



Minutes

Ordinary Meeting of Council

***16 March
2023***

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 5:01 pm.

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Deputy President Cr Close announced the apology of President Cr Della Bosca, and advised Council he would be presiding over the meeting.

3. ATTENDANCE

Members	Cr B Close Cr C Cobden Cr L Granich Cr G Guerini Cr P Nolan Cr L Rose	
Council Officers	N Warren C Watson G Brigg F Mudau L Della Bosca	Chief Executive Officer Executive Manager Corporate Services Executive Manager Infrastructure Finance Manager Minute Taker
Apologies:	Cr W Della Bosca	
Observers:	Mrs. Kaye Crafter, Mr. Trevor Ennis-John and Mr. Don Harper	
Leave of Absence:	Nil	

4. DECLARATION OF INTEREST

Nil

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the February 2023 Ordinary Meeting of Council, the following questions were posed;

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 during the session: 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.

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 during the session: 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 Shires contract Environmental Health Officer would investigate the asbestos issue.

Follow up information for Council and Observers

Although neither question had been taken on notice the CEO expanded on the answers given during in the Council meeting, explaining that the Shires contract Environmental Health Officer had inspected 48 and 54 Spica Street and confirmed asbestos is present in the 54 Spica Street dwelling. The Shire is now undertaking due process with the asbestos issue as per the Act, and noted the overgrown yard had been addressed by private contractor.

5.1. PUBLIC QUESTION TIME

Mrs. Kaye Crafter attended public question time and posed the following question;

Question: *On our way home from Hopetoun upon entering the Shire of Yilgarn in the Holleaton area, there is a farmer who is mining dolomite, which is then carted on Shire of Yilgarn roads, causing damage. Is there anything the Shire can do about the state of the roads being used?*

Answer: The Presiding Member referred the question on to the CEO. The CEO confirmed that the operator had previously been in contact with the Shire, and paid a contribution for accessing Shire roads for haulage. The Shire will again follow up with the operator, to ensure a contribution for current haulage is arranged.

Mrs. Jackie Drzymulski, not able to attend the Council meeting herself, forwarded a question to the CEO. With the approval of the Presiding Member, the CEO read out the following question.

Question: *There is a continual stream of heavy vehicles using Spica St as a thorough fare lately...concrete trucks, road trains, gas tankers and the odd grain haulage trucks.....I gather they are bypassing Polaris St for convenience.*

If council could look into this it would be greatly appreciated.

Answer: The Presiding Member referred the question to the EMI for comment. The EMI confirmed that there was currently a detour in place due to the roadworks on the road over Polaris Lake, however, heavy trucks should not be getting so far into town and would monitor the situation.

6. PRESENTATIONS, PETITIONS, DEPUTATIONS

Mr. Trevor Ennis-John and Mr. Don Harper attended Council and gave a presentation on behalf of Barto Gold Mining Pty Ltd (Barto), detailing current and upcoming activities.

Mr. Trevor Ennis-John gave an overview of the exploration drilling, currently Barto tenements have been identified as having potential for Lithium deposits, with a current exploration program progressing across all tenements, Barto are seeking a program of works to drill 10 holes on mining tenement M77/525 which is within the Marvel Loch townsite. As the drillholes sit within the Marvel Loch town boundary Ministerial consent is required to proceed. The drilling consists of 2,640m of drilling (10 holes), drilling will be complete withing 2-3 weeks, dayshift only with a local contractor. Upon completion the holes will be collared and capped with the next steps still to be decided.

A section of the Jaccoletti northern waste rock landform has been identified as a source of low grade ore, access to the Marvel Loch-Forrestania Rd is required for haulage to the Marvel Loch mine. The Shire has granted approval for haulage of up to 4000 tonnes of material, subject to conditions.

Approval is also sought for further operations at Jaccoletti, with Barto proposing to remove additional low grade sources (20,000 tonnes) and proposes to develop an exploration drive from the Jaccoletti pit to Mountain Queen. The total length of the drive is estimated at 300m with an expected generation of 26,000 tonnes of mineralized material.

An update on the Marvel Loch/Jaccoletti underground project was given detailing noise modelling demonstrating operations can be conducted within noise regulation limits with the development of a portal initially generating some noise impact with activities being limited to daytime until the portal is sufficiently developed. Continued noise and vibration monitoring will be in place.

Windmills open pit project is currently being mined down to 380m (40m below the original level) and the cutback of Redgate pit is currently in progress. The next open pit project, Rhapsody Pit, is underway with mining estimated to continue through to early 2024. A DWER/DMIRS applications is to be progressed for Frasers pit to be dewatered and discharged to unused pits and further hydrological assessments are underway.

Mr. Trevor Ennis-John finished the presentation with the rehabilitation completed in 2022 which included the Glendower Waste Landforms having had topsoil spread and ripping complete, the exploration team have completed 40ha of rehabilitation over 15 projects and the windmill waste landfill to be rehabilitated in 2023 and confirmed that the updated Mine Closure Plan is to be submitted this year.

With the completion of the presentation Mr. Trevor Ennis-John thanked Council for their time and invited questions

- Cr Nolan:** Will the bypass road around Marvel Loch be closed to the public during haulage from Jacolletti?
- T Ennis-John:** Advised he would have to look into this matter as was unaware of plans for private haul road that bypassed Marvel Loch.
- Cr Nolan:** An unregistered forklift is continually being piloted along a gazetted road, from the mine to Burbidge camp, it has been raised with Police and Shire, yet it continues.
- T Ennis-John:** Advised he was unaware of the matter but would investigate.
- Cr Nolan:** Rehabilitation has been poor throughout Shire, Frasers and Transvaal need rehabbing. Frasers dump has not been rehabbed.
- T Ennis-John:** Rehabbing is undertaken progressively, Aquarius waste dump has been rehabbed, was seeded 12 months ago. Barto are required to comply with Departmental requirements.
- Cr Nolan:** Noted that Barto had been requested to present to council to provide more information on the proposed drilling within the Marvel Loch town site, which council assumed was for gold, however, Barto are now drilling for Lithium.
- T Ennis-John:** Confirmed Barto are drilling for Lithium and had no reason to hide any drilling activity no matter what they are drilling for.
- CEO:** Raised with Council, that the presentation was the result of a request for comment from the Department of Planning Lands and Heritage relating to the application from Barto, and that should Council have any concerns, now was the time to raise them.
- Cr Nolan:** Cr Nolan requested that Council discuss the matter, without Barto present.

Cr Close thanked Mr. Trevor Ennis-John and Mr. Don Harper for their presentation.

Mr. Ennis-John and Mr. Draper left the meeting at 5.40pm.

7. CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council, Thursday, 16 February 2023

24/202

Moved Cf Nolan/Seconded Cr Rose

That the minutes from the Ordinary Council Meeting held on the 16 February 2023 be confirmed as a true record of proceedings.

CARRIED (6/0)

7.2 Audit Committee Meeting, Thursday, 16 February 2023

25/2023

Moved Cr Cobden/Seconded Cr Guerini

That the minutes of the Audit Committee Meeting held on 16 February, 2023 be received.

CARRIED (6/0)

7.3 Audit Committee Meeting, Monday, 27 February 2023

26/2023

Moved Cr Cobden/Seconded Cr Guerini.

That the unconfirmed minutes of the Audit Committee Meeting held on 27 February 2023 be received

CARRIED (6/0)

7.4 Special Council Meeting, Thursday, 2 March 2023

27/2023

Moved Cr Nolan/Seconded Cr Granich

That the minutes from the Special Council Meeting held on the 2 March 2023 be confirmed as a true record of proceedings.

CARRIED (6/0)

7.5 Wheatbelt North East Sub Regional Road Group, Thursday, 9 February 2023

28/2023

Moved Cr Guerini/Seconded Cr Cobden

That the unconfirmed minutes from the Wheatbelt North East Sub Regional Road Group meeting held on the 9 February 2023 be received.

CARRIED (6/0)

7.6 Great Eastern Country Zone (GECZ), Monday, 13 February 2023

29/2023

Moved Cr Rose/Seconded Cr Granich

That the unconfirmed minutes from the GECZ meeting held on the 13 February 2023 be received.

CARRIED (6/0)

- 7.7 Intractable Waste Disposable Facility (IWDF), Mount Walton East Community Liaison Committee (CLC), Thursday, 16 February 2023

30/2023

Moved Cr Cobden/Seconded Cr Guerini

That the unconfirmed minutes from the IWDF, Mount Walton CLC meeting held on the 13 February 2023 be received.

CARRIED (6/0)

- 7.8 Wheatbelt East Regional Organisation of Councils (WEROC), Wednesday 22 February 2023

31/2023

Moved Cr Rose/Seconded Cr Granich

That the unconfirmed minutes from the WEROC Inc meeting held on the 22 February 2023 be received.

CARRIED (6/0)

- 7.9 Local Emergency Management Committee (LEMC), Thursday 23 February 2023

32/2023

Moved Cr Rose/Seconded Cr Cobden

That the unconfirmed minutes from the LEMC meeting held on the 23 February 2023 be received.

CARRIED (6/0)

8. DELEGATES' REPORTS

Cr Close announced the following;

- Attended the Audit Committee meeting on 27 February 2023
- Attended the Special Meeting of Council on 2 March 2023
- Attended the Great Eastern Country Zone DOAC meeting on 13 March 2023

Cr Nolan announced the following;

- Attended the Audit Committee meeting on 27 February 2023
- Attended the Special Meeting of Council on 2 March 2023
- Attended the Great Eastern Country Zone DOAC meeting on 13 March 2023
- Attended the Ag Care meeting on 13 March 2023

Cr Cobden announced the following;

- Attended the St Josephs Primary School Christmas Presentation on 8 December 2022
- Attended the Southern Cross District High School on 9 December 2022
- Attended the Tourism Meeting with Market Creations on 18 January 2023
- Attended the Australia Day Celebrations on 25 January 2023
- Attended the Audit Committee meeting on 27 February 2023
- Attended the Special Meeting of Council on 2 March 2023
- Attended the Tourism Committee Meeting on 2 March 2023

Cr Guerini announced the following;

- Attended the Special Meeting of Council on 2 March 2023

Cr Granich announced the following;

- Attended the Special Meeting of Council on 2 March 2023

9.1 Officers Report – Chief Executive Officer

9.1.1 Proposed Amendment 3 to the Shire of Yilgarn Town Planning Scheme No 2

File Reference	3.1.1.2
Author	Liz Bushby, Town Planning Innovations
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	1. Marked up Scheme Text showing changes 2. Minister letter on second hand and repurposed dwellings 3. Amendment Map

Purpose of Report

For Council to consider adopting Amendment 3 to the Shire of Yilgarn Town Planning Scheme No 2 for the purposes of:

1. Ensuring that the Shire Council and Development Assessment Panel has discretion to consider a future application for a wind farm in the rural/mining zone;
2. Generally updating the Scheme Text to be consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*;
3. Updating the Scheme map to clearly show all lots that have an additional use and lots that are already zoned Special Use.

Background

A. Proposed Wind Farm

TPI has been in discussions with a proponent proposing to lodge a Development Assessment Panel (DAP) application for a wind farm in the next few months. The wind farm is proposed in the rural/mining zone.

Under ‘Appendix 1 – Interpretations’ of the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme), there is a definition for ‘industry’ which includes under point c) ‘*the generation of electricity*’.

At the time the Scheme was prepared, it is unlikely that it contemplated the land use of a windfarm, however a wind farm by its very nature ‘generates electricity’. TPI has therefore formed the view that any wind farm would be construed as an ‘Industry’.

An industry, whether it be general or light, is not permitted in the rural/mining zone. Essentially this means that the Shire Council and any Development Assessment Panel has no discretion to consider a wind farm in the rural/mining zone under the current Scheme provisions.

The wind farm application is the catalyst for this scheme amendment, and the intention is to update the ‘industry’ definition so it no longer refers to the ‘*generation of electricity*’.

B. Scheme Text

The Scheme was gazetted on the 7 August 1998. There have been two amendments to the existing Scheme, with the last one occurring in April 2016.

Since the Scheme was gazetted, there have been significant changes to the Western Australian planning system, planning legislation, Western Australian Planning Commission (WAPC) State Planning Policies, WAPC Position Statements, and to the Residential Design Codes.

The State has progressively introduced significant planning reforms in order to ‘cut red tape’, including changes introduced through the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Note: The Planning and Development (Local Planning Schemes) Regulations 2015 will be referred to as ‘the Regulations’ in this agenda report.

Comment

There are five main components to the proposed Scheme Amendment which are explained in more detail below.

1. Planning and Development (Local Planning Schemes) Regulations 2015 – Deemed Provisions

The Regulations contain ‘Deemed Provisions’ that automatically apply to every local government scheme area throughout Western Australia, without the need for any amendment to each local governments Scheme.

The ‘Deemed Provisions’ cover matters that are generally common to all local governments such as:

- What requires planning approval and a list of development that is exempted
- The forms associated with the planning process, including a planning application form
- The information that is required to be lodged to the local government
- Advertising procedures for applications
- Matters to be considered by the local government
- Statutory timeframes
- Scope for amending a development approval
- Delegation of authority
- Entry Powers and administration

The ‘Deemed Provisions’ also outline the process for Structure Plans, Local Development Plans, Local Planning Strategies, preparing Local Planning Policies and Heritage Lists.

There are parts of the Scheme that have become redundant as they have been replaced by the 'Deemed Provisions'. Examples of Parts and Schedules of the Scheme that are no longer required include:

Existing Scheme provisions being deleted	Replacement clauses under the deemed provisions (that automatically apply to all local government areas)
PART VI USE AND DEVELOPMENT OF LAND	Part 8 – Applications for development approval
PART VIII – ADMINISTRATION	Part 9 – Procedures for dealing with applications for development approval
APPENDIX 4– APPLICATION FOR APPROVAL	Clause 86(1) Application for development approval
APPENDIX 5 – ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL	Clause 86(2) Additional information for development approval for advertisements
APPENDIX 6 – NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL	Clause 86(3) Notice of public advertisement of planning proposal
APPENDIX 7 - DECISION ON APPLICATION FOR PLANNING APPROVAL	Clause 86(4) Notice of determination on application for development approval

This Amendment proposes to delete parts of the Scheme where the provisions are already covered by the Deemed Provisions of the Regulations.

2. *Planning and Development (Local Planning Schemes) Regulations 2015 – Model Provisions*

The Regulations contain 'Model Provisions for Local Planning Schemes' which are akin to a model template for local planning schemes. The WA Planning Commission is taking the approach that all local governments should follow the Model Provisions unless there is significant justification for a variation.

In the longer term, this will mean that there is a high level of consistency between the different town planning schemes covering Western Australia.

The Model Provisions contain some 'generic' clauses for sections in schemes that are common to all local governments such as the purposes of a scheme, non-conforming uses, zoning table symbols and provisions, references to the R Codes, and variations to site requirements.

The Regulations also list objectives for a specific set of zones including residential zones, commercial zones, and special use zones.

This Amendment will replace some existing Scheme provisions with the Model Provisions of the Regulations where it is practical, without proposing any zoning changes, introducing significant different land use controls, or substantial map changes.

The existing ‘townsite’ and ‘rural/mining’ zone in the Shires Scheme do not conform with any of the zones available under the Regulations, so they are being retained. TPI considers that a more thorough review of those two zones is required, which is outside the scope of this basic amendment.

The Regulations do not include a ‘townsite’ or ‘rural/mining’ zone so in the future the Shire will need to separately look at:

- The best alternative zones such as a commercial, residential and rural zones, or combination of all three;
- A more substantial review of the zoning table and land use controls for any new zones;
- Whether to apply some residential density codes to lots in the townsites, for better assessment of residential development;
- Expansion of exempted development where it is associated with a single house.

3. Land Use terms and Definitions

The changes will include the replacement of most of the existing terms and definitions in the Scheme to:

- a. Resolve the issue of the wind farm proposal. The amendment will change the existing ‘industry’ definition and introduce a new definition for ‘renewable energy facility’ which will cover future wind farms and solar panel farms.
- b. Include the most modern terms and definitions already contained in the ‘Deemed Provisions’ of the Regulations ; and
- c. Include some other definitions that have been approved by the Minister for Planning and / or have been approved for use in other schemes (after 2015).

The objective is to ensure that the Shire’s Scheme has the most modern land use definitions available.

4. Single House Controls and Transportable Dwellings

One of the key intentions behind planning reform measures at a state level was to reduce the number of development applications required for single dwellings.

The ‘Deemed Provisions’ of the Regulations exempt single houses from the need for planning approval where they comply with the Residential Design Codes, irrespective of whether the single house is new, second hand, purpose built or transported on site from another location.

The Shires Scheme currently has provisions relating to ‘transportable dwellings’ and does not differentiate between a purpose built new transportable dwelling and a second hand dwelling. The Scheme conflicts with the Regulations which treats a brand new custom built transportable dwelling the same as a new house constructed on a lot.

This is a major concern as where there is a conflict between the Scheme and the Regulations, the Regulations prevail.

TPI organised a petition co-signed by several local governments in 2015, when the Regulations were first introduced. The petition was lodged to the office of the Minister of Planning seeking changes to the Regulations to ensure that local governments could continue to control the use of transportable and relocated dwellings due to potential impact on streetscape and amenity.

In response, the then Minister for Planning advised of support of two new definitions for ‘repurposed dwelling’ and ‘second hand dwelling’ – Attachment 2.

This Amendment seeks to bring the Scheme more in line with the Regulations by:

- a. Deleting the existing Scheme provisions applicable to transportable dwellings (new and second hand);
- b. Introducing definitions for second hand and repurposed dwellings in line with the (previous) Ministers position; and
- c. Introducing provisions to assist in the assessment of applications for second hand or repurposed dwellings.

The new provisions are listed under Point 20 of the Officer Recommendation.

5. Map Changes

There are three properties listed as having ‘additional uses’ under Appendix 2 of the Scheme. This amendment has listed the additional uses under a new Clause 19, corrected the property details, and proposes to mark the additional uses correctly on the Scheme Map.

The existing Scheme also has a list of Special Use zones in Appendix 3, although the list does not include property addresses.

This amendment seeks to list the existing Special Use zones in a new Clause 21, include correct lot details, and number the special use zones on the Scheme map (with numbering correlating with Table 4 in the scheme text).

The proposed map changes are minor and will simply ensure that there is correct cross referencing between information on additional uses and special use zones in the scheme text, and on the scheme map.

The Scheme Amendment map is included as Attachment 3.

• Type of Amendment

There are three types of amendments under the *Planning and Development (Local Planning Schemes) Regulations 2015*, being a Basic Amendment, a Standard Amendment or a Complex Amendment.

Council has to formally resolve which type of amendment should apply.

TPI proposes that this scheme amendment to be classified as ‘basic’ for the following reasons:

- The amendment is administrative and will correct existing text and map errors;
- The amendment will delete provisions and schedules that have been superceded by the ‘deemed provisions’;
- The amendment is consistent with the ‘model provisions’.

A basic amendment does not need to be advertised for public comment, and therefore goes through a more streamlined process.

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. They were amended in 2020 as part of major reform to the States planning system.

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

The Regulations also include ‘Model Provisions’ that provides a model scheme text format with model clauses, that have been written to correctly interact with the ‘Deemed Provisions’.

The Regulations outline the process for any basic Scheme Amendment which is summarised below:

1. Amendment considered by Council for adoption.
2. The Amendment must be referred to the Environmental Protection Authority who will confirm that no environmental assessment is required.
3. Within 21 days of passing a resolution to adopt a basic scheme amendment, the local government must lodge the amendment to the Western Australian Planning Commission.

Note: The WAPC will assess the amendment independently, and can require the amendment to be processed as a standard or complex amendment.

4. Where the WAPC agrees it is a basic amendment, the amendment will be submitted to the Minister for Planning, Lands and Heritage for determination.
5. The Minister can require modifications to the Amendment prior to granting final approval. With an amendment of this size, TPI expects that the Minister may request some modifications.

6. If the amendment is approved by the Minister, the decision has to be published in the Government Gazette.

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

Strategic Implications

The amendment will incorporate the most modern land use definitions available, and introduce increased flexibility to consider applications for a ‘renewable energy facility’ in all zones.

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 amendment, although the Minister can require modifications before granting final approval

The amendment requires approval by the Minister for Planning, Lands and Heritage.

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)
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)

Alternative Motion

Moved Cr Nolan

That Council lay this item on the table to allow additional time to review and consider the proposed review and changes to the Shire of Yilgarn Town Planning Scheme.

The alternative motion did not receive a seconder, as such, the alternative motion was lost.

Officer Recommendation and Council Decision

33/2023

Moved Cr Cobden/Seconded Cr Granich

That Council:

- A. *Resolve that Amendment No 3 is 'basic' under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:*
 - *The amendment is administrative and will correct existing text and map errors;*
 - *The amendment will delete provisions and schedules that have been superseded by the 'deemed provisions';*
 - *The amendment is consistent with the 'model provisions'.*
- B. *Pursuant to Section 75 of the Planning and Development Act 2005, resolve to prepare or adopt Amendment No 3 to the Shire of Yilgarn Town Planning Scheme No. 2 by:*

1. ***Replacing the terms ‘Town Planning Scheme No 2’ with ‘Local Planning Scheme No 2’ and ‘Council’ with ‘local government’ throughout the Scheme Text.***
2. ***Deleting the preamble in it’s entirety and inserting:***

**‘SHIRE OF YILGARN
LOCAL PLANNING SCHEME NO 2**

The Shire of Yilgarn under the Planning and Development Act 2005 makes the following Local Planning Scheme”.

3. ***Deleting clauses 1.1 – 1.8, and Appendix 4, Appendix 5, Appendix 6, Appendix 7, and the ‘Application for Planning Approval’.***
4. ***Renaming Part I to Part VII to Part 1 to Part 5 (including new headings), and inserting a new ‘Part 6 – Terms referred to in Scheme’ consistent with the model provisions.***
5. ***In Part 1 inserting clauses 1-12 of the model provisions (as applicable) and***
 - ***inserting*** “Shire of Yilgarn Local Planning Scheme No. 2” after “the” ***in clause 1;***
 - ***inserting*** ‘Shire of Yilgarn Town Planning Scheme No 1 – Southern Cross Townsite – Gazetted 13 December 1968’ in clause 3;
 - ***inserting*** “Shire of Yilgarn” after “The” ***in clause 5;***
 - ***inserting*** “(c) the supplemental provisions to the deemed provisions contained in Schedule A.” ***in clause 7(1); and***
 - ***inserting the following scheme aims under clause 9***
 - “(a) facilitate an independent, growing and vibrant community;*
 - (b) encourage, direct and control quality and orderly development in the Scheme area so as to promote and protect the health, safety, and general economic and social well-being of the community, and the amenity of the area;*
 - (c) promote sustainable development that integrates consideration of economic, social and environmental goals for the Scheme area;*
 - (d) provide a sufficient supply of suitable serviced land for housing, rural, mining, commercial , industrial and tourism development, community facilities, recreation and open space;*
 - (e) assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial and tourism development, as well as providing opportunities for home-based employment;*
 - (f) manage the use and development of land by means of zoning and development controls to achieve compatibility between land uses, and the preservation and where possible the enhancement of amenity for urban and rural uses;*

- (g) maintain and protect valuable areas of agricultural production and conserve its non-urban character whilst accommodating other complementary rural activities;
 - (h) retain the primacy of the Great Southern townsite as the commercial centre of the Scheme area;
 - (i) maintain and enhance the positive aspects of a country lifestyle enjoyed by the inhabitants of the Scheme area through appropriate control over the layout and design of developed areas by fostering a distinctive character based on good design principles;
 - (j) conserve, protect and enhance the biodiversity (genetic, species and ecosystem diversity, environmental values and natural heritage) of the Scheme area and its environs by ensuring that land use and development is undertaken sustainably with biodiversity values at the fore-front of decision-making.”
- **inserting the words** “there are no other local planning schemes that apply to the Shire of Yilgarn” **in clause 11** and “there are no region planning schemes which apply to the Scheme area” **in clause 12.**
6. **In Part 2, renaming Clause 2.1 ‘Scheme Reserves’ to Clause 14. ‘Local Reserves’.**
 7. **Inserting clauses 13 and 15 of the model provisions; and**
 - **inserting** “There are no regional reserves in the Scheme area.” **in clause 13;**
 - **inserting** “There are no additional uses for land in local reserves that apply to this Scheme.” **in clause 15.**
 8. **In Part 3 deleting Clause 3.1 CLASSIFICATION, Clause 3.1.1 (first sentence), Clause 3.1.2, and inserting Clause 16. (1) and 16 (2).**
 9. **In Part 3,**
 - **deleting Clause 3.1.1a), 3.1.1b), 3.1.1c) and 3.1.1d);**
 - **inserting the following zones and model objectives as Table 1 – Zone Objectives - in Clause 16(2) - Residential, Commercial and Special Use.**
 - **inserting the model objectives for the ‘General Industry’ zone in Table 1 – Zone Objectives in Clause 16(2) and retain the zone name as ‘Industrial’.**
 - **Reformatting and replacing Clauses 3.1.1e) and 3.1.1f) as follows:**

Zone Name	Objectives
Townsite	<ul style="list-style-type: none"> • To be used primarily for residential development, different forms of accommodation and public recreation. • The local government may consider uses in accordance with Table 1-Zoning Table where they may benefit the community and / or will not result in a negative impact on amenity.

Rural/Mining	<ul style="list-style-type: none"> To be used primarily for rural, mining, agricultural, single houses, and public recreation.
--------------	---

10. *Delete Clause 3.2, 3.3 and 3.4 and insert Clause 17, 18, 19, 21 and the Clause 20 heading from the deemed provisions.*

11. *Relocate 'Table 1 – Zoning Table' to Clause 17 and modify it as follows:*
 - *Replace the symbols listed as 'AA' and 'SA' with the correlating 'D' and 'A' symbol from the deemed provisions;*
 - *Insert an 'X' symbol where no symbol appears in the cross reference as a use class against a zone to show those uses are not permitted.*
 - *Rename 'Table 1-Zoning table' to 'Table 2-Zoning Table'.*
 - *Replace existing terms with correlating terms from the deemed provisions as follows:*
 - *Car Sales with motor vehicle, boat or caravan sales;*
 - *Civic Building with civic use*
 - *Consulting Room with consulting rooms*
 - *Health Centre to medical centre*
 - *Hotel/Tavern as separate hotel and tavern*
 - *Industry General with Industry*
 - *Motor Repair Station with motor vehicle repair`*
 - *Petrol Filling Station with Service Station*
 - *Public Worship with place of worship*
 - *Radio/TV Installation with telecommunications infrastructure*
 - *Restaurant with restaurant/café*
 - *Rural Pursuit with rural pursuit/hobby farm*
 - *Veterinary Consulting Rooms with Veterinary Centre*
 - *Delete cemeteries/crematoria, drive in theatre, attached house, fish shop, industry-hazardous, industry-noxious, milk depot, public amusement, public recreation, public utility, and professional office, reception centre, sportsground, stables and zoological gardens.*
 - *Delete the heading 'residential' and list a single house and a grouped dwelling separately*
 - *Delete 'Refer to Appendix 3' and insert 'Refer to Clause 21 and Table 4' in the Special use zone column.*

12. *In Part 3, Inserting "There are no restricted uses which apply to this Scheme" in clause 20; and Inserting the following as "Table 3 – Specified additional uses for zoned land in the scheme area" in clause 19(2) and updating the Scheme map accordingly–*

No.	Description of land	Additional use	Conditions
1.	Lot 64 (No 37) & Lot 63 (No 39) Altair Street, Southern Cross	roadhouse	To the discretion of the local government
2.	Lot 159 (92) Antares Street, Southern Cross	shop motor vehicle repairs	To the discretion of the local government
3.	Lot 700 (No 51), Lot 70 (No 53), Lot 71 (No 55) & Lot 72 (No 57) Antares Street, Southern Cross	showroom warehouse	To the discretion of the local government

13. In Part 3, inserting the following as “Table 4 – Special use zones in scheme area” in clause 21(1) and updating the Scheme map accordingly -

No.	Description of land	Special use	Conditions
1.	Lot 501 (6) Orion Street, Southern Cross	hotel	To the discretion of the local government
2.	Lot 768 (70) & Lot 899 (79) Canopus Street, Southern Cross Portion Lot 300, Reserve 8902, Canopus Street, Southern Cross	motel	To the discretion of the local government
3.	Lot 40 (No 21) Antares Street, Southern Cross	hotel	To the discretion of the local government
4.	Lot 203 (94), Lot 202 (92) Sirius Street & Lot 201 (90) Sirius Street, Southern Cross	hotel	To the discretion of the local government
5.	Lot 438 (50) & Lot 439 (48) Altair Street, Southern Cross	place of worship public assembly	To the discretion of the local government

6.	Lot 607 (66) & Lot 278 (60) Antares Street, Southern Cross	place of worship public assembly	To the discretion of the local government
7.	Lot 755 (10) Coolgardie Street, Southern Cross	caravan park camping ground	To the discretion of the local government

14. **Delete ‘PART VII-NON CONFORMING USES’ in it’s entirety and in Part 3 insert Clause 22, 23, and 24 from the deemed provisions**
15. **Delete Clauses 4.1, 4.2, 4.3, 4.4, 4.5 (excluding Table 2 – Development Table), 5.1.1, 5.1.2.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.2.4, 5.2.5, 5.2.6, 5.2.7, 5.2.8 and 5.2.9.**
16. **In Part 4, inserting model provisions 25 – 30; and**
 - **inserting “There are no modifications to the R-Codes which apply to this Scheme” in clause 26;**
 - **inserting “There are no modifications to State Planning Policy 3.6” in clause 28;**
 - **inserting “There are no other State planning policies that are to be read as part of the Scheme” in clause 29;**
 - **inserting “There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme” in clause 30;**
17. **In Part 4;**
 - **inserting the heading of model provision 31 and stating ‘There are no environmental conditions imposed under the Environmental Protection Act 1986 that apply to this Scheme.’**
18. **In Part 4, inserting a heading ‘32. General site and development requirements’ and;**
 - **Inserting Clause 32(1) to state ‘The Table sets out requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans or State or local planning policies.’**
 - **Relocating ‘Table 2 – Development Table’ to Clause 3.2 and re-naming ‘Table 2- Development Table’ to ‘Table 5 – Development Table’.**
 - **Deleting and replacing the following terms in existing ‘Table 2 – Development Table:**
 - **Club to Club Premises;**
 - **Consulting Room to Consulting Rooms;**
 - **Day Care Centre to Family Day Care;**
 - **Industrial Light to Industry Light;**
 - **Industrial Service to Industry Service;**
 - **Industrial General to Industry;**

- *Restaurant to Restaurant/Café*
- *Vehicle Sales to Motor Vehicle, Boat or Caravan Sales; and*
- *Veterinary Consulting Rooms to Veterinary Centre.*

19. Renumber existing Clause '5.2 CONTROL OF ADVERTISEMENTS' to Clause 32.1 and relocate it to Part 4 including:

- *Delete Clause 5.2.1 and insert a new Clause 32.1.1 to state 'Applications for development approval pursuant to this Part shall be in accordance with Clause 62 and 63 of the deemed provisions, and accompanied by the form set out in Clause 86(1) and 86(2) of the deemed provisions.'*
- *Renumbering Clauses 5.2.2 and 5.2.3 as required and insert 'the' after 'display an advertisement,' in Clause 5.2.3*
- *Delete 5.2.4 to 5.2.9;*

20. Delete Clauses 5.3.1 to 5.3.5, delete the existing heading '5.3 TRANSPORTABLE DWELLINGS' and insert a new heading '32.2 REPURPOSED OR SECOND HAND DWELLINGS' and relocate it to Part 4 inserting new clauses as follows:

32.2.1 *Notwithstanding any other provision in this Scheme, a second hand or repurposed dwelling requires development approval.*

32.2.2 *Applications for development approval pursuant to this Part shall be in accordance with Clause 62 and 63 of the deemed provisions, and accompanied by the form set out in Clause 86(1) and 86(2) of the deemed provisions.*

32.2.3 *In determining an application for a Repurposed Dwelling or Second Hand Dwelling, the local government will have regard to the following matters:*

- (a) *The objectives of the relevant zone;*
- (b) *The ability of the built form including roof pitch, eaves, colours, material and architectural details to complement the expected character of the locality;*
- (c) *The potential for negative visual impact or conflict with any established streetscape and character of the locality;*
- (d) *Any proposed upgrading, alterations and additions which will enhance the elevations and architectural detail of proposed development;*
- (e) *Use of new external materials to upgrade the dwelling to have the equivalent of the appearance of a new dwelling;*

- (f) *The potential for existing or proposed landscaping and vegetation to mitigate visual impacts of the development;*
 - (g) *The visibility of the dwelling from any street, public place or neighbouring lots having regard for matters such as lot size and setbacks.*
21. *Re-number Clause '5.4 CARETAKER'S DWELLING IN THE SOUTHERN CROSS TOWNSITE' to Clause '32.3 CARETAKER'S DWELLING IN THE SOUTHERN CROSS TOWNSITE', relocate it to Part 4 and;*
 - *Renumber Clauses 5.4a) to 5.4e) to 32.3.1 to 32.3.5.*
 22. *Renumber;*
 - *'Clause 5.1.2 Heritage List' to Clause '32.4 HERITAGE LIST';*
 - *Clause 5.1.2.1 to Clause 32.4.1 and replace reference to '(Appendix 9)' with '(Schedule C)'*
 - *Clause 5.1.2.3 to Clause 32.4.2;*
and relocate to Part 4.
 23. *In Part 4;*
 - *inserting the heading of model provision 33. and stating 'There are no additional requirements that apply to this Scheme.'*
 - *Inserting model provision Clause 34 and replace the term 'additional site and development requirements' to 'general site and development requirements' and delete reference to Clause 33;*
 - *Inserting model provision Clause 35.*
 24. *In Part 5, inserting the heading of model provision 36. and stating 'There are no special control areas which apply to this Scheme'.*
 25. *Delete 'PART VI-USE AND DEVELOPMENT OF LAND' AND 'PART VIII-ADMINISTRATION' in their entirety and insert a new 'Part 6 – Terms referred to in Scheme'*
 26. *Delete 'APPENDIX 1-INTERPRETATIONS' and all existing land use terms with the exception of 'display home centre', and 'motor vehicle hire' to be retained under new 'Clause 38 Land use terms used'.*
 27. *In Part 6, inserting all model provisions of the deemed provisions for 'Division 1 – General definitions used in the Scheme', and 'Division 2 – Land use terms used in Scheme' including inserting all terms and definitions under Division 1 and 2 except the definition for 'fast food outlet/lunch bar' and 'wind farm' (which is replaced with a definition for 'renewable energy facility').*

28. ***In Part 6, Division 1, inserting the term 'licensed bar area - means all bar area in which drinks are consumed and to which the public have access as well as licensed restaurant area.'***
29. ***In Part 6, Division 2, inserting the following definitions:***
- airfield*** means land and buildings used in connection with the operation of aeroplanes and other aircraft, including public airstrips, a public passenger terminal, ancillary offices, car parking, parking, maintenance and servicing of aircraft, including airfields ancillary to tourist uses but does not include a private airstrip incidental to farming operations;
- camping ground*** means an area used for a camping ground as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5 (1);
- fast food outlet*** means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten — (a) without further preparation; and (b) primarily off the premises;
- independent living complex*** means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility;
- industry – cottage*** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which —
- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
 - (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
 - (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
 - (d) does not occupy an area in excess of 50 square metres; and
 - (e) does not display a sign exceeding 0.2 square metres in area;
- industry – rural*** means premises used for an industry that -
- (a) supports and/or is associated with primary production; or
 - (b) services plant or equipment used in primary production;
- industry-service*** means -
- (a) an industry-light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

lunch bar means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.

nature based park means premises used for a nature based park as defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

renewable energy facility means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.

repurposed dwelling means a building or structure not previously used as a single house which has been repurposed for use as a dwelling.

residential aged care facility means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, includes:

- (a) appropriate staffing to meet the nursing and personal care needs of residents
- (b) meals and cleaning services
- (c) furnishings, furniture and equipment.

This may consist of multiple components that include communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care, and/or an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility;

second hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a modular home or transportable dwelling.

30. Inserting “Schedule A – Supplemental provisions to the deemed provisions” after Division 2, with the following –

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the Planning and Development (Local Planning Schemes) Regulations 2015.

Supplementary provisions in this Schedule A are numbered to correlate with the clauses outlined in Schedule 2 Deemed Provisions, as per the Planning and Development (Local Planning Schemes) Regulations 2015:

PART 7 – REQUIREMENT FOR DEVELOPMENT APPROVAL

61(2) Development approval of the local government is not required for the following-

61(2)(i) the erection on a lot of a single house, including ancillary outbuildings, in a Townsite or Rural/Mining zone as a single house is permitted under 'Table 2 - Zoning Table' unless:

(i) the house is a 'second hand' or 'repurposed' dwelling.

61(2)(j) The erection of a boundary fence except where:

(iii) the boundary fence is located in the street setback area on land zoned Residential and does not comply with the 'deemed to comply' requirements of the Residential Design Codes.

61(2)(k) Subject to the provisions of the Main Roads (Control of Advertisements) Regulations 1996, advertisements listed in Schedule B which for the purpose of this Schedule are referred to as 'exempted advertisements'.

61(2)(l) the use of land in a reserve, where such land is vested in the local government or vested in a Public Authority for the purpose for which the land is reserved under the Scheme or, in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority.

The exemptions listed in Schedule A do not apply to any works located in a heritage-protected place.

31. Renaming Appendix 8 to Schedule B, Appendix 9 to Schedule C, renumbering the scheme provisions, tables and schedules sequentially; updating any cross referencing to the new clause numbers and deemed provisions as required; updating the Table of Contents and headings to align with the model provisions and revised scheme format.

32. Amending the Southern Cross townsite zoning map as follows:

(i) Labelling lots that have existing Additional Uses as 'A1' to 'A3' consistent with proposed Table 3.

(ii) Numbering the existing Special Use zones 'SU1' to 'SU6' consistent with proposed Table 4.

(iii) Updating the map legend,

In accordance with the scheme amendment map.

- C. Authorise the Chief Executive Officer and Shire President to sign 3 hardcopies of the Amendment No 3 documents and apply the Shires seal to the documents.**
- D. Authorise the Shires Planning Consultant, Liz Bushby of Town Planning Innovations Pty Ltd, to lodge the amendment:**
- (i) To the Western Australian Planning Commission and seek final approval by the Minister for Planning, Lands and Heritage.**
 - (ii) To the Environmental Protection Authority to confirm that the amendment requires no environmental assessment.**

CARRIED (5/1)

Cr Nolan is recorded as being against the decision

9.1 Officers Report – Chief Executive Officer

9.1.2 Amendment to Licence L9240-20201 – Tellus Holdings Ltd

File Reference	1.6.26.3
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	1. Application Form – Redacted 2. Context Map

Purpose of Report

For Council to consider a response to the Department of Water and Environmental Regulation (DWER), in relation to an application for licence amendment by Tellus Holdings Ltd.

Background

The Department of Water and Environmental Regulation (DWER) has received an application from Tellus Holdings Ltd for an amendment to licence L9240/2020/1 under Division 3 Part V of the Environmental Protection Act 1986 (EP Act) at General lease area O289974 in respect of Lot 510 on Deposited Plan 413497 (known as the Sandy Ridge facility).

The application seeks two licence amendments. These are the use of portable equipment for liquid waste treatment, outside of the Waste Immobilisation Plant; and changes to solidification criteria for liquid waste.

Comment

The redacted application form and context map have been included for Councillors perusal.

In accordance with section 54 of the EP Act, should the Chief Executive Officer of DWER considers an entity has a direct interest in the subject matter of the application, they must invite comments on the proposal.

Local Government are not the subject experts in this matter, and as such, the reporting officer sees it practicable to advise DWR that the Shire of Yilgarn have no objection to the proposal, with the understanding the relevant State agencies will ensure approvals, if any, will be in keeping with legislative requirements and the best interests of the local communities.

Statutory Environment

Environmental Protection Act 1986

Strategic Implications

- Goal** A prosperous future for our community.
- Outcome** Businesses in the Shire remain competitive and viable.
- Strategy** Continue to provide an efficient and effective approval process.

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.	Low (1)	DWER Assessment and Approval Processes
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Environmental impacts from mining activities.	Low (1)	DWER Assessment and Approval Processes

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)

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
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

34/2023

Moved Cr Guerini/Seconded Cr Rose

That Council endorse the following response to the Department of Water and Environmental Regulation:

With regards to the application from Tellus Holdings Ltd for an amendment to licence L9240/2020/1 under Division 3 Part V of the Environmental Protection Act 1986 at general lease area O289974 in respect of Lot 510 on Deposited Plan 413497, the Shire of Yilgarn have no objections.

CARRIED (6/0)

9.1 Officers Report – Chief Executive Officer

9.1.3 Request to Acquire Lease O289132, Being Lot 82 On DP 202428

File Reference	1.6.27.1
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	1. Tenure Map 2. Aerial Map

Purpose of Report

For Council to consider a response to the Department of Planning, Lands and Heritage, relating to a request to acquire Lease O289132, being Lot 82 on DP 202428.

Background

The Department of Planning, Lands and Heritage is currently considering a request within the Shire of Yilgarn relating to the proposed purchase in freehold of Lot 82 on Deposited Plan 202428.

The subject site, located within the town of Southern Cross, is currently leased by the proponent for the purpose of ‘Residence and Grazing’.

Aerial and tenure maps have been attached for your reference.

Comment

No further detail is provided for the the Department, however developmental controls will ensure any use will be in compliance with planning and development laws.

Statutory Environment

Nil.

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	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

35/2023

Moved Cr Cobden/Seconded Cr Guerini

That Council endorse the following response to the Department of Planning, Lands and Heritage:

In relation to the proposed purchase in freehold of Lot 82 on Deposited Plan 202428 , the Shire of Yilgarn hold no objections.

CARRIED (6/0)

9.1 Officers Report – Chief Executive Officer

9.1.4 Request to Lease Portion of Reserve 13731 – Bullfinch

File Reference	1.6.27.1
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	1. Tenure Map 2. Aerial Map

Purpose of Report

For Council to consider a response to the Department of Planning, Lands and Heritage, relating to a request to lease a portion of Reserve 13731 (being Lot 1576 on DP 240389) for the purpose of Grazing.

Background

The Department of Planning, Lands and Heritage is considering a request within the Shire of Yilgarn to lease a portion of Reserve 13731 (being Lot 1576 on DP 240389) for the purpose of Grazing. The proponent owns adjacent broadacre cropping land.

All land parcels are zoned 'Rural/Mining' according to the Shire of Yilgarn's Local Planning Scheme.

A tenure map and aerial map have been attached.

Comment

No further detail is provided from the Department, however developmental controls will ensure any use will be in compliance with planning and development laws.

Statutory Environment

Nil.

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	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

36/2023

Moved Cr Guerini/Seconded Cr Cobden

That Council endorse the following response to the Department of Planning, Lands and Heritage:

In relation to the proposal to lease a portion of Reserve 13731 (being Lot 1576 on DP 240389) for the purpose of Grazing, the Shire of Yilgarn hold no objections.

CARRIED (6/0)

9.1 Officers Report – Chief Executive Officer

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

File Reference	3.1.1.2 & 3.1.7.5
Author	Liz Bushby, Town Planning Innovations
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	1. Revised site plan 2. Site photos

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 pen. 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

- **Relevant Council decision – February 2023**

The application was referred to Council on the 16 February 2023. Council resolved as follows:

“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.”

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 was originally proposed to have a wall height of 4.5 metres and a height of 5.382 metres to the roof peak (which was not supported by Council in February 2023).

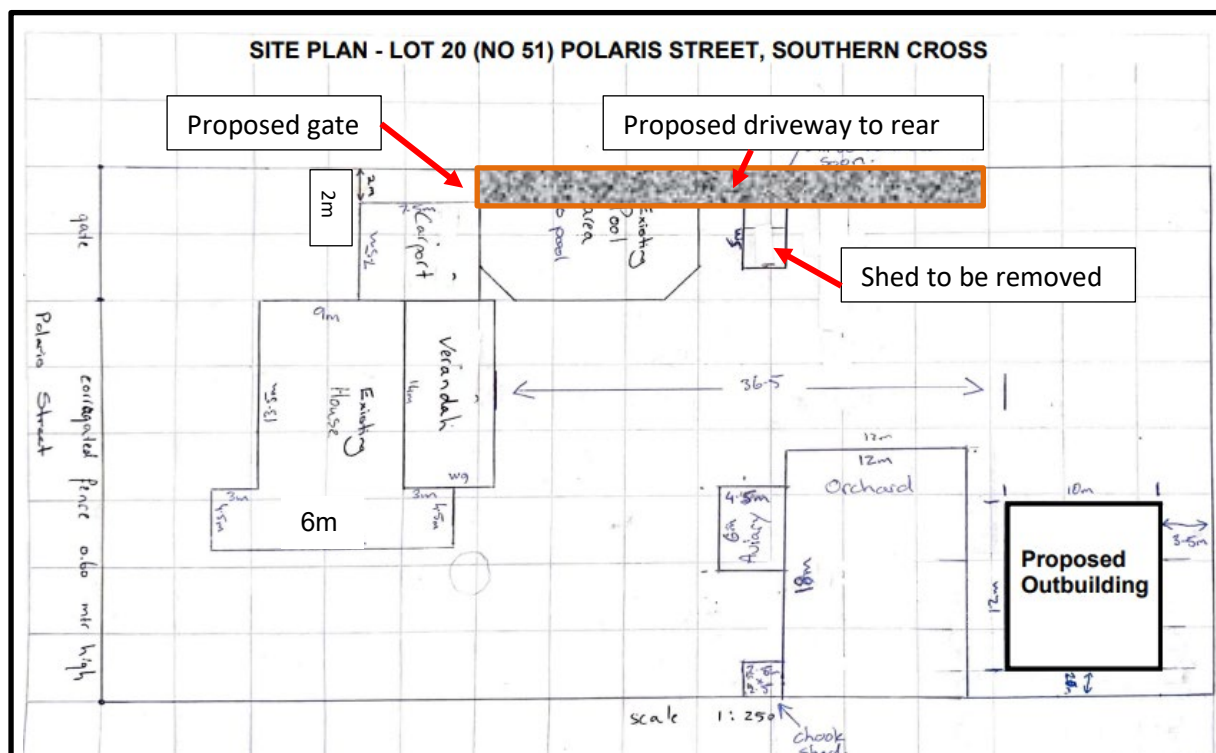
- **Additional Information / Revised Plans**

In response to the concerns raised by Council the owner has advised that:

- a. The shed height to the eaves has been reduced from 4.5 metres to 4.0 metres.
- b. The height to the roof peak is reduced from 5.382 metres to 4.882 metres.
- c. A driveway and gate is proposed to provide access to the rear of the yard. There is no pool in the way. The existing garden and chicken shed will be removed to install a new driveway.
- d. The shed height to the eaves has been reduced to help address the issues that have been raised. The 4 metre eave height cannot be further reduced as a free standing mezzanine floor is proposed to store horse feed up off the ground away from rodents.
- e. In the near future a caravan will be purchased so the roller door height is to accommodate that. 150mm of the roller door height will be lost as the concrete will be laid after the shed is installed.

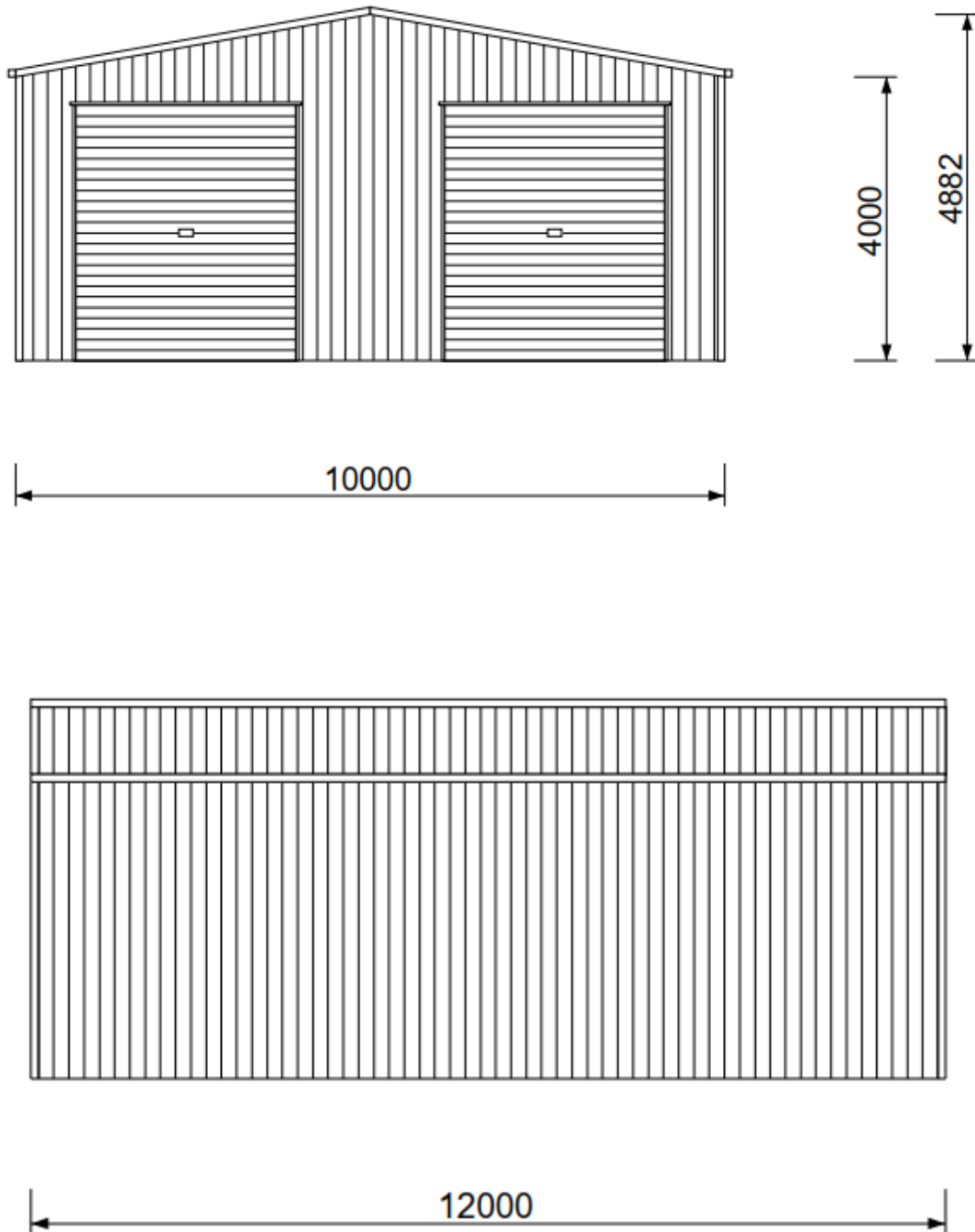
The owner also advises that he works for a local drilling company and has no intention of using the shed for any type of commercial use. The owner has confirmed the shed will be used for storing cars, horse floats, motorbikes, horse feed and gear.

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



Note: The site plan only shows a 2 metre setback between the carport and north lot boundary.

The revised elevations are included **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 4.0 metres is proposed.
(iv) does not exceed a ridge height of 4.2 metres	Variation. The maximum ridge height is 4.882 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. It is understood that Council had some amenity concerns when the original plans were considered in February 2023.

Council needs to consider whether the height reductions proposed in the current revised plans are sufficient to mitigate concerns over streetscape and amenity.

Council has the option to refuse the proposed outbuilding if it forms the view that the revised plans for the outbuilding do 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:

- a) The outbuilding will be separated from the existing house. This reduces the likelihood 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 application stage.

- **Consultation**

The original application was advertised for public comment through publication of a notice on the Shires website and letters to adjacent and nearby neighbours. Public advertising closed, and no submissions were received.

The revised plans have not been re-advertised.

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 4.0 metres and roof peak height of 4.882 metres.

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 the revised plans still entail variations 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 original plans for the proposed outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross were advertised for public comment, and no submissions were received.
- B.** Note that the owner has lodged revised plans for the outbuilding which reduces the eave height from 4.5 metres to 4.0 metres, and the roof peak height from 5.382 metres to 4.882 metres.
- C.** Note that two options have been outlined in this report in regards to the proposed outbuilding.

OPTION 1 – APPROVE THE OUTBUILDING SUBJECT TO CONDITIONS

- D.** Approve the application for an outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross subject to the following conditions and footnote:
 - 1.** The revised plans dated 28 February 2023 (Revision A) lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved revised 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.** The outbuilding is approved for non-habitable purposes only and not for any commercial use or activities.
 - 4.** 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

- E. 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.**

Council Decision

37/2023

Moved Cr Granich/Seconded Cr Guerini

That Council:

- A. *Note that the original plans for the proposed outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross were advertised for public comment, and no submissions were received.***
- B. *Note that the owner has lodged revised plans for the outbuilding which reduces the eave height from 4.5 metres to 4.0 metres, and the roof peak height from 5.382 metres to 4.882 metres.***
- C. *Note that two options have been outlined in this report in regards to the proposed outbuilding.***

OPTION 1 – APPROVE THE OUTBUILDING SUBJECT TO CONDITIONS

- D. *Approve the application for an outbuilding on Lot 20 (No 51) Polaris Street, Southern Cross subject to the following conditions and footnote:***
- 1. *The revised plans dated 28 February 2023 (Revision A) lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved revised 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. *The outbuilding is approved for non-habitable purposes only and not for any commercial use or activities.*
4. *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:

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

CARRIED (5/1)

Cr Nolan is recorded as being against the decision

9.1 Officers Report – Chief Executive Officer

9.1.6 Alteration of Power Supply Transformer - 100 Munyard Street, Moorine Rock

File Reference	1.6.11.2
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	Nil

Purpose of Report

For Council to consider a request to alter a shared power supply, between 100 Munyard Street and 2 Sewell Street, Moorine Rock.

Background

The owner of 2 Sewell Street, Moorine Rock has approach the Shire of Yilgarn, seeking the shared transformer between 100 Munyard Street and 2 Sewell Street, Moorine Rock to be re-categorised from shared to solo.

The owner of 2 Sewell Street is seeking to install a solar invertor, and if the transformer is categorised as solo, a larger invertor can be approved.

100 Munyard Street is a Reserve, vested to the Shire of Yilgarn for the purpose of “Parkland”.

The Shire has no current or proposed use for the property.

Whilst the transformer is shared, the Shire is not connected to it.

Comment

The matter was raised at the February 2023 Councillor discussion session, with Councillors asked to provide general feedback. Council were generally supportive of the re-categorisation of the transformer, and as such, a formal item has been tabled for Council decision

Statutory Environment

Nil.

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	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

38/2023

Moved Cr Rose/Seconded Cr Cobden

That Council endorse the re-categorisation of the shared power transformer, currently servicing 100 Munyard Street, Moorine Rock, to a solo transformer, servicing only 2 Sewell Street, Moorine Rock, on the provision there is no cost incurred by the Shire of Yilgarn.

CARRIED (6/0)

9.1 Officers Report – Chief Executive Officer

9.1.7 Request for Comment – Proposed Purchase of Crown Land - 12 Sewell St, Moorine Rock WA 6425

File Reference	3.1.2.4
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	Nil

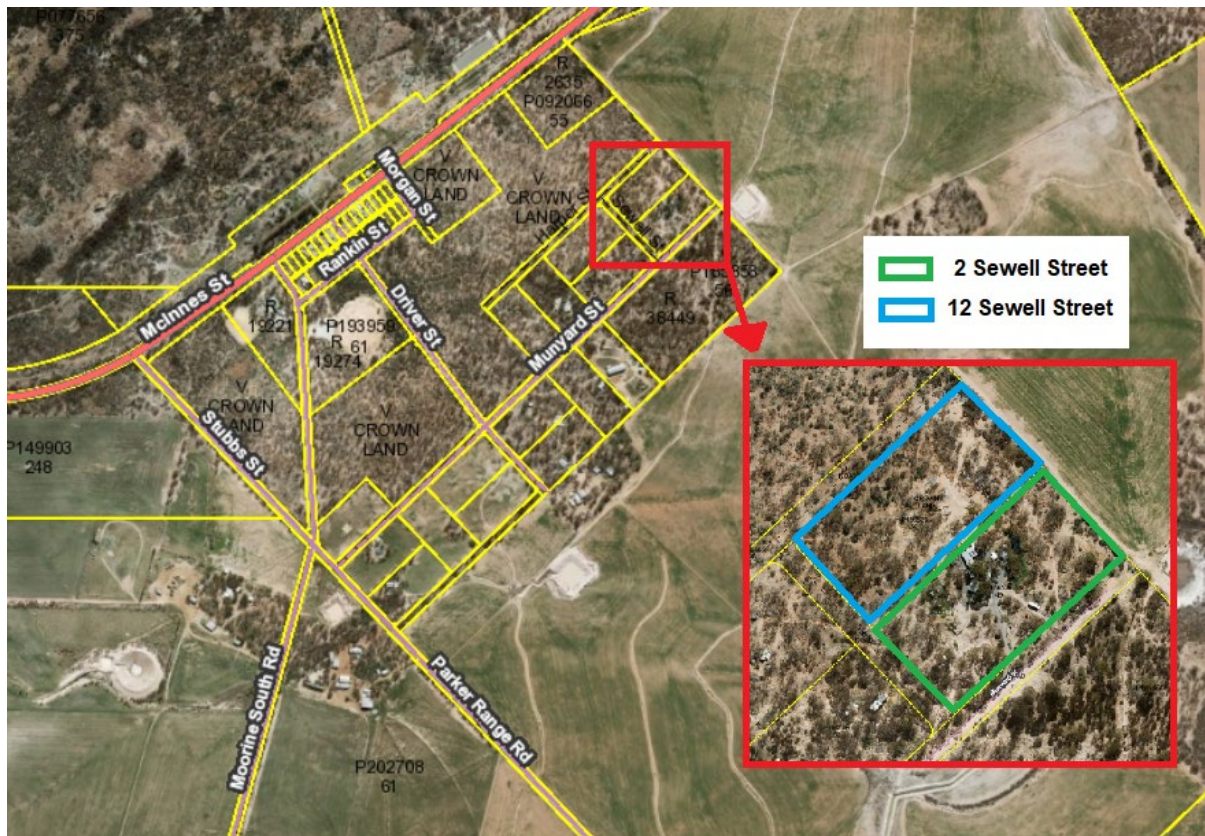
Purpose of Report

For Council to consider a request for the private purchase of 12 Sewell Street, Moorine Rock from the Crown.

Background

The owner of 2 Sewell Street, Moorine Rock has approached the Shire of Yilgarn, seeking Council support for the purchase of 12 Sewell Street, Moorine Rock.

12 Sewell Street is currently Crown land and both properties are detailed in image below.



The owner of 2 Sewell Street noted an attempted break-in recently has prompted the proposal to purchase and has provided the following reasoning for seeking the land:

By purchasing the adjoining Crown land, I will be able to create a larger buffer around my property and better monitor and control access to the area, reducing the risk of any potential incidents. I plan to preserve several acres of existing native vegetation, helping to maintain the biodiversity of the area, and develop an acre or two for permaculture, including growing food and keeping a small number of livestock.

Comment

The owner has sought Council endorsement, as a requirement of the Crown land enquiry process is consultation with the Local Authority.

The reporting officer can see no issues with the proposed purchase of land, however notes any proposed use or development of the land will be required to comply with relevant planning and building laws.

It is to be noted that livestock are not permitted within the townsite, this will be reiterated to the potential purchaser.

Statutory Environment

Nil.

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	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

39/2023

Moved Cr Guerini/Seconded Cr Rose

That Council endorse the private purchase of (Lot 50) 12 Sewell Street, Moorine Rock, from the Crown.

Notes:

- Any proposed use or development of the land will be required to comply with relevant planning and building laws.*

CARRIED (6/0)

9.1 Officers Report – Chief Executive Officer

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

File Reference	3.1.1.2 & 3.1.7.3
Author	Liz Bushby, Town Planning Innovations
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	1. Revised Layout Plan

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.

- Relevant Council Decision – February 2023**

The application was referred to Council on the 16 February 2023. Council resolved as follows:

“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.”



Above: Location Plan

Comment

• Description of Application

The owner has lodged revised plans following feedback from the February 2023 Council meeting.

The application for workforce accommodation will still consist of 6 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 3.0 metres from the front lot boundary. All buildings will be setback 4.12 metres from the west and 1.6 metres from the 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.

A revised site plan proposes to:

- Reduce the number of buildings from 7 to 6. This reduces the number of rooms from 28 to 24.
- Include 14 car parking bays within the lot boundaries, accessed from Aurum Street;
- Include one private bus bay for pick up/drop off of workers within the Aurum Street road reserve.

• **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 some car parking to be provided on site.

The applicant originally proposed 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.

Accordingly Council raised concern over car parking at the February 2023 meeting.

The adequacy of car parking is difficult to assess as:

- The need for carparking will largely depend on factors such as the number of workers being provided with company cars, number of workers that have their cars, rosters and whether the mine site being serviced will provide a private coach service for workers;
- Where workers are provided with company cars, they tend to be larger vehicles requiring wider car parking spaces;
- No detailed information on car parking has been provided;
- Full details of any private bus service are unknown.

TPI has liaised with the applicant in regards to any bus service and they have advised that:

- The proposed 'bus bay' space is not for public use. A bus stop for public use is provided by the Shire just around the corner on Lenneberg Street.

- The 'bus' service is a maximum 12 seater vehicle that would be privately operated by the mine that the workers attend.
- 12 seater 'minibus/van' can be driven on a car license.
- The maximum size of the minibus/van would be 7.01m long x 2.24m wide x 2.67m high.
- The mine that the minibus will service is not yet determined. The owners are in conversation with local mine sites about the accommodation service they can provide. Confirmation on the mine this property will service can be provided once a contract is acquired.
- The service would be in operation (depending on distance to mine site) approximately, pick up 5am, drop off 7pm.

TPI accepts that it is likely that a portion of workers will be transported to and from the site via bus. It is open for Council to support the proposal for 14 car parking bays to service 24 rooms, noting that it appears that some street parking occurs for other developments in the area.

The revised site plan proposes a better car parking arrangement (than the original proposal), as at least 58% of the rooms will be provided with access to car parking bays on site. Whilst the car parking bays will be accessed directly from the road reserve, this appears to be consistent with parking for some other developments in this area.

- **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 original application has been advertised for 28 days. Shire Administration has advertised the application through a notice published on the Shire website, and letters sent to nearby and adjacent landowners.

No submissions on the application were received.

The revised plans which have different building setbacks to lot boundaries, have not been re-advertised for public comment.

- **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.

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.

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 3 – 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:

- The development requirements for workforce accommodation under the *Planning and Development Act 2005* and associated regulations.
- That local governments can include scheme provisions addressing the suitability of sites, access, capability with surrounding development and facility design.
- 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		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

40/2023

Moved Cr Guerini/Seconded Cr Cobden

That Council:

- 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.*
- Note that Shire Administration has completed advertising of the original planning application for Lot 72 (No 15) Williamson Street, Marvel Loch. No submissions were received.*
- Approve the application for workforce accommodation on Lot 72 (No 15) Williamson Street, Marvel Loch subject the following conditions :*
 - 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.*
 - 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) An informal and clearly defined identifiable carparking area with capacity to accommodate a minimum of 14 carparking bays on site is to be provided and maintained to a trafficable standard to the satisfaction of the Shire's Chief Executive Officer in accordance with the revised site plan (Revision A) received on the 3 March 2023.*
- (iv) Prior to the issue of a building permit, the owner shall lodge plans for construction of a bus parking bay in the Aurum Street road reserve for separate written approval by the Chief Executive Officer.*
- (v) The owner to make adequate arrangements for a bus service to be provided to workers occupying the development, at all times, to the satisfaction of the Chief Executive Officer.*
- (vi) 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.*
- (vii) The development shall be connected to sewerage. This approval does not include any on site effluent disposal.*
- (viii) 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 (5/1)

Cr Nolan is recorded as being against the decision

9.1 Officers Report – Chief Executive Officer

9.1.9 Proposed Transfer of Land under the South West Native Title Settlement – Additional Parcels

File Reference	7.1.2.3
Disclosure of Interest	None
Voting Requirements	Simple Majority
Arthur	Nic Warren Chief Executive Officer
Attachments	Map of Agreement Area

Purpose of Report

For Council to consider the proposed transfer of land under the South West Native Title Settlement, and provide feedback to the Department of Planning, Lands and Heritage.

Background

The South West Native Title Settlement (Settlement) is a landmark native title agreement reached between the State Government (State) and the six Noongar Agreement Groups. The six requisite Indigenous Land Use Agreements (ILUAs) were conclusively registered, leading to the Settlement commencing on 25 February 2021 after some years of delay. The Settlement recognises the Agreement Groups as the Traditional Owners of the south west of Western Australia, while resolving native title in exchange for a negotiated package of benefits. The area subject to the Settlement is depicted in the attached map.

A key negotiated benefit is the delivery of a 320,000 hectare Noongar Land Estate, in accordance with the Noongar Land Base Strategy. The Noongar Land Estate will contain up to 300,000 hectares of land transferred in reserve or leasehold, and up to 20,000 hectares of land transferred in freehold. The Landholding Body for all land transferred is the Noongar Boodja Land Sub Pty Ltd, which will hold and manage the land in the Noongar Land Estate in consultation with the soon to be established Noongar Regional Corporations. All land will be used and managed in line with Noongar cultural, social and economic aspirations for the benefit of generations to come.

For more information on the Settlement, please refer to the Department of the Premier and Cabinet website: <https://www.wa.gov.au/organisation/departments/premier-and-cabinet/south-west-native-title-settlement>

Over the next five years, the Department of Planning, Lands and Heritage (Department) will progress selected land parcels through to transfer under the Settlement, subject to all necessary consultation and approvals with stakeholders. Land eligible for inclusion in the Noongar Land Estate includes:

- unallocated Crown land;
- unmanaged reserves;
- land owned or held by the Aboriginal Lands Trust / Aboriginal Affairs Planning Authority; and

- land owner or held by State agencies or Local Government Authorities, at the discretion of the State agency or Local Government Authority.

A key part of the process being followed by the Department involves the referral of land under consideration for inclusion in the Noongar Land Estate to relevant State agencies and Local Government Authorities.

Council previously provided advice (September 2022) to the Department of Planning, Lands and Heritage, in relation to the following parcels:

PIN	Lot	Survey Number	Locality Suburb	Area (Ha)	Selected Tenure
642978	204	DP204699	MOUNT HOLLAND	597.66	Reserve With Power To Lease
642974			SKELETON ROCK	7133.49	Reserve With Power To Lease
642977	205	DP204699	FORRESTANIA, MOUNT HOLLAND	797.59	Reserve With Power To Lease

The Department have sent a request for comment on additional parcels as follows:

PIN	Lot	Locality Suburb	Area (Ha)	Selected Tenure
642865		MOUNT HOLLAND	33.88	Reserve With Power To Lease
642864		MOUNT HOLLAND	72.66	Reserve With Power To Lease
642866	R 13524	MOUNT HOLLAND	69.51	Reserve With Power To Lease
960766	R 19923	HOLLETON	3090.26	Reserve With Power To Lease
1093056		FORRESTANIA, MOUNT HOLLAND, NORSEMAN	155735.4	Reserve With Power To Lease
960762		HOLLETON	12048.88	Reserve With Power To Lease

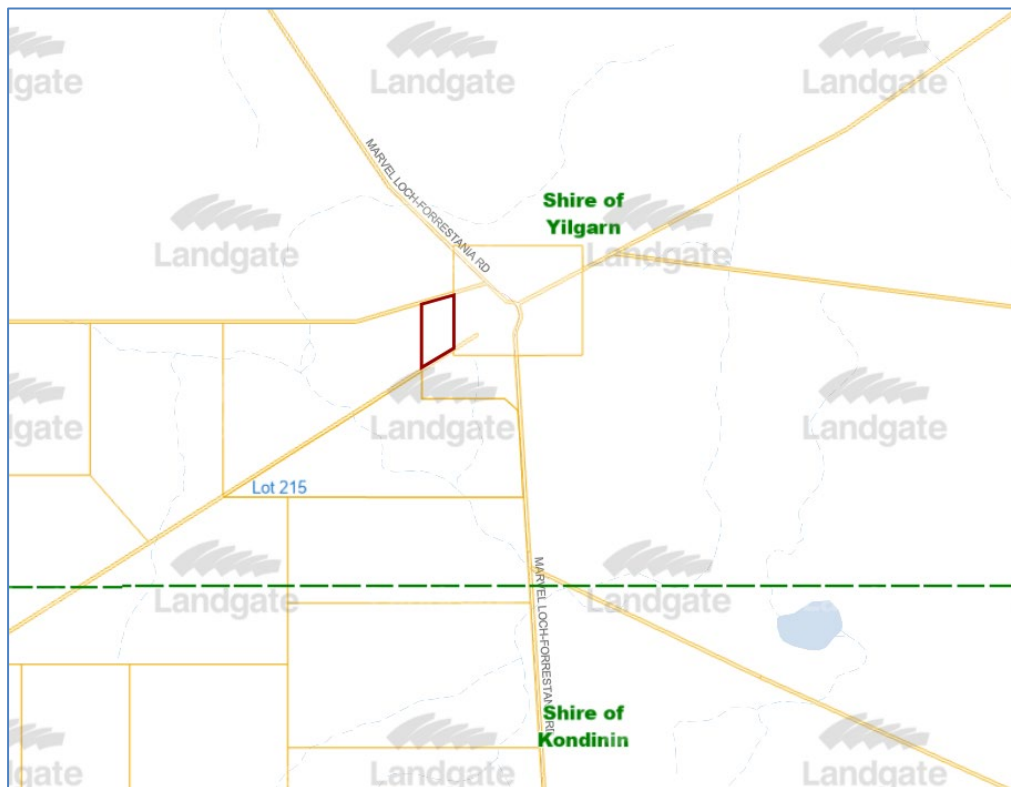
The Department have contacted the Shire, advising of land parcels within the Shire of Yilgarn, proposed to be transferred as part of the settlement. The Department have sought comment from the Shire, with the following questions posed:

1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?
2. Does the Shire have any interest in the land?
3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
4. Is the land parcel subject to any mandatory connection to services?

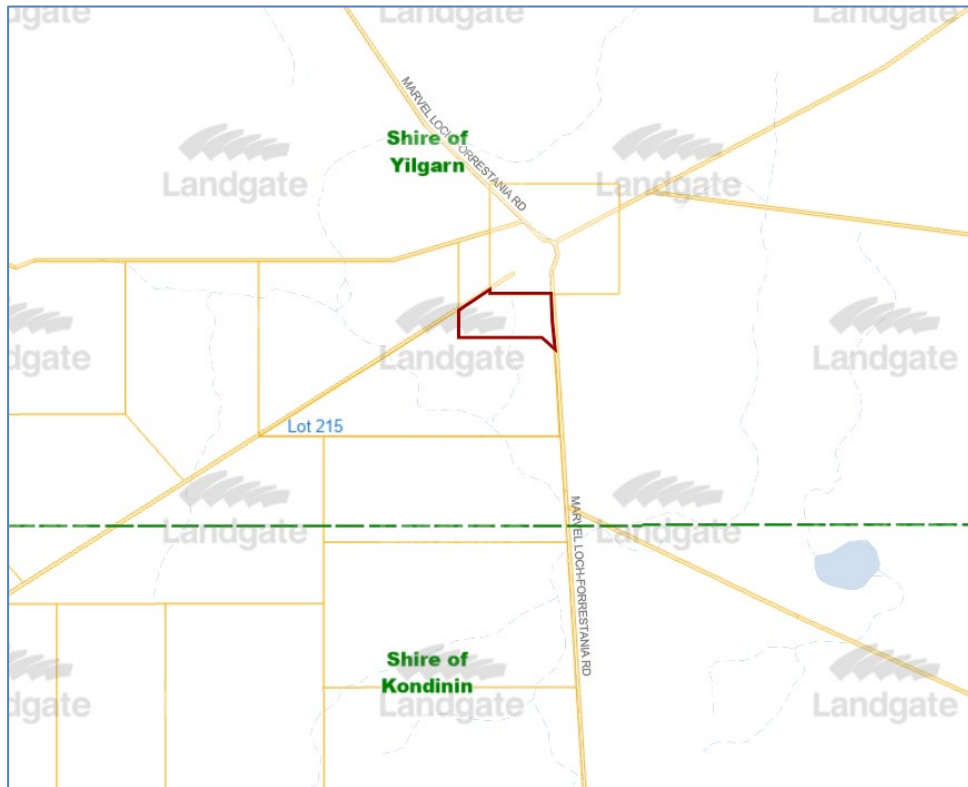
5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?
6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?
8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

The locations are as follows:

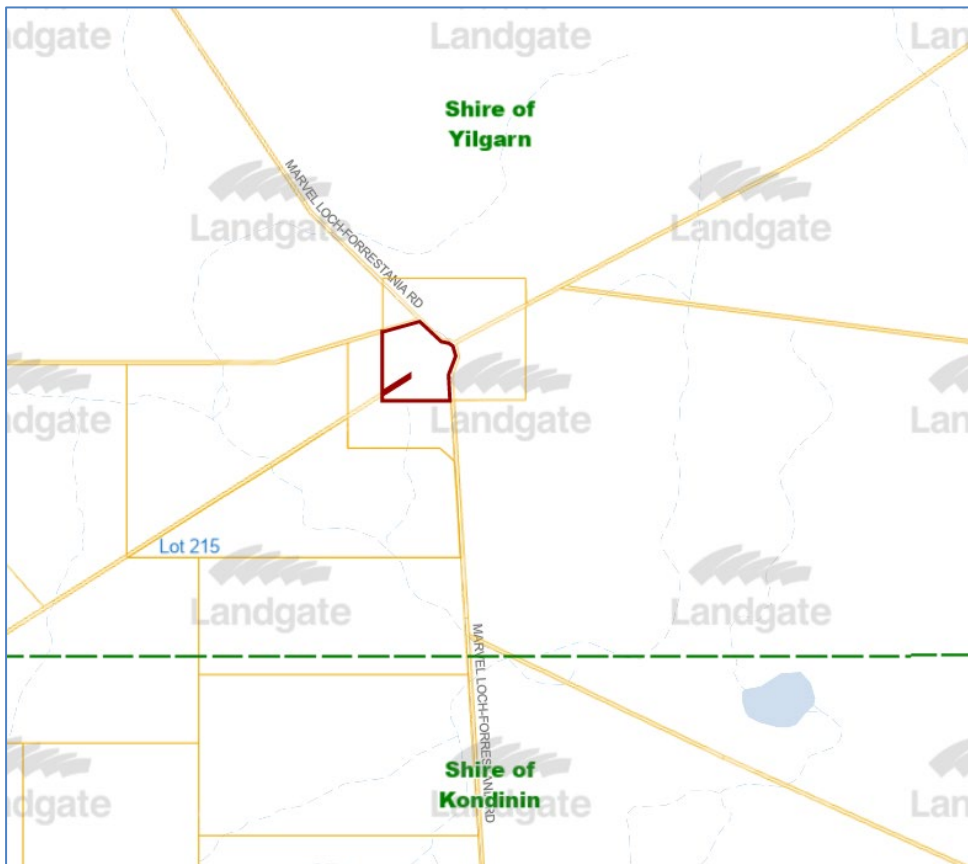
Pin 642865



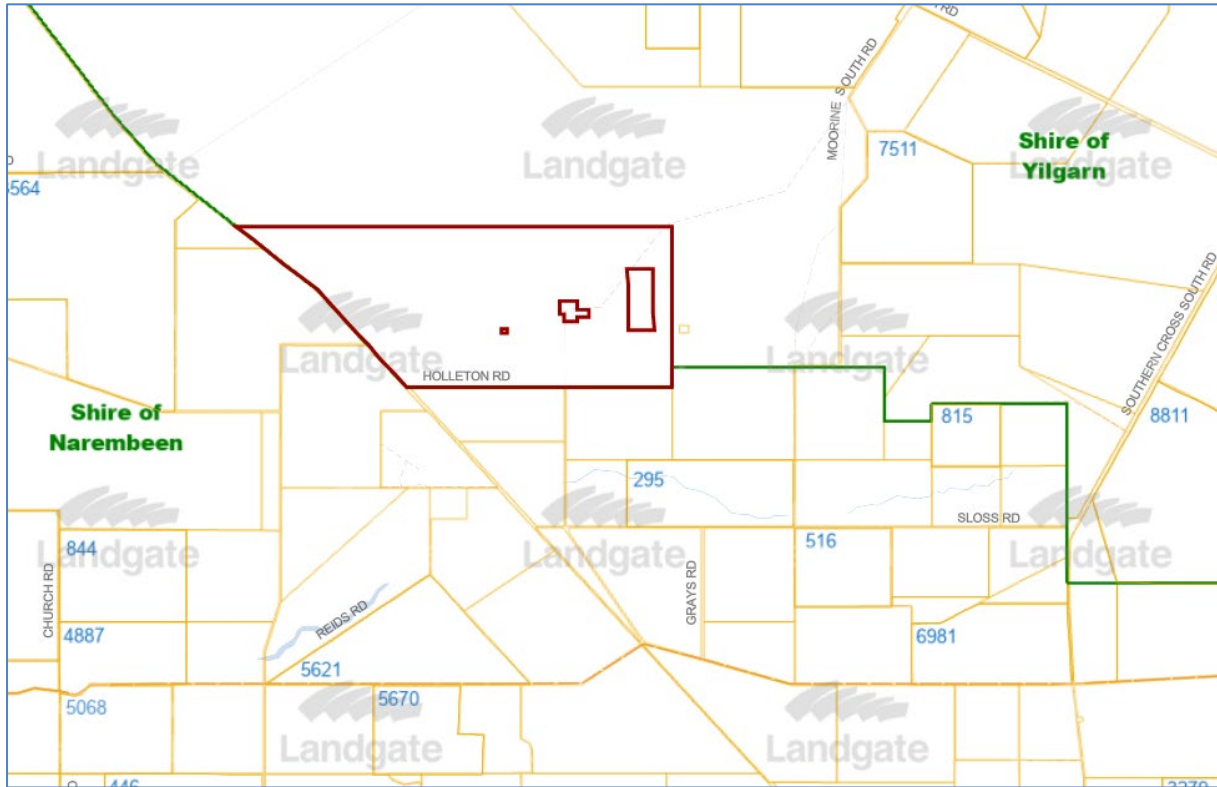
Pin 642864



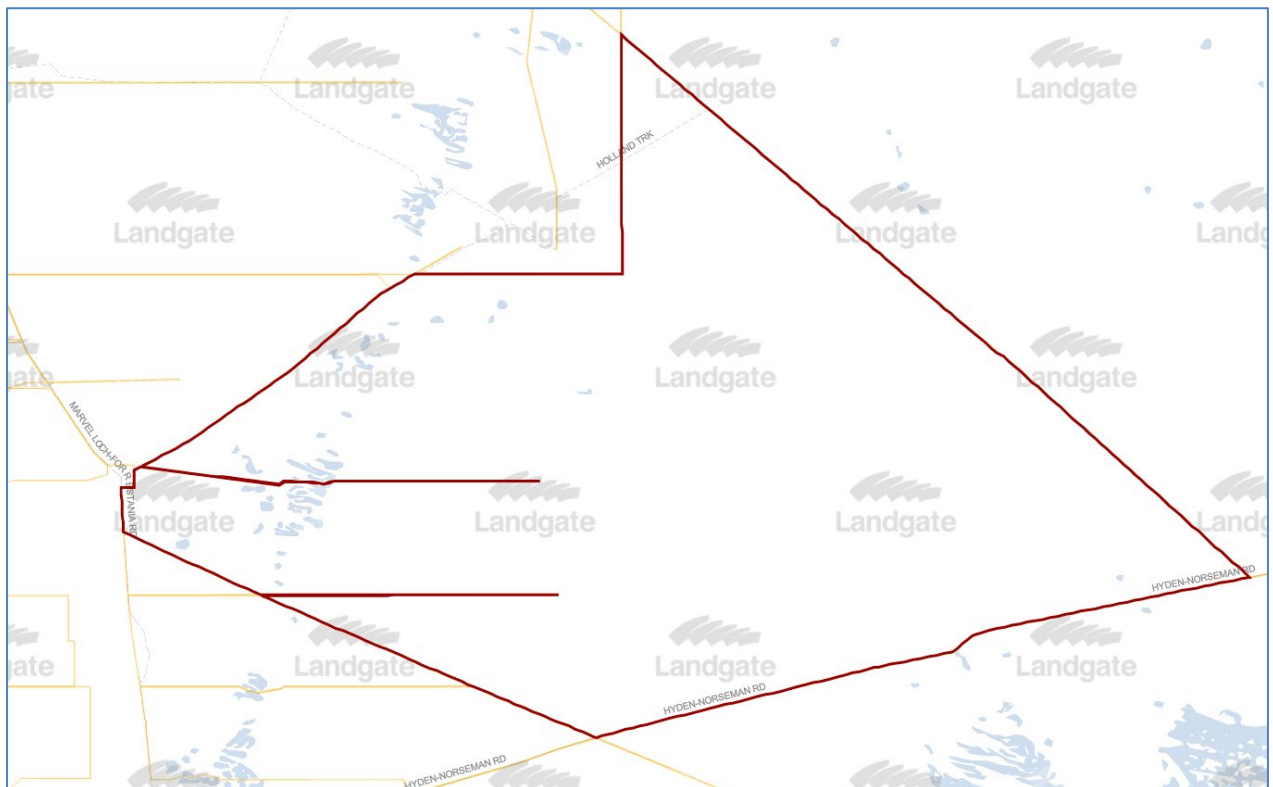
Pin 642866



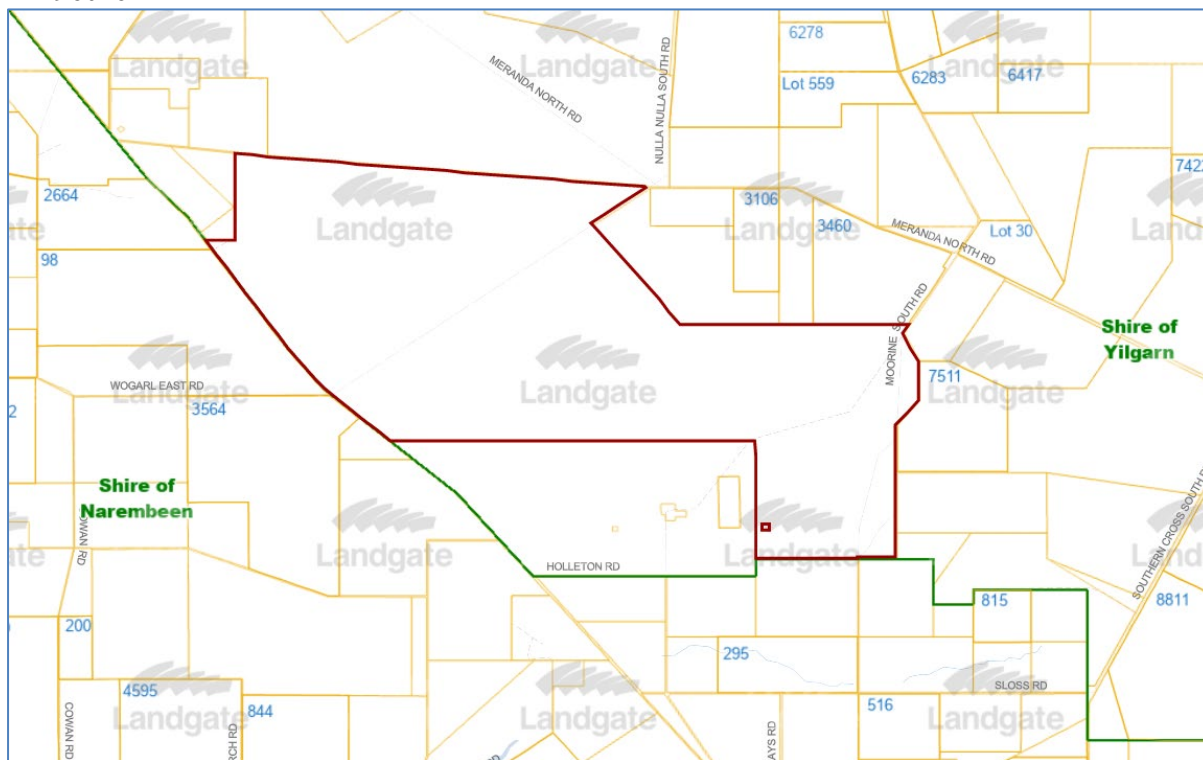
Pin 960766



Pin 1093056



Pin 960762



Comment

It is proposed the comments to be endorsed by Council are as per the previous decision (September 2022):

230/2022

Moved Cr Della Bosca/Seconded Cr Guerini

That Council endorse the following response to the Department of Planning, Lands and Heritage, in relation to the proposed transfer of land, detailed below, within the Shire of Yilgarn, as part of the South West Native Title Settlement.

<i>PIN</i>	<i>Lot</i>	<i>Survey Number</i>	<i>Locality Suburb</i>	<i>Area (Ha)</i>	<i>Selected Tenure</i>
642978	204	DP204699	MOUNT HOLLAND	597.66	Reserve With Power To Lease
642974			SKELETON ROCK	7133.49	Reserve With Power To Lease
642977	205	DP204699	FORRESTANIA, MOUNT HOLLAND	797.59	Reserve With Power To Lease

1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?

The Shire do not object to the transfer of selected lots.

2. Does the Shire have any interest in the land?

The Shire does not currently have a direct interest in the land.

3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.

No

4. Is the land parcel subject to any mandatory connection to services?

No

5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?

No Shire led proposals.

6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?

No Shire led proposals.

7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?

Nil

8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).

Nil

9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

The Shire raises concerns regarding the responsibility of fire mitigation once land tenure is transferred.

Statutory Environment

Nil.

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	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

41/2023

Moved Cr Nolan/Seconded Cr Cobden

That Council endorse the following responses to the Department of Planning, Lands and Heritage, in relation to the proposed transfer of land, detailed below, within the Shire of Yilgarn, as part of the South West Native Title Settlement.

<i>PIN</i>	<i>Lot</i>	<i>Locality Suburb</i>	<i>Area (Ha)</i>	<i>Selected Tenure</i>
642865		MOUNT HOLLAND	33.88	Reserve With Power To Lease
642864		MOUNT HOLLAND	72.66	Reserve With Power To Lease
642866	R 13524	MOUNT HOLLAND	69.51	Reserve With Power To Lease
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1093056		FORRESTANIA, MOUNT HOLLAND, NORSEMAN	155735.4	Reserve With Power To Lease
960762		HOLLETON	12048.88	Reserve With Power To Lease

- 1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?**

The Shire do not object to the transfer of selected lots.

- 2. Does the Shire have any interest in the land?**

The Shire does not currently have a direct interest in the land.

- 3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.**

No

- 4. Is the land parcel subject to any mandatory connection to services?**

No

- 5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?**

No Shire led proposals.

- 6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?**

No Shire led proposals.

7. *Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?*

Nil

8. *Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).*

Nil

9. *Please provide any additional comments on the proposed transfer of this land as part of the Settlement.*

The Shire raises concerns regarding the responsibility of fire mitigation once land tenure is transferred.

CARRIED (6/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.1 Financial Reports-February 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 28 February 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		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

42/2023

Moved r Rose/Seconded Cr Cobden

That Council endorse the various Financial Reports as presented for the period ending 28 February 2023.

CARRIED (6/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.2 Accounts for Payment – February 2023

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Wes Furney-Finance Officer
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 - EFT 13644 to 13747 totalling \$670,526.82
- Municipal Fund – Cheques 2102 to 2121 totalling \$277,678.26
- Municipal Fund - Direct Debit Numbers:
 - 17587.1 to 17587.13 totalling \$22,164.53
 - 17623.1 to 17623.13 totalling \$23,015.97

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		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)

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation and Council Decision

43/2023

Moved Cr Rose/Seconded Cr Cobden

- *Municipal Fund – Cheques 41183 to 41190 totalling \$15,959.06*
- *Municipal Fund - EFT 13644 to 13747 totalling \$670,526.82*
- *Municipal Fund – Cheques 2102 to 2121 totalling \$277,678.26*
- *Municipal Fund - Direct Debit Numbers:*
 - *17587.1 to 17587.13 totalling \$22,164.53*
 - *17623.1 to 17623.13 totalling \$23,015.97*

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

CARRIED (6/0)

9.3 Reporting Officer– Executive Manager Infrastructure

9.3.1 For Sale by Tender 2017 Fuso Tipping Truck YL 5410

File Reference	6.6.1.13
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Author	Glen Brigg-Executive Manager Infrastructure
Attachments	Nil

Purpose of Report

Council to analyse tenders received through WALGA Preferred Suppliers tendering network for the outright sale of the 2017 Fuso Tipping truck YL 5410

Background

Council's 2022-2023 budget makes provisions to replace the 2017 Fuso tipping truck, YL 5410, and staff have utilized the Preferred Supplier Service offered by the Western Australian Local Government Association (WALGA)

The long wait times for the delivery of any truck prompted staff to wait, until the new truck was ready for delivery before offering the truck for sale by tender.

Comment

The decision regarding when to change over the light fleet, plant and heavy vehicles should be based on optimum replacement timing. The optimum replacement point in the life of the vehicle is when the decreasing line of depreciation intersects with the increasing cost of repairs and maintenance.

Optimum replacement timing for a vehicle or an item of plant is calculated to best estimate the optimum time, either in kilometres or engine hours, and time, to achieve the lowest average annual costs during the life of the vehicle/machine. Optimum Change Over is indicated in kilometres/engine hours and time.

Regulations through Local Government (Functions and General) Regulations 1996 include,

(3) A disposition of property other than land is an exempt disposition if—

(a) its market value is less than \$20 000; or

(b) the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.

Staff have offered the 2017 Fuso tipping truck for public tender as the value of the exceeds this threshold.

For sale by tender pricing,

TENDERER	PRICE EXCLUDING GST
Smith Broughton	\$37,000
Manheim PTY LTD	\$31,818

Trade pricing,

TRADE	PRICE EXCLUDING GST
Daimler Trucks Perth	\$40,500

Statutory Environment

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Strategic Implications

Purchase is in line with the plant replacement program and asset management.

Policy Implications

Staff Policy No 7.12 “Motor Vehicle Replacement and Vehicle Standard and Accessories”

Council Policy No 3.5 “Purchasing and Tendering Policy”

Financial Implications

The 2022-2023 budget makes provision of \$25,000 excluding GST for the sale/trade of the 2017 Fuso tipping truck

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Vehicles may not make expected trade value	(9)	Offer the vehicle for sale by tender State wide to received the best possible, price.
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

44/2023

Moved Cr Guerini/Seconded Cr Granich

- 1. That, by Absolute Majority in accordance Local Government Act 1995 Local Government (Functions and General) Regulations 1996 that council rejects all tenders for outright sale of the 2017 Fuso tipping truck YL 5410.*
- 2. That Council accepts the trade price of \$40,500 from Daimler Trucks Perth for the 2017 Fuso tipping truck YL 5410*

CARRIED BY ABSOLUTE MAJORITY (6/0)

10 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

11 MOTIONS FOR WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

13 MEETING CLOSED TO THE PUBLIC-CONFIDENTIAL ITEMS

Nil

14 DISCUSSION

The Presiding Member raised Cr Nolan's previous wish to discuss Barto's presentation, and permitted Cr Nolan to raise his concerns. Cr Nolan was reminded by the CEO, that the Council meeting was still in session, with Cr Nolan requesting his comments be recorded in the minutes:

Cr Nolan stated he wished to point out that Council had invited Barto to present due to an application made by Barto to be able to commence exploration drilling within the Marvel Loch Town site. Cr Nolan went onto to point out that he thought the presentation that Barto attended Council with today with was "pathetic" and designed as a "sales pitch" to present to investors, not a Shire Council who were seeking information regarding an application made by Barto.

Cr Nolan noted the Jaccoletti mine is only a small deposit to top up the mill as there is no ore to supply the mill currently with the mill in Marvel Loch currently running under capacity.

Cr Nolan closed his comments stating he wanted to draw Council's attention to his belief that nothing presented by Barto was correct and provided no clear explanation as to what their future plans are.

Cr Nolan also sought to raise concerns with Emu Fence Road, of which the Presiding Member permitted:

Cr Nolan raised that a number of guide posts and signs has been removed or damaged.

The Shire's Executive Manager of Infrastructure, Mr Glen Brigg, advised he was already following up the matter with MRL.

15 CLOSURE

As there was no further business to discuss, the Deputy Shire President declared the meeting closed at 6.26pm

I, Bryan Close confirm the above Minutes of the Meeting held on Thursday, 16 March 2023 , are confirmed on Thursday, 20 April 2023 as a true and correct record of the March 2023 Ordinary Meeting of Council.

Cr Bryan Close
SHIRE DEPUTY PRESIDENT