



Minutes

Ordinary Meeting of Council

*16 February
2023*

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The presiding member declared the meeting open at 5pm

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Cr Della Bosca thanked the Shire's Executive Manager Infrastructure Glen Brigg for his presentation during the discussion session prior to the meeting, within which Mr Brigg detailed the Shire's current road asset conditions and future management options.

3. ATTENDANCE

Members	Cr W Della Bosca Cr B Close Cr P Nolan Cr L Rose	
Council Officers	N Warren C Watson G Brigg L Boso	Chief Executive Officer Executive Manager Corporate Services Executive Manager Infrastructure Minute Taker
Apologies:	Cr J Cobden, Cr G Guerini and Cr L Granich	
Observers:	Kaye Crafter, Jackie Drzymulski, Jennifer Mclean, Kelly Smith, Paul Hucker and Hugh Trivett	
Leave of Absence:	Nil	

4. DECLARATION OF INTEREST

The Chief Executive Officer declares an impartiality interest pursuant of Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, in relation to item 9.1.8, due to having a family relationship with an owner of the subject property.

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the December 2022 Ordinary Council meeting, Mrs. Kaye Crafter posed the following question;

Question: *Can Council have a look at placing curbing along the intersection of Antares Street and Sirius Street, the area would benefit from some definition as it is hard to distinguish when dark.*

Answer during the session: The President referred the question to the CEO. The CEO took the question on notice and will reply to Mrs. Kaye Crafter's question once the EMI has assessed the intersection.

Written response to Mrs. Kaye Crafter

Response: Management have investigated and found that the street light located adjacent to the intersection provides sufficient lighting to illuminate the intersection. Furthermore, there is not deemed to be a significant safety benefit to driver or pedestrian from the installing of kerbing at this location, as there are no significant adjacent obstructions that a kerb would prevent drivers from hitting, nor is there designated pedestrian access at this point.

5.1. PUBLIC QUESTION TIME

Jennifer Mclean attended public question time and posed the following question;

Question: 48 and 54 Spica Street have extremely overgrown gardens, I believe there is a risk from snakes. Is the Shire doing anything to address the issue?

Answer: The Shire President referred the question to the CEO, who confirmed that the Shire was aware of the issue, and through the fire break inspection process, had started enforcement processes to have the matter addressed. The CEO did note the length of time taken since the matter was previously raised with the Shire, but stated there were procedures under the Bush Fires Act that had to be followed, which included giving the owner adequate time to address prior to taking further action. However, a contractor has now been engaged to undertake clean-up of non-compliant properties.

Jackie Drzymulski attended public question time posed a following question;

Question: In relation to the above question how long does the process take and how are the owners notified? Also, the house at 48 Spica is asbestos and is deteriorating, can the Shire action the asbestos issue with the owners?

Answer: The Shire President referred the question on the CEO, who advised that legislation requires the Shire to issue notification via correspondence to the last known address, whether or not it is being monitored, however emails had also been sent. Once notification is provided, owners must be given suitable time for action to be taken. Once suitable time has been afforded, those still non-compliant were issued infringements, and then a contractor engaged to undertake the work. The CEO noted it was taking a little longer than expected to have the properties addressed, however would ensure 48 and 54 Spica were made a priority by the contractor undertaking works.

The CEO also advised the Shire's contract Environmental Health Officer would investigate the asbestos issue.

Kaye Crafter posed a second question;

Question: The contractors working on the highway upgrades have been given approval by the National Trust to pull water out of Karalee Dam, it is estimated the amount of water intended to be extracted would drain the dam, I have a concern as this is an important tourist location, and also, if the silt at the bottom is disturbed, it may

disrupt the ability of the dam to hold water. Is there anything Council can do to stop people/companies drawing water from Karalee dam? It is also believed they are wanting to access Bodallin Dam for the same purpose.

Answer: The Shire President confirmed that both he and the CEO were aware of the issue, but due to Karalee Dam being managed by the National Trust, there was little authority the Shire had. The CEO advised the Shire could write to relevant parties to advise of the Shire's concerns.

The CEO also advised that Bodallin Dam was listed as an AA dam (Agricultural Area), and was in the process of being transferred to Shire management. Due to it being an AA dam, the CEO thought it unlikely access for road building would be permitted.

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council, Thursday, 16 December 2022

1/2023

Moved Cr Nolan/Seconded Cr Close

That the minutes from the Ordinary Council Meeting held on the 16 December 2022 be confirmed as a true record of proceedings.

CARRIED (4/0)

6.2 Shire of Yilgarn Tourism Advisory Committee, Wednesday 14 December 2022

2/2023

Moved Cr Rose/Seconded Cr Close

That minutes from the Shire of Yilgarn Tourism Advisory Committee meeting held on the 14 December 2022 be received.

CARRIED (4/0)

6.3 Shire of Yilgarn Tourism Advisory Committee, Wednesday 1 February 2023

3/2023

Moved Cr Rose/Seconded Cr Nolan

That minutes from the Shire of Yilgarn Tourism Advisory Committee meeting held on the 1 February 2023 be received.

CARRIED (4/0)

6.4 Great Eastern Country Zone (GECZ), Monday 28 November 2022

4/2023

Moved Cr Close/Seconded Cr Rose

That minutes from the GECZ meeting held on the 28 November 2022 be received.

CARRIED (4/0)

7. PRESENTATIONS, PETITIONS, DEPUTATIONS

Paul Hucker, General Manager Technical Services and Hugh Trivett, Mine Manager-Tampia/Symes from Ramelius Resources Ltd provided a presentation on the proposed Syme's Find mine.

The presentation started with an overview of Ramelius Resources working mines being Mt Magnet, Edna May (Westonia) and Rebecca (Kalgoorlie) with the head office in East Perth.

The proposed Symes project is located 62km south of Moorine Rock made up of 6 small open pits. It is estimated there will be 12 months mining for 0.6Mt of ore to be hauled to the Edna May plant for processing. The Symes project is too small for ore processing onsite therefore intend to seek endorsement and an agreement from the Shire of Yilgarn for haulage along the Moorine Rock South Road. It proposed that the road trains will haul 98 tonnes/load with triple road trains (42m length), 65,000tonnes of ore per month for up to 12 months with 20 truckloads a day.

At the end of the presentation Ramelius invited questions/comments;

Cr Della Bosca and Cr Rose expressed concern about having the extra heavy transport on the Moorine Rock South Road due to the road being a 'main road' for locals and agricultural use and the cost it could have to the ratepayer.

The CEO, Nic Warren, gave a brief overview of how an application from a mining company for haulage on a Shire of Yilgarn road is received and assessed by the Executive Manager Infrastructure and the agreement terms that would have to be decided upon before haulage can be started in order to safeguard the Shire of Yilgarn road network.

Cr Nolan enquired how much late night haulage there would be?

Ramelius Resources confirmed there would be 24/7 haulage.

Cr Nolan advised Ramelius that their haulage operators from Marda and Dampier operations were a standout compared to other haulage companies in the area, and MLG should be commended.

Cr Della Bosca thanked Paul Hucker and Hugh Trivett for their time.

Paul Hucker and Hugh Trivett left the Council meeting at 5.33pm.

8. DELEGATES' REPORTS

Cr Della Bosca announced the following;

- Attended the Wheatbelt North-East Regional Road Group meeting on the 9 February 2023
- Attended the Audit Committee meeting on the 16 February 2023

Cr Close announced the following;

- Attended the Great Eastern Country Zone meeting on the 13 February 2023
- Attended the Mt Walton Intractable Waste Facility CLC Meeting on the 16 February 2023
- Attended the Audit Committee meeting on the 16 February 2023

Cr Nolan announce the following;

- Attended the Audit Committee meeting on the 16 February 2023

9.1 Officers Report – Chief Executive Officer

9.1.1 Audit Regulation 17 Review & Financial Management Review

File Reference	1.6.6.4
Disclosure of Interest	None
Voting Requirements	Absolute Majority
Author	Nic Warren – Chief Executive Officer
Attachments	FMR Reg 17 Report February 2023 - Yilgarn Final

Purpose of Report

To present to Council the recently completed Audit Regulation 17 Review and Financial Management Review 2023.

Background

In accordance with the Local Government (Financial Management) Regulations 1996 and the Local Government (Audit) Regulations 1996, the above Reviews were conducted during July 2022.

Management had hoped to hold one Audit Committee Meeting to consider the Regulation 17 Review & Financial Management Review and the 2021/2022 annual compliance audit, however delays in the annual audit sign off delayed presentation and resulted in the Regulation 17 and FMR audit being presented to the Audit Committee prior to this meeting.

Comment

Audit Regulation 17 Review and Financial Management Review. Appointing an external auditor to conduct the Reviews is of benefit as it provides an impartial review to inform the CEO and Council with recommendations that work towards continuously improving the organisation in the financial and risk management areas of responsibility.

In respect to the Audit Regulation 17 Review, the *Local Government (Audit) Regulations 1996* state that the CEO is to report on the results of the Review to Council's Audit Committee. To ensure that the CEO met this requirement, the matter was tabled at the meeting of the Audit Committee held prior to this Council meeting.

It is important to note that the Reviews are performed on the same basis without differentiating between a small or large local government and their respective capacities and capabilities.

As noted in the Management Comments, the Shire management have committed to addressing the recommendation made. Due to a large number of suggested improvements, addressing the recommendations is likely to continue into the 2023/2024 financial year.

Any recommendations requiring external assistance or material items will either be incorporated into current budget allocations, or alternatively, will be included in the 2023/2024 annual budget for Council's consideration.

Statutory Environment

Local Government (Financial Management) Regulations 1996 and the

5.CEO's duties as to financial management

- (1) Efficient systems and procedures are to be established by the CEO of a local government —*
 - (a) for the proper collection of all money owing to the local government; and*
 - (b) for the safe custody and security of all money collected or held by the local government; and*
 - (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and*
 - (d) to ensure proper accounting for municipal or trust —*
 - (i) revenue received or receivable; and*
 - (ii) expenses paid or payable; and*
 - (iii) assets and liabilities;*
 - and*
 - (e) to ensure proper authorisation for the incurring of liabilities and the making of payments; and*
 - (f) for the maintenance of payroll, stock control and costing records; and*
 - (g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*
- (2) The CEO is to —*
 - (a) ensure that the resources of the local government are effectively and efficiently managed; and*
 - (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
 - (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

Local Government (Audit) Regulations 1996

17.CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
 - (a) risk management; and*

- (b) *internal control; and*
- (c) *legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

Strategic Implications

Shire of Yilgarn Strategic Community Plan 2020-2030 - Dynamic and visionary leadership guiding our community into the future - Outcome 4.1 A trustworthy and cohesive Council that functions efficiently and effectively - 4.1.2 - Maintain a high level of corporate governance, responsibility and accountability.

Policy Implications

Nil.

Financial Implications

Future Budget allocations to comply with the more complex recommendations.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Risk management and financial management practices not at best practice	Moderate (6)	External review of risk and financial management practices provides recommendations for best practice.
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996 and the Local Government (Audit) Regulations 1996	Moderate (6)	Reg 17 and FMR Audit completed.
Reputational	Not meeting statutory obligations could give rise to	High (15)	FMR and Reg 17 audit completed.

	adverse response from DLGSC		
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Committee Recommendation and Council Decision

5/2023

Move Cr Nolan/Seconded Cr Close

That the Council accepts the recommendations and management comments relating to the Audit Regulation 17 Review and Financial Management Review 2023 completed by Moore Australia in accordance with the Local Government (Financial Management) Regulations 1996 and the Local Government (Audit) Regulations 1996.

CARRIED BY ABSOLUTE MAJORITY (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.2 2022 Compliance Audit Report

File Reference	1.6.6.4
Disclosure of Interest	None
Voting Requirements	Absolute Majority
Author	Nic Warren-Chief Executive Officer
Attachments	Attachment 1 - 2022 Compliance Audit Report

Purpose of Report

To present to Council the 2022 Annual Compliance Audit Return (CAR) for adoption and submission to the Department of Local Government, Sport and Cultural Industries.

Background

Council is required by section 14 of the *Local Government (Audit) Regulations 1996* to complete a CAR each year covering the period 1 January to 31 December. The CAR is to be:-

1. Presented to Council at a meeting of the Council;
2. Adopted by the Council;
3. The adoption recorded in the minutes of the meeting at which it is adopted;
4. Signed by the Shire President and Chief Executive Officer and returned to the Department with a copy of the Council minutes of the meeting at which it was received; and
5. Submitted to the Department of Local Government by 31 March each year.

The CAR must also be reviewed by the Shire of Yilgarn Audit Committee prior to its adoption by Council.

Comment

The 2022 CAR contains 94 questions of which:-

- 50 were complied with;
- 36 were not applicable to the Shire of Yilgarn during the year under review;
- 2 were not complied with; and
- 6 are pending.

The 2 questions not complied with are as follows, with comments provided in the report also provided:

Q. Were all delegations to the CEO resolved by an absolute majority?
 Comment: Minutes lists voting requirements as “Simple Majority”, however resolution was carried 7/0. Officer oversight, noted for future delegation decisions.

Q. Was the auditor's report for the financial year ended 30 June 2022 received by the local government by 31 December 2022?

Comment: Auditor General has yet to complete the audit process.

The 6 questions that are pending are as follows, with comments provided in the report also provided:

Q. Where the local government determined that matters raised in the auditor's report prepared under section 7.9(1) of the Local Government Act 1995 required action to be taken, did the local government ensure that appropriate action was undertaken in respect of those matters?

Comment: Auditor General has yet to complete the audit process.

Q. Where matters identified as significant were reported in the auditor's report, did the local government prepare a report that stated what action the local government had taken or intended to take with respect to each of those matters? Was a copy of the report given to the Minister within three months of the audit report being received by the local government?

Comment: Auditor General has yet to complete the audit process.

Q. Within 14 days after the local government gave a report to the Minister under section 7.12A(4)(b) of the Local Government Act 1995, did the CEO publish a copy of the report on the local government's official website?

Comment: Auditor General has yet to complete the audit process.

Q. Was the auditor's report for the financial year ending 30 June 2022 received by the local government within 30 days of completion of the audit?

Comment: Auditor General has yet to complete the audit process.

Q. Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with the Local Government (Financial Management) Regulations 1996 regulations 5(2)(c) within the three years prior to 31 December 2022?

If yes, please provide the date of council's resolution to accept the report.

Comment: Review undertaken by Moore Australia in July 2022. Endorsement by Audit Committee to be combined with annual audit, though delays with Auditors and OAG have pushed back meeting to Feb 2023 at the earliest.

Q. Did the CEO review the appropriateness and effectiveness of the local government's systems and procedures in relation to risk management, internal control and legislative compliance in accordance with Local Government

(Audit) Regulations 1996 regulation 17 within the three financial years prior to 31 December 2022?

If yes, please provide date of council's resolution to accept the report.

Comment: Review undertaken by Moore Australia in July 2022. Endorsement by Audit Committee to be combined with annual audit, though delays with Auditors and OAG have pushed back meeting to Feb 2023 at the earliest.

Statutory Environment

Local Government (Audit) Regulations 1996

14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Internal review by senior management to Audit Committee and Council on an annual basis	Moderate (6)	Internal CAR review ensures Council and staff are meeting statutory requirements
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Section 14 of the <i>Local Government (Audit) Regulations 1996</i>	Moderate (6)	Annual Compliance Audit Return
Reputational	Not meeting statutory obligations could give rise to adverse response from DLGSC	High (15)	Annual review and Reporting process to DLGSC
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Committee Recommendation and Council Decision

6/2023

Moved Cr Rose/Seconded Cr Close

That Council adopts the Local Government Compliance Audit Return (CAR) for the Shire of Yilgarn for the period 1 January 2022 to 31 December 2022, noting non-compliance in 2 areas assessed.

and

That Council in accepting the CAR, authorises the Shire President and CEO to sign and submit same to the Department of Local Government, Sport and Cultural Industries as required.

CARRIED BY ABSOLUTE MAJORITY (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.3 Shire of Yilgarn Tourism Advisory Committee – Changes to Committee

File Reference	1.3.10.5
Disclosure of Interest	None
Voting Requirements	Absolute Majority
Author	Nic Warren – Chief Executive Officer
Attachments	Nil

Purpose of Report

For Council to consider and endorse changes to the membership of the Shire of Yilgarn Tourism Advisory Committee.

Background

At the October 2022 Ordinary Council meeting, Councillors moved the following changes to the Tourism Advisory Committee:

247/2022

Moved Cr Close/Seconded Cr Guerini

That Council endorses the amendments to membership of the Shire of Yilgarn Tourism Advisory Committee, with the Committee consisting of the following voting members:

- ***Cr Jodie Cobden – Council Delegate***
- ***Cr Linda Rose – Council Delegate***
- ***Kaye Crafter – Community Member***
- ***Liz Sheehan – Community Member***
- ***Onida Truran – Community Member***
- ***Malcolm Tabner – Community Member***

CARRIED BY ABSOLUTE MAJORITY (5/0)

Community Member Mal Tabner has since left the Shire, and as such, resigned from his positing as a voting member. As such, a vacancy exists.

Comment

A call for nominations was undertaken within the existing non-voting committee members, with Robin Stevens being the sole person nominated.

As such, it recommended that Council endorse Robin Stevens for the vacant voting position on the committee.

Statutory Environment

Local Government Act 1995

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

** Absolute majority required.*

5.9. Committees, types of

(1) In this section —

other person means a person who is not a council member or an employee.

(2) A committee is to comprise —

- (a) council members only; or
- (b) council members and employees; or
- (c) council members, employees and other persons; or
- (d) council members and other persons; or
- (e) employees and other persons; or
- (f) other persons only.

5.10. Committee members, appointment of

(1) A committee is to have as its members —

- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
- (b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required.*

(2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.

(3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the council.

- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

[Section 5.10 amended: No. 16 of 2019 s. 18.]

Strategic Implications

Shire of Yilgarn Strategic Community Plan 2020-2030 – Economic – Tourism Opportunities Maximised – Re-establish a Yilgarn Tourism Committee to advise /recommend to Council on actions to promote tourism in the district.

Policy Implications

Nil.

Financial Implications

Nil.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Inability for community to provide input into the Tourism activities of the district	Moderate (6)	Inclusion of new members to the Tourism Advisory Committee to permit a voice towards Tourism activities undertaken by the Shire.
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil

Compliance	Nil	Nil	Nil
Reputational	Reputational damage caused by lack of tourism activities and ability for community to provide input	Moderate (6)	Inclusion of new members to the Tourism Advisory Committee to permit a voice towards Tourism activities undertaken by the Shire
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

7/2023

Moved Cr Rose/Seconded Cr Close

That Council notes the resignation of Mr Malcolm Tabner from the Shire of Yilgarn Tourism Advisory Committee.

And

That Council endorses the inclusion of Mrs Robin Stevens to the Shire of Yilgarn Tourism Advisory Committee.

And

That Council notes the updated committee membership as follows:

- *Cr Jodie Cobden – Council Delegate*
- *Cr Linda Rose – Council Delegate*
- *Kaye Crafter – Community Member*
- *Liz Sheehan – Community Member*
- *Onida Truran – Community Member*
- *Robin Stevens – Community Member*

CARRIED BY ABSOLUTE MAJORITY (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.4 Local Government Ordinary Elections 2023

File Reference	2.2.1
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Author	Nic Warren – Chief Executive Officer
Attachments	Attachment 1 - WA Electoral Commission - 2023 Ordinary Council Elections Letter

Purpose of Report

Council to consider declaring the WA Electoral Commissioner to be responsible for the conduct of the 2023 Shire of Yilgarn Local Government Elections to be held on Saturday, 21 October 2023.

Background

Mr Robert Kennedy, WA Electoral Commissioner, has written to Council to advise that the next Local Government Elections are being held on 21 October 2023 and while this is still some distance in the future, the Commissioner has provided an estimate of costs for the Election for consideration in the 2023/2024 budget preparations. Correspondence is attached.

The Commissioner has estimated the cost for the 2023 election if conducted as a postal ballot is \$15,000 inc GST, which has been based on the following assumptions:

- 700 electors;
- Response rate of approximately 60%;
- 3 vacancies;
- Count to be conducted at the offices of the Shire of Yilgarn;
- Appointment of a local Returning Officer;
- Regular Australia Post delivery service to apply for the lodgement of the election packages.

The Commissioner also advises an additional amount of \$150 will be incurred if Council decides to opt for the Australia Post Priority Service for the lodgement of election packages.

The Commissioner indicates that costs not incorporated in this estimate include:-

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns;
- One local government staff member to work in the polling place on election day;
- Any additional postage rate increase by Australia Post.
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

The Commissions mentions, that some local governments may also note an increase in costs from their 2021 ordinary costs. These include increases arising from inflation in recent years affecting salaries for Returning Officers and other staff, printing and packaging costs as well as the increase in postage announced by Australia Post. Additional costs from the Commission have been included arising from improved processing procedures and additional resources to supplement the Commission's education, complaints management, investigation and legal efforts.

The Commissioner further advises that the Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis and Council should note that this is an estimate only and may vary depending upon a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election Council will be advised as early as possible.

The Commissioner advises that the current procedure required by the *Act* is that his written agreement has to be obtained before the vote by Council is taken. To facilitate this process, the Commissioner indicates that Council can take the letter received as his agreement to be responsible for the conduct of the ordinary elections in 2023 for the Shire of Yilgarn in accordance with Section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. The Commissioner advises that his agreement is subject to the proviso that the Shire of Yilgarn also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

The Commissioner has advised, should Council wish for the Commission to undertake the election of behalf of the Shire, and undertake as a postal election, council would need to pass the following two motions by absolute majority:

- Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required.
- Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

Comment

The conduct of Postal Elections previously in the Shire of Yilgarn has been proven to increase voter participation.

Statutory Environment

Local Government Act 1995

4.20. CEO to be returning officer unless other arrangements made

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for —
 - (a) an election; or
 - (b) all elections held while the appointment of the person subsists.

** Absolute majority required.*

- (3) An appointment under subsection (2) —
 - (a) is to specify the term of the person's appointment; and
 - (b) has no effect if it is made after the 80th day before an election day.
- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

** Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

4.61. Choice of methods of conducting election

- (1) The election can be conducted as a —
postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(2) The local government may decide* to conduct the election as a postal election.

* *Absolute majority required.*

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

As indicated in the Commissioner's correspondence, costs to conduct the election by Postal Vote is estimated to be \$15,000.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	To ensure that the Election process is kept at arms-length from staff	Low (4)	Engage WA Electoral Commission to manage Postal Vote process
Financial Impact	Costs associated with engagement of WAEC	High (12)	Budget accordingly
Service Interruption	Nil	Nil	Nil
Compliance	Section 4.20 of <i>Local Government Act 1995</i>	Moderate (6)	Meeting statutory requirement of <i>Act</i> in appointing WAEC
Reputational			
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

8/2023

Moved Cr Close/Seconded Cr Rose

That Council, by Absolute Majority:

- 1. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required.*

And

- 2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.*

CARRIED BY ABSOLUTE MAJORITY (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.5 Proposed Workforce Accommodation – Lot 72 (No 15) Williamson Street, Marvel Loch

File Reference	3.1.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	1. Layout and Elevation Plans

Purpose of Report

Council is to consider a planning application for workforce accommodation on Lot 72 (No 15) Williamson Street, Marvel Loch. The buildings will be purpose built new transportable structures.

Background

- Location**

Lot 72 is located in Marvel Loch. The closest intersection is Williamson Street and Aurum Street.

A location plan is included over page for convenience.



Above: Location Plan

Comment

• Description of Application

An application has been lodged for workforce accommodation. The development will consist of 7 buildings. Each building will include four rooms with ensuites, and measure 14.4 metres long by 3.3 metres wide.

The northern building will be setback 5.39 metres from the front lot boundary. All buildings will be setback 2.86 metres from the west and east lot boundaries.

The applicant has advised as follows:

- The lot has been purchased from the Shire. Settlement occurred on Friday 3rd February 2023.
- The purchaser of Lot 72 already owns the Marvel Loch Hotel located at nearby 13-17 Lenneberg Street, Marvel Loch.

- The accommodation will cater for workers and contractors associated with the mining industry.
- Workers generally access the Marvel Loch Hotel by bus. They will book into this new accommodation via the hotel site, and walk to the workforce accommodation proposed on Lot 72.
- Car parking is available at the Marvel Loch Hotel if required (however cannot be guaranteed in perpetuity as the hotel lots can be sold independently of Lot 72).
- All linen and meals will be supplied via the existing established hotel.
- The new development will essentially act as an extension to the services provided at the hotel.
- The development will be connected to sewer.

• **Zoning and Land Use Permissibility**

Lot 72 is zoned 'Townsite' under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

Under the Scheme the Townsite Zone *'is to be used primarily for single houses and public recreation. Other uses, listed in Table 1, may be permitted at the discretion of Council if they are considered to be an integral part of the townsite and where Council is satisfied that they will benefit the community and not result in being a nuisance.'*

Part of the planning assessment for any application involves determining which land use definition from the Scheme 'best fits' the proposal. The application proposes transportable buildings to be made available for workforce accommodation, associated with the mining industry.

The land use of 'workforce accommodation' is not defined in the Scheme, or listed in Table 1 under the Scheme.

Table 1 lists land uses in a table format with different symbols listed under different zones. Ordinarily the symbols in Table 1 outline the permissibility of land uses in different zones.

As 'workforce accommodation' is not listed in Table 1, it can be processed as what is referred to as a 'Use Not Listed'.

In processing the workforce accommodation as a 'Use Not Listed' Council has three options under Clause 3.2.5 of the Scheme as follows:

Option 1 - Determine that the workforce accommodation use is consistent with the objectives and purposes of the Townsite zone and is therefore permitted.

TPI does not recommend Option 1. If Council determines that workforce accommodation is permitted in the Townsite zone, it will set a precedent for all future similar applications to also be treated as a permitted use in the same zone.

Option 2 - Determine that the proposed workforce accommodation use may be consistent with the objectives and purpose of the Townsite zone and thereafter follow the "SA" procedures of Clause 6.3 in considering an application for planning approval.

TPI recommends Option 2 which requires the application to be advertised for public comment.

Option 3 - Determine that the use is not consistent with the objectives and purposes of the Townsite zone and is therefore not permitted.

TPI does not recommend Option 3 for the reasons outlined in Option 1. It is understood that a number of workforce accommodation developments have already been approved and constructed in Marvel Loch.

- **Advertising**

The application has to be advertised for a minimum of 28 days. Shire Administration has advertised the application through a notice published on the Shire website, Facebook and letters sent to nearby and adjacent landowners. Advertising commenced on 13 December 2022 and closed on 19 January 2023.

No submissions on the application have been received.

- **Setbacks and Site Requirements**

There are no specific setbacks or site requirements outlined in the Scheme. The setbacks of existing development in the locality appears varied.

- **Car Parking**

The Scheme has no specific car parking ratios for 'workforce accommodation' under Table 2 of the Scheme. Notwithstanding the above, Council can reasonably require car parking to be provided on site.

The applicant proposes that car parking be provided at the nearby Marvel Loch Hotel, which is only practical whilst all lots fall under the same management and ownership. In the event that the Marvel Loch Hotel or Lot 72 is sold (independent of each other) in the future, then it could result in insufficient on-site parking being provided for workers accommodation on Lot 72.

TPI has liaised with the Shire Chief Executive Officer regarding parking, and has been advised that Council has supported car parking dispensations in the past where justification has been provided.

The Shire Council has several options in considering car parking as follows:

- Option 1: Defer consideration of the application and request the applicant lodge a revised site plan with on site car parking sufficient to service the workers accommodation on Lot 72 independent of the Marvel Loch Hotel;
- Option 2: Accept and support the proposal for car parking to be provided off site at an alternative premises, being the Marvel Loch Hotel. At the current time the arrangement is practical as both lots are owned by the same entity.

Council should note that as Lot 72 can be off sold in the future, Option 2 only provides sufficient car parking whilst the development is being operated in conjunction with the local Hotel.

Option 2 may result in car parking occurring in the street in the longer term.

TPI is not privy to how car parking has been dealt with within the Shire for other applications. If other similar developments have been supported with on street parking, then TPI recommends support for Option 2.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include 'Deemed Provisions' that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 3.

Clause 67 outlines 'matters to be considered by Council' including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

The application is classified as a 'complex application' under the Regulations. A 'complex application' is defined as '*an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located*'.

Under Clause 64 (6)(a) of the Regulations, a 'complex application' must be advertised for a minimum of 28 days. The 28 days must exclude the period between the 25 December 2022 and the 1 January 2023 (which effectively extends the advertising period to 35 days).

Under the Model Provisions of the Regulations, which is a model template used for new or amended town planning schemes, the term ‘workforce accommodation’ is defined as ‘*means premises, which may include modular or relocatable buildings, used -*

- (a) *primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and*
- (b) *for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.’*

Shire of Yilgarn Town Planning Scheme No 2 – partially explained in the body of this report.

Clause 5.3 applies to ‘Transportable Dwellings’. Whilst the clause does not specifically apply to Workforce Accommodation it is noted that Clause 5.3.2 requires Council to be satisfied that transportable dwellings:

- a) complies with all applicable statutes, by-laws and regulations relating to dwelling houses applicable both to the Transportable Dwelling and the lot upon which it is to be situate following transportation and will not detrimentally affect the amenity of the locality in which the Transportable dwelling is to be situate; or
- b) has been constructed of new materials and has been designed and built specifically to be capable of being dismantled, transported and reconstructed.

The transportable buildings proposed to be used for workforce accommodation will be new.

Strategic Implications

There are no known strategic implications associated with the proposed development.

Policy Implications

- ***Western Australian Planning Commission (WAPC) Position Statement on Workforce Accommodation***

Whilst not a State Planning Policy, the WAPC has a Position Statement that outlines:

- (a) The development requirements for workforce accommodation under the *Planning and Development Act 2005* and associated regulations.
- (b) That local governments can include scheme provisions addressing the suitability of sites, access, capability with surrounding development and facility design.
- (c) That local governments can prepare and adopt local planning policies to guide workforce accommodation developments.

- ***Shire of Yilgarn Policy Manual***

The Shire has a Policy Manual dating back to at least June 2012, and the policies appear to have been reviewed on an annual basis.

The Policy Manual includes some town planning and building policies, however those policies have not been adopted in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations)*.

Essentially this means that the Shires existing planning and building policies do not hold significant weight in terms of any planning assessment. TPI recommends that the Shire review all existing planning and building policies to address this situation.

There are no known local planning policy implications associated with this development.

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

That Council:

1. *Determine that the proposed workforce accommodation may be consistent with the objectives and purpose of the Townsite zone and thereafter follow the 'SA' procedures of Clause 6.3 in considering an application for planning approval.*
2. *Note that Shire Administration has completed advertising of the planning application for Lot 72 (No 15) Williamson Street, Marvel Loch. No submissions were received.*
3. *Note that two options have been outlined in this report relating to car parking.*
4. *Approve the application for workforce accommodation on Lot 72 (No 15) Williamson Street, Marvel Loch subject the following conditions :*
 - (i) *The plans lodged with this application shall form part of this planning approval. All development shall generally be in accordance with the approved plans unless otherwise approved separately in writing by the Chief Executive Officer.*
 - (ii) *All buildings that form part of this development shall be new. This is not an approval to place any second hand buildings on the lot.*
 - (iii) *All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve unless otherwise approved in writing by the Chief Executive Officer.*
 - (iv) *If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.*

Footnotes:

- (a) *The Shire has supported this application without on site car parking, based on the practical situation that it will be owned and operated in conjunction with the existing Marvel Loch Hotel located on nearby 13-17 Lenneberg Street, Marvel Loch.*

Alternative Motion Moved by Council and Council Decision

9/2023

Moved Cr Nolan / Seconded Cr Rose

That Council:

In relation to the proposed workforce accommodation development at Lot 72 (No 15) Williamson Street, Marvel Loch, raise concerns with the offsite parking proposed with the application, and specifically, that parking is proposed to be catered for at a separate Lot.

And

Request an updated proposal, with the required parking bays being catered for within Lot 72 (No 15) Williamson Street, Marvel Loch.

And

Request the matter to be returned to Council upon the Shire of Yilgarn receiving said updated proposal.

CARRIED (4/0)

Reason for Council Decision being different from the Officers Recommendation

Council raised concerns regarding the required parking bays being catered for at a separate lot. Whilst both lots are currently owned by the same entity, parking could be managed, however, given Lot 72 could be sold off individually, in the event this occurs, there would be no suitable parking allocation for Lot 72.

9.1 Officers Report – Chief Executive Officer

9.1.6 Proposed Carport – Lot 186 (No 78) Spica Street, Southern Cross

File Reference	3.1.1.2
Author	Liz Bushby, Town Planning Innovations
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	Nil

Purpose of Report

Council is to consider a planning application for a carport on Lot 186 (No 78) Spica Street, Southern Cross.

Background

- **Location and Existing Development**

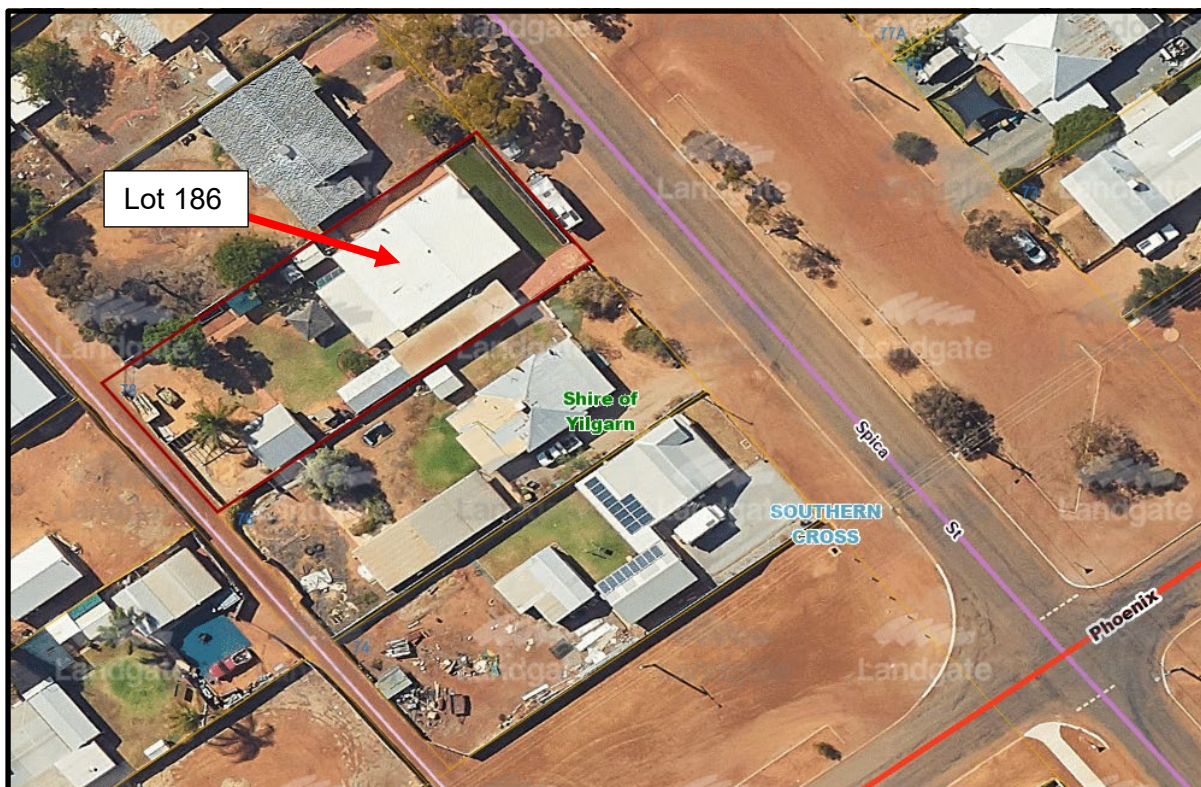
Lot 186 has been developed with an existing house, carport and associated outbuildings.

The lot is located near the intersection of Spica Street and Pheonix Street in the Southern Cross townsite.

The lot has access to a rear laneway which runs from Pheonix Street through to Hydra Street.

A number of existing developments located on both Spica Street and Antares Street gain rear access from the laneway.

A location plan is included over page for ease of reference.



Above: Location Plan

Comment

- Zoning and Scheme requirements**

Lot 186 is zoned Residential with an R10 density code under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

The proposed carport requires planning approval as it entails variations to the Residential Design Codes.

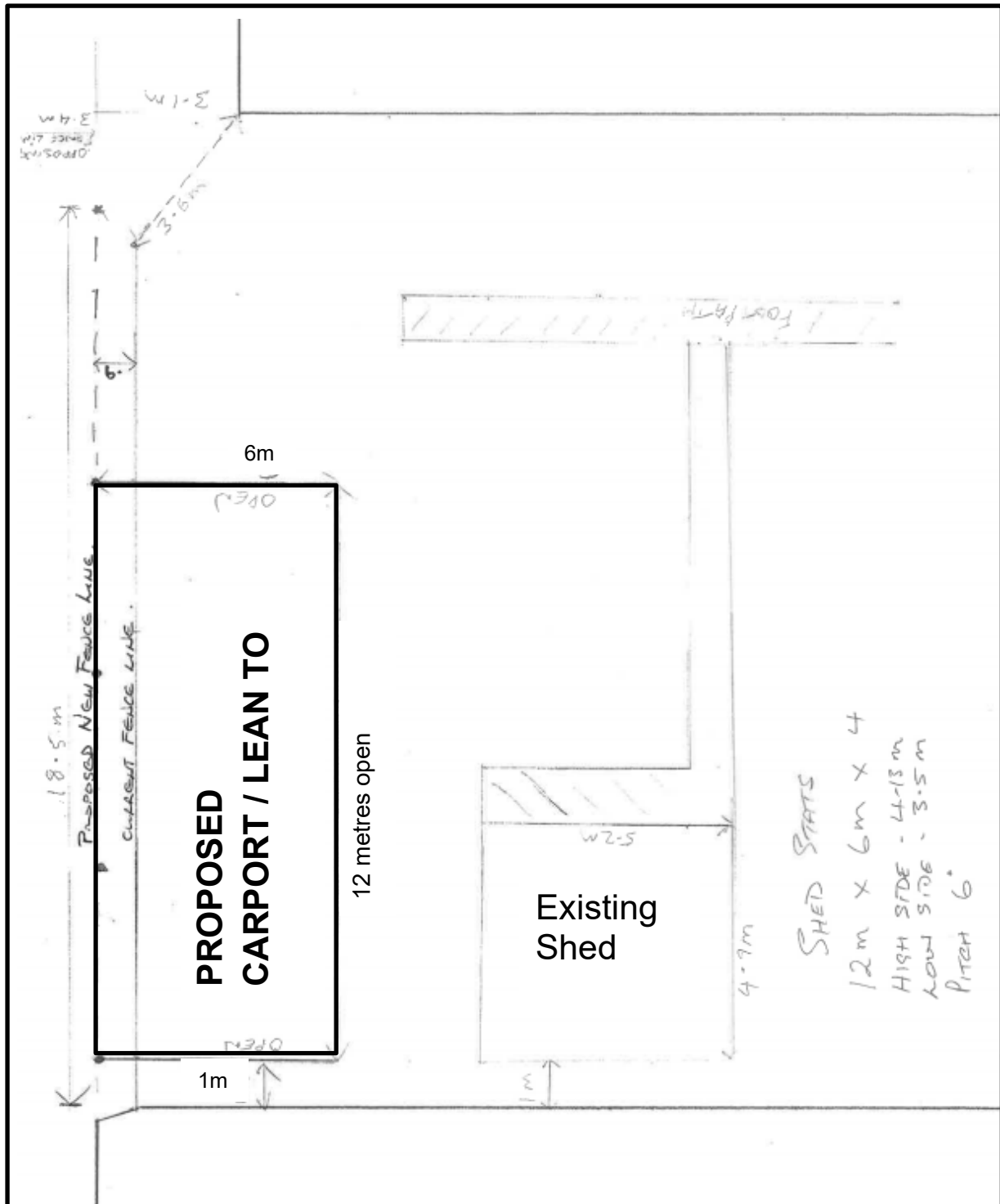
- Description of Application**

The existing rear fence on Lot 186 is not on the lot boundary, and is proposed to be removed for construction of a carport structure with access from the laneway.

The carport will have a total floor area of 72m² and be open sided with a skillion roof (sloping down towards the house on Lot 186).

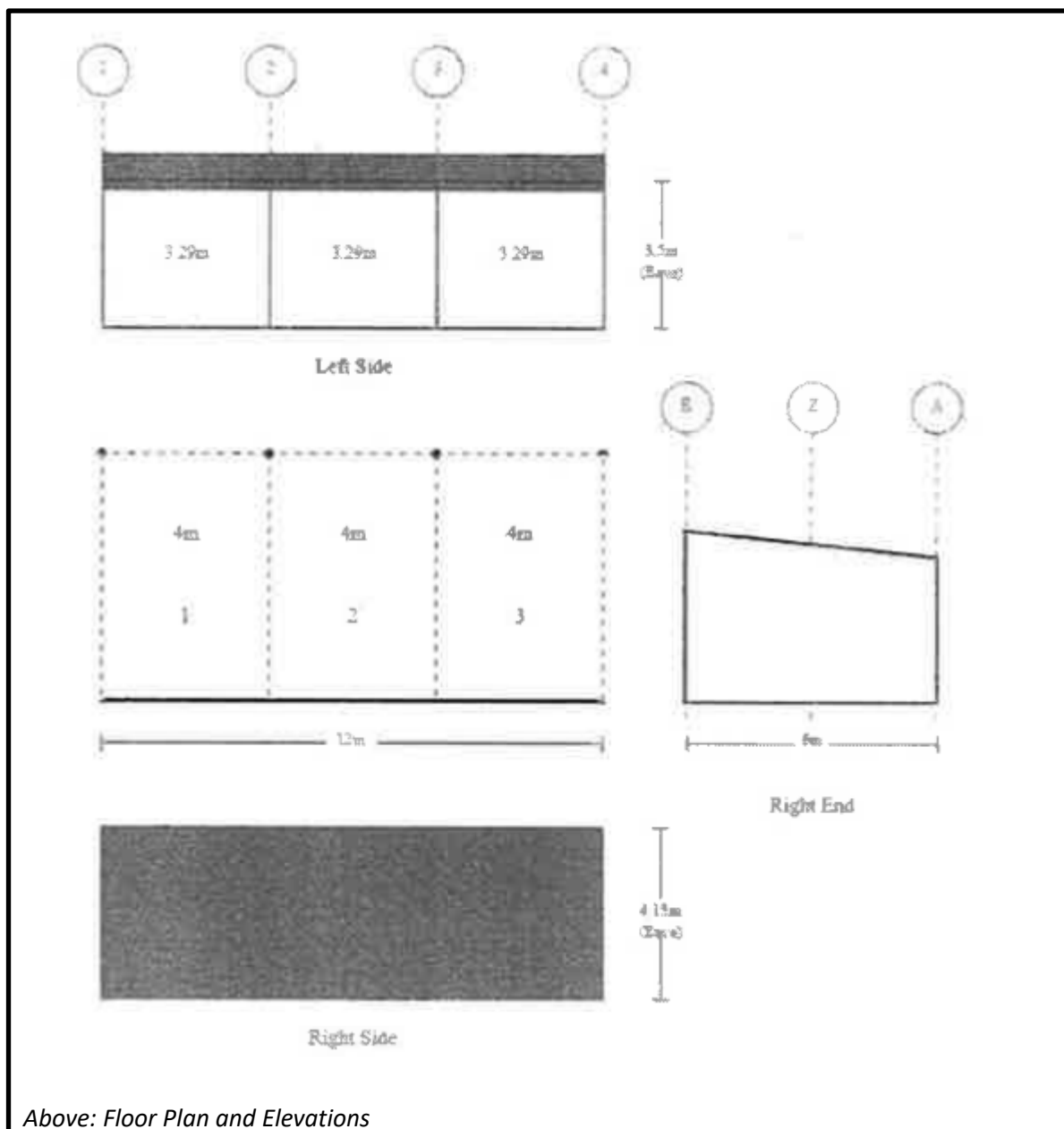
The carport is proposed to have a height ranging from 3.5 metres to 4.15 metres.

The carport proposes a nil setback to the rear lot boundary, and a one metre setback to the south lot boundary.



Above: Partial site plan

The carport is proposed to be used for caravan parking. The owners have advised that all water runoff will be directed into their property, that a motorised caravan positioner will be used, and that the structure has been sited to ensure there is no impact on neighbours fence lines.



- State Planning Policy 7.3 - Residential Design Codes**

The Residential Design Codes (R-Codes) operate as a State Planning Policy produced by the Western Australian Planning Commission. The R-Codes provide a basis for the control and assessment of residential development throughout Western Australia.

The R-Codes contain a number of definitions for various residential structures, including a carport which is defined as ‘a roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable.’

The R Codes have two separate options for the assessment of development including ‘Deemed to Comply’ criteria and ‘Design Principles’.

Under the Residential Design Codes there are specific ‘Deemed to Comply’ requirements for carports. The ‘Deemed to Comply’ requirements relate to site controls such as building setbacks, site open space, and building height.

A summary of the main relevant R-Codes requirements is included below:

Deemed to Comply R Code requirements	Compliance / Officer Comment
Table 1: Front setback - 7.5 metres	Complies
Table 1: Rear Setback - 6 metres	Variation. A Nil rear setback is proposed.
Table 2a: Side setback - 1.5 metres	Variation. A 1 metre setback is proposed to the southern boundary.
Clause 5.2.1 C1.3 Garages and carports built up to the boundary abutting a communal street or right-of-way which is not the primary or secondary street boundary for the dwelling, with manoeuvring space <u>of at least 6m</u>, located immediately in front of the opening to the garage or carport and permanently available.	Variation. The laneway is approximately 3 metres wide. The Shire Chief Executive Officer has inspected the lot and advised that a caravan can be manoeuvred into the proposed carport. Council needs to be satisfied that there is adequate space for manoeuvrability, and the parked caravan can be contained within the lot boundaries (with no overhang into the laneway).

As the carport entails setback variations, it has to be assessed in accordance with alternative Design Principles under Clause 5.1.3 of the R-Codes which outlines a performance based of assessment for the ‘lot boundary setbacks’ as follows:

Design Principles	Compliance / Officer Comment
Clause 5.1.3 P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to: • reduce impacts of building bulk on adjoining properties; • provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • minimise the extent of overlooking and resultant loss of privacy on adjoining properties	Complies. ; • As the structure is open sided there will be no significant building bulk; • As the structure is open sided it will not have any significant impact on adequate access to direct sun and ventilation; • The carport is non habitable and will not result in any overlooking or loss of privacy for adjoining properties.

Clause 5.2.1 P3.2 Buildings built up to boundaries (other than the street boundary) where this: • makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas; • does not compromise the design principle contained in clause 5.1.3 P3.1; • does not have any adverse impact on the amenity of the adjoining property	Complies. • The carport has no impact on privacy; • It does not compromise the design principle contained in clause 5.1.3 P3.1; • Amenity is a subjective issue, however there have not been any neighbour objections, and the visual impact is lessened by the fact that the structure is open sided.
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As the laneway is less than 6 metres wide (which is the standard area required for reversing/manoeuvrability of a car), the application also has to be assessed in accordance with alternative Design Principles under Clause 5.2.1 of the R-Codes which outlines a performance based assessment for the 'setback of garages and carports' as follows:

Design Principles	Compliance
Clause 5.2.1 P1.1 Carports and garages set back to maintain clear sight lines along the street, to not obstruct views of dwellings from the street and vice versa, and designed to contribute positively to streetscapes and to the appearance of dwellings.	Complies. The carport is proposed to the rear of the dwelling so will not obstruct views of the dwelling from Spica Street.
Clause 5.2.1 P1.2 Garages and/or carports set back to ensure any vehicle parking on a driveway does not impede on any existing or planned adjoining pedestrian, cycle or dual-use path.	Complies. The carport will not have any impact on existing or planned pathways.

Based on compliance with the above Design Principles, Council has discretion to support the proposed carport, subject to being satisfied that there is no negative impact on adjacent lots, and that adequate manoeuvrability is provided by the limited laneway width (combined with the use of a motorised caravan positioner by the owner).

- **Consultation**

The application was advertised for public comment through publication of a notice on the Shires website, Facebook page and letters to adjacent neighbours. Public advertising commenced on the 19 December 2022 and closed on the 13 January 2023, with no submissions have been received.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 2.

Clause 61 lists development that is exempt from the need for planning approval, including carports that are ancillary to a dwelling and comply with the ‘deemed to comply’ requirements of the Residential Design Codes. This application requires planning approval as it entails variations to the Residential Design Codes.

Clause 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Clause 1.8.2 : Where a word or term is defined in the Residential Planning Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Codes.

Strategic Implications

Approval of the development may set a precedent for similar setbacks for other future carports and structures adjacent to the laneway.

Policy Implications

There are no Shire Policies that are relevant to this application.

The Shires Policy Manual includes town planning policies which have not been adopted in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations)*.

Essentially this means that the Shires existing planning and building policies do not hold significant weight in terms of any planning assessment. TPI recommends that the Shire review all existing planning and building policies to address this situation.

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

10/2023

Moved Cr Close/Seconded Cr Rose

That Council:

A. *Approve the application for a carport on Lot 186 (No 78) Spica Street, Southern Cross subject to the following conditions and footnote:*

1. *The plans and information lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans unless otherwise approved in writing by the Chief Executive Officer.*
2. *All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or the rear laneway.*
3. *If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.*

Footnote:

- (i) *This is a planning consent only and owners need a separate building permit approval prior to commencing any site works or construction.*

CARRIED (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.7 Proposed Outbuilding–Lot 10 Kent Road, South Bodallin

File Reference	3.1.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	Nil

Purpose of Report

Council is to consider a planning application for an outbuilding on Lot 10 Kent Road, South Bodallin. The outbuilding is proposed for storage of agricultural products and chemicals.

Background

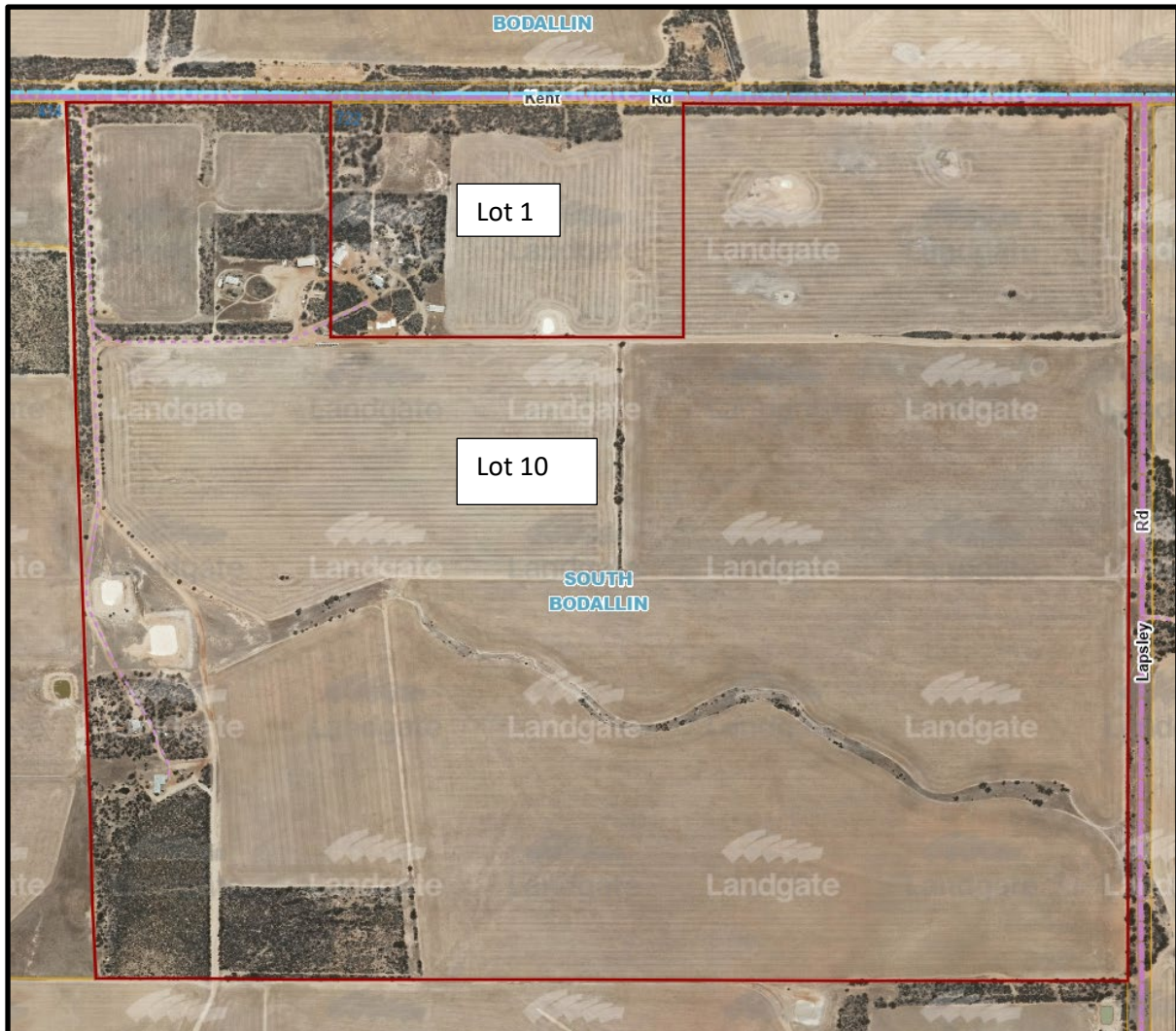
- Location and Existing Development**

Lot 10 is located approximately 44 kilometres to the south west of the Southern Cross townsite. The closest intersection is Kent Road and Lapsley Road in South Bodallin.

The lot is used for general agriculture, along with adjacent Lot 1 (No 722) Kent Road, which is under the same ownership.

Lot 10 and adjacent Lot 1 have already been developed with a single house and associated outbuildings.

A location plan is included over page for convenience



Above: Location Plan

Comment

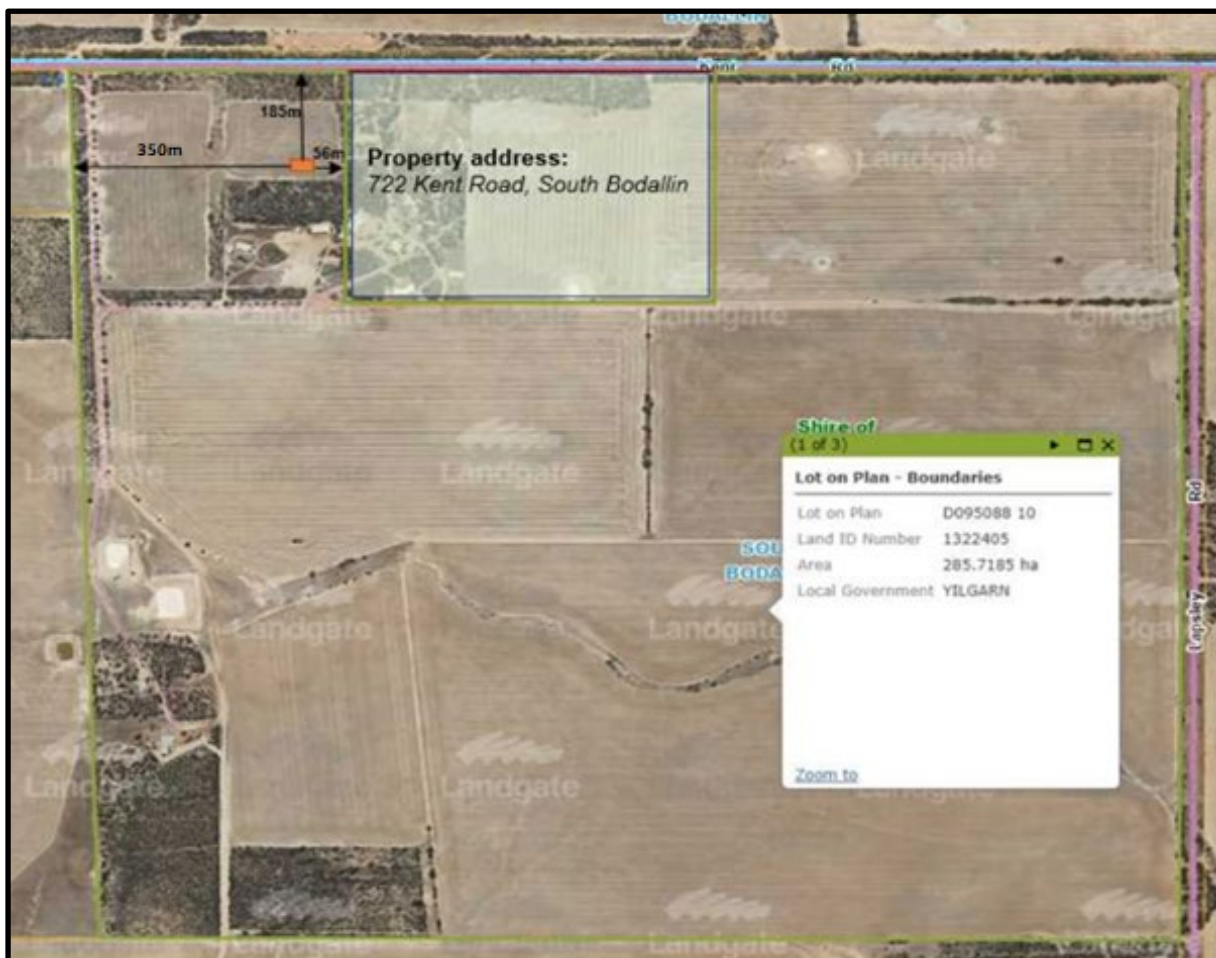
- Zoning**

Lot 10 is zoned 'Rural/Mining' under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

No density code applies to the 'Rural/Mining' zone under the Scheme, and no assessment is required under the Residential Design Codes, as the lot is not within a Residential zone.

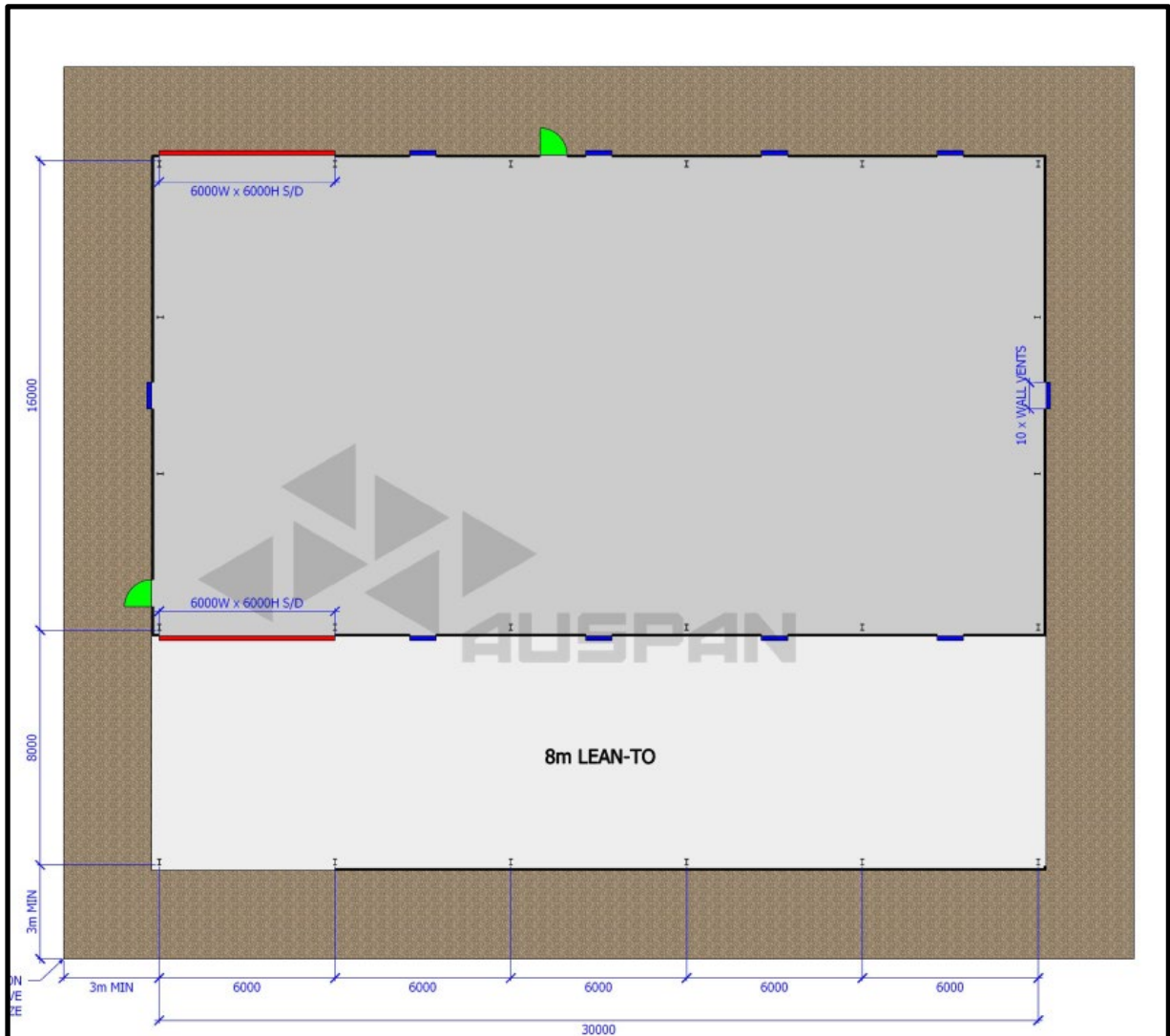
- **Description of Application**

An (agricultural) outbuilding is proposed to be setback 350 metres from the west lot boundary, 185 metres from the front north lot boundary, and 56 metres from the shared boundary with adjacent Lot 1 to the east.

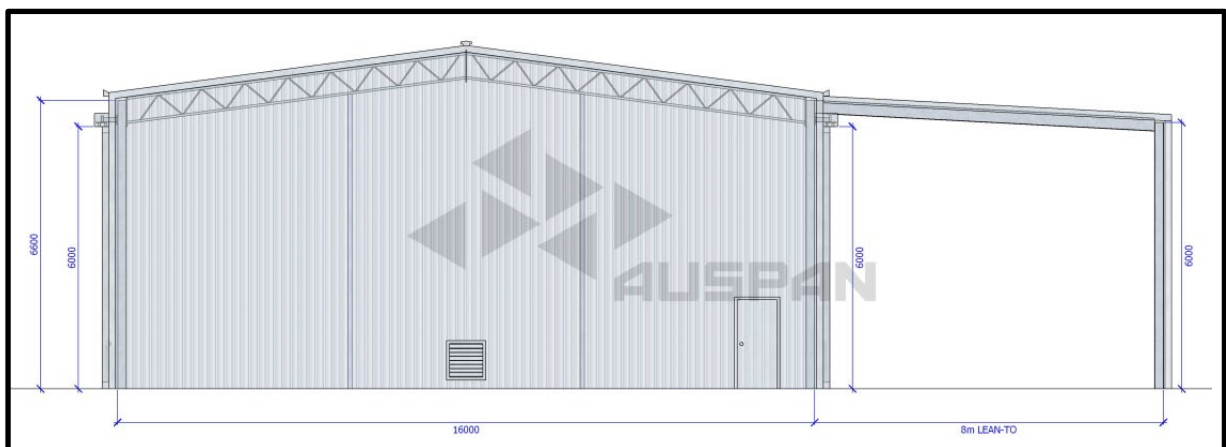


Above: Site Plan

A floor area of 720m² is proposed, which includes a 240m² lean to – refer to floor plan over page. The structure will have a wall height up to 6.6 metres – refer to elevation over page.



Above: Floor Plan



Above: Side Elevation

The applicant has advised that the structure will be used for general storage of chemicals associated with ongoing agricultural activities.

- **Assessment**

In the absence of any specific scheme requirements, the main consideration is whether there will be any visual impact associated with the proposed structure, or potential for negative impact on neighbouring lots or the existing streetscape.

Having regard for the size of the lot (which is 285 hectares), the significant setbacks proposed to the nearest lot boundaries, and the size of existing agricultural buildings already developed on the property, it is not considered that the development will have any negative impact on the amenity of the area.

There are at least 2 similar sized structures already developed on Lot 10.

TPI recommends conditional support for the proposal.

- **State Planning Policy 3.7 Planning in Bushfire Prone Areas**

Under the ‘deemed provisions’ of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council is to have ‘due regard’ to any state planning policy. This essentially means Council has an obligation to give proper, genuine and realistic consideration to the requirements of ‘State Planning Policy 3.7: Planning in Bushfire Prone Areas’ (SPP 3.7).

The Shire has a mandatory obligation to consider SPP3.7 when making a decision on any application where the lot is within a designated bushfire prone area.

The Western Australian Planning Commission released SPP3.7 and associated Guidelines for Planning in Bushfire Prone Areas (‘the Guidelines’) in December 2015. These documents apply to all land identified as Bushfire Prone.

Mapping identifying Bushfire Prone Areas is available through the Department of Fire and Emergency Services website.

The development is proposed within the part of lot 10 that is within the declared bushfire prone area.

Under Clause 5.4 of the Guidelines all planning applications in Bushfire Prone Areas are to be accompanied by a BAL (Bushfire Attack Level) assessment. There is no specific exemption for outbuildings.

Despite the above, the Guidelines that make it clear that application of SPP3.7 is to the discretion of the decision maker, being the Shire Council.

TPI does not recommend that any Bushfire Attack Level assessment be required for the following reasons:

- a) The outbuilding will be separated from the existing house and other existing agricultural structures. This reduces the likeliness of any ember attack spreading between the buildings;
- b) The development is non habitable and will be used for storage.
- c) If a separate building permit is required, then building compliance will be examined at the more detailed building plan stage.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 2.

Clause 61 outlines ‘development for which development approval is not required’. The majority of exemptions are for residential development that complies with the Residential Design Codes, and is not heritage listed.

Clause 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Under Clause 3.1.1 the Scheme states that ‘*The Rural/Mining Zone is to be used for agricultural, residential and public recreation uses.*’

A single house is permitted in the Rural/Mining zone under Table 1 (the Zoning Table), but the Scheme has no specific provisions or setback requirements for an outbuilding in the Rural/Mining zone.

Under Clause 6.1.2 (d) of the Scheme both a single house and ancillary outbuildings are exempt from the need for planning approval (as a single house is permitted in the Rural/Mining zone).

Notwithstanding the above, the development is not listed as exempt from the need for planning approval under the *Planning and Development (Local Planning Schemes) Regulations 2015*, which is the dominant legislation.

Strategic Implications

Approval of the development may set a precedent for similar setbacks and similar sized (agricultural) outbuildings in the Rural/Mining zone.

Policy Implications

There are no Shire Policies that are relevant to this application.

The Shires Policy Manual includes town planning policies which have not been adopted in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations)*.

Essentially this means that the Shires existing planning and building policies do not hold significant weight in terms of any planning assessment. TPI recommends that the Shire review all existing planning and building policies to address this situation.

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

11/2023

Moved Cr Rose/Seconded Cr Close

That Council:

A. *Approve the application for an agricultural outbuilding on Lot 10 Kent Road, South Bodallin subject to the following conditions and footnote:*

1. *The plans and information lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans.*
2. *All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve unless otherwise approved in writing by the Chief Executive Officer.*
3. *If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.*

Footnote:

- (a) *This is a planning consent only. Any owner needs to check if a separate building permit approval is required prior to commencing any site works or construction.*

CARRIED (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.8 Proposed Telecommunications Infrastructure –Lot 2 (No 2718) Nulla Nulla South Road, South Bodallin

File Reference	3.1.1.2
Disclosure of Interest	CEO Nic Warren declares an Impartiality Interest pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, due to having a family relationship with an owner of the subject property.
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	Nil

Purpose of Report

Council is to consider a planning application for telecommunications infrastructure on Lot 2 in South Bodallin which is accessed via Harvey Road.

Background

- Location and Existing Development**

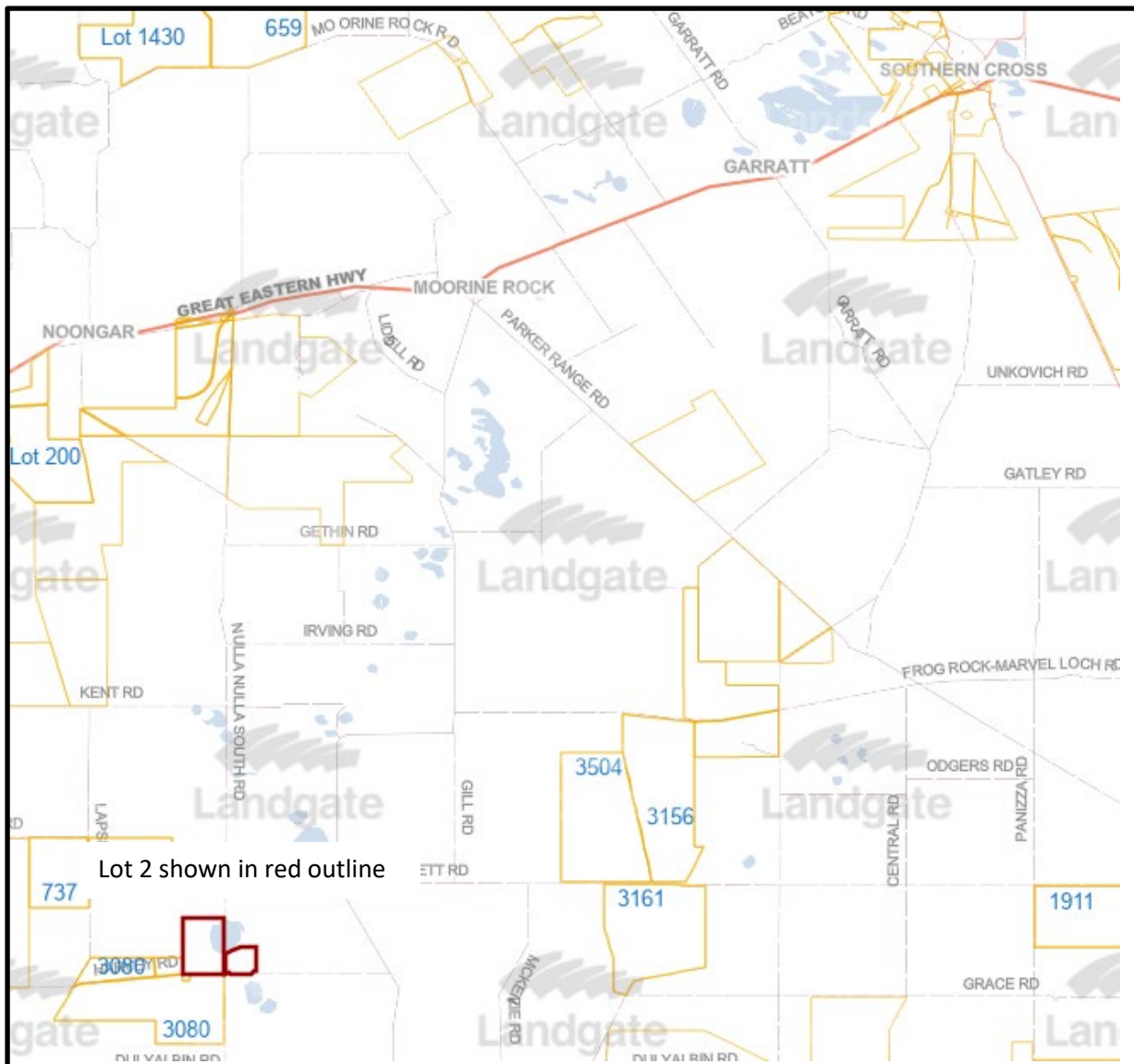
Lot 2 is located approximately 46 kilometres to the south-south-west of the Southern Cross townsite.

It is south of the Great Eastern Highway, with the nearest intersection being Nulla Nulla South Road and Harvey Road in South Bodallin.

The lot traverses Nulla Nulla South Road, however the proposed development is on the western portion of Lot 2.

The lot has an approximate area of 534 hectares and is used for general agricultural purposes.

A location plan is included over page for convenience.



Above: Location Plan

Comment

• Description of Application

The Shire is in receipt of a Development Application from Crisp Wireless seeking approval to extend their fixed wireless network within the Shire of Yilgarn.

The application relates to a privately owned property and Crisp Wireless have obtained permission from the landowner to construct telecommunication infrastructure on Lot 2.

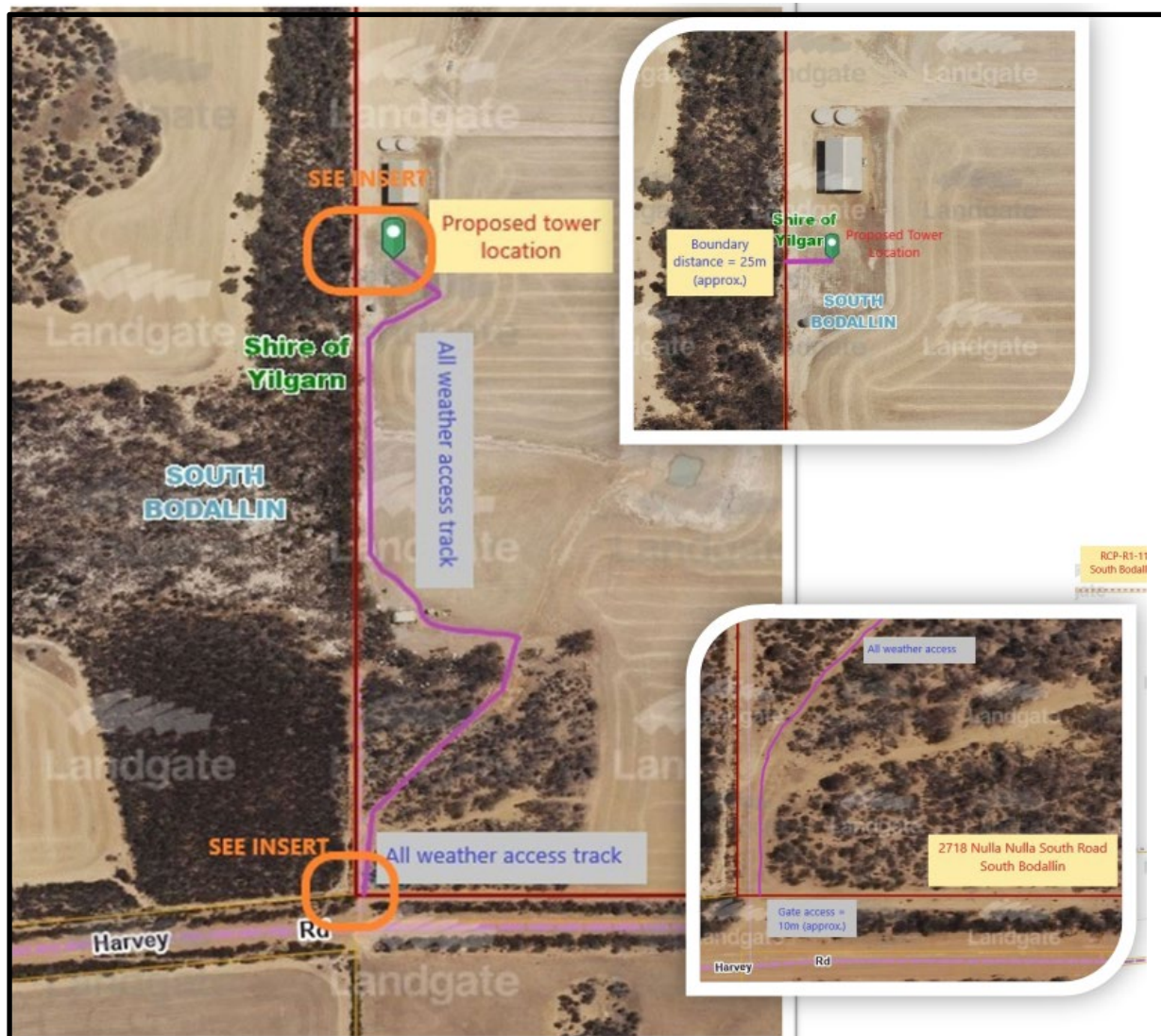
The development will include:

- A 30 metre high steel tower;
- A combination of Dual Pole Parabolic Antennas (Dishes) and Sector Antennas;
- A 14.4m² sea container to house communications equipment; and

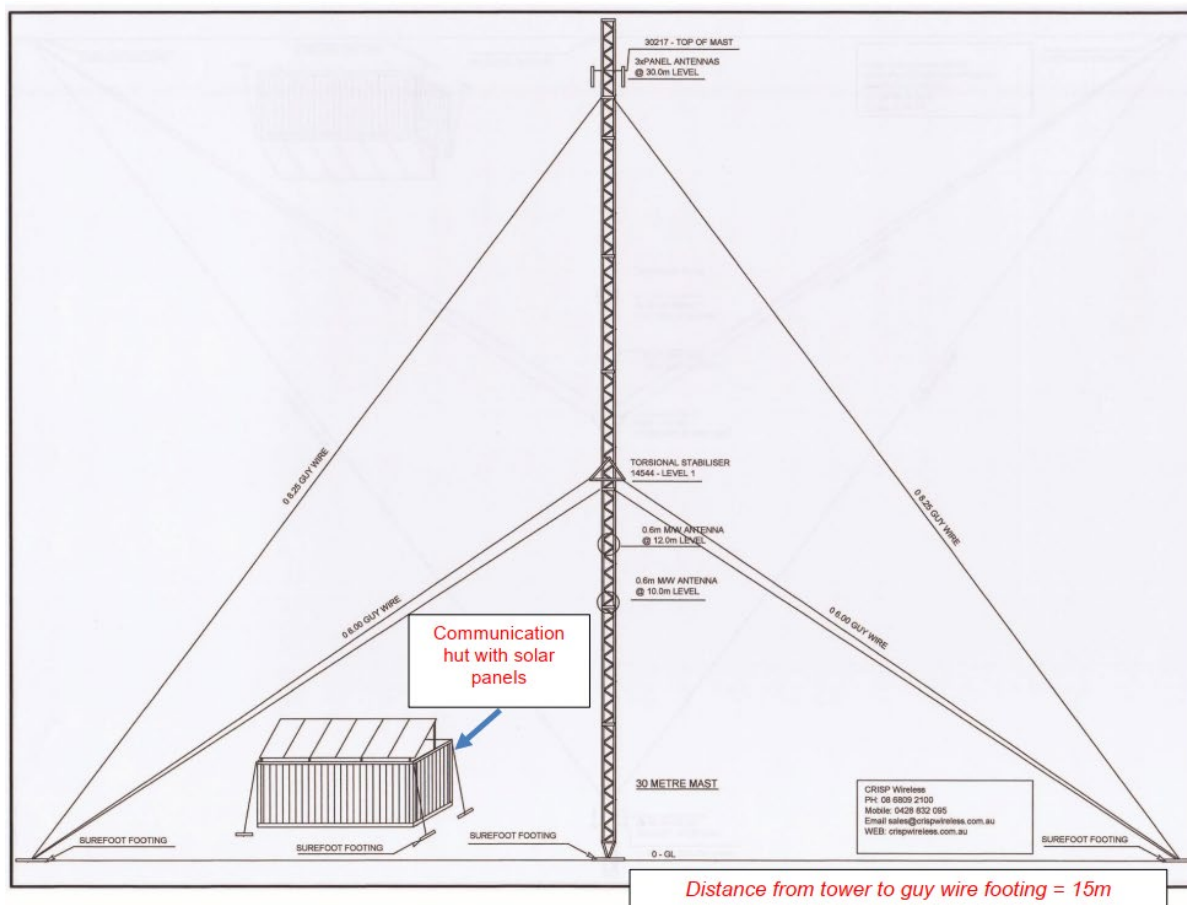
- Solar panels to power the system contained in the sea container.

The tower will be located in the western part of the subject land in an existing cleared area. It will be setback approximately 25 metres from the west lot boundary, approximately 2 kilometres from the north lot boundary, and approximately 1.5 kilometres from the South Nulla Nulla Road lot boundary. The tower and associated infrastructure will occupy an area of approximately 400m².

A site plan (and inset enlargement) is included below.



An elevation plan is included below.



- Zoning and Scheme requirements**

Lot 2 is zoned 'Rural/Mining' under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

Clause 3.1.1 e) of the Scheme states that *"The Rural/Mining Zone is to be used for agricultural, residential and public recreation uses. Extractive industry (mining) occurs widespread in the rural area of the Shire but, owing to its high impact, needs to be approved by Council after satisfactory advertisement"*

Although the rural/mining zone objective is to be used for agricultural, residential and public recreation, Council has discretion to consider other land uses in accordance with 'Table 1 – Zoning Table' under the Scheme.

Under the Scheme, Table 1 lists land uses in a table format with different symbols listed under different zones.

Each symbol has a different meaning and determines whether Council has discretion to consider a land use in the corresponding zone (ie if the land use is permitted, not permitted, discretionary or requires advertising).

Part of the planning assessment involves determining which land use definition from the Scheme ‘best fits’ the proposal.

There is no specific definition for telecommunications infrastructure in the Scheme, therefore the Shire has historically processed these types of development as ‘radio and television installation’.

The term ‘radio and television installation’ is defined in the Scheme as *‘means any land or buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.’*

The land use of ‘radio and television installation’ is listed in Table 1 of the Scheme as an ‘AA’ use in the Rural Mining zone which *‘means that the use is not permitted unless the Council has granted planning approval’*.

An extract of Table 1 is included below.

TABLE 1 - ZONING TABLE

ZONES							
		Residential	Commercial	Industrial	Special Use	Townsite	Rural Mining
40	Radio/TV. Installation	SA	AA	AA		AA	AA

- Assessment**

In the absence of any specific scheme requirements, the main consideration is whether there will be any significant negative impact on neighbouring lots or the existing streetscape.

It is important to note that by their very nature, any telecommunications tower may be visible from surrounding areas simply due to the height. From a practical perspective, height is an essential attribute of telecommunications infrastructure and is integral to the development being able to provide a service to the community.

The lattice design of the tower combined with the setback to surrounding streets minimises any potential adverse impacts.

- Advertising**

Whilst advertising of the application is not compulsory, Council has discretion to advertise any application for public comment. This application has not been advertised for public comment.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 3.

Clause 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Strategic Implications

Approval of the development may set a precedent for similar sized telecommunications infrastructure to be established in the Rural Mining zone.

Policy Implications

There is no Council policy applicable to this report. There is a Western Australian Planning Commission State Planning Policy 5.2 on Telecommunications Infrastructure.

Adequate and reliable telecommunications are essential for all aspects of contemporary community life, from supporting the State’s economy to creating and maintaining connected and cohesive social networks.

The State planning policy aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas.

This policy applies throughout Western Australia in respect to above and below ground telecommunications infrastructure other than those facilities exempted under the Commonwealth *Telecommunications Act 1997* (Telecommunications Act).

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

12/2023

Moved Cr Rose/Seconded Cr Close

That Council:

A. *Approve the application for telecommunications infrastructure as 'radio and television installation' on Lot 2 Nulla Nulla South Road, South Bodallin subject to the following conditions:*

- The plans and information lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans.*
- If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.*

CARRIED (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.9 Proposed Telecommunications Infrastructure –Lot 636 Noongar South Road, Bodallin

File Reference	3.1.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	Nil

Purpose of Report

Council is to consider a planning application for telecommunications infrastructure on Lot 636 in Bodallin which is accessed via Noongar South Road.

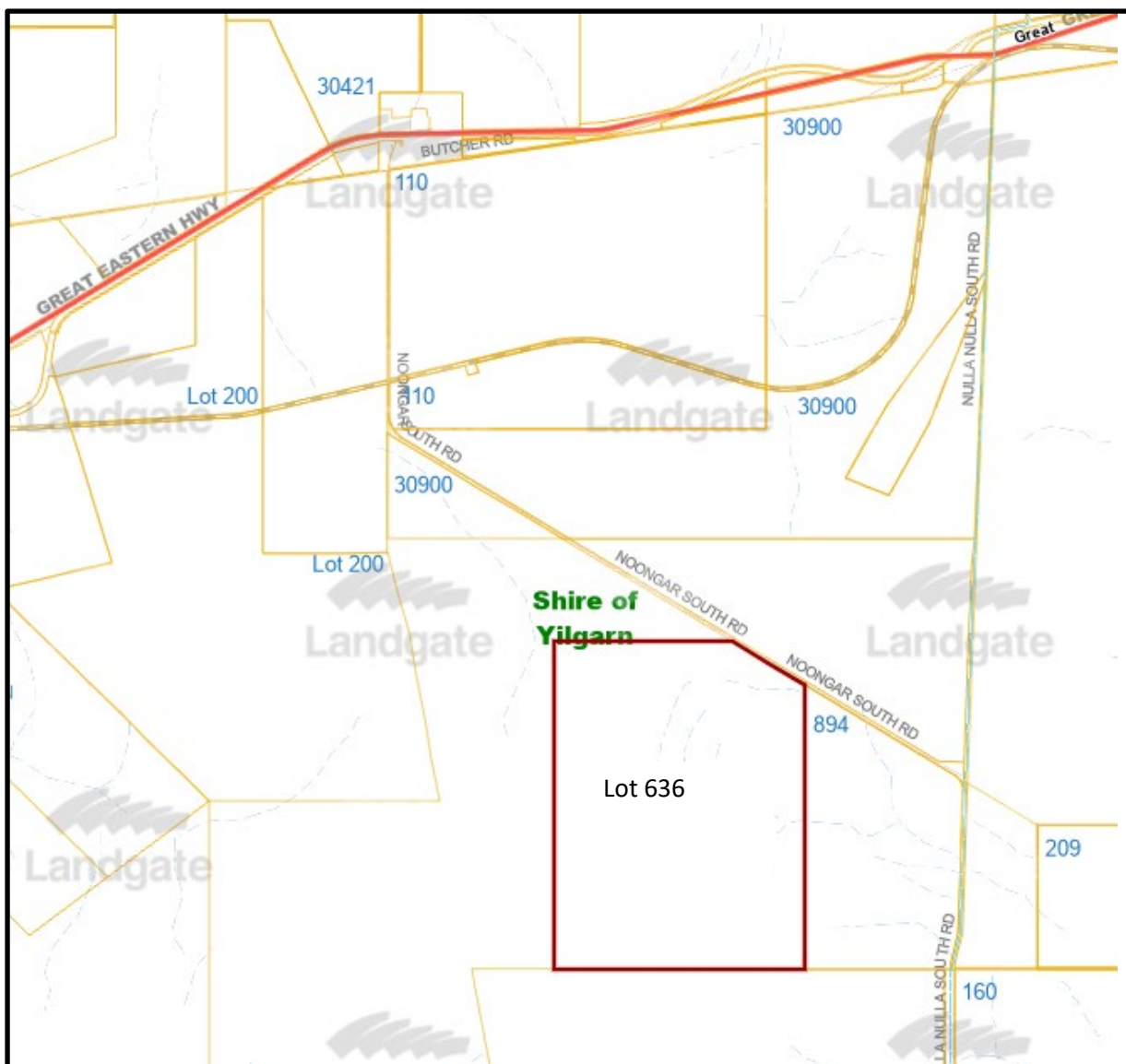
Background

- Location and Existing Development**

Lot 636 is located approximately 35 kilometres south west of the Southern Cross townsite. It is south of the Great Eastern Highway, with the nearest intersection being Noongar South Road and Nulla Nulla South Road in Bodallin.

A location plan is included over page for convenience.

The lot has an approximate area of 882 hectares and is used for general agricultural purposes.



Above: Location Plan

Comment

• Description of Application

The Shire is in receipt of a Development Application from Crisp Wireless seeking approval to extend their fixed wireless network within the Shire of Yilgarn.

The application relates to a privately owned property and Crisp Wireless have obtained permission from the landowner to construct telecommunication infrastructure on Lot 636.

The development will include:

- A 30 metre high steel tower;
- A combination of Dual Pole Parabolic Antennas (Dishes) and Sector Antennas;
- A 14.4m² sea container to house communications equipment; and

- The tower will be located in the northern part of the subject land in an existing cleared area. It will be setback 165 metres from the north lot boundary. The tower and associated infrastructure will occupy an area of approximately 400m².

See insert

Proposed Tower Location

All weather site access

Noongar South

See insert

Distance to boundary = 165m (approx).

Proposed tower location

Shire of Yilgarn

BODALLIN

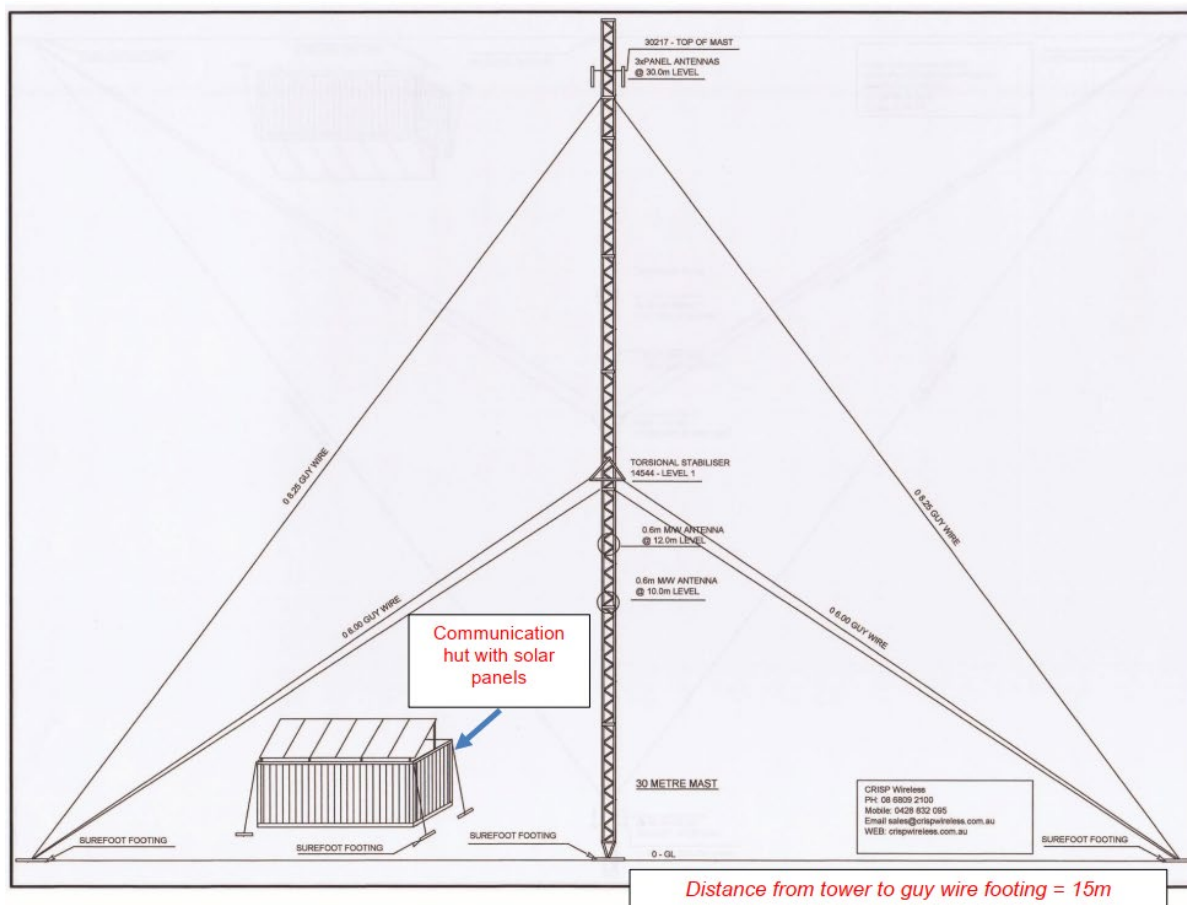
RCP-R2-011-E
Bodallin Site
Lot 636 on DP 159592
accessed off Noongar South
Road, Bodallin WA 6425

Lot on Plan - Boundaries

Lot on Plan	P159292 636
Land ID Number	1904007
Area	882.4865 ha
Local Government	YILGARN

[Zoom to](#)

An elevation plan is included below.



- Zoning and Scheme requirements**

Lot 636 is zoned 'Rural/Mining' under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

Clause 3.1.1 e) of the Scheme states that *"The Rural/Mining Zone is to be used for agricultural, residential and public recreation uses. Extractive industry (mining) occurs widespread in the rural area of the Shire but, owing to its high impact, needs to be approved by Council after satisfactory advertisement"*

Although the rural/mining zone objective is to be used for agricultural, residential and public recreation, Council has discretion to consider other land uses in accordance with 'Table 1 – Zoning Table' under the Scheme.

Under the Scheme, Table 1 lists land uses in a table format with different symbols listed under different zones.

Each symbol has a different meaning and determines whether Council has discretion to consider a land use in the corresponding zone (ie if the land use is permitted, not permitted, discretionary or requires advertising).

Part of the planning assessment involves determining which land use definition from the Scheme ‘best fits’ the proposal.

There is no specific definition for telecommunications infrastructure in the Scheme, therefore the Shire has historically processed these types of development as ‘radio and television installation’.

The term ‘radio and television installation’ is defined in the Scheme as *‘means any land or buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.’*

The land use of ‘radio and television installation’ is listed in Table 1 of the Scheme as an ‘AA’ use in the Rural Mining zone which *‘means that the use is not permitted unless the Council has granted planning approval’*.

An extract of Table 1 is included below.

TABLE 1 - ZONING TABLE

ZONES							
		Residential	Commercial	Industrial	Special Use	Townsite	Rural Mining
40	Radio/TV. Installation	SA	AA	AA		AA	AA

- Assessment**

In the absence of any specific scheme requirements, the main consideration is whether there will be any significant negative impact on neighbouring lots or the existing streetscape.

It is important to note that by their very nature, any telecommunications tower will likely be visible from surrounding areas simply due to the height. From a practical perspective, height is an essential attribute of telecommunications infrastructure and is integral to the development being able to provide a service to the community.

The lattice design of the tower combined with the setback to the street minimises adverse impacts.

- Advertising**

Whilst advertising of the application is not compulsory, Council has discretion to advertise any application for public comment. This application has not been advertised for public comment.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include 'Deemed Provisions' that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 2.

Clause 67 outlines 'matters to be considered by Council' including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Strategic Implications

Approval of the development may set a precedent for similar sized telecommunications infrastructure to be established in the Rural Mining zone.

Policy Implications

There is no Council policy applicable to this report. There is a Western Australian Planning Commission State Planning Policy 5.2 on Telecommunications Infrastructure.

Adequate and reliable telecommunications are essential for all aspects of contemporary community life, from supporting the State's economy to creating and maintaining connected and cohesive social networks.

The State planning policy aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas.

This policy applies throughout Western Australia in respect to above and below ground telecommunications infrastructure other than those facilities exempted under the Commonwealth *Telecommunications Act 1997* (Telecommunications Act).

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

13/2023

Moved Cr Close/Seconded Cr Rose

That Council:

- A. Approve the application for telecommunications infrastructure as ‘radio and television installation’ on Lot 636 Noongar South Road, Bodallin subject to the following conditions:***
- 1. The plans and information lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans.***
 - 3. If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.***

CARRIED (4/0)

9.1 Officers Report – Chief Executive Officer

9.1.10 Proposed Outbuilding–Lot 20 (No 51) Polaris Street, Southern Cross

File Reference	3.1.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Liz Bushby, Town Planning Innovations
Attachments	1. Site Photographs

Purpose of Report

Council is to consider a planning application for an outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross.

Background

- Location and Existing Development**

Lot 20 has been developed with an existing house, carport and chicken pens. It has an area of 3010m².

The lot is located near the intersection of Polaris Street and Argus Street in the Southern Cross townsite.

The lot to the immediate north (of Lot 20) has also been developed with a single house. The property to the immediate south is vacant and is owned by the State of Western Australia. The property that shares a rear boundary with Lot 20 is vacant land in private ownership.

A location plan is included over page for ease of reference.



Above: Location Plan

Comment

- Zoning and Scheme requirements**

Lot 20 is zoned Residential with an R10 density code under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

The proposed outbuilding requires planning approval as it entails variations to the Residential Design Codes.

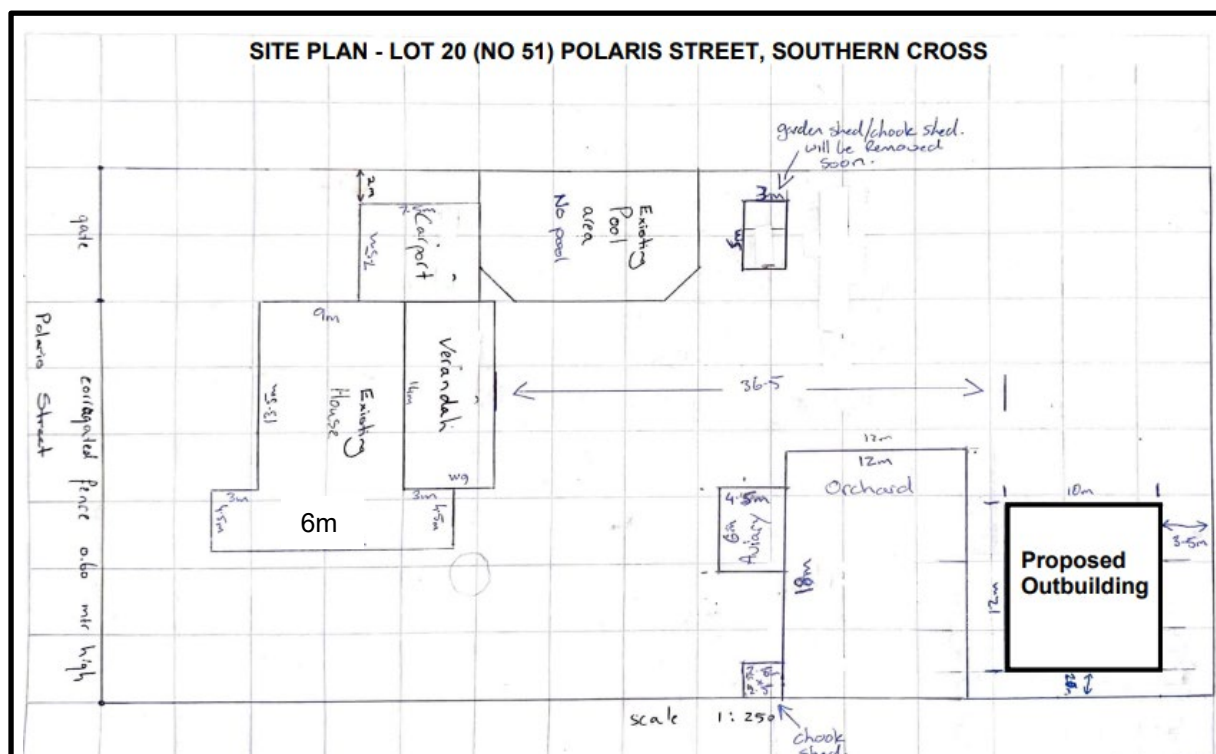
- Description of Application**

The outbuilding is proposed to the rear of the existing dwelling in the south east portion of Lot 20.

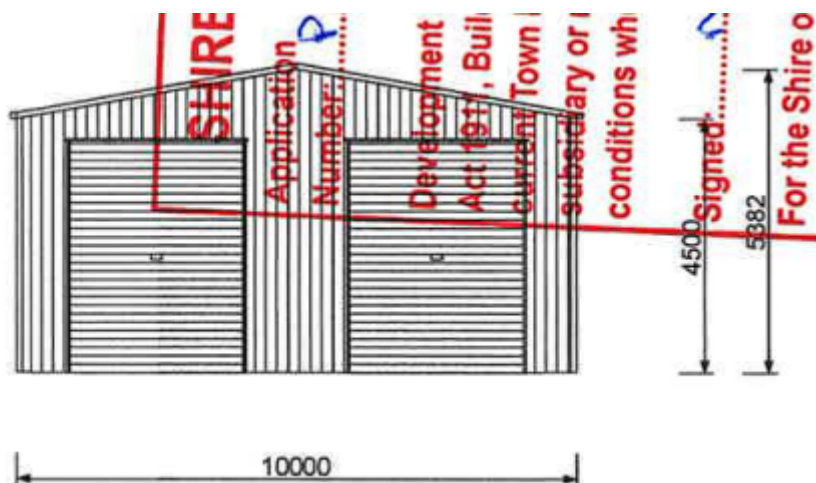
The outbuilding will have a total floor area of 120m². It is proposed to have a wall height of 4.5 metres and a height of 5.382 metres to the roof peak.

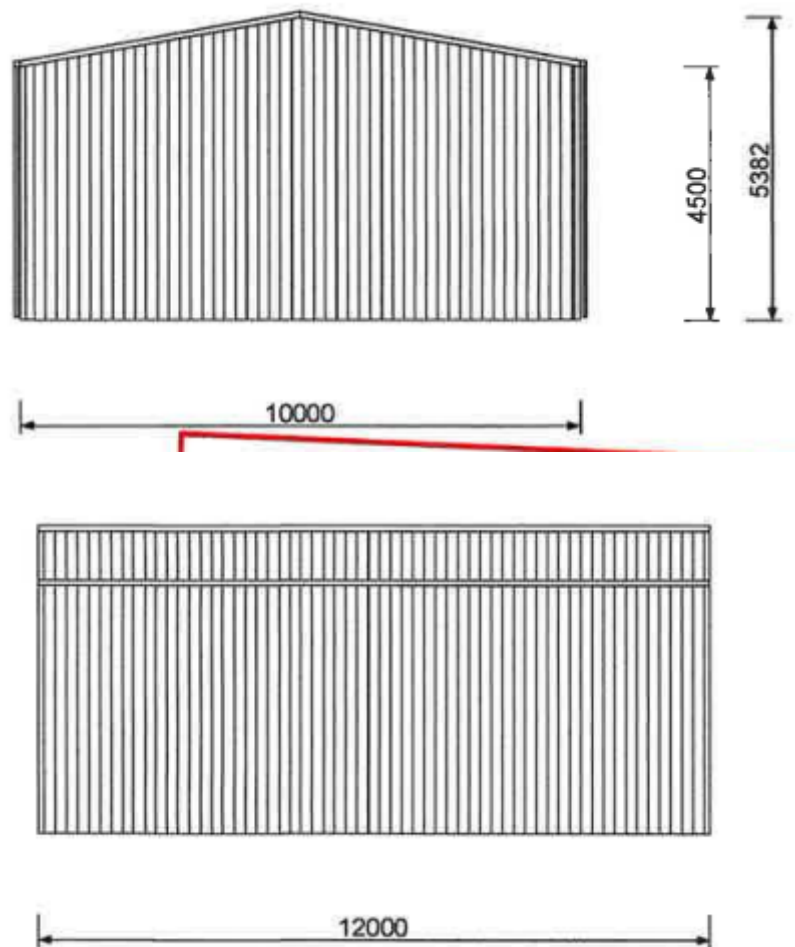
The owner has advised that the outbuilding is proposed to be used as a workshop and for storage. The owner has also advised that the height is required so that a horse float can be stored in the outbuilding.

A site plan is included below for ease of reference. The owner has provided site photographs – refer Attachment 1.



Elevations are included below and over page.





- **State Planning Policy 7.3 - Residential Design Codes**

The Residential Design Codes (R-Codes) operate as a State Planning Policy produced by the Western Australian Planning Commission. The R-Codes provide a basis for the control and assessment of residential development throughout Western Australia.

The R-Codes contain a number of definitions for various residential structures, including an outbuilding which is defined as *‘an enclosed structure non-habitable structure that is detached from any dwelling.’*

The R Codes have two separate options for the assessment of development including ‘Deemed to Comply’ criteria and ‘Design Principles’.

Under the Residential Design Codes there are specific ‘Deemed to Comply’ requirements for outbuildings. The proposed outbuilding seeks variations to the Residential Design Codes as detailed below:

Clause 5.4.3 C3 B ‘deemed to comply’ criteria / Outbuildings that:	Officer Comment (TPI)
(i) individually or collectively does not exceed 60sqm in area or 10 percent in aggregate of the site area, whichever is the lesser	Variation. A floor area of 120m ² is proposed.
(ii) setback in accordance with Table 2a.	Complies.
(iii) does not exceed a wall height of 2.4 metres	Variation. A wall height of 4.5 metres is proposed.
(iv) does not exceed a ridge height of 4.2 metres	Variation. The maximum ridge height is 5.382 metres.
(vi) not located within the primary or secondary street setback area; and	Complies.
vi) do not reduce the open space and outdoor living area requirements in table 1.	Complies.

The application proposes variations to the ‘Deemed to Comply’ requirements therefore the Shire has to determine if the outbuilding complies with the alternative ‘Design Principle’ (5.4.3 P3) of the Codes which is:

“Outbuildings that do not detract from the streetscape or the visual amenity of residents of neighbouring properties”.

TPI is not in a position to undertake a thorough amenity impact assessment, and is of the understanding that Council has approved some large outbuildings in the past. Past decisions are relevant as they set a precedent for outbuildings in the Southern Cross townsite.

TPI has provided Council with two options in the officer recommendation, as Council needs to consider past decisions, streetscape and neighbour amenity.

Council has the option to refuse the proposed outbuilding if it forms the view that the outbuilding does not comply with the ‘Design Principle’ (5.4.3 P3) of the Codes as it has potential to *‘detract from the streetscape or the visual amenity of residents of neighbouring properties.’*

- **State Planning Policy 3.7 Planning in Bushfire Prone Areas**

Under the ‘deemed provisions’ of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council is to have ‘due regard’ to any state planning policy. This essentially means Council has an obligation to give proper, genuine and realistic consideration to the requirements of ‘State Planning Policy 3.7: Planning in Bushfire Prone Areas’ (SPP 3.7).

The Shire has a mandatory obligation to consider SPP3.7 when making a decision on any application where the lot is within a designated bushfire prone area.

The Western Australian Planning Commission released SPP3.7 and associated Guidelines for Planning in Bushfire Prone Areas (‘the Guidelines’) in December 2015. These documents apply to all land identified as Bushfire Prone.

Mapping identifying Bushfire Prone Areas is available through the Department of Fire and Emergency Services website.

The development is proposed within a part of Lot 20 that is within the declared bushfire prone area.

Under Clause 5.4 of the Guidelines all planning applications in Bushfire Prone Areas are to be accompanied by a BAL (Bushfire Attack Level) assessment. There is no specific exemption for outbuildings.

Despite the above, the Guidelines that make it clear that application of SPP3.7 is to the discretion of the decision maker, being the Shire Council.

TPI does not recommend that any Bushfire Attack Level assessment be required for the following reasons:

- d) The outbuilding will be separated from the existing house This reduces the likelihood of any ember attack spreading between the buildings;
- e) The development is non habitable and will be used for storage;
- f) If a separate building permit is required, then building compliance will be examined at the more detailed building application stage.

- **Consultation**

The application was advertised for public comment through publication of a notice on the Shires website, Facebook page and letters to adjacent neighbours. Public advertising commenced on the 19 December 2022 and closed on the 13 January 2023, with no submissions have been received.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 3.

Clause 61 lists development that is exempt from the need for planning approval, including outbuildings that are ancillary to a dwelling and comply with the ‘deemed to comply’ requirements of the Residential Design Codes. This application requires planning approval as it entails variations to the Residential Design Codes.

Clause 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Clause 1.8.2 : Where a word or term is defined in the Residential Planning Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Codes.

Strategic Implications

Approval of the development will set a precedent for similar sized outbuildings on larger lots in the Residential zone.

Policy Implications

The Shire Policy Manual includes a Policy No 4.6 ‘Outbuildings in Residential and Townsite zones’.

The Policy still requires Council to consider potential visual and amenity impacts associated with outbuildings, however it provides a guide to applicants in a table format – refer over page.

Table 1

LOT AREA (m ²)	LOT DENSITY RATING	MAXIMUM SINGLE OUTBUILDING (m ²)	TOTAL OUTBUILDING S (m ²)	MAXIMUM WALL HEIGHT (metres)	MAXIMUM RIDGE HEIGHT (metres)
260 - 450	R30	25	43 - 55	2.4	3.0
451 - 699	R17.5/R15	40	55 - 70	2.4	3.0
700 - 874	R12.5	60	85	3.0	3.6
901 - 1500	R10	90	125	3.0	3.6
1501 - 2000	R10	115	160	3.5	4.0
2001 - 3500	R5	145	265	3.5	4.2
3501 - 5000	R2.5	160	375	3.5	4.5

Note: The sizes specified in Table 1 above are a guide only. Until all factors are considered, a final maximum outbuilding size cannot be provided.

Lot 20 is zoned R10 and has an area of 3010m², therefore under the Shires Policy Guide, a 115m² outbuilding with a wall height of 3.5 metres and roof height of 4 metres can be contemplated.

This application seeks a 120m² floor area, wall height of 4.5 metres and roof peak height of 5.382m².

The Shires Policy Manual includes town planning policies which have not been adopted in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations)*.

As a result, TPI has not given significant weight to the policy in terms of any planning assessment. TPI recommends that the Shire review all existing planning and building policies to address this situation.

Notwithstanding the above, if the Policy is a guide of the type of outbuilding sizes that are supported by Council, then this application entails variation to the policy guidelines.

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

That Council:

- A. *Note that the proposed outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross has been advertised for public comment. Advertising has closed and no submissions have been received.*
- B. *Note that two options have been outlined in this report in regards to the proposed outbuilding.*

OPTION 1 – APPROVE THE OUTBUILDING SUBJECT TO CONDITIONS

C. *Approve the application for an outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross subject to the following conditions and footnote:*

- 1. *The plans and information lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans unless otherwise approved in writing by the Chief Executive Officer.***
- 2. *All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or the rear laneway.***
- 3. *If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.***

Footnote:

- (i) *This is a planning consent only and owners need a separate building permit approval prior to commencing any site works or construction.***

OR

OPTION 2 – REFUSE THE OUTBUILDING BASED ON AMENITY IMPACTS

D. *Refuse the application for an outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross for the following reasons:*

- 1. *The outbuilding does not meet the alternative Design Principle 5.4.3 P3 of the Residential Design Codes as the height will detract from the streetscape and the visual amenity of the adjacent lots.***
- 2. *The proposed outbuilding will have a detrimental impact on streetscape and a negative visual impact on adjacent properties.***

Alternative Motion Moved by Council and Council Decision

14/2023

Moved Cr Nolan/Seconded Cr Rose

That Council:

In relation to the proposed shed at Lot 20 (No 51) Polaris Street, Southern Cross, raise the following concerns:

- ***Height of the proposed shed will impact on the surrounding amenity;***
- ***Restricted vehicle access to the shed, given the lot only has road access from the front of the Lot, and existing structures seem to inhibit access to the rear of the Lot;***
- ***Intended use of the shed, given the size, seems a commercially sized structure.***

And

Request either:

- 1. An amended proposal with a reduced shed size, to sufficiently reduce the impact to amenity, and details on access from the street frontage;***
- or***
- 2. Further details on current proposal, addressing the concerns listed above, and specifically, detailing the precise reasons for the proposed shed height, access from street frontage, and confirmation the shed is not intended to be utilised for commercial purposes.***

And

For the matter to be returned to Council upon the Shire of Yilgarn receiving said updated proposal.

Carried (4/0)

Reason for Council Decision being different from the Officers Recommendation

Council raised concerns with the proposed height of the building and its effects on amenity; how the shed, located at the rear of the property, would be accessed from the street frontage and the proposed use of the shed, which given its size, indicates commercial activities.

The Presiding member, Cr Della Bosca, adjourned the meeting at 6.08pm.

The Presiding member, Cr Della Bosca reconvened the meeting at 6.12pm.

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.1 Financial Reports-December 2022

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Cameron Watson-Executive Manager Corporate Services
Attachments	Financial Reports

Purpose of Report

To consider the Financial Reports

Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31 December 2022

- Rates Receipt Statement
- Statement of Investments
- Monthly Statement of Financial Activity

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
- budget estimates to the end of the month to which the statement relates; and

- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (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.
- (2) Each statement of financial activity 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; and
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (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.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Monthly snapshot of Councils financial position	Moderate (6)	Ongoing review of Councils operations
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

15/2023

Moved Cr Rose/Seconded Cr Della Bosca

That Council endorse the various Financial Reports as presented for the period ending 31 December 2022.

CARRIED (4/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.2 Financial Reports-January 2023

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Cameron Watson-Executive Manager Corporate Services
Attachments	Financial Reports

Purpose of Report

To consider the Financial Reports

Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31 January 2023

- Rates Receipt Statement
- Statement of Investments
- Monthly Statement of Financial Activity

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
- budget estimates to the end of the month to which the statement relates; and

- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (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.
- (2) Each statement of financial activity 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; and
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (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.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Monthly snapshot of Councils financial position	Moderate (6)	Ongoing review of Councils operations
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

16/2023

Moved Cr Close/Seconded Cr Nolan

That Council endorse the various Financial Reports as presented for the period ending 31 January 2023.

CARRIED (4/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.3 Accounts for Payment - December 2022 and January 2023

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Accounts for Payment

Purpose of Report

To consider the Accounts Paid under delegated authority.

Background

- Municipal Fund – Cheques 41183 to 41190 totalling \$15,959.06
- Municipal Fund – Cheques 41191 to 41198 totalling \$9,148.26
- Municipal Fund - EFT 13410 to 13561 totalling \$1,346,719.23
- Municipal Fund - EFT 13565 to 13642 totalling \$643,575.01
- Municipal Fund – Cheques 2066 to 2083 totalling \$290,836.26
- Municipal Fund – Cheques 2084 to 2101 totalling \$268,366.48
- Municipal Fund - Direct Debit Numbers:
 - 17454.1 to 17454.13 totalling \$25,361.07
 - 17489.1 to 17489.12 totalling \$26,141.73
 - 17518.1 to 17518.12 totalling \$23,021.05
 - 17545.1 to 17545.13 totalling \$23,432.29
- Trust Fund – Cheque 402673 totalling \$2,665.07
- Trust Fund – EFT 13562 to 13564, and 13643 totalling \$7,176.39

The above are presented for endorsement as per the submitted list.

Comment

Nil

Statutory Environment

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Local Government (Financial Management) Regulations 1996

12. Payments from municipal fund or trust fund, restrictions on making

- (1) A payment may only be made from the municipal fund or the trust fund —
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name; and
 - (b) the amount of the payment; and
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) for each account which requires council authorisation in that month —
 - (i) the payee's name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction;and
 - (b) the date of the meeting of the council to which the list is to be presented.

- (3) A list prepared under subregulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

Strategic Implications

Nil

Policy Implications

Council Policy 3.11 – Timely Payment of Suppliers

Financial Implications

Drawdown of Bank funds

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Transactions require two senior managers to approve.	Moderate (8)	Transactions require two senior managers to sign cheques or approve bank transfers.
Financial Impact	Reduction in available cash.	Moderate (5)	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Non or late payment of outstanding invoices and/or commitments	Moderate (9)	Adherence to Timely Payment of Suppliers Policy
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

17/2023

Moved Cr Close/Seconded Cr Rose

- *Municipal Fund – Cheques 41183 to 41190 totalling \$15,959.06*
- *Municipal Fund – Cheques 41191 to 41198 totalling \$9,148.26*
- *Municipal Fund - EFT 13410 to 13561 totalling \$1,346,719.23*
- *Municipal Fund - EFT 13565 to 13642 totalling \$643,575.01*
- *Municipal Fund – Cheques 2066 to 2083 totalling \$290,836.26*
- *Municipal Fund – Cheques 2084 to 2101 totalling \$268,366.48*
- *Municipal Fund - Direct Debit Numbers:*
 - *17454.1 to 17454.13 totalling \$25,361.07*
 - *17489.1 to 17489.12 totalling \$26,141.73*
 - *17518.1 to 17518.12 totalling \$23,021.05*
 - *17545.1 to 17545.13 totalling \$23,432.29*

- *Trust Fund – Cheque 402673 totalling \$2,665.07*
- *Trust Fund – EFT 13562 to 13564, and 13643 totalling \$7,176.39*

The above are presented for endorsement as per the submitted list.

CARRIED (4/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.4 Budget Amendment – Administration Pool Vehicle

File Reference	8.2.5.3
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Nil

Purpose of Report

This report seeks Council’s approval for an amendment to its 2022/2023 budget to allow for expenditure from its municipal fund for the purchase of an Administration staff pool vehicle.

Background

Historically, Councils Administration has not had a dedicated staff pool vehicle but did have access, if required, to the then Community Car – A Toyota RAV4, registration YL 285.

With the recent difficulties in attracting suitably qualified staff, it was decided to better utilise the Community Car as a vehicle allocated to the Finance Manager’s position with restricted private use. This allowed for the vehicle to be available to Administration staff and Councillors when required.

YL 285 was traded in the current financial year, but due to supply issues, the new vehicle acquired was a Ford Ranger XLT and is currently being utilised by Councils Asset Management Officer.

Comment

The Executive Manager Infrastructure recently appointed a qualified plumber to the works crew, initially as a plant operator. Due to this individual’s trades skill base, it was decided to utilise this individual to catch up on a significant backlog of works outstanding and required to the Southern Cross and Marvel Loch sewerage systems. As Council does not have a surplus of suitable vehicles available, it was decided to allocate YL 121 (then the Asset Management Officers vehicle) to help facilitate these works.

The Asset Management Officer is currently utilising YL 285 but this vehicle is intended for the new Finance Managers use as per their contract of employment. YL 252 – Toyota Hilux Dual Cab Utility, the previous Executive Manager Regulatory Services vehicle will be a pool vehicle for both the Work Health & Safety Officer and the new position of Regulatory Services Officer.

A utility type vehicle (YL 285) is not a requirement for an Administration vehicle and can be better used in other areas. It was identified during the 2022/23 Budget Review staff workshop that the utility vehicle’s current use as the Asset Management Officers vehicle is more appropriate and that a new Administration vehicle that is assigned to the Finance Manager should be sourced.

The 2022/23 Budget Review, which will be presented to Council at a Special Meeting to be held in early March 2023, will indicate a surplus over what was originally budgeted. It will be recommended that the cost associated with the acquisition of a new Administration vehicle will come from this surplus. A quote has been sourced from Golden City Motors for the immediate supply of a Mitsubishi Outlander LS at a quoted price of \$38,173 ex GST.

Statutory Environment

Local Government Act 1995

6.8. Expenditure from municipal fund not included in annual budget

- (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.*

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

Civic Leadership Objective

Dynamic and visionary leadership guiding our community into the future.

Civic Leadership Outcome

Outcome 4.1 - A trustworthy and cohesive Council that functions efficiently and effectively.

Civic Leadership Strategy

4.1.2 - Maintain a high level of corporate governance, responsibility and accountability.

Policy Implications

Council Policy 3.5 – Purchasing & Tendering

Financial Implications

It is intended to fund the acquisition of a new Administration poll vehicle from surplus funds identified during the 2022/23 Budget Review.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Adequate funding available to acquire the asset	Low (2)	Utilise current vehicle until such time as funding is available
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

18/2023

Moved Cr Nolan/Seconded Cr Close

That Council approves the following budget amendments:

<i>Sub-Program</i>	<i>Account / Job</i>	<i>Current Budget \$</i>	<i>Amended Budget \$</i>
<u>Expenditure</u>			
146 - Public Admin	E14656 - Shire Administration - Plant & Equipment Capital	180,000	218,200

CARRIED BY ABSOLUTE MAJORITY (4/0)

10 APPLICATIONS FOR LEAVE OF ABSENCE

19/2023

Moved Cr Rose Seconded Cr Close

That Cr Jodie Cobden be granted a Leave of Absence from the April 2023 Ordinary Meeting of Council

CARRIED (4/0)

11 MOTIONS FOR WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

20/2023

Moved Cr Rose/Seconded Cr Close

That the late item be accepted by council for consideration

CARRIED (4/0)

12 Late Item - Chief Executive Officer

12.1 Request for Consent to Mine Over Marvel Loch Town Site and R40746 - M77/525

File Reference

Disclosure of Interest

None

Voting Requirements

Simple Majority

Author

Nic Warren – Chief Executive Officer

Attachments

1. Programme of Work
2. Tenement Endorsement and Conditions Extract
3. Tenographs and Maps

Purpose of Report

For Council to consider a response to the Department of Mines, Industry Regulation and Safety relating to a request for consent to mine over Marvel Loch town site and Reserve 40746.

Background

The Shire has received correspondence from the Department of Mines, Industry Regulation and Safety, seeking Council's comments regarding a request from Barto Gold Mining Pty Ltd to mine within the Marvel Loch Townsite.

Under Sections 23 to 26 of the Mining Act 1978 (the Act) mining may be carried out on certain classes of land with the written consent of the Hon Minister for Mines and Petroleum.

In respect to townsites, the Minister for Mines and Petroleum is to first consult and obtain the recommendation of the local municipality and the Minister for Lands before he can grant consent to mine.

As such, the Minister for Mines and Petroleum has therefore sought Council's comments and recommendation with regard to the impact of the application on the Reserve 40746. This reserve is designated an Effluent Disposal Reserve, vested to the Shire of Yilgarn.

The Department have advised, should Council be favourable to the proposal, that Councillors consider the following endorsement and condition:

Endorsement: The grant of this lease does not include any private land referred to in Section 29(2) of the Act except that below 30 metres from the natural surface of the land.

Condition: Access to the surface of land within Marvel Loch Townsite for mining purposes being subject to the approval of the local Authority or relevant reserve vestees, and mining activities within the first 100 metres below the surface of the land being limited to such exploration activities as may be approved by the Executive Director, Resource and Environmental Compliance, Department of Mines, Industry Regulation and Safety.

Comment

The Programme of work is attached, and details the proposed works involves a drilling program only.

The Tenement Endorsement and Conditions Extract, tenographs and Plans provided by the Department are attached.

Access to private land within the townsite is not permitted without consent, except for 30 metres below the surface.

Access to the Shire's Reserve is at the discretion of Council. Management consider any access to the Shire reserve must be pre-arranged with relevant staff, and any activities endorsed by relevant executive manager. Any proposed works must not interfere with the effluent treatment system.

The Department of Water and Environment Regulation manage nuisances from mining operations, and will set the requirements for noise, dust and vibration management.

Statutory Environment

Mining Act 1978

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil

Compliance	Compliance with relative environmental and mining legislation.	Moderate (6)	DMIRS Assessment and Approval Processes
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Environmental Impacts from Mining Activities	Moderate 6	DMIRS Assessment and Approval Processes

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

That Council endorse the following response to the Department of Mines, Industry Regulation and Safety:

In relation to the request from Barto Gold Mining Pty Ltd, to mine within the Marvel Loch townsite on M 77/525, the Shire of Yilgarn have no objections to the proposal, upon the following conditions:

- *Activities are limited to drilling only within the delineated areas;*
- *Access to Shire Reserve 40746 is only permitted via pre-arrangement and any activities must be endorsed by relevant executive manager. Any proposed works must not interfere with the effluent treatment system;*
- *Strict compliance with the tenement conditions provided; and*
- *Dust, noise and vibration are suitably managed by the applicant, and monitored by relevant enforcement agency;*

And

That Council endorse the following endorsement and condition, as provided by the Department of Mines, Industry Regulation and Safety:

Endorsement: ***The grant of this lease does not include any private land referred to in Section 29(2) of the Act except that below 30 metres from the natural surface of the land.***

Condition: ***Access to the surface of land within Marvel Loch Townsite for mining purposes being subject to the approval of the local Authority or relevant reserve vestees, and mining activities within the first 100 metres below the surface of the land being limited to such exploration activities as may be approved by the Executive Director, Resource and Environmental Compliance, Department of Mines, Industry Regulation and Safety.***

Alternative Motion Moved by Council and Council Decision

21/2022

Moved Cr Nolan/Seconded Cr Close

That Council request a presentation from Barto Golf Pty Ltd Representatives, prior to making further determinations on their request to mine within the Marvel Loch townsite on Mining Tenement 77/525

Carried (4/0)

Reason the Council Decision is different from the Officer Recommendation

Council have concerns regarding the impacts of the activities to residents of Marvel Loch, and seek further information direct from Barto Gold Pty Ltd via presentation.

13 MEETING CLOSED TO THE PUBLIC-CONFIDENTIAL ITEMS

Nil

14 EMERGING ISSUES

Cr Nolan requested permission from the presiding member to raise a number of emerging issues. Cr Della Bosca, as the presiding member, agreed for Councillors to raise any emerging issues:

Cr Nolan's issued raised:

- 1. Has the Shire of Yilgarn received any consultation from British Hill mining?*

CEO Response: No.

2. *Has the Shire of Yilgarn received any information regarding a wash down bay being installed by Campbells Transport in Moorine Rock?*

CEO Response: No.

3. *Raised concerns with widespread NBN issues throughout the district.*

4. *Advised Council, WALGA are providing a training course on CEO Annual Performance Review processes, and encouraged Councillors to consider attending.*

5. *Raised concerns with nuisance issues within the Southern Cross townsite, citing Motorbikes being ridden through townsite and firebreak compliance as current issues. Sought Shire staff to seek assistance from Police.*

Cr Close sought an update on progress with the clean up of the mining lease at the entry to town. CEO advised, as per previous advice, the Department of Mines, Industry Regulation and Safety had provided until end of June 2023 to address the state of the tenement.

Cr Della Bosca raised concerns with the number of cars parked out the front of certain premises along Antares Street. CEO advised the matter was being dealt with via Shire Rangers.

15 CLOSURE

Cr Wayne Della Bosca thanked all for their attendance.

As there was no further business to discuss, the Shire President declared the meeting closed at 6.27pm

I, Wayne Della Bosca confirm the above Minutes of the Meeting held on Thursday, 16 February 2023, are confirmed on Thursday, 16 March 2023 as a true and correct record of the February 2023 Ordinary Meeting of Council.

Cr Wayne Della Bosca
SHIRE PRESIDENT