

Council Minutes Index – 26 September 2019

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Minutes of an Ordinary Meeting of Council held in the Council Chambers on Thursday, 26 September 2019 commencing at 5.30pm

The Presiding Member 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 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 (retired 6.29pm)
	- E Denniss, Executive Manager Community Services (retired 6.29pm)
	- T Lockley, Executive Assistant (retired 6.29pm)

Attendance of Gallery

B&J Jansen, B Johnson, J Mountford, G Louth, N King

Responses to Previous Questions Taken on Notice - Nil

Public Question Time

N King – Wastewater System at Lot 6 Rokewood Heights

1. Have the Councillors and the CEO read the report all the way through?

President's response - All councillors have had a copy of the report.

2. The CEO said that Mr Devine determined the system will work as designed and should not fail, in the summary of the report, in point 3 it states "my property could not be considered as a typical site for a conventional septic tank system. Site soil conditions such as slope factors, soil types ,etc, etc, would classify this site as generally unsuitable without undertaking a detailed site soil evaluation of the site condition." The report clearly indicates that soil testing should have been requested by the environmental health officer (EHO), why were these tests not requested?

CEO's response - There was soil reports put in with the building application, that's what was used by the EHO to assess the suitability of the site.

3. In regards to Mr Devine's report – it does state that soil testing was under the house not at septic tank site area.

CEO's response - That's correct, they relied on the soil testing that was provided with the house plans, that was taken as being a soil plan for the development envelope. That soil test was predominantly for footing design, they used that as the soil test for the waste water application.

4. The shire was alerted to the soil problem as early as March 2017, why was no action taken at that time?

CEO's response – There was an approval given for the waste water system, that was different to the system that was eventually constructed. The initial approval was a pump-out system, it was elevated higher than where the current system was set up, so the effluent was going to be pumped higher on the land and dispersed through leach drains at a higher point. The modified system was approved when your builder and plumber proposed it, and put forward, as an alternative design. That was subsequently allowed to occur as a variation to the original approval.

5. On the initial approval from the shire dated 18/3/17, there is no condition for a pump or storage tank, although both items were on the application. What happened to the application that caused this to happen?

CEO's response - The pump pit weren't made conditions as that was the design that was approved. Essentially if that design had to be varied, it would have required your builder or plumber to come back and seek a variation. The pump wasn't a condition as it was shown clearly on the plans that were submitted. Those plans were approved, therefore the pump pit was part of that approval.

6. I do have the approval for the 17 May, with the submission that they did and the EHO at the time has put in there the two drains and to be semi subverted, there was no pump or anything in regard to the approval to construct?

President's response – We will take that question on notice.

7. It appears that the Shire's Manager of Environment Health (MEH) and the plumber then agreed upon a plan to emigrate the plumb and invert system which was originally approved. Mr Devine states "there is no evidence that the builder took into account the suitability of this now, being the excavated area soil profile as being suitable for infiltration of the waste water from the drains, a critical aspect determined to design load rates for trenches." Why did the MEH approve this system?

CEO's response - In summary the builder and plumber convinced the MEH that the system would work on that site. By the time your builder and plumber called the MEH in, that system was already partially installed, notwithstanding

he could have not approved it. In my dealings with the MEH he said he was convinced by the builder and the plumber that the system would work.

8. Mr Devine also stated that the MEH approved this system due to pressure from the builder who did not want any further delays. Can you advise me if you consider this a legitimate reason for approving the revised plan?

CEO's response - In itself, no. If the MEH had any doubt the system wasn't suitable he should have stopped the work and gone through a different process. There was sufficient evidence or reasons given to him to endorse that proposal. If he didn't think that he would have put a stop work order on it and then reassessed it.

9. Why at this stage did the MEH not proceed as per Mr Devine's report and seek advice from the Health Department?

CEO's response – It was based on the fact that he was satisfied that the proposal could be approved. There was an alternative for him to put a stop work order and seek the advice of the Department of Health, likely that would have taken some period of time, that was the option available to him. If the design wasn't suitable, that was his option, but he chose not to do that on the basis that he felt that the system could work.

10. Do you agree with Mr Devine's comment "This would present a significant delay and the actions of the MEH is understandable in this circumstance"?

CEO's response - Do I agree with that statement? It's not mine to agree with, I appointed Mr Devine to do an independent assessment, that's the statement he put in there. I didn't have any influence on the report, and that's a statement he has made in his experience as a waste water expert.

11. Do you agree with his comment though?

CEO's response - I'm sure if the MEH had stopped work on the site and said he is going to refer the proposal to the Department of Health, your plumber and builder would have been up in arms and would have complained to myself and perhaps Councillors about red tape and bureaucracy and such. It's a fine line he has to tread like all staff in that area, but at the end of the day he shouldn't, and I don't believe he would, make a decision or cop out of a decision to avoid conflict. His job is to approve a system that he thinks can function. He was convinced, albeit by your plumber and builder, that the system was going to be suitable for that site.

12. So you agree that if a builder in similar circumstances is persistent enough to get something done, shire workers would overlook vital requirements to appease the builder?

CEO's response - No, I didn't say that, and I didn't imply that either. I said it would only be approved if the MEH believed the system was functional and met the requirements. At no time did I say he would approve it under pressure where a system was obviously not compliant and wouldn't work.

13. Given Mr Devine's comment, "a site soil evaluation report should have been requested by the MEH before proceeding further with installation", how can the council agree there is no responsibility on the shire for approving this failed system?

CEO's response - That's the finding of Mr Devine who I appointed to do an independent assessment, that's his finding that the Shire has no responsibility. No instructions were given to Mr Devine about predetermined outcomes, he was asked to come down, assess the system, look at the files, talk to yourself and the MEH and arrive at a determination of whether the system is appropriate and whether there is any fault with the Shire. The determination that there is no fault by the Shire is the determination of Mr Devine, an independent assessor.

14. The initial permit to use was dated 17/10/17, I received the undercover of this letter from the MEH dated 21/11/17. Is a 4 week delay in receiving such advice acceptable to you?

President's response – We will take that question on notice.

15. Although Mr Devine has access to information in my hands, the details relayed at point 6 are incorrect in every respect and give a false impression and miss some detail – the first pump out Mr Devine has stated it was 4/7/17 – I moved into the house in November 2017; he also has the second pump out being invoiced at 25/7/19; and the third pump out at 3/7/19. The first pump out was actually 26/6/18 – by my builder; the second pump out was 4/7/18, and the third pump out was 25/6/19 – the final two I paid for and have invoices and dates.

CEO's response - Based on that Mr Devine has mixed up some dates there, he has made some errors there. The question you have to ask there is did those errors change the basis of the report and his findings in the report? My view is that it doesn't, and I'm happy to go to Mr Devine and ask that question. It's still three pump outs and he based it on three pump outs. I am happy to ask for clarification and how he got those dates wrong and if it changes the balance of his report.

16. Whilst we accept that some of this disaster has been made due to decision made by our builder/plumber, and he has acknowledged that by spending over \$6,000 in rectification and the ground run off in the initial stages, we feel the shire has also let us down by not taking action as per Mr Devine's report and request that you consider a full payment to cover the two initial pump outs that I have paid for totalling \$2,400.?

CEO's response – I can foreshadow that Cr Nicholas has submitted some questions in the same line as this.

Comments on Agenda Items by Parties with an Interest

B Jansen – Water tanks C.07/0919 - Proposed Outbuilding Addition and Retrospective Approval for Three Water Tanks (Setback Variations)

Mr Jansen spoke in support of the officer recommendation

After receiving the concurrence of Members, the Presiding Member announced that in accordance with Clause 3.6 of the Standing Orders Local Law, Elected Members Questions With Notice would be brought forward

Elected Members Questions With Notice

Cr Nicholas

1. Prior to the King's purchasing the property at Lot 6 Rockwood Heights did the Shire approve a modification to the building envelope. If yes, did this extension include encroachment into the 100 metre exclusion zone on this property?

Response – The original building envelope at Lot 6 was relocated in 1999 when the property was in different ownership. The current owners purchased the property in 2016 and an application was received in April 2017 for a proposed dwelling and alteration of the building envelope with the application describing the reasons for seeking an alteration to the building envelope being "to allow for installation of the effluent disposal system to prevent it encroaching into the 100m buffer zone". Prior to this application being received there was communication between the Manager Planning and the builder regarding the requirement under the Town Planning Scheme for a 100 metre setback for a wastewater system from the watercourse. A further building envelope alteration was approved in March 2018 with this being an extension of the building envelope to provide for siting of a proposed shed. None of these approved building envelope alterations resulted in the building envelope encroaching into the aforementioned 100 metre setback area from the watercourse.

2. Have the King's been formally advised of the Shire's approval to modify the approved septic tank and leach drain system and its incursion into the 100 metre exclusion zone? Was this approval formally relayed to the King's as written confirmation?

Response – Advice on this approval was sent to Mrs King via email on 4 July 2019.

3. I understand that the 100 metre exclusion zone is a condition of the Mattamattup sub division plan? Was or has this exclusion zone been put on the property title?

Response – No this isn't the type of information noted on a certificate of title. Lot 6 isn't within the Mattamattup Valley Subdivision Guide Plan area. The 100 metre setback requirement from any definable water course or creek is a special provision pertaining to the "Rokewood Heights Estate" that was

determined by the Western Australian Planning Commission (WAPC) at the time of the original parcel being rezoned to the Special Rural Zone as a precursor to the subdivision of the Estate. The creation of a 100 metre setback requirement from watercourses, including gullies that are identified as seasonal watercourses was a standard requirement of the WAPC. A copy of the special provisions was forwarded to the settlement agent when the current owners purchased the property in 2016.

4. Given this exclusion zone has had a detrimental effect on the house plans and initial and modified design of the septic/leach drain system why did the initial “Permit to use” not include this condition?

Response – Such a condition wasn’t necessary as the approved plans for the wastewater system clearly show it to be located outside the 100 metre setback area. It is noted that the plan submitted with the wastewater application clearly marked the 100 metre setback line confirming that the applicant was aware of this requirement.

5. Given Mr Devine states early in his report “this site is considered unsuitable for a conventional septic tank system, why were alternative system not considered or advice given to the King’s in respect of alternative systems?

Response – It should be noted that the above comment made by Mr Devine was made in an independent review of the matter where he was able to consider the history of the application and all the relevant facts. Correspondence from the builder as early as March 2017 acknowledged the requirement for a 100 metre separation between the wastewater system and watercourse and also the presence of clay onsite and discussed a proposal to fully invert the wastewater system to address the ground conditions. At this time the Shire had a relieving part-time environmental health officer and there was communication in April 2017 from that officer to the builder regarding the application submitted for approval of the proposed wastewater system. Included in that communication was advice from the environmental health officer that relocation of the wastewater system was required, the leach drains semi inverted, a sump and pump was required and there was a need for drainage to divert storm water runoff around the leach drains. Plans to this effect were subsequently submitted and the environmental health officer issued a wastewater approval in May 2017. The officer determined that the site was suitable for the proposed wastewater system. A soil report was submitted by the applicant with the building licence application and this report indicated that the site was a ‘S’ class site (slightly reactive clay) with a 0-1500mm loamy clay with stone description. This site classification would be considered a reasonably well draining site given the higher classification available to the engineer of moderately or highly reactive clay.

Unfortunately we don’t know how the leach drains of the original design would have performed as the builder and plumber subsequently sought an amendment to the design and conditions of this approval. The builder and plumber did not want to install a pump pit and advised the Manager Environmental Health they could achieve a below ground system with additional earthworks (800mm of sand underneath). Noting the ‘S’ soil

classification of the site and the 800mm import of sand, agreement was given to proceed with the alternative design.

6. Given that Mr Devine has noted that the Shire's Septic Tank Application form does not require any information in regard to site/soil conditions which he considers are essential to determining if the site is suitable has the Shire moved to have this anomaly rectified?

Response – The application form isn't specific to the Shire of Bridgetown-Greenbushes – it is a statewide form under the auspice of the Western Australian Department of Health. The assessing officer, in our case the Shire's Manager Environmental Health, can request additional information outside that required under the application form if he determines a need.

With the recent introduction of the Government Sewerage policy and the proposed direction of regulation review by Department of Health heading towards AS1547-2012 (onsite domestic wastewater management) the Manager Environmental Health is investigating some changes to the information to be submitted as part of onsite wastewater applications. Currently when an application for wastewater systems is submitted with a house application an engineer provides 3 bore hole samples across the house site which provide descriptions of soil classification under AS2870 Residential slabs and footings. What is currently being investigated is introducing a requirement to submit a report containing a specific soil description and design irrigation/permeability rates that are provided under AS1547-2012. Once those figures are obtained the appropriate size/design of the onsite wastewater system can be calculated.

7. Based on the evidence supplied by Mr Devine there appears to be some clear omissions on behalf of the Shire officers, particularly related to soil testing, particularly as adverse soil condition were identified as early as March 2017. He also states "I find an excavation (photo 1) that is more suitable for the construction of a swimming pool than an area for the siting of a wastewater system". In light of all these issues and the fact that the builder has completed what is hoped to be rectification at his own expense (\$6,000) what process is required for Council to consider an Ex- Gratia payment to the King's, for the unnecessary pump-out that had to be undertaken, as they appear to have been let down by their builder and the Shire?

Response – It should be noted that this comment made by Mr Devine applied to the proposed alternative design put forward by the applicant and not the original design that was approved. In any case in conducting the independent assessment Mr Devine determined that the current wastewater system will work as designed and should not fail. Mr Devine has determined that any failure to date is not as a result of any wrong doing on behalf of the Shire as is more to do with stormwater entering the system due to inadequate cut off drains. Mr Devine is of the view that with adequate cut off drains now existing, the system shouldn't fail. I'm unsure why Council would wish to consider providing an ex-gratia payment as making such a payment would confirm that the Shire is at fault in the matter when an independent report has a contrary view.

With respect to whether the Shire has any liability on this matter my communications with the property owner both prior to and after the independent assessment of the wastewater system approval have been to deny any liability to the Shire for meeting any of the rectification costs of the wastewater system. I have discussed the broad circumstances of this matter with the Shire's insurers. If the property owner still believes there exists an argument that the Shire has liability for all or some of the costs in rectifying the wastewater system they can lodge a claim with the Shire, detailing the amount being sought and the reasons why the Shire is liable. This claim would be referred to the Shire's insurers for determination. Under this process there wouldn't be a need for Council to consider the matter as the determination of the claim is solely a decision of the insurer. I will be writing to the property owners advising this option available to them.

8. Is the lopping of the box trees along Steere Street between Gifford Road and Roe St. the responsibility of Western Power?

Response – No it is the responsibility of the Shire as the manager of the road verge to ensure that the trees don't exceed the minimum clearances to overhead power lines. Under the Energy Operators (Powers) Act 1979 Western Power can direct the occupier of land (in this case the Shire) to fell, lop or remove vegetation to prevent it interfering with or obstructing, or becoming likely to interfere with or obstruct, the construction, maintenance or safe use of any supply system. Such a direction occurred for the trees in Steere Street.

9. If Yes, Was the cost of clean-up performed by the Shire charged to Western Power.

Response – No the costs were incurred by the Shire.

Applications for Leave of Absence - Nil

Confirmation of Minutes

C.01/0919 Ordinary Meeting held 29 August 2019

A motion is required to confirm the Minutes of the Ordinary Meeting of Council held 29 August 2019 as a true and correct record.

Council Decision *Moved Cr Wilson, Seconded Cr Scallan*

C.01/0919 That the Minutes of the Ordinary Meeting of Council held 29 August 2019 be confirmed as a true and correct record.

Carried 8/0

C.02/0919 Special Meeting held 19 September 2019

Attachment 1

A motion is required to confirm the Minutes of the Special Meeting of Council held 19 September 2019 as a true and correct record.

**Council Decision Moved Cr Scallan, Seconded Cr Bookless
C.02/0919 That the Minutes of the Special Meeting of Council held 19 September 2019 be confirmed as a true and correct record.**

Carried 8/0

Announcements by the Presiding Member Without Discussion

This is election time, some of us are up for election, and one has taken the opportunity to exit. Cr Scallan, after 18 years on Council we wish you all the best, our sincere thanks for all the work you have done.

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.

Nil

Questions on Agenda Items by Elected Members - Nil

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.03/0919	FILE REF.	
SUBJECT	New Fee – Hire of Greenbushes Hardcourts		
OFFICER	Chief Executive Officer		
DATE OF REPORT	19 September 2019		

OFFICER RECOMMENDATION that Council set a fee of \$15.00 per hour for hire of the Greenbushes Hardcourts and gives public notice of the establishment of this fee in accordance with Section 6.19 of the Local Government Act.

Summary/Purpose

In May 2019 Council adopted its 2019/20 Schedule of Fees & Charges. Since that determination a request has been received from a group of basketball players to hire the Greenbushes hardcourts located at the Greenbushes Sportsground. No fee has previously been set for such a hire therefore it is recommended Council set a new fee for this purpose.

Background

Council, at its May 2019 meeting resolved:

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.*
 - b) Under 'Recreation & Culture' – 'Greenbushes Hall & Other Halls Hire' - the full day and half day hire of the Greenbushes Hall be equated to the same rate as the Bridgetown Main Hall hire fees.**
- 2. Determine the waste rate under Section 66 of the Waste Avoidance and Resource Recovery Act at the time of adoption of the 2019/20 budget.*
- 3. Determine the kerbside rubbish and recycling collection charges at the time of adoption of the 2019/20 budget.*

The only "sports court" fee listed in the current schedule of fees and charges relates to the courts at the leisure centre. The use of the hard courts at Greenbushes Sportsground has been intermittent and casual in nature. Recently contact was received from a group of basketballers seeking to hire the hard courts.

The current fee for hire of sports courts (for the purpose of training) at the leisure centre is \$27.25 per hour. Taking into account the lower operating and maintenance costs of the hard courts a fee of \$15.00 per hour is recommended.

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
 - Action 5.2.6.3 Assess level of fees and charges to apply cost recovery principle where appropriate
- Long Term Financial Plan – Nil

- Asset Management Plans - Nil
- Workforce Plan – Nil
- Other Integrated Planning - Nil

Budget Implications

The amount of revenue expected to be received from the hire of the hard courts will be less than \$1,000 per annum. Short term there isn't expected to be any increased maintenance costs for the hard courts arising from this increased usage.

Fiscal Equity

The fees are determined having regard to the cost of providing the service, the scope of the service and the anticipated preparedness of a person to pay the fee.

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 – Absolute Majority

Council Decision Moved Cr Scallan, Seconded Cr Moore

C.03/0919 That Council set a fee of \$15.00 per hour for hire of the Greenbushes Hardcourts and gives public notice of the establishment of this fee in accordance with Section 6.19 of the Local Government Act.

Absolute Majority 8/0

ITEM NO.	C.04/0919	FILE REF.	209
SUBJECT	Rolling Action Sheet		
OFFICER	Chief Executive Officer		
DATE OF REPORT	20 August 2019		

Attachment 2 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

Council Decision *Moved Cr Wilson, Seconded Cr Boyle*

C.04/0919 That the information contained in the Rolling Action Sheet be noted.

Carried 8/0

Corporate Services

ITEM NO.	C.05/0919	FILE REF.	131
SUBJECT	August 2019 Financial Activity Statements and List of Accounts Paid in August 2019		
OFFICER	Senior Finance Officer		
DATE OF REPORT	19 September 2019		

Attachment 3 August 2019 Financial Activity Statements

Attachment 4 List of Accounts Paid in August 2019

OFFICER RECOMMENDATIONS

- 1. That Council receives the August 2019 Financial Activity Statements as presented in Attachment 3.*
- 2. That Council receives the List of Accounts Paid in August 2019 as presented in Attachment 4.*

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:

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

- (a) 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.

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 August 2019 and presented in the list of accounts paid, was allocated in the 2019/20 Budget as amended.

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 Bookless, Seconded Cr Moore

C.05/0919

- 1. That Council receives the August 2019 Financial Activity Statements as presented in Attachment 3.**
- 2. That Council receives the List of Accounts Paid in August 2019 as presented in Attachment 4.**

Carried 8/0

ITEM NO.	C.06/0919	FILE REF.	493
SUBJECT	Greenbushes Old Court House Dividing Fence		
OFFICER	Executive Manager Corporate Services		
DATE OF REPORT	16 September 2019		

OFFICER RECOMMENDATION that Council

- 1. Amends its 2019/20 Budget by including an expenditure allocation of \$5,500 to job '19BU - Greenbushes Old Court House' for the installation of a new dividing fence on the eastern boundary and a portion of the northern boundary of Lot 339 (4) Blackwood Road (Greenbushes Old Court House) and Lot 338 (5) Jephson Street, Greenbushes.*
- 2. Transfers an amount of \$5,500 from the 'Building Maintenance Reserve' as funding for the fence replacement.*

Summary/Purpose

To consider an amendment to the 2019/20 Budget to enable the installation of a new dividing fence between the Greenbushes Old Court House and the adjoining property at 5 Jephson Street, Greenbushes.

Background

In November 2016 Council engaged Carters Asbestos Management to undertake inspections of all Shire buildings and provide an Asbestos Register and Asbestos Management Plans where relevant.

The completed Asbestos Register included a number of asbestos findings for the Greenbushes Old Courthouse property with various recommendations. One recommendation raised some concerns about the condition of the asbestos fencing along the eastern boundary and a small portion of the northern boundary.

Whilst there was the option of retaining and conducting ongoing monitoring of the condition of the above fences a decision was made, taking into account the use of the adjoining Shire property as a children's playgroup centre, to remove those fences.

In consultation with the adjoining land owner, removal of the asbestos fence was carried out to required specifications by a registered asbestos demolition contractor in April 2018. No arrangements were made with the adjoining land owner for sharing the costs of the fence removal as the pressure for replacement of the asbestos materials was being driven by the Shire and the users of the Shire property (Greenbushes Playgroup).

A quote was received in late June 2018 for supply and installation of a replacement fence, however this cost was not included in the 2018/19 Budget and consequently was not identified as a carried forward item for the 2019/20 Budget.

In August 2019, the current owners of 5 Jephson Street made contact with the Shire enquiring when it was intended that the boundary fence be replaced as the property (acquired as part of a deceased estate) had recently settled and they are now considering the sale of this property.

Officer Comment

In considering and assessing risks posed by asbestos fencing, the condition of the fence and weighted by the fact that the property was being used as a children's playgroup centre priority was given to the removal of this fence.

Ordinarily under the Dividing Fences Act the removal and replacement of dilapidated fences is shared between the affected property owners. In this instance the fence itself wasn't dilapidated – it was performing a satisfactory role as a dividing fence. The prioritization of the removal of the asbestos portions of the fence was driven by the Shire (and users of the children's playgroup centre) and not the adjoining land owner therefore simply requesting the other property owner contribute to the costs of removal and replacement wasn't (at time of removal) and still isn't seen to be an automatic occurrence under the Dividing Fences Act.

Erection of the new fence along the eastern boundary of the children's playgroup centre will ensure there is an appropriate standard of fence for that land use. Since removal of the asbestos fencing a metal post and solid wire fence has been in place.

The total length of fence to be erected is 31.5 metres. It should be noted that other than approximately 5 metres the fence along the northern boundary of the Shire property is to remain unchanged as this is compressed sheeting and wasn't determined to be made of asbestos material.

The new owners of the adjoining property wish the missing sections of fence to be replaced to aid in positive marketing of the property. Officers are sympathetic of the owners' plight in this instance due to the time that has elapsed since the removal of the asbestos sections of the dividing fence and are therefore recommending the works now be included in the 2019/20 Budget. It is also being recommended that the additional expenditure be funded via a transfer from the 'Building Maintenance Reserve'.

Statutory Environment

Section 6.8. of the Local Government Act - Expenditure from municipal fund not included in annual budget, states:

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or*
 - (b) is authorised in advance by resolution*; or*
 - (c) is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

(1a) In subsection (1) —
additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

Policy Implications – Nil

Integrated Planning

- Strategic Community Plan
Key Goal 3 Our Built Environment is Maintained, Protected and Enhanced
Objective 3.2 Outdoor spaces, places and buildings fit for purpose
Strategy 3.2.5 Provide and maintain a range of facilities that cater for the community's needs

Key Goal 4 A Community that is Friendly and Welcoming
Objective 4.7 A safe area
- Corporate Business Plan – Nil
- Long Term Financial Plan – Nil
- Asset Management Plans
Data that informs Council's Property Asset Management plan and renewal requirements will be updated to reflect the replacement of this portion of fencing.
- Workforce Plan – Nil
- Other Integrated Planning - Nil

Budget Implications

No specific allocation is included in Council's 2019/20 Budget for the supply and installation of the new dividing fence. It is recommended the cost of replacing the fence be funded by a transfer from the Building Maintenance Reserve. The current balance of the Building Maintenance Reserve is \$146,243.61 with no transfers from the reserve being identified in the 2019/20 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

Removal of the fencing occurred in an effort to mitigate risks associated with asbestos as a result of recommendations being contained in the asbestos register for the Greenbushes Old Court House site.

Continuous Improvement – Not Applicable

Voting Requirements – Absolute Majority

Council Decision *Moved Cr Moore, Seconded Cr Mackman*
That Council

- 1. Amends its 2019/20 Budget by including an expenditure allocation of \$5,500 to job '19BU - Greenbushes Old Court House' for the installation of a new dividing fence on the eastern boundary and a portion of the northern boundary of Lot 339 (4) Blackwood Road (Greenbushes Old Court House) and Lot 338 (5) Jephson Street, Greenbushes.***
- 2. Transfers an amount of \$5,500 from the 'Building Maintenance Reserve' as funding for the fence replacement.***

Absolute Majority 8/0

Development & Infrastructure

ITEM NO.	C.07/0919	FILE REF.	A45797
SUBJECT	Proposed Outbuilding Addition and Retrospective Approval for Three Water Tanks (Setback Variations)		
PROPONENT	Outdoor World on behalf of Albert and Janet Jansen		
LOCATION	Lot 99 (21) Charolais Close, Bridgetown		
OFFICER	Manager Planning		
DATE OF REPORT	12 September 2019		

Attachment 5	Location Plan/Aerial Photograph
Attachment 6	Applicant's Submission (including neighbours' support)
Attachment 7	Proposed Plans/Photographs

OFFICER RECOMMENDATION: *That Council noting the applicant's submission including two letters of support from affected neighbours as per Attachment 6, and pursuant to Clauses 3.4.4, 4.11.3 and 7.6.5 of Town Planning Scheme No. 4 and the provisions of the Shire's Siting of Water Tanks Policy, grants development approval for the proposed outbuilding addition and retrospective approval for the three water tanks with rear setback variations, as per Attachment 7, on Lot 99 (21) Charolais Close, Bridgetown, subject to the following conditions:*

- 1. Approval is granted for the proposed outbuilding addition with a floor area of 102.6m², and height of 3.2 metres, with a reduced setback of 6.0 metres to the eastern rear boundary, as shown on the approved plan. Any further setback variations will require a separate development approval.***
- 2. Retrospective approval is granted for the three existing water tanks with diameter of 4.0 metres and height of 2.0 metres, with reduced setbacks of 1.0 metre to the eastern rear boundary, as shown on the approved plan. Any further setback variations will require a separate development approval.***
- 3. The external colours of the shadehouse addition to complement the existing outbuilding using medium to dark colours only.***

Summary/Purpose

To consider a development application for a proposed outbuilding addition and retrospective approval for three water tanks with rear setback variations at Lot 99 (21) Charolais Close, Bridgetown. Noting the two submissions of support received

from adjoining landowners received with the application, it is recommended that development approval be granted subject to standard and special conditions.

Background

A development application has been received seeking approval to erect a 100m² 'shadehouse' addition to the existing outbuilding on Lot 99 (21) Charolais Close, Bridgetown. Retrospective approval has also been sought for the three existing water tanks setback only 1.0 metre from the eastern rear boundary.

The lot is zoned 'Special Residential SRes1' under Town Planning Scheme No. 4 (TPS4) and has an approximate area of 4635m². A 'Single House' is listed under Table 1 of TPS4 as a 'P' permitted use within this zone, with the outbuilding and water tanks deemed incidental structures.

The proposed shadehouse addition is to be located in the north-eastern corner of the property, on the northern side of the existing outbuilding and setback 6.0 metres from the closest eastern rear boundary. Ordinarily development approval would not be required for a shade house as a non-habitable garden structure, however given the size of the structure (102m² floor area and 3.2 metre roof height) and nature of existing development, assessment through the development application process is considered necessary.

The three existing water tanks are located on the eastern side of the large outbuilding and setback only 1.0 metre from the eastern rear boundary, in lieu of the required 12.0 metre setback. The applicant was aware of the required setbacks, having received development approval for the outbuilding with a setback variation, however installed the three tanks approximately three to four years ago without seeking necessary development and building permit approvals.

The applicant has submitted a supporting letter (see Attachment 6) demonstrating the reasons for the setback variations, with the letters and site plan signed by the landowners of both adjoining affected properties.

The proposed outbuilding and existing water tanks, noting the setback variations, are not expected to have any detrimental impacts on surrounding landowners or local area. The proposed outbuilding addition and existing water tanks represent significant variations to the required setbacks. Should Council not support the proposal the three water tanks will need to be emptied and either relocated elsewhere onsite in a compliant location or removed from the property.

Noting the content of the neighbours' submissions supporting the application, it is recommended that approval be granted subject to standard conditions.

Statutory Environment

Clause 3.4.4 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.”*

Under Clause 4.11.3, unless a specific building envelope has been declared for a lot, the minimum setback requirements shall be 12.0 metres from front and rear boundaries and 4.0 metres from a side boundary.

The proposed shadehouse addition is to be setback 6.0 metres from the rear boundary (matching the existing outbuilding) and 14.6 metres from the northern side boundary, representing a variation to the 12.0 metre rear setback. No detrimental impact upon the amenity of surrounding properties is anticipated for the addition.

The three existing water tanks however are only setback 1.0 metre from the eastern boundary in lieu of the required 12.0 metre setback. Whilst the tanks do not appear to create a significant amenity impact, their unauthorised placement and significant setback variation may set an undesirable precedent and brings into question whether the orderly and proper planning process has been breached.

Noting that the adjoining affected neighbours have raised no objections and that the dark colour of the tanks helps to blend them into the background of the large outbuilding, approval is recommended. Partial screening on the northern and southern sides of the row of three tanks would be practical, however there is minimal area available for planting between the tanks and eastern boundary. Screen planting is not recommended in this case.

- 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;	Noting the rear setback variations, the proposed outbuilding and three existing water tanks are consistent with the objective of the Special Residential SRes1 Zone, under Town Planning Scheme No. 4.
(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;	Noting the setback variations, the proposed outbuilding and existing water tanks are generally consistent with the orderly and proper planning of Town Planning Scheme No. 4. The draft Local Planning Strategy and Local Planning Scheme No. 6 is currently being prepared.

(c) any approved State planning policy;	SPP 7.0 Design of the Built Environment. Complies with applicable 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;	Not applicable.
(f) any policy of the State;	Not applicable.
(g) any local planning policy for the Scheme area;	Siting of Water Tanks Policy. See below.
(h) any structure plan, activity centre plan or local development plan that relates to the development;	Four Seasons Estate Structure Plan. Consistent.
(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.
(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 local area 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;	The property is not within the bushfire prone area and there is no evidence of soil erosion, flooding risk, etc.
(r) the suitability of the land for the development taking into account the possible risk to human health or safety.	See bushfire risk issues above.
(s) the adequacy of: (i) the proposed means of access to and egress from the site, and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	Not applicable.
(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;	Not applicable.
(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;	Not 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;	Letters of no objection received from landowners of two adjoining affected properties.

(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.

The three water tanks were installed by the landowners approximately three to four years ago without necessary approvals, located between the existing outbuilding and eastern boundary, with only 1.0 metre setback in lieu of the required 12.0 metre setback under Clause 4.11.3 of Town Planning Scheme No. 4. As background, development approval was granted under delegated authority on 6 December 2012 for the existing outbuilding with a reduced setback of 6.0 metres to the eastern boundary.

The three existing tanks are considered modest in size and their dark colour complements the existing large outbuilding. The adjoining property to the east (Lot 200) is approximately 1.9 hectares in size with one of the original farm houses and ancillary buildings that preceded the Four Seasons Estate subdivision, and separated from the subject tanks by approximately 60 metres. The tanks are also separated from the new dwelling on the property to the north (Lot 100) by approximately 35 metres.

Noting the content of the Siting of Water Tanks Policy and support from adjoining affected landowners retrospective approval is recommended with a reduced setback of only 1.0 metre in lieu of the required 12.0 metre setback. Whilst screening between the tanks and eastern boundary seems impractical, screen vegetation at the northern and southern ends of the row of tanks is possible, however not recommended given the location, size and colour of the three tanks.

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

The proposed outbuilding addition and the three existing water tanks represent significant variations to the required setbacks, however noting no objection from adjoining landowners, the location, size and colour of the shadehouse and water tanks, approval is recommended. Should Council not support the proposal, the water tanks will need to be emptied and either relocated elsewhere onsite or removed from the property. The development application was not referred to adjoining landowners as letters of no objection were lodged with the application.

- 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 townsite 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 proposed outbuilding addition and the three existing water tanks represent significant variations to the required setbacks, however noting no objection from adjoining landowners, the location, size and colour of the shadehouse and water tanks, approval is recommended. Should Council not support the proposal, the water tanks will need to be emptied and either relocated elsewhere onsite or removed from the property. The development application was not referred to adjoining landowners as letters of no objection were lodged with the application.

- 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

The proposed shadehouse outbuilding addition and existing water tanks, noting the setback variations, are not expected to have any detrimental impacts on surrounding landowners or local area.

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement

The content of the neighbours' submissions has assisted consideration of the proposal.

Delegated Authority

Nil - Officers do not have delegated authority to approve the application as it requires a setback variation greater than 75% and must therefore be determined by Council.

Voting Requirements – Simple Majority

Council Decision *Moved Cr Wilson, Seconded Cr Boyle*

C.07/0919 That Council noting the applicant's submission including two letters of support from affected neighbours as per Attachment 6, and pursuant to Clauses 3.4.4, 4.11.3 and 7.6.5 of Town Planning Scheme No. 4 and the provisions of the Shire's Siting of Water Tanks Policy, grants development approval for the proposed outbuilding addition and retrospective approval for the three water tanks with rear setback variations, as per Attachment 7, on Lot 99 (21) Charolais Close, Bridgetown, subject to the following conditions:

- 1. Approval is granted for the proposed outbuilding addition with a floor area of 102.6m², and height of 3.2 metres, with a reduced setback of 6.0 metres to the eastern rear boundary, as shown on the approved plan. Any further setback variations will require a separate development approval.***
- 2. Retrospective approval is granted for the three existing water tanks with diameter of 4.0 metres and height of 2.0 metres, with reduced setbacks of 1.0 metre to the eastern rear boundary, as shown on the approved plan. Any further setback variations will require a separate development approval.***
- 3. The external colours of the shadehouse addition to complement the existing outbuilding using medium to dark colours only.***

Carried 8/0

ITEM NO.	C.08/0919	FILE REF.	A39176
SUBJECT	Proposed Overheight Outbuilding		
PROPONENT	Gary Louth and Robyn Lovell		
LOCATION	Lot 7 (16) Gifford Road, Bridgetown		
OFFICER	Manager Planning		
DATE OF REPORT	12 September 2019		

Attachment 8	Location Plan
Attachment 9	Applicant's Submission
Attachment 10	Proposed Plans

OFFICER RECOMMENDATION: That Council, noting no submissions from adjoining landowners were received, pursuant to Clauses 3.4.8 and 6.7.4 of Town Planning Scheme No. 3, Design Principle 5.4.3 Performance Criteria P3 of the Residential Design Codes of WA, waives the requirements of the Shire's Outbuildings in the Residential Zone Policy and grants development approval for the proposed overheight outbuilding on Lot 7 (16) Gifford Road, Bridgetown, as per Attachment 10, subject to the following conditions:

- 1. Approval is granted for the proposed outbuilding with a floor area of 100m², wall height of 3.3 metres and ridge height of 4.18 metres. Any increase in the floor area, wall or ridge heights of the outbuilding will require separate approval.*
- 2. The proposed outbuilding is to be clad using non-reflective wall and roof materials.*
- 3. The proposed outbuilding is to be used for domestic storage purposes only.*

Summary/Purpose

To consider a development application for a proposed outbuilding on Lot 7 (16) Gifford Road, Bridgetown, with a variation sought for the maximum wall height as required under Town Planning Scheme No. 3 and the Shire's Outbuildings in the Residential Zone Policy.

Noting that no submissions were received from surrounding landowners, the rationale provided by the applicant, that the proposed overheight outbuilding is relatively modest in size and is to be clad using non-reflective materials, it is recommended that the provisions of the Shire's Policy be waived and approval be granted subject to conditions.

Background

A development application has been received seeking approval to erect an outbuilding on Lot 7 (16) Gifford Road, Bridgetown, corner of Turner Road. The lot is zoned 'Residential R12.5/20' under Town Planning Scheme No. 3 (TPS3) and has an area of 3425m².

The existing house and ancillary accommodation is located in the southern portion of the property, with existing outbuildings. The proposed outbuilding is to be located in proximity to the northern portion of the property, set back 8.0 metres from the Gifford Road front boundary and 6.4 metres from the closest northern side boundary, consistent with required setbacks. The proposed outbuilding will be 12.4 metres long and 10 metres wide, however excluding the eastern open car bay, the outbuilding

will have a floor area of 100m². The proposed outbuilding has a wall height of 3.3 metres, ridge height of 4.18 metres and is to be clad with 'Pale Eucalyptus' medium green coloured walls, roof and trimming.

The proposed floor area of 100m² exceeds the 80m² maximum under the Standard Requirements of the Shire's Policy. Under the Policy where a lot is 1000m² or greater in area, a larger sized outbuilding can be considered up to 10% of the lot area (up to maximum floor area of 150m²). Given the subject lot is 3425m² in area, an outbuilding (or outbuildings) with an area of 150m² could be considered for this property as a Non Complying Outbuilding, and ordinarily determined under delegated authority.

The proposed 3.3 metre wall height exceeds the 2.7 metre maximum under the 'Standard Requirements' of the Policy, and also the 3.0 metre height for a 'Non Complying Outbuildings'. Consideration by Council for a 'Non Permitted Outbuilding' is therefore required.

The applicant has provided a rationale for the size and location of the proposed outbuilding (see Attachment 9) with the 3.3 metre wall height necessary for caravan access.

The application was referred to the landowners of six surrounding properties with the comment period ending on 4 September 2019, however no submissions were received.

Noting the above, and the terms of the Shire's Outbuildings in the Residential Zone Policy and the Residential Design Codes discussed below, Council could support the additional floor area and wall height:

- The outbuilding is to be constructed using non-reflective 'Pale Eucalyptus' medium green cladding and trimming.
- The building is not setback within the primary or secondary street frontage and setback 6.4 metres from the closest side boundary, which adjoins the Clovers Liquor Store.
- The proposed ridge height of 4.18 is below the permitted 4.2 metre height and the roof pitch is modest.
- No submissions were received from surrounding landowners and the proposed outbuilding is not expected to have a detrimental impact upon neighbouring properties or the broader landscape.
- The property has an area of 3425m², allowing potentially for 150m² of outbuildings, whereas only 100m² is proposed (excluding the open car bay).

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

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 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:*

- (c) 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;*
- (d) 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 outbuilding, noting the additional wall height, is not expected to have an adverse effect upon the residential amenity of surrounding properties.

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 7.6.5 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 waive policy provisions where Council is satisfied that the objectives of the policy have been taken into account. The proposed outbuilding will exceed the 80m² Standard floor area, plus the 2.7 metre Standard and 3.0 metre Non Complying wall height. Waiving of those policy requirements is considered acceptable for the reasons discussed in this report.

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

Requirement	Comment
(z) the aims and provisions of this scheme and any other local planning scheme operating within the Scheme area;	Noting the additional floor area and overheight wall, the proposed outbuilding is consistent with the objective of the Residential Zone, under Town Planning Scheme No. 3.
(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 additional floor area and overheight wall, the proposed outbuilding is consistent with the objective of the Residential Zone, under Town Planning Scheme No. 3. The draft Local Planning Strategy and Local Planning Scheme No. 6 is currently being prepared.

(bb) any approved State planning policy;	SPP 7.0 Design of the Built Environment. Complies with applicable design principles. SPP 7.3 Residential Design Codes (Volume 1). See below.
(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;	Not applicable.
(ee) any policy of the State;	Not applicable.
(ff) any local planning policy for the Scheme area;	Outbuildings in the Residential Zone Policy. See below.
(gg) any structure plan, activity centre plan or local development plan that relates to the development;	Not applicable.
(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.
(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;	No detrimental impacts upon the local area are anticipated.
(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;	No detrimental impacts upon the local environment, character of the locality or adjoining land are anticipated.

(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;	No detrimental impacts upon the local environment or water resources are anticipated.
(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;	Not applicable.
(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;	The property is not within the bushfire prone area and there is no evidence of soil erosion, flooding risk, etc.
(qq) the suitability of the land for the development taking into account the possible risk to human health or safety.	See Point (q) above.
(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;	Access will be via the existing crossover to Gifford Road.
(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;	No additional traffic is anticipated.
(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;	Nil.
(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;	Not applicable.
(xx) 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

- State Planning Policy 7.3 Residential Design Codes of Western Australia Volume 1

Under Design Principle 5.4.3 Outbuildings P3 'Outbuildings that do not detract from the streetscape or the visual amenity of resident or neighbour property' are compliant.

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.

The proposed outbuilding satisfies setback requirements however exceeds the 60m² floor area and 2.7 metre wall height. As discussed below, the Shire's Outbuildings in the Residential Zone Policy allows for larger outbuildings subject to certain criteria being met including compliance with maximum floor areas and building heights, use of non-reflective materials and compliance with required setbacks.

Although noting the floor area and wall height exceeds the Deemed-to-comply requirements of the R-Codes, the proposed outbuilding is to be clad in medium green materials, and is unlikely to have a detrimental impacts upon neighbours or the streetscape.

- Shire's Outbuildings in the Residential Zone Policy

The Policy recognises 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 recognises 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.”*

Applications that do not meet the above requirements are to be determined by Council as ‘Non Permitted Outbuildings’.

Whilst the proposed outbuilding has a floor area of 100m² and wall height of 3.3 metres, the building is well setback from the street and adjoining properties, and screening of the outbuilding by vegetation or other means is not considered necessary.

Noting no objections were raised by surrounding landowners, and although noting the variations to the Policy and R-Codes, it is recommended that approval be granted for the proposed outbuilding.

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

The proposed outbuilding represents a minor variation to the Shire's Policy, and noting no objection from surrounding landowners, approval is recommended.

- 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 townsite 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 proposed outbuilding represents a minor variation to the Shire's Policy, and noting no objection from surrounding landowners, approval is recommended.

- 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

As no submissions were received from surrounding landowners it is deemed they have no objections, and taken into consideration in assessment of the proposal.

Delegated Authority

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

Voting Requirements – Simple Majority

Council Decision Moved Cr Mackman, Seconded Cr Wilson

C.08/0919 That Council, noting no submissions from adjoining landowners were received, pursuant to Clauses 3.4.8 and 6.7.4 of Town Planning Scheme No. 3, Design Principle 5.4.3 Performance Criteria P3 of the Residential Design Codes of WA, waives the requirements of the Shire's Outbuildings in the Residential Zone Policy and grants development approval for the proposed overheight outbuilding on Lot 7 (16) Gifford Road, Bridgetown, as per Attachment 10, subject to the following conditions:

- 1. Approval is granted for the proposed outbuilding with a floor area of 100m², wall height of 3.3 metres and ridge height of 4.18 metres. Any increase in the floor area, wall or ridge heights of the outbuilding will require separate approval.**
- 2. The proposed outbuilding is to be clad using non-reflective wall and roof materials.**
- 3. The proposed outbuilding is to be used for domestic storage purposes only.**

Carried 8/0

ITEM NO.	C.09/0919	FILE REF.	A40210
SUBJECT	Proposed Single House and Retrospective Approval for Outbuilding		
PROPONENT	Philip Scovell and Teigan Hamlen		
LOCATION	Lot 13525 (120) Blackwood Road, Greenbushes		
OFFICER	Manager Planning		
DATE OF REPORT	18 September 2019		

- Attachment 11 Location Plan/Aerial Photograph
Attachment 12 Applicant's Submission/Photographs
Attachment 13 Proposed Plans/Bushfire Management Reports

OFFICER RECOMMENDATION: That Council pursuant to Clause 2.3 of Town Planning Scheme No. 4 grants development approval for the proposed single house and retrospective approval for the existing outbuilding including two relocatable storage units, as per Attachment 13, on Lot 13523 (120) Blackwood Road, Greenbushes, subject to the following conditions:

- 1. The proposed single house is to be constructed in accordance with BAL-12.5 standards pursuant to Australian Standard AS3959 Construction of Buildings in Bush-Fire Prone Areas.**
- 2. The findings and recommendations of the Bushfire Attack Level Assessment (dated 31 May 2019) and Bushfire Management Plan (dated 18 September 2019) must be implemented to achieve and maintain the BAL-12.5 rating for the life of the dwelling, including the provision of the asset protection zone, vegetation control and vehicular access.**

3. *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.*
4. *Retrospective approval is granted for outbuilding structure including the two relocatable storage units to be used for non-habitable purposes only.*
5. *The exterior of the outbuilding including the two relocatable storage units must be re-painted using a non-reflective colour, and any rusted/damaged areas are to be treated/repared within 90 days of approval and thereafter maintained.*
6. *Additional screen vegetation using species capable of growing to not less than 3.0 metres in height to be planted between the outbuilding and the northern boundary for a length of 50 metres. 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 existing and new planted screen vegetation thereafter maintained.*
7. *The relocatable storage units must rest directly on compacted, level ground and are not permitted to rest on sleepers or concrete skids, unless a building permit has been granted by the Shire of Bridgetown-Greenbushes.*
8. *The Shire of Bridgetown-Greenbushes reserves the right to instruct a landowner to remove the approved outbuilding and relocatable storage units if any of the above conditions are not carried out to the satisfaction of the Shire.*

Summary/Purpose

To consider a development application for a proposed single house and an unauthorised outbuilding, including two relocatable storage units, on Lot 13523 (120) Blackwood Road, Greenbushes. The property is reserved for 'State Forest' under Town Planning Scheme No.4 however it is recommended that development approval is granted for the proposed single house and outbuilding as an acceptable variation to the ultimate purpose of the reservation.

Background

As background, Council at the Ordinary Meeting held on 29 October 2015 resolved to support a proposed single house (being a relocated dwelling) for this property. Whilst development approval was granted on 4 November 2015 a building permit was not sought and the dwelling was not constructed.

Shire staff in 2018 contacted the landowners regarding an alleged unauthorised outbuilding in proximity to the northern boundary, which utilises two existing relocatable storage units (ie. sea containers). The landowners submitted a development application in January 2019 seeking retrospective approval for the unauthorised structure, with the application not progressed until now, pending submission of design drawings and photographs of the structure, recently received on 11 September 2019.

A second development application was received in June 2019 for the proposed single house, located more centrally within the property, with a Bushfire Management Plan recently received on 11 September 2019. The two applications

for the single house and retrospective approval for the outbuilding have been combined into one application for Council consideration.

The property is reserved for 'State Forest' under Town Planning Scheme No. 4 (TPS4) and has an approximate land area of 10.423 hectares. The subject lot contains a small stand of native vegetation, a small orchard and dam, and is used for rural purposes such as grazing, horticulture and storage of agricultural equipment. The lot does not currently contain a dwelling.

The property borders South Western Highway to the north-east and Lindsay Road to the south. The land adjoins State Forest reserved land to the east, one parcel being privately owned freehold land used for rural purposes and another small area of bushland.

The proposed dwelling is to be setback approximately 80 metres east of Blackwood Road, to the north-east of a small dam (understood to be a flooded former mine pit) with the location considered suitable. The three bedroom dwelling will be clad in custom orb sheeting, and the location and design are considered acceptable.

The proposed outbuilding, for which retrospective approval is being sought, consists of a curved roof, partially enclosed, central structure joined with and between two sea container units, setback approximately 26 metres from the northern boundary to South Western Highway. The applicant has submitted a supporting letter (see Attachment 12) for use of the storage units as part of the outbuilding, also indicating that screen planting along the northern boundary is progressing.

The reservation applicable to the land is considered to be a zoning anomaly and application of an Agriculture zone under the draft Local Planning Scheme No. 6 would be more suited to this property. The draft Local Planning Strategy has identified the land for rezoning to Agriculture in the interim with the rural use expected to continue for sometime, with potential rezoning to facilitate low density subdivision in the future.

Unlike most State Forest land, this property is privately owned and not vested in the Department of Parks and Wildlife (DPaW) and hence consultation with the DPaW is not required for Council to consider this proposal.

The majority of the property and in particular the development site for the proposed single house is within the bushfire prone area at the time of application. A Bushfire Attack Level Assessment dated 31 May 2019 demonstrates a current rating of BAL-40 for the proposed dwelling. A revised Bushfire Management Plan dated 18 September 2019 demonstrates compliance with the bushfire protection criteria under Appendix Four of the guidelines for Planning in Bushfire Prone Areas, and measures to lower the rating to an acceptable level of BAL-29 or lower. No significant vegetation is required to be removed to implement the proposed asset protection zone to achieve the proposed rating of BAL-12.5.

The proposed single house is well located centrally within the property and will allow the landowners to reside on the property and continue the rural use of the land. The proposed outbuilding structure, including the two relocatable storage units, is not expected to have any detrimental impacts on surrounding landowners or local area subject to external re-painting and additional screen planting along the northern

boundary. Should Council not support the proposal the unauthorised outbuilding and storage units will need to be removed from the property.

Noting the current rural use of the privately owned land, and compliance with the Shire's Relocatable Storage Units Policy, it is recommended that Council support development approval for the single house and associated outbuilding as an acceptable variation to the ultimate purpose of the State Forest reservation, subject to standard and special conditions.

Statutory Environment

Clause 2.2.1 of TPS4 states *"Except as provided in Clause 2.2.2 a person shall not commence or carry out development of any Scheme Reserve other than the erection of a boundary fence without first having applied for and obtained the Planning Consent of the Council."*

Clause 2.2.2 of TPS4 states *"A Scheme Reserve may be used without the Planning Consent of Council:*

- (a) for the purpose of which land is reserved under the Scheme;*
- (b) where such land is vested in a Public Authority for any purpose of which such land may be lawfully used by that Authority."*

Clause 2.3 of the TPS4 states *"Where an application for Planning Consent is made with respect to land under a Scheme Reserve, the Council shall have regard to the ultimate purpose intended for the Reserve and the Council shall, in the case of land reserved for the purposes of a Public Authority, confer with that Authority before granting its consent."*

Clause 2.4.1 of TPS4 states *"Where a Council refuses Planning Consent for the development of a Scheme Reserve on the ground that the land is reserved for Local Authority purposes or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected thereby, claim compensation of such injurious affection."*

Clause 2.4.2 of TPS4 states *"In lieu of paying compensation the Council may purchase the land affected by such decision of Council at a price not exceeding the value of the land at the time of refusal of Planning Consent or of the grant of consent subject to conditions that are unacceptable to the applicant."*

The State Forest reservation is no longer considered relevant and the proposed single house and outbuilding, and continued private rural use of the land, is considered appropriate as a variation to the ultimate purpose of the reserved land.

TPS4 does not include any development provisions for local scheme reserves including the applicable State Forest reservation. The General Objectives and Policies under Clause 4.1, and Objectives and Policies that apply to the four Rural zones in TPS4 (although not technically applicable to reserved land) seek to protect the District's economic base, landscape and rural character, whilst allowing for other forms of development, having regard to land capabilities. The proposed single

house and outbuilding will facilitate ongoing and acceptable rural use of the land, generally consistent with these objectives and policies.

Under Clause 4.6 of TPS4, buildings within the Rural zone are to be setback 50 metres from a highway, 30 metres from a major road, and 20 metres to all other boundaries. As the land is zoned State Forest, Clause 4.6 is not technically applicable, and the 26 metre setback of the outbuilding to the boundary with South Western Highway does not require a formal setback variation. The location of the non-habitable structure is considered suitable subject to the recommended external re-painting and additional screen planting along a section of the northern boundary. Under Clause 4.10 Amenity and Development *“Council’s objectives will be to ensure that the overall amenity of the district is retained and enhanced for the benefit of residents and in the interests of the District’s tourist potential, and that the landscape values of the environment are maintained.”*

Under Clause 4.10.1 Standard of Development *“Notwithstanding that a proposed development conforms in all other respects with any provision of the Scheme or any by-law in force, Council may at its discretion, refuse to grant approval if it considers that such development would by its siting, design, construction or materials result in a significant deterioration of the landscape and amenity of the general locality.”*

The proposed single house is well located centrally within the property and will allow the landowners to reside on the property and continue the rural use of the land. The proposed outbuilding structure, including the two relocatable storage units, is not expected to have any detrimental impacts on surrounding landowners or local area subject to external re-painting and additional screen planting along the northern boundary.

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

Requirement	Comment
(yy) the aims and provisions of this scheme and any other local planning scheme operating within the Scheme area;	The proposed single house and outbuilding are generally consistent with provisions of Town Planning Scheme No. 4, noting the proposed use is contrary to the ultimate purpose of the State Forest reservation.
(zz) 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 and outbuilding are generally consistent with provisions of Town Planning Scheme No. 4, noting the proposed use is contrary to the ultimate purpose of the State Forest reservation. The draft Local Planning Strategy and Local Planning Scheme No. 6 is currently being prepared.

(aaa) any approved State planning policy;	SPP 3.7 Planning in Bushfire Prone Areas. Complies with provisions relating to 'minor development' for a single house. SPP 7.0 Design of the Built Environment. Complies with applicable design principles.
(bbb) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d);	Not applicable.
(ccc) any policy of the Commission;	Guidelines for Planning in Bushfire Prone Areas. Complies with Appendix Four Bushfire Protection Criteria.
(ddd) any policy of the State;	Not applicable.
(eee) any local planning policy for the Scheme area;	Relocatable Storage Units Policy. See below.
(fff) any structure plan, activity centre plan or local development plan that relates to the development;	Not applicable.
(ggg) 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.
(hhh) 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;	The proposed single house and outbuilding are generally consistent with provisions of Town Planning Scheme No. 4, noting the proposed use is contrary to the ultimate purpose of the State Forest reservation.
(iii) the built heritage conservation of any place that is of cultural significance.	Not applicable.
(jjj) the effect of the proposal on the cultural heritage significance of the area in which the development is located;	Not applicable.
(kkk) 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 local area are anticipated.
(III) the amenity of the locality including the following: (vii) environmental impacts of the development; (viii) the character of the locality; (ix) social impacts of the development;	No detrimental impacts upon the local environment, character of the locality or adjoining land are anticipated.

(mmm) 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.
(nnn) 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.
(ooo) 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 above. No evidence of landslip, flooding, etc, affecting the proposed dwelling or outbuilding.
(ppp) the suitability of the land for the development taking into account the possible risk to human health or safety.	See bushfire risk issues above.
(qqq) the adequacy of: (v) the proposed means of access to and egress from the site, and (vi) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	A new crossover to Blackwood Road and an internal driveway will cater for domestic and rural traffic.
(rrr) 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;	A small increase in domestic traffic is anticipated and will be acceptable.
(sss) the availability and adequacy for the development of the following: (xi) public transport services; (xii) public utility services; (xiii) storage, management and collection of waste; (xiv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (xv) access by older people and people with a disability;	Reticulated water, power and telecommunications, plus rubbish bin collection are available. All other matters are not applicable.
(ttt) 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.
(uuu) the history of the site where the development is to be located;	Not applicable.

(vvv) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;	Not applicable.
(www) any submissions received on the application;	Not applicable.
(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 Relocatable Storage Units Policy

The purpose of this policy is to regulate the use of relocatable storage units and establish guidelines for the assessment of proposals to place such units on land within the Shire of Bridgetown-Greenbushes, to ensure that they do not detract from the visual amenity of an area.

The permanent use of relocated storage unit in a residential and special residential area is prohibited but can be considered in a rural, special rural, commercial or industrial zone. Given the placement and use of sea containers on a large rural property is unlikely to have an impact upon the amenity of the agricultural areas, approval is not required where the container is not visible from public view.

The two relocatable storage units have been onsite for many years, placed on the property by the previous landowner. Approval has now been sought for the two units in conjunction with the outbuilding for continued rural use. It is recommended that the two storage units be approved, as part of the outbuilding structure, subject to external re-painting and additional screen planting along the northern boundary.

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

Noting the current rural use of the privately owned land, and compliance with the Shire's Relocatable Storage Units Policy, it is recommended that Council support development approval for the single house and associated outbuilding as an acceptable variation to the ultimate purpose of the State Forest reservation, subject to standard and special conditions.

- 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 townsite 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

Noting the current rural use of the privately owned land, and compliance with the Shire's Relocatable Storage Units Policy, it is recommended that Council support development approval for the single house and associated outbuilding as an acceptable variation to the ultimate purpose of the State Forest reservation, subject to standard and special conditions.

- 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. Should Council refuse development approval due to the State Forest reservation under Town Planning Scheme No. 4, the landowner may seek compensation however a value can not be estimated at this time.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity

The proposed single house and outbuilding are not expected to have any detrimental impacts on surrounding landowners or local area.

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement

This report acknowledges the zoning anomaly applicable to the land to be addressed in preparation of Local Planning Scheme No. 6. Assessment of the revised Bushfire Attack Level Assessment and Bushfire Management Plan has assisted consideration of this application.

Delegated Authority

Officers do not have delegation to determine an application for development that is contrary to the ultimate purpose of a Scheme Reserve.

Voting Requirements – Simple Majority

Council Decision Moved Cr Bookless, Seconded Cr Mackman

C.09/0919 That Council pursuant to Clause 2.3 of Town Planning Scheme No. 4 grants development approval for the proposed single house and retrospective approval for the existing outbuilding including two relocatable storage units, as per Attachment 13, on Lot 13523 (120) Blackwood Road, Greenbushes, subject to the following conditions:

- 1. The proposed single house is to be constructed in accordance with BAL-12.5 standards pursuant to Australian Standard AS3959 Construction of Buildings in Bush-Fire Prone Areas.**
- 2. The findings and recommendations of the Bushfire Attack Level Assessment (dated 31 May 2019) and Bushfire Management Plan (dated 18 September 2019) must be implemented to achieve and maintain the BAL-12.5 rating for the life of the dwelling, including the provision of the asset protection zone, vegetation control and vehicular access.**
- 3. 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.**
- 4. Retrospective approval is granted for outbuilding structure including the two relocatable storage units to be used for non-habitable purposes only.**
- 5. The exterior of the outbuilding including the two relocatable storage units must be re-painted using a non-reflective colour, and any rusted/damaged areas are to be treated/repared within 90 days of approval and thereafter maintained.**
- 6. Additional screen vegetation using species capable of growing to not less than 3.0 metres in height to be planted between the outbuilding and the northern boundary for a length of 50 metres. 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 existing and new planted screen vegetation thereafter maintained.**
- 7. The relocatable storage units must rest directly on compacted, level ground and are not permitted to rest on sleepers or concrete skids, unless a building permit has been granted by the Shire of Bridgetown-Greenbushes.**
- 8. The Shire of Bridgetown-Greenbushes reserves the right to instruct a landowner to remove the approved outbuilding and relocatable storage units if any of the above conditions are not carried out to the satisfaction of the Shire.**

Carried 8/0

ITEM NO.	C.10/0919	FILE REF.	
SUBJECT	Pesticide Regulation Review		
PROPONENT	Department of Health (WA)		
OFFICER	Manager Environmental Health		
DATE OF REPORT	19 September 2019		

OFFICER RECOMMENDATION That Council, in response to the Department of Health's discussion paper, 'Managing Public Health Risks Associated with Pesticides in Western Australia', instructs the Chief Executive Officer to prepare a submission to WALGA that endorses WALGA's position of supporting in principle the introduction of new regulations proposed in Option C while opposing the removal of licencing exemptions for Local government employees and the transfer of responsibilities for all regulatory functions to Local governments as outlined in this report including:

- The requirement for Shire staff to undertake further training to ensure compliance with the new regulations and enforcement of the regulations;*
- The appointment of local government as the enforcement and licencing agency may result in conflict of interest issues, particularly as local government can be a significant user of pesticides;*
- Potential cost increases imposed on the Shire of Bridgetown-Greenbushes; and*
- Increased administrative responsibility for Shire staff already operating under limited resources.*

Summary/Purpose

With the introduction of the new Public Health Act 2016, the Department of Health has released a discussion paper on managing public health risks associated with pesticides in Western Australia with a view to changing the current regulatory framework. This report provides a summary of the proposed changes and implications for Council.

Background

The WA State Government introduced the *Public Health Act 2016* for Western Australia which will repeal much of the outdated *Health (Miscellaneous Provisions) Act 1911* and takes a risk based approach to dealing with public health matters. Implementation of the new Act will be delivered in stages, with full implementation expected by 2021. All regulations previously adopted under the *Health (Miscellaneous Provisions) Act 1911*, including the *Health (Pesticides) Regulations 2011* (Regulations), are currently under review and will be either repealed or replaced.

The discussion paper 'Managing Public Health Risks Associated with Pesticides in Western Australia' is a consultation document prepared by the WA Department of Health (DOH) which examines the current Regulations and regulatory environment for pesticide use in Western Australia. It also presents options for public consideration relating to future regulation and invites feedback on the proposed options via an online survey.

A copy of the DOH's discussion paper is attached for Council's consideration.

Officer Comment

The DOH is currently the sole regulatory authority in Western Australia for approving and issuing pest management technicians licences and pest management business registrations. It should also be noted that Health Departments are generally the regulatory/enforcement agencies across jurisdictions in Australia.

The DOH views the process of repealing the current Regulations and introducing an appropriate legislative structure under the *Public Health Act 2016* as an opportunity to fine-tune and simplify current industry compliance requirements.

DOH Proposals

As part of the review process, the DOH is proposing the following three options for dealing with the pesticide industry in Western Australia:

Option A: Take no action (repeal current Regulations without replacement)

Individual Local Governments would become responsible for determining pesticide application safety within their jurisdiction and would have the potential to draft local laws to regulate the use of pesticides within their jurisdiction boundary. The DOH would provide guidance documents on minimising health risks which would be enforced using the general public health duty provided by the *Public Health Act 2016*. However, if a complaint arose, it would be the responsibility of authorised officers within the Local Government to deal with the matter including issuing improvement notices, enforcement orders and/or commencing prosecution. As local governments can be a significant user of pesticides, this could present conflict of interest issues.

Option B: Retain the existing regulatory regime by making new regulations under the Public Health Act 2016 identical to those in force under the Health (Miscellaneous Provisions) Act 1911

The Pesticide Industry would continue to comply with registration and licensing requirements including regular inspections of businesses and industry vehicles, site inspections and investigation as required. However, the current Regulations are very prescriptive and take a 'one size fits all' approach which would not align with the risk based nature of the *Public Health Act 2016* or adapt to evolving technologies and changing practices of the industry. Furthermore, the current Regulations only allow for penalties after a public health incident has occurred and can only be imposed after a successful prosecution which can be a cumbersome process.

It should also be noted that the DOH have stated in their discussion paper that they would attempt to replicate all of the current regulatory provisions, as far as practicable, in the new system. As such there is no guarantee that the existing Regulations would be retained in their current format.

Option C: Provide new, updated regulations under the Public Health Act 2016

This option would have regulatory requirements and Authorised officers would remain responsible for administering the new regulations. A proactive approach to pesticide management would continue, with universal compliance requirements for

industry under the registration and licensing system, regular inspections of businesses, industry vehicles, site inspections and investigations as required.

The DOH have also stated in their discussion paper that the new Regulations may prescribe offences in relation to an activity and provide modified penalties for which an infringement notice may be issued. This will provide a more cost effective and efficient method for dealing with particular offences.

DOH Preferred Option

The preferred option of the DOH is to repeal the current Regulations and replace them with new regulations under the *Public Health Act 2016* (Option C). If this option is adopted, DOH proposes a number of changes to create updated, effective and consistent legislation. There are nine proposals in total for consideration with the following two proposals in particular impacting heavily on Local Government:

Proposal 3: Removal of licensing exemption criteria for individuals employed exclusively by local government authorities and State government departments.

Under the current Regulations, local government employees who are involved in the application of pesticides (not including fumigations) are exempt from licencing. They must though observe general safety rules for the possession, use and disposal of pesticides and comply with the general Occupational Safety and Health (OSH) duty of care.

However, the DOH asserts that, based on a risk comparison of local and State government employees with other licenced pest management operators, the licencing exemption for local government employees should be removed. The reasoning behind this proposal is that DOH believes many individuals employed by local government may not have the experience of licensed Pest Management Technicians (PMT) therefore this exemption presents a public health risk particularly when pesticides are applied in urban areas and/or public places.

Whilst there would be no expectation for local governments to register as a Pest Management Business under the new regulations, the proposed change would mean that all local government employees involved in pest management would require an individual pest management licence. The current Regulations require an individual to be assessed by a General Practitioner and deemed medically fit for the purpose of handling pesticides. They will also be required to enrol in an approved Cert III course in Urban Pest Management from an approved training provider in order to obtain a provisional licence. This allows the individual to operate under supervision for a probationary period of 12 months. The individual can then apply for an extension to the probationary period or after successful completion of the approved Cert III course, apply to convert the provisional licence to a PMT Licence.

Proposal 7: Local Government replaces the DOH as the enforcement agency and undertakes all administrative, assessment, inspection and approvals tasks identified under the new regulations.

DOH Authorised Officers currently administer and enforce the existing Regulations therefore the body of knowledge and expertise sits with DOH Officers. The role of the DOH in regulating the pesticide industry currently involves the following:

1. Assessing new applications for registration of pest management businesses and licensing of pest management technicians.
2. Issuing certificates of registration and licence ID cards.
3. Undertaking inspections of new pest management businesses and vehicles.
4. Assessing and issuing renewals of registration and renewals of licence as required.
5. Investigating breaches of the regulations and conducting ad-hoc inspections of businesses and vehicles.

The proposal to appoint local governments as the enforcement agency has been recommended by DOH to address the logistical and financial difficulties the Department experiences when regulating regional and remote industry providers from a centralised location in Perth. As such the change would essentially be transferring all responsibility, costs and liability away from State government to local government.

There would be an increase in administrative responsibility for Shire staff, in particular, the Manager Environmental Health who would be the Authorised officer for administering the new regulations. It is also likely that further training would need to be undertaken to ensure the Authorised officer met the required competency levels in assessment of applications and vehicles.

Currently there are 2 pest management businesses and 5 PMTs located in the Shire of Bridgetown-Greenbushes who are registered with the DOH. The pest management industry however is highly mobile and many PMTs will be registered in one Local Government area but operating across jurisdictional boundaries which may complicate cost recovery and enforcement.

WALGA Submission

WALGA is currently preparing a submission which will outline their support in principle for the introduction of new regulations proposed in Option C however they are opposed to the removal of licencing exemptions for local government employees and the transfer of responsibilities for all regulatory functions to local governments. This view aligns with WALGA's Public Health Advocacy Plan which outlines their advocacy, on behalf of local governments, to the State government for more resources and funding to implement public health initiatives under the *Public Health Act 2016*. WALGA has requested all Local Governments who support their position to provide written feedback to them before 10 October 2019.

Conclusion

It is the view of Shire Officers that regulatory control in the form of specific legislation is necessary to protect the public from inappropriate use of pesticides. The current Regulations are very prescriptive and provide a one size fits all regulatory framework which does not align with the risk based approach of the new *Public Health Act 2016*. Furthermore, DOH has asserted that the existing regulations cannot be completely transitioned over in their current format. The preferred option therefore would be the introduction of new Regulations which would provide universal industry requirements for compliance. However, it is also the view of Shire Officers that Council should oppose the removal of licencing exemptions for local government employees and the transfer of responsibilities for all regulatory functions to Local governments.

Statutory Environment

The new *Public Health Act 2016* aims to provide a flexible and proactive framework for the regulation of public health in WA. It will repeal much of the outdated *Health (Miscellaneous Provisions) Act 1911* and use a more risk based approach to dealing with public health issues.

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 financial sustainability of the organisation
- Corporate Business Plan
Strategy 5.2.6 – Ensure the financial sustainability of the organisation
Action 5.2.6.4 – Limit entry into services and activities provided by others unless there is adequate compensation or available resources
- Long Term Financial Plan – Not Applicable
- Asset Management Plans – Not Applicable
- Workforce Plan – Not Applicable
- Other Integrated Planning - Nil

Policy Implications - Nil

Budget Implications

If local government replaces the DOH as the enforcement and licencing agency then this will create an extra administrative and financial burden on the Shire which will likely impact on the Shire's annual budget. Whilst Section 294 of the *Public Health Act 2016* allows local government to recover costs under the *Local Government Act 1995*, Part 6, and Division 5, it can be difficult to assess the true cost of a service provided and charges can be difficult to collect.

The potential requirement for Shire employees involved in the handling and application of pesticides to obtain an individual provisional licence and/or PMT licence may also impact on the Shire's annual budget as well as operational requirements.

Fiscal Equity - Nil

Whole of Life Accounting - Nil

Social Equity – Nil

Ecological Equity - Nil

Cultural Equity – Nil

Risk Management

The risk management implications associated with the Shire having to take responsibility for enforcement and licensing of pesticide use haven't been assessed but it is expected that WALGA, in providing a submission to DOH will address this issue.

Continuous Improvement - Nil

Voting Requirements - Simple Majority

Council Decision *Moved Cr Scallan, Seconded Cr Nicholas*

C.10/0919 That Council, in response to the Department of Health's discussion paper, 'Managing Public Health Risks Associated with Pesticides in Western Australia', instructs the Chief Executive Officer to prepare a submission to WALGA that endorses WALGA's position of supporting in principle the introduction of new regulations proposed in Option C while opposing the removal of licencing exemptions for Local government employees and the transfer of responsibilities for all regulatory functions to Local governments as outlined in this report including:

- ***The requirement for Shire staff to undertake further training to ensure compliance with the new regulations and enforcement of the regulations;***
- ***The appointment of local government as the enforcement and licencing agency may result in conflict of interest issues, particularly as local government can be a significant user of pesticides;***
- ***Potential cost increases imposed on the Shire of Bridgetown-Greenbushes; and***
- ***Increased administrative responsibility for Shire staff already operating under limited resources.***

Carried 8/0

Community Services - Nil

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

Refer to page 6

Notice of Motions for Consideration at the Next Meeting - Nil

6.29pm – Mrs Larkworthy, Ms Denniss and Mrs Lockley retired from the 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 matter affecting an employee or employees;

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.

The CEO, being a co-author of the agenda item declares a financial interest in the item due to the report concerning his employment and remuneration.

ITEM NO.	C.11/0919	FILE REF.	
SUBJECT	CEO Annual Performance Review		
PROPONENT	CEO Performance Review Committee		
OFFICER	Chief Executive Officer and Shire President		
DATE OF REPORT	23 September 2019		

Attachment 14 – Review Report Prepared by CEO Performance Review Committee

Council Decision ***Moved Cr Wilson, Seconded Cr Moore***
C.11/0919 That Council go behind closed doors at 6.30pm.
Carried 8/0

6.30pm – Mr Clynnh vacated the Meeting

In accordance with Clause 10.5 of the Standing Orders Local Law, the Presiding Member decided to break the Motion into separate parts

Council Decision ***Moved Cr Bookless, Seconded Cr Moore***
C.11/0919a That Council accept the report prepared by the CEO Performance Review Committee for the CEO Performance Review for the period 1 July 2018 to 30 June 2019.
Carried 8/0

Council Decision Moved Cr Scallan, Seconded Cr Wilson

C.11/0919b That Council determine that the performance of the CEO, Tim Clynych, for the period 1 July 2018 to 30 June 2019 be deemed to be satisfactory.
Carried 8/0

Council Decision Moved Cr Moore, Seconded Cr Wilson

C.11/0919c That Council determine that the remuneration package of the CEO be increased by an amount of 1.6% backdated to 1 July 2019.

Carried 6/2

Crs Boyle and Nicholas voted against the Motion

Council Decision Moved Cr Bookless, Seconded Cr Scallan

C.11/0919d That Council endorse the KPIs for the CEO for the period 1 July 2019 to 30 June 2020 as set out in the recommendations contained in Part 6 of the Review Report subject to the following modifications:

1. KPI (a) – Workforce Plan Reporting – delete the words “to be comment”.
2. KPI (d) – Targeted Professional Development – due date be changed to 31 March 2019.
3. New KPI (f) to read “That the organization’s accrued leave liability be reduced by a minimum 10% in the 12 month period to 30 June 2020”.

Carried 8/0

Reason for Amending Committee Recommendation

Minor changes to the wording of two KPIs and addition of a new KPI addressing annual leave liability which has been raised in audit reports

7.32pm Mr Clynych returned to the Meeting

Council Decision Moved Cr Moore, Seconded Cr Bookless

C.11/0919e That Council come out from behind closed doors at 7.48pm.

Carried 8/0

It is noted no members of the gallery returned to the Meeting.


Closure

The Presiding Member closed the Meeting at 7.49pm

List of Attachments

Attachment	Item No.	Details
1	C.02/0919	Minutes of Special Council Meeting – 19.9.19
2	C.04/0919	Rolling Action Sheet
3	C.05/0919	August 2019 Financial Activity Statements
4	C.05/0919	List of Accounts Paid in August
5	C.07/0919	Location Plan/Aerial Photograph

6	C.07/0919	Applicant's Submission (including Neighbours' support)
7	C.07/0919	Proposed Plans/Photographs
8	C.08/0919	Location Plan
9	C.08/0919	Applicant's Submission
10	C.08/0919	Proposed Plans
11	C.09/0919	Location Plan/Aerial Plan
12	C.09/0919	Applicant's Submission/Photographs
13	C.09/0919	Proposed Plans/Bushfire Management Reports
14	C.11/0919	Review Report Prepared by CEO Performance Review Committee – Confidential

Agenda Papers checked and authorised by T Clynch, CEO		1.10.19
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As Presiding Member, I certify that the Minutes of the Council Meeting held 26 September 2019 were confirmed as a true and correct record of the proceedings of that meeting at the Ordinary Meeting of Council held on 31 October 2019.

..... 31 October 2019