



Minutes

Ordinary Council Meeting

Thursday 22 October 2020

Ordinary Council – 22 October 2020
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Minutes of the Ordinary Meeting of Council will be held at the Murray Shire Council, 1915 Pinjarra Road, Pinjarra on Thursday 22 October 2020.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr D Bolt declared the meeting open the time being 5.30pm.

2. ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE

Cr D Bolt	President
Cr D McLarty	Deputy President
Cr A Rogers	Councillor
Cr C Rose	Councillor
Cr S Lee	Councillor
Cr B Cardilini	Councillor
Cr G Black	Councillor
Cr S Kirkham	Councillor
Cr B Beacham	Councillor
Mr D Unsworth	Chief Executive Officer
Mr A Smith	Director Infrastructure Services
Mr R Peake	Director Planning and Sustainability
Mrs L McGuirk	Director Place and Community Development
Mrs T Unsworth	Director Corporate Services
Mrs F Hide	Coordinator Executive Services

There were three (3) members of the public, one (1) member of the press and three (3) members of staff in attendance at this time.

APOLOGIES

Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. PETITIONS AND APPROVED DEPUTATIONS

5.32PM **Duncan Hannay** provided a deputation to Council – Item 11.2 Application for Development Approval for Ancillary Dwelling at Lot 7 (44) Serpentine Way, Stakehill refers.

Cr D Bolt, thanked the Mr Hannay for his deputation which concluded at 5.36pm

Kate and Luke Simmons did not attend to speak to their requested deputation relating to Item 11.2 Application for Development Approval for Ancillary Dwelling at Lot 7 (44) Serpentine Way, Stakehill.

6. CONFIRMATION OF MINUTES

6.1 Ordinary Council Meeting – 24 September 2020

Recommendation/Council Decision

OCM20/182

Moved: Cr B Cardilini

Seconded: Cr A Rogers

That the Minutes of the Ordinary Council Meeting held on 24 September 2020 be confirmed as a true and correct record.

CARRIED UNANIMOUSLY 9:0

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

On Friday 25 September, Councillor Douglas McLarty and myself attended the WALGA Forum and AGM at the Crown Perth.

On Saturday 26 September, I attended the RecFishwest Fish in the “Burb” inaugural event Trout Fishing event at Austin Lakes.

On Sunday 27 September, I attended the Plein Air Paints Pinjarra Heritage Trail event in Pinjarra.

On Friday 2 October, the CEO, Mike Warmsley, Waroona Shire President and myself met with Bill Marmion MLA, Shadow Minister for Local Government and Michelle Boylan; Liberal candidate for Murray-Wellington at the Shire of Waroona.

On Tuesday 6 October, I presided over the Shire of Murray’s Citizenship Ceremony held in the Council Chambers. Councillor Steve Lee also attended the ceremony. Twelve new Australian citizens were welcomed to the Shire of Murray. Later in the afternoon, I attended a meeting with the Director of Planning and a local resident to discuss various planning issues following which I chaired the CHRMAPS taskforce working group meeting.

On Thursday 8 October, the Councillors and myself took part in a Strategy Planning meeting in the morning. Following the meeting the Councillors and myself attended the Rates Incentive Draw which also took place at the Shire offices. In the afternoon, I attended a meeting with the Director of Place and Community Development and a number of local residents to discuss the Pinjarra Cemetery and Pinjarra Massacre site.

On Tuesday 13 October, I attended a meeting with Murdoch University to discuss the Exchange Hotel development project. Following the meeting, the CEO and myself attended a meeting at Edenvale Homestead with Senator Michaelia Cash, Minister for Employment, Skills, Small and Family Business. Later in the day, the CEO and myself attended a meeting

with Andrew Hastie MP at his office in Mandurah regarding the Forrest Highway Interchange Project.

On Wednesday 14 October, I attended my regular catch-up meeting with the CEO. In the afternoon, I attend a meeting with several local businesses regarding the CHRMAP project and the community reference group.

On Thursday 15 October, I chaired the Rivers Regional Council Meeting. Councillor Steve Lee also attended the meeting.

On Friday 16 October, the CEO and I attended the official opening of the Murray Valley Trails at Lane Poole in Dwellingup, together with the Hon Stephen Dawson Minister for Environment; Disability Services; Electoral Affairs and Senator Matt O’Sullivan MP.

8. ANNOUNCEMENTS BY ELECTED MEMBERS

Nil

9. ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE OF INTERESTS (BY PRESIDING MEMBER)

Nil

10. RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES HELD SINCE PREVIOUS MEETING OF COUNCIL

Nil

11. REPORTS OF CHIEF EXECUTIVE OFFICER AND OFFICERS

Planning and Sustainability

11.1 Shire of Murray Public Health Plan 2021-25

File Ref: 3000-06
 Previous Items: OCM. 27 Aug 20 Item 11.2 (OCM20/152)
 Author and Title: Phil Steven, Manager Environmental Health
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority

Appendix 1

Recommendation/Council Decision

OCM20/183

Moved: Cr S Lee

Seconded: Cr B Beacham

That Council adopts the Shire of Murray Public Health Plan 2021-25 as set out in Appendix 1.

CARRIED UNANIMOUSLY 9:0

In Brief

- The Shire of Murray Public Health Plan 2016-20 will expire at the end of this calendar year and a replacement Shire of Murray Public Health Plan is proposed for introduction in 2021.
- The draft Public Health Plan 2021-25 has been publicly advertised and no objections were received.

Background

Local governments are required by the Public Health Act 2016 to have a public health plan when stage 5 of the Act implementation comes into effect at a future proclamation date, anticipated to be in 2021. The Shire of Murray Public Health Plan 2021-25 will replace the previous Plan and prepare for imminent statutory requirements.

Report Detail

The purpose of the Shire of Murray Public Health Plan 2021-25 is to enhance the health, wellbeing and quality of life of the community by focussing on three key areas:

1. Healthy people & community
“To guide and encourage our community to lead healthier lifestyles through the provision of lifestyle and educational opportunities.”
2. Healthy places and spaces
“To provide healthy places and spaces to encourage and support healthy lifestyle opportunities.”
3. Healthy partnerships
“To develop collaborative partnerships with community, business, government, non-government and key stakeholders to improve health and wellbeing.”

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	Actively take opportunities to enhance public health.

Focus Area	Environment, Character and Heritage
Aspiration	To be effective stewards of our environment, history, heritage, natural landscape and rural character.
Strategy	Continue to develop partnerships with State departments and stakeholders.

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	Improve the share pathway linkages within and between towns.

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 2020- 2024 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	Review the Public Health Plan.

Other Strategic Links

The draft Shire of Murray Public Health Plan 2021-25 is consistent with the State Public Health Plan 2019.

Statutory Environment

Public Health Plans will be required to be adopted by local governments when stage 5 of the Public Health Act 2016 is proclaimed, likely to be in 2021.

Sustainability & Risk Considerations

Economic - (Financial impact to the community)

The Public Health Plan will be implemented within existing resources.

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

The Public Health Plan will improve the quality of life for residents.

Environment – (Impact on environment's sustainability)

A number of environmental targets will also improve community health.

Policy Implications

The Public Health Plan complements the Strategic Community and Corporate Business Plans.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Adoption of a Public Health Plan will reduce the risk of non-compliance with State Government requirements that are expected to come into effect in 2021.

Consultation

The draft Shire of Murray Public Health Plan 2021-2025 was advertised in a local newspaper for a period of 21 days, copies were made available at the Shire office and library, and copies were sent to adjoining local governments.

The City of Mandurah contacted the Shire of Murray to thank us for providing a copy of the Plan. No further comments were received.

Resource Implications

Financial

The proposed Public Health Plan has been prepared within existing budget funding. The adopted plan will be used to inform future budget priorities.

Workforce

The proposed Public Health Plan can generally be implemented within existing staff resource levels.

Options

Council has the options of:

1. Adopt the Shire of Murray Public Health Plan 2021-25 as presented.
2. Adopt the Shire of Public Health Plan 2021-25 with changes.

Conclusion

It is recommended that Council adopts the Shire of Murray Public Health Plan 2021-2025 as set out in **Appendix 1**.

Resolved that Items 11.3 and 11.4 be considered at this point the time being 5.38pm to allow time for the requested deputation from Kate and Luke Simmons relevant to Item 11.2 attend the meeting.

11.3 Approval to Sub-Lease – Lot 190 (6) George Street, Pinjarra – Regional Development Australia Peel Inc

File Ref:	GE02/190		
Previous Items:	OCM.24 Oct 19	Item 19.1	(OCM 19/240)
	OCM.28 Nov 19	Item 15.3	(OCM 19/259)
	OCM.24 Sep 20	Item 11.3	(OCM 20/169)
Applicant:	Regional Development Australia Peel Inc		
Declaration of Interests	Nil		
Author and Title:	Robert Marlborough, Manager Governance		
Voting Requirements:	Simple Majority		

Recommendation/Council Decision

OCM20/184

Moved: Cr S Lee

Seconded: Cr A Rogers

That Council supports

- 1. Regional Development Australia Peel Inc (RDA Peel) entering into a sub-lease arrangement (at its own cost, in full) for a portion of Lot 190 (6) George Street, Pinjarra with AusIndustry for office space, for any term that does not exceed the duration of any lease that RDA Peel have for the premises; and**
- 2. the Chief Executive Officer approving future sublease arrangement for this premises, that align with the permitted use under any lease with RDA Peel and with all and any associated costs being payable by Peel RDA.**

CARRIED UNANIMOUSLY 9:0

In Brief

To consider a request by Regional Development Australia Peel Inc (RDA Peel) to sub-lease office space to AusIndustry within the premises at Lot 190 (6) George Street, Pinjarra.

Background

At the Ordinary Council Meeting on 28 November 2019 Council supported a lease agreement with RDA Peel for the premises at Lot 190 (6) George Street, Pinjarra for three years expiring on 30 November 2020.

Part of RDA Peel's Business Plan presented to Council when considering the initial lease of the premises, was to:

- provide "hot desk" facilities and meeting room to attract and service organisations delivering outreach programmes to the Shire's of Murray/Waroona from Mandurah and outside the Peel region; and
- to attract other development related agencies to Pinjarra.

Following Council's decision, a three-year lease was endorsed with RDA Peel on 29 November 2019 and provisions were provided within the lease to enable sub-leasing (assigning) and casual hire that aligns with the permitted purpose of the premises being:

“General office accommodation space and meeting rooms for the Lessee’s administrative functions and to support similar business activities by the provision of space for service organisations to deliver outreach programmes”.

Report Detail

As outlined RDA Peel’s Business Plan for the premises indicated provision to:

- provide “hot desk” facilities and meeting room to attract and service organisations delivering outreach programmes to the Shire’s of Murray/Waroona from Mandurah and outside the Peel region, and;
- to attract other development related agencies to Pinjarra.

AusIndustry, the proposed sublessee of office space within the premises is directly linked to the Australian Government, being a specialist business program delivery division within the Department of Industry, Science, Energy and Resources with the purpose of delivering assistance, programmes and services which support industry, research and innovation.

The proposal by RDA Peel to sub-lease to AusIndustry should be supported by Council as it aligns with the Business Plan submitted and it enhances access to local services to assist industry, in the areas of research and innovation that would otherwise be unavailable locally.

Murray 2030 Strategic Community Plan

Nil

Murray 2020-2024 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

The lease arrangement with RDA Peel provides the following provisions regarding sub-leasing (assigning) and/or casual hire –

23.1 No Assignment without Consent

Subject to clause 23.7, the Lessee must not assign the leasehold estate in the Premises nor part with possession, sub-let or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other person whose consent is required under this Lease or at law.

23.3 Lessor’s Consent to Assignment

Provided all parties whose consent is required under this Lease or at law to an assignment give their consent, then the Lessor may not unreasonably withhold its consent to the assignment of the leasehold estate created by this Lease if:

- a) the proposed assignee is a respectable and responsible person of good financial standing;
- b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee’s Covenants;
- c) the Lessee procures the execution by the proposed assignee of a deed of assignment

- d) to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors;
- e) the deed of assignment contains a covenant by the assignee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants, and if the assignment is to a corporation an appropriate guarantee from a director of the corporation; and
- f) the Lessor's consent to assignment of the Lease, where provided, may be given subject to such reasonable conditions as the Lessor sees fit.

23.5 Costs for Assignment or Lease

If the Lessee wishes to assign or sublet the leasehold estate created by this Lease, the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- a) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee;
- b) any consents required under this Lease or at law; and
- c) all other matters relating to the proposed assignment or sublease,
- d) whether or not the assignment or sublease proceeds.

Furthermore, the lease agreement provides the following in relation to casual hire.

23.7 Limited Right to Hire out Premises on a Casual or Sessional Basis

The Lessee may hire out the Premises or any part thereof on a casual or sessional basis only PROVIDED:

- a) the hirer is a an auspiced state of federal government service provider;
- b) such use is consistent at all times with the Permitted Purpose; and
- c) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease.

In both the circumstances of sub-leasing and/or casual hire the lessee, at all times, remains responsible for the Premises.

Sustainability & Risk Considerations

Economic – (Financial impact to the community)

The proposal to sublease a portion of the premises will not financially impact on the community.

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

Nil

Environment – (Impact on environment's sustainability)

Nil

Governance – (Policy implications)

Council policies are not impacted.

Overall Risk Management Consideration

The premises are already leased to Peel RDA with provision in place to sub-lease (assign) with written prior approval, or for the purposes of casual hire directly related to the permitted

purpose of the premises. There is no significant risk to Council either reputationally or financially with the proposal presented for consideration.

Consultation

Nil

Resource Implications

Financial

Sub-leasing or hiring, as permitted supports RDA Peel's capacity to generate operating income. This then supports capacity to meet its financial commitments to the Shire under the lease arrangement and enables finalisation of the approved improvements to the premises, as previously supported.

Workforce

Nil

Options

The provision to sub-lease (assign) is a right provided to RDA Peel, as the lessee, subject to and conditional with the terms of the lease agreement. Council may not unreasonably withhold consent for the sub-lease proposed, unless a view is formed that the proposed assignee is not a respectable and responsible person of good financial standing.

In this case the assignee is aligned to the Australian government under the Department of Industry, Science, Energy and Resources.

Conclusion

Supporting the proposal by RDA Peel to sub-lease to AusIndustry is in line with the permitted purposes and it is expressly provided for in the lease arrangement. Further it provides expanded business services that would otherwise be unavailable locally and the rental return generated supports RDA Peel's obligations under the lease and it provides additional funds to continue the services they provide locally.

Broadening capacity for the Chief Executive Officer to approve further sub-lease situations that align with the permitted purpose at this premises reduces time factors in decision making and minimises and reduces red tape.

11.4 Periodic Local Law Review – Shire of Murray Pinjarra Cemetery Local Law 2006 and Shire of Murray Waste Local Law 2016 & Proposed Pinjarra Cemetery Amendment Local Law 2020

File Ref:	1121 & 1/2156
Previous Items:	Nil
Applicant:	Nil
Declaration of Interests	Nil
Author and Title:	Robert Marlborough, Manager Governance
Voting Requirements:	Absolute Majority

Appendix 6

Recommendation/Council Decision

OCM20/185

Moved: Cr B Beacham

Seconded: Cr G Black

That Council:

1. **by Absolute Majority, accepts the completion of the periodic review of the Shire of Murray Pinjarra Cemetery Local Law 2006 and Shire of Murray Waste Local Law 2016, as required by section 3.16(4) of the Local Government Act 1995, with the determination, as follows –**
 - a. **the Shire of Murray Waste Local Law 2016 remains in effect and amendment or repeal of this local law is not required; and**
 - b. **the Shire of Murray Pinjarra Cemetery Local Law 2006 be amended by making the proposed Pinjarra Cemetery Amendment Local Law 2020, as provided at Appendix 6, pursuant to section 3.12 of the Local Government Act 1995;**
2. **approves for the proposed Pinjarra Cemetery Amendment Local Law 2020 to be advertised in accordance with section 1.8 of the *Local Government Act 1995*; and,**
 - a. **to make copies of the proposed local law available to the public with a submission period being open for a minimum period of 6 weeks; and**
 - b. **to send a copy of the proposed local law to the Minister for Local Government; and**
3. **be provided with a further report on the proposed local law after the close of submissions in order to formally consider making the Pinjarra Cemetery Amendment Local Law 2020, by Absolute Majority in accordance with the provisions of the *Local Government Act 1995*;**

CARRIED UNANIMOUSLY 9:0

In Brief

To consider the periodic review of the Shire of Murray Pinjarra Cemetery Local Law 2006 and Shire of Murray Waste Local Law 2016, as required by the *Local Government Act 1995* and; for the making of a new Shire of Murray Pinjarra Cemetery Amendment Local Law 2020 to amend the Pinjarra Cemetery Local Law 2006.

Background

The *Shire of Murray Waste Local Law 2016* was adopted at the Ordinary Council Meeting on 9 March 2017 and this local law was published in the *Government Gazette* on 16 March 2017.

Subsequent to the adoption of this local law the Joint Standing Committee on Delegated Legislation (JSCDL) raised concerns that objection and appeal provisions were not included. Subsequently Council supported the making of the Shire of Murray Waste Amendment Local Law 2017 to resolve the JSCDL concerns. This amendment local law was adopted at the Ordinary Council meeting 21 December 2017 and then it was published in the *Government Gazette* on 12 January 2018.

The Shire of Murray Pinjarra Cemetery Local Law 2006 (Local Law) was adopted by Council on 31 August 2006 and it was published in the *Government Gazette* on 24 November 2006. By the Cemeteries Amendment Local Law 2014 published in the *Government Gazette* on 6 January 2015 this Local Law was amended with the following provisions relating to assistance dogs being inserted in Part 1 of the Local Law –

1.5 Application as to assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).

The *Local Government Act 1995* requires local laws to be periodically reviewed at least every eight years. The review process is to determine whether or not Council considers if the local law being reviewed should be repealed or amended.

Public consultation on the periodic review of these two local laws, by way of local public notice under Section 1.7 of the *Local Government Act 1995* was published in the Mandurah Mail newspaper on the 20 August 2020. Notice of the review was also placed on the Shire Administration Office and Murray Public Library's noticeboards.

Submissions on the review were invited until 4 pm on 2 October 2020.

Report Detail

No submissions were received on advertised Local Law review.

The Shire of Murray Waste Local Law 2016 is still effective and it meets current needs. Amendment or repeal is not considered necessary.

The Shire of Murray Cemetery Local Law 2006 is still generally effective and enables the cemetery to operate. As part of the review process minor amendments are suggested to this local law, as follows:

- Correction of two spelling errors in clause 8.2;
- Correction of the title of the Minister for Local Government in clause 1.3;
- Amend clause 4.5 (1) to reflect the correct days when burials are permitted.
- Amend Schedule 2 (Infringement Notice) due to consequential changes to the *Fines, Penalties and Infringement Notices Enforcement Act 1994* with changed wording being required to clearly indicate actions possible, to recover unpaid fines, not elected to be dealt with by a Court.

To achieve the amendments outlined will be necessary to formally make an amendment local law pursuant to the *Local Government Act 1995* and this proposed new local law, titled the Pinjarra Cemetery Amendment Local Law 2020 is provided for Council's information at **Appendix 6**.

Accordingly, subject to Council supporting the recommendation provided, it is proposed to:

- accept the completion of the review of the Shire of Murray Waste Local Law 2016 without amendment or repeal being required; and
- accept the completion of the review of the Shire of Murray Pinjarra Cemetery Local Law 2006 (Principal Local Law) with the outcome being to commence making the proposed Pinjarra Cemetery Amendment Local Law 2020 pursuant to the *Local Government Act 1995* to amend the Principal Local Law, as outlined in this report.

Murray 2030 Strategic Community Plan

Nil

Murray 2020-2024 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

Periodic Review of Local Laws - *Local Government Act 1995 – Section 3.16*

- (1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give local public notice stating that
 - (a) the local government proposes to review the local law; and
 - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
 - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended. * **Absolute majority** required.

Section 3.12 of the *Local Government Act 1995* refers to the procedure for making local laws.

Council may make local laws in accordance with Part 3 of the *Local Government Act 1995* and in so doing, all local laws are then to be reviewed within eight years of their commencement date.

The process of adopting or amending a local law is set out in s3.12 of the *Local Government Act 1995* and is summarised in Table 1 below with further information provided.

In addition, Regulation 3 of the *Local Government (Functions and General) Regulations 1996* provides that:

“For the purpose of section 3.12, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.”*

The following statement fulfils the requirement defined in Regulation 3 as outlined above:

NOTICE of purpose and effect of the proposed Shire of Murray Pinjarra Cemetery Amendment Local Law 2020:

“The purpose of the local law is to amend the Principal Local Law to correct spelling errors, amend definitions, update Schedule 2 following amendments to other law and correct the days when burials are permitted.

The effect of making the local law will be to amend the Principal Local Law, as detailed”.

The proposed timetable to make the proposed local law is:

Task	LGA Section	Effective Date
Report to Council for approval to commence making the Pinjarra Cemetery Amendment Local Law 2020 and to proceed to public notice (advertising) <i>(President to give notice of the purpose and effect to the meeting of the proposed local law).</i>	3.12(2)	October 2020
Give Statewide and local public notice and make copies available to the general public	3.12(3) & 3(a)	October 2020
Provide a copy of the proposed local law and the notice to the Minister for Local Government	3.12(3)(b)	December 2020
Closing date for submissions to be received (not less than 6 weeks)	3.12(4)	December 2020
Consider submissions and report back to Council to determine whether to make a Local Law (Absolute Majority required)	3.12(4)	December 2020
Publish Local Law in Government Gazette and forward a copy to the Minister for Local Government	3.12(5)	January 2021
Give Statewide and local public notice advising that the new law has been made, the title, the purpose and effect and make copies available to the general public	3.12(6)	January 2021
<i>Note: Dates are a guide only</i>		

Section 3.12 of the *Local Government Act 1995* deals with the procedure for making local laws –

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
 - (a) give Statewide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; andsubmissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and,
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed. * **Absolute majority required.**
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the *Act* under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
 - (a) stating the title of the local law; and
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

Of relevance is s.3.12(4), where a local law initially proposed is significantly different, section 3.13 applies and in this case the major amendments proposed are considered to enact section 3.13.

Section 3.13 Procedure where significant change in proposal –

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

Local Public Notice – *Local Government Act 1995* – Section 1.7

- (1) Where under this *Act* local public notice of a matter is required to be given, a notice of the matter is to be —
- (a) published in a newspaper circulating generally throughout the district; and
 - (b) exhibited to the public on a notice board at the local government's offices; and
 - (c) exhibited to the public on a notice board at every local government library in the district.
- (2) Unless expressly stated otherwise it is sufficient if the notice is —
- (a) published under subsection (1)(a) on at least one occasion; and
 - (b) exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than -
 - (i) the time prescribed for the purposes of this paragraph; or
 - (ii) if no time is prescribed, 7 days.

Sustainability & Risk Considerations

Economic – (Financial impact to the community)

Nil

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

Nil

Environment – (Impact on environment's sustainability)

Nil

Governance – (Policy implications)

Council policies are not impacted in this matter. The *Local Government Act 1955* provides the process for making local laws which are subject to legislative compliance and transparency by community consultation.

Overall Risk Management Consideration

<i>Risk Level</i>	<i>Comment</i>
Low	The review process has included community consultation as required by the <i>Local Government Act 1995</i> and the proposal to make the new local law also includes consultation. Given the engagement and transparency required the risk level for negative community feedback is considered low.

Consultation

Local Public Notice

Resource Implications

Financial

The cost of making the proposed amendment local law which includes legal, advertising and publishing in the *Government Gazette* is approximately \$1800. Funds are available in the current budget for the expected costs.

Workforce

Workforce capacity is available to progress the proposed local law

Options

Council has the option of:

1. Supporting the recommendation proposed.
2. Rejecting the recommendation proposed and seek a further review of the local laws presented to consider other alternatives that may be available.

Conclusion

It is recommended that Council support the review outcome for the local laws identified and the making of the proposed Pinjarra Cemetery Amendment Local Law 2020 to amend the Pinjarra Cemetery Local Law 2006 to rectify minor errors and update provisions as detailed.

Resolved that Item 11.2 be considered at this point the time being 5.40pm due to the non-attendance of Kate and Luke Simmons as per their requested deputation relevant to Item 11.2.

11.2 Application for Development Approval for Ancillary Dwelling at Lot 7 (44) Serpentine Way, Stakehill

File Ref: SE02/7
 Applicant: Natassja and Duncan Hannay
 Author and Title: Jan Strijdom, Planning and Mapping Officer
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority

Appendices 2, 3, 4 & 5

Recommendation/Council Decision

OCM20/186

Moved: Cr C Rose

Seconded: Cr B Cardilini

That Council approves the application for development approval under Town Planning Scheme No 4 for an Ancillary Dwelling in the revised location shown on Appendix 5 at Lot 7 (44) Serpentine Way, Stake Hill, subject to the following conditions:

- 1. Submission of a revised Building Attack Level (BAL) assessment for the revised location prior to the submission of a Building Application. The Ancillary Dwelling is to be designed and constructed to meet a BAL as determined by the revised BAL assessment.**
- 2. The clearing of trees and other vegetation is to be the minimum needed to accommodate development of the Ancillary Dwelling.**
- 3. The Ancillary Dwelling is to have a minimum habitable floor level of 3.07m AHD.**
- 4. The railway carriage is to be renovated sufficient for it to be occupied, including painting of the external surface within six months of it being placed on the site.**

Advice note:

This approval does not include approval for the effluent disposal system shown on the approved plans as 'septics'. A separate onsite effluent disposal system application is to be submitted for this.

CARRIED UNANIMOUSLY 9:0

In Brief

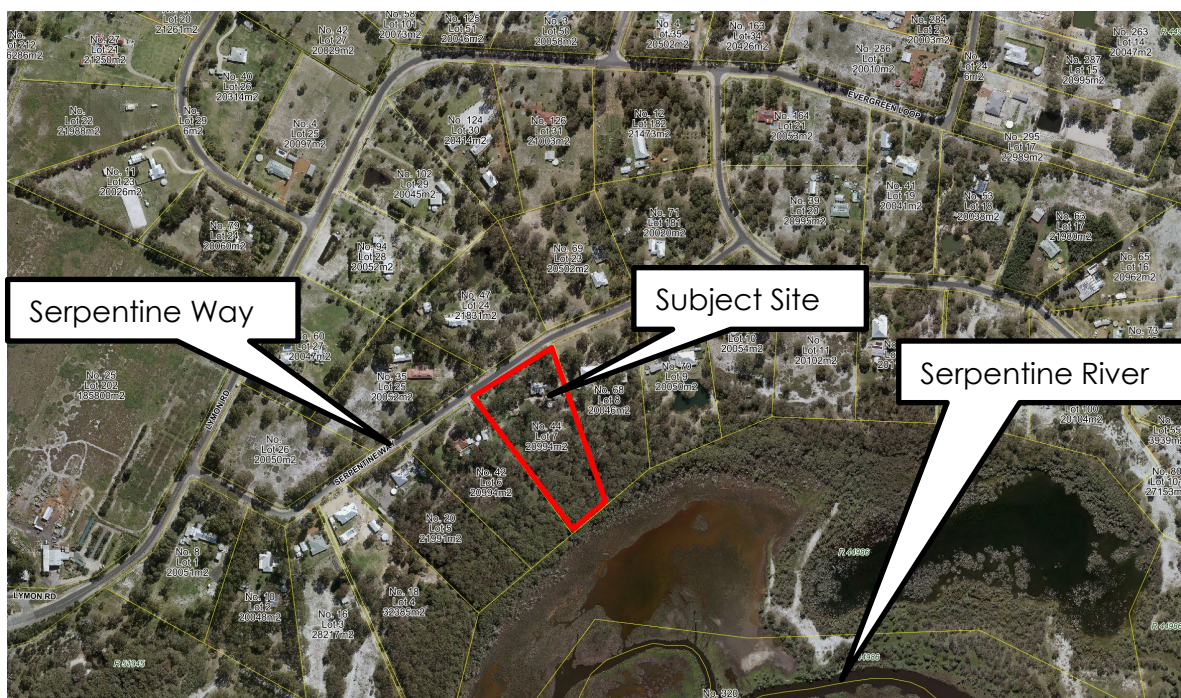
- An Ancillary Dwelling is proposed in the form of a railway carriage, located approximately 50m from the existing dwelling in a cleared area of the site.
- The site is bush fire prone and largely located within a floodway. The proposed location of the development is within an existing cleared area and limited vegetation clearing will be needed.
- The proposed Ancillary Dwelling will fall outside the existing approved building envelope and within the side setback area. There are various provisions of the Shire's Ancillary Dwellings policy that are not met which will increase the visual impacts of the development and reinforce independency of the Ancillary Dwelling, both these issues that have been raised by neighbor submissions.
- A new revised plan has now been submitted which shows the development meeting the building setbacks and will not result in such a large variation to the building

envelope. It will result in an improved clustering of development on the site and will enable the use of the existing driveway. As a result the new location shows a much improved relationship with the existing main dwelling and a reduced visual impact on the surrounding area.

Background

Lot 7 (44) Serpentine Way, Stake Hill (the site) is 2.1Ha in area and contains a single house, outbuildings, a swimming pool and general landscape areas.

The property is zoned ‘Special Rural SR6’ under Town Planning Scheme No 4 (the Scheme). The site is surrounded by properties of the same zoning. The property has a 130.6m frontage to Serpentine Way and abuts Regional Open Space associated with the Serpentine River to the south. A location plan is shown below.



Report Detail

The application proposes to place a rail carriage on the site which will be converted for use as an Ancillary Dwelling.

The carriage measures 19.1m in length, 3.1m in width and 3.6m in height, will be placed on a concrete pad or frame, with a 4m by 2m deck abutting the entry door and rainwater tanks adjacent to the rear of the carriage. A steel and colorbond patio structure is proposed over the carriage to provide protection to the carriage and to collect rainwater. This patio structure is not dimensioned on the plans however scales as extending no more than a metre from the side and rear boundaries of the carriage and 4m from the front boundary to enable an undercover parking area.

The applicant proposes to respray the carriage in original colours, retaining the existing signwriting ‘Spirit of the West’ and the carriage number.

The initial site plan positioned the carriage between 11m and 12m from the street and 12.5m from the western side boundary (**Appendix 2**). Following the submissions received as part of an initial consultation period the applicant submitted a revised plan (which is the subject of this report) which proposes the carriage some 30m from the street boundary and 15m from the western side boundary. The patio structure is proposed to extend forward of the carriage to an approximate 26m setback to the street. Supplementary vegetation is proposed along the side and rear boundary of the site. The revised plans are shown on **Appendix 3**.

Use Permissibility

An Ancillary Dwelling is a self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house. An Ancillary Dwelling falls with the Ancillary Accommodation use category under Town Planning Scheme No. 4 (Scheme). The use is one that Council has discretion to approve in the Special Rural SR6 zone.

Bushfire Risk

The site is reasonably well vegetated with native vegetation and located entirely within a bushfire prone area. The carriage is proposed within an area that is already largely cleared of vegetation and will therefore provide some protection from a bush fire perspective. A BAL (Building Attack Level) assessment prepared by a bush fire consultant was submitted in relation to initial location showing the APZ (Asset Protection Zone) requirements and indicates the development will have a relatively low BAL rating of 12.5. This will necessitate the development to be designed to the relevant Australian Standard for a BAL 12.5 as part of the building permit application. The revised plan location is superior from a bush fire perspective as it is in a larger cleared area. The recommendations from the bush fire consultant are still relevant to the amended location.

In many circumstances, a planning application for development in a bushfire prone area is required to be accompanied by a bushfire management plan. In this case, it is not considered necessary to require such a plan as:

- A relatively low BAL rating can be achieved;
- The site generally meets all the acceptable solutions of Bushfire Protection Criteria in regard to location, siting and design of development, vehicular access and water.

Floodway

The majority of the site, except the northern 34 - 65m is located within the Serpentine River floodway area. Therefore the proposal was referred to the Department of Water and Environmental Regulation (DWER) for comment.

DWER advised that the proposed development is considered acceptable with regard to major flooding. However, a minimum habitable floor level of 3.07m AHD is recommended to ensure adequate flood protection. DWER considered the proposal would not be an additional obstruction to flood water flow as the development would be located in the 'shadow' of the existing development on the neighbouring lot (Lot 42 Serpentine Way) which is also located in the floodway.

Ancillary Dwellings within the 'Special Rural', 'Farmlet' and 'Rural' Zones Local Planning Policy

The objectives of the policy are to:

1. provide for an affordable housing type that accommodates the needs of both large or extended families as well as smaller family units not related to the family occupying the main dwelling without compromising the productive capacity of rural land, landscape character, environmental attributes and amenity of the area.
2. allow greater flexibility in the size of ancillary dwellings in rural areas whilst ensuring that they remain related to and subordinate to the main dwelling.
3. ensure the development of ancillary dwellings does not encourage the future subdivision of land.

The proposal generally meets the requirements of the policy with the exception of provision 7, 8 and 10.

Provision 7 indicates that the Ancillary Dwelling is to be sited to minimise impact on the landscape, environment and streetscape and be located no further than 20 metres from the main dwelling. It seeks to avoid isolated or visually prominent locations. Special consideration should be given for the relationship between the Ancillary Dwelling and existing buildings, trees and other landscape features.

In this case the Ancillary Dwelling is to be located around 50m from the existing dwelling. It is set back generously from the street and the development will be partially screened by existing and proposed vegetation. The development has also been sited within an existing cleared area of the site which will necessitate minimal impact on existing vegetation. Additional plantings are proposed along the side and street boundaries to further reduce the visual impact on the adjacent area. The proposed development is however further separated from the existing dwelling than specified in the policy which has the effect of reducing the ancillary relationship between the dwellings and elongating the building envelope.

Provision 8 requires Ancillary Dwellings to be located within a building envelope where one exists or to meet the setback requirements of the Scheme where no building envelope exists.

The Special Provisions for Special Rural Zone SR6 set out Schedule 4 of the Scheme provide for each lot within this zone is to contain a building envelope which does not exceed 2,000m² in area. The Special Provisions also provide for a building setback of 20m to all lot boundaries.

The proposed development falls outside the existing building envelope in this case and only provides a setback of 15m to the western side boundary.

Provision 10 indicates that Ancillary Dwelling is to share the same driveway access as the main dwelling.

The existing dwelling is accessed via a crossover and driveway adjacent to the eastern boundary. A second access (gate and crossover) to the property already exists adjacent to the western boundary. The site is located on a relatively straight portion of Serpentine Way and there are no traffic related issues with a crossover in this location. The proposed use of a second driveway will however further reinforce the independent nature of the Ancillary Dwelling.

Murray 2030 Strategic Community Plan

Focus Area	Places for People
Aspiration 1.3	Ensure quality, diverse and innovative planning outcomes that meet community aspirations.
Strategy 1.3.1	Ensure our Town Planning Scheme and Local Planning Strategy facilitates quality and diverse planning outcomes.

Murray 2020-2024 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

- *Shire of Murray Town Planning Scheme No. 4*
- *Local Planning Policy for Ancillary Dwellings within the 'Special Rural', 'Farmlet', and 'Rural' zones.*

Sustainability & Risk Considerations

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

Nil

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

The Ancillary Dwelling is sensitively located within having regard for the site characteristics and constraints of the lot.

Environment – (Impact on environment's sustainability)

The proposed development will occur in a largely unvegetated area.

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	There are no significant risks associated with determining the application.

Consultation

The proposed development was initially located with the long façade facing towards the street with setbacks of 11m and 12.5m to the street and side boundaries respectively. The initial application was referred to neighbouring landowners on both sides of the property and three land owners directly opposite the site on the northern side of Serpentine Way. Two submissions were received from two neighbours across the road with the key issues raised and a comment on each listed below:

- The proposal is inconsistent with the Local Planning Policy for Ancillary dwellings in Rural areas.

The proposal is generally consistent with the Ancillary Dwellings policy except to the extent set out in the Report Detail section of this report. The variations to the policy requirements does tend to reinforce the independency of the Ancillary Dwelling and has the effect of spreading development across the majority of the width of the lot increasing visual amenity impacts.

- The proposal is inconsistent with the Residential Design Codes.

The site does not have a R- Coding. The R-Codes are most relevant to residential rather than rural areas. Notwithstanding the proposed development generally meets the Deemed to Comply requirements with the exception of the street surveillance requirements. Given the Special Rural setting of the site and that the proposal is for an Ancillary Dwelling, which are typically placed to the rear of the main single house, these provisions are not particularly relevant. It is noted that the Ancillary Dwelling Deemed to Comply provisions of the R-Codes have been varied by the Ancillary Dwellings Local Planning Policy for Rural areas.

- The proposal is inconsistent with the Local Planning Policy for Sea Containers.

A sea container is not proposed and therefore the Sea Containers Local Planning Policy is not applicable in this case.

- Will be visually prominent and obtrusive from the street.

The revised plans locate the development some 30m from the street and 15m from the side boundary and reorient the development perpendicular with the street boundary. The

repositioning as well as existing and proposed vegetation will reduce impacts compared to the initial plan, although there are alternative locations possible on the site that would better address the policy requirements and further reduce visual impacts on the surrounding area.

- Will be discordant with the rural character of the area.

The proposed development is not inconsistent with the range of development which typically establishes in a Special Rural zones. The revised location of the development as well as existing and proposed vegetation will reduce visual impacts of the development compared with the initial plans, however there are alternative locations possible on the site that would better address the policy requirements and further reduce visual impacts on the surrounding area.

- It is not compliant with the Building Code requirements.

The building permit application will need to demonstrate compliance with the Building Code of Australia. The Shire's Building Manager has confirmed that this is possible.

- Ancillary dwellings are to share the same driveway as the main dwelling.

See the comments in the Report Detail section of this report.

- Ancillary dwelling may be available to guests or bed and breakfast.

The application is for an Ancillary Dwelling. Ancillary Dwellings no longer have occupancy restrictions limiting occupation to members of the family occupying the main dwelling. Additional approvals will be needed if the applicant intends to use the development for short stay accommodation.

The issues in the first round of consultation were discussed with the applicant and revised plans were submitted repositioning the carriage setback 30m from the street boundary and 15m to the side boundary, with it being re-oriented so that the narrow end faces the street.

A second round of consultation with neighbouring landowners was carried out with a single submission being received raising a similar range of issues as the initial round of consultation.

Copies of the submissions are included at **Appendix 4**.

Resource Implications

Financial

Council waived planning application fees for applications received from April until 30 September 2020. This application was considered eligible for the waiver.

Workforce

Assessment of the development application has been accommodated within existing staff resource levels.

Options

Council has the option of:

1. Approving the application either with or without conditions.
2. Refusing to grant development approval.

Conclusion

There are several requirements of the Shire's Ancillary Dwellings policy which are not satisfied in this case, which will increase the visual and landscape impacts on the development and reinforce independency of the Ancillary Dwelling, both issues that have been raised by the submissions.

Discussions have been held with the applicant and an alternative location, approximately 24m to the rear of the existing dwelling has been submitted as a second revised plan (**Appendix 5**). This new location meets the building setbacks and will not result in such a large variation to the building envelope. It will result in an improved clustering of development on the site, will enable the use of the existing driveway. As a result the new location shows a much improved relationship with the existing main dwelling and a reduced visual impact on the surrounding area. A new BAL assessment will be necessary and some clearing of vegetation will be needed. There is provision in the Scheme to clear limited vegetation to enable development. The new location would also impact flood flows to a similar extent as the first revised plan that was supported by the DWER. The new plan would also better address the issues raised by the submissions. It is therefore recommended that approval be granted to new revised plan.

Corporate Governance**11.3 Approval to Sub-Lease – Lot 190 (6) George Street, Pinjarra – Regional Development Australia Peel Inc**

File Ref:	GE02/190		
Previous Items:	OCM.24 Oct 19	Item 19.1	(OCM 19/240)
	OCM.28 Nov 19	Item 15.3	(OCM 19/259)
	OCM.24 Sep 20	Item 11.3	(OCM 20/169)
Applicant:	Regional Development Australia Peel Inc		
Declaration of Interests	Nil		
Author and Title:	Robert Marlborough, Manager Governance		
Voting Requirements:	Simple Majority		

This item was dealt with at page seven of these minutes.

11.4 Periodic Local Law Review – Shire of Murray Pinjarra Cemetery Local Law 2006 and Shire of Murray Waste Local Law 2016 & Proposed Pinjarra Cemetery Amendment Local Law 2020

File Ref: 1121 & 1/2156
Previous Items: Nil
Applicant: Nil
Declaration of Interests Nil
Author and Title: Robert Marlborough, Manager Governance
Voting Requirements: Absolute Majority

This item was dealt with at page eleven of these minutes.

11.5 Rates Waiver – Pinjarra Harness Racing Club Inc

File Ref:	PA15/502-02
Previous Items:	Nil
Applicant:	N/A
Author and Title:	Tracie Unsworth, Director Corporate Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority

Recommendation/Council Decision

OCM20/187

Moved: Cr D McLarty

Seconded: Cr S Kirkham

That Council grants the Pinjarra Harness Racing Club Inc a waiver of the increase to the annual rates and any associated interest charges on the property situated at 7 Paceway Court Pinjarra (Assessment 187) resulting from the construction of the new horse stall facility for the following financial years:

- **2019/2020 \$5,165.83**
- **2020/2021 \$5,165.83**

CARRIED UNANIMOUSLY 9:0

In Brief

- The Pinjarra Harness Racing Club Inc is a not for profit organisation operating out of their premises situated at 7 Paceway Court, Pinjarra.
- In 2018 the Club secured grant funding to construct a new horse stall facility, the construction of which resulted in a significant increase to the annual rates payable by the Club.
- Council is requested to consider waiving the increase due to the considerable financial stress the unexpected increase has caused the Club.

Background

The Pinjarra Harness Racing Club Inc (the Club) was formed on 28 September 1950, with the first race meeting held 10 March 1954. The track is an iconic one, being the only 1,000 metre circuit in Western Australia. It is the leading regional track in the state and arguably Australia.

The Club has approximately 150 members, made up of trainers and general public. Currently the Club operates race days each Monday and provides free entry to all patrons in an endeavour to encourage and promote activity within the Peel region.

The Club is heavily reliant on grant funding, with the majority of funding coming from Racing and Wagering Western Australia (RWAA). Although the Club administration is constantly endeavouring to attract further grants and sponsorship, because they fall under the Racing & Gaming umbrella, there are limitations on funding sources available.

Report Detail

In 2017/2018 the Club was successful in securing grants from RWWA and Royalties for Regions to part fund the construction of new race day stalls, machinery shed and parade ring. These new facilities were of paramount importance to the sustainability of the Club as the old facilities were no longer viable and did not meet the occupational health and safety standard required by today's racing industry. The construction totalled \$3,115,210 funded as follows:

- Racing & Wagering Western Australia \$2,126,785
- Royalties for Regions \$ 900,000
- Pinjarra Harness Racing Club \$ 88,425

Construction was completed in late 2018, with the Shire of Murray issuing an occupancy permit on 21 December 2018. The issuing of the occupancy permit triggered Landgate (the state department responsible for land valuations) to revalue the property at 7 Paceway Court, Pinjarra and a new gross rental valuation (GRV) was issued to the Shire of Murray in the 2019/2020 financial year, effective 1/1/2019. The GRV on the property increased from 167,765 to 234,500 which equated to \$5165.83 in Shire rates and \$346.62 Emergency Services Levy extra per annum. This was on top of the \$12,986.35 Shire rates and \$871.37 Emergency Services Levy the Club had already paid in 2019/2020.

On receipt of the 2019/2020 interim rate notice for \$5512.45, Mr Dale Putland, Harness Racing Manager contacted the Shire of Murray Chief Executive Officer to request the charge be reviewed.

Taking into consideration that the increase to the GRV was directly attributable to the construction of the race day stalls and that these facilities did not have the capability to attract any further revenue for the Club, Shire officers contacted Landgate to ascertain if there was a mechanism to have the GRV reviewed. On reviewing the file, Landgate advised that they were bound by the *Valuation of Land Act 1978* and as there was no evidence based rental market for the trotting facility they had to rely on the capital improvement methodology, which is based on 5% of the total valuation of land and buildings. Furthermore, they advised that any appeal against the valuation by the property owner would not be successful.

The Club has since provided Shire officers with their last two financial year statements. These statements indicate that under normal operating circumstances, the Club barely breaks even and that in the 2019/2020 year has actually run at an operating loss. This financial position will be further exacerbated by the imposition of the interim rate notice and the ongoing annual rate charge in future years.

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 2020 - 2024 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.

Murray 2030 Strategic Community Plan

Focus Area	Thriving Economy
Aspiration	To have a 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 2020 - 2024 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	Implement key short, medium and long-term initiatives identified in the Racing and Pacing infrastructure Business Case.

Other Strategic Links

Nil

Statutory Environment

Section 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; or
 - (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.*

Section 6.47. Concessions

Subject to the *Rates and Charges (Rebates and Deferrals) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

* *Absolute majority required.*

Sustainability & Risk Considerations

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

The Peel equine racing industry accounts for approximately 790 full time equivalent jobs, which equates to almost 3% of all jobs (FTE) in the region. Without Shire support the viability of the harness sector could be in jeopardy.

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

The average race day attendance at the Pinjarra Paceway is approximately 500 people, which can swell to 3000 on several of their feature race days throughout the year.

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Should Council not approve the waiver, the Pinjarra Harness Racing Club Inc will be subject to further financial stress in an already tight economic climate.

Consultation

- Landgate
- Pinjarra Harness Racing Club Inc

Resource Implications*Financial*

It is anticipated that interim rates in the 2020/2021 financial year will exceed the annual budget of \$73,607.

Workforce

Nil

Options

Council has the option of:

1. Granting the Pinjarra Harness Racing Club Inc a waiver on the 2019/2020 interim rates of \$5165.83 plus a further \$5168.83 for the 2020/2021 rates plus any associated interest charges.
2. Granting a waiver of a lesser amount.
3. Not granting any waiver.

Conclusion

The Shire of Murray has provided significant investment in the equine industry within the Peel region and has a demonstrated commitment to the future of the industry. This report highlights the unintended consequences of not for profit organisations who, seeking to expand their operations so they may become more self-sufficient, have to pay a premium in the interim which could potentially jeopardise their future. The Pinjarra Harness Racing Club Inc, in conjunction with RWWA and the Shire of Murray, has developed a masterplan that when realised will allow them long-term sustainability, while at the same time boosting the local economy and providing more local employment opportunities.

The Shire of Murray is fortunate to have two premier horse racing tracks situated in the district; Pinjarra Paceway (run by the Pinjarra Harness Racing Club Inc) and Pinjarra Park (run by the Pinjarra Race Club Inc). The Pinjarra Park racecourse is a similar facility to the Paceway although it is situated on a much larger land holding; 45.4133ha as opposed to the Paceway's 17.5396ha. Prior to the 2019 revaluation of the Paceway, both clubs had similar GRV's and paid a very similar amount in annual rates. Consideration should be given to the underlying principles of the local government rating system:

- Objectivity
- Fairness and equity
- Consistency
- Transparency
- Administrative efficiency

The granting of the proposed waiver would bring both clubs back to a similar rates contribution, providing consistency, fairness and equity.

11.6 Payments from Municipal and Trust Funds – September 2020

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

Appendix 7**Recommendation/Council Decision****OCM20/188****Moved: Cr A Rogers****Seconded: Cr B Beacham**

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

CARRIED UNANIMOUSLY 9:0**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 September 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 September 2020.
2. Not receiving the Payments from Municipal and Trust Funds report for September 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.

11.7 Monthly Financial Report – September 2020

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

Appendix 8

Recommendation/Council Decision

OCM20/189

Moved: Cr S Lee

Seconded: Cr G Black

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

CARRIED UNANIMOUSLY 9:0

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 September 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:
 - * Monthly Summary Information
 - * Significant Accounting Policies
 - * Net Current Funding Position
 - * Cash and Investments
 - * Receivables
 - * Disposal of Assets
 - * Capital Acquisitions
 - * Operating Grants and Contributions
 - * Non-Operating Grants and Contributions
 - * 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 2020/2021 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 September 2020.
2. Not receiving the monthly financial report for September 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

11.8 Pinjarra Cricket Club Premises Working Group – Councillor Nomination

File Ref:	7012-01	
Previous Items:	OCM. 24 Sep 2020 Item 11.9	(OCM20/176)
Applicant:	Nil	
Author and Title:	Marlene Renton, Coordinator Sport and Recreation	
Declaration of Interest:	Nil	
Voting Requirements:	Simple Majority	

Appendix 9

Recommendation/Council Decision

OCM20/190

Moved: Cr A Rogers

Seconded: Cr D McLarty

That Council supports Councillor B Cardilini as the nominated representative on the Pinjarra Cricket Club Premises Working Group for the term required to achieve key deliverables of the Working Group.

CARRIED UNANIMOUSLY 9:0

Note: Cr A Rodgers advised that should Cr Cardilini not be able to attend the meetings that she would be available to attend.

In Brief

- To identify and appoint a Councillor representative to the Pinjarra Cricket Club Premises Working Group (PCCPWG).

Background

In September 2020, Council requested that officers form a Working Group to include representatives from the Shire and the Pinjarra Cricket Club (PCC) to explore the options and costs associated with implementing the George Beacham Pavilion Management Plan and the recommendations of the Disability Access Review (the Review) of the Pavilion completed in 2016 by O'Brien Harrop Access.

Report Detail

The Review concluded that *'there are no unisex accessible toilets, showers, or toilets suitable for people with ambulant disabilities'* at the Pavilion. The Review provided seventeen recommendations to enable the building to be compliant.

To address the 17 recommendations a draft management plan was developed which is now named the 'George Beacham Pavilion Management Plan' (the Plan).

The PCC lease expired on 2 September 2020, and given the findings of the Review, officers investigated the risk of leasing the Pavilion to the PCC for a further term as the building was deemed non-compliant.

The Shires insurers, Local Government Insurance Services (LGIS), advised that a Holding Over Lease to 30 June 2021 would allow the PCC to operate during the 2020/21 season and to provide time for the Shire and Club to work together to progress the recommendations of the Review and investigate alternate options for premises for the PCC to operate from in the near future if required.

PCCPWG Terms of Reference

The Terms of Reference are attached as **Appendix 9**. The purpose of the PCCPWG is to:

- a) Investigate the options, costs and practicality of implementing the Plan;
- b) Explore short-term (2-4 years) options for alternate premises, if required, to allow the PCC to continue to operate and grow membership in the event that the Pavilion becomes temporarily or permanently unusable.

The PCCPWG is not a standing committee and has been formed to complete a defined task. It is expected that the deliverables will be completed by 30 April 2021. The group will meet once per month in the evening at the Shire Administration Office.

The PCCPWG does not have executive powers or authority, and the groups decisions are not binding on Council, the CEO or the Strategic Leadership Group.

While there is no statutory requirement for a Councillor to be a part of the PCCPWG, given the importance of the outcomes to the PCC and the broader community, Council may wish to consider selecting a Councillor to be a representative on the Working Group.

Review of the Sir Ross McLarty Sports Precinct Master Plan

Council also requested officers work collaboratively with the PCC to explore options for future club premises as part of the Review of the Sir Ross McLarty Sports Precinct Master Plan, including the option of upgrading the Pavilion. This is outside of the scope of the PCCPWG, however it is acknowledged that the two projects will be conducted concurrently and that the PCCPWG deliverables may be used to inform the review and vice versa.

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	Foster and value our volunteers. Plan community facilities for future generations.

Murray 2020-2024 Corporate Business Plan

Focus Area	Places for People
Objective	Socially connected, safe and cohesive community.
Strategy	Support diverse, minority and cultural groups.
Project and Actions	Improve facilities and access throughout the Shire. Implement and report on the Access and Inclusion Plan.

Other Strategic Links

Shire of Murray Disability and Access Inclusion Plan 2018 – 2022.

Statutory Environment

Nil

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 process adopted to holdover the lease and convene a working group is a holistic approach to identify opportunities that may be achievable to support the Pinjarra Cricket Club.

Consultation

Pinjarra Cricket Club

Resource Implications

Financial

Nil

Workforce

Nil

Options

Council has the option of:

1. Electing a Councillor to the Pinjarra Cricket Club Premises Working Group.
2. Declining the invitation to have representation on the Pinjarra Cricket Club Premises Working Group and otherwise receive periodic updates on progress.

Conclusion

The Pinjarra Cricket Club Premises Working Group aims to deliver the outcomes by 30 April 2021. It is also likely that the Group will provide input into the Review of the Sir Ross McLarty Sports Precinct Master Plan.

Given the importance of the outcomes to the PCC and the broader community it would be advantageous to have a Councillor representative involved.

11.9 Policy Amendment: C9 – Community Facility Fund

File Ref:	8/9117 & 1157		
Previous Items:	10 Mar 2016	Item 12.5	(OCM16/050)
	22 Feb 2018	Item 11.7	(OCM18/008)
Authors and Titles:	Marlene Renton, Coordinator Sport and Recreation Rob Marlborough, Manager Governance		
Declaration of Interest:	Nil		
Voting Requirements:	Simple Majority		

Appendices 10, 11 & 12

Recommendation/Council Decision

OCM20/191

Moved: Cr S Lee

Seconded: Cr S Kirkham

That Council:

1. **supports the amendments to Policy C9 Community Facility Fund as provided at Appendix 10, which primarily seeks to:**
 - a. **change the closing date for applications from 30 April to 30 November; and**
 - b. **change the eligible amount for funding from one third of total project cost to 70% of total project cost, up to a maximum of \$20,000.**

CARRIED UNANIMOUSLY 9:0

In Brief

- The Community Facility Fund (CFF) is a Shire of Murray community grant program open to eligible sport, recreation and community associations for assistance with small infrastructure projects.
- The Shire budgets \$50,000 each year for the CFF.
- The CFF policy states that applications close on 30 April each year with successful applicants notified by the end of June, and that associations can apply for up to one third of the total project cost.
- Council is requested to approve changing the closing date to 30 November so that sport and recreation applicants can be notified in February to coincide with the opening of the Community Sport and Recreation Facility Fund (CRSFF) Small Grants provided by the Department of Local Government Sport and Cultural Industries (DLGSC), in order to increase the chances of additional funding for the larger community projects.
- Council is also requested to approve increasing the maximum funding amount from one third of total project costs to 70% of total project costs, to a maximum of \$20,000, to increase the number of applications and the chance of projects proceeding.

Background

Council policies are reviewed periodically or from time to time to ensure effectiveness, compliance with legislation and alignment with the organisational structure and to meet community needs.

Council policies are broadly designed to:

- outline positions on particular matters;
- provide consistency and equity in decision making;
- provide promptness in responding to customer needs; and
- support operational efficiency.

A number of sport and recreation clubs located in the Shire of Murray have identified small infrastructure projects in their forward planning for the 2020/21 financial year. Some examples are a new unisex toilet, extension of an undercover area, security lighting, court resurfacing, storage shed, and a new scoreboard. Many of these projects have completed the planning and quoting phase and are ready for implementation subject to funding, and with many funding organisations either offering additional COVID-19 funding for projects, or bringing forward timelines for funding, there is an opportunity for clubs to capitalise on these opportunities.

Planning for and implementing small improvements to facilities, provides clubs with an important sense of self-reliance, demonstrates sound governance, and reflects effective financial management. It boosts the morale of volunteers and members to see their club moving forward and achieving their goals. This is especially important in the current environment given the challenges that COVID-19 has presented volunteer not-for-profit organisations.

However, with the CFF outcomes not known until the end of June 2021, the projects risk not being fully funded, delayed, or cancelled, hence the need to modify the policy by:

- adjusting the closing date to 30 November annually, which will allow time for applications to be assessed and for successful applicants to notified in February to coincide with the opening of the Community Sport and Recreation Facility Fund Small Grants, provided by the Department of Local Government Sport and Cultural Industries; and
- increasing the maximum funding amount from one third of total project costs to 70% of total project costs to a maximum of \$20,000, will increase the number of applications and the chance of projects proceeding.

Report Detail

The CFF assists incorporated not-for-profit organisations within the Shire to deliver well-planned sport, recreation, and community infrastructure projects.

The Shire budgets \$50,000 each year for CFF projects. Currently the guidelines state that organisations can apply for up to one third of the total project cost with the closing date being 30 April each year. Applications are then assessed by officers and considered by Council in June.

A review of the CFF over the last five years (refer **Appendix 11** revealed that;

- the fund has been substantially under-subscribed with only \$92,502 allocated out of a possible \$250,000;
- the total number of projects funded was ten, with two not proceeding;
- in the last three years only three applications were received, of which only one project proceeded; and
- no applications were received in 2019/20.

While the lack of applications for 2019/20 could be attributed to COVID-19, previous history indicates that the fund is not meeting community need, despite ongoing requests for financial assistance for projects. The likely reasons are many clubs do not have the capacity to contribute two thirds of the total project cost, they are unable to leverage additional funding and the application form is quite complex and may deter groups from applying.

The economy has also slowed, especially over the past year, and it is becoming more difficult for not-for-profit organisations to self-fund projects. Sponsorship and donations have reduced

or been withdrawn, traditional fundraising events have limited success and are time consuming for volunteers, state and federal grants are very competitive, and organisations are continually searching for alternate revenue streams.

Therefore, the maximum grant has been raised to 70% of eligible items with organisations able to contribute 30% through cash or in-kind goods and services. The highest grant provided is proposed to be capped at no more than \$20,000.

The second amendment is to bring forward the closing date from April to November with applications presented to Council in February for consideration. If funds are not fully allocated then another round can be advertised in March.

Table 1: Proposed Guideline Changes

	Existing	New
(a)	Maximum grant amount is one third of the total project cost.	Maximum grant amount is 70% of the total project cost up to a maximum of \$20,000.
(b)	One round per year closing in April.	One round per year closing in November.

While the CFF is targeted at projects under \$25,000, it is envisioned that successful funding from the Shire through CFF will provide seed funding for larger projects and allow clubs to leverage additional funding from other funding organisations. Specifically, sport and recreation groups will be in a sound position to apply to the DLGSC under the CSRFF Small Grant for co-contributions.

The proposed amendments are designed to increase the number of applications and projects that are funded, with the outcome of encouraging more community-led initiatives..

Community Facility Fund Guidelines and Application 2020/21

Each year the CFF Guidelines are updated. The 2020/21 Guidelines are attached as **Appendix 12**. The guidelines advise that all prospective applicants meet with a Place and Community Officer to discuss their project. This will be the opportunity to fine tune the initial planning such as demonstrated demand, investigation of options, feasibility and community benefit. The information required will be dependent upon the size and complexity of the project. The application form has been reviewed with amendments that will make the application process easier.

An objective of the CFF is to not only encourage community led projects but to upskill the (mostly) volunteer organisations on good project planning processes and equip them with the tools to develop strong business cases and funding applications for their projects, not only to the Shire but also other external organisations. Ultimately this will result in better funded and higher quality infrastructure with outcomes that align to club/association, Shire, and in some cases, state strategies.

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	<ul style="list-style-type: none"> • Plan community facilities for future generations. • Foster and value our volunteers.

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 2020- 2024 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	Provide annual funding to assist with implementing placemaking activities.
Objective	Encourage an active and healthy community.
Strategy	Plan community facilities for future generations.
Project and Actions	Administer the Community Facility Fund.
Strategy	Actively take opportunities to enhance public health.
Project and Actions	Support the development, growth and sustainability of sport and recreation clubs.

Other Strategic Links

Nil

Statutory Environment

Section 2.7 (2)(b) – *Local Government Act 1995 (The Act)*.

(1) The Council —

- (a) governs the local government's affairs; and,
- (b) is responsible for the performance of the local government's functions.

(2) Without limiting subsection (1), the council is to —

- (a) oversee the allocation of the local government's finances and resources; and,
- (b) determine the local government's policies.

Sustainability & Risk Considerations

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

It is anticipated that the sport, recreation and community groups will find the proposed changes to the Community Facility Fund beneficial and result in improved outcomes, with more small projects being implemented. Many of the projects use locally (Shire or Peel Region) sourced products or services.

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

There is growing community expectation for local government to enable greater autonomy and activation of their places by the community and for sufficient community infrastructure to support a diverse range of uses, including the Shire's growing number of sporting organisations and need to provide suitable community, sport and recreation infrastructure. The proposed changes allow for greater capacity building in our volunteer, community and sporting organisations.

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

The proposed policy amendment does not affect other Council policies.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	Implementing the changes will not have any adverse effect on the community organisations. If the funds are not fully allocated then a second round can be advertised.

Consultation

Nil

Resource Implications*Financial*

Nil

Workforce

Nil

Options

Council has the option of:

1. Supporting the recommendations proposed.
2. Rejecting the recommendations proposed and retain the current Policy.

Conclusion

The Community Facility Fund is one of the avenues through which the Shire can support a range of sport, recreation and community organisations to deliver community-led projects that create vibrant, active and inclusive communities that improve the wellbeing of its residents.

The changes to the CFF will:

- (a) maximise the opportunity for sport, recreation and community organisations to leverage additional funding for projects from state government, industry, and business;
- (b) encourage small, local community-led infrastructure projects that benefit the community; and
- (c) respond to the needs of the community.

11.10 Use of Former Pinjarra Court House at Lot (388) 22 George Street, Pinjarra

File Ref:	GE02/388		
Previous Items:	OCM. 27 July 17	Item 11.7	(OCM17/151)
	OCM. 22 Feb 18	Item 11.8	(OCM18/009)
	OCM 23 Aug 18	Item 11.3	(OCM18/168)
Author and Title:	Krystal Dawe, Coordinator of Place and Community		
Declaration of Interest:	Nil		
Voting Requirements:	Simple Majority		

Recommendation/Council Decision**OCM20/192****Moved: Cr G Black****Seconded: Cr A Rogers**

That Council supports a twelve month extension of the existing arrangement and partnership with Pinjarra Connect to continue use of the Court House as a makers and community co creating, co working and meeting space.

CARRIED UNANIMOUSLY 9:0**In Brief**

Council is requested to consider the future use of the Court House and a request from local place-making group Pinjarra Connect for a twelve month extension of the existing arrangement and partnership with the Shire to continue use of the Court House as a makers and community, co creating, co working and meeting space.

Background

The former Pinjarra Court House was built in 1935 and stands as an important part of Pinjarra's heritage. In 2003, the building ceased to be used as a Court House and in 2005, the State Government allocated \$200,000 to refurbish the building and transferred ownership to the National Trust in 2006.

In 2008, the Shire negotiated with the National Trust a five year lease with a similar option period and the building was used by the Shire's Ranger Services.

In 2017, the Shire negotiated a further leasing arrangement with the National Trust with Council supporting the Shire entering into a long term lease for a period of 21 years with a similar option period and for the building to be used for community purposes. Council also resolved to call for expression of interests from individuals, community groups, arts and crafts groups and/or potential commercial operators for use of the Court House.

At its August 2018 meeting, Council supported a submission for the use of the Court House building from local place-making group, Pinjarra Connect. The proposal was for a makers and community co creating, co working and meeting space that includes:

- A partnership approach with the Shire to manage the day to day operation and maintenance of the space;
- An artist in residence program, rotating on a monthly basis and operating between 10am and 2pm with the artists producing, displaying and selling their products and delivering different workshops;
- A meeting room facility with audio visual and teleconference equipment available free of charge for 1 hour appointments;

- Internal and external workshop space for resident artists, community groups, small businesses and workshop facilitators which can be used for a variety of workshops, meetings, small events, exhibitions and business incubation purposes; and
- 7 hot desks available to be booked online free of charge.

Council supported the submission and the above use was endorsed on a two year basis from February 2018 with request for a review at the end of that period.

Council is requested to review the matter early so that should support be given for continued use of the Court House under the existing arrangement and partnership, Pinjarra Connect is able to continue with its planning for its maker in residence program and secure art residencies for 2021. The Shire is also able to consider venue booking requests for 2021.

Report Detail

At present, the Court House is open to the public by the artist in residence from Wednesday to Sunday from 10am to 2pm. On Mondays and Tuesdays, the space is not open to the public though is still available for private venue hire from the Shire.

A breakdown of the space and its achievements since launching in February 2019 is summarised below:

1. Makers in Residence Program

Pinjarra Connect has successfully coordinated the makers in residence program managing to secure over 45 artists including Leon Holmes, an award winning Australian Artist, supporting local artists and encouraging creative industries and cultural tourism in Pinjarra.

Further to the above outcome, the maker in residence is responsible for opening the space to the public from Wednesday to Sunday which also enables the community to use the meeting room facilities, visit and enjoy the space without the need for day to day management of the facility by the Shire. Pinjarra Connect have managed to successfully coordinated the residency element of the Court House since February 2019 with minimal support from Shire officers and have successfully secured an artist for every month since its opening (with the exception of 3 months due to COVID restrictions), until the end of 2020 and are already receiving enquiries from artists for 2021.

2. Business Support

The Court House has hosted a number of drop in sessions offering business support including South-West and Peel Business Advisory operating from the meeting room every Monday for more than 12 months offering Peel based businesses the ability to drop in or book appointments, with the advisors providing up to 10 free sessions. This service ceased during COVID-19 however Shire officers are in discussions with the organisation to determine whether this, or a similar arrangement, can be resumed.

3. Workshop Space

Over the past 19 months, the Court House has hosted over 20 creative and/or art focussed workshops and 21 business support related workshops, with majority being free community activities.

It also regularly hosts community maker markets organised by Pinjarra Connect and a range of private events, meetings, functions and programs including the Fremantle Education Centre who since July have hired the space three full days a week until the end of the year.

Additionally in October 2020, the Shire in partnership with Spacecubed Perth and Meshpoints who support regional innovation, have launched a six week business accelerator program at the Court House with the program largely linked to the new Western Australia Food Innovation Precinct.

4. Co Working

The co working and hot desks has been the least successful element of the multi-use building and has received little take up. The feedback received from the co working community has indicated that the lack of a day to day concierge and 24 hour access to the space may be a factor and may improve the attractiveness of the hot desks. Though disappointing, having hot desks available for the community is not negatively impacting on the space or restricting its other uses in anyway. Additionally, with upcoming strategic projects such as the Western Australian Food Innovation Precinct and impacts of COVID-19 encouraging remote working arrangements, this may influence a growing co working community at the Court House.

5. Online Presence

The Court House has an established online presence and a growing social media following. The Court House website (www.thecourthousepinjarra.com) allows the community to book the meeting room for one hour appointments or a hot desk online free of charge, without the need to ring the Shire and require officer time. Its social media channels (Facebook with 630 followers and Instagram with 413 followers) provides the opportunity to promote the makers in residence, upcoming events and programs and reach a wider audience. Its content often includes sharing business support information, support local small business and championing creative industries.

Pinjarra Connect are seeking a twelve month extension of its existing arrangement and partnership with the Shire to continue the Court House’s use as a makers and community co creating, co working and meeting space.

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	<ul style="list-style-type: none"> • In partnership with communities, identify and prioritise community-led projects and initiatives • Implement the Pinjarra Revitalisation Strategy • Plan community facilities for future generations • Foster and value our volunteers

Focus Area	Thriving Economy
Aspiration	A diverse and prosperous economy that supports innovation, training opportunities and provides a variety of business, tourism and employment opportunities.
Strategy	<ul style="list-style-type: none"> • Position Pinjarra as a key regional centre through the Pinjarra Revitalisation Strategy • Develop key sectors of the tourism economy where Murray has a competitive advantage

Murray 2020-2024 Corporate Business Plan

Focus Area	Places for People
Objective	Socially connected, safe and cohesive community.
Strategy	Become a youth focused and supportive community.
Project and Actions	Deliver initiatives that meet the aims and outcomes of the Shire's Youth Strategy.
Objective	Encourage an active and healthy community.
Strategy	Foster and value our volunteers.
Project and Actions	Celebrate the contribution of volunteers and encourage increased volunteerism within the community.

Other Strategic Links

The Pinjarra Town Centre Revitalisation Strategy establishes a range of objectives, vision and design principles for the town centre that focus on strengthening existing activity nodes through defined Precincts. The Court House falls within the 'Heritage and Arts' Precinct which strengthens the existing cultural attractions and facilities of the Edenvale Heritage Precinct and its surrounds, including the main street character.

A key focus area of the Shire of Murray Economic Strategy 2018-2022 is 'Knowledge and Innovation' with strategic goals to promote innovation in the Region, develop, attract and retain high knowledge professionals and brand Pinjarra as a destination of historical and cultural significance with an emphasis on the arts. A priority action identified in the Strategy is for the Shire to continue to work with Pinjarra Connect on place-making activities and to support the use of the Court House as a space for incubator and accelerator programs for start-ups and entrepreneurs.

Additionally, the Shire's Tourism and Marketing Plan seeks to establish Pinjarra as a cultural landmark known for its heritage, culture, creative industries and artisan products and food, with the maker in residence program at the Court House strongly aligning with this vision and providing a main street location to capture pedestrian traffic.

Statutory Environment

Nil

Sustainability & Risk Considerations

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

Whilst there are fees and charges applied to the hire of the workshop and meeting room spaces, any income over the financial year continues to be reinvested into operational costs including power, water and cleaning. The economic impact for continued operation of the space is therefore considered close to cost neutral for the Shire. Importantly however, the range of business related workshop opportunities, the support available to small business through Court House initiatives and having a main street presence for local creatives has provided professional development opportunities for the business and creative community which has and will continue to result in positive economic outcomes.

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

The space provides important social infrastructure and is of significant value to the community. Through the delivery of its different events, activities and programs and its maker in residence program that is open to the public 5 days a week, the space is encouraging business development, personal development, social connectedness, development of creative industries, regional innovation and adds vibrancy and activity to the main street of Pinjarra.

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The Court House is a valued space by the community, main street operators and visitors to Pinjarra. There is considered little to no risk of not receiving community support to continue the arrangement for a further twelve months' time.
Moderate	Should Council not support the arrangement being continued for an additional twelve months and endorses a further expression of interest process, the Shire runs the risk of Pinjarra Connect not resubmitting and interest. With the requirement from the National Trust for the space to be used for community purposes reducing its potential for commercial tenancy and given the lack of economic activity and confidence due to COVID-19, there may be lack of interest in the space and the space may once again be vacant for some time.

Consultation

Consultation with Pinjarra Connect has occurred, however no consultation with the wider community has been undertaken.

Resource Implications*Financial*

Continuing the existing arrangement will not further impact on any financial resources.

Workforce

Continuing the existing arrangement will not further impact on any workforce resources with Shire officers able to maintain the current arrangement.

Options

Council has the option of:

1. Supporting a twelve month extension of the existing arrangement and partnership with Pinjarra Connect to continue the Court House's use as a makers and community co creating, co working and meeting space.
2. Not supporting a twelve month extension of the existing arrangement and partnership with Pinjarra Connect and requesting that an expression of interest process is undertaken to consider other potential opportunities for the building.
3. Determine an alternative course of action.

Conclusion

Pinjarra Connect have demonstrated a strong commitment to activating Pinjarra through quality signature events such as its Maker Markets, Music on the Murray events, Neighbour Harvest Long Table Dinners and other activities and to the Court House through its maker in residence program.

Additionally, the Shire's place-based approach and close working relationship with Pinjarra Connect affords decision making to be made in partnership providing a good working relationship with the community group.

Over the past 19 months, the Court House has added vibrancy to the main street, supported creative development and industries, provided business support and capacity building, encouraged community connectedness and added a cultural tourism attraction to Pinjarra. Additionally, with the Court House's alignment to regional innovation, the Shire of Murray and Pinjarra has become part of a Western Australia innovation network and is being seen as a leader in regional innovation. With this and its commitment to creative industries, positive perception of Pinjarra continues to grow and reinforce its aspirations of becoming an innovative regional community known for its heritage, culture and arts offerings.

Infrastructure Services

11.11 Replacement and Disposal of current Construction Caterpillar 12M Motor Grader

File Ref:	6101-07
Previous Items:	Nil
Author and Title:	Chris Pretorius, Manager Operation
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 13 under Separate Confidential Cover

Recommendation/Council Decision

OCM20/193

Moved: Cr B Beacham

Seconded: Cr S Kirkham

That Council:

- 1. accepts the Confidential Assessment Report by the evaluation panel for the replacement and disposal of the current construction Caterpillar 12m Motor Grader;**
- 2. accepts the offer submitted from Westrac under the WALGA Preferred Supplier Contract NPN 2.15 to supply a new Caterpillar 140 Motor Grader;**
- 3. accepts the offer from the Shire of Waroona for the purchase of the existing construction Caterpillar 12M Motor Grader (Plant Number PV4050); and**
- 4. advises all other tenderers that their tender submissions were unsuccessful.**

CARRIED UNANIMOUSLY 9:0

In Brief

To progress the approved 10-year plant replacement program invitations under the Western Australian Local Government Associations (WALGA) Preferred Supplier purchasing process and a Tender were recently invited for the Supply of a new Motor Grader and to dispose of the current construction Caterpillar 12M Motor Grader (Plant Number PV4050).

Background

The current Caterpillar 12M Motor Grader is pivotal to the civil construction program in delivering the 10 year civil construction program within the Shire of Murray.

Report Detail

The Confidential Assessment Report contains a detailed evaluation report.

Murray 2030 Strategic Community Plan

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	Identify and implement technologies and strategies to transform services and public access.

Focus Area	Connected and Accessible
Aspiration	To develop strong leadership through good governance, effective communication and ensuring value for money.
Strategy	Deliver efficient and affective Council Services to the community.

Murray 2030 Strategic Community 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 purchasing services of WALGA (Preferred Supplier) and a formal Tender process have been used 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)

The replacement of the current Caterpillar 12M Motor Grader is considered to have minimal impact on the environment and newer technology may create less harmful emissions.

Policy Implications

G11: Purchasing Policy

The Shire of Murray is committed to delivery 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

In considering the proposal an evaluation panel was established consisting of the Manager of Operations, Workshop Manager, Civil Supervisor and the Technical Officer Operations.

Resource Implications

Financial

The replacement of the current Construction Caterpillar 12M Motor Grader is considered to have no implications on current resources as it is part of the 10-year plan replacement program. The financial implications are provided in the Confidential Assessment Report to Council.

Workforce

The replacement of the Construction Caterpillar 12M Grader is considered to have no impact of the current workforce requirements.

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.

11.12 Replacement and Disposal of the Current Drainage Truck

File Ref:	6101-07
Previous Items:	Nil
Author and Title:	Chris Pretorius, Manager Operations
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Appendix 14 under Separate Confidential Cover

Recommendation/Council Decision

OCM20/194

Moved: Cr G Black

Seconded: Cr D McLarty

That Council:

1. **accepts the Confidential Assessment Report by the evaluation panel for the Replacement and Disposal of the current Drainage Truck;**
2. **accepts the offer submitted by Isuzu Australia Limited under the WALGA Preferred Supplier Contract NPN 04-13 to supply a Drainage Truck; and**
3. **advises all other tenderers that their tender submissions were unsuccessful.**

CARRIED UNANIMOUSLY 9:0

In Brief

To progress the approved 10-year plant replacement program invitations under the Western Australian Local Government Associations (WALGA) Preferred Supplier purchasing process and a Tender were recently invited for the supply of a new Drainage Truck and to dispose of the current Drainage truck (Plant Number PV4036).

Background

The current Drainage truck is part of the Shire's Civil Construction in delivering the 10-year civil construction plan and drainage maintenance in maintaining the drainage infrastructure within the Shire of Murray. The proposal presented is to consider the submissions received to supply a new Drainage truck and dispose of the current Drainage truck (Plant Number PV4036.)

Report Detail

The Confidential Assessment Report contains a detailed evaluation report.

Murray 2030 Strategic Community Plan

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	Identify and implement technologies and strategies to transform services and public access

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

Murray 2020-2024 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 purchasing services of WALGA (Preferred Supplier) and a formal Tender process have been used to ensure competitive pricing to minimise any financial impacts.

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

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

Environment – (Impact on environment's sustainability)

The replacement of the current Drainage Truck is considered to have minimal impact on the environment and newer technology may create less harmful emissions.

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

In considering the proposal an evaluation panel was establish consisting of the Manager Operation, Workshop Manager, Civil Supervisor, Team Leader Drainage and the Technical Officer Operations.

Resource Implications

Financial

The replacement of the current Drainage Truck is considered to have no implications on current resources as it is part of the 10-year plant replacement program. The financial implications are provided in the Confidential Assessment Report to Council.

Workforce

The replacement of the Drainage Truck is considered to have no impact on the current workforce requirements.

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.

11.13 Acquisition, Dedication and Naming of Unmade Road Reserve: From Dunkerton Road to Black Lake, Barragup

File Ref:	159621		
Previous Items:	OCM.Aug 2015	Item 12.7	(OCM15/202)
	OCM.Nov 2015	Item 12.16	(OCM15/327)
Applicant:	Shire of Murray		
Author and Title:	Alan Smith, Director Infrastructure Services		
Declaration of Interest:	N/A		
Voting Requirements:	Simple Majority		

Recommendation/Council Decision

OCM20/195

Moved: Cr G Black

Seconded: Cr S Lee

That Councils supports:

1. local public advertising (for a minimum period of 30 days) of a proposal for the Minister for Lands to consider the acquisition of Lot 0 on Plan 2087, under Section 52 of the *Land Administration Act 1997*, owned by Adelaide Estate Limited for the purposes of a Public Road and for simultaneously undertaking consultation with all adjoining landowners and public utility service providers;
2. written advice of the proposed acquisition being sent the original landowners of the subject land, being Adelaide Estate Limited;
3. following completion of the 30 day consultation process and after considering any submissions received for applications to be sent to Minister of Lands in the manner and form required:
 - (a) to acquire the subject land for the purposes of a public road reserve under Section 52 of the *Land Administration Act 1997*; and
 - (b) for the acquired land to be formally dedicated as public road under Section 56 of the *Land Administration Act 1997*;
4. the Director Infrastructure Services engaging with Landgate to select and apply a suitable road name for this public road proposal; and
5. indemnifying the Minister of Lands against any costs associated with the acquisition, dedication and naming of this proposed public road.

CARRIED UNANIMOUSLY 9:0

In Brief

To progress a Development Application at 118 Davis Road, Barragup and to provide legal access to the property, which requires the acquisition of private land owned by Adelaide Estate Limited, (currently used as an unmade road between Dunkerton Road and Black Lake) and once the land is acquired for the purposes of a public road, formally naming will be required.

Background

Through a recent review of a Development Application it was identified that when this area of Barragup was originally developed, sections of the then named Rogers Road were not dedicated as formal public roads. In November 2015 this unmade section of Rogers Road was also unnamed to resolve conflict with the constructed and sealed section of Rogers Road between Fiegert Road and Black Lake.

To progress the Development Application access to the subject land at 118 Davis Road, Barragup needs to be established legally, which requires:

- the acquisition of Lot 0 on Plan 2087 pursuant to the *Land Administration Act 1997* which is owned by Adelaide Estate Limited, as detailed in the sketch plan within this report;
- the formal dedication of the acquired land by the Minister of Lands, as a public road pursuant to the *Land Administration Act 1997*; and
- with the approval of the Minister for Lands the formal naming of the road once dedication has been finalised.

For Council information the following plan highlights the land the development application refers to and the land to be acquired as a public road, and formally named.



Whilst the land proposed to be acquired is in private ownership it has been open and accessible to the public for many years, even though unmade. It has further provided access to Reserve 35283, which is managed by the Shire and it has also provided access to surrounding properties during emergency response activities. The Shire have also undertaken fire prevention work on this land periodically and it has been used as primary access to the property at 118 Davis Road which is proposed to be subdivided. Electricity transmission infrastructure also exists on this land.

Report Detail

It has been identified that 118 Davis Road, Barragup (Land proposed to be subdivided) obtains access to their property through private land, which is owned in freehold title by Adelaide Estate Limited (Lot 0 on Plan 2087).

This company owned large amounts of land within the Barragup, Ravenswood, North Dandalup and Nambelup areas which included several parcels that have historically been in use, as undedicated public roads, whether formally made or unmade or as public access ways.

Over time Shire Officers have working through the formal process under the *Land Administration Act 1997* of acquiring and dedicating parcels of land that have been used as made or unmade public roads with the most recent acquisition of land belonging to Adelaide Estate Limited being Central Avenue, North Dandalup

Adelaide Estate Limited no longer exist and a search records that this company was deregistered on 6 November 1929, with future research showing the last known business address as 96-102 Barrack Street, Perth. During the recent acquisition of dedication of Central Avenue, correspondence to this company was returned to the Shire.

The portion of unnamed road reserve that is the subject of this report is another example of historic situations that have been identified with land in the ownership of Adelaide Estate Limited.

To deliver a resolution to this situation and provide legal access to 118 Davis Road acquisition, dedication as a public road and formal naming is the preferable outcome.

This will require the Shire to advertise the proposed acquisition and dedication of the road reserve for not less than 30 days, Comment must be sought from all adjoining landowners and public utility service providers.

Following the consultation period, the Shire will need to provide any objections to the Department of Planning, Lands and Heritage as part of the process.

Furthermore, the Shire will also need to prove that it has taken all reasonable steps to contact the land owner Adelaide Estate Limited and all costs to acquire the land as road reserve will be the responsibility of the Shire.

Following the acquisition of the land for road reserve the Shire will also need to apply to have the road dedicated as a public road. The Shire can do this by showing that this land has been used as a public road for more than 10 years and that this property owner has been gaining access to their property through this private land.

Once the Minister of Lands approves the land acquisition and dedicates the land as public road reserve a new road name will need to be applied to the land, which again will require the formal consent.

Murray 2030 Strategic Community Plan

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	Improve the amenity and functionality of the street network and town entrances.

Murray 2020-2024 Corporate Business Plan

Nil

Other Strategic Links

Nil

Statutory Environment

Section 52 of the *Land Administration Act 1997* (LAA). Local government may ask Minister to acquire as Crown land certain land in district

- (1) Subject to this section, a local government may request the Minister to acquire as Crown land —
 - (a) any alienated land designated for a public purpose on a plan of survey or sketch plan lodged with the Registrar; or

- (b) any private road; or
 - (c) any alienated land in a townsite which the Minister proposes to abolish under section 26, within the district of the local government (in this section called the **subject land**).
- (2) A request made under subsection (1) is to be accompanied by —
- (a) a plan of survey or sketch plan —
 - (i) showing the subject land; and
 - (ii) approved by the Planning Commission;and
 - (b) copies of all objections lodged with the local government during the period referred to in subsection (3)(b)(i) or (ii), as the case requires.
- (3) Before making a request under subsection (1), a local government must —
- (a) take all reasonable steps to give notice of that request to —
 - (i) the holder of the freehold in the subject land unless the local government holds that freehold; and
 - (ii) the holders of the freehold in land adjoining the subject land unless the local government holds that freehold; and
 - (iii) all suppliers of public utility services to the subject land;and
 - (b) in the case of —
 - (i) alienated land referred to in subsection (1)(a) or a private road referred to in subsection (1)(b), state in the notice a period of not less than 30 days from the day of that notice during which period persons may lodge objections with it against the making of that request; or
 - (ii) any land referred to in subsection (1)(c), advertise or take such steps as may be prescribed to notify interested persons of an intention to make the request and state in the notification a period of not less than 30 days from the day of that notification during which period persons may lodge objections with it against the making of that request.
- (4) The Minister may, on receiving a request made under subsection (1), the accompanying plan of survey or sketch plan referred to in subsection (2)(a) and copies of all objections referred to in subsection (2)(b) —
- (a) by order grant that request; or
 - (b) direct the local government to reconsider that request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse to grant that request.
- (5) On the registration of an order made under subsection (4)(a), the subject land —
- (a) ceases to belong to the holder of its freehold; and
 - (b) is freed from all encumbrances; and
 - (c) becomes Crown land.
- (6) Subject to subsection (7), compensation is payable under Part 10 to any holder of the freehold in the subject land who suffers loss on the registration of an order referred to in subsection (5) as if that loss resulted from a taking under Part 9.
- (7) A person with an interest in land that is a private road (including a person who has the benefit of an easement created under section 167A of the TLA) the subject of an order under subsection (4)(a) who suffers loss on the registration of the order is not entitled to compensation under Part 10.

- (8) Sections 188, 189, 190 and 191 do not apply to a private road or an interest in land that is a private road if the land is the subject of an order under subsection (4)(a) and the land was taken or resumed or purportedly taken or resumed under a written law for the purpose of a right of way or a right of way and recreation.

Section 56 of the *Land Administration Act 1997 (LAA)* - Dedication of land as road

- (1) If in the district of a local government —
- (a) land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government; or
 - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —
 - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or
 - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;
- or
- (c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,
and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.
- (2) If a local government resolves to make a request under subsection (1), it must —
- (a) in accordance with the regulations prepare and deliver the request to the Minister; and
 - (b) provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.
- (3) On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then —
- (a) subject to subsection (5), by order grant the request; or
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (4) On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses

Regulation 8 of the *Land Administration Regulations 1998 (LAR)*.

In summary the Department of Planning, Lands and Heritage (DPLH) have provided the following guidance note for the purpose of Section 56 of the LAA

In accordance with section 56 of the LAA, local government authorities may request the Minister for Lands, through DPLH, to dedicate land as public road.

The local government authority must comply with section 56 of the LAA and regulation 8 of the LAR before submitting a request for dedication of road.

If a local government authority makes a request to the Minister for Lands to dedicate land as public road, it must provide with the request:

1. A copy of Council resolution to request the dedication of the road.
2. Copies of any submissions relating to the request that the local government authority has received and the local government's comments on those submissions. This may include comments from public utility providers and other government departments.
3. Indemnity in favour of the Minister for Lands against any claims for compensation (other than a claim for compensation in respect of land referred to in s56(6) of the LAA) in an amount equal to the amount of all costs and expenses reasonably incurred by DPLH on behalf of the Minister for Lands in considering and granting the request.
4. Plan of survey, sketch plan or document to describe the dimension of the road
5. Written confirmation that the local government authority has complied with section 56(2) of the LAA.

Upon receiving a request under section 56 of the LAA, DPLH will either grant the request or direct the local government authority to reconsider the request or refuse the request.

To be dedicated as a road the land must immediately before the time of dedication be unallocated Crown land or, in the case of a private road,

Sustainability & Risk Considerations

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

The proposal will not financially impact the Community.

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

The acquisition, dedication and naming of this road reserve will impact this Community by allowing this sub division to progress and development of this area commence.

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

The *Local Government Act 1995* and Council policies and procedures are not impacted by this proposal.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	To enable the progression of any Development Application this road reserve needs to be acquired, dedicated and named. Should this be delayed then there may be impacts to the proposed development.

Consultation

- Planning and Development Services-Shire of Murray
- Manager Governance-Shire of Murray
- Department of Planning, Lands and Heritage

Resource Implications

Financial

The costs associated with advertising and any surveying requirements will need to be borne by the Shire of Murray.

Workforce

Within the scope of the Infrastructure Services Department.

Options

Council has the option of:

1. Approving the acquisition, dedication and naming of this section of private land as public road reserve to progress this Development Application.
2. Not approving the acquisition, dedication and naming of this section of private land as public road reserve to progress this Development Application.

Conclusion

In order to progress this development application at 118 Davis Road, Barragup this section of private land must be acquired, dedicated and named to provide access to this property and any future development.

This section of private land has been used a road for years and now the formal process must be completed to make it legal.

Items for Information**11.14 Council Resolution/Outstanding Items**

Resolution Register is attached for information.

Appendix 15

11.15 Delegated Decisions – September 2020

Delegated Decisions is attached for information.

Appendix 16

11.16 Quarterly Corporate Business Plan – 30 September 2020

The Corporate Business Plan Progress Report as at 30 September 2020 is attached for information.

Appendix 17

12. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING

Nil

13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING

Nil

15. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING

Nil

16. MEETING CLOSED TO THE PUBLIC (CONFIDENTIAL BUSINESS)

Nil

17. CLOSURE OF MEETING

There being no further business the Presiding Member declared the meeting closed the time being 5.54pm.

I confirm that these minutes were confirmed at the Ordinary Council Meeting held on 26 November 2020 as being a true and correct record.



.....
Presiding Member

26 November 2020

.....
Date