

## SHIRE OF WEST ARTHUR



**Ordinary Council Meeting  
15 June 2021  
Minutes**

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**ORDINARY COUNCIL MEETING MINUTES****1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

Cr Kevin King, Chairperson, declared the meeting open at 6 pm.

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

Nil.

**3. PUBLIC QUESTION TIME**

Phil Harrington has submitted some questions:

1. At the last council meeting Councillors McFall and King asked if the Council had insurance to help them with legal challenges to complaints against a Councillor, what was the outcome of this enquiry? And why would they deem it necessary?  
President's response – The Shire has management liability insurance which includes elected members. An action needs to be raised for this policy to be triggered i.e. a person takes action against an Elected Member.
2. If the Council adopts a complaints procedure that is on the agenda tonight does that mean that the process can begin immediately?  
President's response – Yes the process can start immediately.
3. If the Council carries a motion can that motion be revoked and vote on again at a later date?  
President's response – A motion can be revoked in accordance with the Local Government Act - Administration Regulations – Regulation 10.
4. As there is an agenda item concerning vexatious complaints does this apply to all ratepayers including Councillors?  
President's response – The policy includes the definition: Complainant means a person, organisation, or its representative, making a complaint and may include staff, Council Members and/or the Chief Executive Officer.

Tim Harrington asked what is Council's position in relation to having a suitable school bus service for all students who wish to travel to Collie Senior High School to be able to do so?

President's response – at this point in time Council has not determined a position or policy.

Tim Harrington responded suggesting it is the Council's and community's best interest for Council to be involved and help drive the process, including lobbying politicians and government departments, for a school bus service to meet the growing number of children requiring transport to Collie Senior High School.

Pam Stockley added that it was not only an education issue but a wider economic sustainability issue as the retaining of existing residents and businesses and attraction of new people to the area relies to some extent on the availability of the continuous education from pre-primary through to year 12.

Tim Harrington spoke about the recent community meeting attended by over 30 people who all support the need for a more appropriate school bus service with many at the meeting indicating an interest in forming a working party to progress the matter but we need the input and support of the Shire of West Arthur.

President responded that the Shire would provide a representative to any group formed and support where they can.

Ian Woodruff requested Council look to re-instating Welcome to West Arthur functions.

President and Councillors responded they see merit in the idea and will look to work with other groups/organisations to see what can be implemented.

Greg Lloyd made the following summarised statement in relation to Council's involvement with the Blackwood Biosecurity Group - .

*Following up from the response from question time at the last council meeting in regards to the Biosecurity scandal, this is a cover up and is being investigated further up. There have been breaches and denial of access to further information from the original FOI. There has been the release of confidential information and privacy breaches etc from the Shire office. This is being investigated by a higher authority so watch this space.*

**4. RECORD OF ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE**

Cr Kevin King	Shire President
Cr Neil Morrell	Deputy Shire President
Cr Neil Manuel	(from 6:12pm)
Cr Adam Squires	
Cr Marie Lloyd	
Cr Julie McFall	
Nicole Wasmann	Chief Executive Officer
Jamie Muir	Manager Works and Services
Ian Fitzgerald	Incoming Acting Chief Executive Officer
Kym Gibbs	Manager Community Services
Kerryn Chia	Project Officer

**Apologies**

Cr Graeme Peirce

**Gallery**

Rebecca South	Duncan South
Phil Harrington	Greg Lloyd
Beryl Harrington	Tim Harrington
Ray Harrington	Stuart Putland
Ian Woodruff	Hayden Lubcke
Pam Stockley	Robyn Lubcke
Lomond South	

**Leave of Absence**

Nil.

**5. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

6.1 Ordinary Meeting of Council held 18 May 2021.

That the Minutes of the Ordinary Meeting of Council held 18 May 2021 be confirmed.

COUNCIL DECISION – ITEM 6.1
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Moved: Cr Adam Squires

Seconded: Cr Neil Morrell

The minutes of the Ordinary Meeting of the Shire of West Arthur held in the Council Chambers on 18 May 2021 be confirmed.

**CARRIED 6/0**

**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**8. REPORTS****8.1 OFFICER REPORTS****ITEM 8.1.1 – FINANCIAL REPORT MAY 2021**

LOCATION/ADDRESS:	N/A
NAME OF APPLICANT:	N/A
FILE REFERENCE:	N/A
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT:	10 June 2021

**SUMMARY:**

Consideration of the financial reports for the period ending 31 May 2021.

**BACKGROUND:**

The financial reports for the periods ending 31 May 2021 are included as attachments.

The February report was included in the agenda for the March meeting however required a change to year to date budget estimate of allocations and therefore is included for acceptance in the April meeting.

**COMMENT:**

If you have any questions regarding details in the financial reports, please contact the office prior to Council meeting so that sufficient time is given to research the query. This will enable the information to be provided at the Council meeting.

**CONSULTATION:**

Not applicable.

**STATUTORY ENVIRONMENT:**

Section 34 (1) (a) of the Local Government (Financial Management) Regulations 1996 states that a Local Government is to prepare monthly statement of financial activity including annual budget estimates, monthly budget estimates, actual monthly expenditure, revenue and income, material variances between monthly budget and actual figures and net current assets on a monthly basis.

**POLICY IMPLICATIONS:**

Not applicable.

**FINANCIAL IMPLICATIONS:**

Not applicable.

**STRATEGIC IMPLICATIONS:**

Not applicable.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION – ITEM 8.1.1**

That the financial reports for the periods ending 31 May 2021, as presented, be accepted.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.1**

Moved: Cr Julie McFall

Seconded: Cr Neil Morrell

That the financial reports for the period ending 31 May 2021 as presented be accepted.

**CARRIED 6/0**

**ATTACHMENTS:**

- Financial Reports – 31 May 2021.

**SHIRE OF WEST ARTHUR**  
**STATEMENT OF FINANCIAL ACTIVITY**  
**(By Nature or Type)**  
**For the Period Ended 31 May 2021**

	Note	Amended Annual Budget 2020/2021	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)
		\$	\$	\$	\$	%
<b>Opening Funding Surplus (Deficit)</b>	2	1,199,648	1,199,648	<b>1,199,648</b>	0	0%
<b>Revenue from operating activities</b>						
Rates		1,727,022	1,727,022	<b>1,726,615</b>	(407)	(0%)
Operating Grants, Subsidies and Contributions	6	625,608	623,692	<b>641,885</b>	18,193	3%
Fees and Charges		273,365	264,372	<b>270,640</b>	6,268	2%
Interest Earnings		56,364	25,267	<b>21,127</b>	(4,140)	(16%)
Other Revenue		169,739	109,855	<b>111,054</b>	1,199	1%
Profit on Disposal of Assets		19,137	19,137	<b>1,642</b>	(17,495)	
		<b>2,871,235</b>	<b>2,769,345</b>	<b>2,772,963</b>	<b>3,618</b>	
<b>Expenditure from operating activities</b>						
Employee Costs		(1,674,206)	(1,917,389)	<b>(1,723,244)</b>	194,145	10%
Less Allocated to Capital			387,581	<b>396,502</b>	8,921	
Materials and Contracts		(829,465)	(831,140)	<b>(724,975)</b>	106,165	13%
Less Plant Allocations to Capital			177,028	<b>181,103</b>	4,075	
Utility Charges		(91,700)	(76,417)	<b>(68,501)</b>	7,916	10%
Depreciation on Non-Current Assets		(2,137,367)	(474,683)	<b>(477,787)</b>	(3,104)	(1%)
Interest Expenses		(30,457)	(23,321)	<b>(23,321)</b>	0	0%
Insurance Expenses		(93,484)	(93,484)	<b>(93,484)</b>	0	0%
Other Expenditure		(36,000)	(21,375)	<b>(13,903)</b>	7,472	35%
Loss on Disposal of Assets		(18,307)	0	<b>0</b>	0	
		<b>(4,910,986)</b>	<b>(2,873,199)</b>	<b>(2,547,610)</b>	<b>325,589</b>	
<b>Operating activities excluded from budget</b>						
Add back Depreciation		2,137,367	474,683	<b>477,787</b>	3,104	1%
Adjust (Profit)/Loss on Asset Disposal		(830)	(19,137)	<b>(1,642)</b>	17,495	(91%)
Adjust Provisions and Accruals		0	(23,137)	<b>(23,137)</b>	0	0%
<b>Amount attributable to operating activities</b>		<b>96,786</b>	<b>328,555</b>	<b>678,361</b>	<b>349,806</b>	
<b>Investing activities</b>						
Grants, Subsidies and Contributions	6	1,246,368	610,933	<b>610,933</b>	0	0%
Proceeds from Disposal of Assets		52,000	35,000	<b>17,618</b>	(17,382)	(50%)
Land and Buildings	7	(274,794)	(100,000)	<b>(98,851)</b>	1,149	1%
Infrastructure Assets - Roads	7	(1,255,157)	(1,115,695)	<b>(1,022,930)</b>	92,765	8%
Infrastructure Assets - Other	7	(576,644)	0	<b>0</b>	0	
Plant and Equipment	7	(532,000)	(150,000)	<b>(131,221)</b>	18,779	13%
Furniture and Equipment	7	0	0	<b>0</b>	0	
<b>Amount attributable to investing activities</b>		<b>(1,340,227)</b>	<b>(719,762)</b>	<b>(624,451)</b>	<b>95,311</b>	
<b>Financing Activities</b>						
Proceeds from Self Supporting Loan - repayments		27,174	20,296	<b>20,296</b>	0	0%
Transfer from Reserves	5	797,089	0	<b>0</b>	0	
Repayment of Debentures		(95,630)	(71,243)	<b>(71,244)</b>	(1)	(0%)
Transfer to Reserves	5	(684,840)	(200)	<b>(162)</b>	38	19%
<b>Amount attributable to financing activities</b>		<b>43,793</b>	<b>(51,147)</b>	<b>(51,110)</b>	<b>37</b>	
<b>Closing Funding Surplus (Deficit)</b>	2	0	757,294	<b>1,202,448</b>	<b>445,154</b>	59%

Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.

Refer to Note 1 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 1: Explanation of Material Variances**

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date budget materially.

The material variance adopted by Council for the 2020/21 year is \$10,000 or 10% whichever is the greater.

## Operating Grants, Subsidies &amp; Contributions

- 11986 General Purpose above budget
- 4209 WALGGC - Local Roads Grant above budget
- 850 Library Digital Grant unbudgeted.

## Profit on Disposal of Assets

- (17,495) Profit on sale of Roller will be lower as sale price lower than budgeted. Purchase of trade roller also lower so transfer from plant reserve to fund trade will be \$1,397 lower.

## Employee

## Costs

- 194,145 Employee costs are below budget due to staff vacancies. (budget amendment in April 21 to reduce employee costs by \$40,000, offset by increase in materials)

## Materials and Contracts

- 17,452 Refuse site maintenance is below budget
- 12,637 Landcare officer is below budget.
- 9,000 Footpath maintenance below budget.
- 67,076 The balance is made up of several non reportable variances including councillor training, housing maintenance, sports clubs, football oval, cultural events, building surveyor, economic development.

## Adjust (Profit)/Loss on Asset Disposal

- 17,495 Profit on roller below budget.

## Proceeds from Disposal of Assets

- (17,382) Proceeds from sale of roller below budget.

## Infrastructure Assets - Roads

- 92,765 Projects deferred to 2021/22. Timing difference.

## Plant and Equipment

- 18779 Roller purchase was below budget.

**Budget Amendments**

Materials and Contracts                      Expenditure from operating activities

The following projects which were budgeted under the Community Infrastructure will be materials - originally included in capital budget.

HRC - kitchen modifications	-2500
School pool shade structure	-4500
Darkan town hall	-3500
Seating at footy grounds	-8800
Water fountain at football oval	-4000

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 2: Net Current Funding Position**

Positive=Surplus (Negative=Deficit)

	Note	Last Years Closing	Current
		30 June 2020	31 May 2021
		\$	\$
<b>Current Assets</b>			
Cash Unrestricted	3	1,170,147	1,432,444
Cash Restricted	5	2,403,335	2,403,497
Receivables - Rates	4	116,050	138,170
Receivables - Other	4	42,915	12,832
Inventories		22,531	22,531
		3,823,985	4,009,474
<b>Less: Current Liabilities</b>			
Payables		(151,995)	(84,060)
Unspent reimbursements (insurance)		0	(14,200)
Unspent grants, contributions		(69,007)	(305,269)
		(221,002)	(403,529)
Less: Cash Reserves	5	(2,403,335)	(2,403,497)
<b>Net Current Funding Position</b>		<b>1,199,648</b>	<b>1,202,448</b>

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 3: Cash and Investments**

	Unrestricted	Restricted	Trust	Total Amount	Institution	Interest Rate	Maturity Date
	\$	\$	\$	\$			
<b>(a) Cash Deposits</b>							
Municipal Bank Account	1,096,607			1,096,607	NAB	0.01%	At Call
Municipal Bank - Bendigo	75,237			75,237	Bendigo	0.01%	At Call
Municipal Cash Maximiser	260,000			260,000	NAB	0.01%	At Call
Trust Bank Account			4,993	4,993	NAB	0.01%	At Call
Trust Cash Maximiser			10,252	10,252	NAB	0.01%	At Call
Reserve Cash Maximiser		146		146	NAB	0.01%	At Call
Bendigo Reserve		16		16	Bendigo	0.10%	At Call
<b>(b) Term Deposits</b>							
Reserve term deposit		803,335		803,335	NAB	0.92%	29/06/2021
Reserve term deposit		1,600,000		1,600,000	Bendigo	0.95%	29/06/2021
Trust term deposit			60,000	60,000	NAB	0.19%	21/06/2021
<b>Total</b>	<b>1,431,844</b>	<b>2,403,497</b>	<b>75,245</b>	<b>3,850,586</b>			



**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 4: Receivables**

<b>Receivables - Rates Receivable</b>	<b>31 May 2021</b>	<b>30 June 2020</b>	<b>Receivables - General</b>	<b>Current</b>	<b>30 Days</b>	<b>60 Days</b>	<b>90+ Days</b>	<b>Total</b>
	\$	\$		\$	\$	\$	\$	\$
Opening Arrears Previous Years	199,932	181,873	Receivables - General	3,936	5,036	565	2,530	12,067
Levied this year (incl rubbish & ESL)	1,827,688	1,799,818						
Less Collections to date	(1,805,568)	(1,781,759)	<b>Balance per Trial Balance</b>					
Equals Current Outstanding	<b>222,052</b>	<b>199,932</b>	Sundry Debtors					0
			Receivables - Other					0
<b>Net Rates Collectable</b>	<b>222,052</b>	<b>199,932</b>	<b>Total Receivables General Outstanding</b>					<b>12,067</b>
% Collected	89.05%	90.05%						
Less Recognised as doubtful	(83,882)	(83,882)						

**Amounts shown above include GST (where applicable)**

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 5: Cash Backed Reserve**

Name	Opening Balance	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
		Interest Earned	Interest Earned	Transfers In (+)	Transfers In (+)	Transfers Out (-)	Transfers Out (-)	Transfers Out (-)	Transfers Out (-)
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Leave Reserve	208,619	1,878	14	0	0	0	0	210,497	208,633
Plant Reserve	319,812	2,878	22	313,801	0	(480,000)	0	156,491	319,834
Building Reserve	691,332	6,222	47	60,109	0	(130,000)	0	627,663	691,379
Town Development Reserve	70,672	636	5	0	0	(70,000)	0	1,308	70,677
Recreation Reserve	121,685	1,095	8	40,000	0	0	0	162,780	121,693
Heritage Reserve	5,343	48	0	300	0	0	0	5,691	5,343
Community Housing Reserve	131,406	1,183	9	20,000	0	(25,000)	0	127,589	131,415
Waste Management Reserve	121,282	1,092	8	0	0	(60,000)	0	62,374	121,290
Darkan Swimming Pool Reserve	38,734	349	3	5,000	0	0	0	44,083	38,737
Information Technology Reserve	46,885	422	3	3,000	0	0	0	50,307	46,888
Darkan Sport and Community Centre Reserve	257,208	2,315	17	30,000	0	0	0	289,523	257,225
Arthur River Country Club Renewal Reserve	27,795	250	2	6,000	0	0	0	34,045	27,797
Museum Reserve	128,102	1,153	9	0	0	(5,000)	0	124,255	128,111
Moodiarrup Sports Club Reserve	9,475	85	1	5,000	0	0	0	14,560	9,476
Landcare Reserve	42,763	385	3	0	0	(27,089)	0	16,059	42,766
Corporate Planning and Valuation Reserve	34,526	311	2	0	0	0	0	34,837	34,528
Kids Central Members Reserve	670	6	0	0	0	0	0	676	670
The Shed Reserve	11,550	104	1	0	0	0	0	11,654	11,551
Recreation Trails Reserve	1,203	11	0	0	0	0	0	1,214	1,203
Community Gym Reserve	8,367	75	1	0	0	0	0	8,442	8,368
Economic Development Reserve	43,229	389	3	40,000	0	0	0	83,618	43,232
Road Reserve	82,677	743	6	150,000	0	0	0	233,420	82,683
	<b>2,403,335</b>	<b>21,630</b>	<b>162</b>	<b>673,210</b>	<b>0</b>	<b>(797,089)</b>	<b>0</b>	<b>2,301,086</b>	<b>2,403,497</b>

Note: Reserve transfers are generally completed at year end unless funds are required sooner.

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

Note 6: Grants and Contributions	Grant Provider	Type	Opening Balance (a)	Budget Operating (b)	Capital (c)	YTD Actual Revenue (f)	(Expended) (g)	Unspent Grant (a)+(f)+(g)	Comment
				\$	\$	\$	\$	\$	
<b>General Purpose Funding</b>									
Grants Commission - General	WALGGC - General Purpose Grant	Operating	0	226,526	0	238,513	0	0	Final allocations will be \$238,526, \$11,986 above budget.
Grants Commission - Roads	WALGGC - Local Roads Grant	Operating	0	229,428	0	233,637	0	0	Final allocations will be \$233,637, \$4,209 above budget.
Federal Road & Community Infrastructure	Dept. of Infrastructure (Fed)	Non-operating	0	0	253,187	253,187	(90,816)	162,371	
<b>Law, Order and Public Safety</b>									
FESA Grant - Operating Bush Fire Brigade	Dept. of Fire & Emergency Services	Operating - Tied	0	39,479	0	39,479	(38,319)	1,160	
<b>Education and Welfare</b>									
Age Friendly and Dementia Community Awareness	Department of Communities	Operating - Tied	0	3,620	0	3,620	(2,244)	1,376	Carried forward from prior year.
<b>Recreation and Culture</b>									
Redevelopment of play and youth area	Lotterywest	Non-operating	0	0	30,000	0	0	0	Darkan Railway Reserve
CRC Technology and Digital Inclusion	State Library of WA	Operating - Tied	0	0	0	850	(850)	0	Unbudgeted successful grant application
<b>Transport</b>									
Roads To Recovery Grant - Cap	Roads to Recovery	Non-operating	0	0	329,877	339,490	(230,541)	108,949	Income received higher than budget as payment in advance.
Roads To Recovery Grant - Cap	Roads to Recovery	Non-operating	0	0	65,387	65,387	(65,387)	0	Carried forward from prior year
RRG Grants - Capital Projects	Regional Road Group	Non-operating	0	0	365,987	224,189	(224,189)	0	Funding shown as a liability until spent, then recognised as income
Federal Road & Community Infrastructure	Dept. of Infrastructure, Transport, Regional Development and Communications	Non-operating	0	0	113,507	31,413	0	31,413	
Direct Grant	Main Roads - Direct Grant	Operating	0	127,175	0	127,175	0	0	
<b>Economic Development</b>									
Kylie Dam Project	Department of Water	Non-operating	0	0	88,423	0	0	0	Kylie Dam - will not be completed this year.
<b>TOTALS</b>			<b>0</b>	<b>626,228</b>	<b>1,246,368</b>	<b>1,556,940</b>	<b>(652,346)</b>	<b>305,269</b>	
<b>SUMMARY</b>									
Operating	Operating Grants, Subsidies and Contributions		0	583,129	0	599,325	0	0	
Operating - Tied	Tied - Operating Grants, Subsidies and Contributions		0	43,099	0	43,949	(41,413)	2,536	
Non-operating	Non-operating Grants, Subsidies and Contributions		0	0	1,246,368	913,666	(610,933)	302,733	
<b>TOTALS</b>			<b>0</b>	<b>626,228</b>	<b>1,246,368</b>	<b>1,556,940</b>	<b>(652,346)</b>	<b>305,269</b>	

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 7: Capital Acquisitions**

Assets	YTD Actual			Amended Budget			Variance	Comment
	Wages and Plant	Materials and Contractors	Total YTD	Wages and Plant	Materials and Contractors	Total Budget	Total YTD to Budget	
	\$	\$	\$	\$	\$	\$	\$	
<b>Buildings</b>								
<b>Housing</b>								
Renovations to community housing units	0	0	0	0	(25,000)	(25,000)	25,000	
<b>Community Amenities</b>								
Chalet	(1,418)	(77,597)	(79,015)	(20,000)	(110,000)	(130,000)	50,985	
<b>Recreation And Culture</b>								
Arthur River Hall kitchen	0	0	0	0	(14,000)	(14,000)	14,000	LRCI (Council decision Sep 20) amount to date shown in operating expenditure
Moodiarrup Hall - ceiling	0	0	0	0	(12,000)	(12,000)	12,000	LRCI (Council decision Sep 20)
Moodiarrup Complex - ceiling	0	0	0	0	(6,000)	(6,000)	6,000	LRCI (Council decision Sep 20)
<b>Economic Services</b>								
Nissen Hut upgrade/restoration	(16,870)	(2,966)	(19,836)	(1,050)	(16,744)	(17,794)	(2,042)	LRCI (Council decision Sep 20), allocations above budget.
<b>Other Property &amp; Services</b>								
Staff Housing	0	0	0	(20,000)	(50,000)	(70,000)	70,000	
<b>Buildings Total</b>	<b>(18,288)</b>	<b>(80,563)</b>	<b>(98,851)</b>	<b>(41,050)</b>	<b>(233,744)</b>	<b>(274,794)</b>	<b>175,943</b>	
<b>Infrastructure</b>								
<b>Community Amenities</b>								
Darkan Refuse Site	0	0	0	(20,000)	(100,000)	(120,000)	120,000	
<b>Recreation And Culture</b>								
Darkan Railway Reserve Community Space	0	0	0	(15,000)	(150,000)	(165,000)	165,000	
Lake boat ramp	0	0	0	(4,834)	(6,000)	(10,834)	10,834	LRCI (Council decision Sep 20)
Lake Towerrinning jetties	0	0	0	(4,995)	(110,000)	(114,995)	114,995	LRCI (Council decision Sep 20)
Darkan Railway Reserve redevelopment	0	0	0	0	(32,000)	(32,000)	32,000	LRCI (Council decision Sep 20)
Lake playground fence and playground	0	0	0	(4,195)	(16,500)	(20,695)	20,695	LRCI (Council decision Sep 20)
<b>Economic Services</b>								
Kylie Dam Water Project	0	0	0	(12,608)	(100,512)	(113,120)	113,120	
<b>Infrastructure Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(61,632)</b>	<b>(515,012)</b>	<b>(576,644)</b>	<b>576,644</b>	

**SHIRE OF WEST ARTHUR**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 May 2021**

**Note 7: Capital Acquisitions**

Assets	YTD Actual			Amended Budget			Variance	Comment
	Wages and Plant	Materials and Contractors	Total YTD	Wages and Plant	Materials and Contractors	Total Budget	Total YTD to Budget	
	\$	\$	\$	\$	\$	\$	\$	
<b>Plant , Equip. &amp; Vehicles</b>								
<b>Transport</b>								
Prime Mover	0	0	0	0	(170,000)	(170,000)	170,000	Not likely this year due to supply issues.
Side Tipping Trailer	0	0	0	0	(100,000)	(100,000)	100,000	Not likely this year due to supply issues.
Large Vibe Roller	0	(131,221)	(131,221)	0	(150,000)	(150,000)	18,779	
Utes	0	0	0	0	(101,000)	(101,000)	101,000	Expect to purchase two utes, not three as budgeted.
Mower	0	0	0	0	(11,000)	(11,000)	11,000	Ordered.
<b>Plant, Equip &amp; Vehicles Total</b>	<b>0</b>	<b>(131,221)</b>	<b>(131,221)</b>	<b>0</b>	<b>(532,000)</b>	<b>(532,000)</b>	<b>400,779</b>	
<b>Roads</b>								
<b>Regional Road Group</b>								
Boyup Brook Arthur Road	(139,033)	(142,847)	(281,880)	(142,075)	(159,300)	(301,375)	19,495	
Bowelling Duranillin Road	(141,539)	(94,854)	(236,393)	(117,508)	(140,175)	(257,683)	21,290	
<b>Regional Road Group Total</b>	<b>(280,572)</b>	<b>(237,701)</b>	<b>(518,273)</b>	<b>(259,583)</b>	<b>(299,475)</b>	<b>(559,058)</b>	<b>40,785</b>	
<b>Roads to Recovery</b>								
Darkan South Road - Slip Lane and Intersection	(63,189)	(1,535)	(64,724)	(81,264)	(27,790)	(109,054)	44,330	
Darkan South Road - Widening Corners	(1,969)	(2,739)	(4,708)	(74,308)	(28,040)	(102,348)	97,640	
Old Collie Road	(58,882)	(8,580)	(67,462)	(58,371)	(8,208)	(66,579)	(883)	Small amount of drainage works to be carried out.
Bowelling McAlinden Road	(25,268)	(31,241)	(56,509)	(33,125)	(30,914)	(64,039)	7,530	Works Completed.
Bokal East Arthur Road	(27,673)	(43,940)	(71,613)	(26,408)	(39,300)	(65,708)	(5,905)	Additional material expenditure due to greater area cement stab.
<b>Roads to Recovery Total</b>	<b>(176,981)</b>	<b>(88,035)</b>	<b>(265,016)</b>	<b>(273,476)</b>	<b>(134,252)</b>	<b>(407,728)</b>	<b>142,712</b>	
<b>Road and Community Infrastructure Program</b>								W Tree Gully project removed
Centre line - 3 roads	(13,612)	(7,739)	(21,351)	0	(40,000)	(40,000)	18,649	LRCI (Council decision Sep 20), allocations above budget.
Bunce-King Road Bridge	0	(6,000)	(6,000)	(3,867)	(35,000)	(38,867)	32,867	LRCI (Council decision Sep 20)
Lake Towerrinning Entrance and Car Park	(3,926)	(22,492)	(26,418)	(1,000)	(25,000)	(26,000)	(418)	LRCI (as per budget) - completed
Growden Place - Drainage, seal, reseal	(32,118)	(26,960)	(59,078)	(14,038)	(30,150)	(44,188)	(14,890)	LRCI (as per budget), allocations above budget. Completed.
<b>Shire Funded Total</b>	<b>(49,656)</b>	<b>(63,191)</b>	<b>(112,847)</b>	<b>(18,905)</b>	<b>(130,150)</b>	<b>(149,055)</b>	<b>36,208</b>	
<b>Shire Funded</b>								
Growden Place - Intersection	(35,650)	(60,232)	(95,882)	(24,149)	(59,480)	(83,629)	(12,253)	Additional allocations of time and plant. Completed
Airlee Road	(616)	(13,662)	(14,278)	(510)	(8,000)	(8,510)	(5,768)	Additional material expenditure due to greater area. Completed
Collie South East Road	0	0	0	(510)	(5,000)	(5,510)	5,510	
Jackson Road	(15,842)	(792)	(16,634)	(39,845)	(1,822)	(41,667)	25,033	
<b>Shire Funded Total</b>	<b>(52,108)</b>	<b>(74,686)</b>	<b>(126,794)</b>	<b>(65,014)</b>	<b>(74,302)</b>	<b>(139,316)</b>	<b>12,522</b>	
<b>Roads Total</b>	<b>(559,317)</b>	<b>(463,613)</b>	<b>(1,022,930)</b>	<b>(616,978)</b>	<b>(638,179)</b>	<b>(1,255,157)</b>	<b>232,227</b>	
<b>Capital Expenditure Total</b>	<b>(577,605)</b>	<b>(675,397)</b>	<b>(1,253,002)</b>	<b>(719,660)</b>	<b>(1,918,935)</b>	<b>(2,638,595)</b>	<b>1,385,593</b>	

**ITEM 8.1.2 – ACCOUNTS FOR PAYMENT**

LOCATION/ADDRESS: N/A  
 NAME OF APPLICANT: N/A  
 FILE REFERENCE: N/A  
 DISCLOSURE OF INTEREST: N/A  
 DATE OF REPORT: 9 June 2021

**SUMMARY:**

Council to note payments of accounts as presented.

**BACKGROUND:**

The schedule of accounts is included as an attachment for Council information.

**COMMENT:**

If you have any questions regarding payments in the listing, please contact the office prior to the Council meeting.

**CONSULTATION:**

There has been no consultation.

**STATUTORY ENVIRONMENT:**

Section 12 of the Local Government (Financial Management) Regulations 1996 states that

- 12 (1) A list of creditors is to be compiled for each month showing –
- (a) The payee's name;
  - (b) The amount of the payment;
  - (c) Sufficient information to identify to transaction; and
  - (d) The date of the meeting of the council to which the list is to be resented.

**POLICY IMPLICATIONS:**

There are no policy implications.

**FINANCIAL IMPLICATIONS:**

There are no financial implications.

**STRATEGIC IMPLICATIONS:**

No strategic implications.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION – ITEM 8.1.2**

That in accordance with section 13 of the Financial Management Regulations of the Local Government Act 1995 and in accordance with delegation, payment of Municipal Fund vouchers 17052021.1, 18052021.1 - 18052021.18, 31052021.1 - 31052021.26, 09062021.1 - 09062021.11, Cheques 20062 & 20064 Licensing, Salaries and Wages and EFT Transfers, Direct Debit totalling \$212,857.27 listed (attached) be noted as approved for payment.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.2**

Moved: Cr Marie Lloyd

Seconded: Cr Julie McFall

That in accordance with section 13 of the Financial Management Regulations of the Local Government Act 1995 and in accordance with delegation, payment of Municipal Fund vouchers 17052021.1, 18052021.1 - 18052021.18, 31052021.1 - 31052021.26, 09062021.1 - 09062021.11, Cheques 20062 & 20064 Licensing, Salaries and Wages and EFT Transfers, Direct Debit totalling \$212,857.27 listed (attached) be noted as approved for payment.

**CARRIED 6/0**

**ATTACHMENTS:**

- Cheque Listing

## Shire of West Arthur Cheque Detail

May 11 through June 9, 2021

Date	Num	Name	Original Amount
13/05/2021	EFT	<b>SALARIES &amp; WAGES</b>	44,028.02
		PAYROLL	
17/05/2021	17052021.1	<b>WEST ARTHUR COMMUNITY RESOURCE CENTRE1</b>	163.38
		REFUND OF OVERPAYMENT	
18/05/2021	18052021.1	<b>COLLIE MOWERS &amp; MORE</b>	539.00
		LAWN MOWER	
18/05/2021	18052021.2	<b>CORSIGN</b>	4,170.10
		ROAD & ROADWORKS SIGNAGE	
18/05/2021	18052021.3	<b>DARKAN AGRI SERVICES</b>	1,233.75
		GAS BOTTLES, FITTINGS, CEMENT, CLEANING SUPPLIES, PAINTING SUPPLIES, BATTERIES	
18/05/2021	18052021.4	<b>G &amp; M DETERGENTS</b>	124.00
		SLIMLINE HAND TOWELS	
18/05/2021	18052021.5	<b>CHIA, KERRY N</b>	286.10
		REIMBURSEMENT FOR ACRYLIC CONTAINERS FOR MUSEUM INCL POSTAGE	
18/05/2021	18052021.6	<b>LANDGATE</b>	8,447.60
		RATES - ROLL	
18/05/2021	18052021.7	<b>LO-GO APPOINTMENTS</b>	3,658.58
		ACTING WORKS MANAGER - WEEK ENDING 8 MAY 21	
18/05/2021	18052021.8	<b>MANCHESTER BY MAIL</b>	2,830.90
		LINEN FOR DARKAN CARAVAN PARK CHALETs & FREIGHT	
18/05/2021	18052021.9	<b>MARKET CREATIONS</b>	651.64
		IT MONTHLY SUBSCRIPTION AND SUPPORT	
18/05/2021	18052021.10	<b>MARRAHBELLA COTTAGE</b>	500.00
		ACCOMMODATION FOR THE GPR TEAM FOR THE ARTHUR RIVER CEMETARY	
18/05/2021	18052021.11	<b>MCGREGOR, KYM</b>	155.00
		WORK BOOTS REIMBURSEMENT	
18/05/2021	18052021.12	<b>NICKI MORRELL</b>	82.54
		REIMB STAFF FUNCTION WORKS MANAGER	
18/05/2021	18052021.13	<b>SHIRE OF NARROGIN (SUPPLIER)</b>	60.00
		HEALTH OFFICER	
18/05/2021	18052021.14	<b>TELFER BONNIE</b>	237.40
		REIMBURSEMENT FOR SUPPLIES FOR SENIORS MEALS	
18/05/2021	18052021.15	<b>TOLL TRANSPORT PTY LTD</b>	53.85
		FREIGHT FROM SOS BUNBURY & BW TRUCKS	
18/05/2021	18052021.16	<b>WARREN BLACKWOOD WASTE</b>	2,448.20
		DOMESTIC WASTE & RECYCLING BINS FEES	
18/05/2021	18052021.17	<b>WEST ARTHUR COMMUNITY RESOURCE CENTRE</b>	5,614.21
		DOCTOR HOURS, MEDICAL & LIBRARY FUNDING	
18/05/2021	18052021.18	<b>WHITE AMY</b>	109.00
		REIMBURSE CLEANING MATERIALS & ITEMS FOR CARAVAN PARK, HRC & SHIRE OFFICE	
27/05/2021	EFT	<b>SALARIES &amp; WAGES</b>	46,930.55
		PAYROLL	
31/05/2021	31052021.1	<b>ARCHIVAL SURVIVAL</b>	239.03
		EQUIPMENT FOR BETTY BROWN MUSEUM & COMMUNITY ARCHIVES	
31/05/2021	31052021.2	<b>AUSTRALIA POST</b>	110.00
		BOX OF STAMPS	
31/05/2021	31052021.3	<b>CHIA, KERRY N</b>	149.15
		REIMBURSEMENT FOR SUPPLIES FOR SENIOR MEALS	
31/05/2021	31052021.4	<b>COLLIE BETTA HOME LIVING</b>	75.00
		VACCUM FILTERS	
31/05/2021	31052021.5	<b>DARDANUP BUTCHERING COMPANY</b>	117.79
		MEAT ORDER FOR SENIOR MEALS	
31/05/2021	31052021.6	<b>DEGARIS, SCOTT</b>	150.00
		REIMBURSEMENT FOR SKIRTING BOARDS FOR ARTHUR RIVER HALL	

## Shire of West Arthur Cheque Detail

May 11 through June 9, 2021

Date	Num	Name	Original Amount
31/05/2021	31052021.7	DEPARTMENT OF FIRE AND EMERGENCY SERVICES	5,233.20
		2020/2021 ESL QUARTER 4	
31/05/2021	31052021.8	DOWN TO EARTH TRAINING & ASSESSING	400.00
		CERT 3 IN CIVILCONSTRUCTION - TRAINEE	
31/05/2021	31052021.9	G & M DETERGENTS	713.08
		CLEANING SUPPLIES	
31/05/2021	31052021.10	GOSS, ELOISA	264.00
		GYM EQUIPMENT - GYM MEMBER FUNDED	
31/05/2021	31052021.11	HALES ELECTRICAL	1,863.40
		POOL ELECTRICAL REVIEW	
31/05/2021	31052021.12	LO-GO APPOINTMENTS	3,525.75
		ACTING WORKS MANAGER	
31/05/2021	31052021.13	LUSH FIRE & PLANNING	1,001.00
		TOWN PLANNING ADVICE	
31/05/2021	31052021.14	MOORE STEPHENS PTY LTD	2,332.00
		FINANCIAL REPORTING WORKSHOP & FINANCE/GOVERNANCE WORKSHOP	
31/05/2021	31052021.15	MOTORPASS	5.50
		FEE FOR ARTHUR RIVER FUEL CARD	
31/05/2021	31052021.16	MUIR, JAMES	3,107.00
		REIMBURSEMENT OF MOVING COSTS	
31/05/2021	31052021.17	NARROGIN FREIGHTLINES	29.36
		FREIGHT FOR POOL CHEMICAL PALLETS	
31/05/2021	31052021.18	OFFICEWORKS	41.13
		LABLES FOR SENIOR MEALS & DELIVERY	
31/05/2021	31052021.19	PUTLAND MOTORS	5,929.20
		PARTS GRADER, LOADER, TRUCK, SQUIRELL, UTE, OIL, RADIOS	
31/05/2021	31052021.20	RAREBITS ON BURROWES 1	450.00
		CATERING FOR BFAC MEETING & TRAINING & DEVELOPMENT - LEADERSHIP COURSE	
31/05/2021	31052021.21	SHIRE OF COLLIE	3,794.40
		RANGER SERVICES	
31/05/2021	31052021.22	TELFER BONNIE	107.78
		REIMBURSEMENT FOR SENIORS MEALS	
31/05/2021	31052021.23	TOLL TRANSPORT PTY LTD	277.90
		FREIGHT FOR SIGNAGE & PARTS	
31/05/2021	31052021.24	TRADELINK BUNBURY	78.85
		NEW CISTON FOR DURANILLIN TOILETS	
31/05/2021	31052021.25	UNIVERSITY OF WESTERN AUSTRALIA	5,500.00
		ON SITE DATA, POST PROCESSING & INTERPRETATION OF GEOPHYSICAL SURVEY	
31/05/2021	31052021.26	WESTRAC BUNBURY	893.95
		PARTS FOR CAT GRADER	
09/06/2021	09062021.1	COLLIE ELECTRICAL SERVICES	286.00
		REPAIR HOT WATER SYSTEM - 6 HILLMAN STREET	
09/06/2021	09062021.2	CORSIGN	135.30
		HEX HEAD BOLT SETUP WITH SECURITY WASHERS	
09/06/2021	09062021.3	CR ADAM SQUIRES	555.00
		COUNCILLOR CLAIM QUARTER 3 2021	
09/06/2021	09062021.4	CR G PEIRCE	756.97
		COUNCILLOR CLAIMS QUARTER 3 2021	
09/06/2021	09062021.5	CR K J KING	2,035.00
		COUNCILLOR CLAIMS QUARTER 3 2021	
09/06/2021	09062021.6	CR M LLOYD	914.86
		COUNCILLOR CLAIM QUARTER 3 2021	



## Shire of West Arthur Cheque Detail

May 11 through June 9, 2021

Date	Num	Name	Original Amount
09/06/2021	09062021.7	CR NEIL MORRELL	876.40
		COUNCILLOR CLAIMS QUARTER 3 2021	
09/06/2021	09062021.8	EASIFLEET MANAGEMENT- MOUNTSVILLE PTY LTD	2,648.69
		SALARY SACRIFICE PAYMENTS - MAY 2021	
09/06/2021	09062021.9	ECOSCAPE AUSTRALIA PTY LTD	2,142.80
		LAKE TOWERRINNING MASTERPLAN (FINAL PAYMENT)	
09/06/2021	09062021.10	LANDGATE	40.60
		RATES VALUATIONS	
09/06/2021	09062021.11	WEST ARTHUR COMMUNITY RESOURCE CENTRE	2,199.73
		AGED & DEMENTIA FRIENDLY WORKSHOPS & GP VISITS MAY	
18/05/2021	DIRECTDEBIT	SYNERGY	483.21
		ELECTRICITY USAGE AND SUPPLY CHARGE	
18/05/2021	DIRECTDEBIT	TELSTRA	884.27
		OFFICE, DEPOT, CRC, PHONE & INTERNET CHARGES & FEES	
31/05/2021	DIRECTDEBIT	SYNERGY	1,614.53
		VARIOUS ELECTRICITY USAGE AND SUPPLY CHARGE	
21/05/2021	DIRECTDEBIT	AUSTRALIAN TAXATION OFFICE	4,156.98
		FBT LIABILITY 2021	
21/05/2021	DIRECTDEBIT	BENDIGO BANK	4.00
		TRANSFER EFT FEE	
31/05/2021	DIRECTDEBIT	NATIONAL AUSTRALIA BANK	55.60
		ACCOUNT FEES	
31/05/2021	DIRECTDEBIT	NATIONAL AUSTRALIA BANK	10.00
		ACCOUNT FEES	
28/05/2021	DIRECTDEBIT	NATIONAL AUSTRALIA BANK	45.74
		NAB CONNECT FEES MAY	
02/06/2021	DIRECTDEBIT	BENDIGO BANK	71.10
		MERCHANT FEES MAY 2021	
24/05/2021	20062	AUSTRALIAN TAXATION OFFICE	31,204.00
		APRIL 21 BAS	
18/05/2021	20064	DEPARTMENT OF TRANSPORT 1	42.20
		LAKE TOWERRINNING JETTY RENEWAL FEE	
		<b>VOUCHERS</b>	<b>AMOUNT</b>
MUNICIPAL FUND			
		17052021.1	163.38
		18052021.1 - 18052021.18	31,201.87
		31052021.1 - 31052021.26	36,388.47
		09062021.1 - 09062021.11	12,591.35
		CHEQUES - 20062 & 20064	31,246.20
		EFT/DEBIT/BPAY	7,325.43
		SALARIES & WAGES	90,958.57
		LICENSING MAY 2021 TRANSFERS	2,982.00
		<b>TOTAL</b>	<b>212,857.27</b>

**ITEM 8.1.3 - SIGNIFICANT ACCOUNTING POLICIES**

LOCATION/ADDRESS: N/A  
 NAME OF APPLICANT: N/A  
 FILE REFERENCE:  
 DISCLOSURE OF INTEREST: N/A  
 DATE OF REPORT: 8 June 2021

**SUMMARY:**

Council to review their significant accounting policies.

**BACKGROUND:**

Each financial year Council is required to adopt a percentage and/or value in accordance with AAS 5, to be used in the Statement of Financial Activity for reporting variances.

The significant accounting policies of the Shire are included in the Annual Financial Report each year. These policies are reviewed annually and were last adopted by Council in 2020. The policy reflects those in the Local Government Accounting Manual.

**CONSULTATION:**

There have not been any changes recommended through any financial management reporting workshops.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995 (As Amended) – Section 6.10.  
 Australian Accounting Standards  
 Financial Management Regulations 1996

**POLICY IMPLICATIONS:**

There are no recommended changes to the policy.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with adopting the policy.

**STRATEGIC IMPLICATIONS:**

N/A

**COMMENT:**

The review of the reportable material variance is to be conducted on an annual basis.

Currently the variance reported in monthly statements is +/- 10% and +/- \$10,000.

It is proposed to retain the capitalisation threshold amount for all asset classes at \$5,000. Changes to the Financial Management regulations required assets with a purchase price of \$5,000 or below to be written off prior to 30 June 2019.

During the recent review of the policy manual, the policy number has changed from 2.4 to F4.3.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION – (ITEM 8.1.3)**

That following review of existing significant accounting policy F4.3 that no changes to the policy are made and that the significant accounting policy remain:

- The capitalisation threshold for all classes of assets is \$5,000.
- Report material variances of +/- 10% and +/- \$10,000 from the budget figure and report these variances by way of supporting note to the 'Monthly Statement of Financial Activity'.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.3**

Moved: Cr Adam Squires

Seconded: Cr Julie McFall

That following review of existing significant accounting policy F4.3 that no changes to the policy are made and that the significant accounting policy remain:

- The capitalisation threshold for all classes of assets is \$5,000.
- Report material variances of +/- 10% and +/- \$10,000 from the budget figure and report these variances by way of supporting note to the 'Monthly Statement of Financial Activity'.

**CARRIED 6/0****ATTACHMENTS:**

- F4.3 Significant Accounting Policies



## Shire of West Arthur Council Policy – Significant Accounting

Policy Number	F4.3 Finance
Policy Title	Significant Accounting
Related Legislation	Local Government Act 1995 (WA) Local Government (Accounting) Regulations 1996
Strategic Outcome Supported	Outcome 5.2: Financial management and decision making will be transparent, accountable and in an accessible format for the public.
Adopted by Council	2009 Amended 16 June 2020
Review	Annually June

### 1. Objective

To provide policy direction for the management of accounts and financial reporting for the Shire that is clear, transparent, consistent, and complies with statutory obligations and requisite Australian Accounting Standards.

### 2. Scope

This policy applies to the Shire's accounting practices.

### 3. Definitions

<u>Asset:</u>	A resource controlled by a local government as a result of past events and from which future economic benefits are expected to flow to the local government.
<u>Non Current Assets:</u>	Land, buildings, plant and equipment, and furniture and equipment purchased over the Capitalisation Threshold values.
<u>Infrastructure Assets:</u>	Roads, footpaths, drainage, crossovers, car parks, street lights, parks and ovals purchased over the Capitalisation Threshold.
<u>Capitalisation Threshold:</u>	The minimum threshold amount for the recognition of a Non Current Asset and Infrastructure Asset to be taken up onto the Asset Register.
<u>Asset Register:</u>	A record of asset information considered worthy of separate identification.

## 4. Policy Statement

### 4.1 Reporting of Material Variances for Monthly Financial Statements

Material variances of +/- 10% and +/- \$10,000 from the budget figure shall be reported by way of a supporting note to the 'Monthly Statement of Financial Activity'.

Initial Adopted	April 2009
Last Reviewed	16 June 2020
Legal (Parent)	
Legal (Subsidiary)	Financial Man. Reg. 34
Chief Executive Instruction	Nil

### 4.2 Fixed Assets

#### 4.2.1 Land Under Roads

Council does not recognise any value for land under roads acquired on or before 30 June 2008. This accords with the treatment available in Australian Accounting Standard AASB 1051 Land Under Roads and the fact Local Government (Financial Management) Regulation 16 (a)(i) prohibits local governments from recognising such land as an asset.

Last Reviewed	June 2020
Legal (Parent)	AASB 1051; LGA
Legal (Subsidiary)	Financial Man. Reg. 16 and 4 (2)
Chief Executive Instruction	Nil

#### 4.2.2 Depreciation of Non-Current Assets

Depreciation is recognised on a straight-line basis, using the following rates:

Buildings	30 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Sealed roads and streets	
formation	not depreciated
pavement	70 years
seal	
bituminous seals	15-25 years
asphalt surfaces	15-25 years
Gravel roads	
formation	not depreciated
Pavement	50 years
Gravel sheeting	10-15 years
Formed Roads	
formation	<i>Not depreciated</i>
pavement	50 years
Foot paths – slab	20 years
Sewerage piping	100 years
Water supply piping & drainage systems	75 years
Bridges	60 to 90 years

#### 4.2.3 Capitalisation Threshold

Capitalisation of Thresholds for Non Current Assets are:

Land	\$5,000
Buildings	\$5,000
Plant and Equipment	\$5,000
Furniture and Equipment	\$5,000
Infrastructure (all classes)	\$5,000
Bridges	\$5,000

## **5. Associated Documents**

**ITEM 8.1.4 – AMENDMENT TO THE 2020/2021 FEES AND CHARGES**

LOCATION/ADDRESS: Whole of Shire  
 NAME OF APPLICANT: Not applicable  
 FILE REFERENCE:  
 DISCLOSURE OF INTEREST: Nil.  
 DATE OF REPORT: 21 May 2021

**SUMMARY:**

To enable the 2021/22 Fees and Charges to commence at 1 July 2021 and prior to the adoption of the 2021/22 Budget, it is proposed that Council adopt any proposed changes in the 2021/22 financial year as amendments to the 2020/21 Fees and Charges.

**BACKGROUND:**

A local government has the power to impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. Fees and charges are to be imposed when adopting the Annual Budget but may also be imposed during a financial year or amended from time to time during a financial year.

The 21/22 budget is scheduled to be adopted at the end of July. Adopting the fees from the 1 July, will result in consistent application of all fees through the whole financial year.

**CONSULTATION:**

Member representatives have been consulted and have determined their own fees for the Shed, Kids Central and the Gym as these activities are self-funded.

The swimming pool committee has recommended an increase in fees for the 2021/21 season.

**STATUTORY ENVIRONMENT:**

In accordance with the Local Government Act 1995 S6.16, a local government may impose and recover a fee or charge for any goods or service it provides or proposes to provide.

The adopted Fees and Charges are to be advertised in accordance with Section 6.19 of the Local Government Act 1995.

Penalty interest on rates has reduced due to the extension of the COVID response order from 8% to 7%.

**POLICY IMPLICATIONS:**

There are no policy implications.

**FINANCIAL IMPLICATIONS:**

The amended Fees and Charges will not come into effect until 1 July 2021. There will be no impact on the current 2020/21 Budget. Any increases resulting from the amendment will be recognised in the Budget for 2021/2022.

**STRATEGIC IMPLICATIONS:**

This item aligns with the strategy that "Financial management and decision making will be transparent, accountable and in an accessible format for the public".

**COMMENT:**

The fees proposed to be amended in the 2021/22 Fees and Charges that will come into effect from 1 July include:

Penalty interest on rates                      7%

Darkan swimming pool

Family membership (increase from \$100)	\$120 per annum
Single membership (increase from \$70)	\$80 per annum

Kennel inspection fee (new fee)	\$100
---------------------------------	-------

Private works (increased by \$1-\$2 per hour)

Graders	\$217
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Prime Mover only or six wheeler	\$155
Prime Mover with one trailer	\$207
Truck - 5 Tonne	\$130
Truck - 10 Tonne	\$155
JCB Backhoe	\$161
Dozer	\$238
Loader	\$217
Rollers	\$166
Tractor	\$89
Tractor with implement	\$119
Bobcat	\$119
Squirrel (one operator included)	\$89
Road Broom (ute and one operator included)	\$114
Tree Saw (Includes loader and one operator)	\$259
Labour (Labourer/operator)	\$60
Works manager	\$112
Labour (time & 1/2)	\$78
Labour (double time)	\$95
(All plant above includes operator)	
Extractive industry (increase from \$369)	\$739

No change is proposed to housing rent, hall hire, caravan park, waste collection and standpipes

The only change to statutory fees in the amendments is to extractive industry as indicated above in line with the Planning and Development Regulations 2009. No advice of further changes had been received at the time of preparing this report.

It should be noted that the officer's recommendation is to amend the adopted 2020/21 Schedule of Fees and Charges. It will still be necessary for Council to adopt a new Schedule for the 2021/22 financial year in conjunction with adoption of the Budget for that year.

VOTING REQUIREMENTS:  
Absolute Majority

<b>OFFICER RECOMMENDATION – ITEM 8.1.4</b>
--

That Council adopt the following amended Fees and Charges, to be included in the 2021/22 Draft Budget and to commence on the 1 July 2021.

Penalty interest on rates                      7%

Darkan swimming pool

Family membership (increase from \$100)	\$120 per annum
Single membership (increase from \$70)	\$80 per annum
Kennel inspection fee	\$100

Private works (hourly rate including operator)

Graders	\$217
Prime Mover only or six wheeler	\$155
Prime Mover with one trailer	\$207
Truck - 5 Tonne	\$130
Truck - 10 Tonne	\$155
JCB Backhoe	\$161
Dozer	\$238
Loader	\$217
Rollers	\$166
Tractor	\$89
Tractor with implement	\$119
Bobcat	\$119
Squirrel (one operator included)	\$89
Road Broom (ute and one operator included)	\$114



Tree Saw (Includes loader and one operator)	\$259
Labour (Labourer/operator)	\$60
Works manager	\$112
Labour (time & 1/2)	\$78
Labour (double time)	\$95
(All plant above includes operator)	
Extractive industry (increase from \$369)	\$739

<b>COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.4</b>
---

Moved: Cr Adam Squires

Seconded: Cr Neil Morrell

That Council adopt the following amended Fees and Charges, to be included in the 2021/22 Draft Budget and to commence on the 1 July 2021.

Penalty interest on rates                      7%

Darkan swimming pool

Family membership (increase from \$100)	\$120 per annum
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Labour (Labourer/operator)	\$60
Works manager	\$112
Labour (time & 1/2)	\$78
Labour (double time)	\$95
(All plant above includes operator)	
Extractive industry (increase from \$369)	\$739

**CARRIED 6/0****ATTACHMENTS**

- Full Schedule of Fees and Charges

SHIRE OF WEST ARTHUR SCHEDULE OF FEES AND CHARGES 2021/22						
		Legislation	Details	GST (excl) \$	GST \$	Fee
<b>GENERAL PURPOSE FUNDING</b>						
	<u>Rates</u>					
I031714	Instalment Fee - per instalment	LG Act 1995 S6.45	instalment > first	5	exempt	5
I031732	Rate enquiry fee (Account enquiry fee for amounts only)	LG Act 1995 S6.16	per enquiry	50	exempt	50
	Full orders and requisitions -			73	exempt	73
I033020	Surcharge for payment of rates, ESL or rubbish charge by credit card		payment amount * 0.75%	0.682%	0.068%	0.75%
	Penalty Interest			7%		
	Instalment Interest			3%		
<b>GOVERNANCE</b>						
	<u>Photocopying</u>					
I043003	Photocopy (black and white) A4	LG Act 1995 S6.16	per copy	0.45	0.05	0.50
	Photocopy (colour) A4		per copy	0.86	0.09	0.95
	Photocopy (black and white) A3		per copy	0.86	0.09	0.95
	Photocopy (colour) A3		per copy	1.73	0.17	1.90
	(Copy of Shire documents only. General photocopying service available at CRC)					
	<u>Postage</u>		actual cost	various		
	<u>Freedom of Information</u>					
	Application fee for non personal information	WA FOI Act 1992		30	exempt	30
	Application fee for personal information		no fee			
	FOI photocopying		per copy	0.20	exempt	0.20
	Staff time (search and discovery of documents)		per hour	30	exempt	30
<b>LAW, ORDER AND PUBLIC SAFETY</b>						
I051115	Fire Maps	LG Act 1995 S6.16	per map	16.36	1.64	18
I052110	<u>Dogs</u>					
	Kennel license	Dog Regs 2013 R17	per annum	200	exempt	200
	Impounding fee and sustenance		as per regs	as per regs	exempt	as per regs
	Kennel Inspection fee		per annum	90.91	GST	100
I052120	<u>Dog Registration</u>					
	Unsterilised - 1 year	Dog Regs 2013 R17	per dog	50	exempt	50
	Unsterilised - 3 year		per dog	120	exempt	120
	Unsterilised - lifetime		per dog	250	exempt	250
	Sterilised - 1 year		per dog	20	exempt	20
	Sterilised - 3 year		per dog	42.50	exempt	42.50
	Sterilised - lifetime		per dog	100	exempt	100
	(Dogs owned by pensioner - 50% of fee; Droving dogs - 25% of fee)					
	<u>Cats</u>					
I052110	Impound fees	Cat Regs 2012 Sch 3	As per regs	as per regs	exempt	as per regs
I052130	<u>Cat Registration</u>	Cat Regs 2012 Sch 3				
	1 year		per cat	20	exempt	20
	3 years		per cat	42.5	exempt	42.5
	Lifetime		per cat	100	exempt	100
	(Cat owned by pensioner 50% of fee)					
I052110	Infringements and Penalties	Cat Act 2011, Dog Act 1976, Local Laws				as per legislation
<b>HEALTH</b>						
I07115	Septic tank application	Health Act 1911		118	exempt	118
I07115	Caravan Park Licence	Car and Camp Regs Sech 3 Div 1		200	exempt	200
	Offensive Trade Licences	Refer to Health Dept Scale of Fees				
	<u>Food Business Vendor Licence</u>					
	Commercial in residential kitchen - initial registration			50	exempt	50
	Low Risk			60	exempt	60
	Medium risk			195	exempt	195
	Very low risk or charitable			free	exempt	free
<b>EDUCATION AND WELFARE</b>						
	<u>Kids Central Membership</u>					
I064010	Kid's Central yearly family membership (pro-rata below 6 months)	LG Act 1995 S6.16	per membership	45.45	4.55	50
	Electric Swipe Key (Authorised for Kids Central)		per key	18.18	1.82	20
	<u>Meals Service</u>					
I061011	Main meal			7	exempt	7
	Dessert	LG Act 1995 S6.16		3	exempt	3
I063015	Bus Service to Bunbury	LG Act 1995 S6.16		13.64	1.36	15
<b>HOUSING</b>						
I091110	<u>Community Housing</u>					
	Unit 1/10 Hillman St	LG Act 1995 S6.16	per week	130	exempt	130
	Unit 2/10 Hillman St		per week	145	exempt	145
	Unit 3/12 Hillman St		per week	145	exempt	145
	Unit 4/12 Hillman St		per week	130	exempt	130
	25 Nangip Crescent		per week	150	exempt	150
	18 Gibbs Street		per week	150	exempt	150
I091111	<u>Use of Staff Housing by Non Staff</u>					
	52 Hillman Street	LG Act 1995 S6.16	per week	187	exempt	187
	10 Gibbs Street		per week	187	exempt	187
	31 Arthur Street		per week	153	exempt	153
	7 Hillman Street		per week	128	exempt	128
	8 Hillman Street		per week	163	exempt	163
I091105	<u>GROH Housing</u>					
	11 King Street	LG Act 1995 S6.16	per week	550	exempt	550
	6 Hillman Street	Lease agreement	per week	550	exempt	550

SHIRE OF WEST ARTHUR SCHEDULE OF FEES AND CHARGES 2021/22						
		Legislation	Details	GST (excl) \$	GST \$	Fee
<b>COMMUNITY AMENITIES</b>						
I102160	Asbestos Disposal (plus cost of staff time and equipment)	LG Act 1995 S6.16	cubic metre	50	5	55
	<u>Rubbish Rates</u>					
I101110	Rubbish Collection		per service - refuse and recycle	205	exempt	205
	Recycle bin - non service areas	LG Act 1995 S6.16		64.00	exempt	64.00
I107140	<u>Cemetery Fees</u>	LG Act 1995 S6.16				
	Internments			518	52	570
	Re-opening of grave for exhumation (Where contractors used - cost)			518	52	570
	Re-internment after exhumation ( Where contractors used - cost)			518	52	570
	Permission to erect a headstone, a monument to enclose with, kerb any grave, to erect a nameplate			27	3	30
	Grave Reservation Fee			45	5	50
	Niche Wall - includes reservation fee - single			27.27	3	30
	Niche Wall - includes reservation fee double (Cost of Niche Wall plaque additional)			54.55	5	60
I106390	<u>Town Planning Application Fees</u>	PD Regs 2009				
	Less than \$50,000			147	exempt	147
	More than \$50,000 but not more than \$500,000		0.32% of estimated development cost	as per schedule	exempt	as per schedule
	More than \$500 000 but not more than \$2.5 million		\$1,700, + 0.257% for every \$1 in excess of \$500,000	as per schedule	exempt	as per schedule
	More than \$2.5 million but not more than \$5 million		\$7,161 + 0.206% for every \$1 in excess of \$2.5 million	as per schedule	exempt	as per schedule
	More than \$5 million but not more than \$21.5 million		\$12,633 + 0.123% for every \$1 in excess of \$5 million	as per schedule	exempt	as per schedule
	More than \$21.5 million			34196	exempt	34196
	Change of Use			295	exempt	295
	Extractive industry			739	exempt	739
	Home business, home occupation, Cottage industry			222	exempt	222
	Advertising		at cost		applicable	
	Development application fees to do not apply to not for profit community groups					
	Development Applications in Wellington Catchment that would not otherwise require Development Approval in other areas of the Shire will not be charged a fee.					
	All other planning fees maximum fee allowed by Department of Planning					
<b>RECREATION AND CULTURE</b>						
I111110	<u>Darkan Town Hall</u>					
	Functions including kitchen and at least one hall	LG Act 1995 S6.16	per use	100	10	110
	Meetings including use of kitchen		per use	70	7	77
	Meetings not including use of kitchen (using one area of hall)		per use	40	4	44
	Community activities		per use	20	2	22
	A bond of \$200 is applicable on all function bookings.					
	<i>Local community and not for profit groups have free use of the Darkan Town Hall.</i>					
I112110	<u>Darkan Swimming Pool</u>					
	Single Membership		per annum	73	7	80
	Family Membership		per annum	109	11	120
	Student Membership ( between the age of 18 and 23)		per annum	18	2	20
	Visitors - Adults		per visit	2.73	0.27	3
	Visitors - Children		per visit	1.82	0.18	2
	Group course fees		per person	15	1.50	16.5
	Individual course fees		per person	45	4.50	49.5
	Baby swim classes - Pool Member		per student	7	0.73	8
	Baby swim classes - Non-Pool Member		per student	10	1	11
	Swipe Key (Authorised for Darkan Swimming Pool)		per key	18	1.82	20
	Swim coaching		at cost			
	Swim club - pool member			5	0.45	5
	Swim club - non pool member			6	0.64	7
I113140	<u>Community Gym Membership to 30 June 2020</u>					
	Single			59.09	5.91	65
	Family			90.91	9.09	100
	Concession (pro-rata if below 6 months)			27.27	2.73	30.00
	<u>Equipment Hire</u>					
	Hire of Chairs (only the old orange style hall chairs)			0.30	0.03	0.33
I116110	<u>History Books</u>					
	Hard Cover			25.00	2.50	27.50
	Paperback			17.27	1.73	19.00
	(Postage extra)			At cost		
I147120	<u>The Shed to 30 June 2021</u>					
	Membership - Yearly (pro-rata below 6 months)			54.55	5.45	60.00
	Membership - Pensioner/Seniors Concession			36.36	3.64	40.00
	Locker Hire			9.09	0.91	10.00
	Hourly Rate			27.27	2.73	30.00
	Social membership			4.55	0.45	5.00
<b>ECONOMIC SERVES</b>						
	<u>Scheme Standpipe Water</u>					
I134130	Community standpipe water	LG Act S6.16	per kilolitre	2.50	exempt	2.50
	Commercial standpipe water - per kilolitre	LG Act S6.16	per kilolitre	10.00	exempt	10.00
	Deposit Growden Place Standpipe key (held in trust)			25.00	0.00	25.00
	<u>Duranillin Water Supply</u>					
I136110	Annual service charge		Per annum	120	exempt	120
I134120	Water Usage (first 100kl)		Per kilolitre	3.50	exempt	3.50
	Water Usage (next 300kl)		Per kilolitre	5.00	exempt	5.00
	Water Usage (above 400kl)		Per kilolitre	8.00	exempt	8.00

SHIRE OF WEST ARTHUR SCHEDULE OF FEES AND CHARGES 2021/22						
	Legislation	Details	GST (excl) \$	GST \$	Fee	
I133110	<b>Building Permit Fees</b>					
	Uncertified application for a building or demolition permit (minimum fee)	per permit				
	The fee is 0.32% of the estimated value of the building work as determined by the relevant permit authority, but not less than \$105.00					
	Certified application (minimum fee)	Building Regs S16 (1)				
	For building work for a Class 1 or Class 10 Building or incidental structure the fee is 0.19% of the estimated value of the building work as determined by the relevant permit authority, but not less than \$105.00					
	Certified application for building permit for Class 2 to 9 buildings	Building Reg 2012 Reg 12	Of the estimated value of the building works as determined by the relevant permit authority but not less than \$105.00 Building Regulations 2012			0.09%
	Application for demolition permit Class 1 or 10 buildings	Building Reg 2012 Reg 14	Building Regulations 2012			105.00
	Application for demolition permit Class 2 to 9 buildings	Building Reg 2012 Reg 15	Per storey Building Regulations 2012			105.00
	Application to extend Demolition permit I	Building Reg 2012 Reg 16	Building Regulations 2012			105.00
	Application for occupancy permit	Building Reg 2012 Reg 17	Building Regulations 2012			105.00
	Application for temporary occupancy permit	Building Reg 2012 Reg 18	Building Regulations 2012			105.00
	Application for the modification of an occupancy permit for additional use on a temporary basis	Building Reg 2012 Reg 19	Building Regulations 2012			105.00
	Application for a replacement occupancy permit for permanent change of the buildings use classification	Building Reg 2012 Reg 20	Building Regulations 2012			105.00
	Application for occupancy permit for a building in respect of which unauthorised work has been done	Building Reg 2012 Reg 22	Of the estimated value of the building works as determined by the relevant permit authority but not less than \$105.00 Building Regulations 2012			0.18%
	Application for building approval certificate for a building in respect to which unauthorised works has been done.	Building Reg 2012 Reg 23	Of the estimated value of the building works as determined by the relevant permit authority but not less than \$105.00 Building Regulations 2012			0.38%
	Application for a building approval certificate for an existing building where unauthorised works have been done	Building Reg 2012 Reg 25				105.00
	Swimming Pool Inspection Fee (one off)	Building Reg 2012	Per year			58.50
I132040	<b>Darkan Caravan Park</b>					
	Site (2 people) - three nights at price of two nights.	Per night	18.18	1.82		20
	Extra person (each)/Use of shower only	Per night	4.55	0.45		5
	Site (2 people)	Per week	109.09	10.91		120
	Extra person (each)	Per week	27.27	2.73		30
	Chalet (2 people) - staying one night only	Per night	145.45	14.55		160
	Chalet (2 people) - two or more nights	Per night	118.18	11.82		130
	Chalet - extra person per night	Per night	13.64	1.36		15
	Washing Machine	Per cycle	2.73	0.27		3
	Dryer	Per cycle	0.91	0.09		1
<b>OTHER PROPERTY AND SERVICES</b>						
	<b>Private Works</b>					
I141110	<b>Graders</b>					
	Prime Mover only or six wheeler	Per Hour	197.27	19.73		217
	Prime Mover with one trailer		140.91	14.09		155
	Truck - 5 Tonne		188.18	18.82		207
	Truck - 10 Tonne		118.18	11.82		130
	JCB Backhoe		140.91	14.09		155
	Dozer		146.36	14.64		161
	Loader		216.36	21.64		238
	Rollers		197.27	19.73		217
	Tractor		150.91	15.09		166
	Tractor with implement		80.91	8.09		89
	Bobcat		108.18	10.82		119
	Squirrel (one operator included)		108.18	10.82		119
	Road Broom (ute and one operator included)		80.91	8.09		89
	Tree Saw (Includes loader and one operator)		103.64	10.36		114
			235.45	23.55		259
	Labour (Labourer/operator)		54.55	5.45		60
	Works manager		100.00	10.00		112
	Labour (time & 1/2)		70.91	7.09		78
	Labour (double time)		86.36	8.64		95
	(All plant above includes operator)					
	Ute	Per km	0.85	0.08		0.93
	Compactor	Per day	58.18	5.82		64
		Per m3				
	*Sand (non ratepayer) - per cubic metre	9.00	8.18	0.82		9
	*Gravel (non ratepayer) - per cubic metre	9.00	100.00	10.00		9
	* Gravel or sand supplied to ratepayers will be at cost plus plant and labour					
	Second Hand Grader Blades (or sold with scrap metal)	5.50	5.00	0.50		5.50
	Blue Metal - seconds (per tonne)	Per Tonne	30.00	27.27		30
	Blue Metal - not seconds (per tonne)	50.00	45.45	4.55		50
	<b>Staff Housing</b>					
	<i>(Rental by non Shire staff will be 200% of the applicable charge)</i>					
	15 Nangip Crescent					as per contract
	52 Hillman Street		93.50	exempt		93.50
	10 Gibbs Street		93.50	exempt		93.50
	22 Hillman Street			exempt		as per contract
	31 Arthur Street		76.50	exempt		76.50
	7 Hillman Street		64.00	exempt		64.00
	8 Hillman Street		81.50	exempt		81.50
I141035	<b>Special Series - AW Number Plates</b>					
	DPI Fee		cost	exempt		cost
	Shire additional fee		45.45	4.55		50

**ITEM 8.1.5 – POLICY – VEXATIOUS AND UNREASONABLE PERSISTENCE COMPLAINTS POLICY**

LOCATION/ADDRESS:	Not applicable
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	2.30.1
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 June 2021

**SUMMARY:**

Council to consider draft Vexatious and Unreasonable Persistence Complaints Policy.

**BACKGROUND:**

This policy has been drafted to provide a framework for dealing with vexatious or unreasonable persistence complaints and to assist Council Members and employees in their engagement with members of the public, ratepayers, and other stakeholders.

**CONSULTATION:**

Other Local Government policies have been reviewed. Guidelines from the Ombudsman Western Australia has been considered.

**STATUTORY ENVIRONMENT:**

- Local Government Act 1995
- Shire of West Arthur Code of Conduct for Council Members, Committee Members, and Candidates for Election.
- Shire of West Arthur Code of Conduct for Employees

**POLICY IMPLICATIONS:**

This policy can be read in conjunction with the proposed Complaint Handling Division 3 Code of Conduct Policy.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with adopting the policy.

**STRATEGIC IMPLICATIONS:**

Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.

**COMMENT:**

This policy and the principles within it, apply to all Council Members, Shire employees and contractors of the Shire that receive and manage complaints.

This Policy applies to all complaints received in relation to:

- a Shire policy, product, service, event, or facility;
- the service provided by a Shire Council Member, Shire employee, or a contractor;
- a third party who is under the jurisdiction of the Shire – includes contractors, consultants, volunteers and work experience or placement employees.

**VOTING REQUIREMENTS:**

Absolute majority

**OFFICER RECOMMENDATION – ITEM 8.1.5**

That Council consider adopting the draft Vexatious and Unreasonable Persistence Complaints Policy.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.5**

Moved: Cr Adam Squires

Seconded: Cr Marie Lloyd

That Council adopt the draft Vexatious and Unreasonable Persistence Complaints Policy as presented.

**CARRIED 6/0**

**ATTACHMENTS**

- Draft Vexatious and Unreasonable Persistence Complaints Policy



## Shire of West Arthur Council Policy – Vexatious or Unreasonable Persistence Complaints

Policy Number	G1.6 Governance
Policy Title	Vexatious or Unreasonable Persistence Complaints
Related Legislation	Local Government Act 1995
Strategic Outcome Supported	Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.
Adopted by Council	
Review	CEO Annually

### 1. Objective

To provide a framework for dealing with vexatious or unreasonable persistence complaints and to assist Council Members and employees in their engagement with members of the public, ratepayers, and other stakeholders.

### 2. Scope

This policy and the principles within it, apply to all Council Members, Shire employees and contractors of the Shire that receive and manage complaints.

### 3. Definitions

**Complainant:** means a person, organisation or its representative, making a complaint (and may include staff, Council Members and/or the Chief Executive Officer).

**Complaint:** means an expression of dissatisfaction made to or about an organization, related to:

- products and/or services; or
- staff, Council Members and/or the Chief Executive Officer.

A complaint is not:

- an initial service request to the Shire;
- a request for information from the Shire;
- the lodging of an appeal in accordance with statutory process;
- a submission relating to a regulatory function;
- a petition;
- the reporting of a civil dispute between two individual parties.

**Vexatious:** means a complaint or complaints brought solely to harass or subdue. Complaints may take the form of repetitive, burdensome or unwarranted communication with one or more Shire employees over matters that are considered resolved or responded to in previous communication with the complainant.

### 4. Policy Statement

#### 4.1 Principles

Principles underlying this Policy are:

- commitment to providing quality services to the Shire's ratepayers, residents, and stakeholders;
- compliance with the local government legislative framework;

- respect and sensitivity towards the needs of the Shire's ratepayers, residents, and stakeholders;
- transparency and accountability in the delivery of services; and
- maintenance of confidentiality and respect for natural justice principles.

This Policy sets out how the Shire will deal with complainants who:

- cannot be satisfied;
- make unreasonable demands;
- constantly raise the same issue with different employees; and/or
- are rude, abusive, inappropriate or aggressive/intimidating.

#### 4.2 Policy Threshold Considerations

Prior to enacting this Policy, Council Members and employees must ensure they have complied with the provisions listed below:

- Code of Conduct for Council Members, Committee Members, and candidates for Election – for Council Member;
- Code of Conduct for Employees – for employees;
- Ombudsman WA Effective Complaints Handling Guidelines

#### 4.3 Difficult People Categories

##### 4.3.1 A person who cannot be satisfied

Despite the best efforts of Council and/or Shire employees, some members of the public may not be satisfied with the action taken or the service provided by the Shire in the resolution of a complaint or service request.

##### 4.3.2 A person who makes unreasonable demands

Demands or levels of contact are deemed to be unreasonable when the matter begins to impact excessively on the work of employees and Council Members or the time dealing with the issue impacts on service levels available to other customers.

This can be due to:

- the quantity of information the customer is requesting;
- the nature and scale of service the customer is seeking; or
- the number of approaches the customer makes.

##### 4.3.3 A Person who constantly raises the same issue with different employees

A person who is dissatisfied with the action taken or service provided and continues to raise the same issue with different employees.

##### 4.3.4 A Person who is Rude, Inappropriate, Intimidating, Angry, Threatening or Harassing

For a range of reasons, a person may display inappropriate, rude, angry, harassing, or intimidating behaviour whilst using Shire facilities, attending a Shire activity, or during other interactions with Council Members, Shire employees, customers and/ or clients.

##### 4.3.5 General Management of Policy

If the CEO determines that service or access restrictions are necessary in line with this policy, the customer must be notified accordingly and given an opportunity to make representations about the proposed course of action to the CEO and, if applicable, the Manager of the appropriate Section.

The CEO must advise the Council as soon as practicable of the relevant circumstances and action taken if a decision is made to withdraw service or limit/refuse access in accordance with this policy.

The duration of any service or access restrictions will be at the discretion of the CEO.

In actioning this policy, the CEO and management will follow current procedures as guided by the Ombudsman WA, which may include written notification that the Shire may:

- not accept any further calls from the person;
- not grant any further interviews;
- require all further communication to be put in writing; and
- only a nominated person will discuss their concerns in the future;
- continue to receive, read, and file correspondence but only acknowledge or otherwise respond to it, if:
  - the person provides significant new information relating to their complaint or concern; or
  - the person raises new issues which, in the CEO opinion, warrant fresh action.
- If, in the opinion of the CEO, correspondence received by the Shire contains personal abuse, inflammatory comments or material clearly intended to intimidate, this correspondence will be returned to the sender and not otherwise acted upon.

Shire employees may take the following actions when subjected to a person who displays the above behaviour during their duties:

- ask the person to stop their current behaviour and warn the person that if the behaviour continues the conversation, interview or access to the facility/activity will be terminated,
- cease the conversation or interview if the rude, angry, or harassing behaviour continues after a warning has been given,
- where this behaviour continues to occur at a Shire facility/activity, the person will be asked to leave, and,
- call the Police should the situation require.

Where a person or persons have been asked to leave a Shire facility or activity, the CEO may notify the person in writing, advising them of Council's concerns and that they could be banned from Shire facilities and future functions if the behaviour continues to occur.

This procedure may be applied in relation to complaints to the Shire's Behaviour Complaints Officer, pursuant to Division 3 of the Shire's Code of Conduct for Council Members, Committee Members and Candidates for Election.

## 5. Associated Documents

- Shire of West Arthur Code of Conduct for Council Members, Committee Members, and Candidates for Election.
- Shire of West Arthur Code of Conduct for Employees.
- WA Ombudsman "Helping Public Authorities" - "Effective Complaints Handling."  
<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Dealing-with-unreasonable-complainant-conduct.pdf>  
[https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Unreasonable\\_Complainant\\_Conduct\\_Manual.pdf](https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Unreasonable_Complainant_Conduct_Manual.pdf)



**ITEM 8.1.6 – POLICY – COMPLAINT HANDLING DIVISION 3 CODE OF CONDUCT**

LOCATION/ADDRESS:	Not applicable
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	2.30.1
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	26 May 2021

**SUMMARY:**

Council to consider the draft options for Complaint Handling Division 3 Code of Conduct:

Option A - Policy G1.4 Complaint Handling – Division 3 Code of Conduct for Council Members, Committee Members and Candidates for Election, as the procedure for dealing with complaints made under the new Code of Conduct – No Committee.

Option B - Policy G1.4 Complaint Handling – Division 3 Code of Conduct for Council Members, Committee Members and Candidates for Election, as the procedure for dealing with complaints made under the new Code of Conduct including the following:

- Policy G1.5 Behaviour Complaints Committee Terms of Reference.
- Behaviour Complaints Committee Delegation.

Council to consider the new Complaint About Alleged Breach Form – Code of Conduct for Council Members, Committee Members and Candidates for Election.

**BACKGROUND:**

The Government has enacted new legislation requiring all local governments to adopt a new Code of Conduct for Council Members, Committee Members and Candidates for a local government election, and to deal with ancillary matters.

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021
- Local Government (Model Code of Conduct) Regulations 2021.

The Code consists of four Divisions:

- Division 1 - Preliminary provisions.
- Division 2 – General principles.
- Division 3 – Behaviour.
- Division 4 – Rules of conduct

The Model Code Regulations outline:

- Overarching principles to guide behaviour.
- Behaviours that are required to be managed by Council; and
- Rules of conduct, alleged breaches which will continue to be considered by the Local Government Standards Panel.

As part of the requirements for the Code of Conduct, each local government is to adopt a procedure detailing how it will manage Code of Conduct Behaviour Complaints.

Complaints may be made in relation to behaviour occurring on or after 3 February 2021 and must be made within one month of the alleged breach.

**CONSULTATION:**

Guidance notes have been provided by the Department and WALGA. Staff have engaged with Governance department at WALGA.

**STATUTORY ENVIRONMENT:**

Section 5.104 of the Local Government Act 1995 (the Act) requires that local governments adopt the Model Code as their Code of Conduct within three months of the Regulations coming into operation. Council adopted their Model Code at Ordinary Council meeting held 20 April 2021.

Division 3 of the Model Code of Conduct regulates how a Council must deal with a complaint.

**POLICY IMPLICATIONS:**

The draft policy does not conflict with any existing policy.

Council adopted the Complaint About Alleged Breach Form, at Ordinary Council meeting held 16 February 2021, this will be replaced by the new form if adopted.

**FINANCIAL IMPLICATIONS:**

The draft policy Option A and Option B propose the engagement of an independent person to investigate any complaints received, which would incur a cost.

Additionally, there will be administrative resources required in handling the complaints by the complaints officer and in preparation of agenda items for Council to consider reports.

**STRATEGIC IMPLICATIONS:**

Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.

Strategy: Continuously strive to improve performance and delivery across all functions with a focus on customer service.

**COMMENT:**

The purpose of this policy is to assist in managing complaints in relation to Division 3 – Behaviour.

Current guidelines provided by the DLGSI confirm that Council members who have made a complaint, or are the subject of a complaint, would have an impartiality interest, however this does not require them to leave a meeting for debate or decision.

WALGA's view based on the sector's advocacy position, is that the presence and participation of Council Members directly involved in the complaint creates a clear apprehension of bias and is incompatible with the principles of procedural fairness.

Therefore, WALGA has provided a framework with the proposal of establishing a Complaints Committee with delegated authority that can only be exercised in the absence of Council Members who are parties to the complaint.

Any complaints lodged prior to the adoption of a procedure cannot be dealt with until a procedure is adopted. The Model Code commenced on 3 February 2021.

Option A and Option B policies have been drafted, one reflecting no committee and the other including a Committee of Council, Terms of Reference and Delegation. Both of these draft policies have been developed based on framework provided by WALGA.

Both draft policies refer to a Vexatious or Unreasonable Persistent Complaint or Customer Policy. A draft Vexatious policy has been developed for consideration. If this policy is not adopted, reference to the policy will be removed from the Complaint Handling Division 3 Code of Conduct Policy.

Since the adoption of the Complaint About Alleged Breach Form was adopted by Council in February 2021, WALGA has provided the sector with an alternative form. WALGA's new alternative includes options for more detailed information and includes an option that the Complainant and the Respondent be offered the opportunity to participate in an Alternative Dispute Resolution process, that if agreed to by both parties, will be undertaken before the complaint is dealt with. Both Options A and B of the Complaint Handling Division 3 Code of Conduct Policy include and refer to the new form including the Alternative Dispute option.

If Council wishes to keep the existing Complaint About Alleged Breach Form the adopted Complaint Handling Division 3 Code of Conduct Policy will be amended to reflect this.

Risks of not adopting Option B - Policy G1.4 Complaint Handling – Division 3 Code of Conduct including the formation of a Behaviour Complaints Committee:

- Council will need to be clear on how conflict of interest will be managed and put procedures in place.
- The community apprehension of bias towards Council member/s subject to a complaint.
- The inequality of and fundamental conflict of one judging one's own behaviour.
- Not meeting community expectations of procedural fairness, objectivity, impartiality and consistency.

VOTING REQUIREMENTS:  
Absolute majority

**OFFICER RECOMMENDATION – ITEM 8.1.6**

That Council adopt draft Option B - Policy G1.4 Complaint Handling – Division 3 Code of Conduct for Council Members, Committee Members and Candidates for Election, as the procedure for dealing with complaints made under the new Code of Conduct including the following:

- Policy G1.5 Behaviour Complaints Committee Terms of Reference.
- Behaviour Complaints Committee Delegation.

And

Council adopts the new Complaint About Alleged Breach Form – Code of Conduct for Council Members, Committee Members and Candidates for Election as an attachment.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.6**

Moved: Cr Marie Lloyd

Seconded: Cr Julie McFall

That the matter lay on the table until the July 2021 Council meeting to allow more information to be obtained.

**CARRIED 6/0**

**ATTACHMENTS**

- Draft Option A - Policy G1.4 Complaint Handling – Division 3 Code of Conduct for Council Members, Committee Members and Candidates for Election, as the procedure for dealing with complaints made under the new Code of Conduct – No Committee.
- Draft Option B - Policy G1.4 Complaint Handling – Division 3 Code of Conduct for Council Members, Committee Members and Candidates for Election, as the procedure for dealing with complaints made under the new Code of Conduct including the following:
  - Policy G1.5 Behaviour Complaints Committee Terms of Reference.
  - Behaviour Complaints Committee Delegation.
- New Complaint About Alleged Breach Form – Code of Conduct for Council Members, Committee Members and Candidates for Election.
- WALGA Policy Development Framework Code of Conduct (Separate)

**OPTION A**

## Shire of West Arthur Council Policy – Complaint Handling Division 3 Code of Conduct Policy

Policy Number	G1.4 Governance
Policy Title	Complaint Handling Division 3 Code of Conduct
Related Legislation	Clause 15(2) of the Local Government (Model Code of Conduct) Regulations 2021 Local Government Act WA 1995
Strategic Outcome Supported	Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.
Adopted by Council	
Review	Annually

### 1. Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and Shire of West Arthur Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Shire of West Arthur's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

### 2. Scope

This Policy applies to complaints made in accordance with Clause 11 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

### 3. Definitions

Act: *Local Government Act 1995*.

Behaviour Complaints Officer: means a person authorised in writing [*by Council resolution or by the CEO exercising delegated authority*] under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

Breach: means a breach of Division 3 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Candidate: means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint: means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct: means the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Complaint: means a complaint submitted under Clause 11 of the Code of Conduct.

Complainant: means a person who has submitted a Complaint in accordance with this Policy.

Complaint Assessor: means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

Complaint Documents: means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form: means the form approved under clause 11(2)(a) of the Code of Conduct *[by Council resolution or by the CEO exercising delegated authority]*.

Council Member: means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

Finding: means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan: means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

Response Documents: means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

## 4. Policy Statement

### 4.1 Principles

#### 4.1.1 Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
- the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
- any findings made will be based on proper and genuine consideration of the evidence.

#### 4.1.2 Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

#### 4.1.3 Confidentiality

The Shire of West Arthur will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

#### 4.1.4 Accessibility

The Shire of West Arthur will ensure that information on how to make a complaint, including this Policy, is available at the Shire of West Arthur's Administration Building and on the Shire of West Arthur's website. The Shire of West Arthur will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

### 4.2 Roles

#### 4.2.1 Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.

The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

The Shire of West Arthur's CEO was appointed the Behaviour Complaints Officer by Council resolution 8.4.4, 16 February 2021.

#### 4.2.2 Complaint Assessor

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 4.3.8 of this Policy.

The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

### 4.3 Procedure

#### 4.3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct *[clause 11(1) of the Code of Conduct]*.

A Complaint must be made within one (1) month after the alleged Breach *[clause 11(2)(c) of the Code of Conduct]*.

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made *[clause 11(2)(c) of the Code of Conduct]*.

#### 4.3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 4.3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

- To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with [*clause 15(1) of the Code of Conduct*].

#### 4.3.3 Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint [*clause 14 of the Code of Conduct*].

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

#### 4.3.4 Notice to Complainant

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 4.3.6 of this Policy.

#### 4.3.5 Notice to Respondent

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- includes a copy of the Complaint Documents;
- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 4.3.6 of this Policy.



#### 4.3.6 Alternative Dispute Resolution (if new complaint form approved by Council)

The Shire of West Arthur recognises that Alternative Dispute Resolution may support both parties reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 4.3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

#### 4.3.7 Order of Complaints

Complaints will normally be dealt with in the order in which they are received. If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

#### 4.3.8 Appointment of Complaints Assessor

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the Shire of West Arthur's Purchasing Policy.

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

#### 4.3.9 Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Shire of West Arthur's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

- the behaviour occurred at a Council or Committee Meeting,
- the behaviour was dealt with by the person presiding at the meeting, and/or

- the Respondent has taken remedial action in accordance with Shire of West Arthur Meeting Procedures/Standing Orders Local Law 2002.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

#### 4.3.10 Assessment of the Complaint

The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 4.3.4 and Part 4.3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

#### 4.3.11 Complaint Report

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- include recommendations on each decision that may be made by Council; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of Council. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

#### 4.3.12 Council Meeting

The Agenda item will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

Council will consider the Complaint Report and attachments and give due regard to the recommendations. In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, Council will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Code of Conduct and Part 4.4 of this Policy.

If Council dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, Council will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.

If Council finds that the alleged Breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If Council finds that the alleged breach **did** occur, Council will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If Council decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If Council decides to prepare a Plan, Council will first consult with the Respondent in accordance with clause 12(5)\* of the Code of Conduct. Council will consider any submissions made by the Respondent before preparing and implementing a Plan.

#### 4.3.13 Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

### 4.4 Decision Making

#### 4.4.1 Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in section 4.1 of this Policy.

#### 4.4.2 Vexatious and Unreasonable Persistence Complaints and Customers

Council may refer to the Shire's G1.6 Vexatious and Unreasonable Persistence Complaints Policy (*new policy if adopted by Council*) which provides a framework for dealing with vexatious or unreasonable persistent complaints and to assist Council Members and employees in their engagement with members of the public, ratepayers, and other stakeholders.

Procedures in this policy may be applied in relation to complaints to the Shire's Behaviour Complaints Officer, pursuant to Division 3 of the Shire's Code of Conduct for Council Members, Committee Members and Candidates for Election.

#### 4.4.3 Dismissal

Council must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- (a) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- (b) either —
  - (i) the behaviour was dealt with by the person presiding at the meeting; or
  - (ii) the Respondent has taken remedial action in accordance with Shire of West Arthur Standing Orders 2002.

#### 4.4.4 Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [*clause 12(3) of the Code of Conduct*].

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

#### 4.4.5 Action

In deciding whether to take no further action, or prepare and implement a Plan, Council may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct; personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

#### 4.4.6 Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action Council considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and

- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

## 5. Associated Documents

- Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates
- WALGA Policy Development Framework Code of Conduct Behaviour Complaints Management Policy
- Shire of West Arthur G1.6 Vexatious and Unreasonable Persistence Complaints and Customers Policy

DRAFT Option A

**OPTION B**

## Shire of West Arthur Council Policy – Complaint Handling Division 3 Code of Conduct Policy

Policy Number	G1.4 Governance
Policy Title	Complaint Handling Division 3 Code of Conduct
Related Legislation	Clause 15(2) of the Local Government (Model Code of Conduct) Regulations 2021 Local Government Act WA 1995
Strategic Outcome Supported	Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.
Adopted by Council	
Review	Annually

### 1. Objective

To establish, in accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and Shire of West Arthur Code of Conduct for Council Members, the procedure for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

To give effect to the Shire of West Arthur's commitment to an effective, transparent, fair and accessible complaints handling process that supports high standards of behaviour of Council Members, Committee Members and Candidates.

### 2. Scope

This Policy applies to complaints made in accordance with Clause 11 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

This Policy applies to Council Members, Committee Members, Candidates and any person who submits a complaint in accordance with this Policy.

### 3. Definitions

Act: *Local Government Act 1995*.

Behaviour Complaints Committee: means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The role of the Behaviour Complaints Committee is outlined in Part 2.3 of this Policy.

Behaviour Complaints Officer: means a person authorised in writing [*by Council resolution or by the CEO exercising delegated authority*] under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.

Breach: means a breach of Division 3 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Candidate: means a candidate for election as a Council Member, whose nomination has been accepted by the Returning Officer under s.4.49 of the Act, but does not include a

Council Member who has nominated for re-election. A person is a Candidate from the date on which their nomination is accepted, until the Returning Officer declares the election result in accordance with s.4.77 of the Act.

Candidate Complaint: means a Complaint alleging a Breach by a Candidate. Candidate Complaints are dealt with in Part 3.2 of this Policy.

Code of Conduct: means the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Committee: means a committee of Council, established in accordance with s.5.8 of the Act.

Committee Member: means a Council Member, employee of the Shire of West Arthur or other person who has been appointed by the Council to be a member of a Committee, in accordance with s.5.10(1) of the Act. A person is a Committee Member from the date on which they are appointed, until their appointment expires or is terminated by Council resolution.

Complaint: means a complaint submitted under Clause 11 of the Code of Conduct.

Complainant: means a person who has submitted a Complaint in accordance with this Policy.

Complaint Assessor: means a person appointed by the Behaviour Complaints Officer in accordance with Part 2.2 and Part 3.8 of this Policy.

Complaint Documents: means the Complaint Form and any supporting information, evidence, or attachments provided by the Complainant.

Complaint Form: means the form approved under clause 11(2)(a) of the Code of Conduct [*by Council resolution or by the CEO exercising delegated authority*].

Council: means the Council of the Shire of West Arthur.

Council or Committee Meeting: means a formal meeting of the Council or a Committee that is called and convened in accordance with the Act. It does not include informal meetings, such as workshops or briefings.

Council Member: means a person who is currently serving a term of office as an elected member of the Council in accordance with the Act.

Finding: means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan: means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

Response Documents: means the response provided by the Respondent to the Complaint, and includes any supporting information or evidence that is supplied.

## 4. Policy Statement

### 4.1 Principles

#### 4.1.1 Procedural fairness

The principles of procedural fairness, or natural justice, will apply when dealing with a Complaint under this Policy. In particular:

- the Respondent will be afforded a reasonable opportunity to be heard before any findings are made, or a plan implemented;
- the decision maker should be objective and impartial, with an absence of bias or the perception of bias; and
- any findings made will be based on proper and genuine consideration of the evidence.

#### 4.1.2 Consistency

The application of this Policy should lead to consistency in process and outcomes. While each Complainant and Respondent will be dealt with according to their circumstances, and each Complaint considered and determined on its merits, similar circumstances will result in similar decisions.

#### 4.1.3 Confidentiality

The Shire of West Arthur will take all reasonable steps to maintain confidentiality when dealing with the Complaint, in order to protect both the Complainant and Respondent.

Council Members, Local Government employees and contractors who have a role in handling a specific complaint will be provided with sufficient information to fulfil their role. They must manage this information securely, and must not disclose or inappropriately use this information.

Complainants will be advised of the level of confidentiality they can expect, and that breaches of confidentiality on their part may prejudice the progress of their Complaint.

#### 4.1.4 Accessibility

The Shire of West Arthur will ensure that information on how to make a complaint, including this Policy, is available at the Shire of West Arthur's Administration Building and on the Shire of West Arthur's website. The Shire of West Arthur will make information available in alternative formats if requested.

Any person wishing to make a complaint may contact the Behaviour Complaints Officer if they require assistance in completing the complaint form or otherwise navigating the complaints process.

### 4.2 Roles

#### 4.2.1 Behaviour Complaints Officer

The Behaviour Complaints Officer is authorised in accordance with clause 11(3) of the Code of Conduct to accept complaints and withdrawal of complaints.

The Behaviour Complaints Officer is not an advocate for the complainant or the respondent. The Behaviour Complaints Officer provides procedural information and assistance to both Complainant and Respondent.



The Behaviour Complaints Officer will liaise with and provide administrative support to a Complaint Assessor appointed under this Policy.

The Behaviour Complaints Officer will liaise with the Local Government to facilitate the calling and convening of Council or Behaviour Complaints Committee meetings if required.

In undertaking their functions, the Behaviour Complaints Officer will apply the Principles of this Policy.

The Shire of West Arthur's CEO was appointed the Behaviour Complaints Officer by Council resolution 8.4.4, 16 February 2021.

#### 4.2.2 Complaint Assessor

The Complaint Assessor is appointed by the Behaviour Complaints Officer in accordance with Part 4.3.8 of this Policy.

The Complaint Assessor is an impartial third party who will undertake the functions specified in this Policy. In undertaking their functions, the Complaint Assessor will apply the Principles of this Policy.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to manage the administrative requirements of dealing with the Complaint in accordance with this Policy.

#### 4.2.3 Behaviour Complaints Committee

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Act for the purpose of dealing with Complaints. The Behaviour Complaints Committee is a Committee of Council Members only. The membership and purpose of the Behaviour Complaints Committee is outlined in Council Policy G1.5 Behaviour Complaints Committee Terms of Reference.

### 4.3 Procedure

#### 4.3.1 Making a complaint

Any person may make a Complaint alleging that a Council Member, Committee Member or Candidate has behaved in a way that constitutes a breach of Division 3 of the Code of Conduct *[clause 11(1) of the Code of Conduct]*.

A Complaint must be made within one (1) month after the alleged Breach *[clause 11(2)(c) of the Code of Conduct]*.

A Complaint must be made by completing the Behaviour Complaint Form in full and providing the completed forms to the Behaviour Complaints Officer.

A Complaint must be made in accordance with the Behaviour Complaint Form and specify which requirement(s) of the Code of Conduct is alleged to have been breached.

A Complaint is required to include the name and contact details of the Complainant therefore anonymous complaints cannot be accepted.

Where a Complaint Form omits required details, the Behaviour Complaints Officer will invite the Complainant to provide this information in order for the Complaint to be progressed.

Where a Complaint is made more than 1 month after the alleged breach, the Behaviour Complaints Officer will give the Complainant written notice that the Complaint cannot be made *[clause 11(2)(c) of the Code of Conduct]*.

#### 4.3.2 Candidate Complaints

A Complaint in relation to a Candidate must be made in accordance with 4.3.1, above, but cannot be dealt with unless the Candidate is subsequently declared elected as a Council Member.

Within 7 days after receiving a Candidate Complaint, the Behaviour Complaints Officer will provide written notice:

- To the Complainant confirming receipt, and advising of the procedure for candidate complaints; and
- To the Respondent, including a summary of the complaint, and advising of the procedure for candidate complaints.

No action will be taken until the results of the election are declared by the Returning Officer. If the respondent is elected, then the complaint will be dealt with in accordance with this Policy. Timeframes that would otherwise commence on the receipt of a Complaint will be taken to commence on the election date.

If the Respondent is not elected, the Behaviour Complaints Officer will provide the Complainant with notice that the Respondent has not been elected and that the Complaint cannot be dealt with *[clause 15(1) of the Code of Conduct]*.

#### 4.3.3 Withdrawing a Complaint

A Complainant may withdraw their Complaint at any time before a Finding has been made in relation to the Complaint *[clause 14 of the Code of Conduct]*.

A Complainant may withdraw a Complaint by advising the Behaviour Complaints Officer in writing that they wish to do so.

After receiving a written withdrawal of the Complaint, the Behaviour Complaints Officer will take all necessary steps to terminate the process commenced under this Policy.

#### 4.3.4 Notice to Complainant

Within 7 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Complainant that:

- confirms receipt of the Complaint;
- outlines the process that will be followed and possible outcomes;
- explains the application of confidentiality to the complaint;
- includes a copy of this Policy; and
- if necessary, seeks clarifications or additional information.

If the Complaint Form indicates that the Complainant agrees to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will advise the Complainant of the process in accordance with Part 4.3.6 of this Policy.

#### 4.3.5 Notice to Respondent

Within 14 days after receiving a Complaint, the Behaviour Complaints Officer will provide written notice to the Respondent that:

- advises that a Complaint has been made in accordance with the Code of Conduct and this Policy;
- includes a copy of the Complaint Documents;

- outlines the process that will be followed, the opportunities that will be afforded to the Respondent to be heard and the possible outcomes;
- includes a copy of this Policy; and
- if applicable, advises that further information has been requested from the Complainant and will be provided in due course.

If the Complainant has agreed to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will ask the Respondent if they are also willing to participate in accordance with Part 4.3.6 of this Policy.

#### 4.3.6 Alternative Dispute Resolution (if new Complaint Form adopted)

The Shire of West Arthur recognises that Alternative Dispute Resolution may support both parties reach a mutually satisfactory outcome that resolves the issues giving rise to the Complaint. Alternative Dispute Resolution requires the consent of both parties to the Complaint and may not be appropriate in all circumstances.

To commence the process, the Behaviour Complaints Officer will, as the first course of action upon receiving a complaint, offer the Complainant and the Respondent the option of Alternative Dispute Resolution. If both parties agree to participate in Alternative Dispute Resolution, the Behaviour Complaints Officer will pause the formal process.

The objective of Alternative Dispute Resolution will be to reach an agreed resolution that satisfies the Complainant that the formal process is no longer required, allowing them to withdraw the Complaint, in accordance with Part 4.3.3 of this Policy. For example, an offer by a Respondent to issue a voluntary apology in response to a Complaint, even in the absence of a request from the Complainant, qualifies for consideration as Alternative Dispute Resolution.

If Alternative Dispute Resolution is commenced, both the Complainant and Respondent may decline to proceed with the process at any time. The process may also be terminated on the advice of a third party who is providing assistance to the Local Government, such as a facilitator or mediator.

If Alternative Dispute Resolution is terminated or does not achieve an agreed outcome that results in the withdrawal of the Complaint, the Behaviour Complaints Officer will resume the formal process required under this Policy.

#### 4.3.7 Order of Complaints

Complaints will normally be dealt with in the order in which they are received. If more than one Complaint is received that relates to the same alleged behaviour, the Behaviour Complaints Officer may decide to progress those Complaints concurrently.

#### 4.3.8 Appointment of Complaints Assessor

If Alternative Dispute Resolution is not commenced, is terminated or does not achieve an agreed outcome resulting in the withdrawal of the Complaint, the Behaviour Complaints Officer will appoint a suitably qualified and experienced Complaint Assessor, in accordance with the Shire of West Arthur's Purchasing Policy.

The Behaviour Complaints Officer will endeavour to appoint a Complaint Assessor within a reasonable period. The Behaviour Complaints Officer will provide written notice of the appointment to the Complainant and the Respondent.

#### 4.3.9 Search of Local Government Records

The Complaint Assessor may request the Behaviour Complaints Officer to search for any relevant records in the Shire of West Arthur's Record Management System.

In particular, if the behaviour is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Officer will be requested to identify any Local Government records that provide evidence that may support a decision as to whether:

- the behaviour occurred at a Council or Committee Meeting,
- the behaviour was dealt with by the person presiding at the meeting, and/or
- the Respondent has taken remedial action in accordance with Shire of West Arthur Meeting Procedures/Standing Orders Local Law 2002.

The Complaints Assessor must provide the Respondent with a copy of any records that are identified. In addition, where a clarification or additional information has been sought from the Complainant by either the Behaviour Complaints Officer or the Complaint Assessor, copies must also be provided to the Respondent.

#### 4.3.10 Assessment of the Complaint

The Complaint Assessor will undertake an assessment of the Complaint in accordance with the process outlined in the Notices given under Part 4.3.4 and Part 4.3.5 of this Policy.

The Complaint Assessor must ensure that the Respondent is provided with a reasonable opportunity to be heard before forming any opinions, or drafting the Complaint Report or recommendations.

#### 4.3.11 Complaint Report

The Complaint Assessor will prepare a Complaint Report that will:

- outline the process followed, including how the Respondent was provided with an opportunity to be heard;
- include the Complaint Documents, the Response Documents and any relevant Local Government Records as attachments; and
- include recommendations on each decision that may be made by the Complaints Committee; and
- include reasons for each recommendation, with reference to Part 4 of this Policy.

If the Complaint Report recommends that a Plan is prepared and implemented in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy, the Complaint Report must include a Proposed Plan.

The Complaint Assessor will liaise with the Behaviour Complaints Officer to include the Complaint Report in the Agenda for a meeting of the Complaints Committee. The Behaviour Complaints Officer will be responsible for preparation of an Officer Report with the Complaint Report provided as a confidential attachment. The recommendations of the Complaint Report will be provided as the Officer Recommendations.

#### 4.3.12 Complaints Committee Meeting

The Agenda will be prepared on the basis that the part of the meeting that deals with the Complaint Report will be held behind closed doors in accordance with s.5.23(2) of the Act.

The Behaviour Complaints Committee will consider the Complaint Report and attachments and give due regard to the recommendations. In accordance with Regulation 11(d)(a) of the *Local Government (Administration) Regulations 1996*, reasons for any decision that is significantly different from the Officer Recommendation must be recorded in the meeting minutes.

If the behaviour that is the subject of the Complaint is alleged to have occurred at a Council or Committee Meeting, the Behaviour Complaints Committee will determine whether or not to dismiss the Complaint in accordance with Clause 13 of the Code of Conduct and Part 4.2 of this Policy.

If the Behaviour Complaints Committee dismisses a Complaint, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the decision and the reasons for the decision in accordance with clause 13(2) of the Code of Conduct. This concludes the process for this Complaint.

If the Complaint is not dismissed, the Behaviour Complaints Committee will consider the Complaint and make a Finding as to whether the alleged Breach that is the subject of the Complaint has or has not occurred, in accordance with clause 12 of the Code of Conduct and Part 4.3 of this Policy.

If the Behaviour Complaints Committee finds that the alleged Breach **did not** occur, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of the Finding and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee finds that the alleged breach **did** occur, the Committee will decide whether to take no further action in accordance with clause 12(4)(a) of the Code of Conduct or prepare a plan to address the behaviour in accordance with clause 12(4)(b) of the Code of Conduct and Part 4.4 of this Policy.

If the Behaviour Complaints Committee decides to take no further action, the Behaviour Complaints Officer must give the Complainant and the Respondent written notice of this decision and the reasons for the Finding in accordance with clause 12(7)(a) of the Code of Conduct. This concludes the process for this Complaint.

If the Behaviour Complaints Committee decides to prepare a Plan, the Committee will first consult with the Respondent in accordance with clause 12(5)\* of the Code of Conduct. The Behaviour Complaints Committee will consider any submissions made by the Respondent before preparing and implementing a Plan.

#### 4.3.13 Compliance with Plan Requirement

The Behaviour Complaints Officer will monitor the actions in timeframes set out in a Plan.

Failure to comply with a requirement included in a Plan is a minor breach under section 5.105(1) of the Act and clause 23 of the Code of Conduct.

The Behaviour Complaints Officer must provide a report advising Council of any failure to comply with a requirement included in a Plan.

#### 4.4 Decision Making

##### 4.4.1 Objective and Principles

All decisions made under this Policy will reflect the Policy Objectives and the Principles included in section 4.1 of this Policy.

##### 4.4.2 Vexatious and Unreasonable Persistence Complaints and Customers

Council may refer to the Shire's G1.6 Vexatious and Unreasonable Persistence Complaints Policy (*if adopted by Council*) which provides a framework for dealing with vexatious or unreasonable persistent complaints and to assist Council Members and employees in their engagement with members of the public, ratepayers, and other stakeholders.

Procedures in this policy may be applied in relation to complaints to the Shire's Behaviour Complaints Officer, pursuant to Division 3 of the Shire's Code of Conduct for Council Members, Committee Members and Candidates for Election.

##### 4.4.3 Dismissal

The Behaviour Complaints Committee must dismiss a Complaint in accordance with clause 13(1)(a) and (b) of the Code of Conduct if it is satisfied that -

- (a) the behaviour to which the Complaint relates occurred at a Council or Committee Meeting; and
- (b) either —
  - (i) the behaviour was dealt with by the person presiding at the meeting; or
  - (ii) the Respondent has taken remedial action in accordance with Shire of West Arthur Standing Orders 2002.

##### 4.4.4 Finding

A Finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [*clause 12(3) of the Code of Conduct*].

This may involve first considering whether the behaviour occurred, on the balance of probabilities, and then whether that behaviour constituted a breach of a requirement of Division 3 of the Code of Conduct.

##### 4.4.5 Action

In deciding whether to take no further action, or prepare and implement a Plan, the Complaints Committee may consider:

- the nature and seriousness of the breach(es);
- the Respondent's submission in relation to the contravention;
- whether the Respondent has breached the Code of Conduct knowingly or carelessly;
- whether the Respondent has breached the Code of Conduct on previous occasions;
- likelihood or not of the Respondent committing further breaches of the Code of Conduct; personal circumstances at the time of conduct;
- need to protect the public through general deterrence and maintain public confidence in Local Government; and
- any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.

#### 4.4.6 Plan Requirements

The Proposed Plan may include requirements for the Respondent to do one (1) or more of the following:

- engage in mediation;
- undertake counselling;
- undertake training;
- take other action the Complaints Committee considers appropriate (e.g. an apology).

The Proposed Plan should be designed to provide the Respondent with the opportunity and support to demonstrate the professional and ethical behaviour expected of elected representatives expressed in the Code of Conduct.

The Proposed Plan may also outline:

- the actions to be taken to address the behaviour(s);
- who is responsible for the actions;
- any assistance the Local Government will provide to assist achieve the intent of the Plan; and
- a reasonable timeframe for the Plan action(s) to be addressed by the Respondent.

### **5. Associated Documents**

- Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates
- Behaviour Complaints Committee Terms of Reference
- Delegation Behaviour Complaints Committee
- WALGA Policy Development Framework Code of Conduct Behaviour Complaints Management Policy



## Shire of West Arthur Council Policy – Behaviour Complaints Committee Terms of Reference

Policy Number	G1.5
Policy Title	Behaviour Complaints Committee Terms of Reference
Related Legislation	s.5.8, s.5.9, s.5.10, s.5.11A, s.5.16 of the <i>Local Government Act 1995</i>
Strategic Outcome Supported	Outcome 5.2: Accountable service delivery by Council and well trained, motivated, customer focused staff.
Adopted by Council	
Review	

### 1. Objective

To establish Terms of Reference for the Behaviour Complaints Committee of the Shire of West Arthur.

### 2. Scope

This Policy applies exclusively to the Shire of West Arthur's Behaviour Complaints Committee.

### 3. Definitions

Act: *Local Government Act 1995*.

Behaviour Complaints Committee: means the Committee established by the Council in accordance with s.5.8 of the Act for the purpose of dealing with Complaints.

Behaviour Complaints Officer: means a person authorised in writing [*by Council resolution or by the CEO exercising delegated authority*] under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints.

Breach: means a breach of Division 3 of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Code of Conduct: means the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates.

Complaint: means a complaint submitted under Clause 11 of the Code of Conduct.

Finding: means a finding made in accordance with clause 12(1) of the Code of Conduct as to whether the alleged Breach has or has not occurred.

Plan: means a Plan that may be prepared and implemented under clause 12(4)(b) of the Code of Conduct, to address the behaviour of the person to whom the complaint relates (the Respondent), if a Finding has been made that a Breach has occurred.

### 4. Policy Statement

#### 4.1 Committee Function

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with



Behaviour Complaints made under Division 3 of the Shire of West Arthur's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur *[clause 12(3) of the Code of Conduct]*.
- Determining reasons for such a Finding.
- Where a Finding is made that a breach has occurred, determining:
  - To take no further action; or
  - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

#### 4.2 Membership

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.

Membership of the Behaviour Complaints Committee will comprise of seven (7) Council Members, appointed by Council in accordance with s.5.10 of the Act.

In addition, at least two (2) Council Members will be appointed as Deputy Committee Members in accordance with s.5.11A of the Act.

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.

#### 4.3 Meeting Schedule

Meetings are to be scheduled as required by the CEO as the Behaviour Complaints Officer in consultation with the Committee Presiding Member.

#### 4.4 Delegated Authority

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the Shire of West Arthur Register of Delegations.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

#### 4.5 Committee Governance

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- include public question time *[Admin.r.5]*
- make the Committee Notice Papers and Agenda publicly available *[s.5.94(p), s.5.96A(f)]*, with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) *[Admin.r.14]*; and
- make Committee minutes publicly available *[s.5.94(n), s.5.96A(h)]*, with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

## 6. Associated Documents

- Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates
- Complaint About Alleged Breach Form
- Delegation Behaviour Complaints Committee
- WALGA Policy Development Framework Code of Conduct Behaviour Complaints Management Policy



## Shire of West Arthur Council Delegation – Behaviour Complaints Committee

<b>Delegator:</b> <i>Power / Duty assigned in legislation to:</i>	Local Government
<b>Express Power to Delegate:</b> <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.16 Delegation of some powers and duties to certain committees
<b>Express Power or Duty Delegated:</b>	<i>Local Government (Model Code of Conduct) Regulations 2021:</i> Clause 12 Dealing with a complaint Clause 13 Dismissal of complaint
<b>Delegate:</b>	<b>Behaviour Complaints Committee</b>
<b>Function:</b> <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> <li>1. Authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [<i>MCC.cl.12(1) and (3)</i>].  In making any finding the Committee must also determine reasons for the finding [<i>MCC.cl.12(7)</i>].</li> <li>2. Where a finding is made that a breach has occurred, authority to: <ol style="list-style-type: none"> <li>a. take no further action [<i>MCC.cl.12(4(a))</i>]; or</li> <li>b. prepare and implement a plan to address the behaviour of the person to whom the complaint relates [<i>MCC.cl.12(4)(b), (5) and (6)</i>].</li> </ol> </li> <li>3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [<i>MCC.cl.13(1) and (2)</i>].</li> </ol>
<b>Council Conditions on this Delegation:</b>	<ol style="list-style-type: none"> <li>a. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy G1.4 Complaint Handling Division 3 Code of Conduct.</li> <li>b. That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.</li> <li>c. The Committee is prohibited from exercising this Delegation where a Committee Member in attendance at a Committee meeting is either the Complainant or Respondent to the Complaint subject of a Committee agenda item.</li> <li>d. In the event of (c) above, the Committee may resolve to defer consideration to a future meeting at which the conflicted Committee Member is absent and a Deputy Committee Member is in attendance.</li> </ol> <p><b>NOTE TO CONDITIONS (C) AND (D):</b> The purpose of this Condition is to require that a Committee Member who is identified as either the Complainant or Respondent is required to recuse themselves by notifying the Presiding Member of their intention to be an apology for the meeting at which the Complaint is an agenda item.</p>
<b>Express Power to Sub-Delegate:</b>	Nil.

## Instructions for: Making a complaint about an alleged breach of the Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates

### Behaviour Complaint

Please read the Shire of West Arthur's Code of Conduct Behaviour Complaints Policy on our website ([hyperlink inserted following adoption of policy – June 2021](#)) before submitting a complaint. This Policy details:

- How the Shire of West Arthur will process and determine a Behaviour Complaint; and
- How confidentiality of the complaint will be handled.

To make a valid **Behaviour Complaint**:

- 
- The allegation must relate to a breach of the behaviour standards in Division 3 of the Shire of West Arthur's Code of Conduct for Council Members, Committee Members and Candidates.
- 
- Complete all sections of the Behaviour Complaint Form attached, including any additional information that will support assessment of the complaint. *The Behaviour Complaints Officer may contact you to clarify or ask for more information.*
- 
- The completed Behaviour Complaint Form **MUST** be lodged with the Shire of West Arthur's Behaviour Complaints Officer, Chief Executive Officer within one (1) month of the alleged behaviour breach.
- 

### Rules of Conduct Complaint

A **Rules of Conduct Complaint** refers to a breach of the Rules of Conduct outlined in Division 4 of the Shire of West Arthur's Code of Conduct for Council Members and Candidates, including Council Members when acting as a Committee Member. This type of complaint is determined by the Local Government Standards Panel, administered through the Department of Local Government, Sport and Cultural Industries. Further information about Rules of Conduct Complaints may be obtained from:

- Department of Local Government, Sport and Cultural Industries: (08) 6552 7300 or [www.dlgsc.wa.gov.au](http://www.dlgsc.wa.gov.au); OR
- The Shire of West Arthur's Behaviour Complaints Officer: (08) 9736 2222 or [ceo@westarthur.wa.gov.au](mailto:ceo@westarthur.wa.gov.au).

### Need Advice?

If you require advice in making a Behaviour Complaint, please contact the Shire of West Arthur's Behaviour Complaints Officer on (08) 9736 2222 or by email [ceo@westarthur.wa.gov.au](mailto:ceo@westarthur.wa.gov.au).

## Behaviour Complaint Form

### Shire of West Arthur Code of Conduct for Council Members, Committee Members and Candidates

Name of Person Making the Complaint			
<b>Complainant Name:</b> <i>Given Name/s and Family Name</i>			
Contact Details			
<b>Residential Address:</b>			
<b>Postal Address:</b>			
<b>Phone:</b>	<b>Day-time:</b>		<b>Mobile:</b>
<b>Email:</b>			

Complaint Details:			
<b>1.</b>	<b>Insert Name of Person alleged to have committed a behavior breach:</b>		
<b>2.</b>	<b>Select the position that the person was fulfilling at the time the person committed the alleged behaviour breach:</b>	Council Member of the Shire of West Arthur	<input type="checkbox"/>
		Member of a Committee of the Shire of West Arthur	<input type="checkbox"/>
		Candidate for election at the Shire of West Arthur	<input type="checkbox"/>
<b>3.</b>	<b>Date that the alleged behaviour breach occurred:</b>		
<b>4.</b>	<b>Location where the alleged behaviour breach occurred:</b>		

<b>5.</b>	<b>Which of the behaviours prescribed in Division 3 of the Shire of West's Code of Conduct do you allege this person has breached?</b>	
<b>Clause 8. Personal integrity</b>		
(1) A council member, committee member or candidate —		
(a)	must ensure that their use of social media and other forms of communication complies with this code; and	<input type="checkbox"/>
(b)	must only publish material that is factually correct	<input type="checkbox"/>
(2) A council member or committee member —		
(a)	must not be impaired by alcohol or drugs in the performance of their official duties; and	<input type="checkbox"/>
(b)	must comply with all policies, procedures and resolutions of the local government.	<input type="checkbox"/>
<b>Clause 9. Relationship with others</b>		
A council member, committee member or candidate —		
(a)	must not bully or harass another person in any way; and	<input type="checkbox"/>
(b)	must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and	<input type="checkbox"/>
(c)	must not use offensive or derogatory language when referring to another person; and	<input type="checkbox"/>
(d)	must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and	<input type="checkbox"/>
(e)	must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.	<input type="checkbox"/>
<b>Clause 10. Council or committee meetings</b>		
When attending a council or committee meeting, a council member, committee member or candidate —		
(a)	must not act in an abusive or threatening manner towards another person; and	<input type="checkbox"/>
(b)	must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and	<input type="checkbox"/>
(c)	must not repeatedly disrupt the meeting; and	<input type="checkbox"/>
(d)	must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and	<input type="checkbox"/>
(e)	must comply with any direction given by the person presiding at the meeting; and	<input type="checkbox"/>
(f)	must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.	<input type="checkbox"/>

<b>6.</b>	<b>State the full details of the alleged breach.</b>

<b>7</b>	<b>List any additional information you have provided as part of this complaint:</b> <i>Please ensure all information relevant to the alleged breach has been attached. This information will be the basis on which the complaint is considered.</i>

<b>9</b>	<b>Have you made any efforts to resolve the complaint with the Respondent?</b> <i>Please note, you MUST complete this section</i>	
<b>YES</b>	<input type="checkbox"/>	<i>If yes, please describe the efforts that you have made.</i>
<b>NO</b>	<input type="checkbox"/>	<i>If no, please include a brief statement explaining why you have not made any efforts to resolve the issue with the person complained about.</i>

<b>10</b>	<p><i>The Shire of West Arthur has a policy that the Complainant and the Respondent be offered the opportunity to participate in an Alternative Dispute Resolution process, that if agreed to by BOTH parties, will be undertaken before the complaint is dealt with.</i></p> <p><i>The objective is to support both parties to reach a mutually satisfactory outcome that resolves the issues and restores the relationship between them. An outcome may be that as the Complainant, you will have absolute discretion to withdraw or continue with this Complaint.</i></p> <p><i>Please contact the Behaviour Complaints Officer if you would like more information.</i></p>		
	<b>Would you agree to participate in an Alternative Dispute Resolution process?</b>	<b>YES</b>	<input type="checkbox"/>
		<b>NO</b>	<input type="checkbox"/>

<b>11</b>	<p><b>Desired outcome of the Complaint</b></p> <p><i>Please explain what you would like to happen as a result of lodging this complaint, including the opportunity to participate in Alternative Dispute Resolution.</i></p>

<b>COMPLAINANT</b> <i>please sign and date</i>	
<b>Signature:</b>	
<b>Date:</b>	

**Please submit completed Behaviour Complaint to:**

The Shire of West Arthur's Behaviour Complaints Officer marked CONFIDENTIAL:

Mailing Address: 31 Burrowes Street, DARKAN WA 6392

In person: 31 Burrowes Street, DARKAN

<b>OFFICE USE ONLY:</b> <i>Received by the Council appointed Behaviour Complaints Officer</i>	
<b>Authorised Officer's Name:</b>	
<b>Authorised Officer's Signature:</b>	
<b>Date received:</b>	



**ITEM 8.1.7 – POLICY – PURCHASING - REVIEW**

LOCATION/ADDRESS:	Not applicable
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	2.30.1
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 June 2021

**SUMMARY:**

Council to review and consider amending the Purchasing Policy.

**BACKGROUND:**

Council's Purchasing Policy objective is to promote a best practice approach to procurement which promotes transparent, equitable and competitive purchasing practices for the Shire of West Arthur and is compliant with the Local Government Act 1995; and the Functions and General Regulations 1996. Thresholds for Public Tender requirements has been increased. Amendments to this policy reflect these changes.

**CONSULTATION:**

Some guidance notes have been referenced from the Department and WALGA.

**STATUTORY ENVIRONMENT:**

- Local Government Act 1995 (WA)
- Local Government (Functions and General) Regulations 1996
- State Records Act

**POLICY IMPLICATIONS:**

CEI01 Purchasing and Authorisation of Expenditure.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with adopting the policy.

**STRATEGIC IMPLICATIONS:**

Outcome 2.1: The business community will be Dynamic, Growing and Diverse providing employment and economic benefits to the Shire.

**COMMENT:**

Proposed amendments to the policy have been made to reflect the new thresholds for Public Tender requirements increased from \$150,000 to \$250,000. The remainder of the thresholds have been increased as per guidelines provided by WALGA.

Two new items under the Value for Money assessment have been included:

- the environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policies; and
- providing opportunities for businesses within the Shire's boundaries to quote wherever possible.

Other minor wording as per the attachment.

**VOTING REQUIREMENTS:**

Absolute majority

**OFFICER RECOMMENDATION – ITEM 8.1.7**

That Council amend the Shire of West Arthur Purchasing Policy as per attachment.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.7**

Moved: Cr Neil Manuel

Seconded: Cr Adam Squires

That Council amend the Shire of West Arthur Purchasing Policy as per attachment.

**CARRIED 6/0**

**ATTACHMENTS**

- Draft Reviewed Shire of West Arthur Purchasing Policy.



## Shire of West Arthur Council Policy – Purchasing

Policy Number	F4.1 Finance
Policy Title	Purchasing
Related Legislation	Local Government Act 1995 (WA) Local Government (Functions and General) Regulations 1996 State Records Act
Strategic Outcome Supported	Outcome 2.1: The business community will be Dynamic, Growing and Diverse providing employment and economic benefits to the Shire.
Adopted by Council	Adopted 2008 Amended 12 May 2018
Review	CEO Annually

### 1. Objective

To promote a best practice approach to procurement which promotes transparent, equitable and competitive purchasing practices for the Shire of West Arthur and is compliant with the Local Government Act 1995; and the Functions and General Regulations 1996.

### 2. Scope

Applies to all staff with the authority to purchase goods and services.

### 3. Definitions

### 4. Policy Statement

#### 4.1 Ethics & Integrity

The Shire's Code of Conduct applies when undertaking purchasing activities and decision making, requiring Council Members and employees to observe the highest standards of ethics and integrity and act in an honest and professional manner at all times.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all purchasing decisions and for the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire's policies and code of conduct;
- purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;

- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

#### 4.2 Value for Money

~~Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire.~~

~~An assessment of the best value for money outcome for any purchasing should consider:~~

- ~~all relevant whole-of-life costs and benefits (for goods) and whole-of-contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;~~

The Shire will apply value for money principles in critically assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

Value for money assessment will consider:

- (a) all relevant Total Costs of Ownership (TCO) and benefits including; transaction costs associated with acquisition, delivery, distribution, and other costs such as, but not limited to; holding costs, consumables, deployment, training, maintenance and disposal;
- (b) the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality.
- (c) the supplier's financial viability and capacity to supply without the risk of default, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history;
- (d) a strong element of competition by obtaining a sufficient number of competitive quotations consistent with this Policy, where practicable;
- (e) the safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from the supply, operation and maintenance;

New:

- (f) the environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policies; and
- (g) providing opportunities for businesses within the Shire's boundaries to quote wherever possible.

#### 4.3 Sustainable Procurement

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money.

#### 4.4 Local Purchase

Having due regard to quality, price and availability, preference will be given to local goods and services, from businesses within the Shire, wherever possible. When considering price - the price differential between local and non-local goods and services should fall within 15% variance in favour of the local supplier.

The variance in the cost for the supply of goods and services in West Arthur versus non-local supply plus freight.

Nothing prevents staff from seeking the supply of goods not specifically held in the local marketplace, though the intent of the policy is that every effort should be undertaken to find a local supplier before ordering externally.

Where goods are not readily available, nothing prevents Council staff from obtaining the goods from a non-local supplier when anticipated delivery of the goods will be sooner.

#### 4.5 Purchasing Thresholds and Practices

~~Where the value of procurement (excluding GST) of the contract over the full contract period (including options to extend) is, or is expected to be:-~~

Amount of Purchase	Protocol
Up to \$2,000	One verbal or written quote.
\$2,001 to \$10,000	Two verbal or written quotes.
\$10,001 - \$50,000	Two written quotes.
\$50,001 - \$150,000	Three written quotes.
\$150,000 and above	In accordance with Division 2 – Section 11 of the Local Government (Functions and General) Regulations 1996..

~~Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$150,000 threshold (excluding GST).~~

The Purchasing Value, assessed in accordance with clause 4.2.1, determines the Purchasing Practice to be applied to the Shire's purchasing activities.

Purchase Value Threshold (ex GST)	Purchasing Practice
Up to \$5,000 (ex GST)	Seek at least one (1) verbal or written quotation from a suitable supplier.

Purchase Value Threshold (ex GST)	Purchasing Practice
From \$5,001 and up to \$50,000 (ex GST)	<p>Seek at least two (2) verbal or written quotations from suitable suppliers.</p> <p>If purchasing from a WALGA PSA, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained.</p> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a brief outline of the specified requirement for the goods; services or works required; and</li> <li>• Value for Money criteria, not necessarily the lowest price.</li> </ul>
From \$50,001 and up to \$250,000 (ex GST)	<p>Seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation.</p> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a detailed written specification for the goods, services or works required; and</li> <li>• pre-determined selection criteria that assesses all best and sustainable value considerations.</li> </ul>
Over \$250,000 (ex GST)	<p><b>Tender Exempt</b> arrangements (i.e. WALGA PSA, CUA or other tender exemption under <i>F&amp;G Reg.11(2)</i>) require at least three (3) written responses from suppliers by invitation under a formal Request for Quotation.</p> <p><u>OR</u></p> <p><b>Public Tender</b> undertaken in accordance with the <i>Local Government Act 1995</i> and relevant Shire Policy and procedures.</p> <p>The Tender Exempt or Public Tender purchasing decision is to be based on the suppliers response to:</p> <ul style="list-style-type: none"> <li>• A detailed specification; and</li> <li>• Pre-determined selection criteria that assesses all best and sustainable value considerations.</li> </ul>
Emergency Purchases	<p>To be approved by the President or by the Chief Executive Officer under delegation and reported to the next available Council Meeting. An emergency purchase is defined as an unanticipated purchase which is required in response to an emergency situation as provided for in the Act. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.</p>
LGIS Services Section 9.58(6)(b) Local Government Act	<p>The suite of LGIS insurances are established in accordance with s.9.58(6)(b) of the <i>Local Government Act 1995</i> and are provided as part of a mutual, where WALGA Member Local Governments are the owners of LGIS. Therefore, obtaining LGIS insurance services is available as a member-base service and is not defined as a purchasing activity subject to this Policy.</p> <p>Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this Policy is required.</p>

Purchase Value Threshold (ex GST)	Purchasing Practice
--------------------------------------	---------------------

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$250,000 threshold (excluding GST).

Occasionally market testing shall be undertaken for regular trades (i.e. electrician) to ensure best value is maintained.

It is recognised that it is not always possible to obtain quotes for goods or services in regional areas, especially when considerable travel is required for a site visit to quote. Where it is not practical to obtain multiple written or verbal quotations the CEO may approve the purchase of goods and services where deemed appropriate without compliance with the protocol. If a purchase and the minimum protocol is not met, a file note signed by the CEO shall be completed detailing the reasons for not meeting the protocol.

The general principles for obtaining verbal quotations are:

- Ensure that the requirement / specification is clearly understood by the employee seeking the verbal quotations.
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote.
- Read back the details to the Supplier contact person to confirm their accuracy.
- Written notes detailing each verbal quotation must be recorded.

The general principles relating to written quotations are;

- An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

#### 4.6 Anti-Avoidance

~~The Shire shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to publicly tender.~~

The Shire will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, so that the effect is to avoid a particular purchasing threshold or the need to call a Public Tender. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

#### 4.7 Records Management

All records associated with the tender process or a direct purchase process must be recorded and retained including;

- tender documentation;
- internal documentation;
- evaluation documentation;
- enquiry and response documentation;
- notification and award documentation.
- quotation documentation;
- internal documentation;
- order forms and requisitions.

Record retention shall be in accordance with the minimum requirements of the State Records Act, and the Shire's internal records management policy.

### **5. Associated Documents**

CEI01 Purchasing and Authorisation of Expenditure

REVIEW

**ITEM 8.1.8 – ELECTED MEMBERS ENTITLEMENTS POLICY REVIEW**

LOCATION/ADDRESS:	Not applicable
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	2.30.1
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 June 2021

**SUMMARY:**

Council to review and consider amending the Elected Members Entitlements Policy.

**BACKGROUND:**

This policy is to outline the allowances, training and conference, and other entitlements that may be provided to Council members, including those that are an automatic entitlement under the Local Government Act and those that require specific Council approval.

Council increased sitting fees during the budget process in July 2020, the amendment to the policy will reflect these increases.

**CONSULTATION:**

Some guidance notes have been provided by the Department and WALGA.

**STATUTORY ENVIRONMENT:**

- Local Government Act 1995 (WA).
- Local Government (Admin) Regulations.
- Local Government Council Members Section of SAT.
- Public Service Award 1992.
- Local Government Officers' Interim Award.

**POLICY IMPLICATIONS:**

Policy to be reviewed.

**FINANCIAL IMPLICATIONS:**

Council made increases to sitting fees during the budget process in July 2020.

**STRATEGIC IMPLICATIONS:**

Outcome 5.1 - Representation by skilled councillors to achieve the best outcomes for the Shire.

**COMMENT:**

The main changes reflect the new fees as determined by Council in June 2020 and an increase in childcare reimbursement as per WALGA guidance.

The existing policy states that Shire of West Arthur will pay 15% of the maximum determined by SAT amount, unless otherwise determined by Council in their annual budget process. Council to consider removal of 15% maximum (current fee is approx. 20% of maximum).

**VOTING REQUIREMENTS:**

Absolute majority

**OFFICER RECOMMENDATION – ITEM 8.1.8**

That Council amend the Shire of West Arthur Elected Members Entitlements Policy as per attachment.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.8**

Moved: Cr Adam Squires

Seconded: Cr Julie McFall

That Council amend the Shire of West Arthur Elected Members Entitlements Policy as per attachment.

**CARRIED 6/0**

**ATTACHMENTS**

- Shire of West Arthur Elected Members Entitlements Policy





## Shire of West Arthur Council Policy – Council Members Entitlements

Policy Number	G1.3 Governance
Policy Title	Council Members Entitlements
Related Legislation	<ul style="list-style-type: none"> <li>• Local Government Act 1995 (WA).</li> <li>• Local Government (Admin) Regulations.</li> <li>• Local Government Council Members Section of SAT.</li> <li>• Public Service Award 1992.</li> <li>• Local Government Officers' Interim Award.</li> </ul>
Strategic Outcome Supported	Outcome 5.1 - Representation by skilled councillors to achieve the best outcomes for the Shire.
Adopted by Council	26 June 2016
Review	CEO Annually
Note	Combined previous policies- 3.3 Members – Sitting Fees – Expenses and Allowances and 3.4 Councillor Training and Development Council increased Sitting fees June 2020 Budget

### 1. Objective/Outcomes

This policy is to outline the allowances, training and conference, and other entitlements that may be provided to Council members, including those that are an automatic entitlement under the Local Government Act and those that require specific Council approval.

### 2. Scope

The Council Members Entitlements policy applies to the reimbursement of expenses incurred by a Council member in the performance of their functions and duties, fees and allowances, training and conferences, and gifts on leaving office.

### 3. Definitions

Conferences: Annual Local Government Conference including the councillor Development Program, other conferences or training that are approved on application by the Shire President and CEO.

Elected Member: Any person who holds the office of Councillors on the Council of the Shire of West Arthur including the President.

Prescribed Meetings: As set out in section 5.98(1) and (2A) of the LG Act and R30(3A) of LG (Admin) Regulations (as at June 2016); these are Ordinary Council Meetings, Special Council Meetings and Council Committee meetings where the Councillor is an appointed member; and WALGA Zone meetings, Main Roads WA Regional Road Group Meetings, or other meetings where the Councillor is appointed representative, delegate or proxy by a decision of Council; or meetings attended at the request of a Minister of the Crown).

## 4. Policy Statement

Upon commencement of office and thereafter annually, Council members, for the purpose of budget development, will be requested to indicate whether it is their intention to claim meeting attendance fees and other allowances to which they are entitled. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

A listing of the Council adopted and SAT determined fees is included at Appendix A to this policy and will be updated as adopted and determined fees are changed.

Any taxation liability arising from the payment of meeting fees is the individual responsibility of the Council member.

All of the following payments will be made quarterly in arrears on presentation of a statement certified by the Council Member within 14 days of the end of the quarter. The Shire administration will provide a schedule of attendance at local government Council and Committee meetings to assist Council Members to complete a statement of claims. Council Members are required to keep their own records for all approved travel, allowable and attendance at other prescribed meetings.

### 4.1 Attendance Fees and Allowances

The rates for Council Member attendance fees at Council, committee meetings and prescribed meetings will be the minimum fee determined from the WA Salaries and Allowances Tribunal (SAT) for Local Government Chief Executive Officers and Council Members, unless a higher amount is adopted through the annual budget process.

Council and Committee meetings must be properly convened and formally minuted for meeting attendance fees to be claimable.

Payments are made for each meeting attended rather than by an annual allowance.

### 4.2 Information and Communications Technology (ICT)

An annual ICT payment is made at the minimum rate set by the SAT in lieu of reimbursement of the cost of telephone and facsimile rental and any other expenses that relate to information and communication technology (i.e. internet service provider charges).

The allowance will be calculated on a pro-rata basis for any Council Member who commences or ceases office during the quarter.

### 4.3 Travel

In accordance with the Local Government Act 1995 a Council member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed. Travel costs while driving a privately owned or leased vehicle are to be calculated in accordance with the SAT determination.

The following list represents the meetings and events at which the attendance of a Council Member is required for which the Council member will be able to claim reimbursement for incurring travel expenses:

- Council meetings - ordinary and special;
- committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual general and special;
- civic receptions hosted by the Shire of West Arthur;
- visits by Ministers of the Crown;
- inspection tours of matters arising before the Council;

- any officially convened meeting requiring Council member attendance, including briefing sessions, workshops and other forums;
- Council member training courses;
- officially convened meetings with ratepayers;
- attendance at community functions with a formal invitation as an Council member;
- seminars and conferences attended in the capacity of an Council member;
- meetings of community groups or other external organisations of which the Council Member has been appointed the Council's representative by Council resolution (except where the other body pays the Council member for meeting attendance and/or travel eg ministerial appointment to State Advisory Boards).

The reimbursement will be made available to the Council member on the receipt of a certified claim form and in accordance with the rates determined by the SAT.

Nothing in this section prevents a Council member from utilising a Shire-owned motor vehicle for the types of travel approved under this section and this is encouraged where practical for the Council member's purposes. Subject to the approval of the Chief Executive Officer, the Council member is entitled to use the Shire-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for Shire purposes, provided such use does not go beyond use of a minor incidental nature. Where a Shire vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

Council Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Local Government (Administration) Regulations 1996. The extent to which travel expenses can be reimbursed is in accordance with the Public Service Award 1992.

#### 4.4 Reimbursement of Child Care Expenses

In accordance with the Local Government Act 1995 a Council member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council Committee of which they are a member is entitled to be reimbursed.

The extent to which the childcare expenses incurred will be reimbursed, in accordance with the SAT Local Government Elected Council Members Determination, is the actual cost per hour or (SAT determined amount) per hour, whichever is the lesser amount.

For the purposes of this section, the number of hours claimed shall be limited to the actual length of the meeting, with a nominal time allowance for partaking in refreshments and travel to and from the place of care.

#### 4.5 President and Deputy President Allowance

In addition to their entitlements as a Council member, the President and Deputy are eligible for an additional allowance recognising their leadership role, the functions for which they are accountable, and ceremonial and civic duties required. The SAT determines a minimum and maximum allowance. ~~The Shire of West Arthur will pay 15% of the maximum determined by SAT amount, unless otherwise determined by Council in their annual budget process.~~ The Shire of West Arthur will pay an amount as determined in their annual budget process.

The allowance will be calculated on a pro-rata basis where a president or deputy president commences or ceases office during the quarter.

#### 4.6 Conference and Training Expenses

Council members who wish to attend training courses, appropriate conferences or seminars may make application to the Shire President in writing. A decision on attendance will be made jointly between the Shire President and the CEO based on the need and budgeted funds being available.

Claims for reimbursement of expenses must be submitted within 14 days of the conference or training and may include:

- registration and training costs for the Council Member;
- actual receipts
  - accommodation for the duration of the conference or training
  - taxi fares associated with the conference or workshop
  - parking at the venue or accommodation
  - food and drink costs (excluding alcohol)
  - mileage costs in accordance with SAT determination.

#### 4.8 Recognition on Retirement from Council

The following is provided to retiring Council Members to acknowledge their contribution to Council and the community on leaving office:

- for service less than four years in office – Certificate of Appreciation;
- for service more than four years in office – Certificate of Appreciation and an appropriate gift to be chosen by the Shire President to a value not exceeding \$200.

### **5. Associated Documents**

- Code of Conduct for Council Members
- Department of Local Government publication - 2015 Local Government Elections – Fact Sheet 3 - Council members' responsibilities and rights.

## Appendix A

## Council Members Entitlements

<b>Fees &amp; Allowances</b>	Min Sat Determined (from 04/21)	Current Policy Amount	Amount adopted by Council (July 2020)
Council Member – Per Council Meeting	\$91.00 to \$238	\$90.00	<b>\$180</b>
President – Per Council Meeting	\$91.00 to \$490	\$90.00	<b>\$180</b>
Council Member – Per Committee Meeting	\$46.00 to \$119.00	\$45.00	<b>\$70</b>
Council Member per meeting for 4WDL VROC, WALGA and Central Zone, and Regional Road Group meetings			<b>\$100</b>
President Allowance (Annual)	Min \$513.00 to maximum \$20,063	\$2,980 15 % of maximum	<b>\$4,000</b> (15% of maximum)
(Annual) Deputy President Allowance	25% of President Allowance	\$750 (25% of president)	<b>\$1000</b> (25% of President)
ICT Allowance (Annual)	\$500	\$500	<b>\$500</b>

**Childcare** (Council or Committee Meeting) – Actual or ~~\$25~~ \$30 – whichever is the lesser amount.

**Travel** – In accordance with SAT - rate as per Section 30.6 of the Local Government Officers' (Western Australia) Interim Award 2011

Area and Details	Engine displacement (in cubic centimetres)		
	Over 2600cc	Over 1600cc to 2600cc	1600cc and under
	Cents per kilometre		
Metropolitan area	93.97	67.72	55.85
South West Land Division	95.54	68.66	56.69
North of 23.5 Latitude	103.52	74.12	61.21
Rest of state	99.01	70.87	58.37
Motor cycle	Rate c/km		
Distance travelled	32.55		

Links to relevant documentation:

- [SAT](#)
- <http://forms.wairc.wa.gov.au/awards/LOC001/p6/LOC001.pdf>
- [Admin Regulations](#)
- [LG Act](#)

- [Local Government Chief Executive Officers and Council Members Determination No 1 of 2021 – https://www.wa.gov.au/government/publications/local-government-chief-executive-officers-and-elected-members-determination-no-1-of-2021](https://www.wa.gov.au/government/publications/local-government-chief-executive-officers-and-elected-members-determination-no-1-of-2021)

Review

**ITEM 8.1.9 – POLICY – AUDIO RECORDING OF COUNCIL MEETINGS**

LOCATION/ADDRESS: Shire of West Arthur  
 NAME OF APPLICANT: Not Applicable  
 FILE REFERENCE:  
 DISCLOSURE OF INTEREST: Nil  
 DATE OF REPORT: 10 June 2021

**SUMMARY:**

Council to consider the Draft Audio Recording of Council Meetings Policy as attached to this report.

**BACKGROUND:**

The administration has received a request from a community member for Council meetings to be recorded. Council's Standing Orders do not allow the recording of proceedings of the Council:

**8.4 Recording of Proceedings**

- (1) no person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.*
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.*

As the provisions of the Standing Orders currently prohibit the recording of meetings staff have drafted a policy that will give a clear and consistent framework for the recording of Council meetings. Subject to Council adopting the proposed policy it would mean all Council meetings are recorded rather than Council dealing with requests for meetings to be recorded as they are received giving clarity to both Council and the community.

**CONSULTATION:**

Staff have reviewed policy documents from a number of other local governments in preparing this draft policy for Council's consideration.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995 sections 5.3(1), 5.22(1), 5.23(1) require Councils to hold ordinary and special meetings that are open to the public and minutes of proceedings are to be kept.

The Departmental Guidelines for the preparation of agendas and minutes make reference to the recording of meetings to assist in minute compilation and the requirement of these records to be dealt with as per the requirements of the State Records Act 2000 as official records of Council.

**POLICY IMPLICATIONS:**

This is a new policy proposed by the administration following a request from a member of the community for Council meeting be audio recorded.

**FINANCIAL IMPLICATIONS:**

Subject to Council's adoption of the proposed policy the administration will obtain costings on the required recording equipment and include the cost in the 2021/22 annual budget.

**STRATEGIC IMPLICATIONS:**

Shire of West Arthur Strategic Community Plan – Strategic Direction – Government and organisation – strong local leadership and responsible ethical management and efficient service delivery.

Shire of West Arthur Corporate Plan provides under Outcome 5.2 that meetings and forums will be open to the public and that Council will provide leadership to the community.

**COMMENT:**

As there has been a formal request for a Council meeting to be recorded a review of current procedures and guidelines has been undertaken. As the Standing Orders currently prohibit the recording of meetings, without the written permission of Council, staff have investigated procedures in place with other local governments.

A number of local governments record Council meetings with some also visual recording the proceedings and even some larger Councils live streaming meetings so that interested persons can view the meeting from their homes or places of business. It is not proposed that the Shire of West Arthur visual record or live stream meetings or place the audio on the website.

The audio recording will assist in the preparation of the minutes, however it will be the formal minutes adopted by Council that will be the official record of the meeting.

This policy proposes all Council meetings will be audio recorded and not the occasional meeting as requested. This will provide clarity and consistency of procedures in relation to Council meetings for Elected Members, staff and the community.

It is not proposed by this policy that committee meetings be recorded.

Subject to the policy being approved by Council the administration will investigate the purchase and installation of the equipment necessary to ensure an acceptable level of recording of the meeting proceedings is achieved.

VOTING REQUIREMENTS:  
Absolute Majority

<b>OFFICER RECOMMENDATION – ITEM 8.1.9</b>
--

That Council adopt the Draft Policy – Audio Recording of Council Meetings and direct the administration to research and cost the purchase of the required audio recording equipment.

<b>COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.9</b>
---

Moved: Cr Neil Manuel

Seconded: Cr Marie Lloyd

That the matter lay on the table to allow more information to be obtained on the cost of the required equipment and accessibility of the recording via a Freedom of Information request.

**CARRIED 4/2**

**ATTACHMENTS**

- Draft Policy – Audio Recording of Council Meetings





## Shire of West Arthur Council Policy – Audio Recording of Council Meetings

Policy Number	G1.9 Governance
Policy Title	Audio Recording of Council Meetings
Related Legislation	Local Government Act 1995 (WA) Local Government (Functions and General) Regulations 1996 State Records Act
Strategic Outcome Supported	Shire of West Arthur Strategic Community Plan – Strategic Direction – Government and organisation – strong local leadership and responsible ethical management and efficient service delivery. Outcome 5.2 that meetings and forums will be open to the public and that Council will provide leadership to the community
Adopted by Council	
Review	CEO Annually

### 1. Objective

To define the purpose for which audio recordings of Council meeting are made and provide direction as to the creation, usage, access and disposal of the recordings.

### 2. Scope

This policy applies to all Ordinary Council meetings.

### 3. Definitions

Absolute Privilege: An absolute defense to an otherwise defamatory statement because of the venue or context in which the statement was made.

Act: Local Government Act 1995

Audio Recording: Any recording made by an electronic device capable of recording sound.

Council Meeting: Any meeting that is convened as per Section 5.3, Local Government Act 1995.

CEO: Chief Executive Officer of Shire of West Arthur

Shire: The Shire of West Arthur Administration

Council: The Council of local government.

### 4. Policy Statement

In accordance with Sections 5.3 (1); 5.22 (1); 5.23 (1) of the Local Government Act, Councils are required to hold ordinary meetings and special meetings that are open to the public and minutes of the proceedings are to be kept.

This policy will detail the appropriate arrangement for audio recording meetings to allow Council to meet its legislative requirement with respect to preparing accurate minutes of Council meetings that are open to the public.

All Ordinary and Special Council meetings that are open to the public shall be audio recorded to assist in the preparation of the minutes of the meeting.

All Audio recording will cease when Council resolves to close a meeting to the public as per Section 5.23 (2) of the Local Government Act.

Meetings of committees and meetings not open to the public will **not** be audio recorded.

## **2. Usage and Access of Audio Recordings**

- a) Audio recordings are for minute taking purposes only.
- b) An Elected Member or Officer requesting access to the recordings must apply to the CEO and provide details of the item concerned and a reason for the request.
- c) Members of the public requiring access to the recordings must apply to the CEO and provide details of the item concerned and a reason for the request.
- d) The Chief Executive Officer has the responsibility to determine to release or withhold all or part of the audio recordings of any Council meeting, including deputations, if they contain inappropriate or inaccurate comments.
- e) Opinions expressed or statements made by persons during the course of the Council meeting and contained within the audio recording are the opinions or statements of those individual persons and are not opinions or statements of the Shire.
- f) The official record of the meeting is not the audio recording but the meeting minutes which require confirmation by Council resolution and must be signed by the person presiding at the meeting.
- g) Attendance at Council meetings does not provide any Elected Member, staff or member of the public with Absolute Privilege. It does not protect individuals from defamation in relation to behaviour or statements made.
- h) Audio recordings will not be published.

## **3. Disposal of Audio Recordings**

The General Disposal Authority for Local Government GDA 2015-001 25.1.2 requires audio/visual recordings of meetings and verbatim transcripts (if produced) to be retained for 1 year after the minutes are confirmed and then be destroyed.

## **4. Notification of Audio Recording**

- a) The Council agenda will clearly state the intention to audio record the meeting.
- b) A notice will be placed on the chamber door advising the public of audio recording the meeting.
- c) The Question and Statement forms will clearly advise the audio recording of Public Access and Question Time.

## **5. Associated Documents**

- Local Government Act 1995 s 5.3(1) Council Meetings, s5.23 Meetings generally open to the public
- Shire of West Arthur Standing Orders Local Law 2002
- Local Government (Administration) Regulations r.29 Information to be available for public inspection.
- State Records Act 2000

**ITEM 8.1.10 – REVIEW OF DELEGATIONS**

LOCATION/ADDRESS:	Not Applicable
NAME OF APPLICANT:	Not Applicable
FILE REFERENCE:	2.30.2
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT	11 June 2021

**SUMMARY:**

The method of delegation has been changed. Council is asked to review the new delegations manual and adopt with or without modification.

**BACKGROUND:**

Delegations were last reviewed in May 2019 and Council resolved to change the format of the delegations next time they were reviewed.

The Department has a guideline relating to delegations available from:

<https://www.dlgsc.wa.gov.au/local-government/local-governments/support-and-advice/local-government-operational-guidelines>

**CONSULTATION:**

Nil.

**STATUTORY ENVIRONMENT:**

The Local Government Act allows for Council to delegate to a committee (S5.16) and to the CEO (S5.42). In accordance with section 5.18 (Committees) and 5.46 (Employees) at least once every financial year, delegations are to be reviewed by the delegator.

**POLICY IMPLICATIONS:**

Some of the delegations link to polices, as noted in the draft list of delegations.

**FINANCIAL IMPLICATIONS:**

There are no financial implications.

**STRATEGIC IMPLICATIONS:**

There are no strategic implications.

**VOTING REQUIREMENTS:**

Absolute majority

**OFFICER RECOMMENDATION – ITEM 8.1.10**

That Council consider the draft register of delegations as included in the separate attachment.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.10**

Moved: Cr Neil Morrell

Seconded: Cr Adam Squires

That Council adopt the draft register of delegations as included in the separate attachment with the addition of the following clause under Council Conditions for Delegation 1.2.15 Tender for Goods and Services:  
.Any proposed purchase over the value of \$150,000 is to be provided to Elected Members with majority acknowledgement within 7 days.

**CARRIED 6/0**

**SEPARATE ATTACHMENT:**

- Draft Delegation Register

**ITEM 8.1.11 – DOGS AMENDMENT LOCAL LAW 2021**

LOCATION/ADDRESS:	Whole of Shire
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	3.2.2
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2021

**SUMMARY:**

Council has previously resolved to develop a local law to amend the existing Shire of West Arthur Dog Local Law 2000.

The proposed draft has been developed and is included as an attachment to this item. Council is to consider the draft document and authorising advertising of the proposed local law.

**BACKGROUND:**

At the time of the last review of local laws, Council resolve to amend the [Dogs Local Law](#) to delete the “place control provisions”, removed by the Dog Amendment Act 2013, and other minor amendments.

In March 2021, Council approved the development of a local law to amend the Dogs Local Law.

The draft local law to amend the Dogs Local Law has been prepared. The proposed local law is attached.

**CONSULTATION:**

The draft local law will be advertised for public comment.

**STATUTORY ENVIRONMENT:**

Division 2 of Part 3 of the Local Government Act 1995 includes the statutory requirements for amending a local law, which is the same as that required to make a local law.

The procedure is provide in Section 3.12 of the Local Government Act 1995 and Regulation 3 of the Local Government (Functions & General) Regulations 1996, which includes:

- Presiding person will give notice to a council meeting of the purpose of effect of the proposed local law;
- Public notice of the proposed local law;
- Copies provided to the Minister/s
- Consideration of submissions
- Council makes the local law by resolution
- Local law published in the Government Gazette
- Copy of gazetted law sent to Minister/s
- Public notice of adoption of local law
- Documents sent to the Joint Standing Committee on Delegated Legislation

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the Agenda for the meeting, and that the Minutes of the meeting include the purpose and effect of the proposed local law.

The purpose and effect of the proposed Shire of West Arthur Dog Amendment Local Law 2021 is:

**Purpose:**

To amend the Shire of West Arthur Dog Local Law 2000 to comply with Governor’s Orders and legislative changes, insertion of clauses relating to penalties and penalty provisions.

**Effect:**

To give effect to these changes by amendment of relevant clauses, inserting appropriate clauses creating new breach or compliance requirement, and increasing penalties applied.

**POLICY IMPLICATIONS:**

There are no current policy implications.

A draft policy to replace Part 5 of the existing local law is included in the agenda papers for this meeting.

**FINANCIAL IMPLICATIONS:**

The proposed new local law will require publishing in the Government Gazette if eventually adopted.

**STRATEGIC IMPLICATIONS:**

Aligns with the Shire of West Arthur Corporate Plan

Strategy: Compliance with regulations and best practice standards will drive good decision making by staff and council.

Action: Develop new local laws as required and review and amend existing local laws as required and in accordance with legislation.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION – ITEM 8.1.11**

That

- (a) in accordance with s3.12(3)(a)(b) and (3a) of the Local Government Act 1995, the Shire of West Arthur gives public notice that It proposes to make a Dog Amendment Local Law, as per the attachment; and
- (b) in accordance with s3.12(4), as soon as the notice is given, a copy be supplied to the Minister for Local Government.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.11**

Moved: Cr Neil Manuel

Seconded: Cr Marie Lloyd

That

- (a) in accordance with s3.12(3)(a)(b) and (3a) of the Local Government Act 1995, the Shire of West Arthur gives public notice that It proposes to make a Dog Amendment Local Law, as per the attachment; and
- (b) in accordance with s3.12(4), as soon as the notice is given, a copy be supplied to the Minister for Local Government.

**CARRIED 6/0**

**ATTACHMENTS**

- Proposed Local Law – Dog Amendment Local Law 2021

**DOG ACT 1976**

## SHIRE OF WEST ARTHUR

**DOGS AMENDMENT LOCAL LAW 2021**

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of West Arthur resolved on \_\_\_\_\_ 2021 to adopt the following local law.

**1. Citation**

This local law may be cited as the *Shire of West Arthur Dogs Amendment Local Law 2021*.

**2. Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**3. Principal local law**

- (a) In this local law, the *Shire of West Arthur Dogs Local Law* published in the *Government Gazette* on 19 April 2000 is referred to as the principal local law.
- (b) The principal local law is amended as follows.

**4. Table of Contents amended**

Delete reference to clauses 2.2 and 2.4; and insert in order –

- 2.2 Attendance of authorised person at pound
- 2.4 Unauthorised release
- 3.3 Keeping of additional dogs not to cause a nuisance
- 7.1A General penalty

**5. Clause 1.3 amended**

Clause 1.3 is amended –

- (a) Delete the definitions of –
  - pound keeper;
  - Regulations; and
  - town planning scheme; and
- (b) insert in alphabetical order –
  - “dangerous dog” has the meaning given to it by section 3(1) of the Act;
  - “district” means the district of the Shire of West Arthur;
  - “local planning scheme” means a planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;
  - “nuisance” means –
    - (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
    - (b) an unreasonable interference with the use and enjoyment of a person’s ownership or occupation of land; or
    - (c) interference which causes material damage to land or other property on the land affected by the interference;
  - “owner”, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;
  - “person liable for control of the dog” has the same meaning as in section 3(1) of the Act;
  - “pound” has the meaning of dog management facility as given in section 3(1) of the Act, and includes a kennel establishment;
  - “public place” has the meaning given to it by section 3(1) of the Act;
  - “Regulations” means the *Dog Regulations 2013*;

**6. Clause 2.2 amended**

Delete clause 2.2 and insert –

**2.2 Attendance of authorised person at pound**

An authorised person is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

**7. Clause 2.3 amended**

Delete clause 2.3 and insert –

**2.3 Release of impounded dog**

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person or in the absence of an authorised person, to the CEO.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, satisfactory evidence –
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

**8. Clause 2.4 amended**

Delete clause 2.4 and insert –

**2.4 Unauthorised release**

Unauthorised release of dogs is dealt with by section 43 of the Act.

**9. Clause 3.1 amended**

(1) Delete subclause 3.1(1)(c) and insert –

- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;

(2) After subclause (2) –

- (a) delete the words “Penalty: Where the dog kept is a dangerous dog \$2,000, otherwise \$1,000.”
- (b) insert –
  - (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

**10. Clause 3.3 inserted**

After clause 3.2 insert –

**3.3 Keeping of additional dogs not cause a nuisance**

- (1) The local government may cancel approval to keep additional dogs –
  - (a) on the request of the licensee;
  - (b) where a dog or dogs are creating a nuisance;
  - (c) following a breach of the Act, the Regulations or this local law; or
  - (d) if the licensee is not a fit and proper person.
- (2) The date a licence is cancelled is to be, in the case of –
  - (a) paragraph (a) of subclause (1), the date requested by the licensee; or
  - (b) paragraphs (a), (b) and (c) of subclause (1), the date determined in written notice of cancellation of approval.

**11. Clause 4.1 amended**

In clause 4.1 insert in alphabetical order–

“kennel establishment” means any premises where more than the number of dogs under clause 3.2 over the age of 3 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

**12. Clause 4.4 amended**

In subclause 4.4(3), delete the word “town” and replace with the word “local”.

**13. Clause 4.7 amended**

In subclause 4.7(a), delete the word “town” and replace with the word “local”.

**14. Clause 4.9 amended**

In clause 4.9 delete the words “Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.”

**15. Clause 5.1 amended**

Delete clause 5.1 and insert –

**5.1 Places where dogs are prohibited absolutely**

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

**16. Clause 5.2 amended**

Delete clause 5.2 and insert –

**5.2 Places which are dog exercise areas**

Designation of places which are dog exercise areas is dealt with in the Act.

**17. Clause 6.1 amended**

In clause 6.1 delete the words “Penalty: \$200.”

**18. Clause 7.1A inserted**

After clause 7.1 insert –

**7.1A General penalty**

- (1) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000.
- (2) If the offence is of a continuing nature, to an additional penalty or part of the day during which the offence has continued not exceeding –
  - (a) if the dog is a dangerous dog and daily penalty of not more than \$500 but not less than \$200; or
  - (b) otherwise, a daily penalty of \$100.

**19. Clause 7.3 amended**

In clause 7.3 delete the words “Form 7” and insert the words “Form 8”.

**20. Clause 7.6 amended**

In clause 7.6 delete the words “Form 8” and insert the words “Form 9”.

**21. Schedule 3 amended**

In Schedule 3 delete the table and insert –

Item	Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	100	500
2	4.9	Failing to comply with the conditions of a licence	200	500
3	6.1(2)	Dog excreting in prohibited place	100	



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Dated \_\_\_\_\_ 2021

The Common Seal of the Shire of West Arthur was affixed by authority of a resolution of Council in the presence of –

**K. KING**, President

**Initials?**

N.C. WASMANN, Chief Executive Officer

DRAFT

**ITEM 8.1.12 – DOG EXERCISE, PROHIBITED AND RURAL LEASHING AREAS POLICY**

LOCATION/ADDRESS:	Whole of Shire
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	2.30.1
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2021

**SUMMARY:**

To consider a policy defining areas where dogs are prohibited, dog exercise areas and rural leashing areas within the Shire of West Arthur.

**BACKGROUND:**

During the preparation of amendments to the Shire of West Arthur Dogs Local Law 2000, it was noted that prohibited and exercise areas for dogs were still regulated in the local law.

In May 2014, a Governor's Order was published in the Government Gazette stipulating that dog exercise areas and prohibited areas published in all local laws throughout the State, would cease to be effective on 31 July 2014.

Council is required to determine:

- Prohibited area - areas where dogs are prohibited at all times;
- Dog exercise areas – areas where dogs may be exercised off leash (but still under effective control) within a townsite.
- Rural Leashing Areas – areas outside of town boundaries where dogs must be exercised on a leash.

**CONSULTATION:**

In developing the policy, Shire staff have liaised with community members who have previously raised an interest in dog exercise areas.

Following Council decision, local public notice is to be given.

**STATUTORY ENVIRONMENT:**

In accordance with the Dog Act 1976, Section 31 a local government is to determine any public place where dogs are prohibited, dog exercise areas within a townsite, and those areas outside of a townsite where dogs must be on a leash.

Dogs must be held by a person or securely tethered in any public area not prohibited in a townsite, unless in a designated exercise area.

Outside of a townsite, dogs are not required to be held or tethered in a public place unless that area has been specified as a rural leashing area.

The local government must specify such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.

Different requirements apply to dangerous dogs.

Section 32 of the Dog Act 1976, requires that when not required to be on a leash that the dog be supervised by a competent person in reasonable proximity to the dog who is capable of controlling the dog.

The existing Shire of West Arthur Dogs Local Law 2000 identifies

**5.1 Place where dogs are prohibited absolutely**

- a) where so indicated by a sign, a public building;
- b) a theatre or picture gardens;
- c) all premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993; and
- d) a public swimming pool.
- e)

5.2 (1) Subject to clause 5.1 and subclause (2) of this clause, for the purpose of sections 31 and 32 of the Act, the following are dog exercise areas:

- Darkan townsite Reserve 19034 (Town Common) and
- Duranillin townsite Reserve 22725

- (2) Subclause (1) does not apply to
- a) land which has been set apart as a children's playground;
  - b) an area being used for sporting or other activities as permitted by the local government, during the times of such use; or
  - c) a car park.

The legislation requires that each local government set the exercise and prohibited areas by an absolute majority decision of Council.

Commonwealth legislation concerning assistance animals will over-ride any prohibition of dogs being in a particular place.

The policy can only be effective for land that is under the care, control or management of the local government. Properties not meeting this may be covered by other legislation, such as food premises under the Food Act etc.

**POLICY IMPLICATIONS:**

The proposed policy will have no implications on any other existing policies.

**FINANCIAL IMPLICATIONS:**

There may be some cost associated with signage for designated locations.

**STRATEGIC IMPLICATIONS:**

Aligns with the Shire of West Arthur Corporate Plan

Action: Dog and Cat Act and Ranger Services Administer the Cat Act and the Dog Act, and encourage responsible pet ownership. Provide a proactive and responsive ranger service to the Shire through a collaborative arrangement with the Shire of Collie.

Strategy: Continuously strive to improve performance and delivery across all functions with a focus on customer service.

Action: Policy Development and Review

Develop new policies as required and regularly review existing policies.

**COMMENT:**

A draft policy has been prepared identifying the following areas in accordance with the Dog Act 1976, Section 31:

**4.1 Dog Prohibited Areas (Registered Companion Dogs Exempt)**

Pursuant to section 31(2B) of the Dog Act 1976 and section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984: the following areas are established as dog prohibited areas:

- All public buildings.
- All fenced public playgrounds.

**4.2 Dog Exercise Areas**

Pursuant to section 31(3A) of the Dog Act 1976, the following areas are established as dog exercise areas:

- Darkan Football Oval – when not in use for sporting events.
- Darkan Town Common – Reserve 19034.
- Duranillin Oval - Reserve 18609
- Darkan Old hockey oval and old basketball court precinct accessed from Darkan South Road.

### 4.3 Rural Leashing Areas

Outside of the Shire of West Arthur townsite boundaries pursuant to section 31(3B) of the Dog Act 1976, the following areas are established where a dog must be on a leash at all times:

- Lake Towerrinning including car park, foreshore between the jetties, and grassed area.
- Collie Darkan Rail Trail in those sections where there is no fence between the trail and adjoining farmland
- Arthur River Sports Club
- Arthur River Hall – Reserve 21211
- Arthur River Historical Buildings opposite the Arthur River Hall on Albany Highway
- Arthur River Cemetery
- 6 Mile Cottage Quindanning Darkan Road
- Moodiarrup Hall.

The draft policy provides a number of options for dog exercise areas within the Darkan townsite.

#### VOTING REQUIREMENTS:

Absolute Majority

<b>OFFICER RECOMMENDATION – ITEM 8.1.12</b>
---

That the draft policy Dog Exercise, Prohibited and Rural Leashing Areas be adopted specifying:

#### Dog Prohibited Areas (Registered Companion Dogs Exempt)

Pursuant to section 31(2B) of the Dog Act 1976 and section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984: the following areas are established as dog prohibited areas:

- All public buildings.
- All fenced public playgrounds.

#### Dog Exercise Areas

Pursuant to section 31(3A) of the Dog Act 1976, the following areas are established as dog exercise areas:

- Darkan Football Oval – when not in use for sporting events.
- Darkan Town Common – Reserve 19034.
- Duranillin Oval - Reserve 18609
- Darkan Old hockey oval and old basketball court precinct accessed from Darkan South Road.

#### Rural Leashing Areas

Outside of the Shire of West Arthur townsite boundaries pursuant to section 31(3B) of the Dog Act 1976, the following areas are established where a dog must be on a leash at all times:

- Lake Towerrinning including car park, foreshore between the jetties, and grassed area.
- Collie Darkan Rail Trail in those sections where there is no fence between the trail and adjoining farmland
- Arthur River Sports Club
- Arthur River Hall – Reserve 21211
- Arthur River Historical Buildings opposite the Arthur River Hall on Albany Highway
- Arthur River Cemetery
- 6 Mile Cottage Quindanning Darkan Road
- Moodiarrup Hall
- All public buildings.

That the policy commence 28 days after local public notice.

<b>COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.12</b>
--

Moved: Cr Neil Morrell

Seconded: Cr Adam Squires

That the draft policy Dog Exercise, Prohibited and Rural Leashing Areas as presented and amended be adopted specifying:

#### Dog Prohibited Areas (Registered Companion Dogs Exempt)

Pursuant to section 31(2B) of the Dog Act 1976 and section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984: the following areas are established as dog prohibited areas:

- All public buildings.

- All fenced public playgrounds.
- Darkan and Arthur River cemeteries

#### Dog Exercise Areas

Pursuant to section 31(3A) of the Dog Act 1976, the following areas are established as dog exercise areas:

- Darkan Football Oval – when not in use for sporting events.
- Darkan Town Common – Reserve 19034.
- Duranillin Oval - Reserve 18609
- Darkan Old hockey oval and old basketball court precinct accessed from Darkan South Road.

#### Rural Leashing Areas

Outside of the Shire of West Arthur townsite boundaries pursuant to section 31(3B) of the Dog Act 1976, the following areas are established where a dog must be on a leash at all times:

- Lake Towerrinning including car park, foreshore between the jetties, and grassed area.
- Collie Darkan Rail Trail in those sections where there is no fence between the trail and adjoining farmland
- Arthur River Sports Club – on days when an event is being held
- Arthur River Hall – Reserve 21211
- Arthur River Historical Buildings opposite the Arthur River Hall on Albany Highway
- 6 Mile Cottage Quindanning Darkan Road
- Moodiarrup Hall
- All public buildings.

That the policy commence 28 days after local public notice.

**CARRIED 6/0**

#### **ATTACHMENTS**

- Draft Policy Dog Exercise, Prohibited and Rural Leashing Areas



## Shire of West Arthur Council Policy – Dog Exercise, Prohibited and Rural Leashing Areas

Policy Number	R5.1
Policy Title	Dog Exercise, Prohibited and Rural Leashing Areas
Related Legislation	<ul style="list-style-type: none"> <li>• Local Government Act 1995 (WA)</li> <li>• Dog Act 1976</li> <li>• Disability Discrimination Act 1992</li> <li>• Equal opportunity Act 1984</li> <li>• Health (Miscellaneous Provisions) Act 1911</li> <li>• Shire of West Arthur Dog Local Law 2000</li> </ul>
Strategic Outcome Supported	.
Adopted by Council	To be considered for adoption 15 June 2021
Review	June 2024
Note	Any changes to Policy require Absolute Majority resolutions

### 1. Objective/Outcomes

The purpose of this policy is to:

- determine Dog Prohibited Areas, Dog Exercise Areas, and Rural Leashing Areas; and
- inform and educate the community relating to dog ownership responsibilities and exercising of dogs.

### 2. Scope

This Policy identifies where dogs are prohibited and where dogs are permitted to exercise either on a leash or off-leash within the Shire of West Arthur local government area. This policy does not apply to registered companion dogs as specified in the Disability Discrimination Act 1992 and Equal Opportunity Act 1984 or

### 3. Definitions

Sporting event: for the purpose of this policy a sporting event is defined as an activity involving physical exertion and skill that is governed by a set of rules or customs and is often undertaken competitively. It is organised by a sporting association or club. Training for these activities falls under the definition of sporting event.

Playground: an area designed and constructed to encourage children's outdoor play etc.

Grassed area: an area of grass maintained by the Shire of West Arthur for use by the community for a range of purposes.

### 4. Policy Statement

Council in accordance with Council's Community Strategic Plan, the Shire of West Arthur's Dog Local Law 2000 and applicable legislation:

- supports the designation of public land to create a welcoming, safe environment for exercising and socialising of dogs.

- promotes the regulated use of recreational areas by dogs and their handlers to ensure the community is safe.

#### 4.1 Dog Prohibited Areas (Registered Companion Dogs Exempt)

Pursuant to section 31(2B) of the Dog Act 1976 and section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984: the following areas are established as dog prohibited areas:

- All public buildings.
- All fenced public playgrounds.
- Darkan and Arthur River Cemeteries

#### 4.2 Dog Exercise Areas

Pursuant to section 31(3A) of the Dog Act 1976, the following areas are established as dog exercise areas:

- Darkan Football Oval – when not in use for sporting events.
- Darkan Town Common – Reserve 19034.
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#### 4.3 Rural Leashing Areas

Outside of the Shire of West Arthur townsite boundaries pursuant to section 31(3B) of the Dog Act 1976, the following areas are established where a dog must be on a leash at all times:

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- Collie Darkan Rail Trail in those sections where there is no fence between the trail and adjoining farmland
- Arthur River Sports Club – on days when an event is being held
- Arthur River Hall – Reserve 21211
- Arthur River Historical Buildings opposite the Arthur River Hall on Albany Highway
- Arthur River Cemetery
- 6 Mile Cottage Quindanning Darkan Road
- Moodiarrup Hall.

## **5. Legislative and Strategic Context**

- Local Government Act 1995 (WA)
- Dog Act 1976
- Disability Discrimination Act 1992
- Equal opportunity Act 1984
- Health (Miscellaneous Provisions) Act 1911
- Shire of West Arthur Dog Local Law 2000

## **6. Associated Documents**

Shire of West Arthur Dog Local Law 2000

**ITEM 8.1.13 – FENCING LOCAL LAW 2021**

LOCATION/ADDRESS:	Whole of Shire
NAME OF APPLICANT:	Not applicable
FILE REFERENCE:	3.2.2
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2021

**SUMMARY:**

Council has previously resolved to develop a new fencing local law and to revoke the existing fencing local law.

The proposed draft has been developed and is included as an attachment to this item. Council is to consider the draft document including authorising advertising of the proposed local law.

**BACKGROUND:**

The existing [Fencing Local Law](#) was adopted by Council in 1988, although not published in the Government Gazette until February 1991.

In early 2020, an issue was identified whereby the current local law provides for an absolute prohibition for any fence exceeding 1m in height abutting or within 7.6m of a street alignment. This includes the side fence of a residential property on a corner and fences around commercial and industrial properties.

A number of other matters were identified as requiring attention, including –

- consistency with the Local Planning Scheme concerning localities and zonings;
- reference to material not in common use in 1988 which need to be addressed (asbestos, razor wire etc);
- capacity for Council to delegate power to the CEO.

In March 2021, Council resolved to develop a new fencing local law.

**CONSULTATION:**

The draft has been prepared in consultation with councillors, staff and the Shire's planning consultant.

The draft local law will be advertised for public comment.

**STATUTORY ENVIRONMENT:**

Division 2 of Part 3 of the Local Government Act 1995 includes the statutory requirements for making a local law.

The procedure is provided in Section 3.12 of the Local Government Act 1995 and Regulation 3 of the Local Government (Functions & General) Regulations 1996, which includes:

- Presiding person will give notice to a council meeting of the purpose of effect of the proposed local law;
- Public notice of the proposed local law;
- Copies provided to the Minister/s
- Consideration of submissions
- Council makes the local law by resolution
- Local law published in the Government Gazette
- Copy of gazetted law sent to Minister/s
- Public notice of adoption of local law
- Documents sent to the Joint Standing Committee on Delegated Legislation

The maximum penalty allowed under Section 3.10 of the Local Government Act 1995 is \$5,000. In accordance with Section 9.1.7 (3) of the Act, the modified penalty cannot exceed 10% of the maximum fine by court.

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the Agenda for the meeting, and that the Minutes of the meeting include the purpose and effect of the proposed local law.

The purpose and effect of the proposed Shire of West Arthur Fencing Local Law 2021 is:



**Purpose:**

To prescribe the requirements for sufficient fences and the standards for construction of fences.

**Effect:**

To establish the minimum requirements for fencing, provide for permitted and prohibited fencing, and create offences for non-compliance.

**POLICY IMPLICATIONS:**

There are no current policy implications.

Council may wish to consider the adoption of a policy to provide direction in relation to authorising variations after the Local Law is made.

**FINANCIAL IMPLICATIONS:**

The Shire will be charged for advertising in the Government Gazette.

**STRATEGIC IMPLICATIONS:**

Aligns with the Shire of West Arthur Corporate Plan

Strategy: Compliance with regulations and best practice standards will drive good decision making by staff and council.

Action: Develop new local laws as required and review and amend existing local laws as required and in accordance with legislation.

**COMMENT:**

The local law does not establish a right for a fence to continue, approve the extension or replacement of a non-complying fence.

The exception to this is the transitional provision of proposed clause 1.8, where a non-complying fence can remain and be maintained as approved. Any alterations or additions to the fence would be a new application, not being part of the original approval.

Where Australian Standards are referred to in a local law, the Parliamentary Joint Standing Committee on Delegated Legislation generally requires the local law to specify a method of how residents can inform themselves of what is contained within those standards, free of charge. It is considered acceptable that the Standards may be inspected at the Shire Office.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION – ITEM 8.1.13**

That

- a) in accordance with s3.12(3)(a)(b) and (3a) of the Local Government Act 1995, the Shire of West Arthur gives public notice that it proposes to make a Fencing Local Law, as per the attachment; and
- b) in accordance with s3.12(4), as soon as the notice is given, a copy be supplied to the Minister for Local Government.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.13**

Moved: Cr Neil Morrell

Seconded: Cr Adam Squires

That

- (a) in accordance with s3.12(3)(a)(b) and (3a) of the Local Government Act 1995, the Shire of West Arthur gives public notice that It proposes to make a Fencing Local Law, as per the attachment with the addition under Schedule 1 of sub-clause 1 (a) (v1) – metal post and rail ; and
- (b) in accordance with s3.12(4), as soon as the notice is given, a copy be supplied to the Minister for Local Government.

**CARRIED 6/0**

**ATTACHMENTS**

- Draft Fencing Local Law 2021

**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF WEST ARTHUR**  
**FENCING LOCAL LAW 2021**

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Schedule 4 – Prescribed offences

DRAFT

**LOCAL GOVERNMENT ACT 1995**  
**SHIRE OF WEST ARTHUR**  
**FENCING LOCAL LAW 2021**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of West Arthur resolved on \_\_\_\_\_ to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of West Arthur Fencing Local Law 2021*.

**1.2 Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.3 Repeal**

The *Fencing By-Law made by the Municipality of the Shire of West Arthur* as published in the *Government Gazette* on 8 February 1991, is repealed.

**1.4 Application**

This local law applies throughout the district.

**1.5 Terms used**

In this local law unless the context otherwise requires –

**adversely affect land** has the meaning given to it in section 3 of the *Building Act 2011*;

**applicant** means a person who makes an application for a permit under this local law;

**AS or AS/NZS** means an Australian or Australian/New Zealand Standard published by Standards Australia, and available for viewing free of charge at the Shire of West Arthur Administration Centre;

**authorised person** means a person authorised by the local government to perform any of the functions under this local law;

**barbed wire** means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

**CEO** means the Chief Executive Officer of the local government;

**commercial lot** means a lot where a commercial use –

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

**dangerous** in relation to any fence means –

- (a) an electrified fence that does not comply with clause 5.2 of this local law;
- (b) a fence containing barbed wire other than a fence constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire, metal spikes or any other potentially harmful projection or material; or
- (d) a fence that is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

**district** means the district of the local government;

**dividing fence** has the meaning given in section 5 of the *Dividing Fences Act 1961*;

**electrified fence** means a fence carrying or designed to carry an electric charge;

**fence** means any structure used or functioning as a barrier, other than a retaining wall, irrespective of where it is located and includes a gate or door that separates the road reserve and a lot adjacent to the road reserve;

**front boundary** means the boundary that separates a thoroughfare and the front of a lot;

**front fence** means a fence in the front setback area of a lot;

- front setback area** means the area between the building line of a lot and the front boundary of that lot; measured at a right angle to the front boundary;
- height** in relation to a fence means the vertical distance between the top of the fence at any point and –
- (a) the ground level; or
  - (b) where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;
- industrial lot** means a lot where an industrial use –
- (a) is or may be permitted under a local planning scheme; and
  - (b) is or will be the predominant use of the lot;
- land** includes a house, building, work or structure in or on the land;
- local government** means the Shire of West Arthur;
- local planning scheme** means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;
- lot** means a defined portion of land depicted on a plan or diagram available from, or deposited with, the Western Australian Land Information Authority and for which a separate Crown grant or certificate of title has been or can be issued and includes a strata lot;
- masonry** includes stone, concrete, brick or other solid material;
- natural ground level**, in relation to a development, means –
- (a) the level approved, for the purposes of the development, by the local government, under a local planning scheme; or
  - (b) in any other case, the level that existed immediately before the commencement of the development (including any site works);
- notice of breach** means a notice referred to in clause 8.1;
- occupier** has the meaning given to it in section 1.4 of the *Local Government Act 1995*;
- owner** has the meaning given to it in section 1.4 of the *Local Government Act 1995*;
- permit** means a permit issued under Part 6;
- razor wire** means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;
- repair** has the meaning given to it in section 5 of the *Dividing Fences Act 1961*;
- residential lot** means a lot where a residential use –
- (a) is or may be permitted under a local planning scheme; and
  - (b) is or will be the predominant use of the lot;
- retaining wall** means any structure that prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;
- rural lot** means a lot where a rural or rural residential use –
- (a) is or may be permitted under a local planning scheme; and
  - (b) is or will be the predominant use of the lot;
- Schedule** means a Schedule to this local law;
- secondary frontage** in the case of a lot that has a frontage and access to more than one thoroughfare, means the longer or the longest of the boundaries that separates the lot from the thoroughfare;
- set fee** means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;
- sufficient fence** means a fence described in clause 2.2 or 2.3;
- thoroughfare** has the meaning given to it in section 1.4 of the *Local Government Act 1995*, but does not include a private thoroughfare that is not under the management or control of the local government; and
- visually permeable** in reference to a wall, gate, door, screen or fence that the vertical surface when viewed directly from the street or other public space has –
- (a) continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;
  - (b) continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or
  - (c) a surface offering equal or lesser obstruction to view.

## 1.6 Requirements of planning legislation and local planning scheme

Nothing within this local law affects any provision of –

- (a) the *Planning and Development Act 2005*, or any regulations or orders made under that Act; or
- (b) a local planning scheme.

### **1.7 Requirements of *Building Act 2011***

Nothing in this local law affects a provision in any written law in respect of a building permit for a fence.

### **1.8 Transitional provision**

A dividing fence or fence lawfully constructed prior to this local law coming into operation constitutes a sufficient fence.

## **PART 2 - SUFFICIENT FENCES**

### **2.1 Sufficient fences – requirement**

A person shall not construct or alter a dividing fence that does not satisfy the requirements of a sufficient fence.

### **2.2 Sufficient fences – generally**

Subject to clauses 2.3 and 2.4, a sufficient fence –

- (a) on a residential lot is a dividing fence constructed and maintained in accordance with Schedule 1;
- (b) on a commercial lot or an industrial lot is a dividing fence constructed and maintained in accordance with Schedule 2; and
- (c) on a rural lot is a dividing fence constructed and maintained in accordance with Schedule 3.

### **2.3 Sufficient fences – between lots having different requirements**

Subject to clause 2.4, where a fence is constructed on or near the boundary between –

- (a) a residential lot and a lot zoned for any other purpose, a sufficient fence is a fence constructed and maintained in accordance with Schedule 1; and
- (b) a commercial lot or industrial lot and a rural lot, a sufficient fence is a fence constructed in accordance with Schedule 3.

### **2.4 General discretion of the local government**

- (1) Notwithstanding the provisions of clauses 2.1, 2.2 or 2.3, and subject to Part 6, an authorised person may issue a permit for the construction or repair of a dividing fence that is not a sufficient fence where all of the owners of the lots adjoining the fence give written consent for a permit for that purpose.
- (2) An agreement in respect of a dangerous fence is taken not to be an agreement between owners of adjoining properties for the purposes of subclause (1).

## **PART 3 - FENCING GENERALLY**

### **3.1 Fences within front setback areas**

A person shall not construct a fence more than 1200mm in height, within the front setback area of a residential lot without a permit.

### **3.2 Fences on secondary frontages**

Subject to clauses 3.1 and 3.3 a person shall not construct or maintain a fence on any secondary frontage of a residential lot unless the fence is a sufficient fence.

### **3.3 Sightlines at vehicle access point**

- (1) Fences are to be truncated or reduced to a height not more than 750mm, within 1500mm where walls, fences and other structures adjoin vehicle access points where a driveway meets a thoroughfare and where two thoroughfares intersect.
- (2) The provision of subclause (1) shall not apply to a visually permeable fence that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

### **3.4 Obstruction of watercourse**

No person shall construct a fence of impervious material in any place, position or location where it will, or is likely to, act as a barrier to or restrict the flow of a natural watercourse.

### **3.5 Gates or doors in fences**

A person shall not construct a gate or door in a fence that –

- (a) encroaches into or over any other land; or
- (b) opens by sliding parallel to the fence on the outside of the fence.

### **3.6 Retaining walls**

A person shall not construct a retaining wall exceeding 500mm in height unless a building permit has been granted under section 20 of the *Building Act 2011*.

### **3.7 Masonry fences and walls**

A person shall not construct a wall or fence exceeding 750mm in height constructed or partially constructed of masonry unless a building permit has been granted under section 20 of the *Building Act 2011*.

### **3.8 Alteration of ground levels**

- (1) A person shall not alter the natural ground level of land on or within 1000mm of the boundary of a lot, whether by removing soil or bringing onto the land any fill of any kind, by more than 500mm without a permit.
- (2) A fence constructed of corrugated fibre-reinforced pressed cement shall not have more than 150mm difference in the ground levels on each side of the fence.
- (3) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1000mm of a boundary of a lot, a person shall only construct a dividing fence that is a sufficient fence on the said filled land or retaining wall if the person produces to an authorised person the written consent of the owners of the adjoining lot.

### **3.9 Maintenance of fences**

- (1) An owner or occupier of a lot on which a fence is constructed shall maintain the fence in good condition so as to prevent it from becoming damaged, dangerous, dilapidated or unsightly.
- (2) Where in the opinion of an authorised person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an authorised person may give a notice of breach under clause 8.1 to the owner or occupier of the lot on which the fence is constructed.

### **3.10 Fences across rights-of-way, public access ways or thoroughfares**

A person shall not construct, place or maintain a fence or obstruction across any right-of-way, public access way or thoroughfare without the approval of the local government in accordance with regulation 9 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

## **PART 4 - FENCING MATERIALS**

### **4.1 Prohibited materials**

A person shall not construct, maintain or allow to remain a fence that is comprised, in whole or in part of spikes, broken glass, jagged materials, barbed wire, razor wire, asbestos or any other dangerous material except to the extent provided for in Part 5.

### **4.2 Pre-used fencing materials**

- (1) A person shall not construct or maintain a dividing fence from pre-used materials without a permit.
- (2) Where a permit is issued for the use of pre-used materials, the materials shall be structurally fit for the purpose, and comply with any conditions imposed by an authorised person.
- (3) Conditions for use of pre-used fencing materials may include but are not limited to –
  - (a) painting;
  - (b) treatment;
  - (c) specific use or placement; and



- (d) upgrading.

## PART 5 - RESTRICTED FENCING

### 5.1 Barbed wire fencing

- (1) An owner or occupier of a residential lot shall not affix or allow to remain any barbed wire on any fence bounding that lot.
- (2) An owner or occupier of a rural lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.
- (3) An owner or occupier of a commercial lot or industrial lot shall not construct or affix to any fence bounding that lot any barbed wire unless –
  - (a) the wire or material are attached on posts vertically or at an angle of 45 degrees; and
  - (b) the bottom row of wire or other materials is not less than 2000mm above the ground level.
- (4) If the posts that carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence shall be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach onto or over adjoining land.

### 5.2 Electrified fencing

- (1) An owner or occupier of a lot shall not construct or use an electrified fence on that lot without first obtaining a permit.
- (2) Notwithstanding subclause (1), a permit is not required for an electrified fence that is –
  - (a) constructed on a rural lot;
  - (b) for the purpose of animal control;
  - (c) installed in accordance with the manufacturer's specifications; and
  - (d) not the dividing fence with a residential lot.
- (3) An electrified fence for the purpose of security shall not be present on a lot unless it complies with *AS/NZS 3016:2002 Electrical Installations – Electric Security Fences*, as amended from time to time, and that is available for viewing free of charge at the Shire of West Arthur Administration Centre.
- (4) A permit to have and use an electrified fence for the purpose of security shall not be issued –
  - (a) in respect of a lot that is a residential lot or that portion of a fence adjoining a residential lot; and
  - (b) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is constructed.

### 5.3 Razor wire fencing

- (1) An owner or occupier of a lot shall not construct a fence wholly or partly of razor wire on that lot without first obtaining a permit under subclause (2).
- (2) A permit to have a fence constructed wholly or partly of razor wire shall not be issued –
  - (a) in respect of a lot that is a residential lot or that portion of a fence adjoining a residential lot;
  - (b) if the fence is within 3000mm of the boundary of the lot; or
  - (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

## PART 6 - PERMITS

### 6.1 Application for a permit

- (1) An owner of a lot may apply to the local government for a permit under this Part.
- (2) An application for a permit under this local law shall –
  - (a) provide all necessary documentation and information required for a decision;
  - (b) provide two copies of a plan and specifications of the proposed;
  - (c) engineering certification of structural or electrical engineering specifications, if required;
  - (d) be signed by the owner of the lot;
  - (e) be forwarded to the CEO together with any set fee; and
  - (f) be in the form determined by the local government from time to time.



- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

## **6.2 Determination of an application**

- (1) An authorised person may refuse to consider an application that does not comply with clauses 6.1.
- (2) An authorised person may—
- (a) approve an application;
  - (b) approve an application subject to conditions as the authorised person sees fit; or
  - (c) refuse an application.
- (3) In determining whether to issue a permit, an authorised person may consider, in addition to any other matter authorised to consider, whether the construction or retention of the fence would have an adversely affect land or impact on –
- (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the streetscape or neighbouring properties.
- (4) An authorised person may by written notice amend a condition imposed under subclause (2)(b).
- (5) An amendment under subclause (4) is effective from the date specified in the notice.
- (6) If an authorised person approves an application, a written permit and any conditions applied is to be given to the applicant.
- (7) If an authorised person refuses to approve an application, written notice of that refusal and the reasons for the decision is to be given to the applicant.

## **6.3 Compliance with permit issued**

Where a permit is issued under clause 6.2, the applicant and the owner or occupier of the lot to which the permit relates, shall comply with the terms and any conditions of that permit.

## **6.4 Revocation of a permit**

An authorised person may revoke a permit if –

- (a) the owner or occupier requests an authorised person to do so;
- (b) the fence to which the permit relates has been demolished and is not rebuilt for a period of 6 months;
- (c) the circumstances have changed in such a way that a permit for the fence could no longer be granted under the local law;
- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence; or
- (e) the owner or occupier fails to comply with a notice of breach issued under clause 8.1.

## **6.5 Duration of a permit**

- (1) Unless otherwise stated in the permit, a permit granted under this local law transfers with the lot to which it relates and is deemed to transfer to each successive owner or occupier of that lot.
- (2) Where a permit is transferred under subclause (1), the successive owner or occupier may apply to an authorised person for written confirmation of this transfer.
- (3) For the avoidance of doubt, a permit granted under this local law may be relied upon by any subsequent owner or occupier of the lot, and may be enforced against them by the local government.

## **6.6 False or misleading statement**

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

# **PART 7 - OBJECTIONS AND REVIEW**

## **7.1 Objections and review**

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to –

- (a) refuse an application for a permit;
- (b) impose or vary a condition of a permit; or

- (c) revoke a permit.

## PART 8 - ENFORCEMENT

### 8.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, an authorised person may give a notice of breach in writing to the owner or occupier of that lot.
- (2) A notice of breach shall –
  - (a) specify the provision of this local law that has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the owner or occupier is required to remedy the breach within the time specified in the notice.
- (3) An owner or occupier given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.
- (4) Should an owner or occupier fail to comply with a notice, an authorised person may enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of doing so from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.
- (5) The provisions of this clause are subject to –
  - (a) section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995*; and
  - (b) any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

### 8.2 Offences and penalties

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

### 8.3 Prescribed offences

- (1) An offence against a clause specified in Schedule 4 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 4.

### 8.4 Form of notices

For the purposes of this local law –

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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### Schedule 1 – Sufficient fence for residential lots

[Clause 2.2(a)]

1. On a residential or special residential lot, a sufficient fence is a dividing fence that –
  - (a) is constructed of –
    - (i) corrugated fibre-reinforced pressed cement sheeting;
    - (ii) timber pickets or post and rail;
    - (iii) brick, stone or concrete;

- (iv) factory coloured sheet metal post and panelled fence
  - (v) metal post and rail; or
  - (vi) any combination of the materials described in paragraphs (i)-(v); and
- (b) in the case of a front fence –
- (i) is not more than 1200mm in height; or
  - (ii) is between 1200mm and 1800mm in height; and is visually permeable fence above 1200mm; and
  - (iii) if the fence is a side boundary fence that uniformly slopes down from not more than 1800mm to no more than 1200mm in height over a maximum distance of 1500mm from the start of the front set back area from the building to the front of the lot;
- (c) in the case of any other dividing fence, the fence is between 1750mm and 1850mm in height, and to which an extension of lattice or other permeable material as agreed between the owner or occupiers of adjoining properties parties may be added so that the total height of the fence is a maximum of 2100mm.
2. The fence shall not adversely affect land or impact on –
- (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the streetscape or neighbouring properties.

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**Schedule 2 – Sufficient fence for commercial or industrial lots**

[Clause 2.2(b)]

1. On a commercial or industrial lot, a sufficient fence is a dividing fence that –
- (a) is constructed of –
    - (i) galvanised or PVC coated link mesh, that is no higher than 2000mm unless it is topped with up to 3 strands of plain or barbed wire;
    - (ii) fibre reinforced cement sheets;
    - (iii) painted or galvanized steel or aluminium sheeting;
    - (iv) factory coloured sheet metal post and panelled fence;
    - (v) timber, brick, stone or concrete; or
    - (vi) any combination of the materials described in paragraphs (i)-(v); and
  - (b) in the case of a front fence –
    - (i) is not more than 1200mm in height; or
    - (ii) is more than 1200mm but not higher than 2000mm unless topped with up to 3 strands of plain or barbed wire to not more than 2400mm in height; and is visually permeable above 1200mm; and
    - (iii) if the fence is a side boundary fence that uniformly slopes down from no more than 2000mm to no more than 1200mm in height over a maximum distance of 1500mm from the start of the front set back area from the building to the front of the lot; and
  - (c) in the case of any other dividing fence, the fence is no more than 2400mm in height, including not more than three strands of plain or barbed wire.
2. Upon application, an authorised person may issue a permit varying clause 2(b), and may impose conditions.
3. Fences constructed in accordance with Schedule 1.
4. The fence shall not adversely affect land or impact on –
- (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the streetscape or neighbouring properties.

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**Schedule 3 – Sufficient fence for rural lots**

[Clause 2.2(c)]

1. On a rural lot, a sufficient fence is a dividing fence that is at least 1200mm in height so as to prevent stock passing through and –
    - (a) in all the case of a non-electrified fence is of –
      - (i) post and wire construction with at least five wires, with the lower wires spaced closer together than the higher wires and each wire connected to posts in all cases; or
      - (ii) post and rail construction, with at least three rails connected to posts in all cases; and
    - (b) in the case of an electrified fence, constructed in accordance with clause 5.2(2).
  
  2. The fence shall not adversely affect land or impact on –
    - (a) the safe or convenient use of any land;
    - (b) the safety or convenience of any person; or
    - (c) the visual amenity of the streetscape or neighbouring properties.
- 

**Schedule 4 – Prescribed offences**

[Clause 8.3(1)]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1	Construction or alteration of a dividing fence on a lot that is not a sufficient fence without a permit	200
2	3.1	Construction of a non-compliant fence within front setback area without a permit	200
3	3.2	Construction or maintenance of a non-compliant fence in a secondary setback area without a permit	200
4	3.3 e	Construction of a non-compliant fence, wall or other structure at a vehicle access point	200
5	3.4	Obstruction of a watercourse	200
6	3.5	Construction of a gate or fence encroaching over other land	200
7	3.6	Construction of a retaining wall more than 500mm in height without a building permit	500
8	3.7	Construction of a masonry wall or fence more than 750mm in height without a building permit	200
9	3.8(1)	Alteration of natural ground levels without a permit	500
10	3.8(2)	Construction of a corrugated fibre-reinforced pressed cement fence with more than 150m difference in ground levels on each side	200
11	3.8(3)	Construction of a fence or retaining wall more than 500mm in height within 1000mm of a boundary without written consent of adjoining owners	200
12	3.9(1)	Failure to maintain fence in good condition	200
13	3.10	Construction or maintenance of a fence across right-of-way etc. without approval	500

14	4.1	Use of prohibited materials in a fence	500
15	4.2(1)	Use of pre-used fencing materials without a permit	200
16	5.1(1)	Using or allowing to remain barbed wire on residential lots	200
17	5.1(2)	Non-compliant use of barbed wire on a rural lot	200
18	5.1(3)	Non-compliant use of barbed wire on a commercial or industrial lot	500
19	5.2(1)	Construction of an electric fence without a permit	500
20	5.3(1)	Construction of a razor wire fence without a permit	500
21	6.3	Failure to comply with conditions of a permit for fence	500
22	6.6	Making a false or misleading statement	500
23	8.1(3)	Failure to comply with notice of breach in relation to Part 5 – Restricted Fencing	500
24	8.1(3)	Failure to comply with notice of breach in relation to all matters other than Part 5 – Restricted Fencing	200
25	8.2(1)	Other offences not specified	200

\_\_\_\_\_

Dated this \_\_\_\_\_

The Common Seal of the Shire of West Arthur was affixed by authority of a resolution of Council in the presence of –

K. J. KING, President.

N. C. WASMANN, Chief Executive Officer.

Cr Adam Squires declared a Proximity interest in Item 8.1.14 and withdrew from the meeting. 7.43pm

<b>ITEM 8.1.14 – SEA CONTAINER COALFIELDS HIGHWAY</b>
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LOCATION/ADDRESS:	Lot 138 (9528) Coalfields Highway, Darkan
NAME OF APPLICANT:	S Strahan
FILE REFERENCE:	
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT:	10 June 2021

#### SUMMARY:

The application is to place a 7m sea container on Lot 138 to be used for storage purposes.

A number of objections have been received regarding the existing condition of the property; however, the recommendation is that the application is supported subject to conditions.

#### BACKGROUND:

The subject land is Lot 138 DP222361 Coalfields Highway, Darkan. It has an area of 2.0218 hectares with a frontage of 85m to Coalfields Road and a depth of 224m.

There is an existing dwelling, sheds, other structures, multiple caravans and car bodies on the property.

The application is for a 20 foot sea container to be used for storage purposes. It will be setback 10m from the eastern boundary and 30m south of the existing dwelling as shown below. The proposed site plan is contained as Attachment 1. An aerial plan of the subject land is contained in Attachment 2 and an enlargement in Attachment 3.

#### CONSULTATION:

The application has been advertised to nearby land owners and four objections were received. A full copy of these are available to Councillors upon request and in summary the objections raise the following issues:

- The property is a mess and contains rubbish and derelict car bodies and caravans.
- The sea container may be used to live in.
- The property is an eyesore and the rubbish blows into adjacent lots.
- The application should be refused until the applicant has conducted a full clean-up of their block, and removed all the cars, utes, metal, drums, scrap, tanks etc-etc
- The property is on the entrance to Darkan and is detracting from general appearance of the town.
- The applicant's mother currently lives in an existing sea container which has never had Council approval.

#### VERBAL REPORT:

The CEO has been advised that the reference to a person living in a sea container under consultation, should say caravan.

#### STATUTORY ENVIRONMENT:

##### Local Planning Scheme No 2

Clause 60 of Schedule 2 Planning and Development (Local Planning Schemes) Regulations 2015 sets out the requirement for development approval. It states that a person must not commence or carry out any works on, or use, land in the Scheme area unless:

- the person has obtained the development approval from Council; or
- the development is specifically exempt as referenced in Clause 61. This includes where referenced in a Local Planning Policy.

The subject land is zoned 'Rural Residential Zone No 1.' The objectives for the Rural Residential zone include:

- to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats.
- to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas, achieves a high standard of visual amenity.
- having regard for the size of the district, the fragile nature of the environment in many places, and the difficulties faced by the local government in providing services away from Darkan, the local government will generally favour Rural-Residential zones be located close to the town and then only where the environmental impacts are manageable.

Rural Residential Zone No 3 is also subject to the provisions in Schedule 3 of the Scheme. Of relevance to the application is Special Provision (c) which states that:

Dwellings and all ancillary buildings are to be constructed of non-reflective material (with the exception of glazed areas) and comprise either timber, stone, rammed earth, brick or steel construction and be of colour(s) and textures which are essentially natural and earthy. All such materials are to be to the satisfaction of the local government and compatible with the rural character of the locality.

Development on the rural residential zone is to comply with the provisions of Clause 5.17.3 as follows:

- (a) planning approval is required for all development including a single house and such application is to be made in accordance with the provisions of the Scheme;
- (b) not more than 1 dwelling per lot is to be erected but the local government may, at its discretion, approve ancillary accommodation;
- (c) in order to conserve the rural environment or features of natural beauty all trees are to be retained unless their removal is authorised by the local government;
- (d) in order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require as a condition of any planning approval the planting of such trees and/or groups of trees and species as specified by the local government.
- (e) a person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals is to be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government. With the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural-Residential Zone, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the local government in taking such action are to be recoverable by the local government from the landowner; and
- (f) the local government may require provision to be made for bush fire control in accordance with a Local Planning Policy.

The minimum building setbacks in the Rural Residential zone are:

- Front : 30.0m
- Rear : 10.0m
- Side : 10.0m

The Planning and Development (Local Planning Schemes) Regulations 2015 provide in clause 67 of Schedule 2 a number of provisions which are deemed to be included in the local planning scheme text (Deemed Provisions) and which the local government is to have due regard to when considering an application. The subclauses in clause 67 that are considered relevant to the application are:

- (a) aims and provisions of Local Planning Scheme No2;
- (b) requirements of orderly and proper planning;
- (m) compatibility of the proposal with its setting and locality;
- (n) amenity; and
- (y) any submissions received.

In considering an application for planning approval the local government is also to have due regard to Clause 5.17.4 of the Scheme which states that:

So as to achieve a high standard of development within a Rural-Residential Zone, and to minimise the visual impacts of development the local government will have regard to the following:

- (a) the colour and texture of external building materials;
- (b) building size, height, bulk, roof pitch;
- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) relationship to surrounding development; and
- (f) other characteristics considered by the local government to be relevant.

#### SPP 3.7 Planning in Bushfire Prone Areas

The proposed development site is not designated as being bushfire prone.

#### **POLICY IMPLICATIONS:**

Local Planning Policy No 1 provides that the development on a lot of a single house, including any extension, ancillary outbuildings and swimming pools does not require a planning approval provided that:

- It is a (P) use in the relevant zone;
- The minimum boundary setbacks stipulated in the Scheme are complied with;
- The development complies with the deemed-to-comply requirements of the R-Codes where applicable in that zone.

While a dwelling is a (P) use in the Rural Residential zone, the Policy also states that the provisions do not apply to a relocated building in a gazetted townsite. Hence the Policy is not applicable to the application.

FINANCIAL IMPLICATIONS:

None

STRATEGIC IMPLICATIONS:

None

COMMENT:

The property has been subject to multiple complaints over a number of years and there is no question that the existing conditions are less than desirable and do not reflect the objectives and provisions of the Scheme relating to high standard of visual amenity.

The issue is how applicable is this to the current application.

Council does not have any specific Local Planning Policy relating to sea containers. Such policies typically have provisions relating to the appearance of the sea container, including its position within the property, screening from view etc.

A number of sea containers have been approved within the Shire including within the townsite residential areas.

The control of properties which are considered to be untidy by virtue of the presence of disused materials including disused motor vehicles and old motor vehicle bodies, tyres, car parts, building material such as posts, corrugated iron sheets, bricks, pavers, scrap metal and rubbish has been an ongoing issue for many Councils. The principal remedy is provided in the section 3.25 of the Local Government Act 1995 (LGA) requiring the materials to be removed within a specific time. A section 3.25 notice can be given irrespective of whether the disused materials are capable of being seen from outside the property.

In addition, Section 184 of the Health (Miscellaneous Provisions) Act, 1911 relates to dealing with nuisances. Council can require the owner and occupier of the premises, to abate the nuisance in the manner and within the time specified in the requisition. Section 182 defines a "nuisance" and this generally relates to where the material or activity is offensive or injurious or dangerous to health.

Rubbish and littering is also controlled under the Litter Act 1979.

Having regard to the provisions of Clause 67 of the Deemed Provisions and Clause 5.17.4 of the Scheme, it is submitted that:

- (a) the colour and texture of external building materials;  
The external building material will be metal but the colour is unknown. A condition of approval can require the container to be painted.
- (b) building size, height, bulk, roof pitch;  
The sea container is less than 30sqm in size which is consistent with other outbuildings on rural residential lots.
- (c) setback and location of the building on its lot;  
The location of the container complies with the setbacks in the Scheme.
- (d) architectural style and design details of the building;  
There are no provisions or policies relating to style or design of a sea container.
- (e) relationship to surrounding development;  
The proposed location of the sea container is most likely to have the greatest impact on the adjacent Lot 137. This can be mitigated by various means including a requirement for screen planting to be undertaken along the common boundary. It is noted that there already some screen planting within Lot 137.
- (f) other characteristics considered by the local government to be relevant.



**VOTING REQUIREMENTS:**  
Simple Majority**OFFICER RECOMMENDATION – ITEM 8.1.14**

That Council approve the development of Lot 138 DP222361 Coalfields Highway, Darkan for the purpose of a sea container (outbuilding) subject to the following conditions:-

1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.
2. The sea container shall be painted in a muted tone to the requirements and satisfaction of Council.
3. A landscaping screen shall be planted along the eastern boundary adjacent to the sea container for a minimum distance of 20m and this shall comprise of shrubs and bushes to a minimum height of 2m providing a solid visual screen.
4. The sea container shall not be used for any industrial or commercial purposes.
5. The sea container shall not be used for habitation.
6. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
7. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.14**

Moved: Cr Neil Morrell

Seconded: Cr Julie McFall

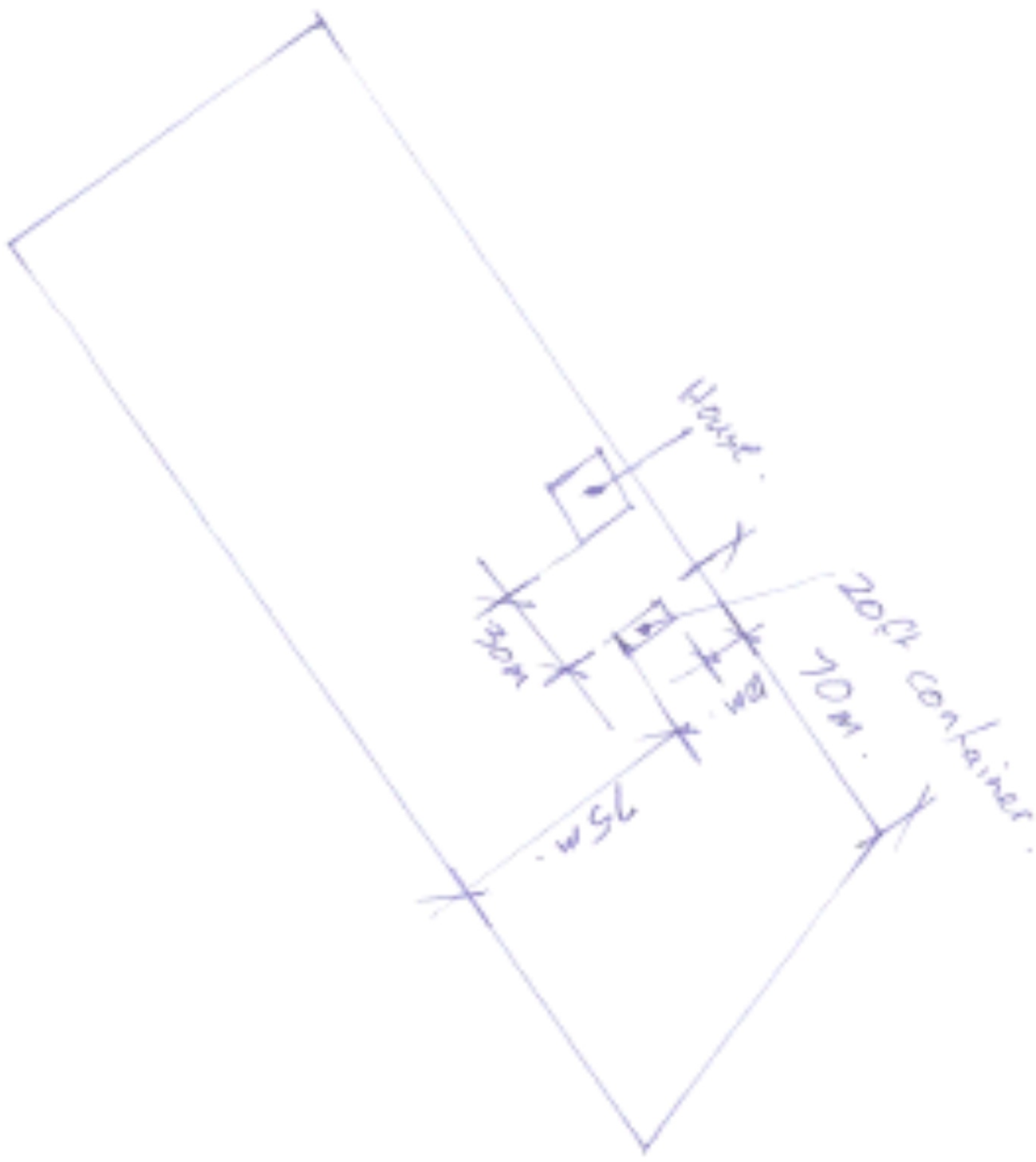
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2. The sea container shall be painted in a muted tone to the requirements and satisfaction of Council.
3. A landscaping screen shall be planted along the eastern boundary adjacent to the sea container for a minimum distance of 20m and this shall comprise of shrubs and bushes to a minimum height of 2m providing a solid visual screen.
4. The sea container shall not be used for any industrial or commercial purposes.
5. The sea container shall not be used for habitation.
6. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
7. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

**CARRIED 5/0****ATTACHMENTS:**

- 1 – Site Plan
- 2 – Aerial Plan
- 3 – Aerial Enlargement

# ATTACHMENT 1 - SITE PLAN

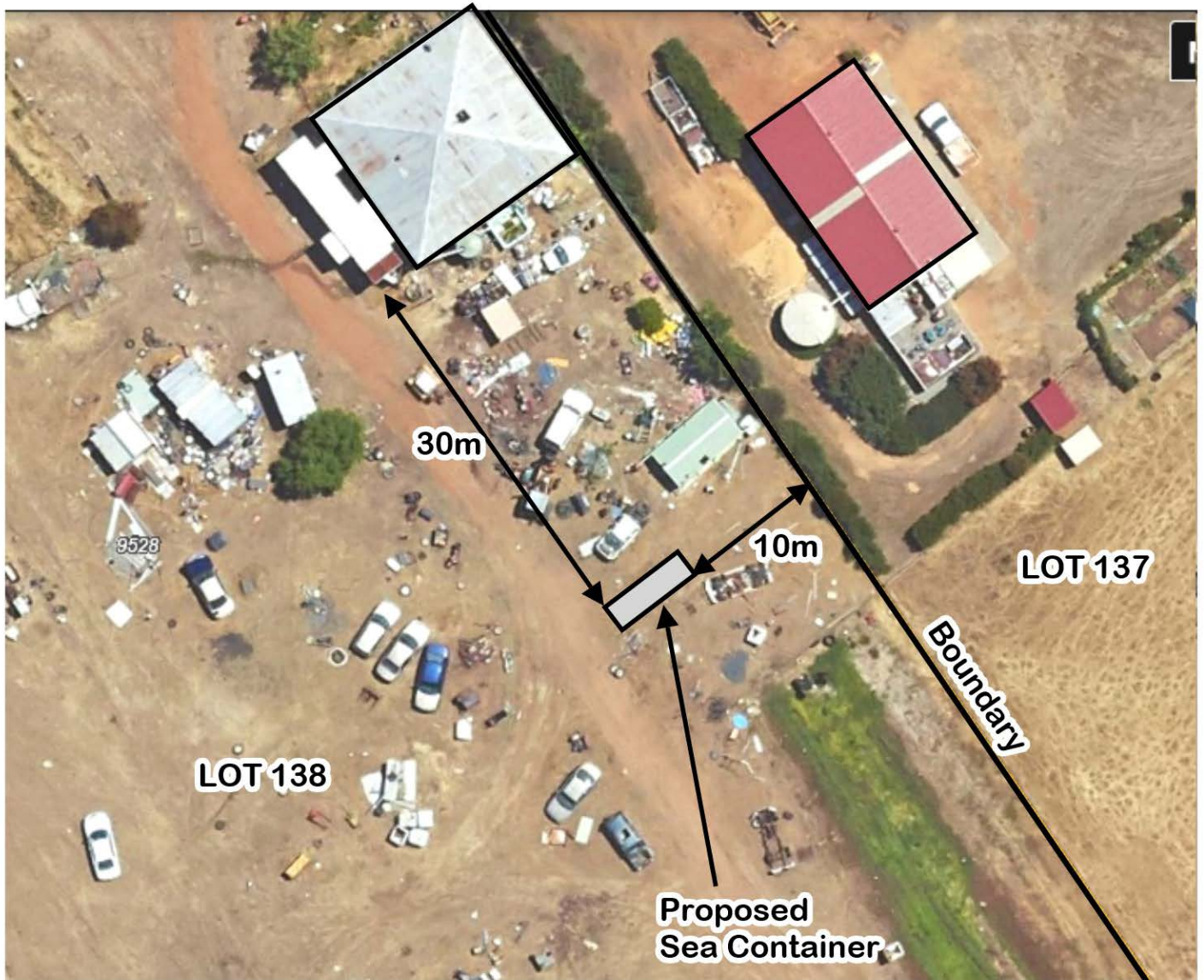


# ATTACHMENT 2 - AERIAL PLAN





# ATTACHMENT 3 - AERIAL ENLARGEMENT



Cr Adam Squires re-entered the meeting – 7.52pm

<b>ITEM 8.1.15 – COMMUNICATIONS TOWER – HILL STREET, BOWELLING</b>
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LOCATION/ADDRESS:	Lot 30 Hill Street, Bowelling
NAME OF APPLICANT:	SAQ Consulting Pty Ltd.
FILE REFERENCE:	
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT:	9 June 2021

**SUMMARY:**

The proposal by Optus is to establish a telecommunications facility, in the form of a mobile telephone base station, on land at Lot 30 Hill Street, Bowelling.

The proposed facility, consists of a 46-metre tall lattice tower, antennas, ground mounted equipment cabinets and fencing. It forms part of a Government-funded 'blackspot' programme, which aims to bring new and improved telecommunications into the Bowelling area.

The application is supported subject to conditions.

**BACKGROUND:**

The subject land is Lot 30 DP173651 Hill Street, Bowelling. It is owned by T&E Westwood, has an area of 2.3692 hectares and a frontage of 188m to Hill Street. A location plan is included as Attachment 1.

The facility compound will be setback 25m from the northern property boundary and a site plan is included as Attachment 2. The development plan is contained as Attachment 3 and it will consist of the following elements:

- a 46-metre tall lattice tower located within a 16m x 15m compound (which allows for future collocation on the tower);
- three (3) panel antennas, each 2.69m in length mounted to a new headframe on the top of the proposed lattice tower, giving a maximum finished height of 47.55 metres;
- nine (9) remote radio units (RRUs) mounted on the proposed headframe;
- a new 4-bay equipment cabinet (dimensions 2.33m H x 2.87m W x 0.75m D) to house the necessary base-station equipment, located at the base of the lattice tower;
- A cable tray connecting the equipment cabinet to the lattice tower; and
- Compound security fencing and access gates.

**CONSULTATION:**

The application has been advertised locally and no objections were received.

As the subject land is within the Wellington Catchment Special Control Area, the application was referred to the Department of Water and Environmental Regulation. The Department identified that the proposal has the potential for impact on environment and water resource values and management with the key issues being:

1. That any clearing of native vegetation requires approval; and
2. That stormwater from the site and proposed access track must be managed to avoid any erosion.

**STATUTORY ENVIRONMENT:**

Local Planning Scheme No 2

The subject land is zoned 'Rural Residential Zone No 3' and the proposed development is defined as "telecommunications infrastructure." This is a 'D' discretionary use in the Rural Residential zone.

The objectives for the Rural Residential zone include:

- to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats.
- to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas, achieves a high standard of visual amenity.
- having regard for the size of the district, the fragile nature of the environment in many places, and the difficulties faced by the local government in providing services away from Darkan, the local government will generally favour Rural-Residential zones be located close to the town and then only where the environmental impacts are manageable.

Rural Residential Zone No 3 is also subject to the provisions in Schedule 3 of the Scheme which only relate to the subdivision of land.

Development on the rural residential zone is to comply with the provisions of Clause 5.17.3 as follows:

- (a) planning approval is required for all development including a single house and such application is to be made in accordance with the provisions of the Scheme;
- (b) not more than 1 dwelling per lot is to be erected but the local government may, at its discretion, approve ancillary accommodation;
- (c) in order to conserve the rural environment or features of natural beauty all trees are to be retained unless their removal is authorised by the local government;
- (d) in order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require as a condition of any planning approval the planting of such trees and/or groups of trees and species as specified by the local government.
- (e) a person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals is to be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government. With the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural-Residential Zone, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the local government in taking such action are to be recoverable by the local government from the landowner; and
- (f) the local government may require provision to be made for bush fire control in accordance with a Local Planning Policy.

The minimum building setbacks in the Rural Residential zone are:

- Front : 30.0m
- Rear : 10.0m
- Side : 10.0m

The Planning and Development (Local Planning Schemes) Regulations 2015 provide in clause 67 of Schedule 2 a number of provisions which are deemed to be included in the local planning scheme text (Deemed Provisions) and which the local government is to have due regard to when considering an application. The subclauses in clause 67 that are considered relevant to the application are:

- (a) aims and provisions of Local Planning Scheme No2;
- (b) requirements of orderly and proper planning;
- (c) any approved State planning policy;
- (m) compatibility of the proposal with its setting and locality;
- (n) amenity; and
- (y) any submissions received.

In considering an application for planning approval the local government is also to have due regard to Clause 5.17.4 of the Scheme which states that:

So as to achieve a high standard of development within a Rural-Residential Zone, and to minimise the visual impacts of development the local government will have regard to the following:

- (a) the colour and texture of external building materials;
- (b) building size, height, bulk, roof pitch;
- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) relationship to surrounding development; and
- (f) other characteristics considered by the local government to be relevant.

#### SPP 5.2 Telecommunications Infrastructure

SPP 5.2 – Telecommunications Infrastructure aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas. Using a set of land use planning policy measures, the policy intends to provide clear guidance pertaining to the siting, location and design of telecommunications infrastructure.

The Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure include:

- Located where the facility will not be prominently visible from significant viewing locations, such as scenic routes, lookouts, and recreation centres.
- Located so as to avoid detracting from a significant view of a landmark, streetscape, vista or panorama, whether viewed from public or private land.

- Not be located on sites where environmental, cultural heritage, social and visual landscape values may be compromised.
- Display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape.
- Located where it will facilitate continuous network coverage and/or improved telecommunications services to the community.
- Facilities should be co-located whenever possible.

In considering an application, local government should have regard to the:

- extent to which the proposal contributes to the social and economic benefits of affordable and convenient access to modern telecommunications services for people and businesses throughout the State;
- need to ensure continuity of supply of telecommunications services to people and businesses in the local area or region;
- effect of the proposal on the environment and natural landscape and the extent to which the proposal affords protection of these elements;
- effect of the proposal on any place of cultural heritage significance on or near the land;
- extent to which the proposal enhances or maintains visual amenity including streetscape and minimises adverse visual impacts;
- degree to which the proposal is co-ordinated with other services;
- extent to which the proposal fulfils the requirements of Section 5.3 of this Policy; and
- extent to which the proposal adheres to the Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure set out in Section 5.1 of this Policy.

#### SPP 3.7 Planning in Bushfire Prone Areas

The proposed development site is designated as being bushfire prone on the State Bushfire Prone Map.

Under the Local Planning Scheme Regulations, any structure on bushfire prone land used by people for living or working, is required to have a Bushfire Attack Level (BAL) Assessment undertaken. The associated special construction provisions of Australia Standard AS3959 Construction of Buildings in Bushfire Prone Areas in the National Construction Code are not applied to the proposed development.

Planning Bulletin 111/2016 Planning in Bushfire Prone Areas promotes that the Deemed Provisions (LPS Regulations) should be applied pragmatically by Council and that there may not be any practicable reason to require a BAL Assessment.

The mobile base station facility is unmanned would require maintenance checks approximately once or twice a year. Routine maintenance would involve one vehicle per visit and parking would be available close to the proposed site for this purpose. There is no increased bushfire risk associated with the application and hence it is not considered necessary to have a BAL Assessment undertaken.

#### POLICY IMPLICATIONS:

None

#### FINANCIAL IMPLICATIONS:

None

#### STRATEGIC IMPLICATIONS:

Council's Strategic Plan contains the following action in relation to Communication Infrastructure

- Support the provision of improved communication technology in the Shire by staying abreast of opportunities, future plans and funding programs and lobbying on behalf of businesses for improvements where warranted, in particular increased mobile phone coverage across the whole Shire (highest priorities Moodiarrup and Bowelling), and improved internet speeds and capacity.

#### COMMENT:

The subject land is vacant partially cleared land with a drainage line in the southern portion. The landowner resides on the adjacent Lot 31. The site upwards to the northern eastern corner of the property and the proposed development site has an elevation of 270m AHD.

Hill Street is a gravel road providing access only to Lot 31. The location will utilise the existing access point from Hill Street and a new internal track for vehicle access will be constructed as part of the proposal. This will extend through a portion of the adjacent Lot 31.

The adjacent land to the north is unallocated crown land which is heavily vegetated but is zoned 'Rural' in the Scheme as it is not State Forest. The adjacent land generally has a higher elevation than the subject land.

The development site is setback approximately:

- 190m from the existing dwelling on Lot 31;
- 105m from the boundary of Lot 27 which is vacant;
- 200m from the boundary of Lot 20 which is vacant; and
- 370m from the existing dwelling on Lot 19.

With respect to the Scheme's objectives for the Rural Residential Zone the proposed facility:

- Exceeds the boundary setback requirements;
- Does not involve subdivision;
- No vegetation needs to be removed;
- There are no additional bushfire controls required (see discussion below in State Planning Policy 3.7 – Planning in Bushfire Prone Areas);
- Although tall (a height necessary to provide the necessary coverage and consistent with such structures in rural areas), the proposed facility has very little bulk and will not be unusual or particularly dominant element in the landscape. The lattice tower will be constructed of galvanised steel which will weather in time. Apart from its limited visual impact, the proposed facility and its materials and finishes are not expected to have any material impact on the amenity of the wider area; and
- Is sited and designed to respond appropriately to the surrounding pattern of development, in particular dwellings. It is also appropriately sited on the lot to allow for a future dwelling to be located on the subject land.
- The proposed development will provide essential infrastructure to the area which will support the primary production and tourism/recreational pursuits and provide much-needed connectivity for those living, working, visiting and travelling through the area.

There is potential for Lot 30 to be sold in the future with an expectation that a dwelling could be constructed on it. There is sufficient room on the site for the dwelling to be located in the southern portion of the property rather than near the communications tower.

The proposal will introduce new and significantly improved coverage and capacity for the Optus mobile telecommunications services to the surrounding area. The locality has been identified as a coverage 'blackspot' and forms part of a Government funded 'blackspot' programme of works. The proposal will provide significant benefits to the community including vehicles using the Coalfields Highway and the new parking bay area.

#### VOTING REQUIREMENTS:

Simple Majority

#### **OFFICER RECOMMENDATION – ITEM 8.1.15**

That Council approve the use and development of Lot 30 DP173651 Hill Street, Bowelling for the purpose of Telecommunications Infrastructure subject to the following conditions:-

1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.
3. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
4. Access to the site shall be to the requirements and satisfaction of Council. The provision of access through the adjoining land is acceptable while acknowledging that the continued provision of this is a civil matter and not Council's responsibility.
5. The proponent shall manage stormwater (during construction and upon completion) of the facility and access track to the requirements and satisfaction of the Council.



- 6 This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

**ADVICE NOTE**

In relation to Condition 5 the Department of Water and Environmental Regulation has advised that stormwater should be managed in accordance with the 'Decision process for stormwater management in WA (DWER 2017)' and the 'Stormwater Management Manual for Western Australia (DoW 2004–2007)'.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.15**

Moved: Cr Neil Manuel

Seconded: Cr Marie Lloyd

That Council approve the use and development of Lot 30 DP173651 Hill Street, Bowelling for the purpose of Telecommunications Infrastructure subject to the following conditions:-

1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.
3. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
4. Access to the site shall be to the requirements and satisfaction of Council. The provision of access through the adjoining land is acceptable while acknowledging that the continued provision of this is a civil matter and not Council's responsibility.
5. The proponent shall manage stormwater (during construction and upon completion) of the facility and access track to the requirements and satisfaction of the Council.
- 6 This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

**ADVICE NOTE**

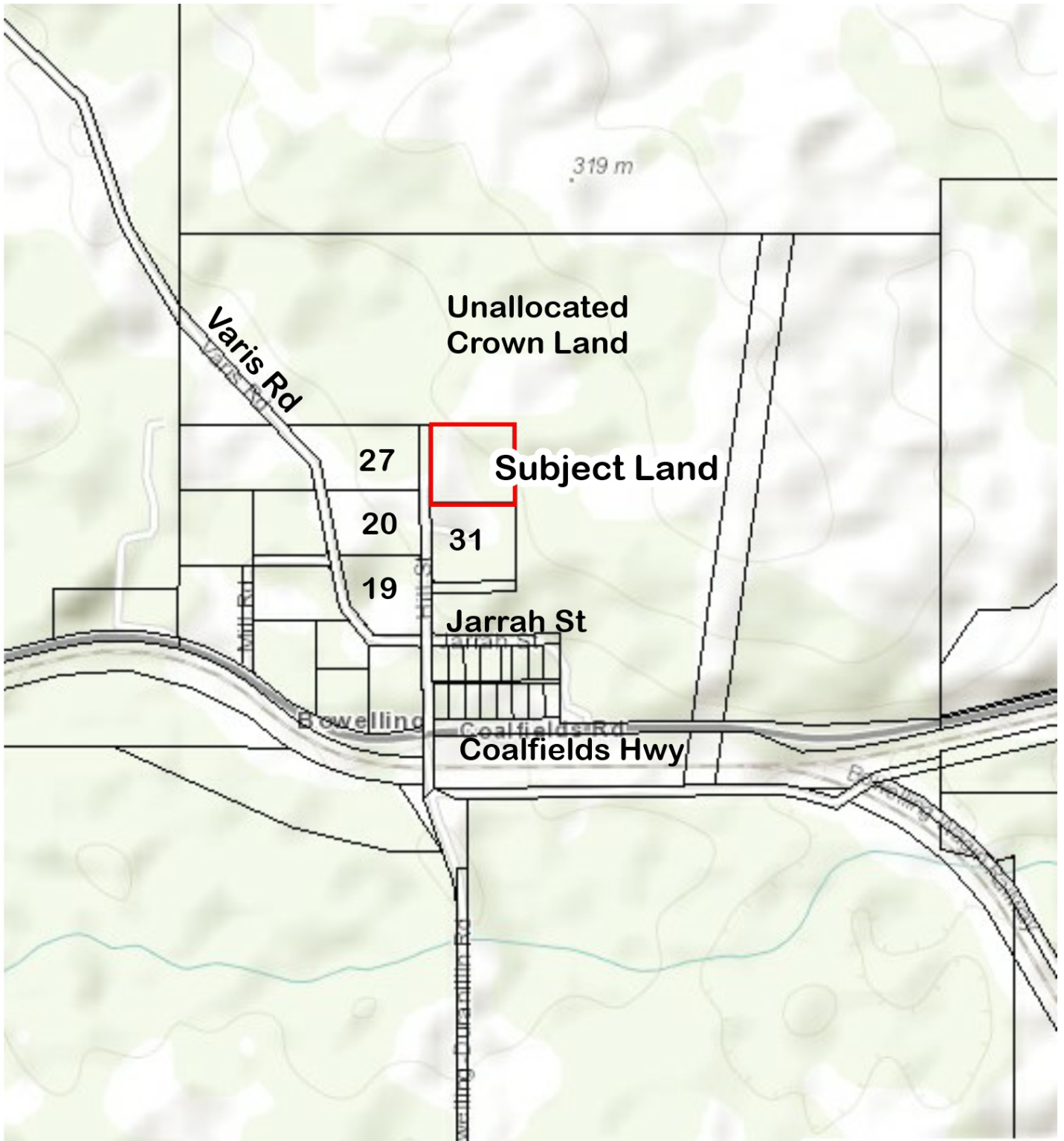
In relation to Condition 5 the Department of Water and Environmental Regulation has advised that stormwater should be managed in accordance with the 'Decision process for stormwater management in WA (DWER 2017)' and the 'Stormwater Management Manual for Western Australia (DoW 2004–2007)'.

**CARRIED 6/0**

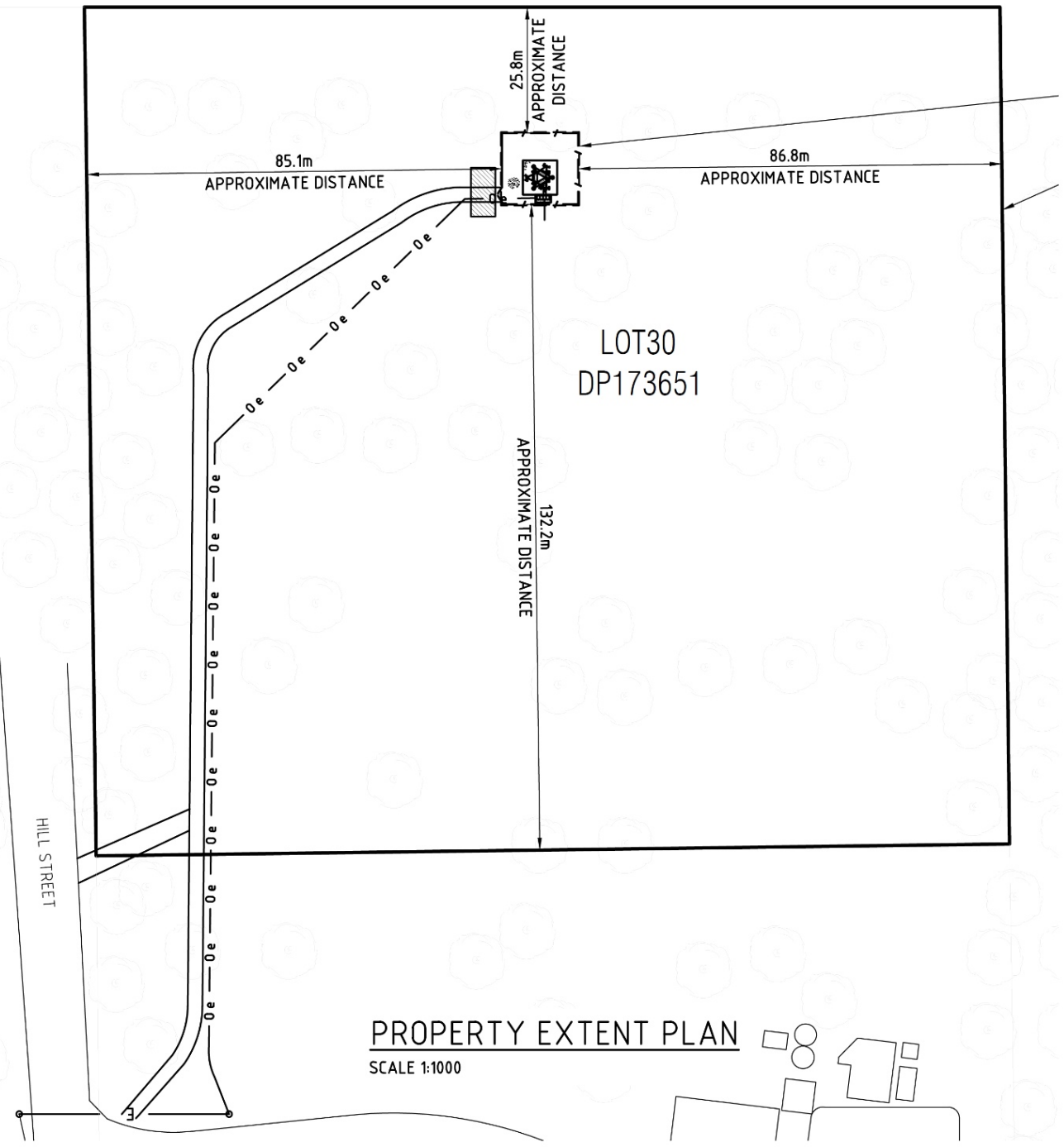
**ATTACHMENTS:**

- 1 Location Plan
- 2 Site Plan
- 3 Development Plan

# ATTACHMENT 1 - LOCATION PLAN



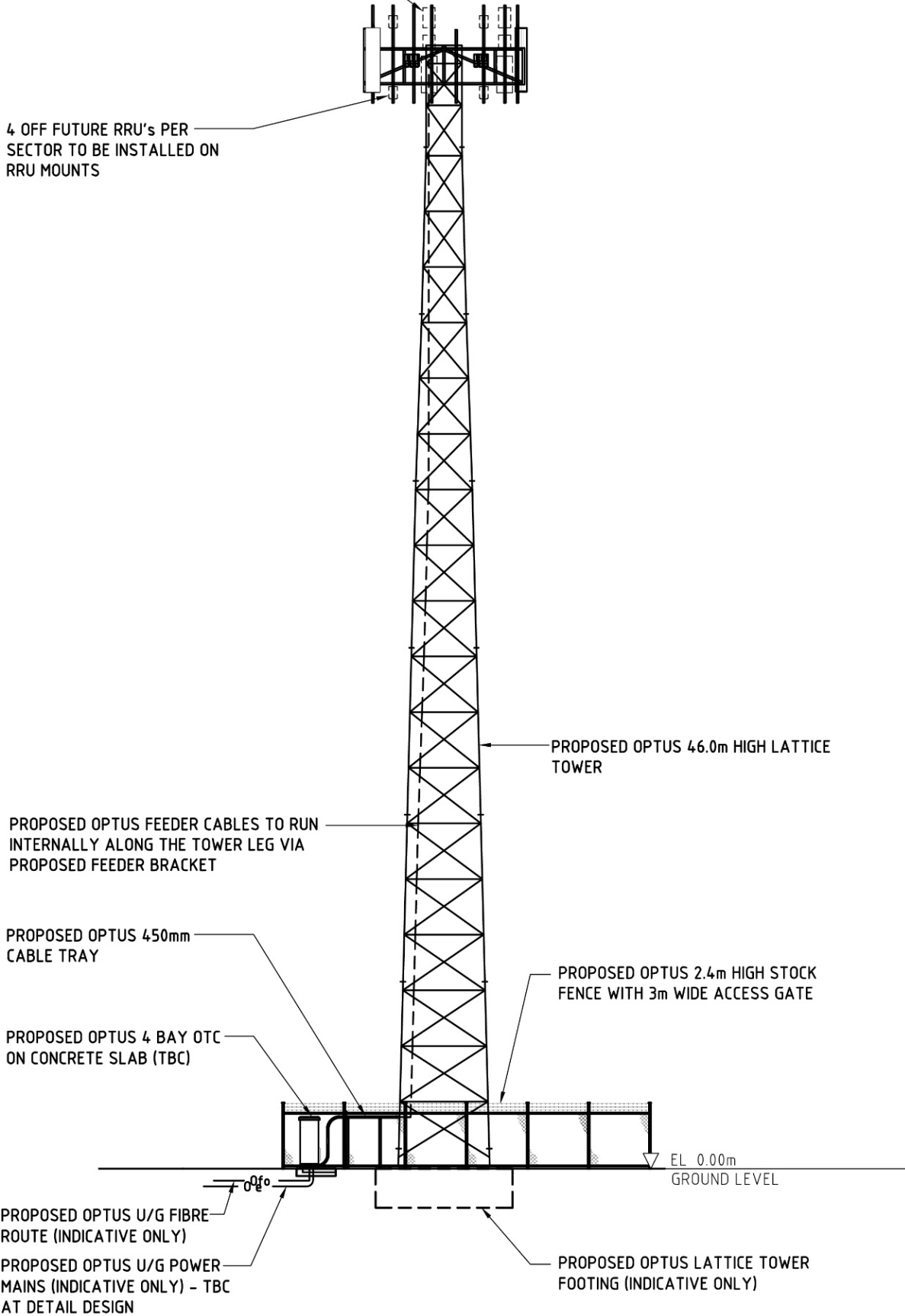
# ATTACHMENT 2 - SITE PLAN



# ATTACHMENT 3 - DEVELOPMENT PLAN

3 OFF FUTURE AAU's PER SECTOR TO BE INSTALLED ON SPARE ANTENNA MOUNTS

4 OFF FUTURE RRU's PER SECTOR TO BE INSTALLED ON RRU MOUNTS



**ITEM 8.1.16 – COMMUNICATIONS TOWER – MOODIARRUP ROAD WEST, MOODIARRUP**

LOCATION/ADDRESS: Lot 2656 Moodiarrup Road West, Moodiarrup  
 NAME OF APPLICANT: SAQ Consulting Pty Ltd.  
 FILE REFERENCE:  
 DISCLOSURE OF INTEREST: N/A  
 DATE OF REPORT: 9 June 2021

**SUMMARY:**

The proposal by Optus is to establish a telecommunications facility, in the form of a mobile telephone base station, on land at Lot 2656 Moodiarrup Road, Moodiarrup.

The proposed facility consists of a 50-metre tall lattice tower, antennas, ground mounted equipment cabinets and fencing. It forms part of a Government-funded 'blackspot' programme, which aims to bring new and improved telecommunications into the Moodiarrup area.

The application is supported subject to conditions.

**BACKGROUND:**

The subject land is Lot 2656 DP135255 Moodiarrup Road West, Moodiarrup. It is owned by B Whitaker, has an area of 63 hectares and is bisected by Moodiarrup Road West. The development site is approximately 2.3kms west of the caravan park at Lake Towerrinning.

A location plan is included as Attachment 1.

The facility compound will be setback 40m from Moodiarrup Road West and a site plan is included as Attachment 2. The development plan is contained as Attachment 3 and it will consist of the following elements:

- a 50-metre tall lattice tower located within a 16m x 15m compound (which allows for future collocation on the tower);
- three (3) panel antennas, each 2.69m in length mounted to a new headframe on the top of the proposed lattice tower, giving a maximum finished height of 51.35 metres;
- three (3) remote radio units (RRUs) mounted on the proposed headframe;
- a 600mm diameter parabolic antenna mounted on the lattice tower at a height of 47m (for the purposes of connection to the existing Optus network);
- a new 4-bay equipment cabinet (dimensions 2.33m H x 2.87m W x 0.75m D) to house the necessary base-station equipment, located at the base of the lattice tower;
- A cable tray connecting the equipment cabinet to the lattice tower; and
- Compound fencing (stock type) and access gates.

**CONSULTATION:**

The application has been advertised locally and no objections were received.

**STATUTORY ENVIRONMENT:**Local Planning Scheme No 2

The subject land is zoned 'Rural' and the proposed development is defined as "telecommunications infrastructure." This is a 'D' discretionary use in the Rural zone.

The objectives for the Rural zone include:

- to ensure the continuation of broad-hectare agriculture as the principal land use in the district, encouraging where appropriate the retention and expansion of agricultural activities.
- to provide for intensive agricultural uses and diversified farming which retain the rural character and amenity of the locality, and which are consistent with land suitability.
- to have regard to use of adjoining land at the interface of the Rural Zone with other zones to avoid adverse effects on local amenities.

The minimum building setbacks in the Rural zone are:

- Front : 20.0m
- Rear : 20.0m
- Side : 10.0m

The Planning and Development (Local Planning Schemes) Regulations 2015 provide in clause 67 of Schedule 2 a number of provisions which are deemed to be included in the local planning scheme text (Deemed Provisions) and which the local government is to have due regard to when considering an application. The subclauses in clause 67 that are considered relevant to the application are:

- (a) aims and provisions of Local Planning Scheme No2;
- (b) requirements of orderly and proper planning;
- (c) any approved State planning policy;
- (m) compatibility of the proposal with its setting and locality;
- (n) amenity; and
- (y) any submissions received.

In considering an application for planning approval the local government is also to have due regard to Clause 5.18.3 of the Scheme being:

- (a) any sensitive or incompatible uses which may require buffer separation from the proposed use;
- (b) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots;
- (c) soil conditions, slope, soil type, rock, potential for water logging, foundation stability, and how the application has addressed these site characteristics; and
- (d) whether effluent disposal systems can be set back 100 metres (conventional septic system) or 50 metres (alternative system) from any stream. (The buffer distances may be reduced depending on the size and nature of the stream and the soil types).

#### SPP 5.2 Telecommunications Infrastructure

SPP 5.2 – Telecommunications Infrastructure aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas. Using a set of land use planning policy measures, the policy intends to provide clear guidance pertaining to the siting, location and design of telecommunications infrastructure.

The Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure include:

- Located where the facility will not be prominently visible from significant viewing locations, such as scenic routes, lookouts, and recreation centres.
- Located so as to avoid detracting from a significant view of a landmark, streetscape, vista or panorama, whether viewed from public or private land.
- Not be located on sites where environmental, cultural heritage, social and visual landscape values may be compromised.
- Display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape.
- Located where it will facilitate continuous network coverage and/or improved telecommunications services to the community.
- Facilities should be co-located whenever possible.

In considering an application, local government should have regard to the:

- extent to which the proposal contributes to the social and economic benefits of affordable and convenient access to modern telecommunications services for people and businesses throughout the State;
- need to ensure continuity of supply of telecommunications services to people and businesses in the local area or region;
- effect of the proposal on the environment and natural landscape and the extent to which the proposal affords protection of these elements;
- effect of the proposal on any place of cultural heritage significance on or near the land;
- extent to which the proposal enhances or maintains visual amenity including streetscape and minimises adverse visual impacts;
- degree to which the proposal is co-ordinated with other services;
- extent to which the proposal fulfils the requirements of Section 5.3 of this Policy; and
- extent to which the proposal adheres to the Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure set out in Section 5.1 of this Policy.

#### SPP 3.7 Planning in Bushfire Prone Areas

The proposed development site is designated as being bushfire prone on the State Bushfire Prone Map.

Under the Local Planning Scheme Regulations, any structure on bushfire prone land used by people for living or working, is required to have a Bushfire Attack Level (BAL) Assessment undertaken. The associated

special construction provisions of Australia Standard AS3959 Construction of Buildings in Bushfire Prone Areas in the National Construction Code are not applied to the proposed development.

Planning Bulletin 111/2016 Planning in Bushfire Prone Areas promotes that the Deemed Provisions (LPS Regulations) should be applied pragmatically by Council and that there may not be any practicable reason to require a BAL Assessment.

The mobile base station facility is unmanned would require maintenance checks approximately once or twice a year. Routine maintenance would involve one vehicle per visit and parking would be available close to the proposed site for this purpose. There is no increased bushfire risk associated with the application and hence it is not considered necessary to have a BAL Assessment undertaken.

**POLICY IMPLICATIONS:**

None

**FINANCIAL IMPLICATIONS:**

None

**STRATEGIC IMPLICATIONS:**

Council's Strategic Plan contains the following action in relation to Communication Infrastructure

- Support the provision of improved communication technology in the Shire by staying abreast of opportunities, future plans and funding programs and lobbying on behalf of businesses for improvements where warranted, in particular increased mobile phone coverage across the whole Shire (highest priorities Moodiarrup and Bowelling), and improved internet speeds and capacity.

**COMMENT:**

The subject land is generally cleared farming land with some areas of bushland. The development site has an elevation of 280m AHD being the highest local point. While the tower will be visible from the surrounding area and in particular Lake Towerrinning, the proposed facility has very little bulk and will not be unusual or particularly dominant element in the landscape. The separation distance to the western shoreline of Lake Towerrinning is 1.6kms and 2.8kms to the main day area car park.

The Rural Zone (nor the planning scheme more generally) does not deal specifically with telecommunications facilities in a policy sense, but this type of infrastructure has traditionally been encouraged into rural zones and to that end the zoning is appropriate (and in fact, the only zoning available in this area).

The impact of the proposed facility is limited only to that of visual impact and it will not create appreciable noise, smoke, smell, dust or other nuisance and will not generate heavy traffic. The location will utilise the existing access point from Moodiarrup Road West and an existing internal track for vehicle and construction access.

With respect to the Scheme's objectives for the Rural Zone (set out in clause 4.2), the proposed facility:

- Does not impact on the continuation of broad-acre farming or farming generally;
- Does not require the clearance of remnant vegetation;
- Does not generate significant runoff or impact on wetlands;
- Is a non-rural use that is of benefit to the district and not detrimental to the natural resources or the environment;
- Provides communications facilities for tourists and travellers, including to the Lake Towerrinning area; and
- Does not create any interface issues or land use conflicts.

The proposed development will provide essential infrastructure to the area which will support the primary production and tourism/recreational pursuits and provide much-needed connectivity for those living, working, visiting and travelling through the area.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 8.1.16**

That Council approve the use and development of Lot 2656 DP135255 Moodiarrup Road West, Moodiarrup for the purpose of Telecommunications Infrastructure subject to the following conditions: -

1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.
3. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
4. Access to the site shall be to the requirements and satisfaction of Council.
5. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 8.1.16**

Moved: Cr Neil Morrell

Seconded: Cr Adam Squires

That Council approve the use and development of Lot 2656 DP135255 Moodiarrup Road West, Moodiarrup for the purpose of Telecommunications Infrastructure subject to the following conditions: -

1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.
3. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
4. Access to the site shall be to the requirements and satisfaction of Council.
5. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.

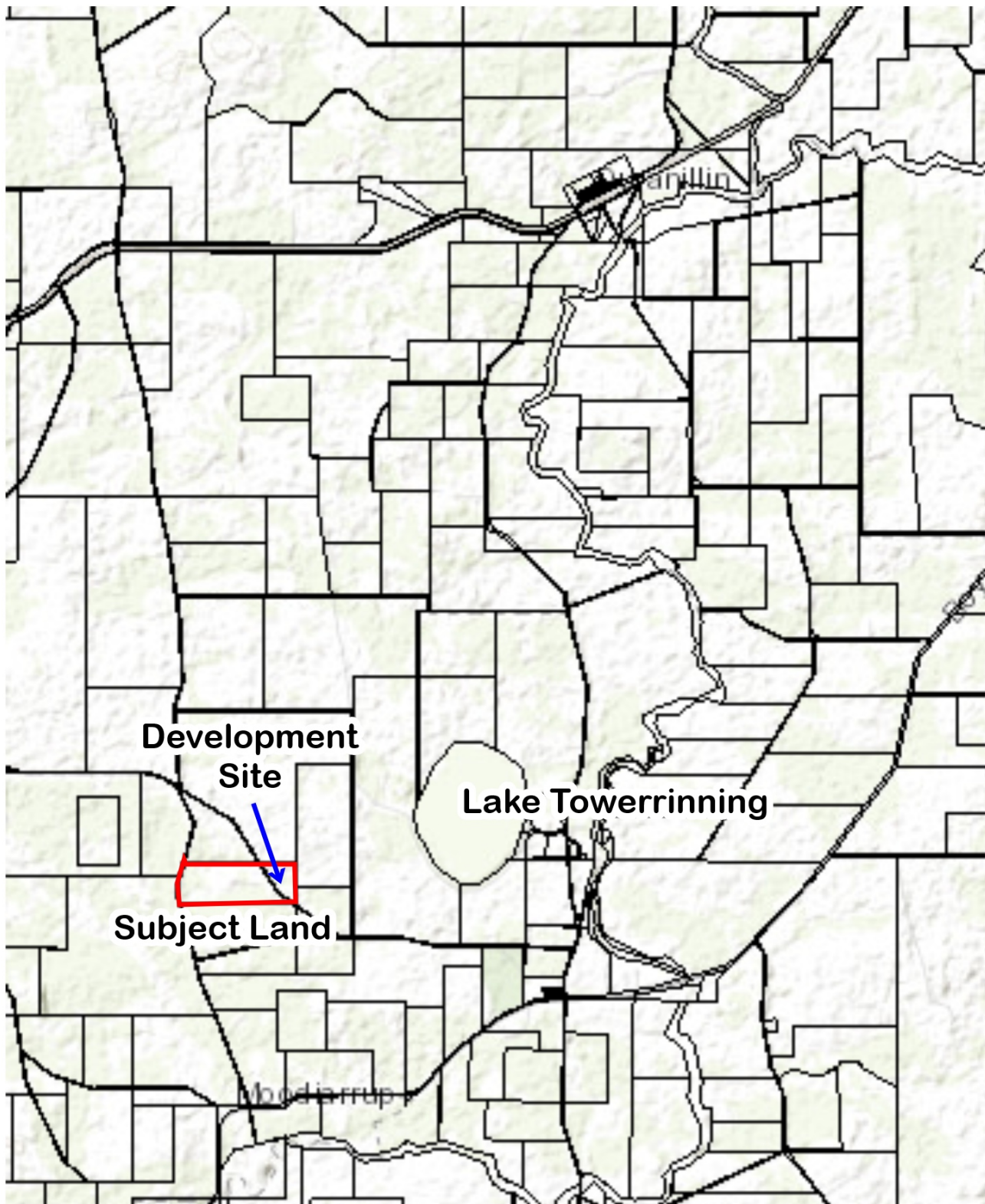
**CARRIED 6/0**

**ATTACHMENTS:**

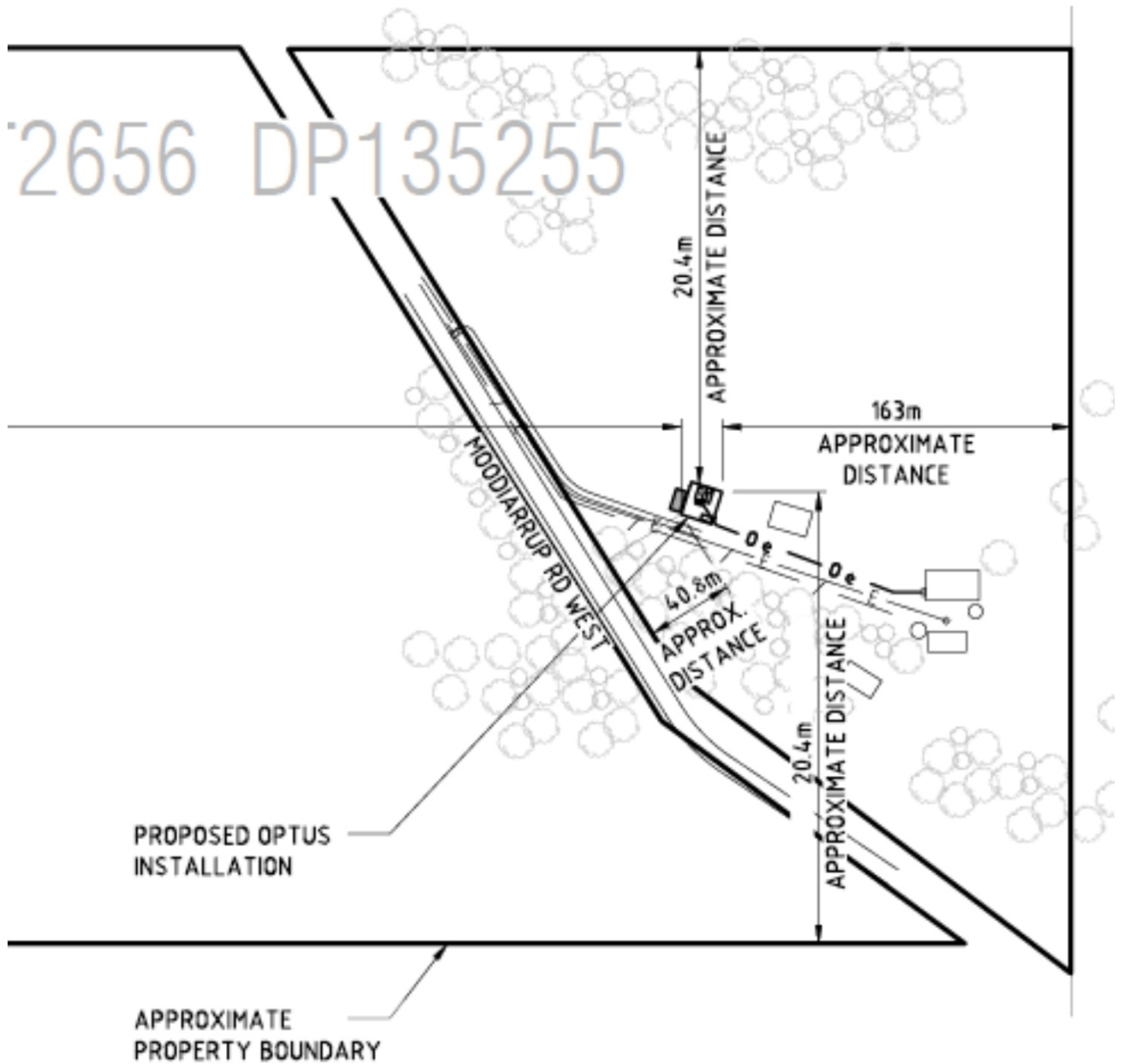
- 1 - Location Plan
- 2 - Site Plan
- 3 - Development Plan



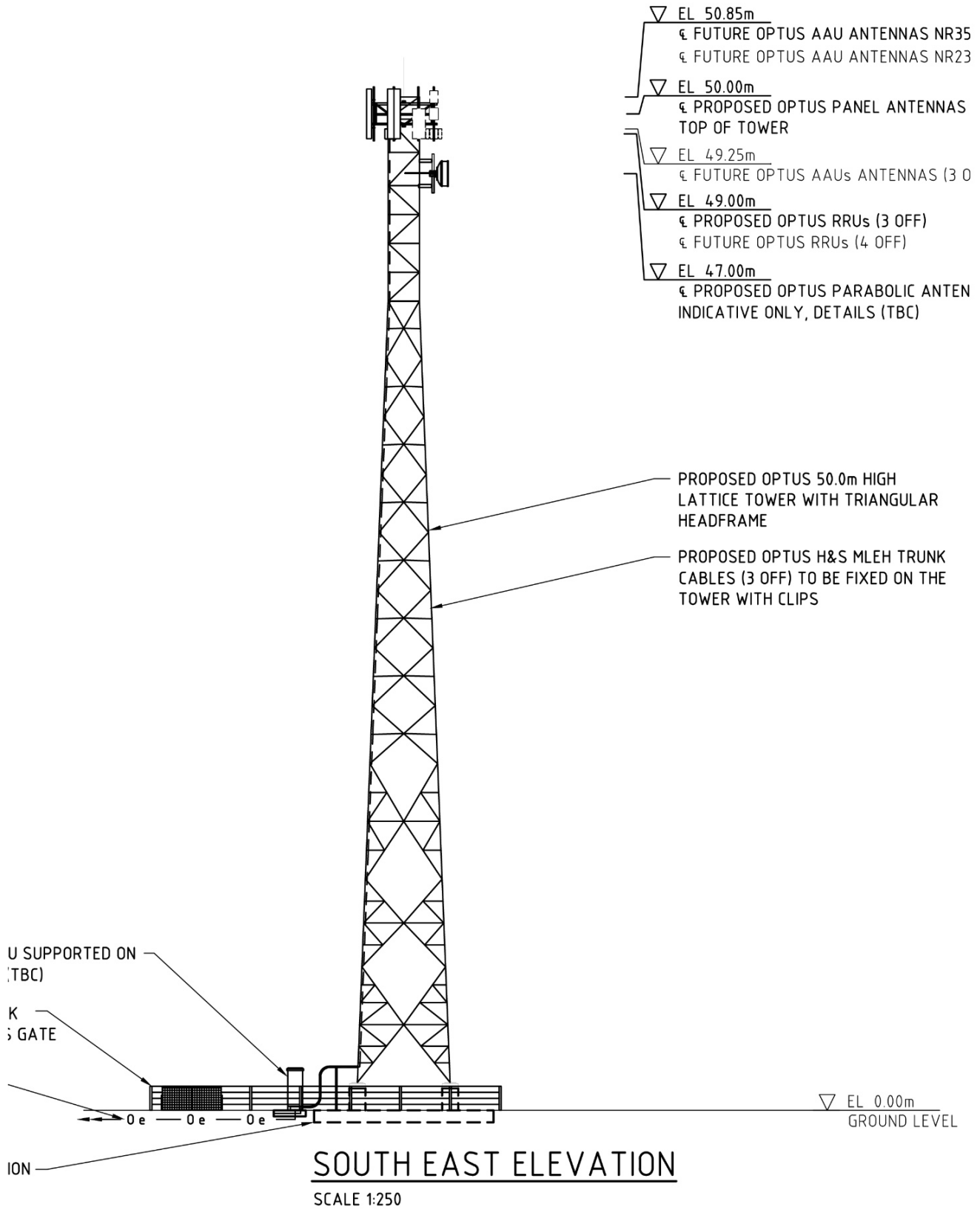
# ATTACHMENT 1 - LOCATION PLAN



# ATTACHMENT 2 - SITE PLAN



# ATTACHMENT 3 - DEVELOPMENT PLAN



**8.2 COMMITTEE REPORTS****8.3 REPORTS OF ELECTED MEMBERS**

Cr K King

- Need to eradicate gazania flowers from Darkan townsite.
- Need to burn at back of the town common prior to bushfire season to control weed growth.
- Asked if any update on Chief Executive Officer Annual Performance Review – Chief Executive Officer advised will be having discussion with potential consultant the following day.

Cr N Manuel

- Nil

Cr M Lloyd

- Nil

Cr J McFall

- Nil

Cr A Squires

- 1 June 21 – Swimming Pool Committee Meeting
- Queried what was happening with the fencing and controlling access to the Darkan refuse site.  
Chief Executive Officer responded advising that whilst funding was included in the 2020/21 Budget action had not progressed as there was a lack of appetite for the project from Council Elected Members requested the fencing and manning be further investigated and reported back to Council.

Cr N Morrell

- attended shifting of the stone at Bulading School in the lead up to the works on Coalfields Road.

**9. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**10. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

COUNCIL DECISION – ITEM 10.1
------------------------------

Moved: Cr Neil Morrell

Seconded: Cr Adam Squires

That this meeting to consider a late item in relation to purchase of vehicle – Manager of Works & Services.

**CARRIED 6/0**

**LATE ITEM 10.1.1 – PURCHASE OF VEHICLE – MANAGER OF WORKS & SERVICES**

LOCATION/ADDRESS: Shire of West Arthur  
 NAME OF APPLICANT: Not Applicable  
 FILE REFERENCE:  
 DISCLOSURE OF INTEREST: Nil  
 DATE OF REPORT: 15 June 2021

**SUMMARY:**

Council is requested to approve the purchase of a vehicle for the use of the Manager of Works and Services in the current financial year rather than in 2021/22.

**BACKGROUND:**

The replacement of a new vehicle is scheduled in the Plant Replacement Program for 2021/22 but Council is requested to approve the purchase slightly ahead of the planned timing.

**COMMENT:**

Council has approved the Chief Executive Officer taking a period of long service and annual leave from July to October 2021. Further Council has approved the appointment of an Acting Chief Executive Officer during this period of leave.

As the Chief Executive Officer's contract of employment allows the officer to have use of the allocated vehicle during periods of leave an alternate vehicle is required to be sourced for the Acting Chief Executive Officer's use for during the term of their employment.

The proposal submitted for Council's consideration is to bring forward the purchase of the new Manager of Works and Services vehicle and retain the existing vehicle for the period an Acting Chief Executive Officer is in place. Once the permanent Chief Executive Officer returns to work the existing Manager Works and Services vehicle will be offered for sale.

Quotations have been received from 3 dealerships for a new vehicle:

- |  |                 |
|--|-----------------|
| 1) Manjimup Mitsubishi – Mitsubishi Pajero GLS | \$60,455 ex GST |
| 2) Geographe Ford – Ford Everest Trend         | \$52,225 ex GST |
| 3) Muirs Ford – Ford Everest Trend             | \$50,716 ex GST |

The Geographe Ford quote is based on a later model of the vehicle and Manjimup Mitsubishi allows for a bull bar to be fitted.

The demand for new vehicles has resulted in delays of generally 2 – 3 months for the delivery of any new vehicle. Geographe Ford have access to the quoted vehicle which can be delivered by the end of June.

The option of hiring a vehicle has been briefly investigated but discounted due to the considerable expense – approximately \$7,100 for a Mitsubishi Outlander for the estimated period of leave.

The recommendation is for Council to accept the quote from Geographe Ford for the Ford Everest at a cost of \$52,225. The estimated cost in the 20/21 Plant Replacement Schedule is \$47,741 with a projected trade price of \$30,900. It is expected that a better trade price will be obtained once the time comes given the current demand for quality second-hand vehicles which will help offset the higher purchase price.

**CONSULTATION:**

Staff have sought quotes and comments from a range of dealers and the Manager of Works and Services Manager has been consulted.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995 section 6.8(1) (b) requires Council to authorise by Absolute Majority any purchase that is not included in the Annual Budget.

**POLICY IMPLICATIONS:**

The vehicle changeover is provided for in the 2021/22 year and this proposal brings the purchase forward marginally.

**FINANCIAL IMPLICATIONS:**

The purchase is not provided for in the current budget, however funds are available to meet the expense and this in turn would lessen the plant and equipment expense in the 2021/22 budget.

**STRATEGIC IMPLICATIONS:**

Shire of West Arthur Corporate Plan provides under Financial Outcomes including the Plant Replacement Program for the purchase and disposal of plant and equipment.

**VOTING REQUIREMENTS:**

Absolute Majority – unbudgeted expenditure

**OFFICER RECOMMENDATION – ITEM 10.1**

That Council authorise the acceptance of the quote from Geographe Ford for a Ford Everest Trend for \$52,225 ex GST for the Manager of Works and Services and to defer the sale of the existing vehicle until later in 2021.

**COUNCIL DECISION (OFFICER RECOMMENDATION) – ITEM 10.1**

Moved: Cr Neil Morrell

Seconded: Cr Julie McFall

That Council authorise the acceptance of the quote from Geographe Ford for a Ford Everest Trend for \$52,225 ex GST for the Manager of Works and Services and to defer the sale of the existing vehicle until later in 2021.

**CARRIED 6/0**

**ATTACHMENTS:**

- Quotations received.

**11. CONFIDENTIAL ITEMS**

Nil.

**12. CLOSURE OF MEETING**

Cr King declared the meeting closed at 8.08 pm.

**DISCLAIMER**

The purpose of this council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (section 5.05(1)) apply to the content of the minutes of Council meetings.

These Minutes were confirmed at the ordinary council meeting on: Tuesday 27 July 2021

Signed: \_\_\_\_\_

Presiding Member at the meeting at which the Minutes were confirmed.