

NOTICE OF AN ORDINARY MEETING OF COUNCIL

Dear Council Member

The next Ordinary Meeting of the Shire of Bridgetown-Greenbushes will be held on **Thursday, 29 August 2019** in the Council Chambers, commencing at 5.30pm

T Clynch, CEO



Date

22 August 2019

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AGENDA

For an Ordinary Meeting of Council to be held in the Council Chambers on Thursday, 29 August 2019 commencing at 5.30pm

Meeting to be opened by the Presiding Member

Acknowledgment of Country – Presiding Member

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

Attendance, Apologies and Leave of Absence

| | |
|---------------|--|
| President | - Cr A Pratico |
| Councillors | - J Bookless - J Boyle - D Mackman - J Moore - J Nicholas - P Scallan - A Wilson |
| In Attendance | - T Clynch, Chief Executive Officer - M Larkworthy, Executive Manager Corporate Services - E Denniss, Executive Manager Community Services - G Arlandoo, Executive Manager Development & Infrastructure |

Attendance of Gallery

Responses to Previous Questions Taken on Notice

Public Question Time

Petitions/Deputations/Presentations

Comments on Agenda Items by Parties with an Interest

Applications for Leave of Absence

Confirmation of Minutes

C.01/0819 Ordinary Meeting held 25 July 2019

A motion is required to confirm the Minutes of the Ordinary Meeting of Council held 25 July 2019 as a true and correct record.

C.02/0819 Special Meeting held 15 August 2019

Attachment 1

A motion is required to confirm the Minutes of the Special Meeting of Council held 15 August 2019 as a true and correct record.

Announcements by the Presiding Member Without Discussion

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.

Questions on Agenda Items by Elected Members

Consideration of Motions of which Previous Notice has been Given

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.03/0819 | FILE REF. | |
| SUBJECT | Warren Blackwood Sub-Regional Prospectus | | |
| PROPONENT | South West Development Commission | | |
| OFFICER | Chief Executive Officer | | |
| DATE OF REPORT | 21 August 2019 | | |

Attachment 2 Warren Blackwood Sub-Regional Prospectus (Print View)
Attachment 3 Draft Memorandum of Understanding for Warren Blackwood Sub-Regional Prospectus

OFFICER RECOMMENDATION that Council:

- 1. Endorse the Warren Blackwood Sub-Regional Prospectus.*
- 2. Authorise the CEO to sign the associated Memorandum of Understanding on behalf of the Shire of Bridgetown-Greenbushes.*
- 3. Authorise the CEO to determine the need for printing of hard copies of the Warren Blackwood Sub-Regional Prospectus, in consultation with the other local government partners and Talison Lithium Pty Ltd.*

Summary/Purpose

The Warren Blackwood Sub-Regional Prospectus is a collaborative project between the Shires of Bridgetown-Greenbushes, Donnybrook-Balingup, Boyup Brook, Manjimup and Nannup and the South West Development Commission. The Prospectus has been developed to provide an attractive pamphlet showcasing the sub-region.

Background

A meeting/workshop was held in Greenbushes on Monday 3 September 2018, facilitated by the South West Development Commission (SWDC) and attended by the Presidents and CEOs of the Shires of Bridgetown-Greenbushes, Donnybrook-Balingup, Boyup Brook, Manjimup and Nannup as well as representatives from the Department Planning and Landcorp. The purpose of the meeting was to discuss how the sub-region would respond to the expected growth associated with the Talison Lithium Expansion Project.

One of the outcomes from the above meeting was a decision to prepare a sub-regional prospectus for the purpose of showcasing the individual communities and what they offer to people looking to move to the region. The intent is to provide copies of the prospectus to Talison Lithium Pty Ltd for them to provide to prospective employees, promoting the sub-region as an attractive area to live. The prospectus could also be used for other marketing initiatives.

A Memorandum of Understanding (MOU) has been prepared by the SWDC to clearly identify the roles and responsibilities of each party. The key points of the MOU are:

SHIRE RESPONSIBILITIES UNDER THE MOU

The Shires shall undertake the following activities:

- Deliver information as applicable to ensure the currency and accuracy of the Warren-Blackwood Sub-Regional Prospectus;

- Share the current, endorsed version of the Warren Blackwood Sub-Regional Prospectus for public access on Shire websites;
- Manage the distribution of hard copies of the Warren Blackwood Sub-Regional Prospectus as deemed appropriate;
- Promote the Warren Blackwood Sub-Regional Prospectus as applicable;
- Review the Warren Blackwood Sub-Regional Prospectus annually to ensure content is current.

SWDC RESPONSIBILITIES UNDER THE MOU:

SWDC shall undertake the following activities:

- Develop the draft document based on information provided by the Shires and including summary contextual detail;
- Provide a draft digital design copy of the inaugural Warren Blackwood Sub Regional Prospectus;
- Store the current, endorsed version of the Warren Blackwood Sub-Regional Prospectus and apply version changes as identified through the annual review process;
- Promote the Warren Blackwood Sub-Regional Prospectus as appropriate.

The MOU will be effective as of the date of signature by all authorized representatives and shall last for five years thereafter. The MOU may be extended or amended to allow for related efforts by mutual agreement of the parties. Any party may withdraw from this agreement upon one hundred eighty (180) days written notice to the other parties.

Officer Comment

The Prospectus is a tool to be used as an attractor for people to choose to reside in the sub-region. Due to the number of towns in the sub-region and design parameters the information contained in the Prospectus has been kept at a high level.

The prospectus has been designed as a hard copy document but can also be uploaded to websites.

The intent is for either 500 or 1,000 copies of the Prospectus to be printed provide half to Talison Lithium to provide to their prospective employees, and the other half (50 copies each) to be used at each Shire's discretion.

Statutory Environment - Nil

Integrated Planning

- Strategic Community Plan
Key Goal 1 – Our Economy will be Strong, Diverse and Resilient
Objective 1.1 - a diverse economy that provides a range of business and employment opportunities.
Strategy 1.1.1 - Encourage long term growth in the district in order to retain and enhance services
- Corporate Business Plan - Nil
- Long Term Financial Plan – Nil
- Asset Management Plans - Not Applicable

- Workforce Plan – Not Applicable
- Other Integrated Planning - Nil

Policy - Nil

Budget Implications

Printing costs are at the Local Government's responsibilities. For a combined print run of 500 copies each Shire would contribute \$318.50 and for 1,000 copies this would increase to \$396 each. Further printing is the responsibility of each individual Shire.

The distribution of the Prospectus can be linked to Council's intention to develop an infrastructure plan to present to Government on the infrastructure requirements associated with the expected population growth derived from the Talison Lithium Expansion Project. Accordingly the printing costs for the prospectus can be costed to Account PJ36 (Infrastructure Plan) which has an allocation in the 2019/20 budget of \$55,000.

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

Voting Requirements – Simple Majority

| | | | |
|-----------------------|---|------------------|--|
| ITEM NO. | C.04/0819 | FILE REF. | |
| SUBJECT | Warren Blackwood Sub-Regional Growth Plan | | |
| PROPONENT | South West Development Commission | | |
| OFFICER | Chief Executive Officer | | |
| DATE OF REPORT | 21 August 2019 | | |

Attachment 4 Warren Blackwood Sub-Regional Growth Plan
Attachment 5 Draft Memorandum of Understanding for Warren Blackwood Sub-Regional Growth Plan

OFFICER RECOMMENDATION that Council:

- 1. Endorse the Warren Blackwood Sub-Regional Growth Plan.*
- 2. Authorise the CEO to sign the associated Memorandum of Understanding on behalf of the Shire of Bridgetown-Greenbushes.*

Summary/Purpose

The Warren Blackwood Sub-Regional Growth Plan is a collaborative project between the Shires of Bridgetown-Greenbushes, Donnybrook-Balingup, Boyup Brook, Manjimup and Nannup and the South West Development Commission. The Plan has been developed to provide a strategic overview of sub-regional economic and social priorities, reflecting localised planning and development documents and aligned with regional and State development documents, including the SW Regional Blueprint. It will be utilized to leverage current and future socio-economic opportunities and pursue funding to facilitate growth.

Background

In September 2018 discussions were held between the South West Development Commission (SWDC) and the Shires of Bridgetown-Greenbushes, Donnybrook-Balingup, Boyup Brook, Manjimup and Nannup to discuss how the sub-region would respond to the expected growth associated with the Talison Lithium Expansion Project.

One of the outcomes from the above meeting was a decision to prepare a sub-regional growth plan to provide a framework for a strategic overview of sub-regional economic and social priorities.

The Plan shows the global changes impacting at a sub-regional level and highlights the resources, skills and opportunities within the area. It is linked to localised planning and development documents and aligned to the SW Regional Blueprint and State development priorities. By identifying sub-regional issues and highlighting core requirements to underpin growth and sustainability, it will assist facilitate and leverage current and emerging development and funding opportunities.

A Memorandum of Understanding (MOU) has been prepared by the SWDC to clearly identify the roles and responsibilities of each party. The key points of the MOU are:

SHIRE RESPONSIBILITIES UNDER THE MOU

The Shires shall undertake the following activities:

- Provide information as applicable to ensure the currency and accuracy of the Warren-Blackwood Sub-Regional Growth Plan;

- Share the current, endorsed version of the Warren Blackwood Sub-Regional Growth Plan for public access on Shire websites, and in hard copy as applicable;
- Support the actions and projects identified in the Warren Blackwood Sub-Regional Growth Plan;
- Review the Warren Blackwood Sub-Regional Growth Plan every 12 months, providing feedback on current projects and activities outlined in the document.

SWDC RESPONSIBILITIES UNDER THE MOU:

SWDC shall undertake the following activities:

- Facilitate workshops to identify and discuss sub-regional priorities and projects;
- Develop the inaugural draft document based on information provided by the Shires and including summary strategic contextual detail;
- Provide a digital copy of the inaugural Warren Blackwood Sub-Regional Growth Plan;
- Store the current, endorsed version of the Warren Blackwood Sub-Regional Growth Plan and apply version changes as identified through the yearly review process;
- Promote the Warren Blackwood Sub-Regional Growth Plan as appropriate.

The MOU sets out that all Shires understand and accept that adoption and implementation of the initial Growth Plan and any future changes to the Growth Plan, as per the review process, will be determined and progressed based on the majority of parties being in agreement with the changes.

Officer Comment

A draft Sub-Regional Growth Plan was workshopped by councillors at the February 2019 concept forum and several changes were made that are reflected in the final document. There has also been discussion of the Plan at meetings of the Warren Blackwood Alliance of Council where Council is represented by Cr Pratico, Cr Wilson and the CEO.

Statutory Environment - Nil

Integrated Planning

➤ Strategic Community Plan

Specifically the development of the Warren Blackwood Sub-Regional Growth Plan is consistent with the following strategies contained in Council's Strategic Community Plan:

Key Goal 1 – Our Economy will be Strong, Diverse and Resilient

Objective 1.1 - a diverse economy that provides a range of business and employment opportunities.

Strategy 1.1.1 - Encourage long term growth in the district in order to retain and enhance services

Strategy 1.1.2 - Develop and implement strategic plans and actions that attract economic development

However the contents of the Warren Blackwood Sub-Regional Growth Plan are generally consistent with the directions espoused throughout the Strategic Community Plan.

- Corporate Business Plan
The contents of the Warren Blackwood Sub-Regional Growth Plan are consistent with the actions contained within the Corporate Business Plan.
- Long Term Financial Plan - Nil
- Asset Management Plans - Not Applicable
- Workforce Plan – Not Applicable
- Other Integrated Planning - Nil

Policy - Nil

Budget Implications - Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity

Social initiatives are contained within the Warren Blackwood Sub-Regional Growth Plan.

Ecological Equity

Ecological/environmental initiatives are contained within the Warren Blackwood Sub-Regional Growth Plan.

Cultural Equity

Cultural initiatives are contained within the Warren Blackwood Sub-Regional Growth Plan.

Risk Management – Not Applicable

Continuous Improvement – Not Applicable

Voting Requirements – Simple Majority

| | | | |
|-----------------------|-------------------------|------------------|-----|
| ITEM NO. | C.05/0819 | FILE REF. | 209 |
| SUBJECT | Rolling Action Sheet | | |
| OFFICER | Chief Executive Officer | | |
| DATE OF REPORT | 20 August 2019 | | |

Attachment 6 Rolling Action Sheet

OFFICER RECOMMENDATION that the information contained in the Rolling Action Sheet be noted.

Summary/Purpose

The presentation of the Rolling Action Sheet allows Councillors to be aware of the current status of Items/Projects that have not been finalised.

Background

The Rolling Action Sheet has been reviewed and forms an Attachment to this Agenda.

Statutory Environment – Nil

Policy/Strategic Plan Implications – Nil

Budget Implications – Nil

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

Voting Requirements – Simple Majority

Corporate Services

| | | | |
|-----------------------|--|------------------|-----|
| ITEM NO. | C.06/0819 | FILE REF. | 131 |
| SUBJECT | July 2019 Financial Activity Statements and List of Accounts Paid in July 2019 | | |
| OFFICER | Senior Finance Officer | | |
| DATE OF REPORT | 20 August 2019 | | |

Attachment 7 July 2019 Financial Activity Statements
Attachment 8 List of Accounts Paid in July 2019

OFFICER RECOMMENDATIONS

- 1. That Council receives the July 2019 Financial Activity Statements as presented in Attachment 7.*
- 2. That Council receives the List of Accounts Paid in July 2019 as presented in Attachment 8.*

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;
- an explanation of each of the material variances referred to in sub-regulation (1)(d); and
- 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.

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
 - Key Goal 5: Our leadership will be visionary, collaborative and accountable
 - Objective 5.2: We maintain high standards of governance, accountability and transparency
 - Strategy 5.2.8: Ensure all legislative responsibilities and requirements are met
- 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 July 2019 and presented in the list of accounts paid, has been allocated in the 2019/20 Budget adopted by Council at its Special Meeting held on 15 August 2019.

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

| | | | |
|-----------------------|--------------------------------------|------------------|-----|
| ITEM NO. | C.07/0819 | FILE REF. | 410 |
| SUBJECT | Hall Hire Bonds | | |
| OFFICER | Executive Manager Corporate Services | | |
| DATE OF REPORT | 20 August 2019 | | |

OFFICER RECOMMENDATION that Council:

- 1. Amend its existing Hall Hire Bond from \$100 to \$200.*
- 2. Remove from all hall hire booking forms the clause passing liability on to the hall hirer for payment of any damages up to the amount of Council's insurance excess.*
- 3. Gives public notice of the increased bond amount with the increase to apply from 4 September 2019 onwards.*

Summary/Purpose

To consider an increase in the bond payable for hall hire bookings in lieu of the hirer being liable for damages up to the amount of Council's insurance excess.

Background

Each year Council reviews and adopts the level of fees and charges that will apply for the following financial year. In May 2019 Council reviewed and adopted the fees and charges that would apply for the 2019/20 financial year. The draft fees and charges presented in May included an increase in the bond payable for hall hire bookings from \$100 to \$500. The recommended increase was in consideration of Council's current insurance excess payable in the event of a property damage claim. In considering the bond amount for hall hire bookings Council resolved in part as follows:

"C.08/0519 That Council:

1. Adopt the 2019/20 Schedule of Fees & Charges as per Attachment 4 with the following minor changes:

a) Under 'Recreation & Culture' – 'Miscellaneous Fees' - retain Bond at \$100, with the standard Hall Hire Agreement being modified to pass liability on to the hall hirer for payment of any damages up to the amount of the insurance excess."

The fees and charges as adopted by Council were introduced from 1 July 2019 and Council's hall hire booking forms were amended in accordance with Council's resolution. Since introduction of the new clause correspondence has been received from a casual hirer requesting Council reconsider the introduction of this new clause.

The reason contained within the correspondence requesting Council's reconsideration was:

"This has never been required before and I pose the question as to why now? The facilities haven't changed and neither has the nature of the functions nor the manner in which they are run."

Officer Comment

The reason for the Officer recommending an increase in the hall hire bond payable in the draft 2019/20 Fees and Charges was to mitigate Council's exposure to financial loss in the event of insurance claims associated with the hire of such facilities.

The current levels of excess payable by Council for claims associated with property damage are as follows:

\$500 – Casual Hirers (excludes incorporated bodies and commercial activities)
\$1,000 – Hirers Not Classified as Casual

In assessing Council's potential exposure to financial risk the following information is provided:

- There have been no insurance claims lodged in the last fifteen years in relation to hall hire
- Council's current insurance excess levels are the minimum payable under the LGIS Property Scheme

In consideration of the excess amount payable and the likelihood of future insurance claims in relation to hall hire, the financial risk is considered low should Council resolve to remove the clause contained in the hire form passing responsibility to the hirer for payment of any insurance excess. It is however being recommended that Council consider an increase in the Hall Hire Bond payable from \$100 to \$200 to reduce the financial loss in the event of future claims.

Statutory Environment

Section 6.16(1) and (2) of the Local Government Act states:

- (1) *A local government may 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.*
- (2) *A fee or charge may be imposed for the following —*
 - (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) *supplying a service or carrying out work at the request of a person;*
 - (c) *subject to section 5.94, providing information from local government records;*
 - (d) *receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) *supplying goods;*
 - (f) *such other service as may be prescribed.*

Section 6.17(1) of the Local Government Act states:

In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —

- (a) the cost to the local government of providing the service or goods;*
- (b) the importance of the service or goods to the community; and*
- (c) the price at which the service or goods could be provided by an alternative provider.*

Section 6.19 of the Local Government Act states:

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.*

Policy Implications – Nil

Integrated Planning

- Strategic Community Plan
Key Goal 5 Our leadership will be visionary, collaborative and accountable
Objective 5.2 We maintain high standards of governance, accountability and transparency
Strategy 5.2.6 Ensure the future financial sustainability of the organisation
- Corporate Business Plan – Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan – Nil
- Other Integrated Planning - Nil

Budget Implications

No specific allocations are included in Council's 2019/20 Budget for insurance excesses payable. In the event of a claim resulting in an excess amount being payable this would be charged against the general maintenance allocation included in the budget for the associated facility.

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management

Should Council resolve in accordance with the officer recommendation Council will be accepting the financial risk associated with any excess payable in the event of a claim over and above the bond amount.

Continuous Improvement – Not Applicable

Voting Requirements – Absolute Majority

Development & Infrastructure

| | | | |
|-----------------------|--|------------------|--------|
| ITEM NO. | C.08/0819 | FILE REF. | A37613 |
| SUBJECT | Proposed Single House (Policy Variation) | | |
| PROPONENT | Built Right Approvals on behalf of Ben Ryan Builders | | |
| LANDOWNER | Christopher Shedley | | |
| LOCATION | Lot 101 (17) Whittells Road, Bridgetown | | |
| OFFICER | Manager Planning | | |
| DATE OF REPORT | 16 August 2019 | | |

Attachment 9 Location Plan/Aerial Photo
Attachment 10 Applicant's Submission
Attachment 11 Proposed Plans/Bushfire Reports

OFFICER RECOMMENDATION: That Council noting that no public submissions were received, and pursuant to Clause 6.7.4 under Town Planning Scheme No. 3 waives the Minimum Floor Area Policy and approves the proposed single house at Lot 101 (17) Whittells Road, Bridgetown, as per Attachment 11, subject to the following conditions:

- 1. The proposed dwelling is to have a minimum floor area 42.5m² excluding any external verandahs, shown on the approved plans.*
- 2. The development is to be constructed in accordance with BAL-29 standards pursuant to Australian Standard AS3959 Construction of Buildings in Bush-Fire Prone Areas.*
- 3. The findings and recommendations of the Bushfire Attack Level Assessment (dated 21 July 2019) and Bushfire Management Statement (dated 25 July 2019) must be implemented to maintain the BAL-29 rating for the life of the dwelling, including the provision of the asset protection zone, vegetation control, vehicular access and firebreaks.*
- 4. A section 70A Notification is to be registered on the Certificate of Title, within 28 days of the date of this approval. The notification is to advise prospective purchasers of the conditions of development approval and bushfire management reports.*

Summary/Purpose

To consider a development application for the proposed single house at Lot 101 (17) Whittells Road, Bridgetown which does not comply with the required minimum floor area of 55m². Noting that no submissions were received from surrounding landowners, and that no detrimental impact upon rural amenity is expected, it is

recommended that the Minimum Floor Area Policy be waived and approval be granted subject to conditions.

Background

A development application has been received for a proposed undersized single house at Lot 101 (17) Whittells Road, Bridgetown, that does not comply with the Shire's Minimum Floor Area Policy TP.2.

The property is zoned 'Rural' under Town Planning Scheme No. 3 (TPS3) and has an approximate area of 2.042 hectares. The proposed dwelling is to be located centrally within the property, and setback 37.48 metres from the closest eastern side boundary, consistent with the required 7.5 metre setbacks.

Under the Shire's Minimum Floor Area Policy TP.2 (originally adopted in 1992), the minimum floor area for a single house shall be 55m², except with special dispensation of Council or for a Caretaker's residence associated with a commercial or industrial premises with minimum floor area of 28m².

The proposed dwelling has a floor area of 42.5m² and consists of an open plan kitchen, living and dining area, a single bedroom and a bathroom/laundry. The floor area of the dwelling is 12.5m² smaller than the 55m² area required under the Policy, representing a 23% reduction in size. The dwelling is to be constructed on stumps, with horizontal custom orb sheeting for the wall and matching sheeting for the roof. The proposed dwelling also has 12.9m² front porch, plus an 18.6m² covered/uncovered verandah/deck.

The application was referred to landowners of six surrounding properties for comments with the submission period closing 14 August 2019 however no submissions were received.

The proposed building is to be separated by significant distances from adjoining rural properties and the smaller dwelling size may be indiscernible when viewed from other properties or the street, particularly with the porch and decking adding to the perceived size of the dwelling. The applicant has provided justification (see Attachment 10) indicating that the proposed dwelling will cater for the current needs of the landowner who lives alone, with additions possible if required in the future.

The proposed dwelling is also located within the bushfire prone area and a Bushfire Attack Level Assessment dated 21 July 2019 confirms an acceptable rating of BAL-29 for the proposed dwelling. The Bushfire Management Statement dated 25 July 2019 confirms compliance with State Planning Policy 3.7 Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas.

Given the merits of the application, separation to and nature of surrounding rural properties, and noting that no submissions were received from surrounding landowners, the proposed undersized dwelling is not expected to have an adverse effect upon the rural amenity of the surrounding properties or the wider locality. It is therefore recommended that the Minimum Floor Area Policy be waived in this case and approval be granted subject to conditions.

Statutory Environment

- Town Planning Scheme No. 3

Clause 6.7.4 of Town Planning Scheme No. 3 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 discretion to waive any policy requirements where Council is satisfied that the provisions and objectives of the policy have been taken into account. It is recommended that the Minimum Floor Area Policy be waived in this case and approval be granted subject to conditions.

- Planning and Development (Local Planning Schemes) Regulations 2015 - Clause 67, Schedule 2 (Deemed Provisions)

| Requirement | Comment |
|--|---|
| (a) the aims and provisions of this scheme and any other local planning scheme operating within the Scheme area; | The proposed single house is consistent with the objectives and provisions of Town Planning Scheme No. 3, noting recommended waiving of the Minimum Floor Area Policy. |
| (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this scheme that has been advertised under the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving; | The proposed single house is consistent with the orderly and proper planning of Town Planning Scheme No. 3, noting recommended waiving of the Minimum Floor Area Policy. The draft Local Planning Strategy is being prepared. |
| (c) any approved State planning policy; | SPP 3.7 Planning in Bushfire Prone Areas is applicable. See below. SPP 7.0 Design of the Built Environment. Consistent with all ten Design Principles. |
| (d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d); | Not applicable. |
| (e) any policy of the Commission; | Guidelines for Planning in Bushfire Prone Areas is applicable. See below. |
| (f) any policy of the State; | Not applicable. |
| (g) any local planning policy for the Scheme area; | Minimum Floor Area Policy is applicable. Inconsistent however see below. |
| (h) any structure plan, activity centre plan or local development plan that relates to the development; | Not applicable. |
| (i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> ; | Not applicable. |
| (j) in the case of land reserved under this scheme, the objectives for the reserve and the additional permitted uses identified in this Scheme for the reserve; | Not applicable. |

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| (k) the built heritage conservation of any place that is of cultural significance. | Not applicable. |
| (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located; | Not applicable. |
| (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; | No detrimental impacts upon the surrounding land are anticipated. |
| (n) the amenity of the locality including the following: (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development; | No detrimental impacts upon the local environment, character of the locality or adjoining land are anticipated. |
| (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource; | No detrimental impacts upon the local environment or water resources are anticipated. |
| (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved; | Not applicable. |
| (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk; | See bushfire risk issues above. No risk of landslip, erosion or flooding evident. |
| (r) the suitability of the land for the development taking into account the possible risk to human health or safety. | Not applicable. |
| (s) the adequacy of: (i) the proposed means of access to and egress from the site, and (ii) arrangements for the loading, unloading, maneuvering and parking of vehicles; | Access to the property via the existing road network and proposed internal driveway is adequate. |

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| (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety; | Additional traffic levels for a residential dwelling will be acceptable. |
| (u) the availability and adequacy for the development of the following: (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (v) access by older people and people with a disability; | Mains power and reticulated water are available. No end of trip facilities or other access issues applicable. |
| (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses; | Nil. |
| (w) the history of the site where the development is to be located; | Not applicable. |
| (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals; | Not applicable. |
| (y) any submissions received on the application; | Nil. |
| (za) the comments or submissions received from any authority consulted under clause 66. | Not applicable. |
| (zb) any other planning consideration the local government considers appropriate. | Not applicable. |

Policy Implications

- State Planning Policy 3.7 Planning in Bushfire Prone Areas

The whole property and proposed dwelling location is within the designated bushfire prone area. A Bushfire Attack Level Assessment dated 21 July 2019 confirms an acceptable rating of BAL-29 for the proposed dwelling and the Bushfire Management Statement dated 25 July 2019 confirms compliance with State Planning Policy 3.7 Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas.

- Shire of Bridgetown-Greenbushes Minimum Floor Area Policy TP.2

As stated above, under the Shire's Minimum Floor Area Policy TP.2 the minimum floor area for a single house shall be 55m², except with special dispensation of Council. The proposed dwelling has a floor area of only 42.5m² and is 12.5m²

smaller than the 55m² area required under the Policy. The dwelling is to be constructed on stumps, with horizontal custom orb sheeting for the wall and matching sheeting for the roof. The proposed dwelling also has 12.9m² front porch, plus an 18.6m² covered/uncovered verandah/deck.

The proposed building is to be separated by significant distances from adjoining rural properties and the smaller dwelling size may be indiscernible when viewed from other properties or the street. Given the merits of the application and noting that no submissions were received from surrounding landowners, it is recommended that the Minimum Floor Area Policy be waived in this case and approval be granted subject to conditions.

Budget Implications

The applicable development application fee has been paid.

Strategic Plan Implications

- Strategic Community Plan 2017

Key Goal 1: Our economy will be strong, diverse and resilient

- Strategy 1.2.1 Embrace a “can do” approach to development

Key Goal 2: Our natural environment is valued, conserved and enjoyed

- Objective 2.6 Development is sympathetic to the landscape
- Strategy 2.6.1 Planning processes allow for a diverse range of land and development opportunities

Key Goal 3: Our built environment is maintained, protected and enhanced

- Objective 3.1 Maintain townsite heritage and character
- Strategy 3.1.1 Ensure relevant policies and plans offer appropriate protection to existing heritage character whilst still allowing appropriate development opportunities

Key Goal 5: Our leadership will be visionary, collaborative and accountable

- Objective 5.1 Our community actively participates in civic life
- Strategy 5.1.1 The community is involved in local decision making
- Objective 5.2 We maintain high standards of governance, accountability and transparency
- Strategy 5.2.8 Ensure all legislative responsibilities and requirements are met

The proposed dwelling, albeit undersize, is not expected to have any detrimental impacts upon the local rural amenity and no submissions were received from surrounding landowners. Waiving of the Shire’s Minimum Floor Area Policy is considered reasonable in this case.

- Corporate Business Plan 2018/22

Key Goal 1 - Our Economy will be Strong, Diverse and Resilient

- Strategy 1.2.1 Embrace a “can do” approach to development
- Action 1.2.1.2 Develop internal and external planning, building control and environmental health processes that have regard to the importance of business development and social capacity whilst ensuring regulatory compliance is met

Key Goal 2 – Our Natural Environment is Valued, Conserved and Enjoyed

- Strategy 2.6.1 Planning processes allow for a diverse range of land and development opportunities
- Action 2.6.1.2 Development application process allows a balance between sensitively developed places and progressive development

Key Goal 3 – Our Built Environmental is Maintained, Protected and Enhanced

- Strategy 3.1.1 Ensure relevant policies and plans offer appropriate protection to existing heritage character whilst still allowing appropriate development opportunities

Key Goal 5 - Our Leadership will be Visionary, Collaborative and Accountable

- Strategy 5.1.1 The community is involved in local decision making
- Strategy 5.2.7 Council's policies and local laws are responsive to community needs
- Strategy 5.2.8 Ensure all legislative responsibilities and requirements are met
- Action 5.2.8.2 Provide effective regulatory services

The proposed dwelling, albeit undersize, is not expected to have any detrimental impacts upon the local rural amenity and no submissions were received from surrounding landowners. Waiving of the Shire's Minimum Floor Area Policy is considered reasonable in this case.

- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity

The proposed undersized dwelling is not expected to have any detrimental impacts on surrounding landowners.

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management

The proposed dwelling size, albeit smaller than the 55m² minimum, is still considered a habitable space, so supporting the proposal does not raise any risk issues. Should Council not support the proposal the applicant could lodge an appeal with the State Administrative Tribunal, which may incur additional costs.

Continuous Improvement

Through the neighbour consultation process no submissions were received indicating surrounding neighbours have no objection to the proposal.

Delegated Authority

Shire staff do not have delegated authority to waive the Minimum Floor Area Policy and to approve the development. Determination by Council is therefore required.

Voting Requirements – Simple Majority

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| ITEM NO. | C.09/0819 | FILE REF. | A50659 |
| SUBJECT | Application for Retrospective Approval for Water Tank (Setback Variation) | | |
| LANDOWNER | Laif Cross | | |
| LOCATION | Lot 103 (9) Mottram Street, Bridgetown | | |
| OFFICER | Manager Planning | | |
| DATE OF REPORT | 19 August 2019 | | |

| | |
|---------------|---------------------------------|
| Attachment 12 | Location Plan/Aerial Photograph |
| Attachment 13 | Submitter's Submission |
| Attachment 14 | Landowner's Submission |
| Attachment 15 | Proposed Plans/Photographs |

OFFICER RECOMMENDATION: That Council noting the neighbours submission per Attachment 13, and the landowner's submission, as per Attachment 14, and pursuant to Clause 3.4.8, Clause 4.5.1 and Clause 6.7.4 of Town Planning Scheme No. 3 and provisions of the Shire's Siting of Water Tanks Policy, grants retrospective development approval for the water tank with a rear setback variation, as per Attachment 15, on Lot 103 (9) Mottram Street, Bridgetown, subject to the following conditions:

- 1. Approval is granted for the water tank with a diameter of 8.62 metres and wall height of 2.3 metres, with a reduced setback of 6.1 metres to the northern rear boundary, as shown on the approved plan. Any further setback variations on the property will require a separate development approval.*
- 2. The full perimeter wall of the water tank is to be painted using medium to dark non-reflective colour to complement the existing dwelling within 90 days of approval and thereafter maintained.*
- 3. The north to north-eastern half perimeter of the water tank is to be screened with vegetation using non-deciduous species capable of growing to not less than 2.5 metres in height. In this regard, a landscaping plan is to be submitted to the Shire for consent within 21 days of this approval, and planting undertaken within 42 days of this approval, with planted screen vegetation thereafter maintained.*

Summary/Purpose

To consider a development application seeking retrospective approval for a water tank with a rear setback variation at Lot 103 (9) Mottram Street, Bridgetown. Noting the submission from the adjoining neighbours and the landowner, it is recommended that retrospective development approval be granted subject to special conditions including partial painting and planting of screen vegetation.

Background

A development application has been received seeking retrospective development approval for a water tank erected on Lot 103 (9) Mottram Street, Bridgetown. The water tank was incorrectly installed with a setback of 6.1 metres from the northern rear boundary in lieu of the required setback of 7.5 metres.

The lot is zoned 'Rural' under Town Planning Scheme No. 4 (TPS3), has an approximate area of 2.0137m², and is within the Mattamattup Valley Subdivision Guide Plan Policy area.

As background, development approval was granted 19 October 2017 for single house (with construction nearing completion) with the site plan showing a future water tank in the north-western corner setback 7.5 metres from both boundaries. The development approval did not authorise construction of the water tank and a separate building permit was required. It appears that the water tank was constructed soon afterwards as the tank is visible in the November 2017 aerial photograph.

Shire staff became aware of the water tank when queries were raised in early 2019 by the owners of adjoining Lot 102 (15) Mottram Street, concerned about the apparent reduced setback and visual impact. A site inspection by Shire staff on 15 May 2019 revealed that the water tank was setback approximately 6.1 metres from the northern side boundary and 8.3 metres to the western side boundary. The location of the water tank is therefore non-compliant with Clause 4.5.1 of TPS3 which requires a minimum 7.5 metre setback in the applicable Rural zone.

The landowner was invited to either lodge a development application seeking retrospective development approval for the non-compliant setback variation, with any details for vegetation screening and/or painting of the tank requested as per the Shire's Siting of Water Tanks Policy. Alternatively, the landowner was invited to relocate the water tank to comply with the required 7.5 metre setback.

A development application was received on 29 May 2019 seeking retrospective approval for the water tank and setback variation. In summary, the landowner's submission (see Attachment 14) stated that the water tank was inadvertently installed in the incorrect location by a contractor as the earthworks pad was installed incorrectly. The landowner argues that relocating the tank would be impractical, that the 1.4 metre setback variation is minor, and that the tank is not visible from the house to the north due to existing trees and cut embankment. No screening or painting of the tank was proposed as the landowner considered the minor variation did not make the tank any more visible, the tank is lower in the landscape so the neighbours look over the tank.

The landowner argues that the water tank was unconditionally approved in 2017 however that is not correct. Development approval was granted on 19 October 2017

for the proposed single house (currently under construction) with the future water tank shown indicatively on the site plan. The development approval did not authorise construction of the water tank as a building permit is required. The tank was then constructed in error, encroaching into the minimum 7.5 metre setback to the north boundary without necessary development approval.

The application was referred to the owners of adjoining properties to the north (Lot 102) and west (Lot 104), with the submission period closing on 24 July 2019. One submission was received from the owners of Lot 102 (see Attachment 13), being the neighbours that raised the original concerns. No submission was received from the owner of adjoining Lot 104.

The submitters in summary acknowledged that the placement of the tank was an unfortunate error and relocation of the tank would be an expensive remedy. The submitters did raise their significant concerns about the visual impact of the tank and particularly the afternoon glare from the sun, and impact upon the broader visual amenity of the valley. The submitters strongly urge the Shire to enforce the requirements of the Shire's Siting of Water Tanks Policy, and direct the owners to plant and maintain suitable screening vegetation around the entire tank and to paint the sides and roof of the tank in a non-reflective, sympathetic colour such as soft green or similar.

Shire staff liaised via email with the submitters and then met onsite to discuss this matter, and staff also liaised via email and phone with the landowner, to try and reach an amicable outcome. The submitters concede that screen planting is necessary only for one half of the tank facing their property rather than the full perimeter, however insist that the wall and roof of the tank be painted, and suggested there is a range of non-toxic industry recommended paint products.

The landowner acknowledged the submitters position to not insist upon relocation of the tank and planting of one half perimeter of the tank, and has agreed to paint the tank wall using a dark colour to match the new dwelling. The landowner however has not agreed to painting the roof due to concerns regarding potential leaching of toxic chemicals into their drinking water supply, as the tank has a catchment design.

The landowner argues that any view of the tank by the submitters is reasonable in a rural landscape particularly given the distance between the house and tank, and that any glare would have been there regardless of the minor setback variation. The landowner is concerned that any screen planting is at risk of not surviving due to intermittent attendance at the property.

A copy of the emails received from the landowner and the submitters have been appended to their original submissions (with Shire staff comments removed from the chain) to aid Council in deliberations.

Notwithstanding the background to this application, it is clear that relocation of the water tank is considered impractical by all parties, however Council has power to refuse the application if deemed appropriate having regard to the objectives under TPS3 and requirements of the Siting of Water Tanks Policy.

Essentially the submitters have requested that the tank wall and roof be painted plus screen vegetation planted on the northern to north-eastern side. Whilst the

landowner and partner are willing to paint the tank wall in a dark colour, they do not agree to painting the roof due to health concerns and do not agree with the need for screen vegetation given the extent of vegetation already in place.

Under the Shire's Siting of Water Tanks Policy, where approval is granted for a reduced setback, conditions are to be considered for planting of suitable screen vegetation between the tank and street and prohibition on use of reflective or light coloured materials for tank. Importantly, the conditions are to be considered and they are not mandatory.

The need for screening vegetation between the tank and the street is not considered necessary as the tank is approximately 115 metres to the closest point of Mottram Street to the south-east. Whilst the policy does not stipulate screening to a rear or side boundary, Council has the power to apply such a condition under Town Planning Scheme No. 3 if reasonable and necessary.

Shire staff are of the opinion that whilst screen planting is not essential it will ameliorate to some extent the concerns of the neighbours. Importantly, should the tank have been installed a further 1.4 metres further south and therefore compliant with the required 7.5 metre setback, no screening or use of non-reflective or light coloured materials would be required.

As the landowner has agreed to paint the tank wall, a significant question in dispute is the need to paint the tank roof. The submitters argue that the tank gives off considerable afternoon glare and that painting the roof using non-toxic, industry recommended paints will reduce the visual impact of the tank. The landowner however have raised concerns regarding potential health risk from leaching of toxic chemicals into their water supply quoting Department of Health website information.

Shire staff are aware that the tank is visible from the neighbours property, as are a number of structures within the local area. The subject tank is approximately 45 metres east from the neighbour's dwelling but lower in the landscape and partially screened by existing vegetation on the subject land and submitters land, albeit with some deciduous trees with less screening during cooler seasons.

The tank roof has a surface area of approximately 58m² (excluding the curved formation) and approximately 4m² (or 7% of the total roof surface) is closer to the boundary that then required 7.5 metre setback. The concerns of the neighbours regarding visual amenity are acknowledged however the health concerns raised by the landowner must take precedence.

Painting of the tank wall only and planting of screen vegetation is considered a reasonable outcome, however painting of the roof is not considered necessary in this case or appropriate given potential health concerns raised by the landowner. Should Council not support the proposal the tank will need to be emptied of water and relocated elsewhere on the property.

Noting the content of the submissions from the landowner and the neighbours it is recommended that retrospective approval be granted for the water tank subject to special conditions including painting of the full tank perimeter wall in a dark colour to match the dwelling and planting and maintenance of screen planting along the north to north-eastern half of the tank.

Statutory Environment

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

Clause 3.4.8 of TPS4 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:*

- (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.”*

Clause 4.5 of TPS3 in relation to the Rural Zone states “Council’s objective will be to retain the rural character of the zone in the interests of the town’s landscape and environment.” Furthermore, under Clause 4.5.1 *“The minimum building setback from all boundaries shall be 15 metres except that council may at its discretion permit a building to be constructed closer to any boundary than 15 metres but not less than 7.5 metres.”*

Pursuant to Delegation Register P.2 – Setback Variations, the Rural zone setback is to be taken from the 7.5 metre minimum setback.

As discussed above, the water tank has a setback of only 6.1 metres in lieu of the required 7.5 metre setback. Whilst the tank does not appear to create any significant detrimental impact upon visual amenity, the unauthorised placement and setback variation may set an undesirable precedent and brings into question whether the orderly and proper planning process has been breached.

Noting the content of submissions from the applicant and neighbours, painting of the tank wall using a medium to dark colour and planting of screen vegetation is considered reasonable in this case to ameliorate visual amenity impacts of surrounding properties or local area.

- Planning and Development (Local Planning Schemes) Regulations 2015 - Clause 67, Schedule 2 (Deemed Provisions)

| Requirement | Comment |
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| (z) the aims and provisions of this scheme and any other local planning scheme operating within the Scheme area; | Noting the rear setback variation, the subject water tank is generally consistent with the objective of the Rural zone under Town Planning Scheme No. 3. |

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| (aa) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this scheme that has been advertised under the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving; | Noting the rear setback variation, the subject water tank is generally consistent with the orderly and proper planning of Town Planning Scheme No. 3. The draft Local Planning Strategy is being prepared. |
| (bb) any approved State planning policy; | SPP 3.7 Planning in Bushfire Prone Areas. A portion of the tank is within the bushfire prone area however assessment is exempt for a non-habitable structure. SPP 7.0 Design of the Built Environment. Generally complies with applicable design principles noting the recommended wall painting and vegetation screening. |
| (cc) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d); | Not applicable. |
| (dd) any policy of the Commission; | Guidelines for Planning in Bushfire Prone Areas. The Bushfire Management Statement dated 18 October 2017 that forms part of the development approval dated 19 October 2017 recognises the subject tank as providing a water source for fire fighting purposes. |
| (ee) any policy of the State; | Not applicable. |
| (ff) any local planning policy for the Scheme area; | Siting of Water Tanks Policy. See below. |
| (gg) any structure plan, activity centre plan or local development plan that relates to the development; | Mattamattup Valley Subdivision Guide Plan Policy. The land was subdivided in 2015 in accordance with the Policy. |
| (hh) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> ; | Not applicable. |
| (ii) in the case of land reserved under this scheme, the objectives for the reserve and the additional permitted uses identified in this Scheme for the reserve; | Not applicable. |
| (jj) the built heritage conservation of any place that is of cultural significance. | Not applicable. |
| (kk) the effect of the proposal on the cultural heritage significance of the area in which the development is located; | Not applicable. |

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| <p>(ll) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p> | <p>No detrimental impacts upon the local area are anticipated subject to partial painting and planting of screen vegetation.</p> |
| <p>(mm) the amenity of the locality including the following: (iv) environmental impacts of the development; (v) the character of the locality; (vi) social impacts of the development;</p> | <p>No detrimental impacts upon the local environment, character of the locality or adjoining land are anticipated, subject to partial painting and planting of screen vegetation.</p> |
| <p>(nn) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;</p> | <p>No detrimental impacts upon the local environment or water resources are anticipated.</p> |
| <p>(oo) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;</p> | <p>Planting of screen vegetation for the north to north-east half perimeter of the tank is recommended.</p> |
| <p>(pp) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;</p> | <p>See comments above regarding bushfire risk. There is no evidence of soil erosion, flooding risk, etc.</p> |
| <p>(qq) the suitability of the land for the development taking into account the possible risk to human health or safety.</p> | <p>The landowner has raised concerns regarding possible health risks and contamination of their water supply should painting of the tank roof be required.</p> |
| <p>(rr) the adequacy of: (iii) the proposed means of access to and egress from the site, and (iv) arrangements for the loading, unloading, manoeuvring and parking of vehicles;</p> | <p>Not applicable.</p> |
| <p>(ss) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;</p> | <p>Not applicable.</p> |

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| (tt) the availability and adequacy for the development of the following: (vi) public transport services; (vii) public utility services; (viii) storage, management and collection of waste; (ix) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (x) access by older people and people with a disability; | Not applicable. |
| (uu) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses; | Not applicable. |
| (vv) the history of the site where the development is to be located; | Not applicable. |
| (ww) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals; | Notwithstanding any visual impact upon the adjoining neighbours, the subject water tank does not have significant impact upon the visual amenity of the local area. Painting of the tank wall using a medium to dark colour however will further blend the tank into the landscape. |
| (xx) any submissions received on the application; | One submission was received raising concerns regarding the visual impact of the subject tank and requested painting and planting of screen vegetation. |
| (za) the comments or submissions received from any authority consulted under clause 66. | Not applicable. |
| (zb) any other planning consideration the local government considers appropriate. | Not applicable. |

Policy

- Shire of Bridgetown-Greenbushes Siting of Water Tanks Policy TP.21

The Siting of Water Tanks Policy can allow, where justifiable circumstances exist, the siting of water tanks outside of the identified setbacks or a building envelope through the development application process. Justifiable reasons may include topographical constraints and associated water pressure implications and/or cut/fill implications.

“Where approval is granted for a reduced setback or building envelope alteration to accommodate the siting of a water tank, conditions will be considered requiring the following:

- *planting of suitable screening vegetation between the tank and the street alignment; and*
- *prohibition on use of reflective or light coloured materials for tank.”*

Importantly, the conditions are to be considered and they are not mandatory. The need for screening vegetation between the tank and Mottram Street is not necessary due to the 115 metre separation, and Council has power under TPS3 to require vegetation screening between the water tank and the northern boundary as necessary and reasonable.

Shire staff are of the opinion that whilst screen planting is not essential it will ameliorate to some extent the concerns of the neighbours. Importantly, should the tank have been installed a further 1.4 metres further south no screening or use of non-reflective or light coloured materials would be required.

As the landowner has agreed to paint the tank wall, a significant question in dispute is the need to paint the tank roof. The submitters argue that the tank gives off considerable afternoon glare and that painting the roof using non-toxic, industry recommended paints will reduce the visual impact of the tank. The landowner however has raised concerns regarding potential health risk from leaching of toxic chemicals into their water supply.

Shire staff acknowledge that the subject water tank is visible from the neighbour's property, however the tank is approximately 45 metres east from the neighbour's dwelling, lower in the landscape and partially screened by existing vegetation.

The concerns of the submitters regarding visual amenity are acknowledged however the health concerns raised by the landowner are considered more critical. Retaining the water tank in place with painting of the wall only and planting of screen vegetation is considered a reasonable outcome.

Strategic Plan Implications

- Strategic Community Plan 2017

Key Goal 1: Our economy will be strong, diverse and resilient

- *Objective 1.2 A proactive approach to business development*
- *Strategy 1.2.1 Embrace a "can-do" approach to development*

Key Goal 2: Our natural environment is valued, conserved and enjoyed

- *Objective 2.6 Development is sympathetic to the landscape*
- *Strategy 2.6.1 Planning processes allow for a diverse range of land and development opportunities*

Key Goal 3: Our built environment is maintained, protected and enhanced

- *Objective 3.1 Maintain townscape heritage and character*
- *Strategy 3.1.1 Ensure relevant policies and plans offer appropriate protection to existing heritage character whilst still allowing appropriate development opportunities*

Key Goal 5: Our leadership will be visionary, collaborative and accountable

- *Objective 5.1 Our community actively participates in civic life*
- *Strategy 5.1.1 The community is involved in local decision making*

- *Strategy 5.1.4 People receive Shire information, services and opportunities according to their needs*

The development application was referred to owners of two adjoining properties with a submission received from the owners of one property to the north, raising concerns about visual impact of the subject water tank. Noting the background and relevant issues relocation of the tank is considered impractical and subject to partial painting and vegetation screening, the water tank is not expected to have a significant detrimental impact upon neighbours or local rural amenity. Should Council not support the proposal the tank will need to be emptied of water and either relocated elsewhere onsite or removed from the property.

- Corporate Business Plan 2018/22

Key Goal 1 – Our Economy will be Strong, Diverse and Resilient

- *Objective 1.2 A proactive approach to business development*
- *Strategy 1.2.1 Embrace a “can do” approach to development*
- *Action 1.2.1.2 Development internal and external planning, building control and environmental health processes that have regard to the importance of business development and social capacity whilst ensuring regulatory compliance is met*

Key Goal 2 – Our Natural Environment is Valued, Conserved and Enjoyed

- *Objective 2.6 Development is sympathetic to the landscape*
- *Strategy 2.6.1 Planning processes allow for a diverse range of land and development opportunities*
- *Action 2.6.1.2 Development application process allows a balance between sensitively developed places and progressive development.*

Key Goal 3 – Our Built Environment is Maintained, Protected and Enhanced

- *Objective 3.1 Maintained townscape heritage and character*
- *Strategy Ensure relevant policies and plans offer appropriate protection to existing heritage character whilst still allowing appropriate development opportunities*
- *Strategy 3.1.2 Ensure town centres achieve a high standard of appearance and amenity*

Key Goal 5 - Our Leadership will be Visionary, Collaborative and Accountable

- *Objective 5.1 Our community actively participates in civic life*
- *Strategy 5.1.1 The community is involved in local decision making*
- *Objective 5.2 We maintain high standards of governance, accountability and transparency*
- *Strategy 5.2.8 Ensure all legislative responsibilities and requirements are met*
- *Action 5.2.8.2 Provide effective regulatory services*

The development application was referred to owners of two adjoining properties with a submission received from the owners of one property to the north, raising concerns about visual impact of the subject water tank. Noting the background and relevant issues relocation of the tank is considered impractical and subject to partial painting

and vegetation screening, the water tank is not expected to have a significant detrimental impact upon neighbours or local rural amenity. Should Council not support the proposal the tank will need to be emptied of water and either relocated elsewhere onsite or removed from the property.

- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

The applicable development application fee has been paid.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity

Whilst the existing water tank is visible from surrounding properties, the tank does not have a significant detrimental impact upon the visual amenity on surrounding landowners or local rural amenity. The comments from the neighbours and the landowner have been taken into consideration and appropriate conditions recommended.

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management

Should Council not support the proposal or impose conditions not to the satisfaction of the landowner a right of review appeal may be lodged with the State Administrative Tribunal, which may incur additional costs for staff time and possible legal representation.

Should Council impose a condition such as painting of the roof which the landowner opposes due to health risk, and those concerns are proven valid, the Shire may be at risk of a compensation claim.

Continuous Improvement

The content of the neighbours' submission and landowner's submission has assisted consideration of the proposal.

Delegated Authority

Nil - Officers do not have delegated authority to approve the application as the concerns of the neighbours can not be satisfied through agreed and recommended conditions. The application must therefore be determined by Council.

Voting Requirements – Simple Majority

Community Services

| | | | |
|-----------------------|--|------------------|--|
| ITEM NO. | C.10/0819 | FILE REF. | |
| SUBJECT | Community Garden Leases | | |
| PROPONENT | Bridgetown Community Garden and Greenbushes Community Garden | | |
| OFFICER | Executive Manager Community Services | | |
| DATE OF REPORT | 20 August 2019 | | |

Attachment 16 Lease Agreement – Greenbushes Community Garden
Attachment 17 Lease Agreement – Ashbil Community Garden Bridgetown

OFFICER RECOMMENDATION

- 1. That Council endorse the Greenbushes Community Garden Lease as per Attachment 16.*
- 2. That Council endorse the Ashbil Community Garden Bridgetown Lease as per Attachment 17.*
- 3. Note that the Bridgetown Community Garden and the Bridgetown Communitiy Garden are both an exempt body under Regulation 30 of the Local Government (Functions and General) Regulations, thus exempting the public consultation/advertising requirements under Section 3.58 of the Local Government Act.*
- 4. Authorise the Shire President and CEO to sign and seal the lease document.*

Summary/Purpose

The recommendations seek to renew the lease agreements for ten (10) years for Shire owned/leased property currently being leased to the Ashbil (Bridgetown) and Greenbushes Community Garden Management Committees for the purposes of continuing the Bridgetown and Greenbushes Community Gardens.

Background

In April 2012 Council resolved, in part, (C.18/0512) as follows:

Delegates to the Chief Executive Officer the determination of provision of 1 or 2 bays within the green garden she on the proposed site for the exclusive use of the Bridgetown Community Garden and preparation of a suitable peppercorn rental agreement.

In March 2014 Council resolved (C.15/0314):

- 1. Endorsed the Greenbushes Community Garden Lease as per Attachment 26*
- 2. Endorsed the Draft Bridgetown Community Garden Lease as per Attachment 27, subject to consultation with the Bridgetown Community Garden Management Committee and delegate the Chief Executive Officer to progress finalization of this lease.*

Both leases have expired and discussions have been held with both Community Garden Management Committees on new leases.

Officer Comment

The lease agreements lease the land on which each community garden is located for a peppercorn rental (of \$1 per annum). The respective Community Garden Management Committees are responsible for the payment of all services associated with their respective property (water, rates, electricity, rubbish and recycling levies etc.) and sourcing funding for all development works (with relevant Shire approvals where appropriate). The Community Garden Management Committees are also responsible for all insurance costs associated with the activities and equipment including public liability insurance for the leased property. Council remains responsible for the maintenance of the buildings as relates to functionality and general maintenance.

The term of the lease agreement (10 years) and the provision of a peppercorn rental will assist both Community Garden Management Committees with long term financial sustainability and planning. Both committees have expended considerable time, energy and financial resources on the development of management plans and infrastructure enhancements for their respective premises. This has included the installation of gardens, solar power, water tanks, building renovations and other infrastructure, all of which add value to the Council owned and managed assets.

The extension of the term of each lease agreement from five (5) to ten (10) years was undertaken in consultation and agreement with both the Greenbushes Community Garden Committee and the Ashbil Community Garden Management Committee (Bridgetown).

The Greenbushes Community Garden Committee, a subcommittee of the Greenbushes Residents and Ratepayers Association Inc., and the Ashbil Community Garden Management Committee (Bridgetown) have viewed the respective lease agreements and expressed satisfaction with the content.

Updated lease templates prepared by a legal practitioner have been used for the proposed new leases.

Statutory Environment

Section 3.58 of the Local Government Act deals with disposition of local government property, including the leasing of property. Under this section property can be disposed of by public auction, tender or by private treaty after a community consultation process. However, Regulation 30 of the Local Government Regulation (Functions and General) exempts the disposition of property from those processes if the land/property is disposed of to a body whether incorporated or not-

- i. The objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
- ii. The members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.

In the case of both Community Garden Management Committees it is clear that their objects are that of an educational and cultural nature. The members of the Community Garden Management Committees do not receive any pecuniary profit from the garden transaction.

Integrated Planning

- Strategic Community Plan
Key Goal 3 Our built environment is maintained, protected and enhanced.
Objective 3.2 Outdoor spaces, places and buildings are fit for purpose.
Strategy 3.2.1 Community spaces and building accommodate a wide range of interests and activities.
- Corporate Business Plan - Nil
- Long Term Financial Plan – Nil
- Asset Management Plans
Any infrastructure existing on the leased properties prior to the original lease will be included in Councils Asset Management and Building Maintenance Plans to preserve functionality and general maintenance.
- Workforce Plan – Not Applicable
- Other Integrated Planning - Nil

Budget Implications

Should Council endorse the recommendations a minor budget implication will result in minimal income revenue generated from the leases, being \$1 per annum per lease.

Fiscal Equity

The recommendation will achieve fiscal equity by delivering whole of community benefits by providing community access to the land and infrastructure where the community gardens have been developed, as per the lease agreements.

Whole of Life Accounting

The provision of a renewed lease agreement for each site continues to ensure that the roles and responsibilities of the Lessor and the Lessee are clear in relation to whole of life accounting principles and each party continues to include appropriate budgetary allocations throughout the term of the lease.

Social Equity

The recommendation achieves social equity principles by delivering whole of community benefits by providing access to the land and infrastructure where the community gardens have been developed, as per the lease agreements.

Ecological Equity

The nature of community gardens allows for the implementation of ecological equity by improving the ecological sustainability of the local area through the development of the community garden and hosting relevant land care, gardening and environmental development and protection workshops.

Cultural Equity – Not Applicable

Risk Management

The lease agreement has been developed based on a template provided by Civic Legal, with input from Local Government Insurance Scheme. The continued

confirmation of the roles and responsibilities of all parties with regard to the financial, legal, building maintenance and operations, insurance and tenure of occupancy mitigates Council's exposure to risk.

Continuous Improvement

The principles of continuous improvement are being achieved by reviewing and re-entering into a lease agreement to ensure continued confirmation of the roles and responsibilities of all parties for the term of the lease (10 years).

Voting Requirements - Simple Majority

Receival of Minutes from Management Committees – Nil

Urgent Business Approved by Decision

Responses to Elected Member Questions Taken on Notice - Nil

Elected Members Questions With Notice

Notice of Motions for Consideration at the Next Meeting

Matters Behind Closed Doors (Confidential Items)

In accordance with Section 5.23(2) of the Local Government Act the CEO has recommended this Item be considered behind closed doors as the subject matter relates to the following matters prescribed by Section 5.23(2):

- A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.
- A matter that if disclosed, would reveal –
 - A trade secret;
 - Information that has commercial value to a person; or
 - Information about the business, professional, commercial or financial affairs of a person.

In accordance with Clause 4.2 of the Standing Orders Local Law the contents of this item are to remain confidential and must not be disclosed by a member to any person other than a member of Council or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

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| ITEM NO. | C.11/0819 | FILE REF. | |
| SUBJECT | Request for Tender 01-19/20 – Brigade Appliance Servicing and Repairs | | |
| OFFICER | Chief Executive Officer and Community Emergency Services Manager | | |
| DATE OF REPORT | 22 August 2019 | | |

Attachment 18 Summary Sheet – Assessment and Scoring of Qualitative Criteria – Confidential Attachment


OFFICER RECOMMENDATION that Council go behind closed doors at XXXpm to consider an item of confidential business in accordance with section 5.23 (2) of the Local Government Act.

Closure

The Presiding Member to close the Meeting

List of Attachments

| Attachment | Item No. | Details |
|-------------------|-----------------|--|
| 1 | C.02/0819 | Special Meeting Minutes – 15 August 2019 |
| 2 | C.03/0819 | Warren Blackwood Sub-Regional Prospectus (Print View) |
| 3 | C.03/0819 | Draft Memorandum of Understanding for Warren Blackwood Sub-Regional Prospectus |
| 4 | C.04/0819 | Warren Blackwood Sub-Regional Growth Plan |
| 5 | C.04/0819 | Draft Memorandum of Understanding for Warren Blackwood Sub-Regional Growth Plan |
| 6 | C.05/0819 | Rolling Action Sheet |
| 7 | C.06/0819 | July 2019 Financial Activity Statements |
| 8 | C.06/0819 | List of Accounts Paid in July 2019 |
| 9 | C.08/0819 | Location Plan/Aerial Photo |
| 10 | C.08/0819 | Applicant's Submission |
| 11 | C.08/0819 | Proposed Plans/Bushfire Reports |
| 12 | C.09/0819 | Location Plan/Aerial Photograph |
| 13 | C.09/0819 | Submitter's Submission |
| 14 | C.09/0819 | Landowner's Submission |
| 15 | C.09/0819 | Proposed Plans/Photographs |
| 16 | C.10/0819 | Lease Agreement – Greenbushes Community Garden |
| 17 | C.10/0819 | Lease Agreement – Ashbil Community Garden Bridgetown |
| 18 | C.11/0819 | Summary Sheet – Assessment and Scoring of Qualitative Criteria – Confidential Attachment |

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| Agenda Papers checked and authorised by T Clynch, CEO |  | 22.8.19 |
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