deed will need to state the waterways manager and be endorsed by all affected parties prior to the amendment being finalised. The deed shall be flexible to accommodate provision for any matters determined by the WAPC arising from subsequent planning stages, such as structure plan subdivision/survey strata and development assessment processes.

The policy highlights that the local government should be requested to advise whether the proposal meets general planning and engineering criteria, and the circumstances under which it would be prepared to proceed with an amendment to its town planning scheme (ie. land rezoning) when formally requested to do so.

The policy indicates that long-term maintenance of public areas such as waterways, connecting channels, breakwaters, and artificial waterway walls and embankments where these abut land set aside for use by the public at large, will normally be the responsibility of local government. Importantly however it indicates that local government will need to be satisfied regarding economic viability of the proposal and the local government's financial capacity to meet ongoing water and canal wall-monitoring and maintenance costs.

Under the policy the proponent will normally be responsible for maintenance of the entire project for the initial period (normally five years), apart from those responsibilities assumed by purchasers of lots within the canal estate. Additional responsibilities may include the payment of specified area rates to provide the local government with additional financial contributions to undertake long term maintenance of the canal estate or artificial waterway development.

2. Estuarine impacts

The policy requires the potential impacts on estuarine systems to be examined and appropriately mitigated by monitoring and management plans.

Modelling and quantification on the interruption and trapping of sand and/or macro algae/seagrass wrack with the design undertaken to minimise impacts on the longshore movement of sand and seagrass wrack.

The policy notes that the waterways manager is responsible for funding and carrying out artificial sand by-passing of the interrupted supply, managing any seagrass wrack accumulation and managing any associated amenity, environmental and public health impacts.

In relation to dredging the policy requires a design that minimises the need for maintenance dredging and to clearly identify the volume, cost, nature of the maintenance dredging material and disposal options prior to the finalization of the local scheme amendment and to address any environmental impacts associated with maintenance dredging prior to project approval, including changes to water quality, risks to marine fauna and impacts on benthic habitats.

The proponent is also to prepare a maintenance dredging monitoring and management plan (Including cumulative impact of repeated dredging) that includes environmental values to be protected, environmental quality objectives, levels of

protection and environmental quality criteria to be achieved and contingency management strategies for ensuring these objectives are met. The policy indicates that the waterways manager is to be responsible for funding maintenance dredging, with potential funding including rating revenue via general, special area or differential rating methods.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
High to Extreme	Given the environmental and financial consequences at stake and the likelihood of an environmental collapse, the level of risk to the Estuary is already rated as high (at least) to extreme and current management and decisions that further risk the Estuary water quality and ecological health need to be seriously questioned.
Extreme	Notwithstanding provision in the Shire's TPS4 for an agreement to address the long-term funding arrangements ongoing maintenance and asset replacement associated with the marina/channel. The detailed planning for the marina or channel has not been undertaken to date and therefore the extent of exposure cannot be quantified at this stage. Even if the agreement places the maintenance and asset replacement entirely on the developer, in the longer term after the development is completed and if there is a default, without a willing State agency there is an extreme financial risk rating to the Shire (and the City of Mandurah).
Moderate	Legal Risk Council needs to be careful to follow due process and also act in a way to minimise exposure to legal challenge or compensation. Legal advice obtained from the Shire solicitors in relation to the scheme amendment and revocation of the structure plan and also on the recent advice received from the WAPC, and is included in confidential Appendix 12 .

Consultation

Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations* states:

- (1) *Subject to sections 81 and 82 of the Act (relating to consideration by Environmental Protection Authority), if the Commission advises a local government that it is satisfied that a complex amendment to a local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —*
 - (a) *the purpose of the amendment; and*
 - (b) *where the amendment may be inspected; and*
 - (c) *to whom and during what period submissions in respect of the amendment may be made.*
- (2) *On completion of the preparation of the notice, the local government must advertise the complex amendment to a local planning scheme as follows —*
 - (a) *publish the notice in a newspaper circulating in the scheme area;*
 - (b) *display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;*

- (c) *give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;*
 - (d) *publish a copy of the notice and the amendment on the website of the local government;*
 - (e) *advertise the amendment as directed by the Commission and in any other way the local government considers appropriate.*
- (3) *The local government must ensure that arrangements are in place for the documents relating to the complex amendment to the local planning scheme to be made available for inspection by the public during office hours —*
- (a) *at the office of the local government;*
 - (b) *at the office of the Commission.*
- (4) *The period for submissions set out in a notice must be not less than a period of 60 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.*

Resource Implications

Financial

The cost associated with the ongoing maintenance dredging and water quality monitoring and maintenance will be significant.

Workforce

The Shire does not have the workforce resources or expertise to manage the responsibility of ongoing maintenance dredging and water quality monitoring and maintenance.

Options

Council has the option of:

1. Retaining the current local planning framework.
2. Amend the Special Provisions for the Special Development zone for Point Grey to remove discretion for a marina and request the WAPC to revoke approval to the Point Grey Structure Plan.
3. Rezone the Point Grey land to another zone under TPS4, remove the Special Provisions for the Special Development zone and request the WAPC revoke the Structure Plan.

Conclusion

Planning is an ongoing process and the Shire has an obligation to ensure that planning initiatives remain relevant and appropriate over time having regard to a range of considerations, affected private interests as well as the public interest.

Recent scientific research has demonstrated that ecological health and water quality in the Estuary are at concerning levels, with further degradation likely in the future due to the drying climate. Without a transformational change in approach to management, further reduction in rainfall and streamflow will likely see the system collapse, taking with it the estimated \$3.35 billion of economic value to the Region.

Despite requests for confirmation made with a range of State Ministers that the State will take responsibility for ongoing management of the channel, this has not been forthcoming and this is well beyond the Shire's financial and workforce capacity to accept, even with agreement with the landowner.

Applying the Shire's Risk Management Framework to these two issues indicates a high to extreme level of risk and they therefore raise serious questions over the merit of the marina

proceeding and have led to the recommendation to initiate a scheme amendment to remove discretion for a marina and seek the revocation of the current approved Structure Plan.

The other key factors relating to bushfire and coastal risk that have evolved since the Point Grey planning framework was established also raise question over the merit of retaining a large-scale urban development at Point Grey and add further rationale for revocation of the approved Structure Plan.

Given that the existing Special Development zone is a flexible zone, a new structure plan would be required to set out the form of subdivision and development and as the Shire is about to embark on the preparation of a Shire wide CHRMAP which will clarify coastal hazards and risks, it may be premature at this stage to consider rezoning the land. Rather this should be something that is considered following commencement of work on the Shire CHRMAP and in consultation with the landowner investigations on an alternative vision for the Point Grey land.

11.5 Trading in Public Places Policy

File Ref:	3702-02
Previous Items:	OCM. 10 Sept 2015, Item 12.4 (OCM15/225)
Author and Title:	Phil Steven, Manager Environmental Health
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendices 13 and 14

Recommendation

That Council:

- 1. Proceeds to advertise the draft revised Trading in Public Places Policy as set out in Appendix 14.**
- 2. Authorises the granting of an annual trading permit to the Dandy Bean to trade in North Dandalup.**

In Brief

- The Trading in Public Places Policy has been reviewed to consider whether its objectives are being met. Objectives include balancing the impact of mobile vans on the Shire's permanent retail base, against the benefits that mobile services can offer.
- A current application for a Trading Permit also needs to be determined.

Background

On 26 November 2015, Council adopted a Trading in Public Places Policy which allows traders, particularly food vans, to trade in the Shire of Murray, generally provided that traders do not operate within the Pinjarra or South Yunderup commercial areas, do not operate within 300m of existing businesses selling the same foods, and do not create a traffic hazard. Prior to the adoption of this Policy, food vans trading alongside roads were generally not permitted. A copy of the existing Policy is included as **Appendix 13**.

Over time there have been some concerns raised, mainly by nearby established permanent businesses, over the impact of food vans on their businesses. This has resulted in a review of the Policy to ensure that it meets current needs.

Report Detail

The Shire's existing Trading in Public Places Policy generally operates using an exclusion principle, allowing the Shire to grant permits providing that the mobile van is not expected to detrimentally affect existing businesses or create a traffic hazard by being:

- a. close (300m) to established businesses;
- b. within major business districts;
- c. on a major road or highway; or
- d. close to schools.

Trading along major roads is not excluded by the Shire's Consolidated Local Laws, but this restriction was included in the Shire's Policy based on input from Main Roads Western Australia, because of the potential for food vans to detract from the safety and function of major roads.

The exclusion distance from established businesses is 300m in the existing Policy, which is greater than the Shire's Local Law requirement of 200m. In relation to other local governments, distances range from 50m to 1km, for example with the City of Mandurah designating a separation distance of 400m.

Some businesses in the Shire have indicated that food vans are affecting them not only within a 300m walking distance, but also along traffic routes up to 6 kilometres away. However looking at the policies of other local governments, trading policies generally designate a single distance that traders must remain from existing businesses, rather than having one distance for foot traffic and another distance for vehicle traffic. Food vans are also often regulated along transport routes either by exclusion zones, or by excluding trading on entire roads, which is the approach under the Shire's current trading policy.

The Shire of Murray is not alone in the debate on whether food vans should be allowed to compete with established businesses. Some local governments have adjusted from being very accommodating in the past to now being more restrictive of food vans. Their restrictions are more related to achieving a compromise for both types of businesses.

It is acknowledged that food vans have a different cost structure to bricks and mortar businesses, and although it still costs tens of thousands of dollars to set up a van, and trading fees apply, they do not pay rent or rates for their trading location, and can often more easily enter the market.

The main arguments for food vans are:

- They activate and provide vibrancy and variety to an area;
- They offer another option for customers.

The main arguments against food vans are:

- They take away trade from established businesses;
- They can be poor quality, dangerous and unsightly.

An economic analysis report to the Adelaide City Council undertaken in response to concerns by established businesses that food vans were affecting their profits showed that food vans only took 0.15% of the market, and therefore were hardly affecting established businesses. Many food van owners supported this, explaining that their food van was not financially lucrative, and rather they operated for the lifestyle and their love of food.

In relation to competition with other businesses, if a fixed business proposes to establish next to an existing fixed business, town planning schemes do not allow competition or the impact on other businesses to be a planning consideration in determining a planning application, except where it would lead to a reduction of services in the area.

Some local governments (City of Mandurah, Busselton, Fremantle) have identified areas in which they would like food vans to operate, mostly local parks, and generally restrict food vans to operate in those areas. However in the Shire of Murray it is considered that many parks would not have sufficient patronage to support a food van at this time, due to our relatively small population. Therefore many food vans instead are attracted to operating along transport routes, where there is more passing trade. There has also been some interest from food vans to operate in the Shire's smaller towns, particularly the towns of North Dandalup and Dwellingup where a high level of service and choice is not necessarily otherwise available or conveniently located to serve nodes within those towns.

For example, the Dandy Bean has been permitted to trade on a trial basis in North Dandalup, in the tourist parking bay, selling coffee and toasted sandwiches, from 6am to 11am weekdays. The initial permit was issued in October 2019. There was an objection to the initial application from a roadhouse business located more than 400m selling similar products, but was considered that this business was far enough away, and operating at greater hours, with a greater range of sale items so as to not be unreasonably impacted.

Feedback from a random selection of the North Dandalup community has indicated strong support for this coffee van. When the trial was considered for expansion in March 2020, the nearby business did not object. Council is requested to determine whether the Dandy Bean should be granted an annual trading permit.

Rather than prescribing the criteria for where food vans can operate, a more qualitative approach is recommended where each proposal can be judged on its individual merit against the policy objectives and established qualitative criteria.

A copy of the draft revised policy is included at **Appendix 14**.

Murray 2030 Strategic Community Plan

Focus Area	Places for People
Aspiration	To create great places for the people through strong partnerships with the community; innovative urban design; and improve the well-being and quality of life for residents.
Strategy	In partnership with communities, identify and prioritise community-led projects and initiatives.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Places for People
Objective	Socially connected, safe and cohesive community.
Strategy	In partnership with communities, identify and prioritise community-led projects and initiatives.
Project and Actions	Support community-led events that bring people together to celebrate community or meet neighbours.

Focus Area	Thriving Economy
Objective	An economy that is focused on key success factors for growth; knowledge and innovation; export income and investment; infrastructure and local capacity.
Strategy	Maximise the inherent economic opportunities in the Mandurah Murray functional economic region.
Project and Actions	Implement initiatives that support and enhance capacity of the local business, tourism and innovation/entrepreneurial sectors.

Other Strategic Links

The Shire of Murray Local Community Plans contains proposals for additional shopping opportunities ie shops, to be provided in the towns of Dwellingup and North Dandalup. Retail options can also be provided by food vans.

Statutory Environment

Trading in Public Places is managed under Part 12 of the Shire of Murray Consolidated Local Laws. Public Places include areas the public are allowed to use which includes private property that is open to the public.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Adoption of the revised Trading in Public Places Policy will provide guidance for mobile vans to operate in the Shire of Murray, which will provide an employment opportunity for those traders. The revised Policy requires as one of the criteria to consider the existing provision of similar services in proximity to the proposed location of the food van. An increased number of approvals of local food vans may bring additional expenditure into the local economy and activate and add vibrancy to an area.

Social - (Quality of life to community and/or affected landowners)

There are a range of provisions in the policy and local law to ensure that the operation of food vans would be appropriate in an area and would not result in issues of safety or nuisance.

Environment – (Impact on environment's sustainability)

Mobile vans tend to operate using fossil fuels (eg diesel generator), but may save customer travel by trading in accessible locations.

Policy Implications

Trading in Public Places Policy

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The level of risk can be managed by adoption of a clear and balanced policy.

Consultation

It is recommended that the draft revised policy be subjected to a community consultation process before being considered for adoption by the Council.

Resource Implications*Financial*

The cost of processing 'Trading in Public Places' applications has been factored into the Shire of Murray annual budget. Fees are applicable to trading applications of up to \$1,000 per annum.

Workforce

Applications for Trading in Public Places can be undertaken within existing staff resource levels.

Options

Council has the option of:

1. Proceeding to advertise the revised draft policy as proposed.
2. Proceeding to advertise the revised draft policy, with modifications.
3. Proceeding to adopt the revised draft policy, without advertising.
4. Retaining the existing policy.

Conclusion

The key issue for trading policies is balancing the interests of mobile traders, established businesses and the community. The revised policy seeks to effectively balance the various interests and it is now proposed to proceed to community consultation before Council considers adoption of the policy.

11.6 Amendment No. 316 to Town Planning Scheme No. 4 - Proposed Equestrian Zone, Lots 462 and 502 South Western Highway, Blythewood

File Ref: DSA 316
 Previous Items: OCM. 26 Mar 20 Item 11.9 (OCM20/039)
 Author and Title: Rod Peake, Director Planning & Sustainability
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority

Appendix 15

Recommendation

That Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005* resolves to prepare Amendment No 316 to the Shire of Murray Town Planning Scheme No. 4 to rezone portion of Lot 462 and Lot 502 South Western Highway, Blythewood, from Rural and Private Recreation to Special Use – Equestrian, with a range of suitable conditions that limit the use of the site to equestrian related activities and provide for the orderly progressive development of the land, including the need for a structure plan to guide development.
2. pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* specifies that the Amendment is a standard amendment as it is considered not to comfortably fall within either the complex or basic amendment categories and will not result in any significant environmental, social, economic or governance impacts on land within the Scheme area;
3. authorises the Shire President and Chief Executive Officer to sign and seal the scheme amendment documents prepared to the satisfaction of the Director Planning and Sustainability;
4. authorises the amendment to be forwarded to the Environmental Protection Authority for consideration of the need for environmental assessment in accordance with section 81 of the *Planning and Development Act*; and
5. following compliance with sections 81 and 82 of the Act, proceeds to advertise the amendment for a period of at least 42 days.

In Brief

- There has been significant work undertaken in the past 12-18 months in terms of proving up business cases for the development of the Equine industry within the Shire of Murray and the Peel Region.
- Equine has been part of the Peel region for generations and has the opportunity to grow as an industry which will assist in broadening the Shire's and the region's economic base.
- In March 2020 Council endorsed the Pinjarra Harness Racing Club – Pinjarra Paceway Development Strategy and Business Case that strengthened the case for equine industry development and infrastructure upgrades for this facility.
- To provide for the implementation of the Strategy and Business Case it was recognised that the zoning of land adjacent to the harness racing site at Lot 462 would need to be rezoned to accommodate the full range of equine based uses proposed contemplated.
- Council therefore also resolved to progress the proposed rezoning of this land to a suitable 'Special Use – Equestrian' zone. For consistency and to better reflect the intended use of the land it is also proposed to extend the Special Use zone across the adjoining Lot 502 which currently contains the Pinjarra Harness Racing Club.

Background

For the last decade, the Shire of Murray has lobbied strongly for government investment to support the equine industry. In 2013, Council supported the plan to redevelop the Murray Equestrian Centre based in Coolup. It commissioned IER economic consultants to undertake an economic assessment of the non-racing Peel equine industry to support a business case for government investment. In May 2013, Council adopted this document which identified:

- The total direct expenditure linked to the non-racing sector of the equine industry is estimated at \$90.0 million;
- Direct expenditure of the non-racing industry is responsible for creating a total of \$49.3 million direct value-add to the economy, with wages and salaries being \$31.8 million, generating approximately 464 full-time equivalent jobs; and
- Including flow on effects, the total contribution of the non-racing sector of the equine industry is estimated at \$93.5 million, with wages and salaries being \$51.9 million and generating approximately 758 full-time equivalent jobs.

With this data, a Business Case was developed to redevelop the Murray Equestrian Centre with a total expenditure of \$3.15 million. These funds were sourced from various agencies both State and Federal to a value of \$2.62 million with the Shire of Murray contributing \$532,000 to redevelop the now Murray Regional Equestrian Centre.

Since that time, the Shire has continued to work towards an overall Equine Strategy and Business Cases for infrastructure at the Pinjarra Racing and Pinjarra Harness Racing tracks.

In November 2016, Council adopted the AEC Group Shire of Murray Equine Strategy that gave evidence for a need of government investment into the racing and pacing components of the equine industry.

The report stated that:

- the Peel region accounts for 25% of all harness starters in regional WA;
- there are approximately 2,983 participants in the region, equating to 1 in every 32 of the adult population being involved in the industry, being owners, trainers, syndicates etc). The state average is 1 in 79 and in Perth it is 1 in 141 people;
- the total of 72 race meetings and 592 races places Peel in fourth position behind Perth, the South West and the Wheatbelt;
- the gross value-add of the racing sector is 180 million (direct and indirect creating 789 full-time equivalent jobs.

Following Councils endorsement of the Strategy, the Peel Development Commission developed the Peel Equine Strategy in late 2017 that added further strength to the need for capital investment.

In 2019, Council endorsed funding to be allocated towards the development of:

- a) the Pinjarra Park Development Strategy Business Case; and
- b) the Pinjarra Paceway Development Strategy Business Case.

Further, the Peel Regional Leaders Forum (PRLF) endorsed funding to develop the Peel Equine Strategy Competitive and Comparative Analysis. This document was adopted by the PRLF at its 27 February 2020 meeting.

In March 2020, Council endorsed the Pinjarra Race Club and Pinjarra Park Development Strategy and Business Case. This outlined strong justification for government investment towards infrastructure upgrades for both facilities, based on the economic evidence provided earlier in this report, but also:

- (a) Racing and Wagering WA (RWVA) – a State Government statutory authority had identified the Greater Peel region as representing the most viable location for the long term. There are several factors supporting this:
- The rapid population growth in the region: the population of the primary catchment area for Peel facilities will more than double in size between 2016 and 2050 to reach a population of over 1.2 million by 2050;
 - The continuing availability of suitable land for breeding and water allocation for breeding and training, compared to areas further north where suitable land is becoming less available and more expensive;
 - The existing base of racing and training facilities and the skills and organisational base in the region providing a platform to support further growth.
- (b) Growth of the Peel equine racing industry is acknowledged by RWVA as a key means of addressing long term issues identified for the WA equine racing industry overall, namely:
- Declines in bloodstock quantity and quality, compared with other states;
 - Declines in numbers of trainers, particularly for thoroughbred racing, but also for harness racing;
 - The reduction in on-course betting revenue and correlated growth in reliance on off-course / online betting and the consequent need to supply a visually attractive and well timed on-line and television broadcast racing product. (In this regard, race timing is important, given most of the domestic betting market is 2 – 3 hours ahead of WA).
- (c) Growth in Peel will therefore be a combination of gradual but consistent relocation of breeding and training from existing areas closer to inner Perth and general industry growth. This might entail:
- An increase in breeding stock, and therefore an increase in breeders and staff;
 - An increase in the numbers of horses in work and therefore increased numbers of trainers and stable employees;
 - Increasing racing activities – an increase in the number of race meetings.
- (d) This increase will require:
- Improved and extended training facilities, including on-course stabling; and
 - Improved racing facilities.
- (e) On-course stabling is identified by RWVA as a necessary means to sustain the industry. It offers:
- Cost conscious entrants an opportunity to break into racing without investing huge capital in expansive properties and stabling. This is particularly relevant to the Peel region. While it has some large-scale breeders and trainers, the majority of trainers are small with restricted ability for large capital investment. Experience elsewhere has shown that on-course stabling:
 - o Reduces the cost to new entrants to the industry (lower up-front capital investment);
 - o Provides the capacity to upscale/downscale as required (by renting more/fewer boxes);
 - o Reduces the difficulties to existing entrants when they leave the industry;
 - o Increases efficiency by decreasing travel time to training facilities, co-located horses for trainers, and other participants.
- (f) A survey of trainers has found very high interest for on-course stables and firm intentions to use them particularly amongst harness trainers, with some similar evidence for thoroughbred trainers.

A detailed masterplan for the further development of the Pinjarra Harness Racing Club has been prepared and is included as **Appendix 15**. It would be the main training facility for harness racing in the State. Its key features are:

- New training track;
- On-course stabling, with provision for 200 on-course stables in the long term;
- Associated training facilities including provision for sand rolls, hydro pools, walkers and treadmills;
- Coordinated waste management;
- Upgraded and extended water harvesting and water management;
- Extended racing facilities, including provision for event lights;
- Provision for commercial operations on sites facing south-west highway, including:
 - Vets and veterinary services;
 - Farriers;
 - Cart and general equipment supply and services;
 - Feed supply; and
 - Education and training.

A detailed survey of intended use was conducted of harness racing trainers. The results indicate that the on-course stables will be fully utilised within a short time. The data shows a high demand for on-course stabling for harness racing.

The masterplan includes provision for TV grade track lighting to the racing track. This will allow evening and night races. This will have two effects:

- Increasing the racing fixture by 50 events per year;
- Providing local entertainment.

When fully developed, this would be a site for a full-time trainer workforce of over 50 people, with more on event days. Completion of the masterplan, with on-course stables and an expanded race calendar will increase Club employment:

- More fulltime workers would be needed to cover the workload of racing requirements;
- Full time and part time staff would be required for servicing the on-course stable and the expanded training tracks;
- More race days would require more casual staff to cover the differing day/ night shifts;
- More volunteers would be involved as some may not have the additional days to volunteer.

To provide for the implementation of the masterplan, the zoning of the harness racing site adjoining land at Lot 462 would need to be rezoned to accommodate the full range of equine based uses proposed. When considering the adoption of the masterplan and business plan the Council therefore also resolved as follows:

1. to acknowledge that the land on the southern side of the racing facility is zoned rural and has no identified higher use in the Perth & Peel @ 3.5M Sub-Regional Structure Plan, so therefore supports this land to be rezoned 'Special Use – Equestrian', consistent with the Pinjarra Paceway Development Strategy and Business Case;
2. authorise the Chief Executive Officer to commence planning to progress the proposed rezoning of this land to a suitable 'Special Use – Equestrian' zone consistent with the Pinjarra Paceway Development Strategy and Business Case due to its highest and best use.

Report Detail

Lot 462 is located at the north western corner of the intersection of South Western Highway and Greenlands Road. The lot has a frontage to Greenlands Road, South Western Highway

and Paceway Court. It is predominantly zoned Rural under the Peel Region Scheme (PRS), although is partially reserved Primary Regional Roads reserve over the portion of the site formerly planned for the alignment of Greenlands Road. The site is similarly zoned Rural and also reflects the PRS Primary Regional Road reservation under the Shire's Town Planning Scheme No. 4 (TPS4). The PRS reservations within the site are now redundant given the realignment and construction of Greenlands Road adjacent to the southern boundary of Lot 462.

Lot 462 has an area of approximately 67.7Ha. The site falls from 11.6m AHD in the south eastern portion of the down to 10m AHD in the western part of the site. It contains a limited number of isolated native trees. It is otherwise open pasture and is used for cattle grazing. The site does not contain any significant environmental features. Two high tension power line corridors traverse the western and southern portion of the site and both are protected by Western Power easements.

Lot 502 is located on the south western corner of the intersection of South Western Highway and Paceway Court, Pinjarra, directly abutting Lot 462. It contains the existing Pinjarra Harness Racing Club. This is the largest harness racing club outside the metropolitan area and operates an events track which is also used for training purposes.

The site contains a grandstand/events facility, with a restaurant, bar and WATAB facilities, which is well utilised outside of events days. The Pinjarra Harness track is the only 1,000m track in Western Australia and is well regarded. A smaller training track is located to the west of the main track. The grandstand is a modern facility with capacity for 300-400 people and designed to facilitate areas being partitioned off. It is regularly used as functions venue, for both social and business events and conferences. PHRC has recently completed the construction of a new 160 bay race-day horse stalls building.

The club currently holds 50 weekday race meetings across the year. The average race day attendance is approximately 500 people, a figure which swells to 3,000 on several feature race days throughout the season. A primary objective is to add regular night meetings on evenings to not clash with the regular Friday night Gloucester Park events.

Lot 502 is zoned Rural under the Peel Region Scheme and Private Recreation under the Shire's TPS4. It has an area of approximately 17.5Ha and road frontages to both South Western Highway and Paceway Court. The site falls from 13m AHD in the north eastern corner of the site down to 10.4m AHD in the western part of the site. It contains some scattered trees and other vegetation. The site does not contain any significant environmental features.

A plan showing both Lots 462 and 502 is shown on the following page.



It is proposed to rezone both sites under TPS4 to Special Use – Equestrian, with a range of suitable provisions that limit the use of the site to equestrian related activities and provide for the orderly progressive development of the land, including the need for a structure plan.

The South Metropolitan Peel Sub-regional Planning Framework identifies Lot 462 as rural and Lot 502 as Open Space. The proposed zoning is considered consistent with the proposals under the Framework.

The Shire's draft Southern Palusplain Strategy, which was adopted following advertising by the Council in June 2019, and is due to be considered by the Western Australian Planning Commission in mid-2020. The draft Strategy has identified the land as suitable for the expansion of the pacing facility and development of a future commercial equine training and stabling facility to enable the Peel Equine Industry to grow into the future. It has therefore designated both of the subject lots as Special Use – Equine. The proposed zoning is considered consistent with the proposals under the Strategy.

State Planning Policy 2.5 - Rural Planning (SPP 2.5) makes provision for the accommodation of facilities that serve a regional or sub regional catchment within the PRS Rural zone. The policy states that this could include regional attractors or facilities such as sporting or entertainment venues, places of worship, prisons, cemeteries and waste facilities. The proposed zoning comfortably fits within this policy provision.

SPP 2.5 also sets out a range of requirements that apply to regional or sub regional facilities in rural areas. These requirements and a commentary on how the proposal zoning meets the requirements is set out below.

- (a) *Facilities should be located on a main road or on a road that is of a suitable standard and treatment, to accommodate significant increase in traffic volumes and freight tasks which may be generated by the proposal*

The overall site has a frontage to Greenlands Road, South Western Highway and Paceway Court. Greenlands Road is reserved as a Primary Regional Road under the PRS which is planned to connect the Kwinana Freeway with the future extension of Tonkin Highway, via the planned Pinjarra Eastern Heavy Haulage Deviation. Main Roads Western Australia has indicated that this road is likely to be constructed to a freeway standard in the future with access by grade separated interchanges. South Western Highway is also currently reserved as Primary Regional Road. North of its intersection with Greenlands Road it will serve as the key southern entrance road to Pinjarra town, with limited managed access. Paceway Court is the former alignment of

Greenlands Road. It is a local rural standard road with a 20m wide reserve and a 6.5m wide unkerbed pavement.

Suitable access opportunities are available to meet the needs of the proposed development by both South Western Highway and Paceway Court. The masterplan shows a single central access from South Western Highway, access points to serve an existing parking and service area along Paceway Court and a new main driveway access at the western end of Paceway Court servicing an internal circulation driveway. There will be no access proposed to Greenlands Road. Suitable access arrangements can be formalised through the future proposed structure plan.

- (b) *Facilities should contain or satisfactorily manage potential environmental (including water resources), noise, amenity and air quality impacts on the landholding without affecting nearby rural land uses;*

The site is located adjacent to the southern edge of the Pinjarra town. The site is largely buffered from residential properties by the Pinjarra Cemetery and an equestrian precinct which comprising lots ranging in size from approximately 4,000m² to 2Ha. A small residential precinct is located on the northern side of Greenlands Road at the western end of the site, however the masterplan has been designed to locate agistment/paddocks areas adjacent to this area.

The site is separated from the southern rural part of the Shire by Greenlands Road. This road, particularly in its planned future state, will provide a substantial physical barrier to the southern rural areas, and will have the effect of buffering it from any amenity impacts that could potentially arise from the site.

The masterplan design shows the key new activity areas focussed in the central eastern portion of the site, south of the existing harness facility. This positioning maximises the buffers to both the Pinjarra town and the main adjacent rural areas.

The land has already been substantially altered from its natural state by the development of both a harness racing facility and pasture for cattle grazing. There are no significant environmental features that impact the site.

The spatial design principles set out in the masterplan can be incorporated in the future proposed structure plan in order to protect the rural character and amenity of the area. The structure plan can also include environmental management plans to address environmental impacts of the development including matters such as water management, acid sulphate soils management and revegetation of buffer areas.

- (c) *Facilities should not be visually dominant within key viewsheds, and should be visually compatible with surrounding land uses and development;*

The masterplan shows the western portion of the site substantially comprising agistment/horse paddocks. Substantial setbacks to buildings are proposed under the masterplan adjacent to Greenlands Road and the southern section of the frontage to South Western Highway. The masterplan shows these areas as being set aside for drainage swales, waste water reticulation areas and landscaping. The masterplan then shows building setbacks transitioning to a similar setback to the existing Paceway buildings.

The design principles set out in the masterplan as well as building standards and requirements can be incorporated in the future proposed structure plan.

- (d) *Facilities should be provided with essential services commensurate with the intended land use.*

Power and water services are available adjacent to the site and will require progressive upgrade to service the ultimate proposed development.

Effluent disposal will be addressed through integrated treatment facilities with nutrient retentive capability. The viability of the extending the reticulated sewer will be investigated as an option, particularly if the proposed tourist facility to the immediate east of South Western Highway proceeds.

Murray 2030 Strategic Community Plan

Focus Area	Thriving Economy
Aspiration	To create diverse and prosperous economy that supports innovation, training opportunities and provides a variety of business, tourism and employment opportunities.
Strategy	Reposition the equine industry in Murray as a dominant economic sector.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Thriving Economy
Objective	An economy that is focused on key success factors for growth; knowledge and innovation; export income and investment; infrastructure and local capacity.
Strategy	Reposition the equine industry in Murray as a dominant economic sector.
Project and Actions	Implementation of key short, medium and long-term initiatives in the Racing and Pacing infrastructure Business Case.

Other Strategic Links

- IER Economic Assessment of the Peel Equine Industry 2013
- 2050 Peel Regional Investment Blueprint (Peel Development Commission) 2015
- Murray Equine Strategy 2016
- Peel Equine Strategy (Peel Development Commission) 2017
- South Metropolitan Peel Sub-regional Planning Framework 2018
- Draft Southern Palusplain Strategy 2019
- Peel Equine Strategy Competitive and Comparative Analysis 2020
- Pinjarra Race Club – Pinjarra Park Development Strategy and Business Case 2020

Statutory Environment

Planning and Development Act 2005

Section 75 of the Planning and Development Act (the Act) provides that a Local Government may amend its local planning scheme by an amendment which is either:

1. prepared by the Local Government, approved by the Minister and published in the Gazette; or
2. proposed by all or any of the owners of land in the scheme area, adopted with or without modification by the Local Government, approved by the Minister and published in the Gazette.

Planning and Development (Local Planning Schemes) Regulations 2015

Regulation 35 (2) of the Planning and Development (Local Planning Schemes) Regulations (the Regulations) requires that a resolution to prepare an amendment must:

1. specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
2. include an explanation of the reason for the local government forming that opinion.

Regulation 34 sets out the criteria for each amendment category and in particular specifies that a Standard Amendment is:

- an amendment which is consistent with the applicable region planning scheme;
- an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; or
- any other amendment that is not a complex or basic amendment.

The Scheme Amendment is considered to meet the requirements of the Standard category in this case.

Peel Region Scheme

The subject land is predominantly zoned ‘Rural’ under the PRS. Portion of the land is affected by a now redundant planned alignment for Greenlands Road which is reserved as ‘Primary Regional Road’.

Town Planning Scheme No. 4

Lot 462 is predominantly zoned ‘Rural’ under TPS4 and also reflects the PRS Primary Regional Roads reserve. As TPS4 cannot be amended in a way that is inconsistent with the PRS, it is proposed to continue to reflect the existing PRS Primary Regional Road reserve as is. Lot 502 is zoned Private recreation under the Scheme.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

As detailed within this report.

Social - (Quality of life to community and/or affected landowners)

As detailed within this report.

Environment – (Impact on environment’s sustainability)

There are no significant environmental features affecting the subject land.

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	There are no significant risks involved with initiating the Scheme Amendment process.

Consultation

Upon a local government resolving to prepare an amendment to a local planning scheme, section 81 of the Planning and Development Act requires it to refer the amendment to the

Environmental Protection Authority (EPA) for consideration as to whether an environmental assessment is necessary under the Environmental Protection Act.

Following advice from the EPA that a standard Scheme Amendment does not require formal environmental assessment, Regulation 47 of the Regulations requires the local government to arrange advertising for a period of at least 42 days, by the following means:

5. notice in a newspaper circulating in the scheme area;
6. notice in the offices of the local government;
7. notice to each public authority that the local government considers is likely to be affected by the amendment;
8. notice on the local government's website; and
5. as otherwise directed by the WAPC and in any other way considered appropriate by the local government.

A range of relevant stakeholders including the following have already been consulted:

- Racing and Wagering Western Australia
- Peel Development Commission
- Pinjarra Harness Racing Club
- Adjoining landowner to the Pinjarra Harness Racing Club track

Resource Implications

Financial

The direct costs associated with the Scheme Amendment process can be accommodated within the current budget limits.

Workforce

The assessment and reporting of the amendment can be accommodated within the scope of the existing workforce level.

Options

Council has the option of:

1. Resolving to prepare and advertise a Scheme Amendment in the form recommended or some other form.
2. Not resolving to prepare and advertise a Scheme Amendment.

Conclusion

There is clear evidence that a significant portion of the equine industry that is based in and north of Perth is, and will continue to look to the Peel region to continue their equine pursuits.

However, to attract this potential economic investment, one of the things needed is to zone the subject land to a 'Special Use – Equestrian' zone consistent with the Pinjarra Paceway Development Strategy and Business Case.

The subject land is currently predominantly zoned Rural in the PRS and will continue to be according to the South Metropolitan Peel Sub-regional Planning Framework. It is consistent with the proposals under the Shire's draft Southern Palusplain Strategy and can be accommodated under SPP 2.5. The proposed provisions under the Special Use zone will provide for appropriate conditions, including the preparation of a structure plan, to ensure the orderly development of the land.

Corporate Governance

11.7 Local Government Act Review – Phase One Regulations

File Ref:	1106
Previous Items:	Nil
Author and Title:	Robert Marlborough, Manager Governance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendices 16, 17 and 18

Recommendation

That Council endorses the Local Government Act Review – Phase One Regulations submission, as provided at Appendix 16.

In Brief

- To consider the proposed Local Government Act Review – Phase One Regulations and provide feedback to the Department of Local Government, Sport & Cultural Industries (DLGSC).
- A response paper on the review has been prepared for Council's consideration.

Background

In 2017, the State Government announced a review of the *Local Government Act 1995*. In 2019, the *Local Government Legislation Amendment Act 2019* received Royal Assent with certain amendments to the *Local Government Act 1995* and subsidiary and other legislation taking effect immediately.

The Department of Local Government, Sport and Cultural Industries recently released a consultation draft, as well as explanatory notes for the Local Government Regulations Amendment (Consequential) Regulations 2020, (Regulations) which form part of the Phase one review. These documents are attached for Council's Information at **Appendices 17 & 18**.

This purpose of the review is to deal with most of the remaining initiatives from the initial Local Government Act review, with CEO Standards and the Code of Conduct still being drafted. The new subsection 5.88(2A) relating to publication of the financial interest register will not be enacted. The Regulations propose to bring into effect measures relating to:

- the harmonisation of the appointment of authorised persons across multiple pieces of legislation in the local government portfolio;
- local and state-wide public notices; and
- improved access to information, including through publication on the local government's website.

The Local Government Professionals WA have already provided a submission to the DLGSC. Submissions on the current review are open until 13 July 2020.

Report Detail

A draft Local Government Act Review – Phase One Regulations submission has been prepared for Council's consideration and this is provided at **Appendix 16**.

The submission prepared outlines the relative legislation, regulation reference in the *Local Government Regulations Amendment (Consequential) Regulations 2020*, the current regulation reference in the relevant legislation, an explanation of proposed amendment, and outlines a position to either support or not support the proposed amendment.

All recommendations to not support the proposed amendment are highlighted in red.

Other Strategic Links

Nil

Statutory Environment

This submission is in response to the review of the *Local Government Act 1995*.

Sustainability & Risk Considerations

Economic – (Impact on the Economy of the Shire and Region)

The proposed amendments to regulations will not have an economic impact on the community.

Social – (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Notwithstanding the opportunity to provide comment and feedback on the review process, the likelihood of individual contrary comment is unlikely to result in change in the formed view, unless strong collective feedback across the sector is submitted.

Consultation

Nil

Resource Implications

Financial and Workforce

There are no financial or significant workforce consequences associated with the recommendation presented.

Options

Council has the option of:

1. Supporting the attached draft submission.
2. Amending the attached draft submission.

Conclusion

In general, the majority of the proposed amendments should be supported as they reinforce and broadly align with the six themes identified during the first round of the Local Government Act review process, being:

- Administrative efficiencies;
- CEO recruitment and performance review (still pending);
- Code of conduct (standards of behaviour) (still pending);
- Gifts;
- Public notices; and
- Universal training.

11.8 Application for Rating Exemption – Access Housing Australia Ltd

File Ref:	8904-03		
Previous Items:	OCM. Jul 2019	Item 11.7	(OCM19/145)
	OCM. Apr 2020	Item 11.6	(OCM20/058)
Applicant:	Access Housing Australia Ltd		
Author and Title:	Dean Unsworth, Chief Executive Officer		
Declaration of Interest:	Nil		
Voting Requirements:	Absolute Majority		

Appendix 19

Recommendation

That Council decline Access Housing Australia Ltd's request to apply the rates exemption on their owned and leased properties retrospectively to the financial year ended 30 June 2019.

In Brief

The Shire of Murray received an application from Access Housing Australia Ltd (AHA) on 9 July 2018 for an exemption of annual rates for nine residential properties used for what are classified as 'Community Housing', with effect from 1 July 2018.

After a number of council agenda items, Council carried a vote on 23 April 2020 to grant the exemption from 1 July 2019 but only whilst the properties are considered exempt under the *Local Government Act 1995*.

The Shire of Murray has since received further correspondence from Jackson McDonald, acting for AHA, requesting Council review the approved exemption date from 1 July 2019 to the officer's recommendation of 1 July 2018.

It was previously reported that documents required for the exemption were not received within a timely manner to allow the exemption from 1 July 2018. As stated in the appendix attached, additional correspondence was exchanged between the Shire of Murray and Access Housing regarding the rates exemption application.

Background

Access Housing Australia (AHA) is a non-government social and affordable housing tenancy / property manager, with about 1,800 properties across the Perth metropolitan area, Peel and the South West. It is a not-for-profit organisation that is also a registered charity and public benevolent institution, and provides community housing to tenants including families, singles, seniors and people living with a disability or mental health. Properties are leased to tenants deemed eligible by the Department of Housing, and lease payments are calculated based on 25% market rental values.

Section 6.26(2)(g) of the *Local Government Act 1995* states that land used exclusively for charitable purposes is not rateable land. The Department of Local Government and Communities provides the land will be exempt from rates if a council is satisfied that it is used exclusively for a charitable purpose. Historically, there are four categories of charitable purpose:

- The relief of poverty;
- The advancement of education;
- The advancement of religion; and
- Other purposes considered beneficial to the community.

To meet the criteria for a rates exemption, the land must be used exclusively for charitable purposes. If land is used for a dual purpose it is not exclusively used for a charitable purpose,

even though one of the purposes may be charitable. Nor will land be used exclusively for a charitable purpose where the land is used for the purpose of a business enterprise which is raising funds to be used for charitable purposes. However, the use of land for a charitable purpose may produce a 'profit' which is incidental to its charitable purpose. In this case the land may still be considered as 'exclusively used' for a charitable purpose.

In the instance where a local government refuses a rates exemption application, the applicant can challenge this decision in the State Administrative Tribunal (SAT). If approval is subsequently granted, the Council must apply a non-rateable status for that property, to the extent of the decision.

Report Detail

The Local Government Act 1995 does not provide clear guidance with regards to the exemption status around subsidised housing. Most applicants base their claim on the grounds of being a charitable organisation providing low cost housing for low to medium income earners. Local governments across the State have spent many hours and considerable funds obtaining legal advice and dealing with the State Administration Tribunal (SAT) when exemption applications are refused. Anecdotal evidence suggests that all such challenges in SAT are found in the applicants favour, due to the "charitable purpose" clause in Section 6.26(2)(g) of the Act and retrospective exemptions have been applied, resulting in further financial loss. This has led most local governments, including the Shire of Murray, to now concede and grant the applications, albeit under a feeling of duress.

This application of the exemption status appears inconsistent when compared to state owned properties used to house low income earners. Many of the properties that are currently receiving exemption status in Western Australia are leased from the Department of Housing. Rental payments for public housing tenants of the Department are based on 25% of their weekly assessable household income, similar to the rental charged by Access Housing Australia Ltd. The Department of Housing however honours their moral commitment to the community in general and pay full rates on residential properties under their control. They also stipulate in their lease agreements with Access Housing that Access Housing are fully responsible for all outgoings on the property including the payment of local government rates.

One of the principles local governments are urged to observe when imposing rates is fairness and equity. Bearing this principle in mind all members of the community should be required to contribute to the upkeep and maintenance of the amenities supplied by local government.

Access Housing Australia Ltd's application for rates exemption for the current financial year was approved by Council on 23 April 2020. They are however not satisfied with that decision and are requesting Council reconsider and apply the exemption retrospectively to the previous financial year.

The table below shows a list of the properties relevant to this application, as well as the rates for the 2018/19 financial year. If exemption is granted retrospectively this would result in an amount of \$31,311.62 having to be refunded to Access Housing Australia Ltd, resulting in further loss to Shire revenue.

Property Address	Owner	Status	Type	18/19 Rates
5 Longo Avenue, Pinjarra	Access Housing Australia Ltd	Owned	7 Group Dwellings	7,248.13

Property Address	Owner	Status	Type	18/19 Rates
51 Forrest Street, Pinjarra	Access Housing Australia Ltd	Owned	7 Group Dwellings	8,027.49
57 Congdon Avenue, Pinjarra	Access Housing Australia Ltd	Owned	3 Group Dwellings	5,689.39
6 Camp Road, Pinjarra	Access Housing Australia Ltd	Owned	5 Group Dwellings	3,559.11
3 Gowman Way, Ravenswood	Department of Housing	Leased	Single Dwelling	1,712.01
63 Hampton Road, Pinjarra	Department of Housing	Leased	Single Dwelling	1,713.09
65A/B Wilson Road, Pinjarra	Department of Housing	Leased (half)	2 Dwellings (only applying for 1)	893.68
7 Osmunda Place, Pinjarra	Department of Housing	Leased	Single Dwelling	1,265.72
U 2/4 Havil Street, Pinjarra	Department of Housing	Leased	5 Group Dwellings (unit 2 only)	1,203.00
				<u><u>31,311.62</u></u>

Murray 2030 Strategic Community Plan

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Capable and Accountable
Objective	Murray has a sustainable future.
Strategy	Maintain Long-Term financial sustainability.
Project and Actions	Develop a Rating Strategy.

Other Strategic Links

Nil

Statutory Environment

Section 6.26(2)(g) of the *Local Government Act 1995* states that land used exclusively for charitable purposes is not rateable land.

The *Charities Act 2013* sets out a list of ‘charitable purposes’.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Increased impost on the community to cover the reduction in rates if exemption is granted.

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Moderate	There is a risk that if Council does not approve this exemption, the applicant will take the matter to the State Administrative Tribunal and apply to have Council’s decision overturned. Advice from other local governments has indicated that this would be the likely outcome and could prove costly to the Shire.

Consultation

Nil

Resource Implications

Financial

Loss of revenue totalling \$31,311.62 if the exemption is granted.

Workforce

Nil

Options

Council has the option of:

1. Refusing the applicant’s request for full exemption of rates on the residential properties tabled above from 1 July 2018 to 30 June 2019.
2. Granting the applicant full exemption of rates on the residential properties tabled above from 1 July 2018 to 30 June 2019.

Conclusion

Access Housing Australia Ltd uses the properties that they own and lease to provide low cost housing to people in need. The money that is collected from rent is used to purchase more property and maintain their current portfolio.

The original exemption request was declined by Council 25 July 2019 due to significant ambiguity within the Local Government sector as to the appropriate application of the section of the Local Government Act 1995 covering exempt properties. Council's position on this status hasn't altered and it was only under duress that the exemption from 1 July 2019 was finally granted.

Access Housing should appreciate that, in response to the COVID-19 pandemic, Council has made significant concessions to the entire Shire of Murray community. These concessions will have a serious impact to the Shire's cash flows and to apply any rates exemption retrospectively would cause further financial strain.

11.9 Rates Write-Off

File Ref:	8/9360		
Previous Items:	OCM. Jun 2019	Item 11.12	(OCM19/116)
Applicant:	Nil		
Author and Title:	Rikki Gardiner, Senior Rates Officer		
Declaration of Interest:	Nil		
Voting Requirements:	Absolute Majority		

Recommendation

That Council, in accordance with section 6.12 of the Local Government Act, endorse the write off the following debt totalling \$7,731.87 being for rates and charges in relation to:

**Assessment 7189 – Lot 51 (1827) Lakes Road, North Dandalup
 Assessment 7191 – Lot 53 (99) Avoca Retreat, North Dandalup
 Assessment 7192 - Lot 54 (123) Avoca Retreat, North Dandalup
 Assessment 7193 – Lot 55 (541) Readheads Road, North Dandalup**

In Brief

- Council is requested to write off rates on four properties where there has been an abnormal increase in the unimproved land valuations due to subdivision activity in the surrounding area.

Background

The Dandalup Springs Estate located in North Dandalup was subdivided into multiple hobby farms. These properties are approximately 2.5 hectares in size and are zoned special rural. Due to their size and use they were converted to use the Gross Rental Value valuation method and rating category. An unforeseen outcome from the creation of this subdivision is that it greatly increased the surrounding properties Unimproved Values. These new values were entered into the Shire's rating system at the beginning of the 2018/19 financial year and caused the surrounding properties' rates to increase and in some cases double.

Once Shire officers noticed the increase in rates that the surrounding properties had incurred, a plan was created to ensure that these properties were rated equitably and fairly. Each of the ratepayers were notified by letter to pay the 2017/18 rates amount plus two percent whilst officers worked on bringing the rates in line with other properties in the area. The best course of action was to change the valuation methodology for these properties from Unimproved Value to Gross Rental Value. The Value General's Office was contacted to begin the process.

The Local Government Act allows local governments to write off any amount of money owing to it. Debts up to the individual value of \$1,000 may be written off under Council delegation, however those over \$1,000 are to be brought to Council for write off on an annual basis.

Report Detail

To ensure fair and equitable rating, the Shire has begun the process to change the valuation method for these properties from UV to GRV. However, this will not be completed before the end of the 2019/20 financial year. The ratepayers of these properties were notified that they would need to pay the 2018/19 rates plus the additional two percent annual rate increase. Since the revaluation process will not be completed before the end of the financial year, Council is requested to endorse the write off excess rates on the associated properties.

The breakdown of the write off can be seen in the table below.

Address	Levied	Asked to Pay	Write-off
Lot 51 (1827) Lakes Road	5,110.27	3,117.31	1,992.96
Lot 53 (99) Avoca Retreat	4,923.96	3,124.08	1,799.88
Lot 54 (123) Avoca Retreat	5,083.66	3,117.31	1,966.35
Lot 55 (541) Readheads Road	5,110.27	3,137.59	1,972.68
Total	20,228.16	12,496.29	7,731.87

Murray 2030 Strategic Community Plan

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Maintain long term financial sustainability.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Capable and Accountable
Objective	Murray has a sustainable future.
Strategy	Maintain Long-Term Financial Sustainability.
Project and Actions	Review the Long-Term Financial Plan.

Other Strategic Links

Nil

Statutory Environment

Local Government Act 1995, Section 6.12

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

- (1) Subject to subsection (2) and any other written law, a local government may -
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money, which is owed to the local government.

* Absolute majority required.
- (2) Subsection (1) (a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1) (b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Policy F6 – Debt Collection

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	There are no significant risks associated with the officer recommendation outside of the debt remaining on the financial statements.

Consultation

Nil

Resource Implications

Financial

Council’s end of year financial statements should accurately reflect Council’s known financial position. There will be no financial impact as a result of writing off this debt as adequate provision has been made in the Shire’s balance sheet for this purpose.

Workforce

Nil

Options

Council has the option of:

1. Writing off the debt as recommended.
2. Declining to write to off recommended debt.

Conclusion

To comply with requirements of accounting standards, Council’s stated financial position should accurately reflect the true position of Council. This requires doubtful debts to be written off when deemed uncollectible.

11.10 Murrayfield Airport Business Case

File Ref:	5/6117
Previous Items:	Nil
Author and Title:	David Arkwright, Manager Investment Attraction
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 20

Recommendation

That Council:

- 1. acknowledges completion of the Murrayfield Airport Business Case and Investment Prospectus, and agrees to release the documentation to strategic stakeholders subject to the approval of the owners of Murrayfield Airport;**
- 2. agrees to the Shire continuing to liaise with the owners of Murrayfield Airport to help facilitate investment by both the public (State and Australian governments) and private sectors; and**
- 3. agrees to the Shire facilitating discussions between the owners of Murrayfield and the Golden Group (or other appropriate land holding) regarding an alternative location for the future Murrayfield development.**

In Brief

In 2019 a working group comprising the Shire of Murray, the Royal Aero Club of WA, Brookes Hire, the Peel Development Commission and the City of Mandurah was formed to develop a vision for Murrayfield Airport and develop a detailed Business Case – suitably detailed and with sufficient evidence to enable approaches to both private and public investment capital. A consultancy group led by FAR Lane and including Buchan Architects and Mott Mac Engineers, was appointed to assist the working group achieve this.

Visions for Murrayfield Airport were developed for 2035 and 2050.

The detailed business case was built around the 2035 vision – primarily aeronautical development on the land owned by the Royal Aero Club of WA. The business case does however recognise and broadly evaluate the longer-term development options (commercial, industrial and others) that exist on the land owned by Brookes Hire.

Background

Murrayfield Airport is the last remaining airport in the Perth Metropolitan Region that has capacity to grow and expand.

The Peel region of Western Australia is on a journey of unprecedented growth and change. Local government and regional development partners are working closely together to foster a diverse and active economy that will provide secure and fulfilling jobs for a growing population, attract new business to the region, and also put Peel on the map as a key contributor to the state's economy. Initiatives like Transform Peel, and the joint Murray and Mandurah Economic Development Strategy provide frameworks to support and encourage investment in the region, and are already seeing positive results.

Murrayfield Airport is a potential asset located only 15 minutes drive from both Pinjarra and Mandurah. Through strategic and targeted private and public sector investment in airfield infrastructure, Murrayfield Airport will have the opportunity, and an increased capacity, to grow and evolve to support the diversification of the regional economy.

Report Detail

See attached final Business Case and Investment Prospectus

Vision

Under the preferred scenario, by 2035 Murrayfield Airport will be a thriving, active airfield that is contributing to the regional economy through jobs and diverse new industries. Development will have been unlocked by strategic investments in access and service infrastructure, allowing for future public and private investment. The West Australian Aviation College will be operating at full capacity, attracting international contracts and students to the area to receive high quality commercial aviation training with access to state of the art technology and simulators. The airport will be operating at full capacity, with 40-50 movements per hour made up of students, private pilots and commercial enterprises benefitting from expansive new hangar facilities and proximity to Mandurah and the Peel Business Park.

Characteristics of Preferred Scenario

The core components of the preferred scenario and the basis for the business case include:

- Connection to mains services (electricity, water);
- Western sealed access road into key development zone;
- 84 standard hangars and 6 large hangars for private and commercial lease, and associated taxiways;
- An additional 1,200mx 23m cross runway with full length taxi-way;
- A West Australian Aviation College Campus and on-site student accommodation for up to 80 students per year;
- Royal Aero Club of Western Australia Club House and Administration;
- Additional fuel tank and refill station;
- Extension of taxiway to full length of existing runway 05/23; and
- 3 simultaneous operations helicopter parking positions.

Core Drivers

The global impact of COVID-19 on the aviation sector has been significant. It is estimated that the sector will lose \$89bn in 2020 and an additional \$34bn in the subsequent 2021 – putting approximately 6.5m jobs at risk. The degree to which different governments provide different support packages to airlines will have a bearing on how many airlines survive this pandemic and the aftermath.

Irrespective of the above, some potential future features of the global aviation industry include the following:

- Reduced flights;
- Reduced fleet;
- Imposition of aviation fuel tax and inclusion of aviation in climate targets;
- Frequent Flyer levies;
- Halt to major airport expansions;
- Return to hub and spoke model, and;
- Potential re-nationalisation of airlines.

On the upside, it is anticipated that there will be significant new investment in new fuels and in new technologies. In particular, a substantial investment in digital technology can be expected – “touchless travel”, digital health passports, and the emergence of the new “digital traveller”.

Murrayfield has the opportunity to be part of determining the new aviation future.

Some potential investors/users

In the course of preparation of the Business Case, some potential investors/users in Murrayfield have been identified:

These include:

- Electro Aero: Working on the development of electric propulsion systems for light aircraft. Currently based at Jandakot and looking to move to Murrayfield as part of moving to commercialisation;
- SBS Simulators: Based in Mandurah, SBS offer airline management and flight crew training. SBS currently in talks with US Aerospace Rockwell Collins regarding future joint projects – including flight simulators, and;
- The State Government's Rural Bushfire Centre of Excellence: Potential to play a role in fleet storage, ad-hoc water and fuel reload, and training.

Development costs

The total cost of the preferred scenario is estimated to be approximately \$111.5m.

This is made up of capital works (approx. \$75.5m), contractors preliminaries (approx. \$12.5m) and contingencies and fees (approx. \$23.5m).

Of the total cost, \$7.5m is identified as Foundation Investment – the estimated need for investment by the public sector into critical infrastructure to de-risk the project. This critical infrastructure includes a new western access road, headworks infrastructure to the site and ongoing site works.

Murray 2030 Strategic Community Plan

Focus Area	Thriving Economy
Aspiration	An economy that is focused on key success factors for growth: knowledge and innovation; export income and investment; infrastructure and local capacity.
Strategy	Maximise the economic opportunities inherent in the strategic Murrayfield Airport. Through the preparation of a Murrayfield Airport Development Plan.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Thriving Economy
Objective	An economy that is focused on key success factors for growth; knowledge and innovation; export income and investment; infrastructure and local capacity.
Strategy	Maximise the economic opportunities inherent in the strategic Murrayfield Airport.
Project and Actions	Support Murrayfield Airport Development Plan.

Other Strategic Links

Not Applicable

Statutory Environment

It is likely that a new Development Plan for the Murrayfield site will need to be drawn up and submitted to the Shire for approval

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The proposed development of Murrayfield Airport has significant economic benefit detailed as follows:

In construction:

- Direct, indirect and consumption effect jobs in the Shire of Murray – 482;
- Rise in output of the Shire's economy - \$195m;
- Additional value added to the Shire's economy - \$80.5m;
- Direct, indirect and consumption effect jobs in the wider Australian economy – 333;
- Rise in output of the wider Australian economy - \$150m;
- Additional value added to the wider Australian economy - \$50m.

In operation:

- Direct, indirect and consumption effect jobs in the Shire of Murray – 128;
- Rise in output of the Shire's economy - \$52.5m;
- Additional value added to the Shire's economy - \$32.1m
- Direct, indirect and consumption jobs in the wider Australia economy – 78;
- Rise in output in the wider Australian economy - \$80m;
- Additional value added to the wider Australian economy - \$52.8m.

Medium to longer term industrial and commercial development:

The medium-term economic impacts associated with industrial and commercial development on the balance of the Murrayfield site – mainly that portion of land owned by Brookes Hire – are substantial, and include:

- Direct, indirect and consumption effect jobs onsite at Murrayfield – 750.
- Economic output generated onsite at Murrayfield - \$450m per annum.
- Value add generated onsite at Murrayfield - \$260m.
- Direct, indirect and consumption effect jobs in wider Murray – 423.
- Additional economic output in wider Shire of Murray - \$111m.
- Additional value added in wider Shire economy - \$84m.

Social - (Quality of life to community and/or affected landowners)

A key risk associated with the future development of Murrayfield in its current location is the air traffic increase and noise impact on the immediately adjacent Kennels Precinct, and on wider residential areas including Ravenswood. This matter will need to be referred to the EPA.

Environment – (Impact on environment's sustainability)

The proposed development of Murrayfield will require removal of some native Banksia vegetation. Early discussions with the EPA have indicated that offset arrangements are a possible solution to this, and will need to be discussed and approved by the EPA.

Policy Implications

A potential opportunity exists for both the Shire of Murray and the City of Mandurah to consider future equity options in Murrayfield Airport. Tentative discussions with the owners have suggested that this is an option that they would consider.

Risk Management Implications

The following key risks for the further development of Murrayfield Airport have been identified in the Business Case:

<i>Risk Level</i>	<i>Comment</i>
High	Noise Abatement – Neighbouring properties. Referral to the EPA for a decision.
Medium	Future land acquisition from Watercorp for runway extensions. Early detailed discussions with Watercorp
Medium	Sky-diving operations at Murrayfield may be impacted. Ongoing discussions with Skydiving Australia.
Medium	Banksia woodland to be removed for cross runway. Need to communicate with EPA.
Low-medium	New CASA airfield Registration rules. RACWA indicate that a range of options exist to meet new regulations.
Low	Level of current interest in Murrayfield is from enterprise that uses airfields rather than enterprise that supports airfields. Target these enterprises in the short term.
Low	New rural access road from Keralup may impact future runway extension on to Watercorp land. Maintain communication with Keralup development.

It is anticipated that any increased activity at Murrayfield and any increase in noise, will attract community reaction ranging from the nearby Kennels Precinct as well as from wider residential areas of Mandurah and areas such as Ravenswood. It is also anticipated that the loss of Banksia woodland will trigger strong community reaction.

In anticipation of the above, the Shire has raised the potential opportunity for the relocation of Murrayfield onto the land owned by the Golden Group to the south of Lakes Road and east of Murrayfield. This opportunity came about with the recent approach by the Golden Group to the Shire seeking a higher value investment opportunity for the land beyond the currently approved “rural residential” development. No response has yet been received from the Golden Group

Consultation

There has not been any community consultation undertaken to-date, other than informing the Kennel Precinct owners and others that a business case was in preparation. Consultation has been limited to the Working Group, some interested enterprises and key State government Departments such as the EPA

Resource Implications

Financial

See attached Project Budget Statement – indicating funding remaining in budget.

Workforce

There are significant workforce development opportunities associated with the future development of the Murrayfield Airport.

Options

Council has the option of:

1. Regarding the Business Case and Investment Prospectus documents:
 - 1.1 Approving the Business Case and Investment prospectus as it is, or;

- 1.2 Approving the Business Case and Investment Prospectus subject to additional work being done – the latter further subject to the approval of the other funders of the Business Case.
2. Regarding consultation on the Business Case:
 - 2.1 Agreeing to make the Business Case available to the general public subject to the approval of the owners of Murrayfield Airport, or:
 - 2.2 Agreeing to make the Business Case available to certain stakeholders – subject to the approval of the owners of the Murrayfield Airport

Conclusion

Murrayfield Airport is an underutilised and underperforming asset. It is the last airport within the Perth Metropolitan region that has capacity to grow and is therefore a significantly strategic asset, with the capacity to add enormous value to the Shire of Murray in terms of jobs, economic output and value-add. There are some constraints to the further development of Murrayfield, and these might prove limiting. There are opportunities for the further development of Murrayfield Airport to take place on alternative sites less constrained. There are opportunities for parties to take equity in the Murrayfield asset

11.11 Policy G15 – Community Engagement

File Ref: 7/7801
Previous Items: OCM. 25 Jul 2019 Item 11.4 (OCM19/140)
Author and Title: Lauren Williams, Communications and Marketing Coordinator
Voting Requirements: Simple Majority

Appendix 21

Recommendation

That Council adopts the Policy G15 - Community Engagement as detailed at Appendix 21.

In Brief

- The Community Engagement Policy will ensure that best practice, meaningful community engagement is a strategic consideration that guides Shire decision-making.
- The Policy will ensure that community engagement is built into work practices and remains an integral part of operations.
- The Policy will ensure the realisation of outcomes of the Shire's Strategic Community Plan and Communications and Engagement Strategy.

Background

In the Murray 2030 Strategic Community Plan, the Shire committed to developing strong leadership through among other outcomes, effective communication. To achieve this aspiration, the Shire set several objectives and strategies.

The Communications and Engagement Strategy was then developed to ensure this commitment, its objectives and strategies were achieved.

The adoption of the Community Engagement Policy completes an action of the Strategy and progresses the realisation of the above aspiration of the Plan.

Report Detail

The Shire of Murray is committed to delivering best practice community engagement that is meaningful, transparent, accountable and consistent across the organisation.

The Policy describes this commitment and outlines minimum standards and requirements to ensure that:

- Community members and other stakeholders are influential and involved in decision-making that affects their lives and/or business operations.
- Community engagement is a strategic consideration that guides Shire decision-making.
- Community engagement is inclusive.
- Community members and other stakeholders feel their input has been considered and appropriately reflected in the decisions made and actions taken.

The policy further outlines when the Shire will engage, how best to determine who should be engaged and their level of influence as well as the roles of Councillors, staff and stakeholders.

The policy applies to Shire Councillors, staff and consultants and contractors acting on the Shire's behalf.

Murray 2030 Strategic Community Plan

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Promote an organisational culture of safety, best practice and continuous improvement where staff live the brand.
	Establish and maintain a user focussed communication approach throughout which the community is informed, engaged and empowered.
	A participatory community to engage with the Shire to build better places.

Murray 2019- 2023 Corporate Business Plan

Focus Area	Capable and Accountable
Objective	Actively increase the level of engagement with the community.
Strategy	A participatory community to engage with the Shire to build better places
Project and Actions	Develop and adopt a Community Engagement Policy to ensure community engagement is a strategic consideration that guides Shire decision making.

Other Strategic Links

Communications and Engagement Strategy

Statutory Environment

Not Applicable

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Adherence to the Community Engagement Policy has the potential to affect indirectly the Shire’s economy, by helping to establish a proud, participatory community with a strong sense of belonging working together to ensure that Murray is a place where business thrives, the environment is protected and all people enjoy an outstanding quality of life.

Social - (Quality of life to community and/or affected landowners)

Adherence to the Community Engagement Policy will help build a positive community perception and trust, that Council and staff act in the community’s best interest as well as make the Shire’s community engagement practices more inclusive and transparent.

It will also assist in establishing a co-working relationship whereby the community and Shire work together to build resilient communities and places.

Environment – (Impact on environment’s sustainability)

Not Applicable

Policy Implications

As outlined in this report.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
High	In the absence of the Policy, Shire practices will be unguided and may not be undertaken in line with the Shire's commitment to its community. The outcomes of the Strategic Community Plan and Communications and Engagement Strategy may also not be realised. The community's trust in the Shire acting in their best interest as well as the transparency, inclusiveness and accountability of Shire engagement practices, may also be negatively impacted.

Consultation

Not Applicable

Resource Implications*Financial*

The Policy specifies the following commitments which will have financial implications for the Shire:

- Staff are equipped with the skills and knowledge to undertake engagement in line with best practice and work to ensure continual improvement.
- Appropriate funds and capacity are availed for community engagement and that a Community Engagement Plan is prepared for each engagement undertaking.

Workforce

The Policy will affect business as usual for all Shire officers who deliver projects and initiatives.

Options

Council has the option of:

1. Adopting the Community Engagement Policy as detailed at Appendix 21.
2. Adopts the Community Engagement Policy, with amendments.
3. Not Adopting the Community Engagement Policy.

Conclusion

The Community Engagement Policy guides Councillor, staff and consultant/contractor behaviour. The Policy will help ensure that the Shire upholds its commitment to the community for best practice, meaningful community engagement.

Adherence with the Policy, will empower a participatory community who engage with the Shire to build better places.

11.12 Payments from Municipal and Trust Funds – May 2020

File Ref: 8013-01
 Author and Title: Nicole Bryant, Manager Finance
 Voting Requirements: Simple Majority

Appendix 22

Recommendation

That Council receives the Payments from Municipal and Trust Funds report for May 2020 as presented.

In Brief

This report of payments made from the Shire's Municipal and Trust bank accounts is presented to Council, in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996*.

Background

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* requires that:

- 1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared:
 - a) the payee's name; and
 - b) the amount of the payment; and
 - c) the date of the payment; and
 - d) sufficient information to identify the transaction.
- 2) A list of accounts for approval to be paid is to be prepared each month showing:
 - a) for each account which requires council authorisation in that month:
 - (i) the payee's name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction; and
 - b) the date of the meeting of the council to which the list is to be presented.
- 3) A list prepared under sub regulation (1) or (2) is to be:
 - a) presented to the Council at the next ordinary meeting of the council after the list is prepared; and
 - b) recorded in the minutes of that meeting.

Report Detail

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the Shire's Municipal and Trust Funds and, as required, a list of accounts paid by the Chief Executive Office is provided to Council.

The information report contains the list of payments made from the Shire of Murray's Municipal and Trust bank accounts for the month of May 2020.

This list includes details for each payment made, incorporating:

- The payees name
- The description of the payment
- The date of the payment
- The amount of the payment
- A certificate signed by the Chief Executive Officer, stating that all invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of

services and as to prices, computations and costing and that the amounts shown were due for payment.

Invoices supporting all payments are available for the inspection of Council.

Murray 2030 Strategic Community Plan

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability.

Other Strategic Links

Nil

Statutory Environment

Section 6.4(1) of the *Local Government Act 1995* requires the Shire of Murray to prepare financial reports as prescribed. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* governs the requirement to provide to Council a detailed listing of all payments made from the Municipal and Trust bank accounts and outlines the form, content and timing of this report.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Failure to present a detailed listing of payments made from the Shire bank accounts in the prescribed form would result in non-compliance with the Local Government (Financial Management) Regulations 1996, which may result in a qualified audit.

Consultation

Nil

Resource Implications

Financial

Nil

Workforce

Nil

Options

Council has the option of:

1. Receiving the Payments from Municipal and Trust Funds report for May 2020.
2. Not receiving the Payments from Municipal and Trust Funds report for May 2020.

Conclusion

The Payments from Municipal and Trust Funds report has been prepared in accordance with the Local Government (Financial Management) Regulations 1996 and is presented to Council for information. All accounts are for goods and services that have been duly incurred and authorised for payment in accordance with the budget allocation and statutory obligations.

11.13 Monthly Financial Report – May 2020

File Ref: 8013-01
 Author and Title: Nicole Bryant, Manager Finance
 Voting Requirements: Simple Majority

Appendix 23

Recommendation

That Council receives the May 2020 Monthly Financial Report as presented.

In Brief

This monthly financial report is presented to Council to outline the Shire of Murray's financial position as at the reporting date, in line with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

Background

The *Local Government Act 1995* in conjunction with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires a monthly Statement of Financial Activity to be presented to Council. This Statement is to include:

- a. Annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c) of the *Local Government Act 1995*;
- b. Budget estimates to the end of the month to which the statement relates;
- c. Actual amounts of expenditure, revenue and income to the end of the month to which these statements relate;
- d. The material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- e. The net current assets at the end of the month to which the statement relates.

Report Detail

The monthly financial report for May 2020 identifies the financial position of Council as at the reporting date and consists of:

- Statement of Financial Activity
- Notes to Statement of Financial Activity:
 - * Note 1 Net Current Funding Position
 - * Note 2 Cash and Investments
 - * Note 3 Budget Amendments
 - * Note 4 Receivables
 - * Note 5 Cash Backed Reserves

Murray 2030 Strategic Community Plan

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability.

Other Strategic Links

The Shire of Murray 2019/20 Annual Budget.

Statutory Environment

Section 6.4(1) of the *Local Government Act 1995* requires the Shire of Murray to prepare financial reports as prescribed. Regulation 34 of the *Local Government (Financial*

Management) Regulations 1996 outlines the form, content and timing of the monthly financial reports prepared for presentation to Council.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Timely submission of detailed monthly financial reports allows Council to monitor the financial performance of the Shire and review any adverse financial trends that may impact on the Shire's financial sustainability.

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Moderate	Failure to monitor the Shire's ongoing financial performance would increase the risk of a negative impact on the Shire's financial position.
Low	Non-compliance with legislative requirements may result in a qualified audit.

Consultation

Nil

Resource Implications

Financial

Nil

Workforce

Nil

Options

Council has the option of:

1. Receiving the monthly financial report for May 2020.
2. Not receiving the monthly financial report for May 2020.

Conclusion

This monthly financial statement has been prepared in accordance with the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

Recreation, Economic & Community Development

11.14 Murray Aquatic & Leisure Centre – Licence Proposal – Pre and After Hours and School Holiday Care Program – A1 Fun Pty Ltd

File Ref:	7/7621 & R44445		
Previous Items:	OCM. 23 Nov 17	Item 11.15	(OCM 17/285)
	OCM. 27 Sep 18	Item 11.10	(OCM 18/199)
Applicant:	A1 Fun Pty Ltd		
Declaration of Interests	Nil		
Author and Title:	Ben Jordan, Manager Murray Aquatic & Leisure Centre		
Voting Requirements:	Simple Majority		

Recommendation

That Council:

1. **approves for the Chief Executive Officer to negotiate, prepare and endorse a new Licence with A1 Fun Pty Ltd for the use of portions of the Murray Aquatic & Leisure Centre, subject to the Minister of Lands consent, to**
 - a. **provide a School Holiday Care programme with a hire fee of \$105 per day (ex GST) Monday to Friday, during school holidays, public holidays excepted;**
 - b. **provide a Before School Care with hire fee of \$90 per week;**
 - c. **provide an After School Care programme with a hire fee of \$155 per week;**
 - d. **or provide all three services for a hire fee of \$300 per week;**
2. **includes profit share arrangements for School Holiday, Before or After School Care Services at a rate of 20% of the profit generated from the services being returned to the Shire to assist with Murray Aquatic & Leisure Centre improvements, with a further 20% of profit being allocated to the community.**
3. **includes a commencement date of 6 July 2020; and**
4. **the licence term being 2 years with an option of a further two years, subject to the approval of the Chief Executive Officer.**

In Brief

To consider a licence proposal with A1 Fun Pty Ltd to operate pre and after school hours and holiday care at the Murray Aquatic & Leisure Centre

Background

- In November 2017 Council adopted a recommendation to support a licence arrangement with A1 Fun Pty Ltd (A1 Fun) to operate an Out of School Hours Service program from the Murray Aquatic & Leisure Centre (MALC).
- In September 2018 Council unanimously supported a recommendation to vary the Deed of Licence in relation to fees payable for services, due to lack of uptake and market competition.
- The current Deed of Licence expired on 18 February 2020, with A1 Fun indicating a desire to enter into a new licence for a term of 2 years with a similar option period.

- The renewal process was deferred to manage the impact of MALC's closure due to COVID-19.

A licence with A1 Fun enables access to defined areas of the MALC for the purpose of providing services for Out of Hours School and Holiday Care to the community as follows:

- Before School Care - 6:30am to 8:30am - Monday to Friday during school term;
- After School Care - 3:00pm to 6:30pm - Monday to Friday during school term; and,
- Vacation (Holiday) Care - 6:30am to 6:30pm - Monday to Friday during school holidays.

A percentage of profits generated from the Out of School Hours Care service, being 20% to be returned to be used for improvements to the MALC, and 20% was to be allocated to the community.

The areas to be covered by the licence, include the Performing Arts Workshop & Court three, with access to common areas, being the Court 3 toilets and change rooms and foyer areas.

Report Detail

A1 Fun has been operating a service from MALC since December 2017, initially offering Vacation, Before and After school hours care, reducing to just Vacation care in September 2018.

Although A1 Fun provides a great service to the community it has struggled to significantly grow the service over the years and generally operates at reduced levels. The Pinjarra service is one of A1 Fun's sites, thus is able to make the programme work by combining children across the various centres and activities, collectively making for a great regional program.

With the expiration of A1 Fun's current Deed of Licence to hire the lower Court 3 section of MALC, they would like to enter into a new Deed based on the current Deed inclusions. This would mean there is no modification to the current arrangement with simply an extension of operating terms being the only changes.

The hire fees were amended in September 2018 which allowed for the cessation at that time and the potential reestablishment in the future of a full care service. This includes Before and After School Care as well as the Vacation Care service that has been operating for the past two years. It is felt by continuing to provide the option to reinstate these services, it allows A1 Fun and the Centre a chance to grow the service if the market conditions and community will it right.

It is therefore proposed, subject to Council's support that a new Deed of Licence operating under the previous terms be prepared for A1 Fun. The Deed of Licence would include the operation of an Out of School Hours Service program from the MALC, operating as single service segments (Vacation Care, Before School or After school Care) or as all three services.

It is proposed to maintain the same fee schedule as per the recently expired Deed, being \$105 per day (ex GST) for Vacation Care – i.e. when the service is undertaken during school holidays periods (excludes public holidays), \$90 per week for Before School and \$155 a week for After School when operating, and an all-inclusive fee of \$300 per week if all three services are operating.

In addition, the current profit share arrangement will also remain, being 20% to the Shire for improvements to the MALC, and 20% to the community. It should be noted that in the first 24 months of operation, the Centre has not received any profit share revenue.

Murray 2030 Strategic Community Plan

Focus Area	Places for People
Objective	Encourage an active and healthy community
Strategy	Actively take opportunities to enhance public health

Murray 2019- 2023 Corporate Business Plan

Focus Area	Places for People
Objective	Encourage an active and healthy community
Strategy	Actively take opportunities to enhance public health.
Project and Actions	Increase visitation and participation in Murray Aquatic & Leisure Centre activities

Other Strategic Links

Nil

Statutory Environment

Local Government Act 1995 – Part 6 Financial Management

Local Government Act 1995 – Section 3.58, Disposing of Property

Sustainability & Risk Considerations

Economic – (Financial impact to the community)

Entering into a new licence arrangement will allow A1 Fun to continue to operate, thus have a financial impact on their service and the services they interact with. The agreement also provides revenue for MALC through hire fees also as well as additional services such as entry into the aquatic area.

Social – (Quality of life to community and/or affected landowners)

A1 Fun provides a valuable service to many families in the community, providing a reasonably priced Vacation Care (potentially Before & After School Care Services) allowing parents to go to work. The service is conveniently located within Pinjarra for local families, and also ensures there is two service options in the area.

Environment – (Impact on environment's sustainability)

Nil

Governance – (Policy implications)

Nil

Overall Risk Management Consideration

If the service was to cease operating in the townsite this could reflect negatively on the Shire and MALC. Although the service is not an overly busy operation, it does provide a good service to many families within the community.

There is the potential for the MALC to provide an alternate service, however when taking into consideration all the legislative, compliance and staffing requirements, it is considered more advantageous for an external provider already operating in the field to provide this service, rather than the MALC itself. MALC's primary role can then be to help facilitate growth and development in the market, increasing utilisation of the service and the Centre.

Consultation

Nil

Resource Implications*Financial*

A direct revenue of around \$5,000 is projected this financial year, with additional income coming in the form of aquatic entries. It is expected that this return will be maintained per annum over the term of the new Licence, with the potential for profit share if the reintroduction of Before and After School services occurs.

There is very limited expense for the Centre related to A1 Fun's hire.

Workforce

Nil

Options

Council has the option of:

1. Supporting A1 Fun Pty Ltd's request for a new licence.
2. Proposing changes to the request including alternate fee structures or the term.
3. Declining to support the request to for a new licence.

Conclusion/Justification of Officer Recommendation

At the conclusion of the current two-year term with A1 Fun, the assessment has been that the service was successful and valuable to the Community and Centre, despite possibly not achieving attendance levels as initially hoped for. A1 Fun has had some challenges over the past two years, including dropping the Before and After School elements, which if successfully operating would have had a greater positive impact all round

There is significant resources and experience required to establish and maintain an Out of School Hours Care program for which the Centre doesn't have the current capacity (financial, experience, time) to replicate, therefore is keen to have A1 Fun continue to offer this service from the Centre.

With continuing the optional pricing for Before and After School Services, it is hoped through this next two-year term (plus two if optioned), one or both of these services will be able to be reinstated, leading to a significant growth in the service. Nevertheless, should this not eventuate, working parents in Pinjarra will have the option for their children to be cared for and entertained during the school holidays at the Centre in an accredited program.

Infrastructure Services

11.15 Tender T20/2-Mowing of Public Open Spaces

File Ref:	T20/2
Previous Items:	Nil
Author and Title:	Chris Pretorius, Manager Operations
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 24 under Separate Confidential Cover

Recommendation

That Council approves Coastline Lawn Services as the preferred tenderer for the Mowing of Public Open Spaces in accordance with the specifications and tender rates detailed in Tender T20/2 for a period of two (2) years commencing from 1 July 2020 to 30 June 2022, together with an option for two, one (1) year extensions to 30 June 2023 and 30 June 2024.

In Brief

Tenders have been called for the provision of mowing services in public open spaces and broad area dry mowing within the Shire of Murray. The Contractor is to provide and supply all labour, materials, tools, traffic management, equipment and plant for the efficient completion of specified works.

Background

As part of the Parks and Gardens Service the current tender will expire at the end of June 2020 for the provision of mowing services.

There are various budget items that are allocated to mowing within the Parks Maintenance budget and program.

Tenders have been called during May 2020, six (6) Mowing and Landscape contractors responded with tender submissions.

Report Detail

The Confidential Assessment Report contains a detailed evaluation report.

Murray 2030 Strategic Community Plan

Capable and Accountable

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Deliver efficient and effective Council services to the Community.

Murray 2019- 2023 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The tender process was undertaken to ensure competitive pricing to minimise any financial impacts.

Social - (Quality of life to community and/or affected landowners)

The maintenance of park and public open space areas is a priority function within the local authority that provides lifestyle and health opportunities for the general public to enjoy.

Environment – (Impact on environment’s sustainability)

No negative environmental impact.

Policy Implications

G11 Purchasing Policy

The Shire of Murray is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and that comply with the *Local Government Act 1995* (the “Act”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “Regulations”).

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The level of risk is considered low given that the proposed tenderer is an experienced contractor.

Consultation

The Tender was advertised in the West Australian Newspaper Saturday 9 May 2020.

Resource Implications

Financial

The cost of the new tender will be incorporated in the annual budget as part of the Maintenance Budget

Workforce

Nil

Options

The detail of the tender received and the overall assessment by the evaluation panel are contained in the Confidential Assessment Report.

Conclusion

The evaluation panel’s justifications and conclusions are contained within the Confidential Assessment Report.

11.16 Tender T20/3-Supply of Crushed Aggregate

File Ref:	T20/3
Previous Items:	Nil
Author and Title:	Chris Pretorius, Manager Operations
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 25 under Separate Confidential Cover

Recommendation

That Council approves Hanson Construction Materials for the supply of crushed aggregate in accordance with the specifications and tender rates detailed in Tender T20/3 for a period of two (2) years commencing on 1st July 2020 with an option to extend the tender for two (2) one (1) year periods to 30 June 2024.

In Brief

Tenders have been called for the Supply of Crushed Aggregate which is an imperative material within the overall Civil Construction and Civil Maintenance Programs. These tenders are called to ensure better management and availability of the product.

Background

As part of the Civil Construction and renewal works the current tender will expire at the end of June 2020 for the supply of crushed aggregate.

There are various budget items within the Civil Construction and Civil Maintenance section that utilise the supply of crushed aggregate. Crushed aggregate like Basalt and Granite are used in the seal of bitumen roads and the seal of newly constructed roads.

Tenders have been called during May 2020, two (2) suppliers responded with tender submissions.

Report Detail

The Confidential Assessment Report contains a detailed evaluation report.

Murray 2030 Strategic Community Plan

Capable and Accountable

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Deliver efficient and effective Council services to the Community.

Murray 2019- 2023 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The tender process was undertaken to ensure competitive pricing to minimise any financial impacts.

Social - (Quality of life to community and/or affected landowners)

To improve road networks for the community as a whole through improving the quality of life in allowing drivers safe passage.

Environment – (Impact on environment’s sustainability)

No negative environmental impact.

Policy Implications

G11 Purchasing Policy

The Shire of Murray is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and that comply with the *Local Government Act 1995* (the “Act”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “Regulations”).

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The level of risk is considered low given that the proposed tenderer is an experienced supplier.

Consultation

The Tender was advertised in the West Australian Newspaper Saturday 9 May 2020.

Resource Implications

Financial

The cost of the new tender will be incorporated in the annual budget as part of the Civil Construction and Maintenance Budget

Workforce

Nil

Options

The detail of the tender received and the overall assessment by the evaluation panel are contained in the Confidential Assessment Report.

Conclusion

The evaluation panel’s justifications and conclusions are contained within the Confidential Assessment Report.

11.17 Request to Reject and Readvertise Tender T20/4 - Supply and Laying of Hot Asphalt Road Surfacing

File Ref: T20/4
Previous Items: Nil
Author and Title: Chris Pretorius, Manager Operations
Declaration of Interest: Nil
Voting Requirements: Simple Majority

Recommendation

That Council:

- 1. rejects all tenders submitted as part of tender request T20/4 for the Supply and Laying of Hot Asphalt Road Surfacing;**
- 2. that all tenderers be informed in writing that all tenders under request T20/4 have been rejected and will be readvertised; and**
- 3. Infrastructure Services prepare a new request for tender for the Supply and Laying of Hot Asphalt Road Surfacing based on the latest technical and tender specifications issued under IPWEA-AAPA Revision No 4.**

In Brief

- Tenders have been called for the Supply and Laying of Hot Asphalt Road Surfacing.
- There has been a change in specification that varies from our current tender documentation.
- For consistency it is proposed to reject all tenders and readvertise with the updated specification.

Background

As part of the Civil Construction works the current tender will expire the end of June 2020 for the supply and laying of asphalt. There are various budget items with the Civil Construction and Civil Maintenance areas that require the supply and laying of asphalt.

Tenders were advertised during May 2020, five (5) contractors responded with tender submissions.

Report Detail

During the evaluation process it was determined that the Technical Specification used for the request for tender was not in line with the specification supplied by IPWEA-AAPA Revision 4 which is industry standard practice.

The IPWEA-AAPA Specification Revision 4 specify the latest formula to be used to determine and adjust the rise and fall of bitumen products compared to the fixed rate specified within the Request For Tender T20/4. The IPWEA-AAPA Specification Revision 4 incorporates the volatility of the bitumen market in the latest formula calculation to obtain the bitumen rate.

Tender submissions could not be evaluated as the tenderers did not all use the same specification. Two (2) of the tenderers submitted rates based on the IPWEA-AAPA Revision 4 Specification, two (2) tenderers submitted rates based on the Shire of Murray specification and the fifth tenderer submitted two (2) tenders with one based on the IPWEA-AAPA specification and one based on the Shire of Murray Specification.

By using the latest formula based on the IPWEA-AAPA Specification Revision 4 the result in rates may alter to more market related prices with a possible financial benefit to the Shire of Murray.

Murray 2030 Strategic Community Plan

Capable and Accountable

Focus Area	Capable and Accountable
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Deliver efficient and effective Council services to the Community.

Murray 2019- 2023 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The tender process was undertaken to ensure competitive pricing to minimise any financial impacts.

Social - (Quality of life to community and/or affected landowners)

To improve road networks for the community as a whole through improving the quality of life in allowing drivers safe passage.

Environment – (Impact on environment’s sustainability)

No negative environmental impact.

Policy Implications

G11 Purchasing Policy

The Shire of Murray is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and that comply with the *Local Government Act 1995* (the “Act”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “Regulations”).

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The level of risk is considered low given sufficient time exists for the Shire of Murray to readvertise and appoint a contractor before the Civil Construction works start in late September 2020.

Consultation

The Tender was advertised in the West Australian Newspaper Saturday 9 May 2020.

Further consultation with industry and WALGA it determined that the latest specification by IPWEA-AAPA Revision 4 is the preferred and recommended specification and would offer the biggest financial benefit to the Shire of Murray.

Resource Implications

Financial

The cost of readvertising the new tender will be incorporated within the current budget with no additional cost to the Shire of Murray.

Workforce

Nil

Options

Council has the option of:

1. rejecting all Tenders and readvertising a new tender document in relation to Tender T20/4 for the Supply and Laying of Hot Asphalt Road Surfacing; or
2. not rejecting all Tenders and not readvertising a new tender document in relation to Tender T20/4 for the Supply and Laying of Hot Asphalt Surfacing and awarding the Tender based on the submissions already received.

Conclusion

The is recommended that the request for Tender T20/4 be rejected and readvertised.

11.18 Rivers Regional Council

File Ref: 1411-03
Previous Items: OCM. 23 May 19 Item 11.14 (OCM19/084)
Author and Title: Alan Smith, Director Infrastructure Services
Voting Requirements: Simple Majority

Appendices 26, 27, 28, 29, 30

Recommendation

That Council:

1. **endorses the Rivers Regional Subsidiary Business Plan 2020-2015 and the Charter of the Rivers Regional Subsidiary as detailed in Appendices 26 & 27;**
2. **proceeds with the proposal to form a Regional Subsidiary and notify the Rivers Regional Council of the Council's endorsement of the Rivers Regional Subsidiary Business Plan 2020-2025 and Charter of the Rivers Regional Subsidiary; and**
3. **authorises, on approval from the Minister for Local Government to form the Rivers Regional Subsidiary, the Shire President and Chief Executive Officer to execute the following deeds once all arrangements are in place for Rivers Regional Subsidiary to be established:**
 - **Deed of Dissolution of the Rivers Regional Council**
 - **Deed of Asset Transfer**
 - **Deed of Novation.**

In Brief

- The Shire of Murray is a member of the Rivers Regional Council along with the Cities of Mandurah, Armadale, Gosnells, South Perth and the Shire of Serpentine-Jarrahdale.
- In May 2019 Council approved the windup of the Rivers Regional Council.
- Since May 2019 Rivers Regional Council has been working with Member Councils and relevant State Government Agencies in an effort to progress the transition of the Rivers Regional Council to a Regional Subsidiary model.
- Changes to the Deeds can be authorised by the Shire President and Chief Executive Officer as long as the changes do not alter the intent and purpose of the Deeds detailed.

Background

The priority for Rivers Regional Council has been to achieve the procurement of alternative waste disposal treatment for its members Councils.

A contract for the treatment of municipal waste from its member Councils has been awarded to Avertas Energy, with the contract aligned to the proposed Waste to Energy plant which is currently under construction and due for operation by late 2021. Given the primary goal for Rivers Regional Council has been achieved, member Councils have given due consideration to the future organisational structure of the Regional Council that can effectively and efficiency monitor and manage the essential contract management for its municipal waste disposal.

A Regional Subsidiary is a semi-independent collaborative organisation established by two (2) or more local governments to provide new or existing services, that can be more effectively delivered than by an independent local government. The Regional Subsidiary was considered as the preferred model for the future management structure of the Rivers Regional Council.

The model being proposed is one where each local government would appoint an officer to represent them. This does not preclude an Elected Member from each local government also being appointed. The final makeup of the entity has not been determined with the first step being to have agreement by all parties to transition to a Regional Subsidiary.

At the 23 May 2019 meeting, the Rivers Regional Council resolved the following:

1. *The Council RESOLVED to seek approval from participating Councils to windup the Rivers Regional Council and transition to a Regional Subsidiary as soon as all approvals can be obtained.*
2. *The CEO arrange preparation of:*
 - *The Windup Agreement and relevant legal processes including individual Council a Ministerial approval; and*
 - *The Rivers Regional Subsidiary Charter and Business Plan*

Council considered a report on the transition of the Rivers Regional Council to a Regional Subsidiary at its meeting on 23 May 2019 and resolved the following:

“That Council:

1. *Approves the windup of the Rivers Regional Council and the transition to a Regional Subsidiary; and*
2. *Progresses to a Regional Subsidiary when approvals from all Rivers Regional Member Councils have been obtained.”*

The Rivers Regional Council has been liaising with relevant State Government agencies and Avertas Energy in an effort to progress the arrangement to transition the Rivers Regional Council to a regional subsidiary model.

Report Detail

The Rivers Regional Council has developed the *Rivers Regional Subsidiary Business Plan 2020-2025* and the *Charter of the Rivers Regional Subsidiary* (**Appendix 26 & 27**). Sections 3.69, 3.70 and 3.71 of the Local Government Act 1995 sets out the requirements for two or more local governments entering into arrangements to form a Regional Subsidiary, with specific requirements related to the process governed by the *Local Government (Regional Subsidiaries) Regulations 2017*.

In accordance with Part 2 of the *Local Government (Regional Subsidiaries) Regulations 2017*, each participant must give local public notice of the proposal to form a Regional Subsidiary, with the proposal and Business Plan being advertised for comment for a period of not less than six (6) weeks. In accordance with Regulation 4(4) the Business Plan must be made available on the Shires website and at the Council offices.

In accord with the above an advertisement was placed in the local newspapers in January 2020 advising of the intent to transition the Rivers Regional Council to a Regional Subsidiary. A copy of the *Rivers Regional Subsidiary Business Plan 2020-2025* and the *Charter of the Rivers Regional Subsidiary* were made available of the Shire’s website and were available for inspection at both the Administration Offices and Library.

One (1) submission was received over the required six week comment period and is detailed below:

No	Name of person/agency making submission	Summary of Submission	Officer Comment
1	Peel Preservation Group (Inc)	<p>Concern that (in relation to the City of Mandurah) "The council has paid its annual dues based on tonnes of rubbish to landfill, and for this a councillor and staff member have sat on the membership of the RRC and received sitting fees for a job they should do as part of their existing responsibilities as staff and councillors of their own council (that is, getting paid twice for the same job) "</p> <p>Another comment " As the RRC's sole responsibility is to deal with waste, it is rather ironic that whenever the question arises with respect to waste matters the RRC is nowhere to be heard or seen."</p> <p>Those of our members acquainted with the RRC are keen to express that they don't support this type of governance, " where councils divest their jobs to a regional council which provides no accountability to ratepayers, and moreover, has the ability to define its own dues and payments without reference to its member councils, and is not accountable to them, but able to raise its own loans which become a liability on member councils, and hence ratepayers, who have no direct representation. " The RRC was also not beholding to the State Minister, a situation that should not happen under appropriate governance.</p>	<p>The transition to a Regional Subsidiary is looking to streamline attendance at meetings whereby reducing costs.</p> <p>The Rivers Regional Council are advocates for the Member Councils to strategically manage municipal waste disposal, each local government is still responsible for their local waste initiatives.</p> <p>The proposal is to windup the Regional Council and transition to a Regional Subsidiary whereby improving accountability.</p>

The following three (3) deeds will also be required to be to be executed as part of the transition arrangements to the Rivers Regional Subsidiary:

1. **Deed of Dissolution of the Rivers Regional Council (Appendix 28)**
This deed sets out the dissolution of the Rivers Regional Council, which will no longer exist as an entity once the transition to the Rivers Regional Subsidiary takes effect.
2. **Deed of Asset Transfer (Appendix 29)**
This deed gives effect to the transfer of the assets of the Rivers Regional Council to the Rivers Regional Subsidiary, with all assets to be transferred to the Subsidiary once this is established and upon the windup of the Rivers Regional Council.
3. **Deed of Novation (Appendix 30)**
The deed assigns responsibility for the series of Waste Agreements the Rivers Regional Council is party to, to the Rivers Regional Subsidiary once this is established.

All documents (Business Case, Charter and 3 x Deeds) have been subject of scrutiny by legal teams representing the Rivers Regional Council on behalf of Member Councils and the contractor for the Waste to Energy Plant (Avertas)

There is majority support from Rivers Regional Council Member Councils (Murray, Mandurah, Armadale, Gosnells and South Perth) with all supporting the transition to a Regional Subsidiary, with the Shire of Serpentine-Jarrahdale requesting for a deferral until 12 months after the opening of the Waste to Energy facility. The Rivers Regional Council is continuing to liaise with the Shire of Serpentine-Jarrahdale to resolve any current issues and look toward resolution on the transition to a Regional Subsidiary.

The City of Canning, who are not members of Rivers Regional Council, but are party to the Waste Agreement with Avertas Energy for supply of waste to the Waste to Energy plant, have resolved not to participate in the Regional Subsidiary. This will have limited impact as the City of Canning will still be required to share the administration costs for the Regional Subsidiary and remain bound by the Waste Agreements.

To finalise the transition to a Regional Subsidiary, the Rivers Regional Council must lodge an application (together with a business case and Charter) requesting Ministerial Approval from the Minister of Local Government in accordance with the relevant legislation and regulations.

Therefore, Council is requested to authorise the Shire President and Chief Executive Officer to execute the Deeds to facilitate the transition of the Rivers Regional Council to the Rivers Regional Subsidiary, once all approvals and arrangements are in place for the Rivers Subsidiary to be established.

- Deed of Dissolution of the Rivers Regional Council
- Deed of Asset Transfer
- Deed of Novation

Murray 2030 Strategic Community Plan

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Improve waste management practices through diversion, re-use and recycling

Murray 2019- 2023 Corporate Business Plan

Focus Area	Environment, Character and Heritage
Objective	Proactively manage resources and reduce our carbon footprint by responsible management of water, energy and fire management
Strategy	Improve waste management practices through diversion, re-use and recycling
Project and Actions	Maintain an alliance with Rivers Councils to manage the waste to energy contract and other waste initiatives

Other Strategic Links

Nil

Statutory Environment

The *Local Government Act 1995* governs the activities of a Regional Council and a Regional Subsidiary:

- Section 3.69 Regional Subsidiaries
- Section 3.70 Regional Subsidiaries to have a Charter
- Section 3.71 Regulations about Regional Subsidiaries

The *Local Government (Regional Subsidiaries) Regulations 2017* govern the setup and operation of a Regional Subsidiary.

The *Waste Avoidance and Resource Recovery Act 2007* provide the legislative framework for the management of waste within the State.

Approval from the Minister of Local Government is required to transition the Rivers Regional Council to a Regional Subsidiary.

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

The change will result in a cost reduction that would be proportional saving for each of the Rivers Member Councils.

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The move to a Regional Subsidiary does not pose any risk to the current Waste to Energy contract with there being a cost saving as part of any transition.

Consultation

- Rivers Regional Council
- Rivers Regional Council Technical Advisory Group

Resource Implications

Financial

It is estimated the conversion to a subsidiary will save approximately \$200,000 a year, primarily being government costs involving elected members, sitting fees etc and administration costs involving staff resources.

Workforce

Within the scope of the Infrastructure Services provision of services.

Options

Council has the option of:

1. Proceeding with the proposal to form a Regional Subsidiary and endorsing the Business Plan, Charter and associated Deeds.
2. Not proceeding with the proposal to form a Regional Subsidiary and therefore not endorsing the Business Plan, Charter and associated Deeds.

Conclusion

Council has previously approved the principle of the transition of the Rivers Regional Council to the Rivers Regional Subsidiary.

The Rivers Regional Council have developed the following documents to enable for the transition to a Regional Subsidiary to proceed:

- *Rivers Regional Subsidiary Business Plan 2020-2025*
- *Charter of the Rivers Regional Subsidiary*
- *Deed of Dissolution of the Rivers Regional Council*
- *Deed of Asset Transfer*
- *Deed of Novation*

Changes to the above Deeds can be authorised by the Shire President and Chief Executive Officer so long as the changes do not alter the intent and purpose of the Deeds detailed. Should there be any requirement for moderate changes there would be no need for further endorsement from Council.

11.19 Widening of the Pinjarra- Williams Road Ex Reserve 8756-Etmilyn

File Ref: 1621-01
 Previous Items: OCM. 23 Feb 17 Item 11.10 (OCM17/027)
 Applicant: Main Roads Western Australia
 Author and Title: Alan Smith, Director Infrastructure Services
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority

Appendix 31 and 32

Recommendation

That Council:

- 1. dedicates Lot 527 (road widening) on Deposited Plan 413533 pursuant to section 56 of the *Land Administration Act 1997*; and**
- 2. requests the Department of Planning, Lands and Heritage (on behalf of the Minister for Lands) to dedicate Lot 527 on Deposited Plan 413533 as a road.**

Background

Back in February 2017 Main Roads Western Australia (MRWA) wrote to Council regarding the upgrade of Pinjarra- Williams Road and the requirement for a rationalisation and widening of the road ex State Forest 14. Council at its ordinary meeting held on 23 February 2017, resolved to dedicate the widening through the State Forest.

MRWA is now looking to widen the road ex Reserve 8756, which sits within State Forest 14. Reserve 8756 is set aside for the purpose of ‘Water’, and is a reserve without a Management Order.

MRWA proposes to widen the road through Reserve 8756 to the same width as the widening through the State Forest 14.

Report Detail

To satisfy the statutory requirements Council is requested to consider the plans (**Appendix 31 XA and 32 XB**) and support MRWA in their request for future dedication of the land being acquired for road purposes. The road is very important to the commercial success of mining activities in this area and therefore MRWA are proposing to increase the road casement to accommodate the necessary improvements.

Murray 2030 Strategic Community Plan

Connected and Accessible

Focus Area	Connected and Accessible
Aspiration	To enhance our transport linkages and opportunities to share information using a variety of travel and technology options.
Strategy	Promote an efficient and accessible local and regional transport network

Murray 2019- 2023 Corporate Business Plan

Connected and Accessible

Focus Area	Connected and Accessible
Objective	Promote an efficient and accessible local and regional transport network.
Strategy	Develop a Transport Plan that considers the wider Peel Region.
Project and Actions	Develop a Transport Strategy that incorporates future planning and infrastructure objectives.

Other Strategic Links

Nil

Statutory Environment

Section 56 of the Land Administration Act 1997

Sustainability & Risk Considerations

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The management of Pinjarra-Williams Road falls under the control of Main Roads Western Australia, therefore it represents a low risk to the Shire of Murray as assessed by the Organisations Risk Management Guide.

Consultation

Main Roads Western Australia

Resource Implications

Financial

Main Roads Western Australia will be responsible for any costs associated with this road dedication.

Workforce

Nil

Options

Council has the option of:

1. supporting the dedication of Lot 527 (road widening) on Deposited Plan 413533 pursuant to section 56 of the *Land Administration Act 1997*; or
2. not supporting the dedication of Lot 527 (road widening) on Deposited Plan 413533 pursuant to section 56 of the *Land Administration Act 1997*.

Conclusion

The improvements to the road geometry and width along this section of Pinjarra-Williams Road will improve road safety particularly with proportion of heavy vehicles utilising the road.

Items for Information**11.20 Council Resolution/Outstanding Items**

Resolution Register is attached for information.

Appendix 33

11.21 Delegated Decisions – May 2020

Delegated Decisions is attached for information.

Appendix 34

12. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING

Nil

13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**13.1 Request to Attend Meeting via Teleconference - Cr B Cardilini**

File Ref: 1/2271
Author and Title: Dean Unsworth, Chief Executive Officer
Voting Requirements: Simple Majority

Recommendation

That Council approves Cr B Cardilini attending the 23 July Ordinary Council meeting via teleconference from Jundee Minesite, near Wiluna.

In Brief

A request has been received from Councillor B Cardilini to attend the July Ordinary Council meeting via teleconference.

14. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING**15. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING**

16. MEETING CLOSED TO THE PUBLIC (CONFIDENTIAL BUSINESS)**16.1 Confidential Report – Business Plan Outcome and Sale of Lots 301 to 305 Dewar Road and Lots 306 to 310 Beau Sovereign Court, North Dandalup (Formerly Lot 102 Lakes Road)**

File Ref:	155501		
Previous Items:	OCM. 22 Mar 18	Item 11.13	(CCD18/065)
	OCM. 20 Dec 18	Item 11.18	(OCM18/269)
Authors and Titles:	Alan Smith, Director Infrastructure Services Robert Marlborough, Manager Governance		
Declaration of Interest:	Nil		
Voting Requirements:	Absolute Majority		

Confidential Report and Appendices Under Separate Cover**Recommendation**

That Council endorses the Officers Recommendation included in the report for Item 16.1 provided under confidential cover.

In Brief

- Enable discussion on the business plan outcome and sale of Lots 301-305 Dewar Road and Lots 306-310 Beau Sovereign Court, North Dandalup (formally Lot 102 Lakes Road)
- A confidential report has been provided (refer **Confidential Report under Separate Cover**).

Background

All details are contained within the confidential report.

Report Detail

All details are contained within the confidential report.

Other Strategic Links

All details are contained within the confidential report.

Statutory Environment

All details are contained within the confidential report.

Consultation

All details are contained within the confidential report.

Resource Implications*Financial*

All details are contained within the confidential report.

Workforce

All details are contained within the confidential report.

Options

All details are contained within the confidential report.

Conclusion

All details are contained within the confidential report.

17. CLOSURE OF MEETING