

Council Minutes Index – 29 September 2016

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unconfirmed minutes

Minutes of an Ordinary Meeting of Council held in the Council Chambers on Thursday, 29 September 2016 commencing at 5.30pm

The President opened the Meeting at 5.30pm

Acknowledgment of Country – Presiding Member

On behalf of the Councillors, staff and gallery, I acknowledge the Noongar People, the Traditional Owners of the Land on which we are gathered, and pay my respects to their Elders both past and present.

Attendance, Apologies and Leave of Absence

President	- Cr J Nicholas
Councillors	- J Boyle - S Hodson - J Moore - A Pratico - P Quinby - A Wilson
In Attendance	- T Clynch, CEO - M Larkworthy, Executive Manager Corporate Services - E Denniss, Executive Manager Community Services - T Lockley, Executive Assistant
Leave of Absence	- Cr P Scallan
Apologies	- Cr D Mackman

Attendance of Gallery - Nil

Responses to Previous Questions Taken on Notice

Mr B Bebbington

At the Council meeting held on 25 August 2016 two questions asked by Mr B Bebbington were taken on notice. Responses to these questions are provided below.

Question

In regard to the Dogs Local Law which is one that the Standing Committee elected not to proceed with the review, the Schedule of Modified Offences refers to 2.4b and 2.4c, a penalty for interfering with any pound or vehicle used for the purpose of catching or holding dogs, can you tell me what the wording is for 2.4b and 2.4c because I cannot find it in the Local Law.

Response

Clause 2.4 of the Dogs Local Law is set out below with Part (b) highlighted in bold text:

2.4 *No breaking into or destruction of pound*

A person who -

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) **destroys, breaks into, damages or in any way interferes with or renders not dog-proof -**
- (i) **any pound; or**
- (ii) **any vehicle or container used for the purpose of catching, holding or conveying a seized dog,**

commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

There is no Part (c) in Clause 2.4.

The Shire of Bridgetown-Greenbushes Dogs Local Law is the WALGA 'Model' Local Law which was adopted by Council originally in April 2000. It has been amended on several occasions since that time in 2001, 2008, 2011 and 2014 and on none of these occasions was it realised that there is no clause 2.4(c) contained in the Local Law – this was not picked up either by the Department of Local Government or Parliament's Joint Standing Committee on Delegated Legislation.

The reference in Schedule 3 to the non-existent sub-clause 2.4(c) doesn't affect the applicability of the modified penalty under sub-clause 2.4(b).

Question

In relation to the Pest Plants Local Law, again another element which Council decided there was no requirement for review, the CEO's advice was similar, the notice says 'You are hereby given notice under Bridgetown-Greenbushes Pest Plants Local Law of 2008'. The Local Law is the Pest Plant Local Law of 2009. Why isn't that being corrected?

Response

A check of the Second Schedule of the Pest Plants Local Law 2009 indeed confirms that the year "2008" has been listed in that Schedule instead of 2009. This error was not picked up by staff, Council the Department of Local Government or Parliament's Joint Standing Committee on Delegated Legislation when the Local Law was initially approved.

The State Government is currently conducting a review of declared pests in Western Australia and the results of that review may trigger a need to review our Pest Plants Local Law, for example a pest plant may be removed from the State Register and it may be determined locally to include this as a pest plant under the Local Law. If this occurs the amendment to correct the Second Schedule can be included at that time.

Public Question Time - Nil

Petitions/Deputations/Presentations - Nil

Comments on Agenda Items by Parties with an Interest - Nil

Applications for Leave of Absence

Council Decision Moved Cr Pratico, Seconded Cr Wilson
C.00/0916 That Council grant Leave of Absence to Cr Quinby for the October 2016 Council Meeting.

Carried 7/0

Confirmation of Minutes

C.01/0916 Ordinary Meeting held 25 August 2016

A motion is required to confirm the Minutes of the Ordinary Meeting of Council held 25 August 2016 as a true and correct record.

Council Decision Moved Cr Wilson, Seconded Cr Moore
C.01/0916 That the Minutes of the Ordinary Meeting of Council held 25 August 2016 be confirmed as a true and correct record.

Carried 7/0

Announcements by the Presiding Member Without Discussion

Recently we have had the passing of two previous Councillors, one of whom was past Shire President, Shaun Grant, and more recently, Gerry Cartmel. On behalf of Council, I have passed on our condolences to their families.

Last week the town of Greenbushes won the Keep Australia Beautiful 'Tidy Towns Sustainable Communities Award' for 2016. Additionally the Blackwood Basin Group won the 'National Community Group Award' at the recent National Landcare Awards. Congratulations to both groups, we are mighty proud of their achievements.

Notification of Disclosure of Interest

Section 5.65 or 5.70 of the Local Government Act requires a Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Member or Officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

A Member who makes a disclosure under Section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allows a Member to speak, the extent of the interest must also be stated.

Name	Cr Nicholas
Type of Interest	Proximity
Item No.	C.05/0916 – Proposed Group Dwelling (Overheight Fill)
Nature of Interest	Resides on Bridgetown Gardens Estate four lots removed from the subject of the item

Name	Cr Nicholas
Type of Interest	Impartiality
Item No.	C.13/0916 - Appointment of Consultant to Facilitate 2016 CEO Performance Review
Nature of Interest	Many years ago I knew Joe Radici, Managing Director of Dillinger Group Development Pty Ltd

Name	T Clynch
Type of Interest	Financial
Item No.	C.13/0916 - Appointment of Consultant to Facilitate 2016 CEO Performance Review
Nature of Interest	The report concerns my employment and remuneration

Questions on Agenda Items by Elected Members

Consideration of Motions of which Previous Notice has been Given - Nil

Reports of Officers

Reports of Officers have been divided into Departments as follows:

- CEO's Office
- Finance & Administration
- Planning & Environmental Services
- Works & Services
- Community Services

CEO's Office

ITEM NO.	C.02/0916	FILE REF.	Sub128813
SUBJECT	Bank Guarantee and Outstanding Matters - Four Seasons Estate		
PROPONENT	KordaMentha Pty Ltd		
OFFICER	Chief Executive Officer		
DATE OF REPORT	14 September 2016		

OFFICER RECOMMENDATION: That Council:

- 1. Accepts the payment of \$150,000 GST inclusive (\$136,364 GST Exclusive) from KordaMentha Pty Ltd, as appointed receivers and managers for Four Seasons Estate Pty Ltd, in exchange for the release of Bank Guarantee No. 552601357 to the value of \$165,000 GST Inclusive. The 2016/17 budget is to be amended to accept this payment as revenue.*
- 2. Amends its 2016/17 by approving the expenditure of \$136,364 as unbudgeted expenditure, specifically:*
 - (i) Amending Account 1348620 – Job No. 28RA 'Four Seasons Estate Park' by increasing the materials & contracts allocation from \$0 to \$25,000.*
 - (ii) Amending Account 1280040 'Drainage Construction' by adding in a new Job No. – DR24 – Four Seasons Estate) with a materials & contracts allocation of \$11,364.*
 - (iii) Amending Account 1349140 'Other Recreation and Sport Infrastructure Other' by adding in the following new job numbers:*
 - 03IN - \$45,454*
 - 04IN - \$18,182*
 - 05IN - \$36,364*

Summary/Purpose

Following a Council resolution at its July 2016 meeting KordaMentha Pty Ltd, as appointed receivers and managers for Four Seasons Estate Pty Ltd, has forwarded payment of \$150,000 GST inclusive (\$136,364 GST Exclusive) in exchange for release of the bank guarantee held by the Shire pending completion of a number of outstanding conditions of subdivision dating back to 2006.

The expenditure of the funds is not provided for in the 2016/17 budget therefore a Council resolution to accept these as unbudgeted expenditure (albeit fully funded from new revenue) is required.

Background

Council, at its July 2016 meeting resolved:

C.05/0716 That Council gives 'in-principle' support to the Chief Executive Officer releasing the \$165,000 Bank Guarantee to KordaMentha Pty Ltd, as appointed receivers and managers for Four Seasons Estate Pty Ltd, in exchange for payment of \$150,000 to the Shire of Bridgetown-Greenbushes for completion of outstanding works for Four Seasons Estate subdivision.

KordaMentha Pty Ltd has acted upon Council's resolution and has forwarded payment of \$150,000 GST inclusive. Prior to any funds being expended Council is to resolve to accept this as unbudgeted expenditure with matched unbudgeted revenue.

As background, the Four Seasons Estate subdivision was rezoned to 'Special Rural' (SR6) zone and 'Special Residential' (SRes1) zone via Amendment No. 35 to the Shire's Town Planning Scheme No. 4 (TPS4), with the amendment gazetted in September 1999. Amendment No. 35 included adoption of a Subdivision Guide Plan (see Attachment 1), now known as a Structure Plan, for subdivision of the land into 105 lots. The Western Australian Planning Commission (WAPC) granted conditional approval on 25 October 2005 for subdivision of the land into 105 lots (WAPC 128813).

In January 2006 the Shire granted subdivision clearance for Stage One of the 'Four Seasons Estate' subdivision with outstanding infrastructure and landscaping works bonded via lodgment of bank guarantees. Subsequently in 2008 Stage Two of the subdivision was cleared with the bank guarantees retained.

The bank guarantee was to be returned pending the completion of the following outstanding works. With Council accepting the payout of the bank guarantee the Shire will take on the responsibility of completing these works. The \$136,364 ex-GST payment will be expended on the following:

- Preparation and implementation of a Bushfire Management Plan for the Estate - \$9,091
- Preparation of a Landscape Master Plan addressing the landscaping of stream protection area affecting Lots 35 to 39 Sunridge Drive and Lot 151 Dexter Rise; drainage lines (where necessary) on Lots 66-107; and street trees within the Estate - \$6,818
- Preparation and implementation of a Development Plan for the Public Open Space at Reserve 48836 Sunridge Drive - \$45,454
- Stream Protection Area works (revegetation) - \$18,182
- Planting of street trees - \$36,364
- Drainage works - \$11,364
- Shire project management and supervision costs plus contingencies - \$9,091

Whilst estimating the potential costs is difficult and the final expenditure may vary, Shire staff are confident that the outstanding matters can be resolved within the agreed monetary contribution, using private consultants, local community groups and Shire resources where available.

Statutory Environment

Section 6.8 of the Local Government Act requires an absolute majority decision for expenditure not included in the annual budget.

Policy Implications - Nil

Strategic Plan

Strategic Community Plan 2013

Economic Objective

- Outcome 1.2 Ensure infrastructure and services are provided for future development in keeping with the environment.
- Outcome 1.5 Maintain an appropriate standard of transport networks, roads and pathways.

Environment Objective

- Outcome 2.3 Improve parkland areas and public open spaces.
- Outcome 2.4 Protect and better utilise the river and natural landscape as an asset to the Shire.
- Outcome 2.4.1 Identify opportunities for protecting and enhancing the health of the Blackwood river and its tributaries.
- Outcome 2.5 Our communities are 'fire prepared'.
- Outcome 2.5.4 Investigate the need for policies and strategies concerning fire management on private properties.
- Outcome 2.6 An effective drainage network.
- Outcome 2.8 Natural resources are used efficiently and effectively.
- Outcome 2.10 Increased resilience to manage environmental threats.
- Outcome 2.10.1 Monitor the Shire's risk management profile and exposure to risk.

Social Objective

- Outcome 3.1 Maintain a high standard of lifestyle, recreational and cultural facilities.
- Outcome 3.4 Maintain a safe community.
- Outcome 3.4.1 Monitor the Shire's risk management profile and exposure to risk.
- Outcome 3.4.4 Continue to monitor emergency risk, preparedness and response.

Budget Implications

The 2016/17 budget requires amendment to accept the matched revenue and expenditure of \$136,364 GST Exclusive.

Fiscal Equity – Not applicable

Whole of Life Accounting

The offered monetary contribution will facilitate the completion of outstanding works such as development of public open space, street trees, stream lining and drainage works. Once implemented the Shire will need to assess asset management requirements so estimation of whole of life accounting at this time is difficult.

Social Equity – Not applicable

Ecological Equity

Completion of outstanding stream lining and drainage works, planting of street trees, plus development of the POS reserve, may improve local environmental outcomes.

Cultural Equity

The stream protection area is a tributary to Geegelup Brook, which is a tributary to the Blackwood River, so any works on the creekline will require consideration of Aboriginal heritage issues.

Risk Management

Improvements to the Shire's drainage infrastructure network may reduce the Shire's risk profile. All infrastructure and development works will need to be undertaken in accordance with applicable Australian Standards.

Continuous Improvement – Not applicable

Delegated Authority

A Council resolution is required to incur the unbudgeted expenditure triggered by the acceptance of the \$136,364 GST Exclusive payment.

Once Council has resolved to incur the unbudgeted expenditure the CEO will determine the best methods for expenditure of the funds and completion of the various outstanding works.

Voting Requirements - Absolute Majority

Council Decision Moved Cr Pratico, Seconded Cr Moore

C.02/0916 That Council:

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- 2. Amends its 2016/17 by approving the expenditure of \$136,364 as unbudgeted expenditure, specifically:**
 - (i) Amending Account 1348620 – Job No. 28RA 'Four Seasons Estate Park' by increasing the materials & contracts allocation from \$0 to \$25,000.**
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 - (iii) Amending Account 1349140 'Other Recreation and Sport Infrastructure Other' by adding in the following new job numbers:**
 - 03IN - \$45,454**
 - 04IN - \$18,182**
 - 05IN - \$36,364**

Absolute Majority 7/0

Corporate Services

ITEM NO.	C.03/0916	FILE REF.	131
SUBJECT	July 2016 Financial Activity Statements, August 2016 Financial Activity Statements and List of Accounts Paid in August 2016		
OFFICER	Executive Manager Corporate Services		
DATE OF REPORT	20 September 2016		

Attachment 1 July 2016 Financial Activity Statements
Attachment 2 August 2016 Financial Activity Statements
Attachment 3 List of Accounts Paid in August 2016

OFFICER RECOMMENDATIONS:

- 1. That Council receives the July 2016 Financial Activity Statements as presented in Attachment 1.*
- 2. That Council receives the August 2016 Financial Activity Statements as presented in Attachment 2.*
- 3. That Council receives the List of Accounts Paid in August 2016 as presented in Attachment 3.*

Summary/Purpose

Regulation 34 of the Local Government (Financial Management) Regulations 1996 (the Regulations) requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of its funds. Further, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal and trust funds, a list of those accounts paid in a month are to be presented to the council at the next ordinary meeting (see Reg 13 of the Regulations).

Background

In its monthly Financial Activity Statement a local government is to provide the following detail:

- annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c) of the Local Government Act;
- budget estimates to the end of the month to which the statement relates;
- actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
- material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- the net current assets at the end of the month to which the statement relates.

Each of the Financial Activity Statements is to be accompanied by documents containing:

- an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;

- (b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the Local Government.

The information in a statement of financial activity may be shown:

- (a) according to nature and type classification;
- (b) by program; or
- (c) by business unit.

The Financial Activity Statement and accompanying documents referred to in sub-regulation 34(2) are to be:

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
- (b) recorded in the minutes of the meeting at which it is presented.

Due to end of financial year processing presentation of the Shire's July 2016 Financial Activity Statements to Council was deferred to the September 2016 ordinary meeting. Presented are the financial activity statements for both July and August 2016 along with the list of accounts paid in August 2016.

Statutory Environment

Section 6.4 (Financial Report) and Section 6.8 (Expenditure from municipal fund not included in annual budget) of the Local Government Act 1995, and Regulations 13 (List of Accounts) and 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996 apply.

Integrated Planning

- Strategic Community Plan 2013
 - Objective 4: A collaborative and engaged community
 - Outcome 4.2: A high standard of governance and accountability
 - Strategy 4.2.3: Ensure compliance with relevant legislation
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan – Nil
- Other Integrated Planning - Nil

Policy

F.6. Purchasing Policy - To ensure purchasing is undertaken in an efficient, effective, economical and sustainable manner that provides transparency and accountability.

F.7. Reporting Forecast Budget Variations Policy - To set a level of reporting detail (in Financial Activity Statement) that ensures that the council is satisfied with the implementation of its annual budget.

Budget Implications

Expenditure incurred in August 2016 and presented in the list of accounts paid, was allocated in the 2016/17 Budget.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not Applicable

Continuous Improvement – Not applicable

Delegated Authority – Not Applicable

Voting Requirements – Simple Majority

**Council Decision Moved Cr Boyle, Seconded Cr Wilson
C.03/0916**

- 1. That Council receives the July 2016 Financial Activity Statements as presented in Attachment 1.**
- 2. That Council receives the August 2016 Financial Activity Statements as presented in Attachment 2.**
- 3. That Council receives the List of Accounts Paid in August 2016 as presented in Attachment 3.**

Carried 7/0

Planning & Environmental Services

ITEM NO.	C.04/0916	FILE REF.	A8420
SUBJECT	Proposed Relocated Oversized Outbuilding		
PROPONENT	Steve and Marlene Webb		
LOCATION	Lot 35 (49) Dean Street, Bridgetown		
OFFICER	Manager Planning		
DATE OF REPORT	15 September 2016		

Attachment 4	Location Plan
Attachment 5	Applicant's Submission/Photographs
Attachment 6	Proposed Plans

OFFICER RECOMMENDATION: That Council, noting that no objections were received from adjoining landowners, pursuant to Clause 3.4.8 and Clause 6.7.4 under Town Planning Scheme No. 3 and Design Principle 5.4.3 Performance Criteria P3 of the Residential Design Codes of WA, waives the provisions of the Shire's 'Outbuildings in the Residential Zone Policy' and grants development approval for the proposed relocated oversized outbuilding, as per Attachment 6, on Lot 35 (49) Dean Street, Bridgetown, subject to the following conditions:

- 1. Approval is granted for the oversized outbuilding with a floor area of 36m², wall height of 2.75 metres and ridge height of 3.2 metres. Any increase in the floor area, wall or ridge heights of the outbuilding will require separate planning approval.*
- 2. The relocated outbuilding is to be externally clad using non-reflective colours.*
- 3. The relocated outbuilding is to be used for non-habitable, domestic purposes only.*
- 4. No outbuildings containing asbestos products are permitted to be relocated into or within the Shire.*
- 5. All window and door openings are to comply with the Building Code of Australia. All broken windows are to be replaced, all windows and doors to open and close freely, and all locks and catches are to be easily operable.*
- 6. On completion, the outbuilding is to be painted or otherwise treated to present a neat appearance to the satisfaction of the Shire, including painting, treatment or replacement of wall cladding, gutters, downpipes, roof tiles and roof sheeting, ridgecaps or flashing.*
- 7. A Relocated Outbuilding Bond of \$600 shall be lodged prior to the issue of a building permit application.*

Summary/Purpose

To consider a development application for a relocation of an additional outbuilding on Lot 35 (49) Dean Street, Bridgetown which does not comply with the maximum aggregate floor area, required under the Shire's 'Outbuildings in the Residential Zone' Policy and Residential Design Codes.

Noting that no objections were raised by surrounding landowners, and that the proposed outbuilding is well separated from the street and neighbouring properties, it is recommended that the provisions of the Policy be waived and approval be granted subject to conditions.

Background

A development application has been received seeking approval to erect a relocated additional outbuilding on Lot 35 (49) Dean Street, Bridgetown. The lot is zoned 'Residential R12.5/20' under Town Planning Scheme No. 3 (TPS3) and has an approximate area of 8285m². The proposed outbuilding will be incidental to the existing use of 'Single House' which is listed as a 'Permitted' use within this zone.

The applicant is seeking to relocate the subject outbuilding from Rockingham, and re-construct the outbuilding in the centre of the property, approximately 26 metres from the closest eastern side boundary, consistent with the required setbacks.

The proposed outbuilding will be 9.0 metres long and 4.0 metres wide with a floor area of 36m², with respective wall and ridge heights of 2.75 metres and 3.2 metres. The outbuilding currently has 'Classic Cream' coloured wall cladding and blue coloured roofing and gutters.

The proposed outbuilding is to be located to the south-east of the existing house and in proximity to the existing 162m² outbuilding. The proposed outbuilding will increase the aggregate floor area of outbuildings on the property to 198m², which exceeds the permitted maximum of 10% of the lot area (up to a maximum of 150m²), pursuant to the Shire's Outbuildings in the Residential Zone Policy.

The application was forwarded to landowners of five surrounding properties for comment with the submission period ending on 19 August 2016 however no submissions were received.

The applicant has indicated the additional shed is required to store their collection of classic military vehicles, noting their existing shed already exceeds the permissible size.

Noting the above, and the terms of the Shire's 'Outbuildings in the Residential Zone Policy' and the Residential Design Codes discussed below, circumstances exist that allow Council to vary the maximum aggregate floor area and approve the proposed outbuilding, including:

- The lot has an area of 8285m² which far exceeds the typical size for a Residential zoned property.
- Noting the existing outbuilding already exceeds the 150m² maximum, the proposed additional outbuilding will bring the aggregate area up to 198m², which represents only 2.39% of the lot area.
- The existing outbuilding will be set back from the front boundary by approximately 76 metres and separated from the nearest property by approximately 26 metres. The property also adjoins large sized Residential zoned properties to the west and east and undeveloped public open space to the south and south-west.
- The colours of the proposed outbuilding will be non-reflective and will complement the existing dwelling and outbuilding.

- No objections were raised by surrounding landowners and the proposed additional outbuilding is not expected to have a detrimental impact upon neighbouring properties or the broader landscape.

The proposed outbuilding is also compliant with the Shire's Relocatable Outbuildings Policy and the photos provided indicate the outbuilding is currently in good condition.

Noting no objections were received from surrounding landowners, and the proposed relocated outbuilding will not have any detrimental impact on the adjoining properties, it is therefore recommended that development approval be granted subject to conditions.

Statutory Environment

- Shire of Bridgetown-Greenbushes Town Planning Scheme No. 3

Clause 3.4.8 of TPS3 provides Council with the power to waive or modify a scheme development requirement (except for development in respect of the Residential Design Codes). *"The power conferred by this clause may only be exercised if the Council is satisfied that:*

- approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- the non-compliance will not have any adverse effect upon the occupiers or users of the development of the locality or the inhabitants of the locality or upon the likely future development of the locality."*

The proposed relocated outbuilding, noting the overall aggregate floor area, is not expected to have an adverse effect upon the amenity of surrounding properties or the wider locality.

Clause 6.7.4 of TPS3 states *"A Town Planning Scheme Policy shall not bind the Council in respect of any application for Planning Approval but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision."*

Clause 6.7.5 of TPS3 states *"In determining an application for Planning Approval, Council shall have regard to any Town Planning Policy adopted under the powers of this Scheme, and may impose conditions of approval in conformity with the requirements of that policy."*

Council has the discretion to vary provisions of a policy where Council is satisfied the objectives of the policy have been taken into account. The proposed 36m² relocated outbuilding will exceed the 150m² maximum aggregate floor area under the Shire's 'Outbuildings in the Residential Zone Policy'. The outbuilding also exceeds the 2.7 metre 'Standard' wall height by approximately 0.05 metres only. Waiving of those policy requirements is considered acceptable for the reasons discussed in this report.

Policy

- Residential Design Codes of Western Australia

Under Design Principle 5.4.3, P3 Outbuildings of the R-Codes, outbuildings can be supported that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.

Under Deemed-to-comply requirement C3 outbuildings are permitted that are not attached to a dwelling, are non-habitable, do not exceed 60m² (or 10% aggregate site area), do not exceed respective wall or ridge heights 2.4 metres and 4.2 metres, not within the primary or secondary setback areas, do not reduce the required amount of open space and setback in accordance with Tables 2a and 2b.

As discussed below, the Shire's 'Outbuildings in the Residential Zone Policy' allows for larger outbuildings subject to certain criteria including compliance with maximum floor areas and building heights.

Although noting the 198m² aggregate size of the existing and proposed outbuildings, and 2.75 metre wall height for the proposed outbuilding, the proposal is not expected to have any detrimental impact upon the streetscape or visual amenity of neighbouring properties, and can be supported.

- Shire's Outbuildings in the Residential Zone Policy

The Policy recognizes the varying needs of families for outbuilding space for garaging vehicles, boats, caravans and other items, domestic workshops, games rooms, studios, etc. The Policy also recognizes that most outbuildings are usually bland metal structures devoid of architectural features such as windows and verandahs and when incorporating reflective surfaces there is a greater potential for adverse impacts on the landscape and nuisance for neighbours.

The objective of the Policy *"is to achieve a balance between*

- *Providing for the legitimate garaging, storage and other domestic needs of people living in residential areas; and*
- *Minimising the adverse impacts outbuildings may have on the amenity (eg. peace and quiet), appearance and character of residential neighbourhoods, and on neighbours."*

The Standard Requirements under the Policy allows for larger outbuildings than permitted under the R-Codes, with a floor area up to 80m², wall height of 2.7 metres and ridge height of 4.2 metres and setback in accordance with the Town Planning Scheme unless a variation is approved.

Applications for 'Non-Complying Outbuildings' with the above standards, such as the aggregate area, are to be assessed on a case by case basis and may be permitted subject to (inter alia) the following:

- "(b) Demonstration that the larger size is required to satisfy specific domestic needs as detailed on the application submitted;*
- (c) The lot being a minimum size of 1000m²;*
- (d) Must be sited behind the front setback line for the dwelling;*
- (e) Use of non-reflective materials or screening;*

- (f) *The sizes not exceeding*
- *Area on lot – 10% of the site area where the lot is less than 1500m² and lots over 1500m² have a maximum area on lot of 150m²;*
 - *Wall height of 3.0 metres*
 - *Ridge height of 4.2 metres.*
- [(g)] *Screening from the street and neighbouring properties to the satisfaction of the Shire;*
- [(h)] *No objections being received from the adjoining landowners.”*

The proposed outbuilding has an area of 36m², and combined with the existing 162m² outbuilding, brings the aggregate floor area to 198m². The proposed outbuilding also has a wall height of 2.75 metres exceeding the 2.7 metre allowable ‘Standard’ height by 0.05 metres.

The Policy requires that where an application for an outbuilding is made that does not comply with the Standard Requirements it is to be referred to the adjoining landowners for comment. The proposal was referred to surrounding landowners for comment however no submissions were received, indicating no objections to the proposal.

The proposed outbuilding is generally consistent with the objectives and some of the specific criteria of the policy listed above. Although noting the variations to the aggregate floor area and wall height, support for the proposal is recommended.

- Shire’s Relocated Outbuildings Policy

The Policy requirements recognise that higher standards of development and amenity are expected within Residential, Special Rural and Special Use zones, and applications for relocated outbuildings within those zones will be subject to stringent assessment to ensure their compatibility with the amenity, character and development standards of that area, subject to appropriate setbacks from boundaries, photographic evidence provided and if approved appropriate standard conditions applied to ensure the relocated outbuilding is completed to a good standard.

The proposed relocated outbuilding is consistent with the terms of the Policy and considered suitable for relocation to the subject site. Although only two photos were provided, the Colorbond shed is only 10 years old and in good condition.

Strategic Plan Implications

- Strategic Community Plan - Nil
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

The required development application fee has been paid to consider the policy variations.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement – Not applicable

Delegated Authority

Nil - Officers do not have delegated authority to approve the application as it requires a variation to a policy and must therefore be determined by Council.

Voting Requirements – Simple Majority

Council Decision Moved Cr Pratico, Seconded Cr Hodson

C.04/0916 That Council, noting that no objections were received from adjoining landowners, pursuant to Clause 3.4.8 and Clause 6.7.4 under Town Planning Scheme No. 3 and Design Principle 5.4.3 Performance Criteria P3 of the Residential Design Codes of WA, waives the provisions of the Shire's 'Outbuildings in the Residential Zone Policy' and grants development approval for the proposed relocated oversized outbuilding, as per Attachment 6, on Lot 35 (49) Dean Street, Bridgetown, subject to the following conditions:

- 1. Approval is granted for the oversized outbuilding with a floor area of 36m², wall height of 2.75 metres and ridge height of 3.2 metres. Any increase in the floor area, wall or ridge heights of the outbuilding will require separate planning approval.***
- 2. The relocated outbuilding is to be externally clad using non-reflective colours.***
- 3. The relocated outbuilding is to be used for non-habitable, domestic purposes only.***
- 4. No outbuildings containing asbestos products are permitted to be relocated into or within the Shire.***
- 5. All window and door openings are to comply with the Building Code of Australia. All broken windows are to be replaced, all windows and doors to open and close freely, and all locks and catches are to be easily operable.***
- 6. On completion, the outbuilding is to be painted or otherwise treated to present a neat appearance to the satisfaction of the Shire, including painting, treatment or replacement of wall cladding, gutters, downpipes, roof tiles and roof sheeting, ridgecaps or flashing.***

7. A Relocated Outbuilding Bond of \$600 shall be lodged prior to the issue of a building permit application.

Carried 7/0

Cr Nicholas declared a Proximity Interest in Item C.05/0916 as he resides on Bridgetown Gardens Estate four lots removed from the subject of the item. Cr Nicholas vacated the Meeting at 5.39pm.

Cr Wilson assumed the Chair.

ITEM NO.	C.05/0916	FILE REF.	A38174
SUBJECT	Proposed Group Dwelling (Overheight Fill)		
PROPONENT	Plunkett Homes		
LOCATION	Strata Lot 8 (12) Silver Birch Heights, Kangaroo Gully		
OFFICER	Manager Planning		
DATE OF REPORT	20 September 2016		

Attachment 7	Locality Plan
Attachment 8	Neighbour's Submission
Attachment 9	Applicant's Submission
Attachment 10	Proposed Plans

OFFICER RECOMMENDATION: That Council noting the single submission received as per Attachment 8, pursuant to Clause 3.4.4 under Town Planning Scheme No. 4 waive the provisions of the Cut & Fill Policy and grants development approval for the proposed group dwelling with overheight fill at Strata Lot 8 (12) Silver Birch Heights, Kangaroo Gully, as per Attachment 10, subject to the following conditions:

1. Development is to be wholly contained within the approved building envelope.
2. Fill is not to exceed 2.65 metres at any given point on the site relative to the original natural ground levels and the top level of the fill is not to exceed 4.1 metres from the base of the fill.
3. All exposed fill embankments are to be stabilised to prevent erosion using retaining walls or landscaping, with a post-landscaping plan detailing the type and location of planting, to be submitted to the Shire once completed.
4. Where a retaining wall or landscaping is required for the purposes of managing fill post construction of the building, an 'earthworks bond' of \$600 shall be lodged prior to the issue of a building permit application.
5. Topsoil is to be stripped separately and stockpiled on site, to be respread during landscaping.
6. Access tracks are to be located in such a manner as to minimise the required earthworks.
7. Water discharge from the site during development is to be controlled by the use of ripping, contour banks or grade banks and sumps to attenuate turbid and/or nutrient rich water leaving the site.

8. *Where a residence is to be constructed partially on cut and partially on fill, the excavated material is to be placed outside the building area to form batters and embankments and the platform is to be filled with sand. As an alternative, pile and beam foundations into natural uncut ground in the fill area are acceptable.*
9. *Where an unprotected embankment is proposed no retaining will be required where it is in accordance with BCA Volume 2 Part 3.1.1 – Earthworks.*
10. *All existing screen vegetation along the western side boundary, for a distance of 30 metres from the front boundary, to be retained and thereafter maintained and/or supplemented with additional screen planting to a height of 4 metres, to the satisfaction of the Shire of Bridgetown-Greenbushes.*

Summary/Purpose

To consider a development application seeking approval for a group dwelling at Strata Lot 8 (12) Silver Birch Heights, Kangaroo Gully, with overheight fill exceeding the 2.0 metre maximum under the Shire's Cut & Fill Policy. Noting the single submission of conditional support received, it is recommended that approval be granted subject to standard and special conditions.

Background

A development application has been received for construction of a group dwelling on Strata Lot 8 (12) Silver Birch Heights, Kangaroo Gully. The lot is zoned 'Special Use SU1' under Town Planning Scheme No. 4 (TPS4) and has an approximate land area of 3226m². The proposed group dwelling is to be setback 10.7 metres from the front boundary and 11.5 metres from the closest eastern side boundary, within the applicable building envelope.

The property slopes downwards from the front boundary towards the rear northern boundary. The survey plan shows existing fill on the property, understood to be remnant from the original subdivision, with a finished ground level of 6.86 metres, being approximately 2.0 metres above the original natural ground levels, with the toe of the batter being approximately 3.1 metres lower. The existing fill height is generally consistent with the Shire's Cut and Fill Policy that limits the maximum permitted fill height above natural ground level to 2.0 metres, and height between the top and toe of the embankment at 3.5 metres.

The proposed dwelling is to be constructed on a raised sand pad, with a finished ground level of 8.05 metres, being approximately 2.65 metres above the original natural ground level, and the overall embankment will have a height of 4.3 metres from the top to toe of the embankment. The proposed application therefore exceeds the maximum fill height by 0.65 metres and embankment height by 0.8 metres.

The applicant was contacted to either reduce the proposed earthworks to ensure compliance with the Cut & Fill Policy, or instead invited to seek a policy variation for the overheight fill. The applicant wrote to the Shire on 3 August 2016 (see Attachment 9) requesting the policy variation and proposed finished ground level of 8.05 metres. The applicant's rationale for the increased fill height is to avoid potential stormwater issues by cutting into the site, and additional costs of installing retaining walls to avoid potential runoff should the road drain block up.

The application was referred to landowners of five surrounding properties, with the submission period closing on 6 September 2016. An extension of time was agreed to for Brian and Verna Smith (owners of adjoining 14 Silver Birch Heights), with their submission being received on 7 September 2016 (see Attachment 8). The neighbours noted the size of the dwelling and potential implications for privacy given the overall height, however they support the overheight fill subject to all the existing trees along the western boundary of the subject lot being retained.

The existing vegetation along the western boundary of the property is evident in the aerial photograph (see Attachment 7). Should Council support the proposal it is recommended that a special condition be included to ensure vegetation screening along the western boundary for a distance of 30 metres measured from the front boundary.

In considering the applicant's justification for the overheight fill, the proposed finished ground level at 8.05 metres will be approximately 0.6 metres lower than the level of the front boundary, which will result in a driveway with a very modest downslope of 3.2 degrees. Should the fill height be reduced by 0.65 metres (down to 7.4 metres) to comply with the maximum 2.0 metre fill height, the expected slope of the driveway would be 6.6 degrees which is still considered to be a modest. Lowering the proposed fill height by 0.65 metres to achieve the 2.0 metre maximum is certainly achievable and will not require substantial additional earthworks or cause stormwater management issues.

Noting the above however, and the terms of the Shire's 'Cut & Fill Policy' discussed below, circumstances exist that allow Council to vary the maximum fill height and embankment height, including:

- The existing imported fill is located in the centre of the property, somewhat limiting location and design of the dwelling and options for vehicular access and stormwater management.
- The majority of the dwelling will comply with the 2.0 metre fill height, with approximately only one quarter causing the overheight fill.
- The existing vegetation along the western boundary will assist screening to the adjoining property and the dwelling backs onto the common property open space of the Bridgetown Gardens Estate.
- The dwelling is single storey only, with the floor level lower than the road level, and will not be imposing upon the streetscape or neighbouring properties.

Shire staff declare that the recommendation has been made noting the merits of the proposal and does not set a precedent for similar developments with the Bridgetown Gardens Estate or elsewhere in the Shire.

Given that no objections were raised by the adjoining, affected landowners, and noting the topographical issues affecting the site, it is recommended that development approval be granted for the group dwelling with the overheight fill subject to standard conditions plus retention of screen vegetation along the western boundary.

Statutory Environment

- Shire of Bridgetown-Greenbushes Town Planning Scheme No. 4

Clause 3.4.4 of TPS4 provides Council with the power to waive or modify a development requirement. *“The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development of the locality or the inhabitants of the locality or upon the likely future development of the locality.”*

The development complies with relevant TPS4 requirements, with the exception of the variation to the fill height pursuant to the Cut and Fill Policy discussed below.

Clause 7.6.4 of TPS4 states: *“A Town Planning Scheme Policy shall not bind the Council in respect of any application for Planning Approval but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.”*

Council has the discretion to vary provisions of a town planning scheme policy if Council is satisfied that the objectives of the policy have been taken into account.

Policy Implications

- Cut & Fill Policy

The aim of the Cut & Fill Policy is *“To preserve the natural topography of the Scheme Area by restricting the level of cut and fill development specifically on steep slopes.”* Clause 3.4 of the Cut & Fill Policy states *“Fill is not to exceed 2.0m at any given point on the site and the top level of the fill is not to exceed 3.0m from the base of the fill.”*

The proposed dwelling utilises slab construction on a raised sand pad of approximately 1.4 metres higher than the existing fill, and 2.65 metres higher than the original natural ground levels. Although the proposed fill level exceeds the 2.0 metre maximum by 0.65 metres at the highest point, the intent of the Cut & Fill Policy has generally been achieved and approval is recommended.

Strategic Plan Implications

- Strategic Community Plan - Nil
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

The required development application fee has been paid to consider the policy variations.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement

The content of the single submission received has assisted consideration of the proposal.

Delegated Authority

Nil - Officers do not have delegated authority to approve the application as it requires a variation to a policy and must therefore be determined by Council.

Voting Requirements – Simple Majority

Council Decision Moved Cr Moore, Seconded Cr Pratico

C.05/0916 That Council noting the single submission received as per Attachment 8, pursuant to Clause 3.4.4 under Town Planning Scheme No. 4 waive the provisions of the Cut & Fill Policy and grants development approval for the proposed group dwelling with overheight fill at Strata Lot 8 (12) Silver Birch Heights, Kangaroo Gully, as per Attachment 10, subject to the following conditions:

- 1. Development is to be wholly contained within the approved building envelope.***
- 2. Fill is not to exceed 2.65 metres at any given point on the site relative to the original natural ground levels and the top level of the fill is not to exceed 4.1 metres from the base of the fill.***
- 3. All exposed fill embankments are to be stabilised to prevent erosion using retaining walls or landscaping, with a post-landscaping plan detailing the type and location of planting, to be submitted to the Shire once completed.***
- 4. Where a retaining wall or landscaping is required for the purposes of managing fill post construction of the building, an 'earthworks bond' of \$600 shall be lodged prior to the issue of a building permit application.***
- 5. Topsoil is to be stripped separately and stockpiled on site, to be respread during landscaping.***

6. **Access tracks are to be located in such a manner as to minimise the required earthworks.**
7. **Water discharge from the site during development is to be controlled by the use of ripping, contour banks or grade banks and sumps to attenuate turbid and/or nutrient rich water leaving the site.**
8. **Where a residence is to be constructed partially on cut and partially on fill, the excavated material is to be placed outside the building area to form batters and embankments and the platform is to be filled with sand. As an alternative, pile and beam foundations into natural uncut ground in the fill area are acceptable.**
9. **Where an unprotected embankment is proposed no retaining will be required where it is in accordance with BCA Volume 2 Part 3.1.1 – Earthworks.**
10. **All existing screen vegetation along the western side boundary, for a distance of 30 metres from the front boundary, to be retained and thereafter maintained and/or supplemented with additional screen planting to a height of 4 metres, to the satisfaction of the Shire of Bridgetown-Greenbushes.**

Carried 6/0

5.40pm Cr Nicholas returned to the Meeting and resumed the Chair

ITEM NO.	C.06/0916	FILE REF.	A12592
SUBJECT	Proposed Use Not Listed - Plant Nursery		
PROPONENT	Erica Shedley		
LOCATION	Lot 3 (79) Blechyden Street, Bridgetown		
OFFICER	Manager Planning		
DATE OF REPORT	20 September 2016		

Attachment 11 Location Plan/Aerial Photograph

Attachment 12 Proposed Plans/Applicant's Submission

OFFICER RECOMMENDATION: *That Council:*

1. *Determines that the proposed 'Use Not Listed – Plant Nursery' at Lot 3 (79) Blechynden Street, Bridgetown is consistent with the objective of the 'Rural' zone under Clause 4.5 and may be considered for development approval pursuant to Clause 3.3.3 of Town Planning Scheme No. 3.*
2. *Directs the Chief Executive Officer to undertake necessary public consultation in relation to Point 1. above, and grants delegated authority to the Chief Executive Officer to determine the development application subject to necessary conditions should no objections be received.*

Summary/Purpose

To consider a development application for a small scale native plant nursery at Lot 3 (79) Blechynden Street, Bridgetown. It is recommended that Council determine that

the 'Use Not Listed – Plant Nursery' is consistent with the objective of the applicable Rural zone and may be considered for approval, and grants delegated authority to the Chief Executive Officer to determine the application subject to public consultation and no objections.

Background

A development application has been received to establish a small scale native plant nursery on Lot 3 (79) Blechynden Street, Bridgetown. The lot is zoned 'Rural' under Town Planning Scheme No. 3 (TPS3) and has an area of 3880m², with an existing dwelling. A plant nursery is not listed in Table 1 Zoning Table of TPS3 however could be considered as a 'Use Not Listed', discussed below.

The proposed nursery operation is considered modest in scale, operated by the applicant as the owner and resident of the property. Whilst no employees are proposed some volunteer help may be required. As detailed in the applicant's letter (see Attachment 12) small local native plants will be propagated onsite, supplemented by tube stock from other nurseries 'grown on' for sale. The plants are to be sold at market days, or via email/website orders, with some customer pick up from the property.

The proposed nursery will not be a garden centre as it will only sell plants, with the business administration conducted within the main dwelling. Customers will be by appointment only to pick up ordered plants, with the business ultimately operating up to four days per week for up to 6 hours per day during peak growing seasons.

The application includes a proposed 12m x 5.3m (63.6m²) shade house structure at the rear of the property for rearing of plants, adjacent to the already approved 42m² shed which is to be used for storage and propagation. The shade house is to be constructed using treated pine poles with a moveable 'Fawn' coloured shade cloth roof and clear PVC roof sheeting.

The structure is to be located approximately 5.0 metres from the northern rear boundary, as a variation to the required 7.5 metre setback under TPS3, and is considered to be located in a reasonable location. The proposed scale of operation is considered modest and suitable for the property, with the nursery to be separated from the nearest dwelling by approximately 45 metres.

A new crossover and driveway from Blechynden Street will provide vehicle access to the two onsite customer parking bays, with the driveway leading to the storage shed and shade house.

As discussed below, Council has discretion to determine whether the proposed use is consistent with the objective of the 'Rural' zone in accordance with Clauses 3.3.4 and 4.5 of TPS3. If supported the application will then be advertised for public comment prior to determination.

It is therefore recommended that Council determines the proposal is consistent with the objective of the 'Rural' zone and that development approval may be considered, with delegated authority granted to the Chief Executive Officer to determine the application should no objections be received following public consultation.

Statutory Environment

- Town Planning Scheme No. 4

Clause 3.3.2 of Town Planning Scheme No. 3 (TPS3) states that *“Where in the Zoning Table a particular use is listed, it is deemed to be excluded from any use class which by its more general terms might otherwise include such particular use.”*

Clause 1.6 of TPS3 gives interpretations to the four following use classes most relevant to the application.

“Open Air Display – means the use of land as a site for the display and/or sale of goods and equipment.”

“Rural Industry – means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop, servicing plant or equipment used for rural purposes in the locality.”

“Rural Use – means the use of land for the purposes of agriculture, farming or grazing including the growing of fruit or vines.”

“Shop – means any building wherein goods are kept offered for sale by retail, and includes a café and a restaurant and receiving depot; but does not include a bank, fuel depot, a market, service station, petrol filling station, milk depot, marine store, timber yard or land and buildings used for the sale of motor and other vehicles, or for any purpose falling within the definition of industry.”

Whilst Open Air Display is an ‘AA’ discretionary use within the Rural zone, and Rural Industry and Rural Use are ‘P’ permitted uses within the Rural zone, the proposed plant nursery does not fit under any of the three use classes.

Furthermore, a Shop is an ‘X’ use and not permitted in the Rural zone, noting the proposed plant nursery will not be a formal retail outlet and again does not fit within this use class. For comparison, the plant nursery at 200 Hampton Street, Bridgetown was approved by Council in 2005 as a Shop, as it displays and sells plants and associated garden products, but does not propagate plants for sale as proposed in the current application.

Under Town Planning Scheme No. 4 (TPS4), which only applies to land outside of the Bridgetown Townsite and not applicable to the current application, a Nursery *“means land and buildings used for the propagation, rearing and sale of products associated with horticultural and garden décor”* although the use is not even listed in TPS4.

TPS4 does list and similarly defines a Retail Nursery as *“means land and buildings used for the propagation, rearing and sale of trees, plants, shrubs or flowers, and the storage and sale of products associated with horticulture and garden décor”*.

Although the definitions of Nursery or Retail Nursery from TPS4 can not be applied to the current application, which is regulated through TPS3, the proposed use best fits within the Retail Nursery definition, albeit without the associated products.

Clause 3.3.3 states that *“If the land use for a particular purpose is not specifically referred to in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes shown, Council may:*

- (i) determine that the use is not consistent with the objectives and purposes of the particular zone, and is therefore not permitted; or*
- (ii) determine by absolute majority that the proposed use is consistent with the objectives and purposes of the zone, and may be considered for Planning Approval.”*

The proposed plant nursery can not be classified under any current land uses listed in Table 1 Zoning Table of TPS3, so can be appropriately assessed as a ‘Use Not Listed’ pursuant to Clause 3.3.3, as discussed below.

In regard to the Rural zone applicable to the subject property, Clause 4.5 of TPS3 states that *“Council’s objective will be to retain the rural character of the zone in the interests of the town’s landscape and environment.”*

Council therefore has the discretion, by absolute majority, to determine that the ‘Use Not Listed – Plant Nursery’ is consistent with the objective of the Rural zone and that development approval may be considered. Should Council determine that the use is not consistent with the objective the proposal is therefore not permitted.

The proposed plant nursery is modest in scale with limited impact expected for adjoining properties, the local road network or character and landscape of the local environment. It is therefore recommended that Council support the proposal as a ‘Use Not Listed’, for the purpose of public consultation, for delegated determination by the Chief Executive Officer.

Policy - Nil

Strategic Plan Implications

- Strategic Community Plan - Nil
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

The required development application fee has been paid to consider the proposal.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity

Development and operation of the plant nursery is not expected to create any environmental issues.

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement – Not applicable

Delegated Authority

Nil - Officers do not have delegated authority to determine if the proposal is consistent with the objectives and purposes of the particular zone, and whether approval can be considered. A decision of Council by Absolute Majority is therefore required.

Voting Requirements – Absolute Majority

**Council Decision Moved Cr Hodson, Seconded Cr Moore
C.06/0916 That Council:**

- 1. Determines that the proposed ‘Use Not Listed – Plant Nursery’ at Lot 3 (79) Blechynden Street, Bridgetown is consistent with the objective of the ‘Rural’ zone under Clause 4.5 and may be considered for development approval pursuant to Clause 3.3.3 of Town Planning Scheme No. 3.**
- 2. Directs the Chief Executive Officer to undertake necessary public consultation in relation to Point 1. above, and grants delegated authority to the Chief Executive Officer to determine the development application subject to necessary conditions should no objections be received.**

Absolute Majority 7/0

Works & Services - Nil

Community Services

ITEM NO.	C.07/0916	FILE REF.	460.1
SUBJECT	Bridgetown Leisure Centre Reserve Account		
OFFICER	Executive Manger Community Services		
DATE OF REPORT	30 August 2016		

Attachment 13 Photos of Area to Be Concreted

OFFICER RECOMMENDATION that Council approves unbudgeted expenditure of \$19,263 to be funded by a contribution of \$1,818 from Safeway Building and Renovations Pty Ltd with the balance of \$17,445 being via transfer of that sum from the Bridgetown Leisure Centre Reserve Account for the following works at the swimming pool and surrounds:

- i) Landscaping above the limestone retaining wall recently constructed on the western fence line of the facility (\$2,000).*
- ii) Upgrading the main isolation unit in the pump room (\$2,932).*
- iii) Strengthening the toilet cubicle walls to mitigate risk of future damage in the male and female ablutions (\$2,831).*
- iv) Concreting unfinished ground areas at the base of the new retaining wall and the northern end of the existing basketball court, extending into the gas chlorine shed facility at the rear of the aquatic complex (\$7,500).*
- v) Installation of a new drainage line connecting the downpipes on the amenities building with the existing drainage system in the adjacent car park and installation of sub soil drainage along the southern and western walls of the amenities building connecting into the car park drainage (\$4,000)*

Summary/Purpose

During the pool off-season a number of improvement works at the Bridgetown Swimming Pool have been identified. One of the works (connection of downpipes on the amenities building) has been classified as a defect and accordingly it is being funded by the swimming pool builder. The other works are improvements to either the appearance or functionality of the swimming pool complex and are outside the current budget. Accordingly the approval of Council to fund the cost of these works from the Bridgetown Leisure Centre Reserve Account is sought.

Background

At the December 2015 meeting, Council resolved, in part, as follows (C.10/1215)

Endorses the creation of a new reserve account for the purpose of funding new initiatives at the Bridgetown Leisure Centre and name that reserve account the Bridgetown Leisure Centre Reserve Account.

The purpose of the Bridgetown Leisure Centre Reserve Account is:

To be used for the purpose of funding new initiatives at the Bridgetown Leisure Centre.

The current balance (as per 2016/17 budget) is \$130,548.

Officer Comment

i) Landscaping

Following the opening of the aquatic complex earlier in 2016, works and services staff identified the need to retain the embankment on the north western end of the facility to negate soil erosion along a portion of the fence line. These works were completed in the 2015/16 within the overall redevelopment project budget.

Works and services staff has subsequently identified the need to plant out an area atop the retaining wall to further stabilise and visually soften this area. The works can be undertaken in house once plants are purchased.

ii) Main Isolation Switch Upgrade

The main isolation switch is the point of control for the speed at which the pool pumps operate. The ability to adjust the pumps' operating capacity is an important element of maintaining energy efficiency use of the facility however the variable speed drive (VSD) switches are installed on the interior of the power box. The original intent was to have an interface system to allow access to the VSD switches without exposing staff (and contractors) to risk by opening this box (due to the exposed wiring with 440V capacity). Despite this intent the swimming pool construction contract didn't specifically reference the installation of an interface system.

iii) Ablution Shower and Toilet Cubicles

Works are proposed to strengthen the partitions between the shower and toilet cubicles. These are not reinforced from the ceiling and are only secured by lightweight footings into the floor.

Considerable research into strengthening cubicle partitions was done for the Bridgetown Sportsground change room project and those works have resulted in a very durable outcome. The works proposed at the swimming pool aim to achieve the same outcome.

Whilst the current partitions at the swimming pool meet the requirements of the building contract, in light of the research undertaken for the Bridgetown Sportsground project there are concerns about their durability to withstand a push or fall against a cubicle wall causing damage to the facility and potentially injuring a patron. It is considered prudent to request Council consider additional expense which will enable the matter to be improved, strengthening the existing cubicles by installing a head channel and extra footing for each partition. Similar works are planned at the male toilet facilities in the library (within existing building maintenance budget allocations).

iv) Concreting Works

Concreting works are recommended to improve safety, reduce risk and improve visual amenity of the identified area. With the completion of the limestone retaining wall along the western boundary of the swimming pool complex there remains a narrow section of gravel between the wall and the existing half-court basketball court. In addition to being an unattractive appearance already there has been a tendency for gravel to wash onto the basketball court causing slip hazards to users. Likewise the area immediately north of the basketball court is unsealed and also tends to spread gravel onto the court. Vehicular access to the gas chlorine shed must also cross this area and causes the spread of gravel, mud and dirt onto the court.

v) Drainage Works at Amenities Building

During winter it became evident that the drainage systems near the amenities building were insufficient as stormwater drainage on occasions overflowed into the adjacent car park. The downpipes on the south and west sides of the amenities building are currently directed into a small soak well and this has proven to be deficient. In discussions with the swimming pool builder (Safeway Building and Renovations Pty Ltd) this was identified as being a defect and the builder has agreed to fund the cost of rectification. The rectification will be the connection of downpipes into new piping and discharge to the existing drainage system within the car park. The estimated cost of this work is \$1,818 ex GST and Safeway has agreed to fund that work.

In addition to the problems caused by the downpipe drainage during the winter there was evidence of groundwater seeping into the amenities building sand pad from under the wall on its southern side. This groundwater seepage wasn't evident during the construction period and has only been evident this winter with the increased rainfall. To prevent this from reoccurring it is proposed to install subsoil drainage pipes along the southern and western sides of the amenities building and connecting these to the existing drainage infrastructure in the adjacent car park.

As the discharge point for both drainage works is the same the builder agreed to pay the Shire the costs of its work so that the Shire could coordinate both works as a single job.

Conclusion

Of all the proposed works the drainage at the amenities building is the most critical and is considered essential in order to prevent future damage to the amenities building. The other works, whilst strongly recommended, are not essential for the operation of the pool. All these works however will provide benefits, being savings in electricity consumption (main isolation switch upgrade), whole of life asset management (strengthening of cubicle partitioning), improvements in visual appearance (landscaping and concrete works) and user safety/risk management (main isolation switch upgrade and concrete works).

Statutory Environment

Section 6.8 of the Local Government Act requires an absolute majority decision for expenditure not included in the annual budget.

Integrated Planning

Strategic Community Plan 2013

Outcome 3.1 - Maintain a high standard of lifestyle, recreational and cultural facilities.

Outcome 3.1.4 Update and implement the Sport & Recreation Strategic Plan

Sport & Recreation Strategic Plan

Key Indicator 1.1 Redevelop the Bridgetown Swimming Pool

Budget Implications

None of the proposed works are provided for in the 2016/17 budget.

Fiscal Equity - Not Applicable

Whole of Life Accounting

The Bridgetown Leisure Centre Business Plan identifies the whole of life costings associated with the maintenance of the facility for a 10 year period. The recommendations highlight the need for unbudgeted items that have not been identified for various reasons as highlighted in the officer comment. Recommendation (ii) will assist to regulate utility use to assist in reducing annual operating costs.

Social Equity

The recommendations sit within the scope of development and integration of recreation services aimed at enhancing social inclusion by providing high quality services and facilities to deliver recreation services.

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management

The officer's recommendations seek to mitigate potential risk associated with the use of the facilities at the swimming pool and on the adjacent half-court basketball court.

Continuous Improvement

The proposals seek to improve the visual amenity, connectivity and access to facilities in alignment with continuous improvement principles.

Delegated Authority

Voting Requirements – Absolute Majority

Council Decision Moved Cr Wilson, Seconded Cr Boyle

C.07/0916 That Council approves unbudgeted expenditure of \$19,263 to be funded by a contribution of \$1,818 from Safeway Building and Renovations Pty Ltd with the balance of \$17,445 being via transfer of that sum from the Bridgetown Leisure Centre Reserve Account for the following works at the swimming pool and surrounds:

- (i) Landscaping above the limestone retaining wall recently constructed on the western fence line of the facility (\$2,000).***

(ii) Upgrading the main isolation unit in the pump room (\$2,932).

(iii) Strengthening the toilet cubicle walls to mitigate risk of future damage in the male and female ablutions (\$2,831).

(iv) Concreting unfinished ground areas at the base of the new retaining wall and the northern end of the existing basketball court, extending into the gas chlorine shed facility at the rear of the aquatic complex (\$7,500).

(v) Installation of a new drainage line connecting the downpipes on the amenities building with the existing drainage system in the adjacent car park and installation of sub soil drainage along the southern and western walls of the amenities building connecting into the car park drainage (\$4,000).

Absolute Majority 7/0

Consideration of Standing Committee Recommendations

Items adopted by Council using the en bloc system were:

- | | |
|-----------|---|
| C.09/0916 | Proposed Amendments to State Planning Policy 3.1 – Residential Design Codes |
| C.11/0916 | Rolling Action Sheet |

To allow for numerical follow through of Reports/Items, the above Council Decisions are marked with an *

C.08/0916	Standing Committee Minutes – 8 September 2016 – Attachment 14
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Note: All Attachments referenced in the Standing Committee Recommendations below are as per the Standing Committee Agenda.

C.09/0916	Proposed Amendments to State Planning Policy 3.1 – Residential Design Codes
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Committee Recommendation Moved Cr Nicholas, Seconded Cr Boyle
SC.02/0916 That Council directs the Chief Executive Officer to lodge a submission with the Western Australian Planning Commission stating that whilst Council supports the majority of the proposed amendments to the Residential Design Codes as identified in Attachment 1, Council requests that the final document suitably address the following:

1. Amendment No. 25 - Given the proposed amendment to the definition of 'Grouped Dwelling' will now relate to a dwelling on a survey strata lot with or without common property, the reference to survey strata lots should be deleted in Appendix 1 from the definition of 'Single House' and first dot point in 'Site' relating to single houses.
2. Amendment No. 26 - The reduced setback of 1.2 metres to a raised outdoor living area under Deemed-to-comply C3.1 ii. is inconsistent with Design

principle P3.1, and that C3.1 ii. be modified to retain the current 1.5 metre setback to a boundary for a raised outdoor living area.

3. Amendment 26 - The reduced setback of 1.2 metres to a single storey wall with a major opening with an unlimited length is inconsistent with Design principle P3.1, and that Table 2b be modified to allow a reduced 1.2 metre setback to a boundary for a wall with a major opening where the wall has a length of 9 metres or less only.

Council Decision Moved Cr Wilson, Seconded Cr Pratico

***C.09/0916 That Council directs the Chief Executive Officer to lodge a submission with the Western Australian Planning Commission stating that whilst Council supports the majority of the proposed amendments to the Residential Design Codes as identified in Attachment 1, Council requests that the final document suitably address the following:**

1. **Amendment No. 25 - Given the proposed amendment to the definition of 'Grouped Dwelling' will now relate to a dwelling on a survey strata lot with or without common property, the reference to survey strata lots should be deleted in Appendix 1 from the definition of 'Single House' and first dot point in 'Site' relating to single houses.**
2. **Amendment No. 26 - The reduced setback of 1.2 metres to a raised outdoor living area under Deemed-to-comply C3.1 ii. is inconsistent with Design principle P3.1, and that C3.1 ii. be modified to retain the current 1.5 metre setback to a boundary for a raised outdoor living area.**
3. **Amendment 26 - The reduced setback of 1.2 metres to a single storey wall with a major opening with an unlimited length is inconsistent with Design principle P3.1, and that Table 2b be modified to allow a reduced 1.2 metre setback to a boundary for a wall with a major opening where the wall has a length of 9 metres or less only.**

Carried 7/0

C.10/0916	Infirm Parking and Membership of Access and Inclusion Committee
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Committee Recommendation Moved Cr Pratico, Seconded Cr Moore

SC.03/0916

1. That Council directs the CEO to investigate and negotiate a lease agreement with 'Australia Post' and 'TGC and KPC Pty Ltd' for the purpose of installing Australian Council for Rehabilitating of Disabled (ACROD) parking bays in the Bridgetown Post Office car park and on the southern side of Howard Evans Legal Office.
2. That Council directs the CEO to install an ACROD parking bay in the Shire Administration Building car park near the Lesser Hall external public toilet.
3. That Council directs the CEO to revert all Infirm Parking Bays in the town centre - outside the Bridgetown Bakery, IGA, the Post Office - back to general use parking bays.

4. That Council accepts the verbal resignation of Dyan Dent (Geegeelup Village), Helen Gales (Red Cross) and Peter Seaward (Enable Representative).
5. That Council endorses the appointment of Jesse Donovan (Community Member) to the Access and Inclusion Advisory Committee.

**Council Decision Moved Cr Pratico, Seconded Cr Moore
C.10/0916**

1. ***That Council directs the CEO to investigate and negotiate a lease agreement with 'Australia Post' and 'TGC and KPC Pty Ltd' for the purpose of installing Australian Council for Rehabilitating of Disabled (ACROD) parking bays in the Bridgetown Post Office car park and on the southern side of Howard Evans Legal Office.***
2. ***That Council directs the CEO to install an ACROD parking bay in the Shire Administration Building car park near the Lesser Hall external public toilet.***
3. ***That Council directs the CEO to revert all Infirm Parking Bays in the town centre - outside the Bridgetown Bakery, IGA, the Post Office - back to general use parking bays.***
4. ***That Council accepts the verbal resignation of Dyan Dent (Geegeelup Village), Helen Gales (Red Cross) and Peter Seaward (Enable Representative).***
5. ***That Council endorses the appointment of Jesse Donovan (Community Member) to the Access and Inclusion Advisory Committee.***

Absolute Majority 7/0

C.11/0916	Rolling Action Sheet
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Committee Recommendation Moved Cr Pratico, Seconded Cr Hodson
SC.04/0916 That the information contained in the Rolling Action Sheet be noted.

Council Decision Moved Cr Wilson, Seconded Cr Pratico

****C.11/0916 That the information contained in the Rolling Action Sheet be noted.***

Carried 7/0

C.12/0916	Adoption of En Bloc Items
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Council Decision Moved Cr Wilson, Seconded Cr Pratico

C.12/0916 That Council adopts Items C.09/0916 and C.11/0916 of the Local Laws, Strategy, Policy & Organisation Development Standing Committee and hereby resolves in the terms of each of the Committee Recommendations.

Carried 7/0

Receival of Minutes from Management Committees - Nil

Urgent Business Approved by Decision

Cr Nicholas declared an Impartiality Interest in Item C.13/0916 as many years ago he knew Joe Radici, Managing Director of Dillinger Group Development Pty Ltd. Cr Nicholas stated he would consider the item on its merits and vote accordingly.

The CEO, being the author of the agenda item declares a financial interest in Item C.13/0916 due to the report concerning his employment and remuneration.

ITEM NO.	C.13/0916	FILE REF.	
SUBJECT	Appointment of Consultant to Facilitate 2016 CEO Performance Review		
OFFICER	Chief Executive Officer		
DATE OF REPORT	29 September 2016		

Attachment 15 – Proposal (original plus addendum) from Dillinger Group Development Pty Ltd

Reason for Urgent Business: The CEO Performance Committee met on 29 September 2016 to consider submissions from shortlisted consultants and recommend a preferred consultant to Council. Appointment of the consultant at the September meeting will allow the annual performance review process to commence upon availability of the consultant.

OFFICER RECOMMENDATION that Item C.13/0916 be accepted as urgent business.

OFFICER RECOMMENDATION That Dillinger Group Development be appointed to facilitate the CEO Performance Review for the period 1 July 2015 to 30 June 2016.

Summary/Purpose

Council for many years has engaged an external consultant to assist the CEO Performance Review Committee. For the last six years (reviews) Council's industrial relations advisor/consultant, Fitz Gerald Strategies been appointed by Council to carry out this task.

At its meeting held on 25 July 2016 the CEO Performance Review Committee determined to seek a minimum of three quotes/proposals from consultants. These quotes/proposals were considered by the Committee at its meetings held on 16 September 2016 and 29 September 2016 with the Committee recommending the appointment of Dillinger Group Development.

Background

For the last six years Council has engaged Fitz Gerald Strategies to assist the CEO Performance Review Committee in carrying out the performance review of the CEO.

In 2013 Council tested the market by considering a proposal from WALGA Workforce Solutions but resolved to continue with using Fitz Gerald Strategies to

facilitate the CEO performance review. In 2014 and 2015 Council appointed Fitz Gerald Strategies without seeking alternative proposals.

The process used in recent years by the CEO Performance Review Committee has been:

1. Consultant develops a performance review template document in consultation with CEO Performance Review Committee. The document used in recent years is divided into two sections – one to be completed by the CEO responding to a number of questions and the other section to be completed individually by the councillors. The document is only sent to councillors once Part 1 is completed by the CEO. At the conclusion of the 2015 review process Council indicated it wished to review the contents of the performance review template document and a separate item is contained in this agenda to discuss that matter.
2. CEO prepares a document reporting on progress during the review period in actioning all the actions contained in Council's Corporate Business Plan. This is sent to councillors with the review document mentioned in part 1 above.
3. CEO prepares a document reporting on compliance to his key performance indicators (as contained in contract of employment). This is also sent to councillors with the review document mentioned in part 1 above.
4. Once completed councillors send their completed review document back to the consultant – consultant tabulates responses in report to CEO Performance Review Committee.
5. Consultant meets with CEO Performance Review Committee to go through his report (refer Part 4 above) and to facilitate discussions between the Committee and CEO
6. Consultant makes notes/minutes of the CEO Performance Review Committee meeting
7. Consultant prepares a report for consideration by the CEO Performance Review Committee, including a summary/consensus of councillor responses on the performance of the CEO, remuneration issues, setting of any specific KPIs for next review period and any other relevant matter. If required consultant attends second meeting of the CEO Performance Review Committee.
8. Consultant finalises report suitable for presentation to Council

At its meeting held on 25 July 2016 the CEO Performance Review Committee determined to request the CEO to seek quotes/proposals from a minimum three consultants.

Three proposals were received and were considered by the Committee at its meeting held on 16 September 2016 where it was determined that more information or clarification was required for each proposal. The CEO was directed to liaise with the three consultants to obtain the necessary information. This information was received and was presented to a meeting of the CEO Performance Review Committee on 29 September 2016 where the following recommendation to Council was carried:

That the Committee recommend to Council the appointment of Dillinger Group Development as consultant to facilitate the CEO Performance Review for the period 1 July 2015 to 30 June 2016.

The proposal from Dillinger Group Development consists of four phases with Phase 1 being significantly changed from the original proposal to the amended proposal (addendum), taking into account initial feedback provided by the CEO Performance Review Committee.

At the Council meeting Committee members will outline verbally to other councillors the reasoning behind the recommendation of Dillinger Group Development.

The cost of engaging Dillinger Group Development is \$6,160 ex-GST which was the most expensive of the three quotes/proposals received. This amount is considerably in excess of the budget allocation for this work however the Committee believe the proposal from Dillinger Group Development best meets the feedback received from councillors in recent years about the robustness and structure of the CEO performance review process.

Statutory Environment

Clause 5.38 of the Local Government Act requires an annual performance assessment to be undertaken. The performance review process for the position of CEO is set out in that officer's Contract of Employment.

Under the terms of the CEO's Contract of Employment the selection of a consultant for the performance review must be to the satisfaction of both parties.

Policy – Nil

Integrated Planning

- Strategic Community Plan
Objective 4 – a collaborative and engaged community
Outcome 4.7 - A high standard of human resource management practices
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans – Not Applicable
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

The 2016/17 budget allows for an amount of \$2,265 for the services of a consultant to assist with the CEO performance review. The Committee noted this budget allocation in its considerations but has recommended the appointment of Dillinger Group Development at a significantly higher cost. If the Committee's recommendation of Dillinger Group Development is endorsed by Council the cost overrun on the relevant budget account will be addressed at the mid-year budget review.

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management

The CEO is the only employee the Council is able to direct. Therefore the review of the performance of that employee is of critical importance to the performance and direction of the whole organisation.

Continuous Improvement

Engaging the services of a consultant lessens the volume of work to be undertaken by committee members as well as providing the Committee with specific expertise in the area of local government CEO performance review and management.

Voting Requirements – Simple Majority

**Council Decision Moved Cr Moore, Seconded Cr Pratico
C.13/0916 That Item C.13/0916 be accepted as urgent business.**

Carried 7/0

Moved Cr Boyle, Seconded Cr Pratico

That Dillinger Group Development be appointed to facilitate the CEO Performance Review for the period 1 July 2015 to 30 June 2016.

**Council Decision Moved Cr Pratico, Seconded Cr Hodson
C.13/0916a That Council invokes clause 18.1 of the Standing Orders to allow for informal discussion.**

Carried 7/0

**Council Decision Moved Cr Pratico, Seconded Cr Moore
C.13/0916b That application of clause 18.1 of the Standing Orders cease.**
Carried 7/0

The Motion was Put

**Council Decision Moved Cr Boyle, Seconded Cr Pratico
C.13/0916c That Dillinger Group Development be appointed to facilitate the CEO Performance Review for the period 1 July 2015 to 30 June 2016.**

Carried 7/0

Responses to Elected Member Questions Taken on Notice - Nil

Elected Members Questions With Notice - Nil

Notice of Motions for Consideration at the Next Meeting - Nil


Matters Behind Closed Doors (Confidential Items) - Nil

Closure

The President closed the Meeting at 6.29pm

List of Attachments

Attachment	Item No.	Details
1	C.03/0916	July 2016 Financial Activity Statements
2	C.03/0916	August 2016 Financial Activity Statements
3	C.03/0916	List of Accounts Paid in August 2016
4	C.04/0916	Location Plan
5	C.04/0916	Applicant's Submission/Photographs
6	C.04/0916	Proposed Plans
7	C.05/0916	Locality Plan
8	C.05/0916	Neighbour's Submission
9	C.05/0916	Applicant's Submission
10	C.05/0916	Proposed Plans
11	C.06/0916	Location Plan/Aerial Photograph
12	C.06/0916	Proposed Plans/Applicant's Submission
13	C.07/0916	Photos of Area to be Concreted
14	C.08/0916	Standing Committee Minutes – 8 September 2016

Agenda papers checked and authorised by T Clynch, CEO		30.9.16
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CERTIFICATION OF MINUTES

As Presiding Member, I certify that the Minutes of the Council Meeting held 29 September 2016 were confirmed as a true and correct record of the proceedings of that meeting at the Ordinary Meeting of Council held on 27 October 2016.

..... 27 October 2016