

# Ordinary Council

# MINUTES

FOR THE MEETING HELD  
WEDNESDAY, 12 DECEMBER 2018  
IN COUNCIL CHAMBERS,  
WALLCLIFFE ROAD, MARGARET RIVER  
COMMENCING AT 5:30PM

## Meeting Notice

Dear Councillor

I advise that an Ordinary Council Meeting of the Shire of Augusta Margaret River will be held in Council Chambers, Wallcliffe Road, Margaret River on Wednesday 12 December 2018, commencing at 5:30pm.

Yours faithfully



**DALE PUTLAND**  
**ACTING CHIEF EXECUTIVE OFFICER**

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Minutes of the Ordinary Council Meeting held on Wednesday 12 December 2018, in Council Chambers, 41 Wallcliffe Road, Margaret River, commencing at 5.30pm

# Ordinary Council Meeting

## 1. DECLARATION OF OPENING

*The Shire President thanked all in attendance and declared the meeting open at 5.30pm*

*The Shire President gave an Acknowledgement of Country:*

*'I acknowledge and respect the traditional custodians of this land and pay our respects to elders past and present and emerging, whose lands we share.'*

## 2. ATTENDANCE

Shire President	:	Cr Pam Townshend
Councillors	:	Cr Ian Earl Cr Naomi Godden Cr Peter Lane Cr Pauline McLeod Cr Julia Meldrum Cr Mike Smart
Acting Chief Executive Officer	:	Dr Dale Putland
Manager Works	:	Mr Peter Brown
Acting Director Corporate and Community Services	:	Mr Andrew Ross
Acting Manager Planning and Development	:	Mr Matt Cuthbert
Coordinator Legal Services	:	Mr Ian McLeod
Senior Legal Officer	:	Ms Lauren Bidesi (seated in public gallery)
Manager Library Services and MR HEART Project	:	Ms Heather Auld
Governance / Council Support Officer	:	Ms Claire Schiller
<b>MEMBERS OF THE PUBLIC</b>	:	17
<b>MEMBERS OF THE PRESS</b>		
Augusta Margaret River Times	:	Warren Hatelly

**2.1 Apologies**

Chief Executive Officer, Gary Evershed

Director Infrastructure Services, Markus Botte

**2.2. Approved Leave of Absence**

Nil

**3. DISCLOSURES OF INTEREST**

**3.1 Item 11.3.2 Tender RFT 05-19 Cowaramup Hall Building Services – Financial Interest – Cr Ian Earl**

Cr Earl disclosed a financial interest in Item 11.3.2 Tender RFT 05-19 Cowaramup Hall Building Services as his company provided a price for the project.

**3.2 Item 11.2.4 Proposed Partial Change of Use to Small Bar – 98 (Lot 38) Albany Terrace, Augusta – Impartiality Interest - Cr Smart**

Cr Smart disclosed an impartiality interest in Item 11.2.4 Proposed Partial Change of Use to Small Bar – 98 (Lot 38) Albany Terrace, Augusta. The nature of the interest being:

'I have had discussions with proponent on his desired development. I have made a submission to the Liquor Licensing Department of the proponents application. I will vote impartially.'

**4. PUBLIC QUESTIONS**

**4.1. Response to Previous Public Questions Taken on Notice**

Nil

**4.2. Public Question Time**

**4.2.1 Latch Road – Mr Ken John**

*Mr Ken John of Karridale asked the following question in relation to Latch Road:*

**Q1: In 2013 the Shire made an administration or operational error in the interpretation of the access into Sussex Location 3947, by making the decision to change a government approved road called Pettit Road that is clearly marked on Shire and government maps, to a private crossover without consulting the owner. Then the Shire wanted to hand the maintenance over to the landowner, which the landowner strongly protested on because the road was constructed and maintained by the Shire for over 50 years. To resolve this issue the Shire said they would maintain this approved road access, which has not taken place, but now after 5 years the Shire still haven't resolved this matter so that the landowner has a safe and approved road that is maintained by the Shire, even after the landowner asking the shire to resolve this matter without further delay.**

**Why hasn't the Council after lots of emails to the CEO, Shire President, Councillors' and Operation Staff that this access dispute is still not resolved? This matter has taken its toll in considerable time wasted and financial hardship in that we cannot forward plan our farming future.**

*The Shire President took the question on notice.*

*Responses to public questions will be published in the agenda of the 23 January 2019 Ordinary Council Meeting.*

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Ordinary Council Meeting held 28 November 2018**

**MOTION / COUNCIL DECISION**

**CR MCLEOD, CR EARL OM2018/318**

**That Council confirms the minutes of the Ordinary Council Meeting held on 28 November 2018 to be a true and correct record of the meeting.**

**CARRIED 7/0**

**7. DEPUTATIONS**

**7.1 Item 11.2.4 Proposed Partial Change of Use to Small Bar – 98 (Lot 38) Albant Terrace, Augusta – Mr Steve Wall**

*Mr Steve Wall, 84b Marine Parade Cottesloe, addressed the meeting in relation to Item 11.2.5 Local Law Determination in relation to Item 11.2.4 Proposed Partial Change of Use to Small Bar – 98 (Lot 38) Albant Terrace, Augusta River. A summary of his deputation is as follows:*

I have been enjoying Augusta now for 35 years and remember fondly visiting the Colonial Restaurant, run by Don Haney. The closing of the Colonial was a sad day, as it offered something very special and nothing has replaced it in all these years. Hopefully the new Colourpatch will take over from where the Colonial left off.

I am fortunate to live on Albany Terrace right next door to Colourpatch. I feel very privileged to live on the river. I do not believe it is mine, at the expense of other residents. I support and encourage all events that are held on the foreshore. When a previous council, in their wisdom, zoned Colourpatch "Town Centre" I believe one reason for doing that was to ensure all residents had the continued opportunity of enjoying what I believe to be the best location in the south west.

The Colourpatch renovation has been designed to make the most of this location. A location protected from the strong southwest and summer south east winds.

Hopefully the Colourpatch renovation has something for all Augusta Residents and also Tourists - from coffee and breakfast, lunch, afternoon teas, a sunset wine with dinner or enjoyable tapas and a takeaway cafe service. The kitchen design and licensed venue also provides a really attractive alternative for holding small functions.

Augusta is a challenging market for any retailer for a number of reasons. The population and seasonal nature of Augusta alone, makes running a financial business extremely difficult.

The flexibility of a Small Bar license is required to enable an investment of this size to be viable. The Liquor Licensing "Responsible Serving of Alcohol" rules and regulations, holds an establishment accountable so it is enjoyed by all.

The liquor licensing authority has been active in promoting the use of small bar licenses, as they consider it most fitting.

The new Colourpatch success relies on delivering high quality, affordable food. To achieve this goal we will have to make a significant investment in its kitchen fit-out. The approved plans over



double the size of the kitchen, to deliver what the market now takes as expected. The wonderful Margaret River wineries, restaurant and bar facilities have lifted the bar.

Other significant capital expenditure includes a sewage pumping station, large carpark, stormwater treatment and DFAS requirements.

The food focus is on local product sourced from the immediate region, with an emphasis on beautiful Augusta seafood. When people are in the southwest and they think seafood, we would love Colourpatch in Augusta to be the first place they want to visit.

A beautiful 1949 built yacht will be renovated and will become a feature within the restaurant. It will be used for the serving of alcohol, making of non-takeaway coffees as well as receiving self-serve orders.

The takeaway service will be improved, including some seating within this unlicensed area.

I would like to thank Augusta residents for their overwhelming support-the feedback from the survey we conducted was extremely positive. Significant investment like this and the long process of renovating and building, can make you lose the drive to continue but it is this sort of support that is keeping us on track.

There are a number of essential amendments to the minutes today that are required for us to be in a position to proceed with the renovation.

- 7am start - Required as we obviously will be doing breakfasts
- 20 allowed functions to 12pm. -Although all functions will not go to 12pm we need the certainty.
- The ability if a New Years Eve function is held to close at 2pm.

All of the hours proposed above are within the allowable Small Bar trading hours which are 6am to 12pm and 2pm New Years Eve.

*The Shire President thanked Mr Wall for his deputation.*

## **7.2 Item 11.2.5 Local Law Determination in relation to Wallcliffe Cliffs and River – Mr Dirk Klicker**

*Mr Dirk Klicker, Climbers Association of Western Australia (CAWA) Vice President, addressed the meeting in relation to Item 11.2.5 Local Law Determination in relation to Wallcliffe Cliffs and River. A summary of his deputation is as follows:*

1. CAWA acknowledges the traditional owners of the Land (the Wardandi people) and would like to pay respects to the Elders past and present.
2. Firstly, CAWA respectfully urges the Council not to **“chop the bolts”**:
  - 2.1. Climbing has taken place at Wallcliffe for nigh 30 years, most routes being set in the early 90s. There is no urgency, as they don't affect the Council's plans for a public viewing platform.
  - 2.2. Wallcliffe is a key location for climbing in WA. There is only one other area of similar character of limestone climbing, where climbing is permitted by management plan. Chopping the bolts will forever close an iconic chapter of climbing history in WA.
  - 2.3. The bolts are required to climb safely at Wallcliffe, as they are needed to protect the climber from falls.
  - 2.4. The small heads of the climbing bolts that protrude from the cliff, would not be visible from the platform proposed. They are visible only on close inspection.
  - 2.5. The Golder geological study and the Goode cultural study did not recommend removal. There is no report that recommends the removal or which finds that removal conflicts Shire's plans.
  - 2.6. The anecdotal evidence does not support removal:

- 2.6.1. Pruning of trees at the waters edge. Not climbing related.
- 2.6.2. Defecation in caves. Not climbing related.
- 2.6.3. Playing of loud music in caves. Not climbing related.
- 2.6.4. Graffiti and vandalism. It is not part of the culture of climbing. There are graffiti artists that pride themselves on putting graffiti in high places.
- 2.6.5. The only evidence of people entering the caves are permit holders. Not climbers.
- 2.6.6. Intentional damage to vegetation. Some silly do-gooder trimmed the existing access path. Not climbing related.
- 2.6.7. All of the above are addressed in the draft management plan CAWA has provided to Council and the traditional owners. No response has been received from the Council to date. The traditional owners have indicated that they are considering the draft management plan.
- 2.7. The investigations of Council to date are inconclusive as to the person(s) responsible for environmental damage at Walcliffe, noting the Cape to Cape Track runs adjacent and the area is reasonably popular with tourists.
- 2.8. In WA no other open access climbing area has a problem with bolts (e.g. Churchmans Brook, Kalbarri, Willyabrup, Albany, West Cape Howe, Bluff Knoll and Porongurup). At Albany, Porongurup and Bluff Know there is a viewing platforms. So why chop the bolts?
- 2.9. The bolts cannot be removed, as that would cause more damage to the cliff. The small protruding head of the bolts must be carefully ground off, some damage to the cliff is likely.
- 2.10. Delaying a decision to chop the bolts will permit a period of consultation and not prevent the Shire from proceeding with its proposed plans.
- 3. Secondly, CAWA respectfully urges the Council not to **"ban all access"**, as the following concerns have not been addressed:
  - 3.1. A ban on access would be invalid being inconsistent with the Management Order to manage the Crown Land for the purposes of "Recreation". A ban on access will prevent recreation including climbing. Shire's attorneys have not addressed this issue.
  - 3.2. Nor have the Shire's attorneys properly addressed the legal issues raised by CAWA regarding the validity of the 2013 Determination concerning climbing or the related Determination proposed to be made today.
  - 3.3. The Council should defer any decision on the proposed Determination pending the resolution of these serious legal issues.
  - 3.4. Further, a ban on access is not supported by expert or anecdotal evidence. All previous reports have recommended restricted access.
  - 3.5. With respect, Shire has not properly considered other options involving restricted access such as a management plan, codes of conduct, permits, licenses, booking systems or further education or signage.
  - 3.6. Council proposes to move from completely free public access to a complete ban without proper consideration of options in between.
  - 3.7. The Standing Committee overturned similar local laws in the 1990s and recommended that the Shire consult with CAWA and consider a management plan. That recommendation has not been followed and history is repeating itself.
  - 3.8. A number of petitions protesting against the chopping of the bolts and banning access have been signed by over 300 people and presented.
  - 3.9. A ban on public access whilst permitting access by commercial enterprises sends the wrong message.
  - 3.10. Allowing commercial interests to profit from visiting Walcliffe is also inconsistent with the Shire's apparent desire to rigidly protect the cultural significance of Walcliffe.
  - 3.11. Ironically one of the current permit holders facilitates 3,000 people per annum visiting the site. Climbers would probably number no more than 200 per annum.
  - 3.12. CAWA urges the Council to defer making the proposed Determination today, until outstanding legal issues have been resolved, and proper consultation has occurred regarding public recreational (including climbing) access in accordance with the purposes of the Reserve.
  - 3.13. CAWA is willing to work collaboratively with the Shire and the traditional owners to find an acceptable compromise.

4. Thank you madam President for the opportunity to speak here today. I am now open to any questions.

*The Shire President thanked Mr Klicker for his deputation.*

**7.3 Item 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown – Ms Judi Englert**

*Ms Judi Englert of 40 Georgette Road, Gracetown, addressed the meeting in relation to Item 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown. A summary of her deputation is as follows:*

You are already aware my husband and I purchased the property known as Lot 91, 856 Cowaramup Bay Road in 2010 and we were made aware 2 or so years later that buildings on the property encroached onto Waddingham Road.

We did not construct the offending buildings. They were built in the early 1980's – according to the plans – by Mr Graham Waddingham (now deceased) and his wife, Cath.

The house, garage and laundry footings were checked by the then Shire building surveyor, as were the septic tanks and drainage by the Shire Health Inspector and were signed off. The buildings were then constructed and still remain exactly how they were then in the 1980's, nothing has changed.

It is important Council understand Waddingham Road is a closed road reserve and was originally gazetted possibly over half a century ago, long before Coawaramup Bay Road was constructed.

Once Cowaramup Bay Road was constaruced, Waddinggham Road became superfluous. Today however it allows our block of land and Mrs McCusker's block to have a road frontage, for lack of a better term, and not be land locked (a State Government requirement). It must be pointed out that neither we nor Mrs McCusker use Waddingham Road as our properties are served by legal easements on our titles from Cowaramup Bay Road.

Today Waddingham Road is covered with large trees, bush and scrub and many sections are flooded during winter making it impassable by vehicles, especially the last 430metres of the western end. This is completely covered with large trees, thick scrub and bush and no walk tracks exist that allow access to the national park. Access to the national park is gained via a walk track off Cowaramup Bay Road.

It is of interest to note Lot 91 is a conservation block and the former CEO of DPaW, Mr Jim Sharpe and his staff visited us a few years ago and asked us to tell people not to enter the western end of Waddingham Road due to Dieback.

Council has no plans to construct or fomalise Waddingham Road for access purposes.

Since the encroaching buildings were built in the 1980's nothing has changed – apart from the lean to which my husband and I recently removed in accordance with Shire wishes.

Should the Shire approve this item, it is important that everybody understands that nothing will change, everything will remain as it has been since the buildings were built in the 1980's.

1. Wildlife will still be able to access and pass through the area as they have done for decades.
2. People will still be able to walk and enjoy the bush.
3. The reserve will still remain impassable to vehicles as it has always been, due to huge trees, thick bush and scrub and flooding during winter.
4. There will be no effect whatsoever o the Cape to Cape walking track.
5. Waddingham Road has never provided any access to the beach.
6. Government agencies have been contacted by Shire staff and no objections to the narrowing of Waddingham Road have been received.
7. DFES supports the narrowing and state empathetically that it should never be used as an escape route.

8. Fire emergency vehicles are able to enter property via the eastern easement to obtain water for their fire units from our dams with no obstruction.

The proposal before you complies with planning principles and we sincerely thank you for trying to help us resolve our dilemma and for taking a sensible approach to this unusual problem that happened back in the 1980's and was not caused by ourselves.

*The Shire President thanked Ms Englert for her deputation.*

**7.4      Item 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown – Mr Wayne Millman**

*Mr Wayne Millman of 17 Mary Street, Collie, addressed the meeting in relation to Item 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown. A summary of his deputation is as follows:*

Mr Millman read the following letter from Valma Jean Millman:

My personal history and knowledge of Waddingham Rd dates back to the 1950's.

It is unfortunate that because of mistakes made by my late brother Graham Scott Waddingham, builder Mr G Holben and the Augusta Margaret River Shire the buildings are encroaching on the road.

The road divided two separate titles of land my Mother owned. Prior to the block, (with the offending buildings already there) being sold to Mr Padman there was never anything to distinguish there was a road, apart from a "cockies" wire gate on the eastern boundary which my father built when he fenced the property.

My parents would not want to see an innocent party being made to demolish their home and out-buildings because of mistakes made by my brother and others. My parents and my siblings were obliging, understanding, generous and reasonable people, they would and I support the common sense approach of narrowing a portion of Waddingham road and allowing Mr Englert to purchase that portion of the road.

It must be considered if the road is ever constructed it doesn't lead to anywhere so it will not affect anybody by this narrowing. It can still be accessed by emergency vehicles via the track from Caves Rd, or via the registered easement passing through lot 854 Cowaramup Bay Road.

Deputation from Wayne Millman:

Being a grandson and direct descendant of the Waddingham family after whom the road is named I wish to clarify some issues raised in previous deputations.

Shire Meeting 26th March 2014 page 11    7.3 item 11.3.1 Mrs Burke Point 4 Claims Mr Englert has locked The Western Easement gate. This gate was locked either by McCuskers or the Builders constructing McCuskers home, this gate has been locked for a number of years before Mr Englert even purchased Lot 91. My uncle William Waddingham (known as Tom) owned Lot 1194 until he passed away January 2008 and the gate was still locked then. Ownership of Lot 1194 passed to Tom's brother Graham and he passed away in 2011. Through the period of Graham's ownership and until his death the gate was still locked.

Mrs Burke is not the owner of 1194. She is the executer of the late Graham Waddingham's estate after taking over from her mother Cath Waddingham.

Point 5 Claims Mr Englert has closed off both ends of Waddingham road with gates. This is incorrect. The eastern gate was constructed by my grandfather when he fenced the property, this is a wire "cockies" gate. As for the western end of Waddingham Road I don't believe there has ever

been a gate because that is the end of the road, where the Western boundary joins the national park.

7.4 Item 11.3.1 Mrs Melville Point 7 Claims Waddingham road is used by many people via cars and motorbikes etc, I believe this to be incorrect, especially the notion that people are passing through lot 91 along the road reserve. My mother whose knowledge of Waddingham Road goes back to the 1950's has never heard of anyone passing through lot 91. People may be entering Waddingham Road from Caves Road and then driving around the perimeter of lot 91. It may be worth asking Mrs Catherine Waddingham how many people drove up or used Waddingham road while she and Graham lived in the house (they would have noticed people driving up the road and turning around and coming back as the road is a dead end)

In the late 60s, early 70s my grandfather used to have a vegetable garden down in the cleared area near the soak. The vegetable garden used to be between the two property's, he certainly wouldn't plant a garden for people to drive through.

Point 11 Mentions a second hand shed and an Old Laundry, the shed was new when constructed by Graham Waddingham and the laundry is constructed of brick and built at the same time as the house.

I have been going down to the properties ever since my Grandparents moved down there in 1967 /68 and have a good knowledge in respect to both properties. My Grandmother purchased both lots 1194 and 1191 and they were conditional purchase. Before the title could be handed to her certain conditions had to be met. One condition was fencing the properties.

The part of 1194 on the northern side of Cowaramup Bay RD and lot 1191 were fenced as one large block in the late 1950s. The way it was fenced obviously was acceptable to the Shire and Lands dept. Graham and Tom sold lot 1191. Lot 1191 was later subdivided by Mr Padman the lots became lot 11 McCuskers and lot 91 Englerts.

I refer to a newspaper article in the Augusta Margaret River times 13 Oct 2017 Headed input was ignored by Council.

The Perth woman claiming historic ties to the Gracetown area concerning a road named after her Grandfather needs further explanation. Firstly she is not a granddaughter of the late Mr Waddingham. She is a step daughter of my late Uncle Graham. She was an adult when my uncle and her mother started living together in 1977. Our family doubts if she even knew our Grandfather (who passed away in early 1979) or visited the property prior to her mother and stepfather building the offending house and out buildings in 1987 on lot 91.

Mrs Burke also said the road had historic links to her family and should be kept open for all residents. The road reserve passing through the property has never been open to the public.

The council's proposal to narrow a portion of Waddingham road is the only responsible decision that can be made, as it was mistakes made by Graham Waddingham, the Builder and Shire that have caused the problem. All the direct descendants of the Waddingham family I've spoken to agree with the proposal.

To do otherwise would be a slight on the Waddingham name.

*The Shire President thanked Mr Millman for his deputation.*

#### **7.5 Refused Deputation – 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown - Ena Melville**

The Shire President informed the meeting that Ms Ena Melville had sought deputation approval for Item 11.3.1 Application to Permanently Close Portion of Waddingham Road, Gracetown. The Shire President informed the meeting that the request was declined in accordance with s5.9 (3)a of the Shire's Standing Orders which state:

## **5.9 Deputations**

(3) *The Presiding Member may -*

(a) *grant or refuse the application, with or without conditions*

### **REASON**

The deputation was declined due to there already being two deputations on the item at this meeting, and a large volume of items on the agenda.

## **8. PETITIONS**

### **8.1 Petition in Relation to Item 11.2.5 Local Law Determination in Relation to Wallcliffe Cliffs and River – signed by 14 people**

*The Shire President presented the following petition from Martin Danger in relation to Item 11.2.5 Local Law Determination in Relation to Wallcliffe Cliffs and River:*

*The petition read as follows:*

'We, the undersigned, do respectfully request that the Council:

#### **Background Facts:**

1. Reserve 41545 was vested in the Shire in 1991 for the purpose of public recreation.
2. The proposed determination to ban access to parts of Reserve 41545 are unreasonable.
3. There is no cultural, environmental, economic or geological report that supports the proposed determination.
4. Rock climbing has taken place at Reserve 41545 for more than 30 years with minimal impact.
5. There has been no consultation with the Minister for Tourism and the Climbing Association of Western Australia.

#### **Proposed Action:**

6. Council not pass Part 1 of the proposed determination prohibiting entry to any cave and traversing the land as shown in the proposed determination.
7. Council not resolve to remove all visible climbing pins from the Cliff face on Reserve 41545.
8. Consider preparation of cultural, environmental and recreational management plan in relation to access as similarly adopted for the management of national parks.
9. Council obtain appropriate cultural, environmental and geological assessments in relation to Part 1 of the Proposed Determination, the removal of climbing pins from the Cliffs and the implementation of a cultural, environmental and recreational management plan in relation to access.
10. Council consider that rock climbing be permitted in accordance with a management plan and accordingly amend clause 2.8 of the Local Law and amend or repeal determination 2.2 of Schedule 2 of the Local Law.'

### **MOTION / COUNCIL DECISION**

**CR TOWNSHEND, CR EARL OM2018/319**

**That Council receives the petition regarding Item 11.2.5 Local Law Determination in Relation to Wallcliffe Cliffs and River.**

**CARRIED 7/0**

**9. ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

**9.1 Final Ordinary Council Meeting of 2018**

The Shire President acknowledged that it was the final Council meeting of 2018. The Shire President gave thanks to members of public, press and to fellow Councillors and staff.

**10. QUESTIONS FROM MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**11. REPORTS OF COMMITTEES AND EMPLOYEE REPORTS**

# 11.1. Chief Executive Officer



### 11.1.1 COMMUNITY GROUP AND SPORTING CLUB COMMUNICATION POLICY

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<b>LOCATION/ADDRESS</b>	Shire of Augusta Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	GOV/38
<b>REPORT AUTHOR</b>	Hannah Waters, Executive Assistant Corporate and Community Services
<b>AUTHORISING OFFICER</b>	Dale Putland, Acting Chief Executive Officer

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#### IN BRIEF

- There has been an increase in the number of duplicate and conflicting requests from community groups and sporting clubs over the past twelve months.
- The Community Group and Sporting Club Communication Policy has been created to streamline communication between the community groups, sporting clubs and the Shire.

#### RECOMMENDATION

That Council approves the draft GL30 Community Group and Sporting Club Communication Policy for advertising as per Attachment 1.

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#### LOCATION PLAN

Nil

#### TABLED ITEMS

Nil

#### BACKGROUND

Determining the local government's policies is one of four main roles for Council listed under Section 2.7 of the *Local Government Act 1995*. Policies are an important component of governance by which responsibilities to stakeholders are identified and effective systems of leadership, authority, accountability and control are implemented.

#### CONSULTATION AND ADVICE

##### External Consultation

Nil

##### Internal Consultation

Recreation Operations Manager  
Coordinator Building Assets and Maintenance  
Coordinator Operations – Depot  
Senior Technical Officer - Parks and Gardens

#### DISCUSSION / OFFICER COMMENTS

The Shire receives requests from community groups and sporting clubs for information, financial support, building maintenance, reserve maintenance and capital requests throughout the year. During the past twelve months, one sporting club has made multiple requests for funding. In some cases several identical requests made by the club were made by different members of the group/club's executive committee and in other cases, contradictory requests were received from a member of the same group/club without prior discussion with or approval from the executive committee.

Lack of communication within community groups and sporting clubs prior to submitting request to the Shire can lead to unachievable expectations, requests that cannot be met due to conflicting requests and inefficiencies in the use of officer time.

To prevent such occurrences in the future the Community Group and Sporting Club Communication Policy has been created appointing group/club Presidents as the sole Shire liaison. As a nominated representative of the group/club, Presidents have the power to liaise and negotiate with the Shire and are able to feed the information back to their committees.

In the event the President of the group/club is not available to liaise with the Shire, written authorisation from the President appointing an alternative committee or group/club member will be accepted on a case-by-case basis.

Implementation of the policy will provide the Shire confidence that the request/s coming from the President or appointed liaison have the support of the committee and or group/club as a whole to act on their behalf and report the result of the requests back to the group/club.

#### **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

The *Local Government Act 1995* specifies the key roles of the Council. Under Section 2.7 of the *Local Government Act 1995* Council has four main roles:

1. Direct and control the Local Government's affairs;
2. Be responsible for the local government's functions;
3. Oversee the allocation of the local government's finances and resources, and
4. Determine the local government's policies.

Policy determination is a key role of the Council.

Policies are guidelines to provide a consistent approach and framework for Council decision making and for the CEO and staff to action Council's requests. Policies are not legislation and there may be circumstances where a position needs to be taken which is at variance with an existing policy. In these circumstances, Council should make a decision, which departs from an existing policy.

#### **STRATEGIC PLAN / POLICY IMPLICATIONS**

***Community Strategic Plan 2036 (CSP)***

***Corporate Business Plan 2018-22***

Key Result Area 5: Effective leadership and governance

Community Outcome 5.1: Effective governance and corporate leadership

Strategic Response 5.1.5: Develop effective partnerships and strategic alliances to maximise community benefits

#### **PLANNING FRAMEWORK**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **SUSTAINABILITY IMPLICATIONS**

The policies support good governance, which aids sustainability.

#### **VOTING REQUIREMENTS**

Simple Majority

#### **RECOMMENDATION**

That Council approves the draft GL30 Community Group and Sporting Club Communication Policy for advertising as per Attachment 1.

#### **ADVICE TO APPLICANT / PROPONENT**

Nil

#### **ATTACHMENTS**

1. Draft GL30 Community Group and Sporting Club Communication Policy.

**RECOMMENDATION / COUNCIL DECISION**

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**CR EARL, CR GODDEN OM2018/320**

**That Council approves the draft GL30 Community Group and Sporting Club Communication Policy for advertising as per Attachment 1.**

**CARRIED 7/0**

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## 11.2. Sustainable Development

**11.2.1 AMENDMENT TO KUDARDUP LOCAL STRUCTURE PLAN**

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<b>LOCATION/ADDRESS</b>	Lot 1 Kudardup Road, Kudardup
<b>APPLICANT/LANDOWNER</b>	Calibre Professional Services Pty Ltd
<b>FILE REFERENCE</b>	LND/1/12
<b>REPORT AUTHOR</b>	Matt Cuthbert, Acting Manager Planning and Development
<b>AUTHORISING OFFICER</b>	Ian McLeod, Director Sustainable Development

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This item was withdrawn by the applicant.

**11.2.2 AUGUSTA ST JOHN AMBULANCE SUB CENTRE LEASE - TALLINUP AUGUSTA AIRPORT**

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<b>LOCATION/ADDRESS</b>	Reserve 29668 Hillview Road, Augusta
<b>APPLICANT/LANDOWNER</b>	St John Ambulance Augusta Sub Centre / Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	RES/29668
<b>REPORT AUTHOR</b>	Lauren Bidesi, Senior Legal Officer
<b>AUTHORISING OFFICER</b>	Ian McLeod, Acting Director Sustainable Development

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**IN BRIEF**

- In the 1960's the Tallinup Augusta Airport (TAA) was developed with infrastructure to support state emergency services including the Royal Flying Doctor Service (RFDS).
- The TAA was developed with basic emergency services including refuelling facilities for fixed wing firefighting aircraft, an aircraft apron and a small RFDS patient transfer station building.
- At Councils Ordinary Meeting on 26 February 2014 Council adopted an Interim Development Plan and in 2015 a Master Plan for the TAA at Reserve 29668 Hillview Road, Augusta (Reserve) as a guide to assessing development applications on the Reserve.
- The Master Plan for the TAA contained the following objectives:
  - To ensure the highest standards of public safety
  - To ensure primacy for emergency services that utilise TAA noting that its primary purpose is to provide airport facilities for the RFDS in patient transfers and a base for emergency service operations by Department of Biodiversity, Conservation and Attractions (DBCA) and DFES.
- Augusta St John Ambulance Sub Centre (SJA) are developing the transfer station at the TAA on behalf of the RFDS to accommodate critical care patients being transported by ambulance for transfer to the RFDS aeroplane.
- SJA currently use Site G through an informal agreement with the Shire. There is no written lease in place for the site that SJA currently occupy.
- The building at Site G recently collapsed and is in need of demolition due to its level of danger.
- SJA will demolish the current building and develop a new transfer station moving it slightly to the east to join Site E. SJA are in the process of obtaining grant funding for the development.
- Planning Approval has been granted by the Shire P218638, which allows SJA to enter into a lease for the new patient transfer station to be developed at site G.
- This item before Council will provide for a formal lease agreement between the Shire and SJA.

**RECOMMENDATION**

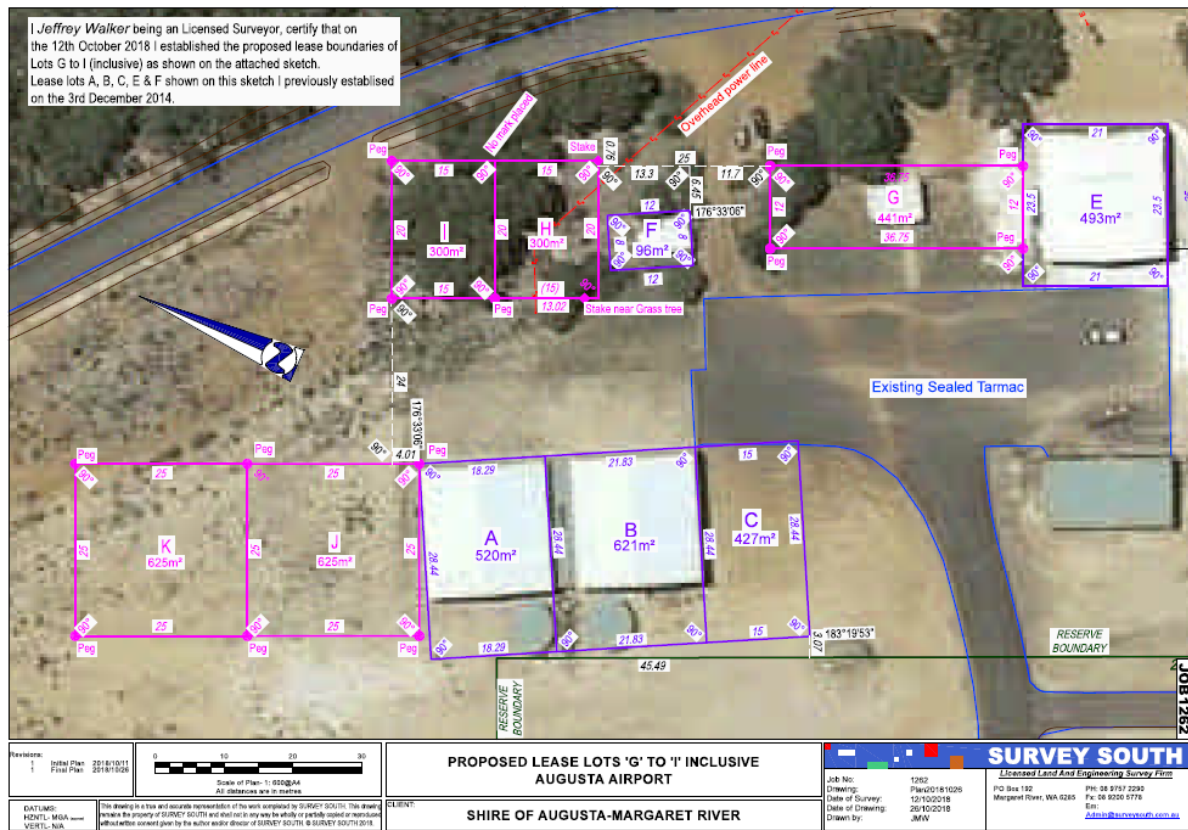
That Council:

1. Grants a lease for a period of 10 + 10 years subject to standard terms outlined in the Shire's Procedure including:
  - a) Rent shall be charged at a peppercorn rate;
  - b) The Lease shall be over the area identified in Planning Approval P218638 and identified as Site G in the Survey Plan below;
  - c) The Lessee will be responsible for obtaining public liability insurance and building insurance for buildings erected during the tenure.

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The TAA is located on Reserve 29668, which is vested in the Shire for the purpose of Aerial Landing ground with the power to lease for 21 years with Minister Approval.

SHIRE OF AUGUSTA MARGARET RIVER  
ORDINARY COUNCIL MEETING 12 DECEMBER 2018



## TABLED ITEMS

Nil

## BACKGROUND

SJA is a not for profit charitable organisation. There are 162 St John Ambulance locations operating in country Western Australia, serviced by more than 3100 volunteer ambulance officers and 90 paramedics. These volunteers transport more than 62,000 people annually.

The SJA provides critical infrastructure to the community which is consistent with the primary function of this aerodrome being provision for emergency services (RFDS and DFES).

SJA supports the RFDS and it is estimated that the RFDS attend the airport on average twice a month in the provision of essential patient transfer services.

The Shire supports the redevelopment of a new building by SJA as does the RFDS, WA St John Ambulance and the Augusta MPS (Hospital) WA Country Health Service.

In the past, SJA have maintained the building, ambulances and all equipment and training of volunteer ambulance officers. They propose to continue providing maintenance to the new building.

## CONSULTATION AND ADVICE

### Internal Consultation

All relevant Shire teams- Infrastructure, Building, Works and Planning were consulted and are strongly in favour of a Lease to SJA.

## **DISCUSSION / OFFICER COMMENTS**

The benefit to the community is enormous with the provision of emergency transport to a tertiary hospital by air if the need arises.

A lease to SJA is consistent with the master plan objectives for the TAA to ensure airport facilities are provided for the RFDS patient transfers.

SJA are obtaining partial funding for the project through grants and the rest of the funding allocated from SJA.

Given the primary function of this aerodrome to provide for emergency services (RFDS and DFES), a Lease to SJA is recommended.

## **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

### ***Land Administration Act 1997(LAA)***

Under its management order the Reserve is vested in the Shire with the power to lease for 21 years and to be used for its designated purpose as an "Aerial Landing Ground" only. Any lease agreement made over the Reserve is to be submitted to the Department of Lands for approval by the Minister for Lands pursuant to section 18(2) of the LAA.

### ***Local Government Act 1995 (LGA)***

A lease of property vested in the Shire is considered to be a disposition of property for the purposes of section 3.58 of the LGA. However, where a disposition is to a charitable or not for profit body then the disposition is exempted by regulation 30 of the Local Government (Functions and General) Regulations from the advertising and tender requirements of Section 3.58.

## **STRATEGIC PLAN / POLICY IMPLICATIONS**

### ***Community Strategic Plan 2036 (CSP)***

#### ***Corporate Business Plan 2018- 2022***

Key Result Area 2: Welcoming, inclusive and healthy communities

Community Outcome 2: Sustainable community groups, networks and facilities

Strategy 1: Support and value volunteers and community groups across the region

Key Result Area 2: Welcoming, inclusive and healthy communities

Community Outcome 3: Equal opportunities for all

Strategy 1: Ensure Shire facilities and services are accessible by all

Key Result Area 4: Vibrant and diverse economy

Community Outcome 3: Infrastructure for economic growth

Strategy 1: Manage major infrastructure needs to cater for increased residents and visitors

## **PLANNING FRAMEWORK**

### ***Local Planning Scheme No. 1 (LPS1)***

The Airport is zoned Reserve for Public Purposes and is designated as Aerodrome and Public Utilities. The leases will be consistent with the Reserve purpose.

## **FINANCIAL IMPLICATIONS**

Development by SJA of a new transfer station at the TAA on behalf of the RFDS is recommended to be supported as it provide key community infrastructure. SJA are providing funds for development through grants and internal sources, so no financial implications for the Shire.

## **SUSTAINABILITY IMPLICATIONS**

### **Environmental**

Clearing is minimal and is over land previously cleared.

### **Social**

The lease will enable development resulting in employment opportunities during construction works and better emergency facilities for the entire community.



**Economic**

Improving facilities and use of the TAA will directly benefit the community through improved access to medical services.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council:

1. Grants a lease for a period of 10 + 10 years subject to standard terms outlined in the Shire's Procedure including:
  - a) Rent shall be charged at a peppercorn rate;
  - b) The Lease shall be over the area identified in Planning Approval P218638 and identified as Site G in the Survey Plan below;
  - c) The Lessee will be responsible for obtaining public liability insurance and building insurance for buildings erected during the tenure.

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION / COUNCIL DECISION**

**CR MELDRUM, CR SMART OM2018/321**

That Council:

1. Grants a lease for a period of 10 + 10 years subject to standard terms outlined in the Shire's Procedure including:
  - a) Rent shall be charged at a peppercorn rate;
  - b) The Lease shall be over the area identified in Planning Approval P218638 and identified as Site G in the Survey Plan below;
  - c) The Lessee will be responsible for obtaining public liability insurance and building insurance for buildings erected during the tenure.

**CARRIED 7/0**

### 11.2.3 EAGLES HERITAGE - MARGARET RIVER RAPTOR WILDLIFE CENTRE LEASE

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<b>LOCATION/ADDRESS</b>	341 (Lot 3135) Boodjidup Road, Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	RES/19531
<b>REPORT AUTHOR</b>	Lauren Bidesi, Senior Legal Officer
<b>AUTHORISING OFFICER</b>	Ian McLeod, Acting Director Sustainable Development

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#### IN BRIEF

- 341 (Lot 3135) Boodjidup Road, Margaret River (the Property) is a Reserve on Crown Land.
- The Shire has care, control and management of Reserve 19531 (the Reserve) pursuant to a Management Order with the power to lease for any term not exceeding 21 years, subject to the consent of the Minister for Lands.
- Eagles Heritage - Margaret River Raptor Wildlife Centre (Eagles Heritage) is a registered business owned by Kathleen Jane Pain and Philip Robert Pain since 1987.
- Eagles Heritage provides a business of conservation, preservation and rehabilitation of raptors and reptiles and help all wildlife needing assistance in the community. They also conduct daily shows to the public.
- An original lease was granted to Eagles Heritage in 1987 for 10 years with a 10 year option.
- In 1997, a 21 year lease was granted to Eagles Heritage, with the lease expiring on 25 May 2018.
- The lease contains a holding over clause, which allows things to carry on as is until the Shire give a notice of termination or draft a new lease. Currently Eagles Heritage are holding the Property on a month by month basis.
- There is a statutory requirement to draft a new lease, as a lease over a reserve can only be for a maximum term of 21 years
- The proposed new lease to Eagles Heritage has been advertised in accordance with statutory land disposition requirements, with no submissions received. Council may now endorse the proposed lease under section 3.58(3) of the *Local Government Act 1995* (the Act) before it can proceed.

#### RECOMMENDATION

That Council:

1. Notes that no submissions were received in response to local public notice of the proposed lease to the Eagles Heritage Margaret River Raptor Wildlife Centre;
  2. Grants a lease for a period of 5 + 5 years subject to the standard terms outlined in the Shires Lease Procedure, for a commercial (non-retail) lease; and
  3. Rents shall be charged at \$7,000 per annum excluding GST with annual rent increases of 5%.
- 

#### LOCATION PLAN

Nil

#### TABLED ITEMS

Nil

#### BACKGROUND

##### History

In 1986 the Lands and Surveys Department agreed to lease a portion of an existing recreation reserve (Reserve 19531). The site prior to the lease was assessed to have no valuable purpose. In the past it was used for gravel extraction and had not been left in good condition. It was seen that the development of a wildlife park would rehabilitate the area.

The Reserve was vested in the Shire on 12 May 1987 for the purpose of Wildlife Park and Parkland.

In 1987 the Department of Conservation and Land Management issued a licence to Eagles Heritage to keep fauna for educational or public purposes.

**Lease- 1987 to 1997**

On 25 May 1987 a lease was made with Philip Robert Pain, Kathleen Jane Pain and Gregory William Grundy for a period of 10 years, with a 10 year option. The purpose of the lease was development of the land and provision of a high standard tourist development.

Rent was 5% of gross income for the first two years and 10% gross income for the remainder of the term. At a later date this was changed to be \$1300 per annum as determined by Valuers General Department initially then set by the Council each year.

On 9 December 1996 an assignment of lease was executed from Gregory William Grundy to Andrew Floyde and Elizabeth Durham joining Philip and Kathy Pain as business owners. At a subsequent date Philip and Kathy Pain bought out Floyde and Durham to become the owners of the business as it stands today.

**Lease- 1997 to 2018**

On 24 April 1997 Council approved the extension of lease for 10 years from 25 May 1997. A base rent of \$1000 per annum was set up and was to be varied each year by CPI. However, this recommendation by Council was made without fully considering the revenue raising capability of the Property. It was shortly thereafter determined that Council would be better off if a 21 year lease was negotiated with a different lease payment structure.

On 26 May 1997 a 21 year lease was granted to Eagles Heritage with the permitted use being wildlife park, parkland and on site managers residence. The rent for 2017/2018 stands at \$3531.55 per annum. Rates for 2017/2018 were \$5279.88 which included rates, ESL, waste facilities fee and waste collection fees.

The 21 year lease expired on 25 May 2018 however the lease contains a holding over clause which allows things to carry on as is until the Shire give a notice of termination or draft a new lease. Eagles Heritage are currently holding the premises on a month by month basis.

There is a statutory requirement to draft a new lease, as a lease over a reserve can only be for a maximum term of 21 years. The new lease requires Minister consent.

**The Property & Business**

Eagles Heritage are operating as a commercial enterprise and have not incorporated the business under the *Associations Incorporations Act 2015*.

The Property comprises a rectangular shaped bush allotment located 4km south west of the Margaret River townsite. Eagles Heritage have improved the Property and are running an Eagles Heritage Wildlife Park and Raptor Rehabilitation Hospital on the site. The business has become a popular tourist attraction in Margaret River.

**Local Planning Strategy and Leeuwin Naturaliste Ridge Strategy (LNRS)**

The Leeuwin Naturaliste Ridge subregional strategy states that areas to the south west of the Margaret River town where the Property is located are classified as longer term investigation areas. A 10 year lease to Eagles Heritage is in keeping with the strategy and will not prejudice the intent of the LNRS.

**Local Planning Scheme**

Under the current Local Planning Strategy, the Property is designated as a 'Civic Use'. The objectives of this use is to provide for a range of community facilities which are compatible with the surrounding environment and provision for public facilities by organisations involved in activities for community benefit.

The Property is zoned 'Public Purpose- Government Requirements' which limits the property to mainly not for profit uses and provides for a range of essential community infrastructure and government services. The current use by Eagles Heritage is the properties best use as it is both a commercial and not for profit use.

The Property is approximately 11 hectares in total and comprises the following structures:

- Main House and shed: 154m<sup>2</sup>  
1980s fibro and iron kit home with 3 bedrooms, kitchen, living and bathroom/laundry
- Café/reception: 124m<sup>2</sup>  
1990s weatherboard, hardiplank and iron structure. Accommodation comprises open plan office with adjoining tearooms.
- Other improvements include a toilet block, gazebo, numerous bird cages, reptile display cage, bird rehabilitation room, viewing shelter and small dam.

The existing improvements on the Property belong to Eagles Heritage. The valuer notes that the building structures are reaching the end of their economic life.

## **CONSULTATION AND ADVICE**

### **External Consultation**

#### Valuer

On 6 September 2018 the Shire commissioned an independent valuer who ascertained the commercial lease value of the site to be \$10,000 per annum (unimproved value) based on the assumption that a new 21 year lease will be established. The valuer also ascertained the market value of the unimproved land to be \$250,000. The valuer states that the improved value of the land will add value to the Property of around \$100,000.

The valuer stated that there is extremely limited evidence of similar sites that have been leased within the south west. Rural landholdings within the immediate locality are generally leased on a rate of \$200/ha to \$350/ha depending on size and utility of the allotment. Eagles Heritage have an additional benefit when compared to rural leases as it can support commercial activity and provide a site for managers residence.

#### Eagles Heritage - Philip Pain

Philip Pain made a submission after we advised them of the current commercial lease valuation of the Property. They advised that they consider \$7000 plus rates and outgoings to be a fair and reasonable rental cost based on the following:

- When Eagles Heritage was established in 1987 the Property was a bush block and dirt road. All improvements to the Property have been done by Eagles Heritage which includes the connection of electricity, water, irrigation, construction of all buildings, toilets, carparks and paths.
- Eagles Heritage have maintained the Property at their own expense.
- Eagles Heritage funds and maintains the not for profit section of the centre which is the Society for the Preservation of Raptors Inc (SPR) and includes a rehabilitation facility and endangered species breeding centre. The SPR is an incorporated association with the conservation, preservation and education work being recognised around Australia.
- They do not operate a high profit business with the owners paid a basic wage for the often long hours of work required to keep the business operating.
- Eagles Heritage is a popular tourist attraction within the Shire.

#### Public Notice

Section 3.58(3) and (4) of the Act requires a local government which is leasing property, to give local public notice of the proposed lease –

- describing the property concerned;
- naming the parties involved in the transaction;
- the amount offered as rent (or sale price) for the disposition;
- the market value of the disposition as ascertained by an independent valuer; and
- inviting submissions to be made in relation to the proposed lease within two weeks of the notice.

Local public notice of the proposed lease was published in the Augusta Margaret River Times on the 9 and 23 November 2018 and a copy of the notice can be found in Attachment 2 to this report. At the time of writing no submissions have been received in response to the local public notice. If any submissions are received they will be included as an addendum to this report.

### **Internal Consultation**

Internal consultation was undertaken with the following Shire teams and they all supported a further lease to Eagles Heritage:

- Infrastructure
- Planning and Development
- Environmental Health

### **DISCUSSION / OFFICER COMMENTS**

Eagles Heritage have indicated they are pursuing the possible purchase of the Property and are in current discussions with Department of Planning Lands and Heritage. They approached Council back in 1989 to purchase the Property but it was refused at the time as the future long term use of the Reserve had not been addressed. The Pains have heavily invested in the development of the Property over the past 30 years and ownership or long term lease of the Property is important to the businesses future success.

The Property has been receiving sick and injured birds from all over Australia for rehabilitation purposes for many years. They provide an excellent and important service to the local community and raptors and reptiles across the country. Attached to this report are news articles from 1998 showing the great work Eagles Heritage are performing in the community. It also shows the previous Council support for the business.

Based on the important service Eagles Heritage provides to the community, it is recommended a lease is granted to Eagles Heritage for 5 years with an option for 5 years and be subject to the Shire's standard lease policy provisions. It is also recommended that rent be charged at \$7000 per annum excluding GST with annual rent increases of 5%.

### **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

Under Section 3.58(3) of the Act a local government can dispose of property if, before agreeing to dispose of the property —

- (a) it gives local public notice of the proposed disposition; and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision to dispose is made by the council or a committee, the decision and the reasons for it are recorded in the minutes.

The property is not exempt from the disposition provisions despite being educational and charitable in nature, as a commercial business is also run from the Property. Eagles Heritage chose to not become an incorporated association, therefore are unable to fit under the exemption provisions of the Regulations (s30 LG(Functions and General)).

The Management Order requires a new lease to be drafted, as a lease over a reserve can only be for a maximum term of 21 years. The new lease requires Minister consent.

There is no delegation allowing the CEO to agree to a commercial lease and the decision to lease must therefore be made by Council.

### **STRATEGIC PLAN / POLICY IMPLICATIONS**

#### ***Community Strategic Plan 2036 (CSP)***

#### ***Corporate Plan 2018 - 2022***

Key result area 4: Vibrant and diverse economy

Community Outcome 2: Sustainable tourism and other local industries

Strategy 2: Work with the tourism sector to further promote and develop ecologically sustainable, cultural and agricultural tourism, including respectful tourism based on environmental and cultural values.

Key result area 4: Vibrant and diverse economy

Community Outcome 4: Competitive and sustainable business environment

Strategy 2: Work with commercial and retail enterprises to increase year round stability

### **PLANNING FRAMEWORK**

The proposal is consistent with the Local Planning Scheme No. 1 and Local Planning Strategy. The use of the Property by Eagles Heritage is the properties highest and best use as it is both a commercial and not for profit use which is consistent with the zoning of the Property.

### **FINANCIAL IMPLICATIONS**

Eagles Heritage have proposed to pay \$7000 plus outgoings and GST. This is a substantial increase in the current rent they pay of \$3531.55 per annum. Rent reviews are proposed to take place annually with increases of 5%.

### **SUSTAINABILITY IMPLICATIONS**

#### **Environmental**

Eagles Heritage operates the SPR, a not for profit association which includes a rehabilitation facility and endangered species breeding centre. SPR's work is integral to the community providing essential services for the conservation, preservation and education work they conduct which has being recognised around Australia.

#### **Social**

Social justice principles refer to values that aim at decreasing or eliminating inequity, promoting inclusiveness or diversity, and establishing environments that are supportive of all people. Eagles Heritage supports local employment and preservation and conservation of wildlife in the region.

#### **Economic**

A lease to Eagles Heritage is aligned to the objectives in the Community Strategic Plan 2036 through provision of a range of job opportunities, promotion of sustainable small business options and through provision of a tourist facility that the wider community can enjoy.

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

That Council:

1. Notes that no submissions were received in response to local public notice of the proposed lease to the Eagles Heritage Margaret River Raptor Wildlife Centre;
2. Grants a lease for a period of 5 + 5 years subject to the standard terms outlined in the Shires Lease Procedure, for a commercial (non-retail) lease; and
3. Rent shall be charged at \$7,000 per annum excluding GST with annual rent increases of 5%.

### **ADVICE TO APPLICANT / PROPONENT**

Nil

### **ATTACHMENTS**

1. Copy of Local Public Notice published on 9 November 2018
2. Copy of News Articles from 1998

### **RECOMMENDATION**

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#### **CR EARL, CR LANE**

That Council:

1. **Notes that no submissions were received in response to local public notice of the proposed lease to the Eagles Heritage Margaret River Raptor Wildlife Centre;**
  2. **Grants a lease for a period of 5 + 5 years subject to the standard terms outlined in the Shires Lease Procedure, for a commercial (non-retail) lease; and**
  3. **Rent shall be charged at \$7,000 per annum excluding GST with annual rent increases of 5%.**
- 

0/0

*Cr Earl moved the following amendment:*

### **AMENDMENT / COUNCIL DECISION**

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**CR EARL, CR GODDEN OM2018/322**

**That in part 3, the figure 5% be omitted and replaced with 2.5%.**

**CARRIED 7/0**

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**REASON**

Cr Earl spoke to the amendment, noting the preservation and rehabilitation work of the Raptor Wildlife Centre, stating that a 2.5% increase will allow them to continue to operate.

*Cr McLeod requested consent of the mover and seconder to omit 2.5% from the amendment and replace with CPI.*

*The mover of the amendment, Cr Earl, refused the request.*

*The amendment was then put and carried.*

*This then became the primary motion:*

**PRIMARY MOTION / COUNCIL DECISION**

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**CR EARL, CR LANE OM2018/323**

**That Council:**

- 1. Notes that no submissions were received in response to local public notice of the proposed lease to the Eagles Heritage Margaret River Raptor Wildlife Centre;**
- 2. Grants a lease for a period of 5 + 5 years subject to the standard terms outlined in the Shires Lease Procedure, for a commercial (non-retail) lease; and**
- 3. Rent shall be charged at \$7,000 per annum excluding GST with annual rent increases of 2.5%.**

**CARRIED 7/0**

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**11.2.4 PROPOSED PARTIAL CHANGE OF USE TO SMALL BAR - 98 (LOT 38) ALBANY TERRACE, AUGUSTA**

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<b>LOCATION/ADDRESS</b>	98 (Lot 38) Albany Terrace, Augusta
<b>APPLICANT/LANDOWNER</b>	Harley Dysktra Pty Ltd / Solarstorm Investments Pty Ltd
<b>FILE REFERENCE</b>	P218575;PTY/724
<b>REPORT AUTHOR</b>	Matt Slocomb, Strategic Planning Officer
<b>AUTHORISING OFFICER</b>	Ian McLeod, Acting Director Sustainable Development

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*Cr Smart disclosed an impartiality interest in this Item at tem 3.2 Disclosures of Interest.*

**IN BRIEF**

- Planning approval was granted in August 2018 for renovations to the existing 'Colourpatch' café, which included the expansion of the restaurant to cater for 120 patrons, external alterations and increase of the car park at the rear of the premises to accommodate 28 bays.
- An application has been received for a partial change of use to a Small Bar, which is proposed to take up 72sqm of the renovated restaurant floor space, maintaining the same patron numbers and parking requirements as that approved in August 2018.
- The proposal was advertised to nearby property owners, with 13 submissions received in support of the proposal and 3 in objection.
- The proposal is consistent with the requirements of the Shires Local Planning Scheme and Local Planning Strategy, and is recommended for approval subject to conditions.

**RECOMMENDATION**

That Council approves the proposed Small Bar at 98 (Lot 38) Albany Terrace, Augusta subject to conditions.

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**PROPOSAL**

Of relevance to this particular application is the previous planning approval granted in August 2018 for the renovations of 'the Colourpatch café', which comprised of the following:

- Removal of asbestos products, lightweight external structures and prefabricated toilet facilities and undertaking external upgrades to update the appearance of the building;
- Expansion of the restaurant to cater for 120 patrons by increasing the floor area of the dining area, kitchen and toilet facilities to the northern and southern sides of the existing building;
- Extension of the existing car park to cater for up to 28 vehicles.

Works are yet to commence in accordance with the above approval.

The subject application seeks to change the use of part of the approved restaurant area to a Small Bar. The Small Bar area will relate to 72sqm part of the restaurant floor area, and will operate within the existing limitations as they apply to the building (120 patrons and 28 parking spaces). The proposal only relates to a change of use of the floor area, and does not involve any structural differences to the August 2018 approval.

Development plans have been enclosed as an attachment to his report (**Attachment 1**).

**LOCATION**

The site is located approximately 1.2km from the Augusta Town Centre, located on the southern side of Albany Terrace. The site overlooks the Blackwood River foreshore and associated recreation area. The existing 'Colourpatch Café' take away food outlet and café is currently situated on the site (see figure 1).





Figure 1. 98 (Lot 38) Albany Terrace, Augusta – ‘The Colourpatch Café’

#### **TABLED ITEMS**

Nil

#### **BACKGROUND**

A summary of the background relevant to the subject application is provided below:

May 1988 – Proposal presented to the Ordinary Meeting of Council that approved a 50-seat restaurant with a condition requiring the provision of 13 parking bays.

January 1989 – Approval granted for a restaurant with a limit for 44 patrons. A condition was included on the approval that required the provision of 18 parking bays.

October 2001 – Approval granted for a change of use to an ‘eating house’ (44 seats) with 18 parking bays required.

April 2005 – Change of use granted for the conversion of the former ‘eating house’ to restaurant – no change to the patron numbers and parking allocation for the site. Of note was condition 3 applied to this approval, which limits the hours of operation as follows:

- a) Sunday to Thursday – 11am to 10pm
- b) Friday and Saturday – 11am to 11pm

July 2005 - Section 40 Certificate issued to allow alcohol consumption within the approved restaurant.

August 2018 – Approval granted for additions and alterations to the existing Restaurant/Takeaway Food Outlet. The subject application for a partial change of use to a Small Bar directly relates to this approval, as the proposed Small Bar area is proposed be located within the renovated restaurant.

#### **CONSULTATION**

The proposal was advertised to nearby owners and occupiers, and at the time of writing the report, the Shire had received thirteen (13) submissions in favour of the proposal and three (3) submissions in objection to the proposal. An overview of the submissions has been provided below.

The submission received in favour of the proposal included the following comments:

- Augusta is currently lacking a venue of this nature, will be a great place to take friends and visitors, will enhance the existing premises and draw tourists to the area;
- Will raise the profile of and improve the visitation experience of Augusta;
- Will provide some employment.

The submissions received in objection to the proposal raised the following concerns:

- Inadequate parking to cater for the number of patrons proposed, parking will occur on Albany Terrace causing congestion;
- Site is located on a blind bend, concern that this does not mix well with drivers who have been drinking alcohol;
- Vicinity is a family area, and is not appropriate for a small bar;
- Inconsistent with the predominantly residential area.

A detailed schedule of submissions has been enclosed as an attachment to this report (**Attachment 2**). As the report was compiled on the final day of consultation, any further submissions that may be received will be provided as an addendum.

In addition to the above, the applicant provided their public interest documentation prepared in support of a future liquor licence application. The public interest document contains completed questionnaires of 41 people. All respondents supported the proposal, with other questions included relating to patronage of the premises, frequency and type of visitation.

The summary of the questionnaire results has been included as **Attachment 3**.

## **PLANNING FRAMEWORK**

### **Restricted Use/Ancillary Uses**

The zoning of the site is Town Centre with a Restricted Use of Restaurant, Shop, Takeaway Food Outlet and other ancillary uses as determined by the Shire. Within the town centre zone a Small Bar is a 'P' or Permitted Use, meaning that the use can normally occur without the requirement for planning approval.

Restricted uses have the effect of narrowing the number of uses that can be considered on a particular site. Therefore, in the subject case, Small Bar is not an explicitly permitted unless it can be considered to be an 'ancillary use' under the terms set out in Schedule 3 'Restricted Uses'.

### **Parking**

The parking required for a Restaurant/Café is 1 space per 4 seats. As the recently approved renovation proposed to accommodate 120 patrons, 30 bays were required. The applicant agreed to the preparation of an active transport plan, which in accordance with clause 5.8.9 of the Scheme allows for a 10% concession, reducing the requirement to 27 bays. The final approved plans show 28 parking bays on the site.

The parking requirement for a small bar is slightly less than that required for a restaurant being 1 bay per 6 patrons as compared with 1 bay per 4 patrons. On this basis, and given that neither the floor space nor number of patrons is proposed to be increased beyond that already approved (120), it is considered that the proposal does not generate the need for additional parking.

Clause 5.8.5 of the Scheme requires landscaping in car parking areas, including shade trees at a rate of one (1) tree per six spaces. A condition was put on the previous approval requiring shade trees in the car parking area that is recommended to be carried forward.

### **Development in the Town Centre zone**

Under both the Shires Local Planning Strategy and Augusta Townsite Strategy the site is identified for 'Town Centre' purposes along with other nearby lots on the southern side of Albany Terrace.

## **DISCUSSION / OFFICER COMMENTS**

The proposal is compliant with the relevant development standards applicable to the site, including car parking and the planning for bushfire protection guidelines.

The application largely hinges on whether the proposed small bar use can be considered as being ancillary to the restricted uses allowed on the site, and whether or not it will unduly impact on the amenity of the surrounding area.

### **What is a Small Bar?**

The Scheme defines Small Bar as:

*"premises licensed as a small bar under the Liquor Control Act and used to sell liquor for consumption on the premises, but not including the sale of packaged liquor; and with the number of persons who may be on the licensed premises limited to a maximum of 120".*

The differences between a licenced restaurant and a small bar relate to whether or not alcohol is ordered and consumed whilst seated. A licensed restaurant requires people to be served at a table (a licence can be provided where this does not need to be ancillary to a meal) whereas a small bar licence allows people to approach the bar for service.

### **Is the use ancillary?**

It is generally well accepted that the consumption of food and alcohol are complimentary uses and often occur together in the form of licensed restaurants. It should be noted here that the applicant could operate as a licenced restaurant subject approval of a liquor license and without any further planning approvals from the Shire.

The question at hand is whether or not the particular small bar will be ancillary to the restaurant in the sense that it is not only complimentary, but will not be the dominant use of the site. This can be measured against various metrics such as the amount of floor space designated to each use, the amount of seating provided to each use and the degree to which one use is contingent on the other.

In each case, the small bar is considered to be the less dominant use of the site. The floor space occupied by the use is 25% of the overall space available to the public, and the bar area contains only 27% of the overall seating. Furthermore, the bar area cannot be accessed directly from the street with patrons needing to come through the dining area to reach the bar. It should also be noted that patrons will be able to be seated within the bar area and consume food from the restaurant but patrons in the restaurant area will not be able to approach the bar.

### **Amenity of surrounding residents**

The proposed site is located in street block together with 8 other properties, all of which are used for residential purposes except for one of the properties which is vacant. The adjoining property to the west is owned by the proponent of the small bar.

Of the neighbouring land owners only one raised objection to the proposal being from the landowner abutting the subject land on its western boundary.

Whilst the objections from this owner are noted, the proposal needs to be considered in terms of what additional offsite impacts may be caused by the small bar over and above the already approved restaurant. As has been discussed in this report, the proposal will not increase the number of patrons which can be accommodated nor will it change the primary use of the site. The fact that patrons may consume alcohol whilst standing and potentially without consuming food is not considered to have a direct relationship with the perceived amenity issues raised by the neighbour.

It is not uncommon for small bars or larger licenced premises to operate in residential areas with minimal impacts on residential uses, and this has occurred in a number of scenarios within the Perth metropolitan area with impacts being appropriately managed.

It should be noted that given the inherent relationship between the subject application and the approved renovations for the site, the recommendation carries forward the conditions applied to the previous restaurant approval. Furthermore it is recommended that conditions be put in place which restrict the operating hours of the small bar as a means of addressing the concerns raised during the consultation period. The operating hours possible under the Liquor Control Act for small bars (opening until 12 midnight with small exceptions) are considered inappropriate given the predominantly residential nature of the area, which may lead to amenity impacts. For these reasons, the closing times previously

approved for the restaurant are recommended to be maintained for the Small Bar Use. The hours are summarised below and will be included as a condition:

- a) Sunday to Thursday – 10am to 10pm
- b) Friday and Saturday – 10am to 11pm

#### **STRATEGIC PLAN / POLICY IMPLICATIONS**

##### ***Community Strategic Plan 2036 (CSP)***

##### ***Corporate Business Plan 2018-2022***

Key Result Area 3 – Managing Growth Sustainably

Community Outcome 3.1: Clearly defined areas for growth and renewal

Strategic Response: Implement Local Planning Scheme No.1

Service level strategy/plan: Provide planning services

#### **FINANCIAL IMPLICATIONS**

Nil

#### **SUSTAINABILITY IMPLICATIONS**

##### **Environmental**

Nil

##### **Social**

At present, a small bar of venue of this nature scale is not available within Augusta and will increase the diversity of venues on offer within town, for use by a wider section of the community.

##### **Economic**

The small bar is likely to bring people into the area and provide flow on economic benefits to other businesses as a consequence.

#### **VOTING REQUIREMENTS**

Simple Majority

#### **RECOMMENDATION**

1. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	P1 & P 2 received at the Shire Offices on the 13 September 2018
--------------------------	---

2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
3. The Restaurant and Small Bar is permitted to accommodate no more than 120 patrons at any one time.
4. The development shall function as an integrated facility. The Small Bar shall at all times operate in a combined facility with the Restaurant and shall not be operated independently.
5. Information is to be provided to demonstrate that the measures contained in the bushfire management plan (version 3, 4 July 2018) have been implemented prior to commencement of the use, and thereafter maintained to the satisfaction of the Shire.
6. Certification is to be provided to the Shire by an accredited Bushfire Consultant that all bushfire management actions detailed in the approved Bushfire Management Plan have been implemented prior to commencement of use.
7. Prior to lodging a building permit application, a detailed Stormwater Management Plan shall be prepared to the satisfaction of the Shire and submitted to the Shire showing drainage details,

storage capacity, lid levels, drainage pipe inverts, sump connection details, slow release and offsite infrastructure connection details. The Shire's written acceptance of the Stormwater Management Plan must be provided with the building permit application (refer to advice note 'c').

8. Prior to practical completion of the development, stormwater management systems on the subject site shall be constructed in accordance with the accepted Stormwater Management Plan referred to in condition 7 and shall be thereafter maintained.
9. Prior to lodging a building permit application, a detailed Vehicle Parking Construction Plan(s) shall be prepared to the satisfaction of the Shire and submitted to the Shire showing construction details including pavement levels thickness, cross fall and drainage disposal method. The Shire's written acceptance of the Vehicle Parking Engineering Plan(s) must be provided with the building permit application (refer to advice note 'c').
10. Prior to occupation of the development, vehicle parking areas shall be designed, sealed, drained and thereafter maintained in accordance with accepted Vehicle Parking Construction Plan(s), the Australian Standard AS 2890 and the Shire's Standards and Specifications.
11. Prior to occupation of the development, crossovers shall be designed, constructed, sealed, and drained in accordance with the Shire's standards and specifications.
12. Works are prohibited within the road reserve including any pruning or clearing of vegetation without prior written approval of the Shire. The Proponent shall submit and implement a Traffic Management Plan prepared by a licenced Traffic Manager in accordance with MRWA Traffic Management Code of Practice and Australian Standards AS1742.3-2002 for any works on or within the road reserve (including road).
13. Disabled parking bay and statutory signs shall be located convenient to the building entrance to the satisfaction of Local Government.
14. The Landscaping of the carpark shall incorporate a minimum of 5 shade trees in accordance with clause 5.8.5(c) of Local Planning Scheme No.1.
15. Prior to occupation of the development, the site shall be connected to a reticulated sewerage service.
16. The use is not permitted to operate outside the following hours:
  - a) Sunday to Thursday – 10am to 10pm
  - b) Friday and Saturday – 10am to 11pm

#### ADVICE NOTES

- a) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.
- b) Engineering plans are required to be submitted to the Shire's Asset Services department (Ph 9780 5274)
- c) The proposed activity must comply with the *Food Act 2008* and the Australia New Zealand Food Standards Code
- d) Noise emissions (sound levels) shall comply with the *Environmental Protection (Noise) Regulations 1997*.

Noise emissions resulting from the development or use of the land shall not exceed the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, and shall not unreasonably interfere with the health, welfare and amenity of an occupier of another premises.

- e) The applicants will be required to comply with the Department of Racing, Gaming and Liquor requirements for Standards of Licensed Premises.

The applicants will need to apply for a Section 39 certificate (liquor licence) prior to operating.

- f) The proposed development is defined as a Public Building in accordance with the *Health (Public Building) Regulations 1992*. The enclosed Form 1 Application to construct, extend or alter a public building and Form 2 Application for Certificate of Approval - Application for Certificate of Approval shall be completed and submitted to the Shire for approval together with the appropriate fee, prior to use of development as a Public Building. Application forms are available on Shire website.
- g) Rubbish enclosure areas adequate to service the development are to be constructed and provided in accordance with the *Shire of Augusta Margaret River Health Local Laws 1999* prior to the occupation or use of the development to the satisfaction of the Local Government.

#### ATTACHMENTS

1. Development Plans
2. Schedule of Submissions
3. Questionnaire Summary

#### RECOMMENDATION

##### CR SMART, CR EARL

1. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	P1 & P 2 received at the Shire Offices on the 13 September 2018
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2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
3. The Restaurant and Small Bar is permitted to accommodate no more than 120 patrons at any one time.
4. The development shall function as an integrated facility. The Small Bar shall at all times operate in a combined facility with the Restaurant and shall not be operated independently.
5. Information is to be provided to demonstrate that the measures contained in the bushfire management plan (version 3, 4 July 2018) have been implemented prior to commencement of the use, and thereafter maintained to the satisfaction of the Shire.
6. Certification is to be provided to the Shire by an accredited Bushfire Consultant that all bushfire management actions detailed in the approved Bushfire Management Plan have been implemented prior to commencement of use.
7. Prior to lodging a building permit application, a detailed Stormwater Management Plan shall be prepared to the satisfaction of the Shire and submitted to the Shire showing drainage details, storage capacity, lid levels, drainage pipe inverts, sump connection details, slow release and offsite infrastructure connection details. The Shire's written

acceptance of the Stormwater Management Plan must be provided with the building permit application (refer to advice note 'c').

8. Prior to practical completion of the development, stormwater management systems on the subject site shall be constructed in accordance with the accepted Stormwater Management Plan referred to in condition 7 and shall be thereafter maintained.
9. Prior to lodging a building permit application, a detailed Vehicle Parking Construction Plan(s) shall be prepared to the satisfaction of the Shire and submitted to the Shire showing construction details including pavement levels thickness, cross fall and drainage disposal method. The Shires written acceptance of the Vehicle Parking Engineering Plan(s) must be provided with the building permit application (refer to advice note 'c').
10. Prior to occupation of the development, vehicle parking areas shall be designed, sealed, drained and thereafter maintained in accordance with accepted Vehicle Parking Construction Plan(s), the Australian Standard AS 2890 and the Shire's Standards and Specifications.
11. Prior to occupation of the development, crossovers shall be designed, constructed, sealed, and drained in accordance with the Shire's standards and specifications.
12. Works are prohibited within the road reserve including any pruning or clearing of vegetation without prior written approval of the Shire. The Proponent shall submit and implement a Traffic Management Plan prepared by a licenced Traffic Manager in accordance with MRWA Traffic Management Code of Practice and Australian Standards AS1742.3-2002 for any works on or within the road reserve (including road).
13. Disabled parking bay and statutory signs shall be located convenient to the building entrance to the satisfaction of Local Government.
14. The Landscaping of the carpark shall incorporate a minimum of 5 shade trees in accordance with clause 5.8.5(c) of Local Planning Scheme No.1.
15. Prior to occupation of the development, the site shall be connected to a reticulated sewerage service.
16. The use is not permitted to operate outside the following hours:
  - a) Sunday to Thursday – 10am to 10pm
  - b) Friday and Saturday – 10am to 11pm

#### ADVICE NOTES

- a) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.
- b) Engineering plans are required to be submitted to the Shires Asset Services department (Ph 9780 5274)
- c) The proposed activity must comply with the *Food Act 2008* and the Australia New Zealand Food Standards Code
- d) Noise emissions (sound levels) shall comply with the *Environmental Protection (Noise) Regulations 1997*.

Noise emissions resulting from the development or use of the land shall not exceed the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, and shall not unreasonably interfere with the health, welfare and amenity of an occupier of another premises.

- e) The applicants will be required to comply with the Department of Racing, Gaming and Liquor requirements for Standards of Licensed Premises.

The applicants will need to apply for a Section 39 certificate (liquor licence) prior to operating.

- f) The proposed development is defined as a Public Building in accordance with the *Health (Public Building) Regulations 1992*. The enclosed Form 1 Application to construct, extend or alter a public building and Form 2 Application for Certificate of Approval - Application for Certificate of Approval shall be completed and submitted to the Shire for approval together with the appropriate fee, prior to use of development as a Public Building. Application forms are available on Shire website.
- g) Rubbish enclosure areas adequate to service the development are to be constructed and provided in accordance with the *Shire of Augusta Margaret River Health Local Laws 1999* prior to the occupation or use of the development to the satisfaction of the Local Government.

0/0

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*Cr Smart moved the following amendment:*

#### AMENDMENT

CR SMART, CR MCLEOD

1. That the current point 16 be omitted and replaced with the following:
  16. The use is permitted to operate during the following hours:
    - a) Sunday to Thursday - 7am to 10pm.
    - b) Friday and Saturday - 7am to 11pm.
    - c) New Year's Eve - 7am to 2am New Year's Day.
2. That the following be added as point 17:
  17. The Restaurant and Small Bar is permitted to hold up to 20 functions annually with the ability to close at the later time of midnight.

0/0

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#### REASON

Cr Smart provided the following reason:

The addition of point 17 allows the proponent to hold a number of special functions, with a later closing of 12pm, to enhance the viability of the proposed development. There was extremely strong support from the community for the Small Bar facility on the basis that it was advertised, being the standard hours from 6am to 12pm. The restriction to allow later closing for twenty functions is to address concerns by a small number of residents.

*Cr Godden requested that part 1 and 2 of the amendment be voted on separately.*

*The mover of the amendment, Cr Smart, declined.*

*Cr Godden then moved the following procedural motion:*

#### PROCEDURAL MOTION / COUNCIL DECISION

CR GODDEN, CR LANE OM2018/324

That point 1 and 2 of the amendment be dealt with separately.

LOST 2/5

CRS MCLEOD, MELDRUM, SMART, TOWNSHEND AND EARL VOTED AGAINST

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#### REASON

Cr Godden was supportive of part 1 of the amendment but not part 2, the procedural motion would allow them to be dealt with separately.

*As the procedural motion was lost, debate continued on the amendment:*

#### AMENDMENT / COUNCIL DECISION

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**CR SMART, CR MCLEOD OM2018/325**

1. That the current point 16 be omitted and replaced with the following:
  16. The use is permitted to operate during the following hours:
    - a) Sunday to Thursday - 7am to 10pm.
    - b) Friday and Saturday - 7am to 11pm.
    - c) New Year's Eve - 7am to 2am New Year's Day.
2. That the following be added as point 17:
  18. The Restaurant and Small Bar is permitted to hold up to 20 functions annually with the ability to close at the later time of midnight.

**CARRIED 5/2**

**CRS LANE AND GODDEN VOTED AGAINST**

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*This then became the primary motion:*

#### PRIMARY MOTION / COUNCIL DECISION

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**CR SMART, CR EARL OM2018/326**

1. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	P1 & P 2 received at the Shire Offices on the 13 September 2018
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2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
3. The Restaurant and Small Bar is permitted to accommodate no more than 120 patrons at any one time.
4. The development shall function as an integrated facility. The Small Bar shall at all times operate in a combined facility with the Restaurant and shall not be operated independently.
5. Information is to be provided to demonstrate that the measures contained in the bushfire management plan (version 3, 4 July 2018) have been implemented prior to commencement of the use, and thereafter maintained to the satisfaction of the Shire.
6. Certification is to be provided to the Shire by an accredited Bushfire Consultant that all bushfire management actions detailed in the approved Bushfire Management Plan have been implemented prior to commencement of use.
7. Prior to lodging a building permit application, a detailed Stormwater Management Plan shall be prepared to the satisfaction of the Shire and submitted to the Shire showing drainage details, storage capacity, lid levels, drainage pipe inverts, sump connection details, slow release and offsite infrastructure connection details. The Shire's written acceptance of the Stormwater Management Plan must be provided with the building permit application (refer to advice note 'c').

8. Prior to practical completion of the development, stormwater management systems on the subject site shall be constructed in accordance with the accepted Stormwater Management Plan referred to in condition 7 and shall be thereafter maintained.
9. Prior to lodging a building permit application, a detailed Vehicle Parking Construction Plan(s) shall be prepared to the satisfaction of the Shire and submitted to the Shire showing construction details including pavement levels thickness, cross fall and drainage disposal method. The Shires written acceptance of the Vehicle Parking Engineering Plan(s) must be provided with the building permit application (refer to advice note 'c').
10. Prior to occupation of the development, vehicle parking areas shall be designed, sealed, drained and thereafter maintained in accordance with accepted Vehicle Parking Construction Plan(s), the Australian Standard AS 2890 and the Shire's Standards and Specifications.
11. Prior to occupation of the development, crossovers shall be designed, constructed, sealed, and drained in accordance with the Shire's standards and specifications.
12. Works are prohibited within the road reserve including any pruning or clearing of vegetation without prior written approval of the Shire. The Proponent shall submit and implement a Traffic Management Plan prepared by a licenced Traffic Manager in accordance with MRWA Traffic Management Code of Practice and Australian Standards AS1742.3-2002 for any works on or within the road reserve (including road).
13. Disabled parking bay and statutory signs shall be located convenient to the building entrance to the satisfaction of Local Government.
14. The Landscaping of the carpark shall incorporate a minimum of 5 shade trees in accordance with clause 5.8.5(c) of Local Planning Scheme No.1.
15. Prior to occupation of the development, the site shall be connected to a reticulated sewerage service.
16. The use is not permitted to operate outside the following hours:
  - a) Sunday to Thursday - 7am to 10pm.
  - b) Friday and Saturday - 7am to 11pm.
  - c) New Year's Eve - 7am to 2am New Year's Day.
17. The Restaurant and Small Bar is permitted to hold up to 20 functions annually with the ability to close at the later time of midnight.

**ADVICE NOTES**

- a) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.
- b) Engineering plans are required to be submitted to the Shires Asset Services department (Ph 9780 5274)
- c) The proposed activity must comply with the *Food Act 2008* and the Australia New Zealand Food Standards Code
- d) Noise emissions (sound levels) shall comply with the *Environmental Protection (Noise) Regulations 1997*.

Noise emissions resulting from the development or use of the land shall not exceed the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, and shall not unreasonably interfere with the health, welfare and amenity of an occupier of another premises.

- e) The applicants will be required to comply with the Department of Racing, Gaming and Liquor requirements for Standards of Licensed Premises.

The applicants will need to apply for a Section 39 certificate (liquor licence) prior to operating.

- f) The proposed development is defined as a Public Building in accordance with the *Health (Public Building) Regulations 1992*. The enclosed Form 1 Application to construct, extend or alter a public building and Form 2 Application for Certificate of Approval - Application for Certificate of Approval shall be completed and submitted to the Shire for approval together with the appropriate fee, prior to use of development as a Public Building. Application forms are available on Shire website.
- g) Rubbish enclosure areas adequate to service the development are to be constructed and provided in accordance with the *Shire of Augusta Margaret River Health Local Laws 1999* prior to the occupation or use of the development to the satisfaction of the Local Government.

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CARRIED 7/0

### 11.2.5 LOCAL LAW DETERMINATION IN RELATION TO WALLCLIFFE CLIFFS AND RIVER

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<b>LOCATION/ADDRESS</b>	Reserve 41545, Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	RES/41545 LND/154
<b>REPORT AUTHOR</b>	Lauren Bidesi, Senior Legal Officer & Ian McLeod, Coordinator Legal Services
<b>AUTHORISING OFFICER</b>	Ian McLeod, Acting Director Sustainable Development

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#### IN BRIEF

- At the Ordinary Council Meeting of 28 March 2018 Council resolved to undertake statutory public consultation by giving local public notice under clause 2.2 of the *Local Government Property Local Law 2013* of its intention to make a determination prohibiting: entry into the Caves; and the mooring/stopping of boats on the river bank other than in designated areas.
- A proposed determination was drafted in the form of a local law provision based on the Council resolution.
- Local public notice was given on 30 May 2018 in the August Margaret River Mail and on the Shire's website. The notice required submissions before 4pm Friday, 22 June 2018.
- A copy of the draft determination was also circulated directly to a number of agencies and key stakeholders.
- Nine submissions were received in relation to the proposed determination.
- Pursuant to clause 2.2 of the *Local Government Property Local Law 2013* the procedure for making a determination is outlined. As submissions were received, Council is to consider those submissions and decide whether to continue with the determination, with or without amendment.

#### RECOMMENDATION

That Council

1. Notes that nine submissions were received in response to the local public notice of the proposed determination.
2. Amends the proposed determination as follows:  
At clause 2.5(2):
  - i. Anywhere along the existing sand track on the water side of the fence line but not more than 300m north of the River Mouth carpark on Reserve 41545; and
  - ii. 20m east and 50m west of the Margaret River Rowing Club building located on Reserve 43268; and
  - iii. On the foreshore at the clearing to the west of the Cliffs/Cave on Reserve 41545"Following (3) in Part 1 of the determination:  
"Nothing in this determination should be construed to restrict any right of access and 'traditional use' under the *Aboriginal Heritage Act 1972*"
3. Undertakes statutory compliance by giving local public notice under clause 2.2 of the *Local Government Local Law 2013* of the effects of the amendments to the determination and that the determination has effect from the date of publication.
4. Undertakes the following in consultation with the local Indigenous group:
  - a) Erects signs in agreed designated areas, and as proposed in Attachment 5 as a guideline pursuant to clause 2.3 of the *Local Government Local Law 2013* to give effect to the determination;
  - b) Erects fencing in agreed designated areas, and as proposed in Attachment 4 as a guideline;
  - c) Removes all visible climbing pins from the Cliff face on Reserve 41545;
  - d) Implements and carries out revegetation and rehabilitation plans for the areas around the Cliffs, riverbank and trail to the Cliffs and Caves on Reserve 41545 in consultation with DPLH and Nature Conservation.



## Council Resolution

- Entry into the Cliffs caves; and
- The storing/landing/launching of boats on the river bank other than in designated areas; and
- The traversing of any local government land north east of Wallcliffe Road and east of the Cape to Cape track.

Council recommended consultation with local Indigenous groups regarding the erection of signs, construction of viewing platforms, removal of climbing infrastructure and revegetation/rehabilitation of degraded areas around the Cliffs and Cave.

## Public Notice- Proposed Determination

Public notice of the proposed determination took place on 30 May 2018 in the Augusta Margaret River Mail, Shire office noticeboard and library noticeboard. The effect of the determination was to restrict access to the caves within the Wallcliffe Cliffs and to designate particular points on the river for storing/landing/launching of boats on the river.

## DETERMINATION

1. The Shire makes the following determination to be read in conjunction with the determinations found in clause 2.2 of Schedule 2 of the Shire's *Local Government Property Local Law 2013*.

**Cave** includes any hollow in any cliff face, any cavern or overhang.

(1) No person is to-

- a) Enter any cave on local government property including but not limited to Reserve 41545 without prior written authorisation of the local government;
- b) Deface, destroy, damage or alter any cave on local government property.

(2) A person, who an authorised officer suspects of entering or defacing any cave, must leave the area where the cave is located if an authorised person makes such a request.

(3) No person is to traverse any local government land located on Reserve 41545 east of the Cape to Cape track and north east of Wallcliffe road as shown in the schedule 1 to this determination.

2. The determination found at clause 2.5 of Schedule 2 of the Shire's *Local Government Property Local Law 2013* is revoked and replaced with the following determination.

### **2.5 Launching and retrieval of boats**

(1) Subject to sub clause 4, no person must launch, beach or leave a boat from any local government property that adjoins the Margaret River west of Caves Road other than in designated areas set aside for the purpose of launching, beaching or leaving of boats by this determination.

(2) The following areas are designated areas set aside for the purpose of launching beaching or leaving of boats by this determination:

- i. Anywhere more than 100m north, but not more than 300m north of the River Mouth carpark on Reserve 41545; and
- ii. 50m either side of the Margaret River Rowing Club building located on Reserve 43268;

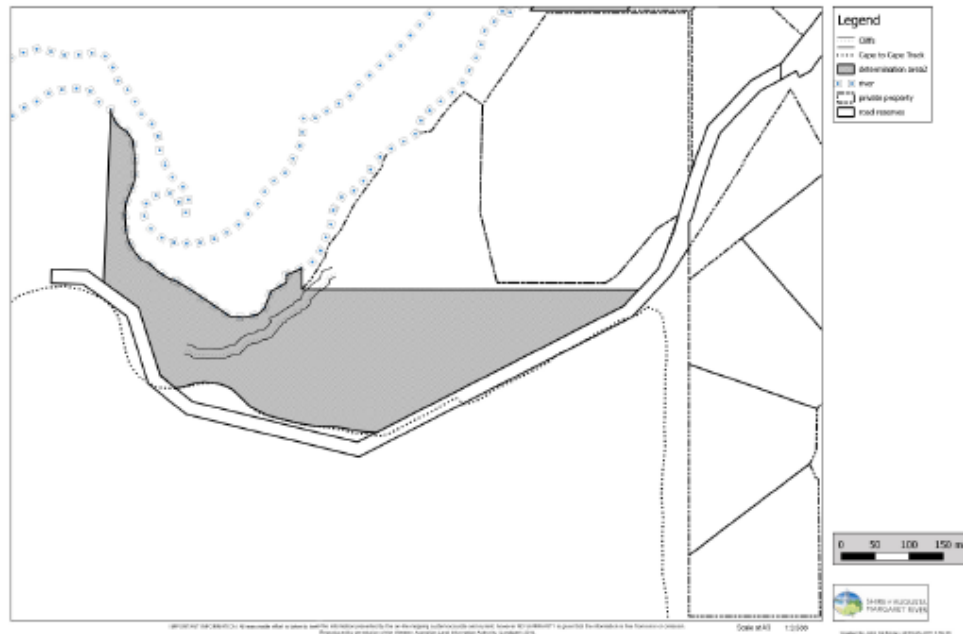
(3) Subject to sub clause 4, a person may not launch beach or leave any motorised boat from any local government property.

(4) A Person in control of a boat does not breach this determination where -

- (a) the person has a permit issued under the Local Law or written authorisation from the local government permitting the launching beaching or leaving of boats;
- (b) the person is a local government employee or contractor acting in the course of their duties;
- (c) the person is engaged in rescue service or dealing with an emergency;
- (d) the local government property is a boat ramp delineated as such site by a sign to that effect.

(5) A person in control of the boat shall remove it from any area upon immediate direction to do so by an authorised person.

**Schedule 1 – Portion of Reserve 41545 east of the Cape to Cape track and north east of Wallcliffe Road where traversing is prohibited**



**CONSULTATION AND ADVICE**

**External Consultation – Public submissions**

There were nine public submissions which included some of the current permit holders and groups initially consulted regarding making a determination in our Council Report dated 28 March 2018.

Public Submissions

A summary of the submissions are provided in the table below and Helen Lee's full submission is provided at attachment 2 due to its length.



**SHIRE OF AUGUSTA MARGARET RIVER  
ORDINARY COUNCIL MEETING 12 DECEMBER 2018**

Proposed Determination Submissions- Reserve 41545

Name	Submission Summary	Officer Comments
Outdoor Discoveries	Outdoor Discoveries do not visit any cave sites in the Wallcliffe area. They leave canoes locked up on the northern bank a few times per year about 10m from water line. They wish to work with Shire on best sites for this to take place.	Designated areas for leaving boats would suffice.
Past Manager of tourist caves in Margaret River	He recommends a wooden walkway along the front of the cliffs to discourage people entering caves at the cliff face. Any interpretative guiding be done by Noongar people at their discretion.	To be discussed with local indigenous groups
Margaret River Rowing Club	Agree with the prohibition on launching and landing of boats. Suggestions: <ul style="list-style-type: none"> <li>Commercial operators be limited to landing in the area west of the rowing club for 50m. This area should be monitored to ensure its looked after by commercial operators and no impact on adjoining property.</li> <li>The area to the east of the rowing club is not suitable for landing boats as its likely to damage the environment.</li> <li>Rowing club launch site should be limited to use by the club and public and not used by commercial operators.</li> <li>The area accessed by the PAW (onr St Alouarn and Wooditch Rd) should be considered for use by commercial operators and public. This area has easy access to river for launching, can handle some vehicle movements due to width and large area of recreation reserve adjacent to the launch site which could be utilised by public. This site is currently used by groups, lessening the burden on the rowing club and to the west of it.</li> </ul>	<ul style="list-style-type: none"> <li>Agree with area 50m west of the club.</li> <li>East area has been reduced to 20m due to bushland.</li> <li>Rowing club launch site is available for the public to use which includes commercial operators.</li> <li>Current negotiations with the club to vary their lease to allow limited and conditional parking on Reserve 43268. Cars using the PAW will be authorised by permit from the Shire for a limited time and reviewed annually. It will not be a vehicle access way for general public cars.</li> </ul>
Barry House	Supports Bushtucker tours (BTT) operations stating they were pioneers in eco-tourism and have a high regard for the environment, heritage and history. Its operations have minimal impact on the river and adjoining land. It would be unreasonable if proposed changes made it difficult for BTT to operate or prohibited from operating at all.	Proposed changes will allow BTT to continue operating just no entry into caves.
Member of Public	Would like to amend the existing determination in relation to launching and retrieval of boats and poses these questions: <ul style="list-style-type: none"> <li>How will the Shire stop people entering the cave without looking it up? A sign will not stop individuals entering caves, a fence would. How is the Shire going to police the area? Suggests a ranger but this would result in conflict between ranger and visitors.</li> <li>How is Shire going to stop people launching, beaching or leaving boats other than in designated areas? If signage, will it be adhered to? Will a</li> </ul>	<ul style="list-style-type: none"> <li>Signs and fencing proposed to restrict access to the area.</li> <li>Shire rangers will deal with any complaints on breaching the local law</li> <li>The public can still paddle the river, they just need to stop boats at designated spots as outlined in the determination.</li> </ul>
	<p>ranger follow tourists on the river to see where they go/stop? Will the Shire stop operators hiring kayaks at Rivermouth so people cant easily paddle the river?</p> <p>Suggests:</p> <ul style="list-style-type: none"> <li>Caves should be locked and more discussion with community on changes to the Margaret River</li> </ul> <p>She states the determination only seems to effect tourist operators who are eco aware and take responsibility for the groups they take up the river/hire equipment to.</p>	<ul style="list-style-type: none"> <li>The determination effects all users of the river.</li> </ul>
Member of Public	States the determination is not the best method to achieve protection of the river and aboriginal sites and states it will limit positive effects of eco tourism in the area. Exclusion from an area doesn't foster education and reduces engagement of the public with natural environment. <ul style="list-style-type: none"> <li>States that guided tours are supervised and promote protection of the environment through education.</li> <li>Proposed changes will impact the feasibility of the tour and be a significant loss to tourism if unable to operate.</li> <li>Public liability insurance for tour group may not be feasible without safe put down points and access track by foot</li> <li>Without a guide, no control, accountability or supervision of public once around the river bend.</li> <li>States the determination doesn't detail how the tracks and caves will be blocked and how enforced. Fences will mar the natural beauty and signs and notices will only deter some.</li> <li>Suggests: <ul style="list-style-type: none"> <li>A foreshore management plan that includes options for tourism companies to operate and engage the public.</li> <li>Environmental education and more engagement with wider community before determination made.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Protection of the river and Indigenous sites is a priority and this should foster education around the reasons for its protection.</li> <li>Tourism operators will still be able to operate.</li> <li>Track access by foot is still permitted at certain designated points</li> <li>Shire rangers will be enforcing the local law once adopted</li> <li>The community has been consulted about the proposed determination</li> </ul>
Bushtucker Tours	States the determination will not work to control public access to the area unless a fence or gate is erected around the cliffs and caves. No protection of an area without correct trails/signs/rehabilitation. <ul style="list-style-type: none"> <li>Suggests the site is designated recreation and has a foreshore management plan in place with infrastructure for several mooring points, rehabilitation and supervision of the area.</li> <li>Closing of all southern river banks from rivermouth to caves road is not feasible and result in no improvement to the area.</li> </ul>	<ul style="list-style-type: none"> <li>A fence and signs will be put in place at designated points, with rehabilitation also being undertaken around the cliffs/cave.</li> <li>Restricting access to designated points will result in environmental improvement to the area.</li> </ul>



SHIRE OF AUGUSTA MARGARET RIVER  
ORDINARY COUNCIL MEETING 12 DECEMBER 2018

Bushtucker Tours	Same content as above.	As above.
Bushtucker Tours	<p>Operates a supervised tour group. She states the hire of unsupervised water craft to the public means water craft may stop at many sites. Supervision of such hire is not possible from the river mouth.</p> <p>The determination seriously impacts the tour group by placing extreme limitations on safe river passage by closing three important landing/rescue sites.</p> <ul style="list-style-type: none"> <li>• Closure of access to all river banks west of caves road with one access point to safe stopping on a 3km stretch of the river make the tour unworkable.</li> <li>• Duty of care/ risk assessment/ evacuation plan- muster or safety zones are required on all parts of the journey. This requires three safe points along the river.</li> <li>• She has identified three sites that would work: dune walk site 1, rowing club site 2 and Le Souef boatshed site 3 (see map).</li> <li>• A foreshore recreation plan is needed for several sites along the Margaret River that can be accessed by both land based public and private use. Sites would benefit from management and infrastructure not bars that cannot be administered.</li> </ul>	<ul style="list-style-type: none"> <li>- The determination provides three designated areas for launching, beaching and leaving boats.</li> <li>- These designated areas allow satisfactory safe points for landing along the river.</li> <li>- Suggested sites by Helen Lee- Site 1 agreed but without a dune walk out. Walk out can be achieved by walking along the sand track back towards the river mouth carpark.</li> <li>- Site 2 agreed site at the rowing club.</li> <li>- Site 3 at jump rock not agreed (see report for reasons).</li> <li>- Have provided an alternate site at the cliffs/cave for landing boats.</li> <li>- Walk out can be achieved at any point, including designated points along the river in emergency.</li> </ul>

## Agencies

### Department of Planning, Lands and Heritage (DPLH)

The legal division of DPLH has advised that given this area is an Aboriginal site within the meaning of s5 of the AHA, the area enjoys protections (albeit limited) pursuant to the Act. However s7, 8 & 9 of the Act provides for Traditional use, availability for traditional use and Traditional custodians for Aboriginal people and works to avoid inapt or unnecessary prohibition or regulation. This needs to be taken into consideration when drafting the determination as it cannot conflict with the relevant sections of the AHA.

### Traditional Indigenous Owners & Nature Conservation

Wayne and Toni Webb, Iszac Webb (Department of Biodiversity, Conservation and Attractions) and Genevieve Hanran-Smith from Nature Conservation Margaret River Region (Nature Conservation) conducted a site visit with Shire Officers on 6 August 2018 to the proposed landing/storing/launching areas and other areas discussed in the public submissions.

The following areas were visited and outcome of each area detailed below:

- 1) *Margaret River Mouth*- designated area agreed as anywhere not more than 300m north of the river mouth carpark on the water side of the fence line as an appropriate landing/launching/storage area. It was agreed the sand dunes at the furthestest point that could be achieved by foot, being 300m north of the river mouth were not suitable for traversing by the public if the water was assessed as unsafe to paddle. Walk out at this point would be along the sand river bank back to the river mouth carpark and not via the sand dunes.
- 2) *Wallcliffe Cliffs/Cave*- western site supported, eastern site not supported as a designated landing area. The area to the east was not supported by Wayne Webb as the clearing to the landing area was created by illegal clearing. Toni Webb was also concerned with use of this area as the cave can be seen from this area and may entice people to further explore.
  - Fencing and signs detailing the area as restricted are to be erected in the western and eastern clearance sites. The fencing location and style, along with the sign location and content would need further consultation with other local Indigenous representatives.
  - Rehabilitation/revegetation needs to take place in all degraded areas around the Cliffs, riverbank and trail to the Cliffs and Caves on Reserve 41545. The Undalup Association have a grant for heritage protection including rehabilitation and weed control in the Reserve so will work with the Shire and Nature Conservation to assist in rehabilitation of the area.
  - All parties agreed climbing pins are to be removed from the cliff face as soon as possible.
- 3) *Jump rock*- not supported as a landing/stopping or launching area.  
Not suitable due to the potential for further degradation of the area and the stone shed on the waters edge was a dangerous site. The stone shed is currently fenced off due to its current dilapidated state. It was agreed the length of time taken to access the area by foot is not a suitable location for walking out of the area should a person require a vehicle to assist in their pickup.

- 4) *Rowing Club* site not visited on this occasion. Shire Officers visited the site on 16 August 2018 (see below).

Margaret River Rowing Club

Shire Officers visited the rowing club on 16 August 2018 and it was agreed that 20m east and 50m west of the club building were suitable designated areas for landing/launching, as the sites are already cleared. The maximum distance of 50m to the west is the site Bush Tucker Tours already land canoes and utilise on their tours. Delineation of the landing sites will be required to ensure no encroachment onto adjoining uncleared areas fringing the river. See Attachment 6 for a plan of the suitable landing areas at the club.

**Internal Consultation**

Officers from Legal Services, Sustainable Development, Ranger Services and Infrastructure Services Directorates were involved in the consultation and report preparation.

**DISCUSSION / OFFICER COMMENTS**

**Determination**

There has been a long and well documented history of environmental damage and cultural disturbance at the Cliffs and cave within Wallcliffe Reserve 41545. This includes incidental and incremental damage such as erosion and damage to foreshore vegetation by frequent canoe moorings, as well as intentional damage such as tree clearing and pruning and graffiti. The degradation of the foreshore from boats regularly being moored along the river banks and foot traffic from the public, prevents regrowth of vegetation in locations which would otherwise be more heavily vegetated.

This determination was proposed as a way of preventing further damage, degradation and vandalism to the Cliffs, cave and surrounding area. It is also a mechanism to protect this sacred Indigenous area.

The determination has been amended to ensure it is consistent with the results of the consultation undertaken after advertising. This extensive consultation has taken place over a number of months and involved several organisations and Shire officers. We believe we have provided a substantial amount of time for the public and relevant businesses to reflect their views on this matter.

Based on the evidence of environmental damage, the significance of Aboriginal heritage that exists in the area and the recommendations taken from recent reports, the determination seeks to limit access to the Caves and designating set points along the river for mooring of boats to the satisfaction of the local Indigenous groups. To achieve these outcomes, some fencing and signage will be necessary and this will be determined in consultation with local Indigenous groups.

Schedule 2 of the *Local Government Property Local Law 2013* (Local Law) contains determinations made by local government under clause 2.1. These determinations are taken to have been made in accordance with clause 2.2, and may be amended or revoked in accordance with clause 2.6.

Part 2 of Schedule 2 already contains provisions in relation to protection of the foreshore environment-climbing on a cliff face (clause 2.2) and launching and retrieval of boats (clause 2.5).

Part 1 of the proposed determination allows clause 2.2 of Schedule 2 to stand as is and adds a further definition of caves to include a hollow in cliff face, cavern or overhang. It also details the prohibition of cave entry and damage/destruction of the cave. Sub-clause 3 details the traversing of local government land on the Reserve.

The *Aboriginal Heritage Act 1972* already contains important provisions about protecting Aboriginal sites and traditional uses, therefore it is important to note in the determination that it does not restrict any right of access or traditional use pursuant to this Act.

Part 2 of the proposed determination revokes clause 2.5 (launching and retrieving boats) in the existing Local Law and replaces it with the text as stated in the determination.

If the amendments to the proposed determination are agreed upon, the Shire will give local public notice under clause 2.2 of the *Local Government Local Law 2013* of the effects of the amendments to the determination and that the determination has effect from the date of publication.

If amendments to the determination are not agreed, Council can decide not to continue with the determination. Council can also decide to proceed with the proposed determination as it currently stands and give local public notice to this effect.

### **Signs and Fencing**

It is recommended that signs be developed and erected in collaboration with local Indigenous groups and as proposed in Attachment 5 pursuant to clause 2.3 of the *Local Government Local Law 2013* to give effect to the determination.

It is also recommended that fencing be erected in the designated areas at clause 2.5(2)(ii) and (iii) to the west and east of the Wallcliffe cliffs and caves as agreed with local Indigenous groups. It is considered that timber post and rail fencing may be appropriate but will be subject to further consultation with Indigenous representatives.

These attachments should be used as a guide only.

### **Climbing Pins**

It is recommended that all visible climbing pins be removed from the Cliff face on Reserve 41545 by a registered climber as contracted by the Shire.

### **Revegetation**

It is recommended that rehabilitation/revegetation plans for the areas around the Cliffs, riverbank and trail to the Cliffs and Cave be undertaken and implemented in consultation with local Indigenous groups, DPLH and Nature Conservation.

### **Permit Holders**

The local government has the ability to exempt a permit holder from complying with certain clauses in the determination but generally try to achieve consistency across all areas. If permit holders are granted exemptions to the determination, the public may be encouraged to follow. Therefore it is recommended that Local Law Permit holders adhere to the determination, with any specific exceptions detailed in their individual permits.

### **STATUTORY ENVIRONMENT/LEGAL IMPLICATIONS**

The *Local Government Act 1995* (LGA) section 3.54 states the local government can do anything for the purpose of controlling and managing local government land it considers necessary, which includes fencing or enclosing, improving or ornamenting the land.

Permits for commercial activities operating at the Rivermouth are granted under the Local Law Permit.

Under the *Local Government Property Local Law 2013* the following are relevant sections in relation to the making of a local law determination:

- Section 2.1 the local government may make a determination in relation to a number of matters set out in clause 2.8, including prohibiting people from traversing sand dunes or land which has environmental value warranting protection either absolutely or by provided paths for that purpose.
- Section 2.2 sets out the procedure for making a determination which includes a statutory consultation process giving local public notice (stating the purpose and effect of the determination) of its intention to make a determination. This notice would allow the Shire to consider comment in relation to mooring/stopping locations.
- Following the local public notice, Council could resolve to give effect to the determination, or amend the determination, or not to continue with the determination.

The *Aboriginal Heritage Act 1972* (AHA) applies to any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent. It also includes any place which is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the State.

Pursuant to the AHA the caves and cliffs are registered Aboriginal sites. The Shire is not responsible for enforcing the AHA but must comply with the provisions. Any activity that excavates or disturbs the site would require approval under the AHA. Under the AHA the Minister has the ability to close/fence off an area to the public to protect the site.

Given the areas in the determination are Aboriginal sites within the meaning of s5 of the AHA, the area enjoys protections (albeit limited) pursuant to the Act. Sections 7, 8 & 9 of the AHA provides for Traditional use and Traditional custodians for Aboriginal people and works to avoid inapt or unnecessary prohibition or regulation. This needs to be taken into consideration when drafting the determination as it cannot conflict with the relevant sections of the AHA.

#### **STRATEGIC PLAN/POLICY IMPLICATIONS**

##### ***Community Strategic Plan 2036 (CSP)***

##### ***Corporate Business Plan 2018- 2022***

Key Result Area 1: Valuing, protecting and enhancing the natural environment

Community Outcome 1: Ecology and biodiversity protection

Strategy 3: Consult with Aboriginal people on Indigenous knowledge of land and water management

Key Result Area 1: Valuing, protecting and enhancing the natural environment

Community Outcome 4: Continued unique and iconic coastal landscapes

Strategy 2: Manage responsibly coastal areas under the Shire's control

Key Result Area 2: Welcoming, inclusive and healthy communities

Community Outcome 1: Diverse cultural values are respected and adopted.

Strategy 3: Engage with the Wadandi and other communities to ensure that the culture and heritage values of Traditional Owners are well managed.

Key Result Area 4: Vibrant and diverse economy

Community Outcome 2: Sustainable tourism and other local industries

Strategy 2: Work with the tourism sector to further promote and develop ecologically sustainable, cultural and agricultural tourism, including respectful tourism based on environmental and cultural values.

#### **PLANNING FRAMEWORK**

##### ***Local Planning Scheme No. 1 (LPS1)***

Nil

##### ***State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP6.1)***

This policy promotes sustainable development, conservation, and land and resource management. An objective is to respect and conserve the outstanding natural and cultural heritage and environmental values of the area. The Shire's recommendations are consistent with this policy to protect and maintain vegetation and conserve places of Aboriginal heritage.

#### **FINANCIAL IMPLICATIONS**

If cave access in this area were limited, the implications to the eco-tour operators appears minimal. The cost of developing and erecting signage and fencing would be funded through existing Shire operational budgets, however assistance in the form of grant funding or in-kind support would be sought.

#### **SUSTAINABILITY IMPLICATIONS**

##### **Environmental**

The aim is to ensure that commercial use does not unduly impact the primary users of the land and the environment while at all times respecting the provisions under the *Aboriginal Heritage Act 1972* and Local Laws. Restricting of access to the Caves and providing designated mooring points along the Rivermouth aims to minimise the need for revegetation and minimise the impact on the environment.

##### **Social**

Having access to the natural environment for the general public is a large part of the tourism industry in the South West and provides high interest to those that participate in eco-tours. However, preserving land of Aboriginal significance for the benefit of the local Indigenous people and future generations is a very important influence on what restrictions the Shire places in the area.

### **Economic**

The aim is to allow permit operators to continue their business operations throughout the region without undue restrictions whilst at the same time preserving the natural heritage of the area with respect to the local Indigenous culture. Restricting Cliff cave access and providing designated mooring/stopping points along the Rivermouth will allow the tour operators to continue to use the area.

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

That Council

1. Notes that nine submissions were received in response to the local public notice of the proposed determination.
2. Amends the proposed determination as follows:  
At clause 2.5(2):
  - "i. Anywhere along the existing sand track on the water side of the fence line but not more than 300m north of the River Mouth carpark on Reserve 41545; and
  - ii. 20m east and 50m west of the Margaret River Rowing Club building located on Reserve 43268; and
  - iii. On the foreshore at the clearing to the west of the Cliffs/Cave on Reserve 41545"Following (3) in Part 1 of the determination:  
"Nothing in this determination should be construed to restrict any right of access and 'traditional use' under the *Aboriginal Heritage Act 1972*"
3. Undertakes statutory compliance by giving local public notice under clause 2.2 of the *Local Government Local Law 2013* of the effects of the amendments to the determination and that the determination has effect from the date of publication.
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  - b) Erects fencing in agreed designated areas, and as proposed in Attachment 4 as a guideline;
  - c) Removes all visible climbing pins from the Cliff face on Reserve 41545;
  - d) Implements and carries out revegetation and rehabilitation plans for the areas around the Cliffs, riverbank and trail to the Cliffs and Caves on Reserve 41545 in consultation with DPLH and Nature Conservation.

### **ADVICE TO APPLICANT / PROPONENT**

Nil

### **ATTACHMENTS**

1. Permits- Bushtucker Tours  
Josh Palmateer Academy  
Outdoor Discoveries
2. Helen Lee Submission 19 March 2018.
3. Determination
4. Fence costing and proposed placement
5. Sign costing and proposed placement

## RECOMMENDATION

**CR TOWNSHEND, CR GODDEN**

That Council

1. Notes that nine submissions were received in response to the local public notice of the proposed determination.
2. Amends the proposed determination as follows:

At clause 2.5(2):

- i. Anywhere along the existing sand track on the water side of the fence line but not more than 300m north of the River Mouth carpark on Reserve 41545; and
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- iii. On the foreshore at the clearing to the west of the Cliffs/Cave on Reserve 41545"

Following (3) in Part 1 of the determination:

"Nothing in this determination should be construed to restrict any right of access and 'traditional use' under the *Aboriginal Heritage Act 1972*"

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0/0

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*Cr Earl moved the following amendment:*

## AMENDMENT

**CR EARL, CR SMART**

That the following wording be added to point 4c: 'if possible'.

0/0

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## REASON

The amendment ensures the cliffs are not damaged during the process of removing pins.

*With consent of the mover and seconder, Cr Lane added the words 'without significant damage' to the amendment.*

## AMENDMENT

**CR EARL, CR SMART**

That the following wording be added to point 4c: 'with out significant damage if possible'.

0/0

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The Acting CEO addressed the meeting for the purpose of clarification regarding point 4c, advising that only the head of the climbing pin would be cut off, the bolt would remain to prevent damage to the cliff. The CEO also advised that Council would be notified if any pins were unable to be removed.

*Cr Earl withdrew the amendment.*

*Debate continued on the primary motion.*

## PRIMARY MOTION / COUNCIL DECISION

**CR TOWNSHEND, CR GODDEN OM2018/327**

That Council

1. Notes that nine submissions were received in response to the local public notice of the proposed determination.
2. Amends the proposed determination as follows:  
At clause 2.5(2):
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  - b) Erects fencing in agreed designated areas, and as proposed in Attachment 4 as a guideline;
  - c) Removes all visible climbing pins from the Cliff face on Reserve 41545;
  - d) Implements and carries out revegetation and rehabilitation plans for the areas around the Cliffs, riverbank and trail to the Cliffs and Caves on Reserve 41545 in consultation with DPLH and Nature Conservation.

CARRIED 7/0

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## 11.3. Infrastructure Services



**11.3.1 APPLICATION TO PERMANENTLY CLOSE PORTION OF WADDINGHAM ROAD, GRACETOWN**

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<b>LOCATION/ADDRESS</b>	Waddingham Road, Gracetown
<b>APPLICANT/LANDOWNER</b>	IR & LJ Englert
<b>FILE REFERENCE</b>	PTY/10023 RDS/0187
<b>REPORT AUTHOR</b>	Sonja Pienaar, Coordinator Asset Services
<b>AUTHORISING OFFICER</b>	Markus Botte, Director Infrastructure Services

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**IN BRIEF**

- Sometime before 2006, various structures, including a garage/shed, lean-to, water tanks, fences and a portion of a dwelling, were constructed in the Waddingham Road reserve, adjacent to Lot 91 Cowaramup Bay Road, Gracetown, thereby causing an encroachment into the public road reserve.
- In recognising the matter, the landowners, Mr and Mrs Englert of Lot 91 Cowaramup Bay Road (Lot 91), previously approached the Shire to seek a resolution.
- Council considered the matter at its ordinary meetings on 26 March 2014 and again on 27 September 2017.
- The Shire has since received a road closure request (the Proposal) to close a portion of Waddingham Road, in line with Council's previous advice to the landowners.
- The Proposal was advertised for no less than 35 days, as required. 32 Submissions were received, of which 21 objected to the proposal. Comments were also received from 5 government agencies.

**RECOMMENDATION**

That Council

1. Supports the permanent closure of the part of Waddingham Road, Gracetown pursuant to Section 58 of the Land Administration Act 1997 as shown on the plan (Attachment 1);
  2. Indemnifies the Minister for Transport, Planning, and Lands against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request for the closure of part of Waddingham Road, Gracetown;
  3. Advises the applicant that no future encroachments (even of a temporary nature) within the 7m wide road reserve will be allowed as this will impact on access and safety; and
  4. Advises the Applicants that they are responsible for all costs associated with the road closure and excision/amalgamation process including purchasing of land and any associated costs.
- 

**LOCATION PLAN**



Figure 1 – Location Plan – Lot 91 Waddingham Road

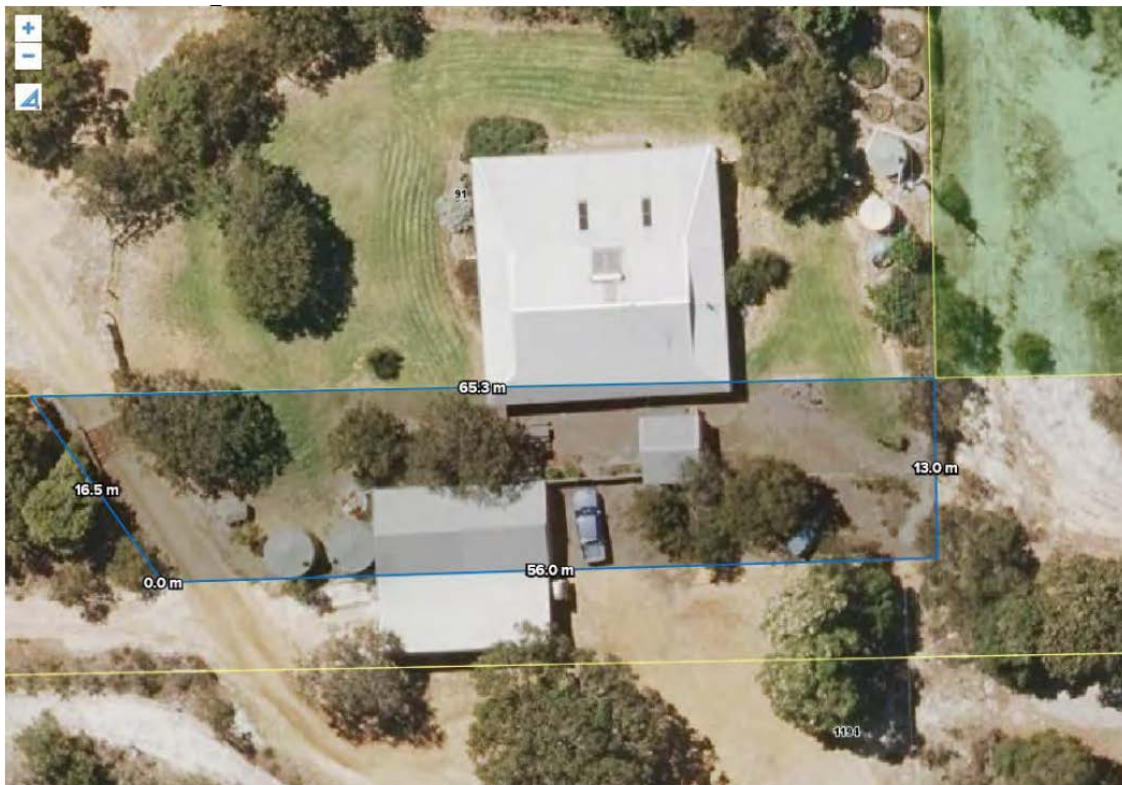


Figure 2 – Proposed Road Closure Plan - Area for partial road closure to be supported by Council

#### TABLED ITEMS

Nil

## **BACKGROUND**

Sometime before 2006, various structures, including a garage/shed, lean-to, water tanks, fences and a portion of a dwelling, were constructed in the Waddingham Road reserve, adjacent to Lot 91 Cowaramup Bay Road, Gracetown, thereby causing an encroachment into the public road reserve.

In July 2010, the Applicants, Mr and Mrs Englert, purchased Lot 91 Cowaramup Bay Road (Lot 91).

In recognising the matter, they previously approached the Shire to seek a resolution upon becoming aware of the issue. In 2014 the Shire received a request from the Applicants to close the whole of Waddingham Road reserve adjacent to Lot 91 in order to resolve the encroachment. Council considered the matter at the Ordinary Meeting on 26 March 2014 and resolved to not support the full road closure request.

The Shire has since continued to receive numerous complaints from residents about the obstruction of the road reserve. On 22 December 2016 the Shire issued a notice pursuant to Sections 3.25(1)(b) of the Local Government Act 1995 to the Applicants, requiring the obstructions on Waddingham Road reserve to be removed within 42 days. Subsequently, discussions continued between the landowners and the Shire, as outlined later on in this report.

At its Ordinary Meeting on 27 September 2017, Council again considered the matter and recommended the notice to be varied to only require removal of the lean-to structure and advised the Applicants to submit a new application to close an 800m<sup>2</sup> (approx.) portion of Waddingham Road only.

The road closure request to close a portion of Waddingham Road, in line with Council's previous advice to the Applicants, has since been received and the Proposal has been advertised for no less than 35 days, as required under the legislation. 32 Submissions were received, of which 21 objected to the proposal. Comments were also received from 5 government agencies.

## **Statutory Environment and State Government Advice**

The purpose of this report is for Council to now formally consider the Proposal for a partial road closure of Waddingham Road reserve in line with the requirements of Section 58 of the Land Administration Act 1997 (the Act) dealing with closing roads. The Act specifies the procedure to be followed as Council will make the request on behalf of the Applicants to the Minister after considering any objections made concerning the proposal.

The Act does not specify grounds for closure, other than Council's support is required after considering objections. If Council does not support the application as advertised, the closure cannot proceed. If Council supports the application, the Shire will forward the request and all documentation to Department of Planning, Lands and Heritage (Land Use Management Division) for consideration by the Minister for Transport, Planning, and Lands (Minister). If the Minister does not support the application for closure, the application cannot proceed.

If any modification to the existing advertised proposal is made the proposal must be readvertised.

Other than stating procedural requirements, the Shire's Infrastructure Policy 2 sets out some governing principles as to when a road closure should not be considered and they include:

- If there is a long term merit for retention of the road reserve.
- If there is remnant vegetation of value.
- If there is an existing or potential wildlife corridor.
- If there is any likelihood that the action of the road closure shall create any property to loose direct frontage to a dedicated road thus resulting in the property becoming "land locked".

In the past the Department of Planning, Lands and Heritage (Land Use Management Division) (Previously Department of Lands) would comment on the likelihood of supporting a proposal for road closure prior to the report going to Council.

When approached in 2014, they indicated that they were unlikely to support the full closure of the road. The main reason provided for rejecting the closure of the whole road reserve along Lot 91 Cowaramup Bay Road in 2014 was due to comments from the then Department of Lands and Department of Parks and Wildlife regarding the following:



- that Lot 11 to the West would not have frontage to a dedicated road reserve; and
- that Waddingham Road is critical for fire management between two portions of National Park.

Communications with the Department of Planning, Lands and Heritage (Land Use Management Division) in 2017 indicated that they did not support the retention of structures that were encroaching up to 13m into the road reserve, but the Department was willing to consider the retention of structures that were encroaching up to 7m into the road reserve.

Notwithstanding, the Department of Planning, Lands and Heritage's comments, Council resolved to allow the Applicants to proceed with the road closure to a width of 13m, in order to retain the Applicants' shed and water tanks.

The Department of Planning, Lands and Heritage's (Land Use Management Division) procedures have since been modified and Council must first formally support the proposal before the Department would undertake an assessment thereof. Due to the Department's new procedures, their views on the new proposal could not be confirmed ahead of this report.

**For completeness, the following information that was previously included as part of the 2017 Council report, is again provided below:**

#### **The subject land**

Lot 91 Cowaramup Bay Road falls into the Leeuwin Naturaliste Ridge Conservation zone. It was created through a special use subdivision (gazetted approval 14/06/2005) and is subject to restricted uses as specified in the LPS1 Schedule 3 RU7. Prior to subdivision, Lot 11 and Lot 91 formed Lot 1191.

Lot 91 Cowaramup Bay Road is bounded by National Park to the east and partially to the west. The southern boundary is bounded by the Waddingham Road reserve. Other adjoining properties are all within the Leeuwin-Naturaliste Ridge Landscape Amenity Zone which recognises areas that are of high landscape value and vital to the preservation of the visual and landscape amenity of the ridge.

#### **Waddingham Road**

Waddingham Road reserve is a 20m wide road reserve that runs for 2.7km from Caves Road in the east to the National Park Reserve 8428 in the west. The road is formed for the majority of its length except for the final western segment of 430m (SLK 2.27- 2.70) (There are no tracks within the last 430m of the road reserve. Tracks do go onto Lot 91 and Lot 1194, which connects to the private access of Lot 11 and eventually to the National Park.)

#### **Placement of encroachment and obstructions**

A building permit was issued for a residence in the South East corner of Sussex Location 1191 (which was later subdivided to create the subject Lot 91 and Lot 11 at the Western end of Waddingham Road).



*Photo 1: Facing East; House, clothes line, external laundry, paved outdoor area and external brick wall.*





*Photo 2: Facing East and indicating that the lean-to structure has been removed to the right of the garage/shed.*



*Photo 3: Facing East; Water-tanks, some fencing, and lean-to (now removed)*

The approved plans show the proposed residence set back 30m from the eastern and southern property boundaries; however, the building was not constructed in this location. There is no record of an inspection being conducted by the Shire building surveyor at the time. Even if an inspection was undertaken, it is not standard practice for a building surveyor to verify the location of a building on a lot, nor is it something that would normally be relevant to a building inspection, legally supported by the



building surveyor's qualification or physically be possible with the basic equipment typically carried by the Shire's building surveyors.



Figure 3a – Breakdown of individual encroachments and distances from Lot 91 Cowaramup Bay Road property boundary into Waddingham Road Reserve



Figure 3b – Breakdown of individual encroachments and distances from Lot 91 property boundary in close proximity to the dwelling location into Waddingham Road Reserve.

Historical aerial photography shows that sometime between 2000 and 2006 a garage/shed, lean-to and some landscaping were constructed entirely within Waddingham Road Reserve. Sometime between 2006 and 2010 two water tanks were also placed entirely within the Waddingham Road Reserve. The Shire has no building application information on file for these additional encroachments.

The Applicants purchased Lot 91 Cowaramup Bay Road in July 2010. There is nothing to indicate that the Applicants were responsible for any of the obstructions or that they had knowledge of the encroachment or obstruction prior to purchasing Lot 91.

**Discovery of encroachment and request to close road**

On 21 July 2011 encroachments were brought to the Shire's and Applicants' attention by P. Kreutzer, certified practising valuer after completing a valuation on Lot 91 Cowaramup Bay Road. Options for resolving the encroachments were then discussed with the Applicants for the first time.

As indicated above, in 2014, the Shire received a formal request from the Applicants to close a portion of Waddingham Road in order to resolve the obstructions. The proposed road closure was publically advertised with 7 submissions received, all objecting to the proposed road closure. At the time, comment was also sought from the Department of Lands and the Department of Parks and Wildlife, with both agencies rejecting the proposed road closure for a number of reasons, including: that Lot 11 to the west would not have frontage to a dedicated road reserve; and, that Waddingham Road is critical for fire management between two portions of National Park. Hence, the matter went before Council on 27 March 2014 and it was resolved:

*That Council writes to the owner of Lot 91 Cowaramup Bay Road advising that it does not support closure of the whole of the Waddingham Road reserve.*

Council also refused to adopt a modified closure proposal recommended by officers to close a 10m wide portion of the road on the basis that the recommendation did not clearly articulate the extent of the road closure.

**Attempts to resolve and continuing complaints**

The Applicants were formally notified of Council's decision in April 2014. The Applicants then asserted that there was approval for the encroaching structures in the road reserve. The Shire delayed enforcement action until 1 November 2014 to allow the Applicants to provide evidence of such approvals, but no evidence of any such approval was ever provided. Shire records also contradict the claim that there was ever building approval issued for the encroaching structures within the road reserve.

Further, the Applicants made a request for the Shire to compulsorily acquire part of the lot directly to the south of the obstructed portion of Waddingham Road (Lot 1194) to allow the road to be diverted. This request was rejected on the basis that the Shire can only acquire land for public purposes and for this reason compulsory acquisition would not be supported by the Minister.

In November 2014, the Applicants advised that they were negotiating a purchase of a portion of Lot 1194 to allow for a diversion of the road. The Shire gave until 16 December 2014 for evidence of such an agreement to be provided (I178714), but no such evidence was provided. From July 2014 to December 2014 the Shire received complaints in relation to the encroachments from several neighbouring or nearby residents.

The Shire has no records of complaints, correspondence or compliance action between December 2014 and November 2016.

**Issuing of Notice under section 3.25 of the Local Government Act**

On 21 November 2016, the Shire received a complaint from a resident expressing their concern that no action had been taken in over two years and that Waddingham Road remained obstructed. On the 22 December 2016 the Applicants were issued a Notice pursuant to Section 3.25(1)(b) of the Local Government Act 1995, giving them 42 days to remove structures encroaching on or obstructing Waddingham Road.

Section 3.25(5) of the Act allows a person who is given a notice to apply to the State Administrative Tribunal for a review of the decision. The Applicants were advised of this right in their notice, but failed to exercise it within 42 days. The Applicants sent a letter to the Shire on 25 January 2017 objecting to the Notice and requesting an alternative solution.

### **Objection**

On 12 July 2017, the Applicants submitted a Form 4 under the Local Government (Function and General) Regulations 1996, formalising their previous objection to the Notice. They also submitted a letter to the Shire on 14 July 2017 in support of the Form 4.

The Applicants requested that Council allow the obstructions to remain in place. As an alternative they requested that Council initiate a road closure or commence a compulsory acquisition at the Applicants' expense.

On 27 September 2017, a report went to Council to consider the Applicants request and to allow for a variation to the notice previously issued by the Shire. It was resolved:

*That Council:*

- i. Varies the notice so that the requirement to remove structures and fencing obstructing the thoroughfare applies only to the lean to structure [and fencing].*
- ii. Advises the applicant to survey a portion of the road to be excised consistent with the area outlined in blue in the plan below and submit a new application to close an 800m2 (approx.) portion of Waddingham Road within six months of notification of this decision; and*
- iii. Advises the Applicants that they are responsible for all costs associated with the removal of obstructions and the road closure process including survey, application and advertising.*

### **CONSULTATION AND ADVICE**

In accordance with the requirements under the Section 58 of the Land Administration Act 1997, the proposal has been advertised for a period of not less than 35 days. At the end of the submission period, 32 submissions had been received, of which 21 objected to the proposal.

Most of the 32 submitters elected to remain confidential, and it was not always possible for the Shire to identify if they were residents of the area (Waddingham Road, Gracetown, Cowaramup and Margaret River) or not (perhaps relations to current or past residents or regular visitors to the area).

The issues raised in the objections include the following:

- Objectors noted that they would be impacted by the partial closure, contrary to general statements made in the past. Most agree that removal of some encroachments and reopening of the road will be to their benefit, but were concerned that the benefit of a single resident was placed above that of their interest.
- Objectors were also concerned about the unusual and lengthy process followed to resolve the encroachment.
- Many referenced the history of the area and that the road purpose was for future community access and that any part closure would reduce the future access potential to the area.
- The link between the two National Park reserves was seen as a wildlife corridor in an area of conservation value. They felt that, consistent with Shire's objectives for environmental conservation, this should not be compromised.
- Both Lot 11 and Lot 91 have access easements over Lot 1194 and any modifications to Waddingham Road Reserve might reduce the possibility of relinquishing these easements in future.
- Some families felt that Waddingham Road is an important fire escape route to the coast in the event of bushfires restricting access to Caves Road. There was also reference to Waddingham Road being identified as an alternative escape route for Gracetown residents.
- Residents were concerned that any part closure would devalue their properties due to perceived reduced access to the National Park as well as restricted fire escape route options.

In response to the objections, the following summary of concerns is provided:



It is evident that Waddingham Road residents and visitors to the area feel strongly about their free enjoyment of their environment and safety in case of life threatening emergencies. They also feel strongly about fairness when considering compromises to the status quo. The issues will be addressed as part of the discussion section of the report.

#### **External Consultation with Government Agencies and Utility Providers**

In accordance with the regulations pursuant to Sections 58 of the Land Administration Act 1997 the following government agencies and utility providers were consulted regarding the new proposal.

As highlighted by the comments from Department of Planning, Lands and Heritage (Land use Planning Division) the comments of Department of Biodiversity, Conservation and Attractions (DBCA) and the Department of Fire and Emergency Services (DFES) are important to this proposal.

#### **Department of Planning, Lands and Heritage**

South West Regions, Land Use Planning Division

The Officer noted that the Department's Land Use Management Division will assess the proposal after it has received the Shire's assessment of the submissions and it will seek further comment from the Department's Land Use Planning Division prior to a determination on the road closure request.

The following comments were provided:

- i. *The reduced road reserve width of 7 metres, albeit for approximately 50 metres, is considered to be underwidth in context for a road reserve in rural areas. The road reserve should be able to be wide enough to cater for two-way traffic plus any infrastructure services and roadside drainage. The Shire should submit a plan showing the buildings/structures to be demolished and design of the road reserve accordingly.*
- ii. *Any proposal for road reserve rationalisation and road upgrading should have due regard to State Planning Policies (SPP) 3.7 'Planning in a Bushfire Prone Areas' and SPP 6.1 'Leeuwin-Naturaliste Ridge State Planning Policy'.*
- iii. *Comments should be sought from the Department Biodiversity, Conservation and Attractions and the Department of Fire and Emergency Services as the road provides alternative access to the Leeuwin- Naturaliste National Park.*
- iv. *Comments should be sought from Western Power as an overhead power line runs adjacent to the proposed road closure.*

#### **Department of Biodiversity, Conservation and Attractions**

*Department of Biodiversity, Conservation and Attractions (DBCA) Parks and Wildlife Services, Blackwood District Rejects the proposed closure of Waddingham Road as proposed for the following reason: Waddingham Road is critical for Fire Management between two portions of National Park.*

The Shire's officer did attempt to clarify the above comments, but was unsuccessful.

#### **Department of Fire and Emergency Services**

DFES was asked to clarify their initial advice not to support the proposal due to DBCA's objection and that the loss of Waddingham Road access would have implications for bushfire management and future mitigation work.

Shire's officer requested a clarification of their opinion as the proposal was not for full closure and the Shire's assessment indicated that the proposal will still comply with the Planning in Bushfire Prone Area Guideline's minimum access requirements (A3.2 Public Road to meet requirements in Column 1 below).

DFES then indicated that they will support the part closure provided that the requirements for A3.7 Fire Service Access route in the Planning in Bushfire Prone Area Guidelines can be maintained as this would allow mitigation works to be achieved. The requirements for A3.7 is as follows (See column 5 below):

### A3.7 Fire service access routes (perimeter roads)

Fire service access routes are to be established to provide access within and around the edge of the subdivision and related development to provide direct access to bushfire prone areas for fire fighters and link between public road networks for fire-fighting purposes. Fire service access routes are to meet the following requirements:

- Requirements Table 6, Column 5;
- Provided as right of ways or public access easements in gross to ensure accessibility to the public and fire services during an emergency;
- Surface: all-weather (i.e. compacted gravel, limestone or sealed)
- Dead end roads are not permitted;
- Turn-around areas designed to accommodate type 3.4 appliances and to enable them to turn around safely every 500 metres (i.e. kerb to kerb 17.5 metres);
- No further than 600 metres from a public road;
- Allow for two-way traffic and;
- Must be signposted.

TECHNICAL REQUIREMENTS	1 Public road	2 Cul-de-sac	3 Private driveway	4 Emergency access way	5 Fire service access routes
Minimum trafficable surface (m)	6*	6	4	6*	6*
Horizontal clearance (m)	6	6	6	6	6
Vertical clearance (m)	4.5	N/A	4.5	4.5	4.5
Maximum grade <50 metres	1 in 10	1 in 10	1 in 10	1 in 10	1 in 10
Minimum weight capacity (t)	15	15	15	15	15
Maximum crossfall	1 in 33	1 in 33	1 in 33	1 in 33	1 in 33
Curves minimum inner radius (m)	8.5	8.5	8.5	8.5	8.5
*Refer to E3.2 Public roads: Trafficable surface					

Shire's officer concluded that (for both A3.2 and A3.7 in rural areas) the 7m road reserve over a limited distance will be able to accommodate any future upgrades to comply with DFES's requirements to comply with Planning in Bushfire Prone Area Guidelines.

DFES emphasised that Waddingham Road would not be suitable as an evacuation route given the vegetation and track condition. The road has also not been identified as a future evacuation route for Gracetown residents.

### Water Corporation

The following comments were provided:

No Water Corporation services are to be impacted by proposal.

### Western Power

The following comments were provided:

*Western Power does not have any objection at this time to the above proposal, however we would appreciate being kept informed of developments. As there are overhead powerlines and/or underground cables adjacent to or traversing the property the following should be considered, prior to any works commencing at the site above site/development/property or if any alignments, easements or clearances are encroached or breached.*

#### Working in proximity to Western Power Distribution Lines

*All work must comply with Worksafe Regulations 3.64 — Guidelines for work in the vicinity of overhead powerlines. If any work is to breach the minimum safe working distances a Request to Work in Vicinity of Powerlines form must be submitted. It is important to know what level of energy you're dealing with so you can be sure you choose the right application form should you require more information.*

A One Call - Dial Before You Dig – services investigation request has identified that high voltage overhead powerlines (1kV - 33kV) are within close proximity of this area.

### Synergy

No response received.

### St John Ambulance

No response received.

### Internal Consultation

#### PLANNING

The following comments were provided:

#### SPP 3.7 - Planning in Bushfire Prone Area Guidelines

The proposal meets with the minimum road width requirements set out in the Guidelines which require a minimum reserve width of 6m (E3.2 Public Road – special circumstances). At 7m the proposal provides the opportunity to provide a 5m constructed surface and 1m shoulders as required.

At 5m, the constructed road pavement would be in excess of the requirements in the guidelines for roads which service a low number of lots. They state:

*In special circumstances, where eight lots or less are being serviced, a public road with a minimum trafficable surface of four metres for a maximum distance of 90 metres may be provided subject to the approval of both the local government and Department of Fire and Emergency Services. (See illustration below from guidelines)*

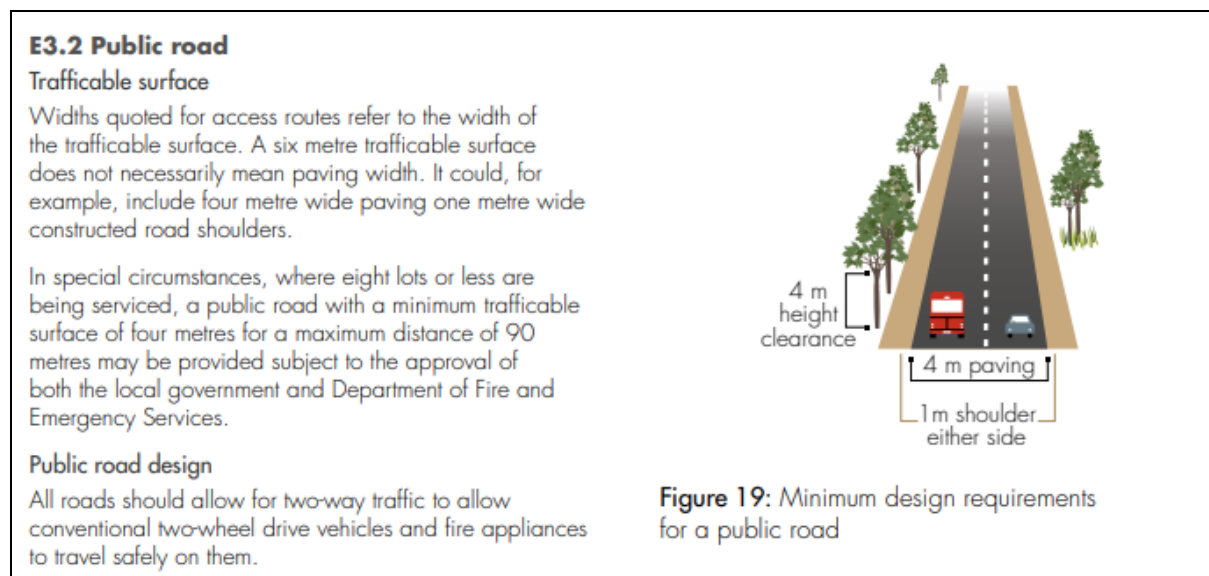


Figure 4 – Minimum access requirement

#### SPP6.1 - Leeuwin-Naturaliste Ridge State Planning Policy

Waddingham Road is not designated as either an existing or proposed strategic road by SPP 6.1. The proposal responds to one of the 'statements of intent' relevant to the 'Settlement' theme as contained within SPP6.1 which is:

*maintaining and upgrading the existing road network.*

The proposal will facilitate the construction of Waddingham Road at some future time by removing the current impediment which prevents it from being utilised.

### Community Emergency Services

The following comments were provided:

*From a fire perspective the shed located on Waddingham Road could obstruct Emergency Access for both fire responders and also the local residents if needed in an emergency.*

*The concern is that any vehicles, equipment or owners belongings could accumulate or be left to the side of the shed and impede any fire escape and/or response efforts. Given the high risk of bushfire in this area it would be great if we could ensure clear access at the maximum width at all times if possible.*

#### **DISCUSSION / OFFICER COMMENTS**

This report will assess the following in line with Shire's Infrastructure Policy 2 - Road Closure of Gazetted Roads & Unconstructed Road Reserves:

- The reason for the request to close the road reserve
- Whether the road reserve is needed in the future
- Whether the proposal will impact any remnant vegetation and or wildlife corridors
- Whether the application complies with planning principles.

#### **The reason for the request to close the road reserve**

The proposed part closure of Waddingham Road is to resolve the encroachments of structures built within the road reserve. The following (in order of priority) are the structures to be retained based on their distance from the original boundary:

1. Part of the house and outside laundry (7m encroachment)
2. The shed and water tanks (13m encroachment)
3. Lean to structure next to the Shed (blocking the road reserve completely)

Council resolved in March 2017 that the Applicants could proceed with submitting a road closure application in an effort to retain the shed and water tank and thus closing 13m of the 20 width of the road for a length of 50m. This did not imply that Council supported the proposal, as they still had to consider the objections and consult with agencies.

The current proposal is to close 700 m<sup>2</sup> (approx.) as per the image below, which is an overlay of the survey drawing submitted as part of the application. This is slightly smaller than the area recommended by Council in 2017.



Figure 5a - Proposed portion of Waddingham Road reserve that may be closed and sold.



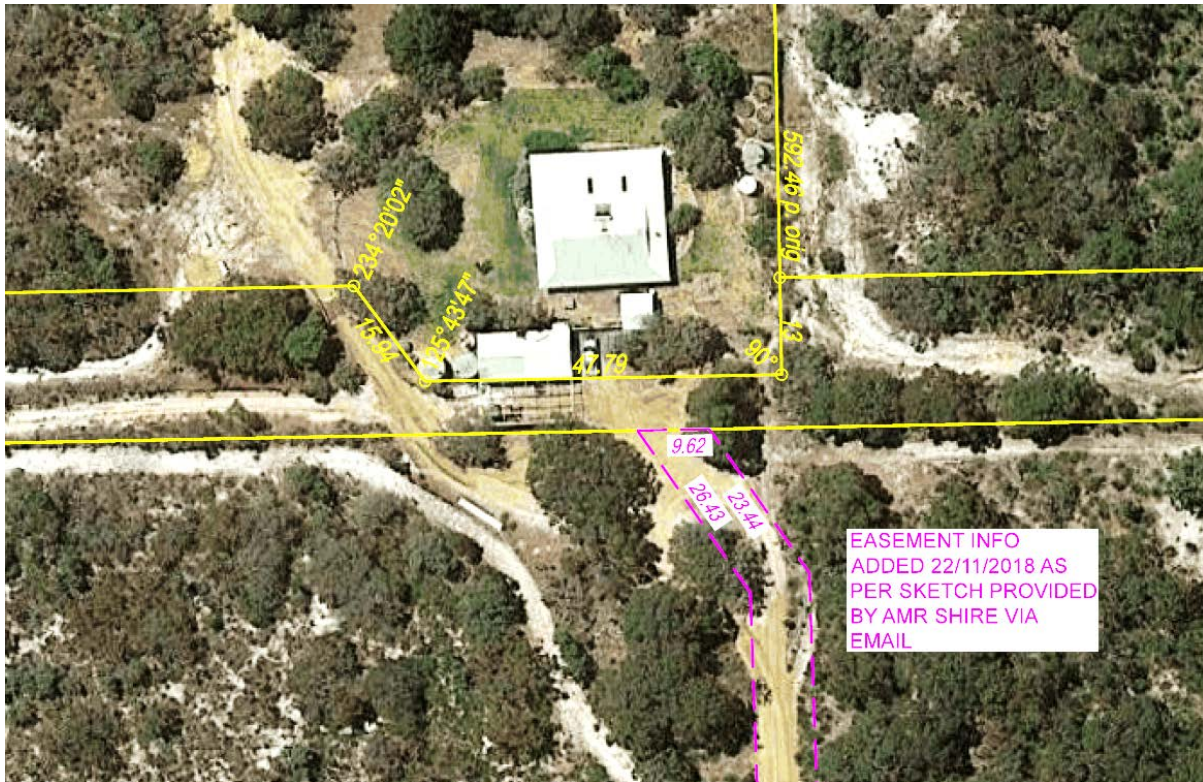


Figure 5b - Proposed portion of Waddingham Road reserve that may be closed and sold, showing existing access easement to Cowaramup Bay Road.

When considering the long-term merit in retaining the road reserve in its current or modified form, the following needs to be considered:

#### Whether the road reserve is needed in the future

- Current and future access to properties (also referenced by objectors)

The original function of the Waddingham Road reserve was to provide access to Lot 91 and Lot 11. There is no evidence that tracks, completely within Waddingham Road reserve, provide access to Lot 11 at this stage and this explains the need for the access easement over Lot 1194 in favour of Lot 11. This was deemed acceptable at subdivision stage when Lot 11 and Lot 91 were created, and no requirement to formalise this section of Waddingham Road was identified.

It is not possible to access Lot 11, Lot 91 or 1194 from Caves Road via Waddingham Road reserve. The current track is not currently accessible during the wet season and part of the track is non-existing. It is however possible to walk along private tracks leading off Waddingham Road reserve over both Lot 91 and Lot 1194 to access Lot 11. Traversing onto private property (either by foot, or vehicle) should never be done without approval of the property owner whose property is accessed and could constitute trespass. Proper boundary fencing will address this issue.

It is evident that the access arrangements for Lot 11 and 91 are in no foreseeable need of change in the future.

Lot 1194 has no restrictive covenant and will remain burdened with these easements into the future, unless Waddingham Road is upgraded, for which there are no current plans. The owners of Lot 1194 would have agreed to these easements, so retaining these easements into the future will have no worsening impact on the properties current value. Any future development potential of Lot 1194, if any, is not the scope of this report and relinquishing easements will involve negotiations with affected parties and issues and compensation can be resolved at that stage.

It is very unlikely that lot 1194 would require Waddingham Road for access in its current form or if subdivided in future.





*Photo 4: Road hazards identified in November 2018 at approximately 1.4 km from Caves Road*



*Photo 5: Road hazards identified in November 2018 at approximately 900m from Caves Road*

<p>Conclusion: The proposal will have no impact on current access to Lot 11 and Lot 91, nor limit any current or future enjoyment of Lot 1194.</p>
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- Residents and visitor access to the National Park via Waddingham Road (also referenced by objectors)

There is currently no access to the National Park at the end of Waddingham Road reserve via Caves Road. From the vegetation it is evident that there has not been a track in this part of the road reserve for some time, if ever. Access can only be obtained over Lot 91 via private tracks off Waddingham Road reserve or via private access easement over Lot 1194 to Lot 11.



*Photo 6: Photo taken at approximately 2km along Waddingham road reserve facing West.*

According to the Leeuwin-Naturaliste Capes Area Parks and Reserves Management Plan (2015), tracks to the north of Cowaramup Bay within the National Park are identified as “open-management purposes only” as current and future management objectives and no provisions are made to accommodate recreational traffic along these tracks inside the National Park. This, however, does not prohibit visitors from walking these tracks, as the Cape to Cape walking track does continue along the strip of National Park parallel with the beach. This area of the National Park is not identified as a day-use area and is not designated for future Bridle trails to be developed. Access to the National Park is predominantly for management purposes, and as stated by DBCA, critical to fire management of the National Park.

According to the Planning in Bushfire Prone Area Guidelines, the proposal complies with the minimum width requirements. The Shire’s Community Emergency Services officer expressed the need to have a clear access adjacent to the shed at all times. Currently there is no clear access for fire management and the clearing of a 7m corridor would improve access. There are no plans from the Shire to construct or formalise the road for access purposes in future. As this area is unlikely to develop any further and no developments are proposed by DBCA in future, the 7m access will also be sufficient in future.

Conclusion: The proposal will have no adverse impact on existing accessibility to the National Park, as it complies to minimum bushfire requirements and no future development for area or National Park are envisaged.
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- Fire mitigation strategies and Fire Escape route (also referenced by objectors)

Comments from DBCA that the road reserve is critical for Fire Management between two portions of National Park is correct, as Waddingham Road track forms part of firebreak around the Reserve adjoining Caves Road. The section of Waddingham Road further to the West has no current fire management purpose, as it is not cleared and does not provide access to the National Park. Future

development of Waddingham Road will have to be consistent with the Planning in Bushfire Prone Area Guidelines.

Comments from DFES indicated that they do not recommend Waddingham Road as an evacuation route for Gracetown residents, nor for residents along Waddingham Road to the coast, due to the extreme fire risk of the area combined with the high fire risk of vegetation within the National Park. Families planning on using this route as an evacuation route will have to reassess alternatives.

The Leeuwin-Naturaliste capes area parks and reserves management plan (2015) states:

*The national park occupies only a small proportion of the land to the north of Gracetown, mostly as a narrow coastal strip between Cullen and Cowaramup Bay roads. The land to the north is predominantly private property containing large areas of remnant vegetation which presents a potential bushfire threat to Gracetown. The responsibility to mitigate this threat rests with the Shire of Augusta-Margaret River, the Department of Fire and Emergency Services and private landholders.*

Conclusion: The proposal will have no impact on existing fire mitigation strategies, as it complies with minimum width for access requirements according to the Planning in Bushfire Prone Area Guidelines. It is, however, brought to the Shire's attention that using Waddingham Road as an escape route to the coast is extremely risky and residents should review their options and potentially seek alternatives.

#### **Whether the proposal will impact any remnant vegetation and or wildlife corridors**

- Link between National Park reserves as a wildlife corridor (also referenced by objectors)

DBCA has not referenced the need for Waddingham Road as a wildlife corridor, but referred to Waddingham Road more for access to the National Park and then access for fire management purposes. However, they do not currently use the track, as it does not connect through to the National Park. All road reserves serve as a means for wildlife to move from one area to the next. The Waddingham Road reserve will be reopened following removal of some encroachments and thus permitting wildlife the opportunity to move more freely. The area has significant amount of private native vegetation that will also facilitate wildlife movement between National Park Areas.

Staff from the Shire's Landcare Services Team has indicated the following:

*There are isolated records of highly mobile species such as Western Brush Tail Wallabies and Phascogales and records of Western Ringtail Possums which are less mobile. All of these species are likely to be unaffected by any of the existing encroachments or possible changes to width in the road reserve due to the fact that they will be using the dense bushland to the south and north of Waddingham Rd for passage in an east west direction if required. The existing gap in vegetation in the Waddingham Rd reserve to the west of the proposal is considered a greater barrier to animal movement than the existing structures or the proposal. To overcome this barrier would require a significant revegetation program which is not funded and considered very low priority.*

Conclusion: The proposal will have no impact on wildlife movement as there are many alternative routes for wildlife to move within this area.

- Impact on remnant vegetation

Conclusion: The proposal will not require any clearing, except possibly for realigning fences to the property boundaries.

#### **Whether the application complies with planning principles.**

From the 2017 Council report:



*Under the Local Government Act 1995 (ss3.52 – 3.54) the Shire has a duty to manage thoroughfares and reserves within its district and ensure that they are kept open for public use. In pursuing this obligation the Shire frequently issues infringements, notices and in some cases has prosecuted for obstructions or encroachments on thoroughfares and reserves.*

*It is important for the sake of fairness and consistency that the Shire acts to remove obstructions on thoroughfares and reserves, especially where complaints have been received. Each case of encroachment needs to be considered on its merits and no set or fixed position can or should be adopted. In other words, while the Shire has a duty to ensure that thoroughfares are kept open it must also act reasonably in the circumstances.*

*The best approach would be to uphold the Notice requiring the removal of encroaching structures, but only to the extent necessary to make Waddingham Road open and accessible to the public and take separate action to legitimise any remaining encroachments through the Land Administration Act 1997.*

The proposal complies with planning principles as the follow has been considered in detail:

- Requirements of Section 58 of the Land Administration Act 1997 (LAA) and its regulations, including considering objections to the proposal.
- External consultation has been undertaken with various agencies and utility services provides, including Department Biodiversity, Conservation and Attractions, the Department of Fire and Emergency Services and Western Power.
- Internal consultation with the Shire's Planning, Community Emergency Services and Landcare teams were also conducted.
- Assessment against State Planning Policies 3.7 'Planning in a Bushfire Prone Areas' and SPP 6.1 'Leeuwin-Naturaliste Ridge State Planning Policy' has been conducted.
- A clear plan showing buildings/structures to be demolished and a boundary layout of the proposed road reserve modifications, to comply with minimum requirements, has been provided.

#### **Conclusion:**

Objections to the proposal raised legitimate concerns and a thorough assessment has been undertaken to address all of the issues raised. In some cases, the conservation value and fire risk of the area was considered by the objectors as valid reasons to remove all the structures in order to improve access. After closer investigation, the level of access appropriate for this area is limited, as was evident in the subdivision of Lot 11 and Lot 91. Improving access is not supported from a National Park management and conservation perspective, nor fire mitigation and community safety perspective.

It is however acknowledged that a link to the National Park should be maintained. The reduced width to 7m for a distance of 50m will be sufficient to ensure this link and allow for future fire mitigation strategies. The Applicants will be informed that any future encroachments that will reduce access in the 7m wide section will be considered an offence and should be avoided at all cost.

#### **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

Permanent Road Closures are governed by Section 58 of the Land Administration Act 1997 and its regulations.

#### **STRATEGIC PLAN / POLICY IMPLICATIONS**

Community Strategic Plan 2033 (CSP)

Corporate Business Plan 2017-2021

Key Result Area.2: Effective strategy, planning and asset management

Community Outcome 5.2.3.3: Provide land administration services

Infrastructure Policy 2: Road Closure of Gazetted Roads & Unconstructed Road Reserves

The policy was adopted to set governing principles to ensure due consideration is given to any request for closure of a road within an unconstructed road reserve.

The policy states that the closure of a road would not be considered:

- a) If there is a long term merit for retention of the road reserve.
- b) If there is remnant vegetation of value.

- c) If there is an existing or potential wildlife corridor.
- d) If the Application to Close a Public Road form has not been completed.
- e) If all required fees associated with requests for a road closure have not been received in full.
- f) If there is any likelihood that the action of the road closure shall create any property to loose direct frontage to dedicated road thus resulting in the property becoming "land locked".
- g) Without first considering any objections made against the proposal within the required 35 day period of notice.

#### **PLANNING FRAMEWORK**

Nil

#### **FINANCIAL IMPLICATIONS**

All costs, including the purchase price for the closed portions of road, preparation of a Deposited Plan, document preparation and lodgement fees and any other statutory fees are payable by the Applicants. These costs are yet to be determined.

It is a standard requirement that Council indemnify the Minister for Transport, Planning, and Lands against any claims for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request for the closure of a road reserve.

#### **SUSTAINABILITY IMPLICATIONS**

##### **Environmental**

The assessment of the proposal has considered policy, guidelines and advice from agencies prioritising environmental conservation and sustainable management of our national parks.

The proposal will not impact any environment management strategies.

##### **Social**

The assessment of the proposal has considered policy, guidelines and advice from agencies responsible for statutory and strategic planning, community safety as well as managing recreational functions of National Parks.

It is clear from the number of submissions that the community feels strongly about their enjoyment and safety within this area. The advice from DFES has highlighted the risk of a perceived escape route that should not be used in emergencies.

The proposal will not impact safety and future enjoyment of the National Park by residents and visitors.

##### **Economic**

The assessment of the proposal has considered policy, guidelines and advice from agencies responsible for setting minimum access requirements for properties.

The proposal will not impact any access to properties and does not supporting claims that the proposal will reduced access and therefore devalue properties.

#### **VOTING REQUIREMENTS**

Simple Majority

#### **RECOMMENDATION**

That Council

1. Supports the permanent closure of the part of Waddingham Road, Gracetown pursuant to Section 58 of the Land Administration Act 1997 as shown on the plan (Attachment 1);
2. Indemnifies the Minister for Transport, Planning, and Lands against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request for the closure of part of Waddingham Road, Gracetown;
3. Advises the applicant that no future encroachments (even of a temporary nature) within the 7m wide road reserve will be allowed as this will impact on access and safety; and
4. Advises the Applicants that they are responsible for all costs associated with the road closure and excision/amalgamation process including purchasing of land and any associated costs.

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

1. Plan showing portion of Waddingham Road Reserve that has been survey for closure.
2. Summary of Submissions

**RECOMMENDATION / COUNCIL DECISION**

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**CR MELDRUM, CR EARL OM2018/328**

**That Council**

1. Supports the permanent closure of the part of Waddingham Road, Gracetown pursuant to Section 58 of the Land Administration Act 1997 as shown on the plan (Attachment 1);
2. Indemnifies the Minister for Transport, Planning, and Lands against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request for the closure of part of Waddingham Road, Gracetown;
3. Advises the applicant that no future encroachments (even of a temporary nature) within the 7m wide road reserve will be allowed as this will impact on access and safety; and
4. Advises the Applicants that they are responsible for all costs associated with the road closure and excision/amalgamation process including purchasing of land and any associated costs.

**CARRIED 7/0**

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### 11.3.2 TENDER RFT 05-19 COWARAMUP HALL BUILDING SERVICES

<b>LOCATION/ADDRESS</b>	Hall Road, Cowaramup
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	COR/375
<b>REPORT AUTHOR</b>	Polina Chernova, Works Inspector
<b>AUTHORISING OFFICER</b>	Markus Botte, Director Infrastructure Services

*Cr Earl disclosed a financial interest in this item and left Chambers at 6.40pm*

#### IN BRIEF

- Tenders have been called for the upgrade of the Cowaramup Hall and public amenities building located on Hall Rd, Cowaramup.
- Three tender submissions were received and evaluated in accordance with the Shire's procurement policy and statutory framework.
- It is recommended that Council authorises the CEO to award the tender RFT 05-19 Cowaramup Hall Building Services to Danello Pty Ltd trading as Tate Construction.

#### RECOMMENDATION

That Council awards Tender RFT 05-19 Cowaramup Hall Building Services to Danello Pty Ltd trading as Tate Construction for the price contained in the Confidential Attachment.

#### LOCATION PLAN



#### TABLED ITEMS

Tender RFT 05-19 Cowaramup Hall Building Services and confidential submission by Danello Pty Ltd trading as Tate Construction.

## **CONSULTATION AND ADVICE**

External consultation:

- Tectonics Building Design
- Code Group (Access Audit Report)
- Civil Structural Consultancy
- Cowaramup Hall Reserves and Residents Association

Internal consultation was undertaken with Community Development Officers and Coordinator Building Assets & Maintenance.

## **BACKGROUND**

The Cowaramup Hall has been in service since 1930s, it is one of the main public buildings in Cowaramup. The building requires structural repairs and accessibility improvements to extend the useful life and to meet current levels of service and standards. Similarly, the adjacent amenities block is also in need of extension and refurbishment.

On 27 June 2018 external grant funding was successfully secured from Lotterywest for the purpose of restoring Cowaramup Hall (the Hall) and completing other associated works, in order to preserve longevity of the historic building and to ensure the building and its facilities are functional and accessible for all community members into the future.

## **DISCUSSION / OFFICER COMMENTS**

Tenders were received from three supplier. An evaluation of submissions was carried out in accordance with the Shire's procurement policy. Details of the evaluation are contained within the confidential evaluation report. Tate Construction provided most compliant and complete submission that best satisfies requirements of the project.

## **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

Nil

## **STRATEGIC PLAN / POLICY IMPLICATIONS**

*Community Strategic Plan 2036 (CSP)*

*Corporate Business Plan 2018-2022*

## **PLANNING FRAMEWORK**

Nil

## **FINANCIAL IMPLICATIONS**

An overall allocation of \$830,450 is available in the approved 2018/2019 budget for works envisaged in the Cowaramup Hall precinct, which also includes other project components. Costs of providing temporary toilet facilities for the public during construction works under Tender RFT 05-19 Cowaramup Hall Building Services have been excluded from the tender and will be provided by the Shire from this overall budget allocation.

The tendered cost and other work planned for the site are within this approved budget allocation.

## **SUSTAINABILITY IMPLICATIONS**

### **Environmental**

The works will not require any clearing of vegetation and there are no known Aboriginal Heritage issues associated with this site.

### **Social**

The proposed upgrade will increase the capacity of the amenities block and will provide a new compliant universally accessible amenities cubicle. The Hall and commercial kitchen upgrade will provide an improved public building that can be used for a wide range of community events, including workshops, fairs, classes, weddings etc.

### **Economic**

The project will have a positive impact on tourists visiting the area in a way of providing an improved public amenities building and space for community events. The Hall offers as a venue for a number of community-oriented small business ventures, such as workshops, dance/ yoga/ badminton classes, fairs etc; an improved space and upgraded commercial kitchen will enhance the appeal of the facility for a wider range of events and community initiatives.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council awards Tender RFT 05-19 Cowaramup Hall Building Services to Danello Pty Ltd trading as Tate Construction for the price contained in the Confidential Attachment.

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

1. CONFIDENTIAL Evaluation report

**RECOMMENDATION / COUNCIL DECISION**

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**CR SMART, CR GODDEN OM2018/329**

**That Council awards Tender RFT 05-19 Cowaramup Hall Building Services to Danello Pty Ltd trading as Tate Construction for the tendered price of \$375,940.02 excl GST.**

**CARRIED 6/0**

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*Cr Earl re-entered Chambers at 6.42pm*

## 11.4. Corporate and Community Services

#### 11.4.1 FINANCIAL ACTIVITY STATEMENT REPORT - OCTOBER 2018

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LOCATION/ADDRESS	N/A
APPLICANT/LANDOWNER	Shire of Augusta Margaret River
FILE REFERENCE	FIN/14
REPORT AUTHOR	Andrew Ross, Acting Director Corporate & Community Services
AUTHORISING OFFICER	Dale Putland, Acting Chief Executive Officer

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##### IN BRIEF

- The monthly financial activity statement report is a standard financial reporting item prepared in accordance with the provisions of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996*.
- Council is to consider the financial results for the period ending 31 October 2018.

##### RECOMMENDATION

That Council receives the Monthly Financial Report – October 2018 in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996*.

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##### LOCATION PLAN

Nil

##### TABLED ITEMS

Nil

##### BACKGROUND

In accordance with Financial Management Regulation 34 the Shire is to prepare each month a Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation 22 (1), for that month with the following details:

- (a) annual budget estimates;
- (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 the statement relates;
- (d) material variances between the comparable amounts referred to in (b) and (c); and
- (e) net current assets at the end of the month to which the statement relates.

Also under Financial Management Regulation 34(5) Council are to adopt each year a material variance threshold. At the Ordinary Meeting of Council on 25 July 2018 (**OM2018/186**) Council adopted a monthly variance for reporting of material variances, where financial activity is greater than 10% and \$10,000.

##### CONSULTATION AND ADVICE

###### External Consultation

Nil

###### Internal Consultation

Business unit managers were provided the draft monthly financial reports for their business units and have provided their comments on variances greater than 10% and \$10,000.

##### DISCUSSION / OFFICER COMMENTS

The commentary contained in the body of this report is in line with Financial Management Regulation (2)(b) that requires commentary on material variances to the Statement of Financial Activity at the nature/type, program or business unit level.



The Statement of Financial Activity shows a year to date actual closing position at 31 October of \$20.434 million (\$3.827 million lower than last month's result of \$24.261 million). This result was higher than the expected year to date budgeted position of \$19.621 million. The following details the main reasons for this favourable variation to Budget.

Operating revenue is \$0.428 million or 1.5% above budget (last month \$0.316 million or 1.23% above budget). The main contributors to this favourable result are higher than budget operating grants of \$0.253 million, due to the receipt of the Mitigation Activity Funding grant of \$0.162 million, fees and charges of \$0.172 million with the main over budget variation being in the Waste Services area, and interest received on investments of \$0.063 million. Income from rates is currently under budget by \$0.127 million due to lower than expected interim and back rates.

Operating expenditure on a year to date basis is \$0.952 million or 7% below budget (last month \$0.982 million or 9.6% below budget). The main contributing factors are employee expenses being \$0.101 million or 2% under budget (last month \$0.140 million or 3.6% under budget), materials and contracts are \$0.553 million or 14.3% below budget (last month \$0.655 million or 21.6% below budget) and other expenses are \$0.257 million or 59% under budget (last month \$0.106 million or 54.8% below budget).

Timing of staff recruitment has contributed to employee expenses being under budget for a number of areas including CEO, Community Buildings, Parks and Gardens and Waste Services. Training and seasonal labour requirements have also contributed to under budget employee expenses. The timing of various operating projects has contributed to materials and contracts being under budget and the areas with the largest variations include Asset Services, CEO, Information Technology, Plant Operating Costs, Rangers, Waste Services and Community Planning and Development. Over budget materials and contracts expenditure for the Maintenance area partly offsets the above. The variation in the budget profile compared to the actual disbursement of donations, grants and subsidies is the reason for the under budget variation for other expenses.

Grants for capital works are \$0.888 million or 46% under budget (last month \$0.432 million or 45.5% under budget). A combination of higher than budgeted developer contributions, earlier receipt of road related project grants and a higher than budgeted Main Roads WA grant have offset the impact of grant claims not yet being eligible to be submitted for the HEART project.

Capital expenditure of \$1.666 million during the month compared to the budget for the month of \$1.823 million. On a year to date basis capital expenditure is \$0.598 million under budget (last month \$0.441 million under budget). The major causes of this variation are:

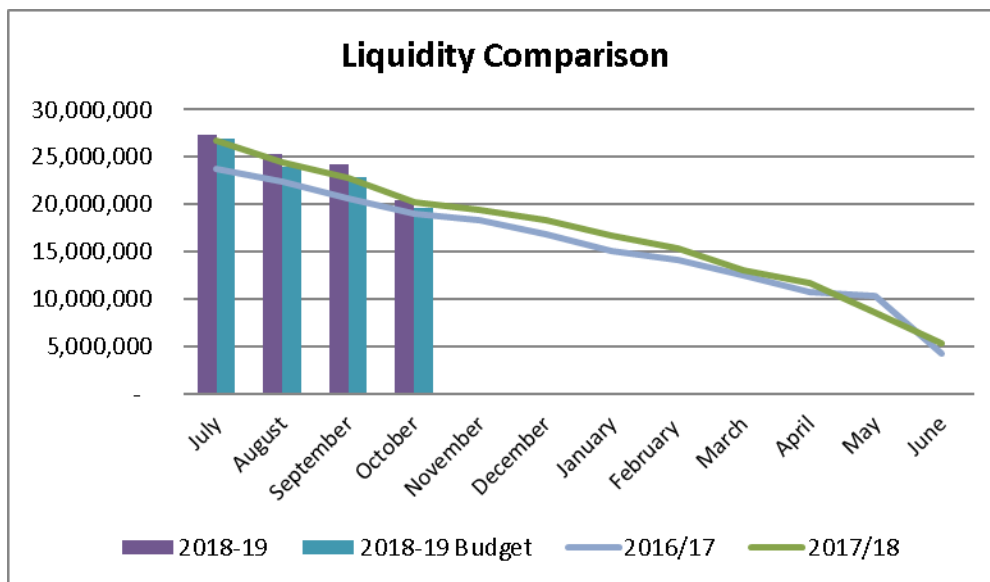
- the ICT project to replace the production servers has commenced and further expenditure will be incurred;
- the construction of the extension for the Cowaramup BFB shed was completed earlier than budgeted;
- various projects for the Rangers have not commenced as was profiled;
- quotes for shelving for the Augusta Library are being obtained with delivery expected in January, the budget profile for this project was incorrect;
- a number of waste services projects have not yet commenced;
- community buildings expenditure is \$1.160 million under budget projections with the main reason being the cash flow forecast for the Cultural Centre project has been revised and now varies to the budget profile;
- some projects for the Margaret River Recreation Centre and Augusta recreation have been delayed although procurement activities for some have commenced;
- \$0.018 million upgrade of the Cowaramup BMX club budgeted for July is now anticipated for December;
- parks and gardens expenditure exceeded budget by \$0.390 million as the second instalment of \$0.320 million for the shared use oval at Rapids Landing primary school was processed earlier than budgeted and the playground equipment replacement program and John Archibald Drive landscaping project have commenced earlier than expected;
- the Gnarabup coastal erosion project has been delayed and is \$0.030 million under budget;
- road and related projects are \$0.236 million over budget as some works have commenced earlier than anticipated;

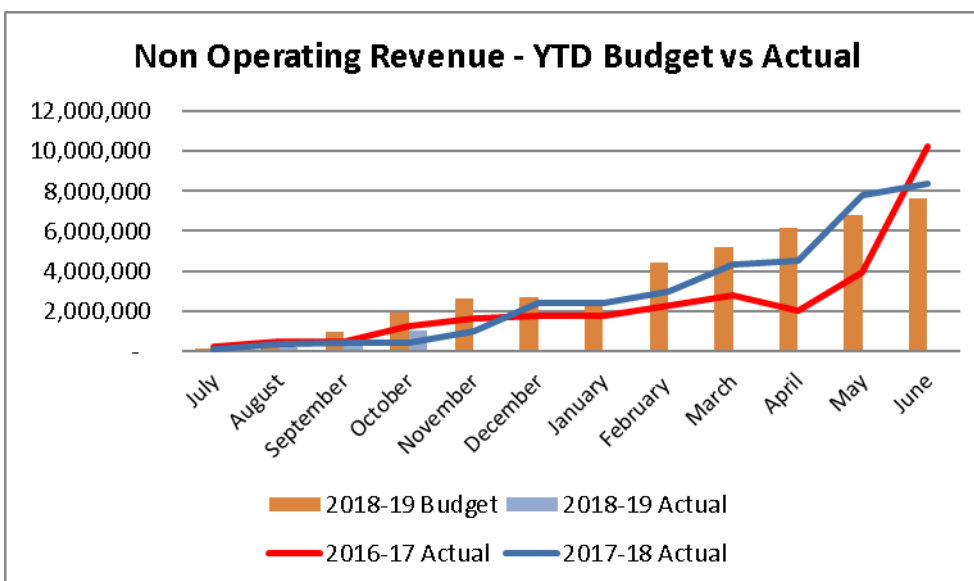
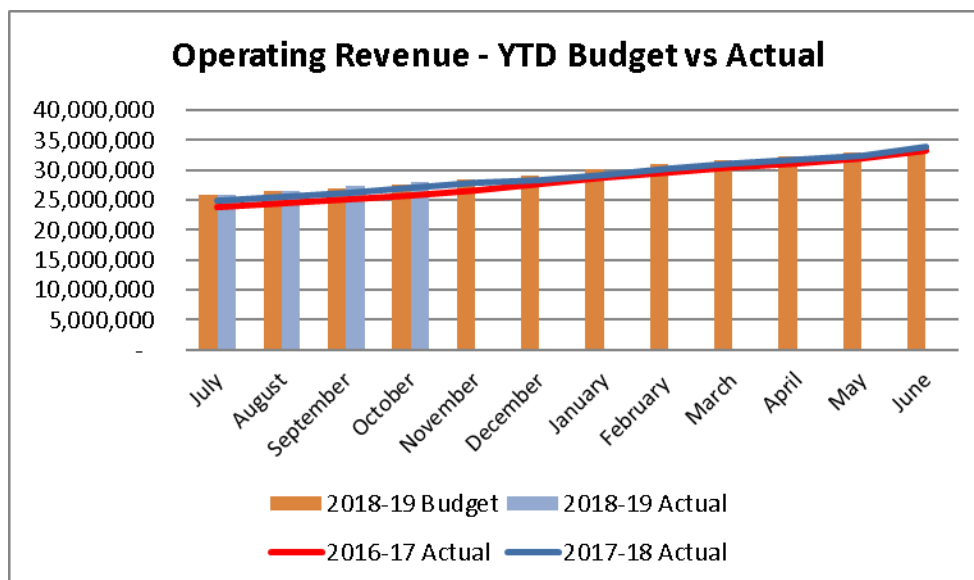
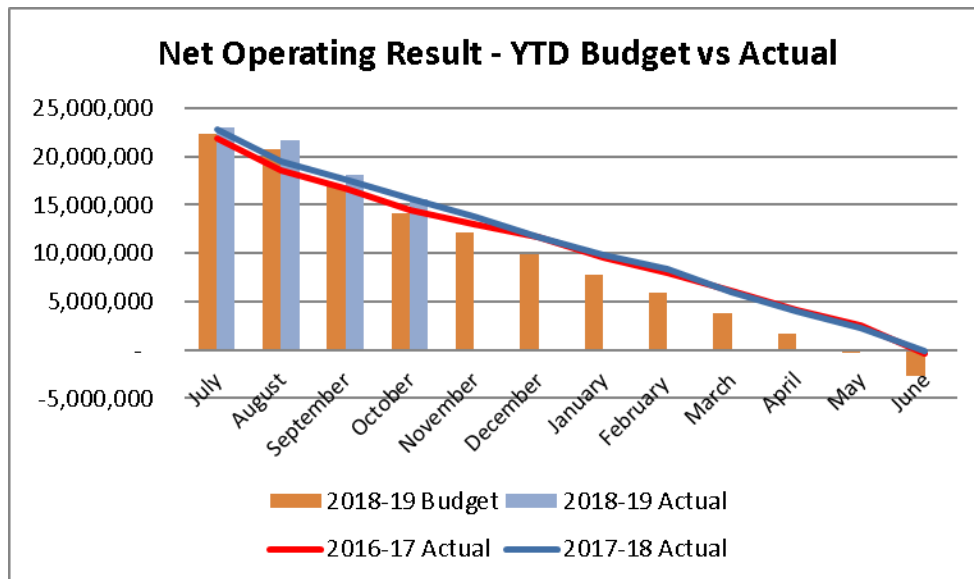
- plant and equipment purchases are \$0.282 million over budget as the previously leased grader has been delivered ahead of schedule; and
- an outstanding invoice for the power upgrade at Turner Caravan Park is the main reason for caravan parks expenditure being \$0.124 million under budget.

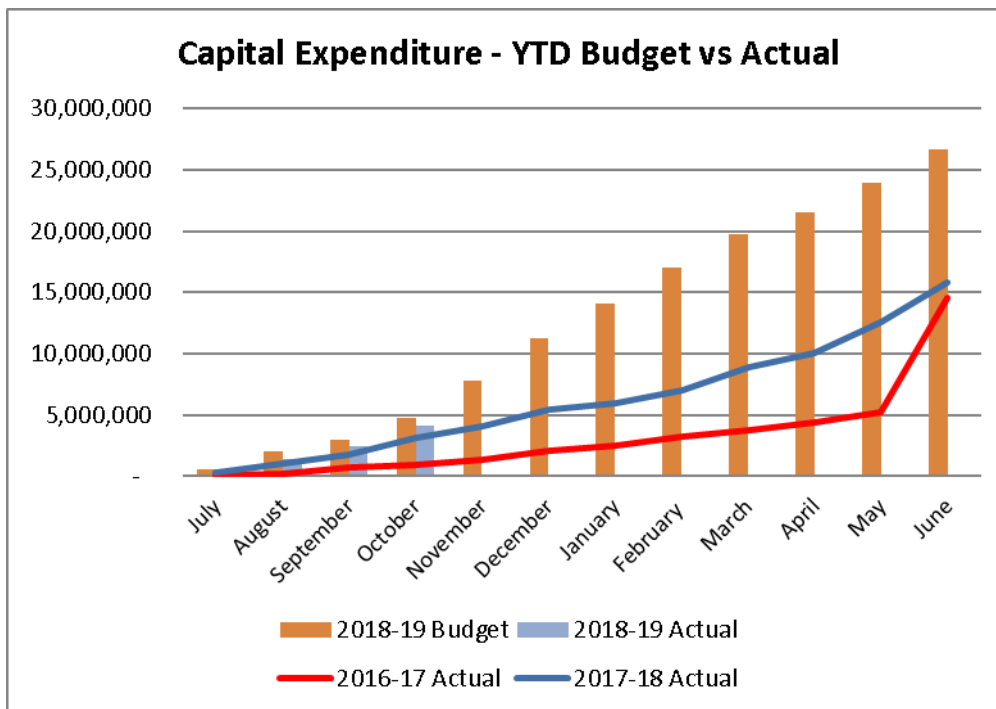
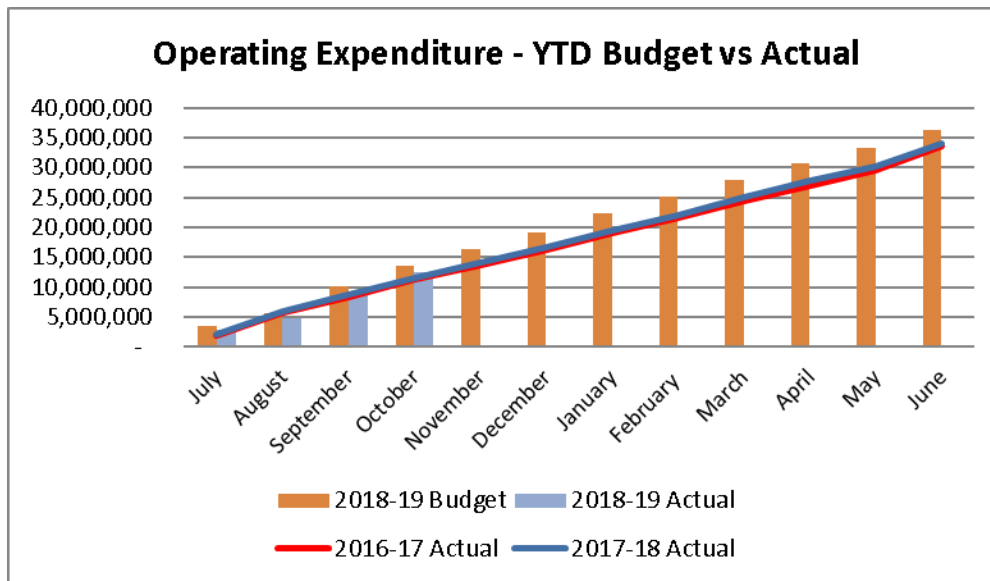
Capital expenditure for the month included the following.

- \$16,526 to purchase an additional fire danger rating sign;
- \$43,675 on waste management projects including the design of the leachate pond;
- \$552,580 for various community building projects including works for the Cultural Centre project, Margaret River River mouth toilet block and the Augusta buildings asbestos removal and reinstatement projects;
- \$262,512 on various Parks and Gardens projects with the majority of expenditure being incurred for the development of the Lower Western Oval and the Wallcliffe Road reserve works in front of the Margaret River Youth Precinct;
- \$428,092 on road related projects of which \$164,583 was spent on infrastructure upgrade projects and \$263,509 was spent on infrastructure renewal projects. Drainage projects, the Margaret River Main Street Upgrade project, asphalt works at the works depot, asphalt overlays, various road reconstruction projects and gravel re-sheeting were the main areas of expenditure; and
- \$352,480 to purchase a new grader to replace a leased grader.

Financial performance against budget are shown in the following charts.







Following is the Statement of Financial Activity for the year ending 31 October 2018.

SHIRE OF AUGUSTA MARGARET RIVER  
ORDINARY COUNCIL MEETING 12 DECEMBER 2018

SHIRE OF AUGUSTA MARGARET RIVER STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 31 October 2018							
BUSINESS UNITS	2017-18 Last Year Actual \$	2018-19 Approved Budget \$	2018-19 Month of Oct \$	2018-19 YTD Budget \$	2018-19 YTD Actual \$	YTD Variance >10% & >\$10,000	Comments
Net Current Assets at 1 July surplus/(deficit)	4,331,506	5,103,678		5,103,678	5,254,476		Includes advance payment of FAGs for 2018-19
<b>Revenue from Operating Activities</b>							
Rates	20,943,450	21,769,660	53,438	21,528,410	21,444,170	0	
General Financing	2,274,065	1,492,719	103,191	447,371	502,898	55,527	Perm: FAGs grant and interest earned on investments
Members of Council	179	500	0	250	32	0	
Chief Executive Officer	75,226	0	3,000	0	3,000	0	
Director Corporate & Community	14,010	27,500	689	22,500	2,033	(20,467)	Perm: grants for Scott River study to go to Nannup
Director Sustainable Development	1,000	0	1,386	0	1,386	0	
Director Infrastructure	0	0	0	0	0	0	
Finance	73,146	15,941	0	1,000	2,269	0	
Records	920	0	30	0	120	0	
Corporate Services	2,158	1,500	82	1,500	433	0	
Customer Relations	198,836	193,800	12,208	60,600	55,285	0	
Information Comm. Technology	10,024	0	91	0	764	0	
Human Resources	39,000	20,000	0	0	0	0	
Community Planning & Development	37,910	43,917	600	11,350	6,811	0	
Emergency and Fire Services	621,007	305,449	101,681	96,817	263,400	166,583	Perm: 50% of Bushfire Mitigation Activities Fund grant
Rangers	207,086	211,700	30,104	57,050	68,717	11,667	Timing: fees and charges
Libraries	39,913	38,700	3,742	13,900	16,494	0	
Environmental Health	121,961	123,915	9,351	83,455	90,508	0	
Outside School Hours Care	456,838	463,300	54,208	149,875	206,448	56,573	Perm: school holidays care, new subsidies & grants
Waste Services	4,890,517	4,927,040	47,692	4,383,693	4,488,178	0	
Town Planning	281,277	318,360	20,475	106,120	96,112	(10,008)	Timing: development applications
Community Buildings	16,611	0	214	0	851	0	
MR Recreation Centre	802,510	829,900	78,797	259,200	286,909	0	
Cultural Centre	8,280	1,300	0	0	0	0	
Augusta Recreation Centre	29,460	41,500	2,633	14,500	10,945	0	
Gloucester Park	73,174	74,500	9,717	46,000	37,535	0	
Parks and Gardens	5,835	4,400	3,517	4,400	3,517	0	
Asset Services	129,897	105,600	3,669	24,400	46,767	22,367	Timing: invoicing of annual fees
Landcare	1,950	25,000	19,393	0	20,348	20,348	Perm: grant for beach emergency numbering signs
Maintenance	20,893	0	0	0	0	0	
Plant Program	47,511	2,000	11,931	0	28,481	28,481	Timing: items to be auctioned
Caravan Parks	2,046,017	2,176,194	92,954	266,650	262,250	0	
Building Control	260,398	248,200	23,670	85,200	74,247	(10,953)	Timing: pool inspection fees
Works Overheads	328	0	0	0	0	0	
Plant Operation Costs	9,081	0	0	0	0	0	
Other Property and Services	127,766	20,000	52,740	6,000	77,740	71,740	Perm: limesand royalties and profit on sale of land
	33,868,235	33,482,595	741,203	27,670,242	28,098,648	428,406	
<b>Expenditure from Operating Activities</b>							
Revenue	(459,373)	(319,444)	(25,688)	(107,436)	(98,801)	0	
General Financing	(559,612)	(604,642)	(103,599)	(233,456)	(141,873)	91,583	Timing: loan interest accrual reversal
Members of Council	(329,429)	(393,224)	(21,158)	(121,108)	(83,816)	37,292	Timing: CEO performance review, training
Chief Executive Officer	(996,984)	(1,356,786)	(58,087)	(429,213)	(316,476)	112,737	Timing: employee costs & projects
Director Corporate & Community	(410,508)	(498,770)	(44,487)	(274,977)	(139,535)	135,442	Timing: projects (community infrastructure, Scott River)
Director Sustainable Development	(677,279)	(686,350)	(50,127)	(233,389)	(211,660)	21,729	Timing: employee costs & legal fees
Director Infrastructure	(242,171)	(385,540)	(23,559)	(126,121)	(107,953)	18,168	Timing: employee costs
Finance	(916,635)	(966,222)	(270,839)	(646,727)	(629,665)	0	
Records	(176,219)	(194,632)	(12,986)	(67,656)	(62,714)	0	
Corporate Services	(253,867)	(272,840)	(17,991)	(82,740)	(75,379)	0	
Customer Relations	(517,871)	(547,932)	(41,507)	(184,636)	(177,150)	0	
Information Comm. Technology	(1,056,950)	(1,158,039)	(79,980)	(614,023)	(502,387)	111,636	Timing: software licences, special projects
Human Resources	(606,178)	(665,960)	(49,978)	(235,314)	(217,936)	0	
Community Planning & Development	(594,080)	(727,906)	(57,686)	(261,408)	(202,110)	59,298	Timing: various projects
Emergency and Fire Services	(1,190,120)	(1,112,859)	(119,116)	(417,644)	(392,624)	0	
Rangers	(667,645)	(702,644)	(48,910)	(274,047)	(207,100)	66,947	Timing: contract services & burials
Beach Lifeguards	(88,010)	(126,220)	(140)	(5,920)	(1,036)	0	
Libraries	(952,077)	(987,441)	(74,369)	(342,666)	(312,836)	0	
Environmental Health	(499,847)	(570,020)	(40,295)	(202,051)	(171,799)	30,252	Timing: employee costs
Outside School Hours Care	(443,311)	(438,968)	(39,392)	(157,590)	(150,182)	0	
Waste Services	(2,944,241)	(2,811,796)	(224,073)	(941,065)	(796,125)	144,940	Timing: projects, waste collection & disposal, tfr stns
Town Planning	(947,132)	(1,087,572)	(65,804)	(370,209)	(311,283)	58,926	Timing: projects
Landcare	(434,887)	(668,198)	(64,904)	(255,365)	(119,289)	136,076	Timing: projects
Community Buildings	(1,877,839)	(1,954,385)	(133,404)	(663,017)	(575,705)	87,311	Timing: building maintenance & cleaning
MR Recreation Centre	(2,368,501)	(2,265,198)	(187,532)	(810,275)	(734,641)	75,634	Timing: leases, equipment repairs, projects
Cultural Centre	(1,753,337)	(478,307)	(16,587)	(318,507)	(315,654)	0	
Augusta Recreation Centre	(144,593)	(167,514)	(11,958)	(64,259)	(38,653)	25,606	Timing: works scheduled for later in the year
Gloucester Park	(256,965)	(234,304)	(14,767)	(75,768)	(60,392)	15,376	Timing: projects
Parks and Gardens	(3,932,611)	(2,554,964)	(281,400)	(850,507)	(859,188)	0	
Asset Services	(916,344)	(1,136,808)	(65,822)	(411,924)	(304,328)	107,596	Timing: projects
Construction	0	0	0	0	0	0	
Maintenance	(8,554,748)	(8,508,587)	(869,499)	(2,892,853)	(3,417,283)	(524,430)	Timing/Perm: Storm damage works, drainage
Plant Program	(52,314)	(169,042)	(4,011)	(57,864)	(27,743)	30,121	Timing: Items to be auctioned later in the year
Caravan Parks	(1,392,722)	(1,386,056)	(94,753)	(459,334)	(323,383)	135,951	Timing: employee costs, maintenance
Building Control	(160,526)	(175,620)	(15,519)	(63,392)	(59,793)	0	
Works Overheads	(158,890)	(75,018)	(936)	(188,664)	(252,497)	(63,833)	Timing: under recovery -costs to be allocated to jobs
Plant Operation Costs	149,843	209,208	16,472	(56,064)	(11,746)	44,318	Timing: over recovery, actual costs lower & no depn
Other Property and Services	(78,087)	(51,000)	(153,838)	(21,000)	(155,170)	(134,170)	Perm: write down of land inventory sold
	(37,462,056)	(36,231,600)	(3,368,231)	(13,518,189)	(12,565,907)	952,282	

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ORDINARY COUNCIL MEETING 12 DECEMBER 2018

SHIRE OF AUGUSTA - MARGARET RIVER STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 31 October 2018						
BUSINESS UNITS	2016-17 Last Year Actual \$	2018-19 Approved Budget \$	2018-19 Month of Oct \$	2018-19 YTD Budget \$	2018-19 YTD Actual \$	YTD Variance >10% & >\$10,000
<b>Operating activities excluded from Budget</b>						
Depreciation on assets	9,114,195	9,146,640	798,933	3,048,880	3,161,887	0
(Profit)/Loss Asset Disposal	1,550,599	147,042	(7,920)	52,864	(42,090)	(94,954)
Movement in deferred pensioner rates	(5,295)	0	0	0	0	0
Movement in employee benefit provisions (non-current)	(24,592)	0	0	0	0	0
Loss on revaluation of land held for resale	61,000	0	0	0	0	0
Loss on revaluation of fixed assets	1,854,315	0	0	0	0	0
	12,550,222	9,293,682	791,013	3,101,744	3,119,797	18,053
<b>Amount attributable to operating activities</b>	<b>13,287,907</b>	<b>11,648,355</b>	<b>(1,836,015)</b>	<b>22,357,475</b>	<b>23,907,014</b>	
<b>INVESTING ACTIVITIES</b>						
<b>Non Operating Grants &amp; Contributions</b>						
Community Planning & Development	1,435,323	0	0	0	0	0
Emergency and Fire Services	746,412	818,078	0	55,978	0	(55,978)
Waste Services	(26,450)	0	0	0	0	0
Town Planning	435,459	200,000	26,110	50,000	194,277	144,277
Community Buildings	2,500,000	4,155,268	0	1,600,000	0	(1,600,000)
Gloucester Park	13,030	0	0	0	0	0
Parks and Gardens	24,000	332,207	8,200	0	8,200	0
Asset Services	8,450	45,000	0	0	0	0
Construction	3,238,427	2,114,039	362,740	224,478	712,263	487,785
Other Property & Services	0	0	127,273	0	127,273	127,273
	8,374,650	7,664,592	524,323	1,930,456	1,042,013	(888,443)
<b>Capital Investment</b>						
Purchase Land Held for Resale	0	0	0	0	0	0
Purchase Land and Buildings	(3,226,406)	(11,279,595)	(559,399)	(2,572,713)	(1,317,879)	1,254,834
Purchase Infrastructure Assets - Other	(3,960,237)	(4,528,639)	(322,713)	(588,790)	(835,178)	(246,388)
Purchase Infrastructure Assets - Roads	(5,787,854)	(8,273,574)	(428,092)	(694,853)	(931,169)	(236,316)
Purchase Plant and Equipment	(2,749,965)	(2,204,690)	(356,204)	(646,090)	(928,048)	(281,958)
Purchase Furniture and Equipment	(80,425)	(341,500)	0	(228,500)	(120,591)	107,909
Proceeds from Disposal of Assets	583,960	1,457,182	78,052	831,000	883,881	0
	(15,220,926)	(25,170,816)	(1,588,356)	(3,899,946)	(3,248,984)	598,081
<b>Amount attributable to investing activities</b>	<b>(6,846,275)</b>	<b>(17,506,224)</b>	<b>(1,064,033)</b>	<b>(1,969,490)</b>	<b>(2,206,971)</b>	
<b>FINANCING ACTIVITIES</b>						
Repayment of Debentures	(578,281)	(853,730)	(117,883)	(325,008)	(325,007)	0
Advances to Community Groups	(18,915)	0	0	0	0	0
Proceeds from Self-Supporting & IF Loans	12,701	11,317	0	6,094	7,432	0
Proceeds from New Loan	2,450,000	500,000	0	500,000	0	(500,000)
Transfers to Cash Reserves	(5,715,268)	(3,044,815)	(808,277)	(948,158)	(948,158)	0
Transfers from Cash Reserves	2,662,506	9,245,097	0	0	0	0
<b>Amount attributable to financing activities</b>	<b>(1,187,156)</b>	<b>5,857,869</b>	<b>(926,161)</b>	<b>(767,072)</b>	<b>(1,265,733)</b>	<b>(500,000)</b>
<b>Net Current Assets Surplus (Deficit)</b>	<b>5,254,476</b>	<b>0</b>	<b>(3,826,209)</b>	<b>19,620,913</b>	<b>20,434,309</b>	

### Investments

At 31 October 2018 the Shire's cash on hand, deposits and investments totalled \$38,936,899 (a decrease of \$1,153,367 to last month's total of \$40,090,266) and total investment interest earned for the year was \$273,080 and exceeded the budget of \$242,800.

### Term Deposits – Cash Management

At the end of October the Shire had the following short-term facilities (term deposits).

Term Days	Maturity	Institution (ADI)	Principal \$	Interest Rate	Interest \$
182	2/4/19	Bendigo Bank	1,000,000	2.55%	12,715
183	5/12/18	AMP	1,500,000	2.75%	20,681
182	20/12/18	Bankwest	2,500,000	2.80%	34,904
175	21/12/18	ING	1,500,000	2.55%	18,339
364	15/3/19	Bankwest	1,500,000	2.50%	37,397
365	11/4/19	National Australia Bank	2,500,000	2.62%	65,500
365	18/7/19	NAB	1,500,000	2.74%	41,100
365	16/8/19	Bankwest	4,000,000	2.76%	110,400
365	6/9/19	Bankwest	2,000,000	2.70%	54,000
265	13/9/19	National Australia Bank	5,000,000	2.70%	135,500
182	2/4/19	Credit Union Australia	1,000,000	2.65%	13,214

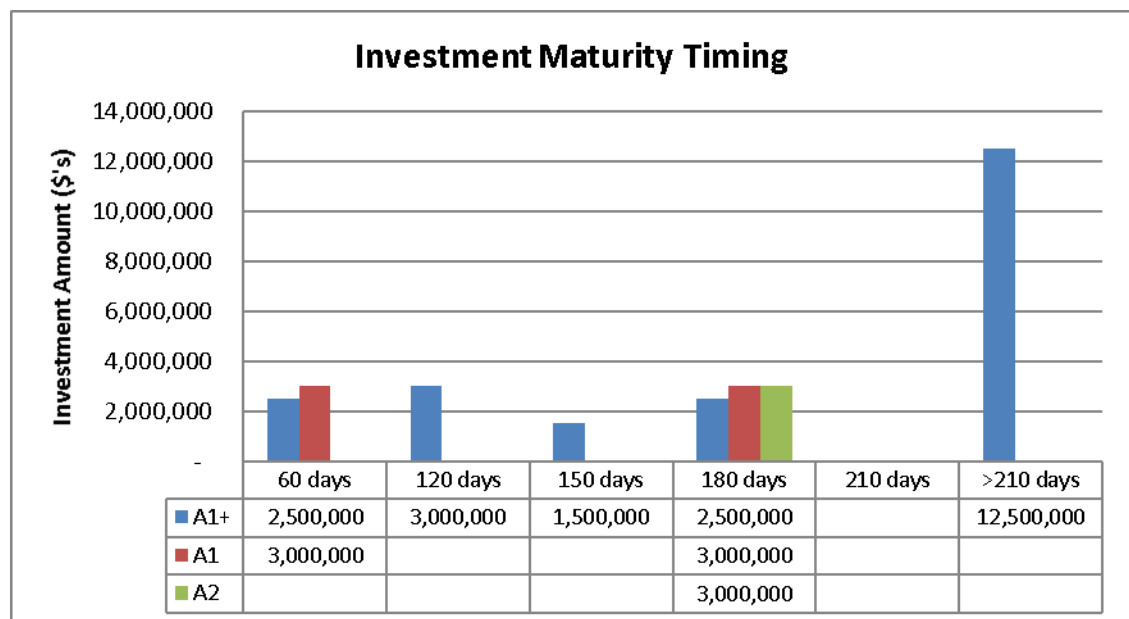
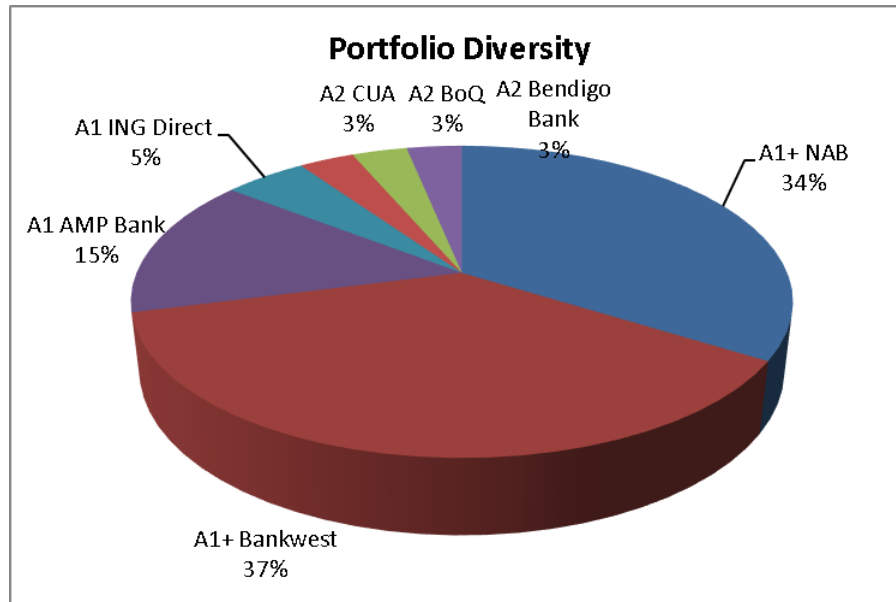
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183	9/4/19	Bank of Queensland	1,000,000	2.65%	13,286
183	9/4/19	AMP Bank	3,000,000	2.75%	41,363
123	8/2/19	National Australia Bank	1,500,000	2.66%	13,446
123	8/2/19	Bankwest	1,500,000	2.67%	13,496
			31,000,000		625,341

During the month the following changes occurred to term deposits:

- A \$1 million term deposit with Bendigo Bank matured on 2/10/18 and was rolled over for 6 months at 2.55%; and
- \$8 million in new term deposits were placed with various institutions including:
  - \$1 million with Credit Unions Australia for 6 months at 2.65%
  - \$3 million with AMP Bank for 6 months at 2.75%
  - \$1 million with Bank of Queensland for 6 months at 2.65%
  - \$1.5 million with Bankwest for 4 months at 2.67%
  - \$1.5 million with NAB for 4 months at 2.66%

The average rate of interest to be paid on all of the term deposits is 2.67%.



The Shire also has an Overnight Cash Deposit Facility (OCDF) with WA Treasury Corporation (WATC) which is used to hold the Royalties for Regions funds allocated for the Main Street Redevelopment project. The South West Development Commission are a joint signatory for this facility. During the month interest of \$6,736 was earned and the current balance of the investment is \$5.476 million. The current rate of interest earned on this facility is 1.45% and is set at 5 basis points lower than the Reserve Bank's cash reference rate.

#### **In-Kind Support**

At 31 October 2018 fee waivers, donations and financial assistance sponsorships totalled \$11,037 and included \$3,900 of sporting sponsorships and \$7,137 of fee waivers.

#### **Reserves**

Movement to reserves represent interest earned on reserve funds. During the month no reserve transfers were processed.

#### **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

Financial Management Regulation 34 requires a local government to prepare each month a Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation 22(1).

#### **STRATEGIC PLAN / POLICY IMPLICATIONS**

##### ***Community Strategic Plan 2036 (CSP)***

##### ***Corporate Business Plan 2018-2022***

Key Result Area 5: Effective leadership and governance

Outcome 6: Measure and report on success and sustainability

Strategy 1: effectively measure our success and progress to a sustainable future

Service level strategy/plan: Continue to monitor monthly, year to date and annual financial performance including preparation of the annual financial report.

#### **PLANNING FRAMEWORK**

Nil

#### **FINANCIAL IMPLICATIONS**

The overall financial performance of the Shire is as summarised in this report.

#### **SUSTAINABILITY IMPLICATIONS**

##### **Environmental**

Nil

##### **Social**

Nil

##### **Economic**

As stated in the report.

#### **VOTING REQUIREMENTS**

Simple Majority

#### **RECOMMENDATION**

That Council receives the Monthly Financial Report – October 2018 in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996*.

#### **ADVICE TO APPLICANT / PROPONENT**

Nil

#### **ATTACHMENTS**

1. Monthly Financial Report consisting of:
  - a. Notes to and forming part of the Statement of Financial Activity
  - b. Financial Reports by Business Units



**RECOMMENDATION / COUNCIL DECISION**

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**CR MELDRUM, CR EARL OM2018/330**

**That Council receives the Monthly Financial Report – October 2018 in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996*.**

**CARRIED 7/0**

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#### 11.4.2 OPERATION PLAN 2018 - QUARTER 1 REPORT

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<b>LOCATION/ADDRESS</b>	Shire of Augusta Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	COR/130
<b>REPORT AUTHOR</b>	Katie Taylor, Community Development Officer
<b>AUTHORISING OFFICER</b>	Andrew Ross, Acting Director Corporate and Community Services

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##### IN BRIEF

- Council adopted the Operational Business Plan 2018-19 at Ordinary Council Meeting held 22 August 2018 (OM2018/214).
- The Operational Business Plan (OP) 2018-19 is a sub plan of the Corporate Business Plan (CP) 2018-22 and outlines the activities, delivery of projects and infrastructure in reference to the Shire's Informing Strategy to achieve the priorities set by Council.
- The OP confirms the Shire's ability to achieve priorities in alignment with the CP 2018-22, Long Term Financial Plan 2018-28, Workforce Plan and Asset Management Plan, and addresses the objectives and strategies outlined in the Community Strategic Plan 2036.
- The OP allocates responsibility to business units, sets performance measures for evaluating projects, services and delivery of priorities in the short term and is aligned to the budget including the capital works program.
- This is the first quarter report that includes the service trackers as published in the OP 2018-19.
- It is a requirement for the Shire to report quarterly to Council on the OP.

##### RECOMMENDATION

That Council receives the Operational Plan 2018-19 Quarter 1 Report and service tracker dashboard (Attachment 1).

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##### LOCATION PLAN

Nil

##### TABLED ITEMS

Nil

##### BACKGROUND

Under the Local Government (Administration) Regulations 1996 (LGAR), all local governments in Western Australia are required to have developed and adopted two key documents: a Strategic Community Plan (CSP) and a Corporate Plan (CP) which are supported and informed by resourcing and delivery strategies. These plans drive the development of each local government's annual budget.

The Shire's CSP underwent a major review over 2016-17, with the final plan for 2036 endorsed by Council on 27 September 2017. The CSP 2036 is currently being implemented through the CP 2018-22 and OP 2018-19. The plan outlines the goals that will be achieved through the strategies and actions that are provided in the CP. The CP integrates the informing strategy which is comprised of the Shire's Workforce Plan, Asset Management Plan and the Long Term Financial Plan.

The CP sets out the projects and services the Shire will deliver over the next four years that work towards achieving the outcomes identified in the CSP. The CP is achieved through the annual OP, which includes information on individual actions and projects programmed to be completed throughout the year (year 1 of the CP) and incorporates the CEO Performance Targets as adopted by Council. The annual OP is reported quarterly to Council.

The Integrated Planning and Reporting Framework and Guidelines (2016) issued by the Department of Local Government, Sport and Cultural Industries provides guidance in the reporting requirements of local government in relation to the integrated plans. Performance monitoring of the annual OP is required to be undertaken quarterly and reported to Council. This is the first quarter report of the OP 2018-19 to be received by Council.

## CONSULTATION AND ADVICE

### External Consultation

No external consultation is required as part of the Quarterly Report review.

### Internal Consultation

Executive Leadership Team  
Business Unit Managers and Coordinators

## DISCUSSION / OFFICER COMMENTS

In accordance with the LGAR, Council is required to receive quarterly updates on the annual OP 2018-19 and to be cognisant of the resourcing required by the Shire to implement Council's CSP and CP. The quarterly review provides a description of planned activities for the financial year. Each action indicates the responsible person and provides an opportunity to understand how the projects, activities and services are developing according to key business unit indicators whilst gaining an insight to highlights and challenges encountered on the way.

This is the first quarter report that includes the service trackers as published in the OP 2018-19. The purpose of the service trackers is to provide insight into service demands, alongside the progress of actions. The trackers were developed with Managers and Coordinators, by identifying essential services for monitoring. The "targets" indicate the service level that is currently resourced.

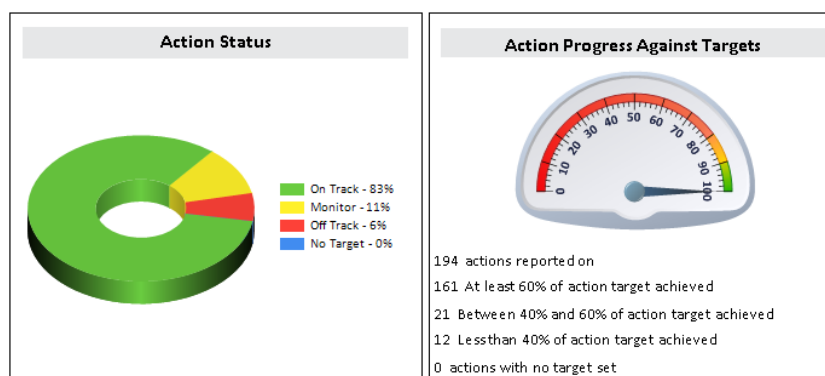
First quarter progress on the OP 2018-19 as reported in the Quarterly Report indicates:

## Overview

### OVERVIEW

#### Action SUMMARY BY PERFORMANCE

<b>161</b>	On Track
<b>12</b>	Off Track
<b>21</b>	Monitor
<b>0</b>	Not Applicable





Of the 194 reportable actions, 161 are green (on track and have achieved their target), 21 actions are amber (achieving between 40-60% of their target) and 12 actions are red (achieving less than 40% of their target).


The 12 actions achieving less than 40% of their target are:


Action Title: 1.5.2.4 Participate in regular reporting including the annual State Preparedness Report						
Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %


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Chris Lloyd - Community Emergency Services Manager	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	
<b>Action Progress Comments:</b> In progress. Will be compiled over the fire season ready to be submitted before June 30, 2019. Last Updated: 29-Oct-2018						

Action Title: 5.2.4.2 Review ICT and Records Disaster Recovery Plans						
<b>Responsible Person</b>	<b>Status</b>	<b>Start Date</b>	<b>End Date</b>	<b>Complete %</b>	<b>Target</b>	<b>On Target %</b>
David Mittnacht - Coordinator Information Management	Not Started	01-Jul-2018	30-Jun-2019	0.00%	25.00%	
<b>Action Progress Comments:</b> This has been deferred to follow the implementation of the ICT Strategic Framework. Note, there is an existing DRP that is effectively adequate to our current requirements. Last Updated: 10-Oct-2018						


Action Title: 5.7.1.2 Implement the ICT Strategic Framework and review every four years						
<b>Responsible Person</b>	<b>Status</b>	<b>Start Date</b>	<b>End Date</b>	<b>Complete %</b>	<b>Target</b>	<b>On Target %</b>
David Mittnacht - Coordinator Information Management	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	
<b>Action Progress Comments:</b> This been deferred to FY 19/20 due to workload and higher priorities. Last Updated: 10-Oct-2018						

Action Title: 1.2.1.4 Work with the Department of Water and Environment Regulation to address recommendations from the Hardy Inlet Water Quality Improvement Plan for Augusta townsite stormwater treatment						
<b>Responsible Person</b>	<b>Status</b>	<b>Start Date</b>	<b>End Date</b>	<b>Complete %</b>	<b>Target</b>	<b>On Target %</b>
David Nicholson - Manager Asset Services	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	
<b>Action Progress Comments:</b> The plan has not yet been released by the Department, so implementation cannot commence. Last Updated: 13-Nov-2018						

Action Title: 3.6.1.3 Finalise the Walking and Off-Road Cycling Strategy for Margaret River and commence implementation						
<b>Responsible Person</b>	<b>Status</b>	<b>Start Date</b>	<b>End Date</b>	<b>Complete %</b>	<b>Target</b>	<b>On Target %</b>
David Nicholson - Manager Asset Services	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	
<b>Action Progress Comments:</b> Community Reference Group has not met this quarter. Last Updated: 29-Oct-2018						

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Action Title: 3.6.1.5 Progressive implementation of the recommendations within the Bridle Trails Feasibility Study including development around the Margaret River Pony Club


Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
David Nicholson - Manager Asset Services	Not Started	01-Jul-2018	30-Jun-2020	0.00%	25.00%	

**Action Progress Comments:**

Not commenced. Low priority.

Last Updated: 13-Nov-2018

Action Title: 3.6.1.8 Conduct drainage investigations to identify capacity issues and requirements


Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
David Nicholson - Manager Asset Services	Not Started	01-Jul-2018	30-Jun-2022	0.00%	5.00%	

**Action Progress Comments:**

Not commenced.

Last Updated: 19-Oct-2018

Action Title: 3.6.2.2 Priority Project: Develop a Margaret River Precinct Masterplan, to include Rotary Park, bridge, the weirs and traffic management strategies for Carters Road and the wider precinct


Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
David Nicholson - Manager Asset Services	In Progress	01-Jul-2018	30-Jun-2020	5.00%	25.00%	

**Action Progress Comments:**

RfQ issued for road safety audit of Bussell Hwy in this precinct. Preliminary discussions held with consultation consultant about possible community engagement strategies for this project.

Last Updated: 19-Oct-2018

Action Title: 3.6.2.1 Priority Project: Deliver the upgrade to the Margaret River Main Street


Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
Markus Botte - Director Infrastructure Services	In Progress	01-Jul-2018	30-Jun-2020	5.00%	25.00%	

**Action Progress Comments:**

Tender and specifications for construction being completed.

Last Updated: 25-Oct-2018

Action Title: 5.2.2.1 Promote and support the Women in Leadership program to foster greater participation of female Councillors and staff into leadership positions

Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
Gary Evershed - CEO	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	


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**Action Progress Comments:**

ACCORD women's leadership program to commence later this year.

Last Updated: 14-Nov-2018

Action Title: 2.6.2.2 Review and implement the Dog Local Law


Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
Michael O'Regan - Coordinator Ranger Services	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	

**Action Progress Comments:**

Scheduled to commence in March 2019.

Last Updated: 29-Oct-2018

Action Title: 3.5.3.1 Fund the Living Smart program for increased community awareness of sustainable living

Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
Matt Cuthbert - Acting Manager Planning and Development	Not Started	01-Jul-2018	30-Jun-2022	0.00%	25.00%	

**Action Progress Comments:**

Not yet commenced.

Last Updated: 25-Oct-2018

Below is a brief road map on reading the quarter report:



Unique numbering of actions as listed in the OP 2018-19

Position responsible for completing the action

Indicates the percentage of work complete for 2018-19

Progress comments are relevant to this quarter only

Action Title	Responsible Person	Status	Start Date	End Date	Complete %	Target	On Target %
5.6.2.2 Measure and report on administration of Customer and Information Services	Vicki Scott - Coordinator Revenue & Customer Service	In Progress	01-Jul-2017	30-Jun-2021	50.00%	50.00%	GREEN

**Linked Action Filter(s):** Quarterly Council Progress Report

**Action Progress Comments:**  
Phone calls managed by Customer Service year to date are 3949  
Revenue for Shire and DoT is \$6.3 million  
Margaret River transactions 4539 and Augusta Office 1173  
Last Updated: 16-Jan-2018

**STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

Section 5.56 (1) *Local Government Act 1995* requires local governments to have in place a plan for the future.

**STRATEGIC PLAN / POLICY IMPLICATIONS**

**Community Strategic Plan 2036 (CSP)**

**Corporate Business Plan 2018-2022**

Key Result Area 5: Effective leadership and governance

Outcome 5.5. A culture of innovation, quality and continuous improvement

Strategic Response 5.6.2. Report on our success and sustainability to the community and stakeholders

Action 5.6.2.1. Deliver quarterly updates to Council and community of progress against the Operational Plan.

**PLANNING FRAMEWORK**

Nil

**FINANCIAL IMPLICATIONS**

The actions and projects which are detailed in the OP 2018-19 and the Quarter 1 Report are aligned with the Annual Budget 2018-19 and the Long Term Financial Plan.

**SUSTAINABILITY IMPLICATIONS**

The Community Strategic Plan fosters an identification and integration of environmental protection, social advancement and economic prosperity which is enacted through the Corporate and Operational Plan.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council receives the Operational Plan 2018-19 Quarter 1 Report and service tracker dashboard (Attachment 1).

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

1. Operational Plan 2018-19 Quarter 1 Report and service tracker dashboard.

**RECOMMENDATION / COUNCIL DECISION**

**CR EARL, CR MELDRUM OM2018/331**

**That Council receives the Operational Plan 2018-19 Quarter 1 Report and service tracker dashboard (Attachment 1).**

**CARRIED 7/0**

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#### 11.4.3 UNBUDGETED GRANT EXPENDITURE - FRRR HEALING PROJECT GRANT

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<b>LOCATION/ADDRESS</b>	Shire of Augusta Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	FIN/207
<b>REPORT AUTHOR</b>	Jason Cleary, Coordinator Community Planning and Development
<b>AUTHORISING OFFICER</b>	Andrew Ross, Acting Director Corporate and Community Services

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##### IN BRIEF

- The Shire has committed resources in the 2018-19 financial year toward community recovery following the Osmington tragedy in May 2018, which followed other traumatic events within the region including fire and shark attacks.
- A funding application was submitted to the Foundation for Rural and Regional Renewal (FRRR) for \$19,279 towards a community healing project in response to these and other events that have impacted on the community and to augment the Shire's direct funding for community recovery.
- As the grants and corresponding expenditure have not been budgeted in 2018-19, Council approval is required.

##### RECOMMENDATION

That Council approve unbudgeted expenditure of \$19,279 in account COM202 (Community Planning and Development – Community Resilience).

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##### LOCATION PLAN

Nil

##### TABLED ITEMS

Nil

##### BACKGROUND

Following the tragedy in Osmington earlier this year the Shire has implemented community recovery actions and processes to ensure the community response to the tragedy and other events around the same time, such as the Augusta bushfires and shark attacks at Gracetown, allows the community to heal and build resilience for the future.

A recovery Committee and Health and Community sub-committee were formed following a community meeting to discuss recovery from the traumatic event.

As part of this resilience building Council committed \$25,000 toward resilience building that included a 0.2 FTE position to administer the workload.

A funding application was submitted to FRRR for a community healing and regeneration project as developed by a sub-group nominated by the Health and Community Sub-Committee.

##### CONSULTATION AND ADVICE

###### External Consultation

The project was developed with a sub group of the Health and Welfare Sub-Committee in partnership with the Shire. This group was entrusted with developing a healing concept project that encompasses healing and regeneration for anyone across the community whilst acknowledging Osmington and other related traumatic events that have affected the community.

The project was then developed with external partners Nature Conservation Margaret River, Undalup Inc. and Red Cross as per the project plan. All partner organisations have agreed to be part of the project and have provided further input and refinement.



### Internal Consultation

The Health and Welfare Sub-Committee and the Recovery Committee have both agreed to the project plan.

### DISCUSSION / OFFICER COMMENTS

Notification was received from FRRR on 2 November 2018 that the Shire was successful for the full amount of funding and the project was identified as a feature project by the FRRR. The Shire is currently awaiting the official paperwork from FRRR, which will be sent directly to the Acting CEO for sign off.

The following table outlines the key aspects of the grant.

Funding Body	Foundation for Rural and Regional Renewal (FRRR) – In a Good Place Program
Purpose	Community Healing and Regeneration Project
Grant Amount	\$19,279 ex GST
	Payment in 1 instalment prior to project start
Proposed Expenditure	\$19,279 ex GST
Agreement Term	Grant to be expended in FY 2018-19 and FY 2019-20
Acquittal Period	A final acquittal report will be submitted 12 weeks after the project completion

### STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

Section 6.8(1) of the *Local Government Act 1995* states that:

“A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution\*; or
- (c) is authorised in advance by the mayor or president in an emergency.”

Point (b) requires the resolution be adopted by an absolute majority of Council.

### STRATEGIC PLAN / POLICY IMPLICATIONS

#### **Community Strategic Plan 2036 (CSP)**

#### **Corporate Business Plan 2018-2022**

Key Result Area 2: Welcoming, inclusive and healthy communities

Community Outcome 6: Community health, safety and social justice in the face of changing climate

Strategic Response 3: Develop partnerships and community programs to implement social and cultural components of the Climate Change Response Plan

Operational plan: 2.6.4.4 Coordinate preparedness initiatives and recovery services to support the community in case of emergencies

### PLANNING FRAMEWORK

Nil

### FINANCIAL IMPLICATIONS

Unbudgeted expenditure of \$19,279 will be incurred in the Community Planning and Development business unit. This expenditure will be matched by an unbudgeted grant for the same amount. Consequently, there is not expected to be any adverse impact on the Shire's budgeted financial position.

The Shire has provided funding toward the 0.2 FTE position to support the administration of this project within the current financial year.

### SUSTAINABILITY IMPLICATIONS

#### **Environmental**

Community knowledge of the local environment and regeneration will improve.

**Social**

Community resilience and connection across the community will develop due to the nature of the event. Community knowledge will improve in regards to understanding of mental and social wellbeing.

**Economic**

All costs of the Community Healing Project will be within the grant program funding.  
The grant program funding will go toward local community organisations being engaged on the project.

**VOTING REQUIREMENTS**

Absolute Majority

**RECOMMENDATION**

That Council approve unbudgeted expenditure of \$19,279 in account COM202 (Community Planning and Development – Community Resilience).

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION / COUNCIL DECISION**

**CR GODDEN, CR SMART OM2018/332**

**That Council approves unbudgeted expenditure of \$19,279 in account COM202 (Community Planning and Development – Community Resilience).**

**CARRIED BY ABSOLUTE MAJORITY 7/0**

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#### 11.4.4 ELECTRICITY SUPPLY QUOTATIONS

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<b>LOCATION/ADDRESS</b>	Various sites within the Shire
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	COR/331
<b>REPORT AUTHOR</b>	Andrew Ross, Acting Director Corporate and Community Services
<b>AUTHORISING OFFICER</b>	Dale Putland, Acting Chief Executive Officer

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#### IN BRIEF

- The Shire has six (6) contestable sites that are currently supplied electricity under contract by Perth Energy.
- The contract with Perth Energy expired on 31 October 2018 but was extended by three (3) months to 31 January 2019 in order to allow time for the procurement process to be undertaken.
- A specialist energy advisor was engaged to assist with the process of obtaining and evaluating quotations due to the complexity of tariffs and pricing options.
- Quotations were invited on 9 October 2018 with responses to be received by 24 October 2018.
- Five (5) responses were received and evaluated on the basis of the qualitative criteria and pricing.
- In the view of the evaluation panel, the response from Alinta Energy provides best value for money.

#### RECOMMENDATION

That Council:

1. Awards the contract for the supply of electricity to contestable sites to Alinta Energy from 1 February 2019 for two (2) years using the pricing rates provided in their submission (response ID: VPR211584); and
  2. That any extension of the contract term beyond two (2) years be approved by the Chief Executive Officer and include a reassessment of consumption profiles.
- 

#### LOCATION PLAN

Nil

#### TABLED ITEMS

Nil

#### BACKGROUND

Individual properties or sites within the South Western Interconnected System that are connected to Western Power and have an annual electricity consumption of greater than 50 MWh of electricity per year are classified as contestable sites. This allows the property owner to competitively obtain electricity from electricity retailers other than Synergy. The following six contestable sites are included on the current electricity supply agreement.

**Table 1: Contestable Sites**

NMI	Meter No.	Description of the Site	Address of the site	Solar Installed
80010530205	0248001945	Margaret River Library	Lot 212 Farrelly Street, Margaret River	Yes
80010093771	0413001691	Turner Caravan Park	Lot 850 Leeuwin Road, Augusta	
80010104506	0214004395	Margaret River Aquatic and Recreation Centre	51 (Lot 41) Wallcliffe Road, Margaret River	Yes
80017236991	0136003610	Augusta Civic Centre	Lot 263, 66 Allnutt Terrace, Augusta	Yes

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80021329666	0214001391	Margaret River Civic and Administration Centre	41 (Lot 401) Wallcliffe Road, Margaret River	
80021626997	0214003502	Flinders Bay Caravan Park	Albany Terrace, Augusta	

In addition to the above it is likely the Margaret River HEART (Hub for Entertainment, Art, Recreation and Tourism) will also be contestable when it is completed and consumption history also indicates the Margaret River works depot would also be contestable.

Electricity supply contracts have been in place with Perth Energy since at least October 2011. Contracts have been renewed a number of times with the most recent contract commencing on 1 September 2015 and expiring on 31 October 2018. A three (3) month contract extension to 31 January 2019 has been arranged to allow the procurement process for this service.

After engaging a specialist energy advisor to assist with the process, quotations were invited using WALGA e-Quotes as the potential electricity suppliers have been pre-qualified, the process is straightforward, transparent and in accordance with the regulations exempt from the state-wide advertising of tenders. Quotations were advertised on 9 October 2018, closed on 24 October 2018 and five (5) responses were received.

## **CONSULTATION AND ADVICE**

### **External Consultation**

Quotations were requested from consultants on WALGA's preferred suppliers list with experience assisting with and evaluating responses from electricity retailers. As a result of this process Powerlyt were selected and formed part of the evaluation assessment panel.

### **Internal Consultation**

The Shire's Sustainability Planning Officer assisted with the preparation of documentation and was a voting member of the evaluation assessment panel.

The Shire's Project and Procurement Officer provided quality control for the procurement documentation and evaluation process.

## **DISCUSSION / OFFICER COMMENTS**

Quotation responses were received from:

- Advanced Energy Resources
- Alinta Energy
- Infinite Energy
- Kleenheat Gas
- Perth Energy

All the responses were considered to be compliant and were evaluated by a three person panel to assess their response to the qualitative criteria and the price offered. The expertise of the independent energy consultant was relied upon to ensure the price offered was comparable and took into consideration all relevant factors. This expertise was invaluable as even though a price schedule was provided with the tender documents, not all respondents provided this information in the required form.

The tender document expressly requested both bundled and unbundled pricing. Bundled pricing means that all regulatory and other charges are bundled together and applied against total estimated consumption for the sites in order to obtain fixed on-peak and off-peak unit rates as well as a daily supply charge. With bundled pricing, the rates are simpler to understand and the supplier bears more risk in relation to consumption varying. Unbundled pricing means there are many more components used to calculate cost and there is therefore greater sensitivity to variation in costs due to market changes and electricity consumption changes.

All of the suppliers provided a spreadsheet or similar schedule with an unbundled total price while a bundled total price was only provided by three suppliers. Alinta Energy's bundled price was the most competitive and Perth Energy the next best. Alinta Energy also provided one of the most competitive unbundled prices.

The quotation request specified a contract term of 2 years from 1 February 2019 and allowed the Shire the right to exercise an option to extend the contract term for a further period of 2 years. Most of the suppliers complied with this request by providing 2 years pricing or a price adjustment mechanism.

The following table provides a comparison of electricity consumption figures for the Shire's contestable sites for the past three (3) years.

Financial Year	Total consumption
2015-16	1760 MW
2016-17	1763 MW
2017-18	1576 MW

The significant decrease in electricity consumption in 2017-18 is thought to be primarily due to the replacement of the dehumidifier at the Recreation Centre during Quarter 4 of 2017-18. Based on the above table, it is expected the contestable sites could use around 180MW more electricity in 2019-20. Suppliers have based their response on consumption figures for 2017-18. Therefore, the forecast increase in consumption will be charged at rates based on a lower consumption profile. Future rates may however be influenced by the installation of additional solar cells, as suppliers have advised they will need to revise their pricing based on amended consumption quantities.

The results of the evaluation are included in the attached confidential evaluation report.

#### **STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS**

In accordance with regulation 11(2)(b) of the *Local Government (Functions and General) Regulations 1996* tenders did not have to be publicly invited as the supply of goods is to be obtained through the WALGA Preferred Supplier Program.

The quotation request was issued to the preferred suppliers who are party to WALGA Contract Number: C023-16 Preferred Supply for Energy Services: Category 1 Supply of Contestable Energy.

#### **STRATEGIC PLAN / POLICY IMPLICATIONS**

##### ***Community Strategic Plan 2036 (CSP)***

##### ***Corporate Business Plan 2018-2022***

Key Result Area 3: Ensuring sustainable development

Outcome 3: Climate change mitigation and response

Strategy 1: Reduce the Shire's corporate carbon emissions including energy use and corporate waste, to meet adopted targets

#### **PLANNING FRAMEWORK**

Nil

#### **FINANCIAL IMPLICATIONS**

The current spend on electricity for the six (6) sites varies from \$30,000 to \$40,000 per month. The quotation from Perth Energy should result in the cost of electricity reducing by 5%.

#### **SUSTAINABILITY IMPLICATIONS**

##### **Environmental**

As part of the Demonstrated Understanding qualitative criteria, respondents were requested to provide a summary detailing commitment to and proportion of electricity obtained from renewable sources. Three respondents failed to respond. Alinta Energy provided the greatest detail and their response indicated that 429.1MW of their total generating capacity of 1,089.1 MW for the South West Interconnected System is obtained from renewable sources being wind farms at Walkaway, Yandin and Badgingarra. This represents 39% of their generating capacity. In their response Perth Energy advised they participate in the Government's renewable energy scheme to have 20% of all energy generated from renewable sources by 2020.

##### **Social**

Contestable sites, such as the Caravan Parks, Margaret River Aquatic Centre and Augusta Civic Centre provide the community with the opportunity for social interaction.

**Economic**

The supply of electricity to these sites allows services to be provided that provide an economic benefit.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council:

1. Awards the contract for the supply of electricity to contestable sites to Alinta Energy from 1 February 2019 for two (2) years using the pricing rates provided in their submission (response ID: VPR211584); and
2. That any extension of the contract term beyond two (2) years be approved by the Chief Executive Officer and include a reassessment of consumption profiles.

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

1. Confidential Evaluation Report

**RECOMMENDATION**

**CR GODDEN, CR EARL**

That Council:

1. Awards the contract for the supply of electricity to contestable sites to Alinta Energy from 1 February 2019 for two (2) years using the pricing rates provided in their submission (response ID: VPR211584); and
2. That any extension of the contract term beyond two (2) years be approved by the Chief Executive Officer and include a reassessment of consumption profiles.

0/0

*Cr Godden moved the following amendment:*

**AMENDMENT / COUNCIL DECISION**

**CR GODDEN, CR EARL OM2018/333**

That in point 2, the word CEO be omitted and replaced with the word Council.

**CARRIED 7/0**

**REASON**

Cr Godden spoke to the amendment stating that it allows any extension of contract to come back to Council for reassessment. Cr Godden went on to say that this is a good way to keep on top of Council's strategic vision for climate change.

**RECOMMENDATION / COUNCIL DECISION**

**CR GODDEN, CR EARL OM2018/334**

That Council:

1. Awards the contract for the supply of electricity to contestable sites to Alinta Energy from 1 February 2019 for two (2) years using the pricing rates provided in their submission (response ID: VPR211584); and
2. That any extension of the contract term beyond two (2) years be approved by Council and include a reassessment of consumption profiles.

**CARRIED 7/0**

**12. MOTIONS FROM MEMBERS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**12.1 Investigation into the Potential Development of Social Housing in Augusta and Margaret River – Cr Godden**

*Cr Godden gave notice of the following motion at the 28 November Ordinary Meeting of Council:*

**MOTION**

That Council:

1. Requests the CEO to commission an investigation into the potential development of social housing in Augusta and Margaret River, inclusive of:
  - a) Identification of all suitable land owned by the Shire or that could be made available to the Shire, by way of arrangements with the State Government (e.g. – Lot 3000 Allnutt Terrace Augusta);
  - b) Detailed analysis of suitable land parcels to determine lot/dwelling yields, and the most appropriate development type and form to suit future tenants.
  - c) Options available to the Shire to resolve any significant impediments preventing the development appropriate sites for social housing e.g. servicing.
  - d) The extent to which suitable not for profit organisations would be prepared to partner with the Shire in developing and managing suitable sites.
2. Requests that \$30,000 be allocated to the project, with funds to be provided by way of budget savings as may be identified through the mid year budget review.

**MOTION**

**CR GODDEN, CR MCLEOD**

That Council:

1. Requests the CEO to commission an investigation into the potential development of social housing in Augusta and Margaret River, inclusive of:
  - a) Identification of all suitable land owned by the Shire or that could be made available to the Shire, by way of arrangements with the State Government (e.g. – Lot 3000 Allnutt Terrace Augusta);
  - b) Detailed analysis of suitable land parcels to determine lot/dwelling yields, and the most appropriate development type and form to suit future tenants.
  - c) Options available to the Shire to resolve any significant impediments preventing the development appropriate sites for social housing e.g. servicing.
  - d) The extent to which suitable not for profit organisations would be prepared to partner with the Shire in developing and managing suitable sites.
2. Requests that \$30,000 be allocated to the project, with funds to be provided by way of budget savings as may be identified through the mid year budget review.

**0/0**

*Cr Earl moved the following procedural motion:*

**PROCEDURAL MOTION / COUNCIL DECISION**

**CR EARL, CR SMART OM2018/335**

That the item be deferred pending a briefing.

**CARRIED 7/0**

**REASON**

To allow Council an opportunity for a briefing to examine any existing historical data and investigate further.

**13. MOTIONS FOR CONSIDERATION AT NEXT MEETING**

Nil

**14. NEW BUSINESS OF AN URGENT NATURE**

**14.1. Members**

**14.1.1 Support for WALGA Climate Change Policy Statement – Cr Townshend**

The Shire President introduced the following motion as urgent business as the State Government is currently working on Climate Change Policy:

**PROCEDURAL MOTION / COUNCIL DECISION**

**CR TOWNSHEND, CR MELDRUM OM2018/336**

**That Council accepts Item 14.1.1 Support for WALGA Climate Change Policy Statement as New Business of an Urgent Nature.**

**CARRIED 7/0**

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**MOTION / COUNCIL DECISION**

**CR TOWNSHEND, CR MCLEOD OM2018/337**

- 1. That Council supports the WALGA Climate Change Policy Statement adopted in July 2018 and requests the Shire President to write to the Premier, the Minister for the Environment, the Minister for Planning and the Minister for Regional Development requesting a formal Climate Change Partnership agreement with Local Government “to enable the transition to a low carbon and resilient WA”.**
- 2. Council also requests that the WALGA Policy be published on the AMR Shire Website and is the subject of a press release from the Shire President.**

**CARRIED 7/0**

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**14.2. CEO**

Nil

**15. CONFIDENTIAL BUSINESS**

**PROCEDURAL MOTION / COUNCIL DECISION**

**CR TOWNSHEND, CR GODDEN OM2018/338**

**That the meeting go behind closed doors.**

**CARRIED 7/0**

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*Members of the public and press left Chambers at 7.00pm*



**15.1 RFT 06-19 MARGARET RIVER HEART VENUE MANAGEMENT**

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<b>LOCATION/ADDRESS</b>	51 Wallcliffe Road, Margaret River
<b>APPLICANT/LANDOWNER</b>	Shire of Augusta Margaret River
<b>FILE REFERENCE</b>	COR/28
<b>REPORT AUTHOR</b>	Heather Auld, Project Manager Margaret River HEART
<b>AUTHORISING OFFICER</b>	Dale Putland, Acting Chief Executive Officer

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**RECOMMENDATION**

That the meeting be closed to the public for the purpose of discussing item 15.1 as it required that this matter be dealt with behind closed doors under section 5.23 (2), (c) and (d) of the *Local Government Act 1995*,

Reasons:

- 5.23 (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- 5.23 (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.
- 

**VOTING REQUIREMENTS**

Absolute Majority

**RECOMMENDATION**

That the meeting be closed to the public for the purpose of discussing item 15.1 as it required that this matter be dealt with behind closed doors under section 5.23 (2), (c) and (d) of the *Local Government Act 1995*,

Reasons:

- 5.23 (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- 5.23 (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.
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**RECOMMENDATION / COUNCIL DECISION**

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**CR MELDRUM, CR MCLEOD OM2018/339**

That Council:

1. Rejects all tenders for RFT 06-19 Margaret River HEART Venue Management on the basis that no tenders received represent value for money for the Shire.
2. Delegates authority to the Chief Executive Officer to:
  - a) Utilise the exemption from calling public tenders contained within regulation 11(2)(c)(i) of the Local Government (Functions and General) Regulations 1996 in order to negotiate with Arts Margaret River – and any other suitable party – to try and form an acceptable and value for money solution to the venue management contract for presentation to Council.
3. Notes that a further report on the future venue management for Margaret River HEART, including outcomes negotiated with Arts Margaret River, will be presented to Council.

**CARRIED BY ABSOLUTE MAJORITY 7/0**

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*Cr Townshend moved the following procedural motion:*

**PROCEDURAL MOTION / COUNCIL DECISION**

**CR TOWNSHEND, CR MELDRUM OM2018/340**

**That the meeting come out from behind closed doors.**

**CARRIED 7/0**

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**16. CLOSURE OF MEETING**

*The Shire President thanked all in attendance and declared the meeting closed at 7.05pm*