

# Shire *of* Capel

## MINUTES

ORDINARY COUNCIL MEETING  
Wednesday, 23 August 2017



*Experience the*  
Shire *of* Capel



Forrest Road, Capel  
PO Box 369, Capel

T 9727 0222  
F 9727 0223

[info@capel.wa.gov.au](mailto:info@capel.wa.gov.au)  
[www.capel.wa.gov.au](http://www.capel.wa.gov.au)



## SHIRE OF CAPEL

### ORDINARY COUNCIL MEETING – 23.08.17

#### TABLE OF CONTENTS

<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	<b>3</b>
<b>PUBLIC QUESTION TIME</b>	<b>3</b>
<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>	<b>4</b>
<b>DECLARATIONS OF INTEREST</b>	<b>4</b>
<b>NOTICE OF ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS</b>	<b>4</b>
<b>OC0801 CONFIRMATION OF MINUTES</b>	<b>4</b>
<b>ANNOUNCEMENTS BY PERSON PRESIDING WITHOUT DISCUSSION</b>	<b>4</b>
<b>PETITIONS/DEPUTATIONS/PRESENTATIONS</b>	<b>4</b>
<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>5</b>
<b>QUESTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>5</b>
<b>CHIEF EXECUTIVE OFFICER REPORTS</b>	<b>5</b>
OC0802 (13.1) Lease – Boyanup Saleyards	5
OC0803 (13.2) Annual Appraisal – Chief Executive Officer	15
OC0804 (13.3) Busselton Margaret River Regional Airport – Future Airport Marketing Fund	19
OC0805 (13.4) Unbudgeted Expenditure – Valuation Ocean Forest Lutheran College	23
<b>ENGINEERING AND DEVELOPMENT SERVICES REPORTS</b>	<b>27</b>
OC0807 (14.1) Lot 228 Bourne Loop, Stratham – State Administrative Tribunal Orders	27
OC0808 (14.2) Asset Management Plan – Roads 2017 - 2020	47
OC0809 (14.3) Development Approval – R-Code Variation (Garage Wall Lot Boundary Setback)	53
OC0811 (14.4) Draft Scheme Amendment No. 66	58
OC0812 (14.5) Support for Dedication – Portion of Lot 1 Boyanup Capel Road	64
<b>CORPORATE SERVICES REPORTS</b>	<b>68</b>
OC0813 (15.1) Audit Committee Minutes	68
OC0814 (15.2) Financial Statements for 31 July 2017	71
OC0815 (15.3) Accounts Due and Submitted for Authorisation	77
OC0816 (15.4) Accounts Paid During the Month of July 2017	82
<b>COMMUNITY SERVICES REPORTS</b>	<b>95</b>
OC0817 (16.1) Parking Amendment - Ferndale Avenue, Dalyellup	95
OC0818 (16.2) Local Emergency Management Committee	99
OC0819 (16.3) Bush Fire Advisory Committee	102

**NEW BUSINESS OF AN URGENT NATURE ..... 106**

**PUBLIC QUESTION TIME ..... 106**

**MOTIONS WITHOUT NOTICE (ABSOLUTE MAJORITY BY COUNCIL) ..... 106**

**NOTICES OF MOTION FOR CONSIDERATION AT THE NEXT ORDINARY MEETING  
OF THE COUNCIL ..... 106**

**ITEMS FOR CONSIDERATION BEHIND CLOSED DOORS ..... 106**

**MEETING CLOSURE ..... 106**

## SHIRE OF CAPEL

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, FORREST ROAD, CAPEL ON WEDNESDAY, 23 AUGUST 2017 COMMENCING AT 4.35PM.

PRESENT:	President Councillor	MT Scott BW Bell BW Hearne PK McCleery G Norton SV Schiano JA Scott BH Smith PF Sheedy S Stevenson JM Gick
	Chief Executive Officer Executive Manager Corporate Services Executive Manager Engineering & Development Services	
APOLOGIES:		Nil
LEAVE OF ABSENCE:	Councillor	SH Baxi (OC0701)
MEMBERS OF PUBLIC:		11

### **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

### **PUBLIC QUESTION TIME**

Mr Brian Hastie, 1253 Bussell Highway, Stratham: How many streets are not served by the Capel Shire Council's contracted rubbish trucks within close proximity to both Capel e.g. Halls Road and Boyanup where residents have to take their own rubbish to the Capel rubbish transfer site?

Mr Jason Gick, Executive Manager Engineering & Development Services (EME&DS): Most roads outside Capel and Boyanup that are not serviced by the domestic rubbish collection. The domestic rubbish collection services the urban areas of Capel, Boyanup and Dalyellup, as well as the Special Rural Areas of Gelorup, Stratham and North Boyanup. The only rural roads that are included in the domestic rubbish collection are those that are between residential or special rural service areas, such as Bussell Highway, Railway Road or South Western Highway.

Halls Road is not directly on the way between these residential service areas, but would also not be included as it is a gravel surface, which the rubbish trucks do not travel on.

Mr Hastie: In my last submission to the Council on 26 July in relation to 51 Roberts Road Stratham, Mr Jason Hicks (Gick), the Executive Manager Engineering and Development Services (EME&DS) stated that the Council were not allowing the activity described at 51 Roberts Road and is investigating the non-compliant nature of it. I put it the Council that they are allowing this activity to occur and have done very little to stop this activity at 51 Roberts from continuing.

EME&DS: Although Mr Hastie has not posed a question, I am willing to offer some information on his statement. The Shire has initiated a formal investigation into activities on 51 Roberts Road, Capel.

Mr Hastie: There have been several accidents on Bussell highway near or on the intersection Spurr Street where people have been killed and seriously injured, what steps or submissions has the Council put to the Main Roads Department (MRD) to have the speed limit lowered to 80 km/h between Capel Drive North end and Spurr Road Bussell Highway intersections?

EME&DS: The Shire has held discussions with Main Roads WA on a number of issues, including the speed posting of Bussell Highway past Capel. This matter has been discussed with Councillors during a Briefing Session with Main Roads WA prior to the 28 June 2017 Council meeting. The Shire has liaised with one ratepayer early in 2017 about her options to seek a formal request for a speed reduction on Bussell Highway.

There has been no formal request for the Council's support to reduce the speed zoning along this section of Bussell Highway, and the Council has not formally considered it.

**APPLICATIONS FOR LEAVE OF ABSENCE** Nil

**DECLARATIONS OF INTEREST**

Crs Brian Smith and Murray Scott declared a Financial Interest in Item 13.1 Lease – Boyanup Saleyards. The nature and extent of Cr Smith's interest is that he sells sheep once a year at the Boyanup Saleyards, he is a shareholder of Elders and he is also a client of Landmark Merchandise. The nature and extent of Cr Scott's interest is that he uses the Saleyards to buy and sell cattle.

Mr Sheedy declared a Financial Interest in Item 13.2 Annual Appraisal – Chief Executive Officer. The nature and extent of his interest is that he is the employee who will receive the benefit and is the subject of the Review.

**NOTICE OF ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS** Nil

**OC0801 CONFIRMATION OF MINUTES**

Moved Cr J Scott, Seconded Cr Hearne

That the Minutes of the Ordinary Council meeting held on 26 July 2017 be confirmed.

Carried 8/0

**VOTING REQUIREMENTS**

Simple majority

**ANNOUNCEMENTS BY PERSON PRESIDING WITHOUT DISCUSSION** Nil

**PETITIONS/DEPUTATIONS/PRESENTATIONS**

Mr Geoff Shipp, Chairman of WA Livestock Salesmen's Association, made a presentation on Item 13.1 Lease – Boyanup Saleyards. The President thanked Mr Shipp for his presentation.

Mr Paul Mahony, Primaries of WA P/L, made a presentation on Item 13.1 Lease – Boyanup Saleyards. The President thanked Mr Mahony for his presentation.

Mr Phil Petricevich, West Coast Livestock, made a presentation on Item 13.1 Lease – Boyanup Saleyards. The President thanked Mr Petricevich for his presentation.

Mr Gary Fitzgerald, Tecon Consultants, made a presentation on Item 14.1 Lot 228 Bourne Loop, Stratham – State Administrative Tribunal Orders. The President thanked Mr Fitzgerald for his presentation.

**MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN** Nil

**QUESTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN** Nil

**CHIEF EXECUTIVE OFFICER REPORTS**

Councillors Brian Smith and Murray Scott declared a Financial Interest in Item 13.1 Lease – Boyanup Saleyards. The nature and extent of Cr Smith’s interest is that he sells sheep once a year at the Boyanup Saleyards, he is a shareholder of Elders and he is also a client of Landmark Merchandise. The nature and extent of Cr Scott’s interest is that he uses the Saleyards to buy and sell cattle.

The Chairperson and Cr Smith left the room at 5.02pm and Cr B Hearne assumed the Chair as Presiding Member at this point.

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**OC0802 (13.1) Lease – Boyanup Saleyards**

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Location: Boyanup  
Applicant: WA Livestock Salesmen’s Association  
File Reference: LD 108311  
Disclosure of Interest: Nil  
Date: 07.08.17  
Author: Chief Executive Officer, PF Sheedy  
Senior Officer: Chief Executive Officer, PF Sheedy  
Attachments: Plan indicating proposed lease area

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**IN BRIEF**

- The opportunity for Council to investigate other possibilities, including negotiating a new lease with WALSA, or other organisation, that allows other stock agents to access the saleyards.
- The completion of a Deed of Extension and Variation to Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA) to the 30 September 2017.
- The risk implications of not renewing the lease with the previous incumbent.
- The legal advice on two business model options.
- A proposal that Council endorses a lease to the 30 June 2022 for the Boyanup saleyards to Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA), without requiring them to allow other agents access to the saleyards.
- The inclusion of some additional clauses in the lease to clarify that the Lessee is required at the expiry of the lease period, unless a new lease is granted, to remove all infrastructure and contaminated material from the site and restore the site to a level site.

**RECOMMENDATION**

**That Council resolves:**

1. **To acknowledge the potential legal costs and risks involved in defending the Shire's position that the option to extend the Lease was not validly exercised by the Lessee and in attempting to permit third parties to use the Boyanup Saleyards;**
2. **To offer to extend the current lease of the Boyanup Saleyards to Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA) until 30 June 2022, at a rent of \$70,000 per annum plus GST with CPI rent reviews annually PROVIDED THAT:**
  - a. **Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA) agree to vary the terms of the Lease to include provisions to the Shire's satisfaction in relation to:**
    - i. **contamination of the Premises and future remediation by the Lessee; and**
    - ii **the removal of Lessee infrastructure at the termination of the Lease including the time for removal and notices to be issued by the Shire.**
3. **If the Offer in resolution (2) is not accepted, authorise the CEO to negotiate the terms of the extension of lease.**

## **BACKGROUND / PROPOSAL**

### **Background**

#### 1964 & 1967

Crown Reserves 27193 and 27194 were vested in the Shire of Capel for the purposes of *Stock Saleyards and Parking* in 1964 and 1967 respectively. The Vesting Orders included the power to grant leases with the approval of the Minister for a period not exceeding 21 years.

#### 2002

R27193 & R27194 were leased to Elders Ltd and Wesfarmers Landmark Ltd for a ten (10) year period commencing 1 July 2002 and terminating 30 June 2012. The lease provided an option for a further term of ten (10) years commencing on the day immediately following the termination date in 2012, provided that WALSA notified the Shire in the prescribed time frame of their intention to exercise the option.

#### 2006 – November

The Department of Environmental Conservation was notified by the Shire as per the requirements of the *Contaminated Sites Regulations 2006* that both Reserves should be classified as 'contaminated' with animal waste. No formal investigation to quantify the extent of the contamination has been undertaken to date.

#### 2012 – June

There was an incorrect perception on the part of both the Shire and WALSA that the lease endorsed by Council in 2002 was for a period of 21 years, expiring 30 June 2023. The lease was in fact for a 10 year period; with an optional extra 10 year term should the Lessee choose to exercise that option within the appropriate time frame.

WALSA was required to contact the Shire no later than 30 March 2012 if they wished to exercise the extension option, and this did not occur. Accordingly, Council resolved at its June meeting (OC0605):

*'Subject to the approval of the Hon. Minister for Lands, to lease Crown Reserves 27193 (Lot 202) and 27194 (Lot 203) 'Demised Premises' and the area of land coloured black (see attachment) that adjoins Crown Reserve 27193, Knott Street Boyanup to Elders Limited and Landmark Operations Limited for a period of five (5) years with a further five (5) year option, commencing on 1 July 2012 on similar conditions to the current lease.'*

2017 – May

The five year lease period that began 1 July 2012 had a termination date of 30 June 2017.

Clause 2.3 in the Lease requires the Lessor to give written notice of their intent to exercise the option of a further five (5) year term at least three (3) months before the date on which the Option Term would commence. A commencement date of 1 July 2017 means that WALSA needed to contact the Shire before 30 March 2017 if they wished to exercise the option of a second five year term.

The Shire of Capel did not receive any such notification within the required timeframe, and contact was then made with WALSA. At a meeting with the President and Chief Executive Officer on 10 May 2017, WALSA indicated that even though no contact had been made in the required time frame, they were in fact seeking a further five (5) year term at the Saleyards.

The issues of appropriate rent, non-exclusive use and future site remediation (if contaminated) were also discussed.

WALSA confirmed their intentions to seek the additional term in writing (ICR25931) on 15 May 2017. Legal advice was sought by the Shire (ILM280) as to the various terms under which some form of lease could be pursued with WALSA.

2017 – 31 May

Additional correspondence received from WALSA (ICR26717) noted that they had always intended to exercise the option of a five year extension of the current lease, and it was an administrative oversight that led to the Shire not being contacted within the appropriate time frame. In short, the letter also noted:

- A long and successful (in the order of 60 years) history of saleyard operation in Boyanup;
- A significant investment by WALSA in infrastructure at the site;
- WALSA's unwillingness (for a number of reasons) to allow other stock agents onto the site; and
- WALSA's belief that an appropriate rent would be \$55,000 + GST.

2017 – 28 June

Council resolved:

*That Item 13.1 Lease – Boyanup Saleyards, be deferred for a period of 1 to 3 months to allow the Chief Executive Officer to investigate allowing other agents into the yards and other legal issues and that the CEO be authorised to offer a short term lease for a period of 3 months to the current lessee, Elders Limited and Landmark Operations Limited (operating as WALSA) at a fee of \$14,000 plus GST for the 3 month period.*

2017 – 3 August

McLeod's Barristers & Solicitors provided a Deed of Extension and Variation to cover the 3 month period authorised by Council.

**Proposal**

This item proposes that subject to the requirements of s3.58 of the *Local Government Act 1995* being met, Council lease Reserves 27193 & 27194 (Boyanup Saleyards) along with the area of land adjacent to R27193 (marked in black on the Plan provided as Attachment 1) to Elders Rural Services Australia Limited and Landmark Operations Limited, operating as the WA Livestock Salesmen's Association (WALSA) for a period of five (5) years until 30 June 2022 for a fee of \$55,000 + GST per annum, with an annual CPI increase.

**STATUTORY ENVIRONMENT**

Local Government Act 1995 – Section 3.58



### **3.58 Disposing of Property**

- (2) Except as stated in this section, a local government can only dispose of property to –
- (a) The highest bidder at a public auction; or
  - (b) The person who at a public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property –
- (a) it gives local public notice of the proposed disposition –
    - (i) describing the property concerned,
    - (ii) giving details of the proposed disposition, and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of the proposed disposition that are required by subsection (3)(a)(ii) include –
- (a) the names of all other parties concerned; and
  - (b) the consideration to be received by the local government for the disposition and
  - (c) the market value of the disposition
    - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
    - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

Local Government (Functions and General Regulations) 1996

### **30 Dispositions of property excluded from Act s3.58**

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of Section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if –
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called “the transferee) and –
    - (i) its market value is less than \$5,000, and
    - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
- or
- (b) the land is disposed of to a body, whether incorporated or not –
    - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and

(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;  
or

(e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or

### **POLICY IMPLICATIONS**

There are no policy implications for this item.

### **RISK IMPLICATIONS**

The risk implications of leasing the subject area and infrastructure to WALSA for a further five year period to 30 June 2022 are considered to be low as it retains the current status quo that has operated for a number of years.

The risk implications to determine to either call tenders for the lease of the subject area and infrastructure or to determine to lease the subject area and infrastructure to another party are considered to be high as there is the potential for the previous Lessee 'WALSA' to commence legal action to retain the lease which will incur additional legal costs for Council.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

The 2017/18 budget (Account 142220.13) includes an amount of \$55,000 as income for the lease fees.

The Deed of Extension and Variation that is proposed to be offered to 'WALSA' for the three month period to 30 September 2017 will have a fee of \$17,500 plus GST and the new lease fee for the remaining first year period (nine months) to 30 June 2018 will \$41,250 plus GST (based on \$55,000 for full year). So the 2017/18 income received will be \$58,750, slightly above budget.

The estimated legal fees to see legal advice on a number of matters requested by Council at its meeting on 28 June 2017, the completion of the Deed of Extension and variation and finalise the future lease is expected to be in the vicinity of \$10,000, which will exceed the budget allocation (Account 102320.10) of \$5,000.

#### **Long Term**

The annual rental will provide income until 30 June 2022. All assets on the property are owned by the Lessee and therefore the Shire of Capel has no long term financial responsibilities to maintain them. Future decontamination of the site (if required) will be the responsibility of the Lessee at lease termination.

### **SUSTAINABILITY IMPLICATIONS**

The ongoing lease of the property to the Lessee provides Council with annual income that can be used for other purposes, the management of the canteen on stock sale days provides the opportunity for local community groups to generate funds and there is a possible small spinoff to other businesses in Boyanup from those attending the sales.

The regular stock sales conducted at the site could be seen as an opportunity for social interaction between people from the agricultural industry and those managing the canteen.

There have been ongoing environmental management issues at the site in regards to the disposal of effluent and the site will require extensive clean-up and rehabilitation once cattle sales cease.

The Shire of Capel notified the (then) Department of Environment and Conservation in 2006 under the requirements of the *Contaminated Sites Act 2003* that the site was likely to be contaminated with animal waste; however there has not yet been any formal investigation into the extent of the issue. There is no Memorial on the title under the Act.

### **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community.'

Strategic Outcome:

1.6 Lobby and advocate on behalf of the Shire of Capel community.

2. The Community Experience 'Provide facilities and services which recognise the diverse needs of the community and strive to make the Shire a safe place to live, work and visit.'

Strategic Outcome:

2.2 Encourage community engagement and participation.

4. The Economic Experience 'Foster and support responsible and progressive economic development opportunities within the Shire.'

Strategic Outcomes:

4.2 Pursue diversity and vitality in the local economy.

4.6 Support and promote the agricultural economy.

4.9 Encourage business development.

### **CONSULTATION**

There has been ongoing discussion with WALSA representatives and other interested parties by the Chief Executive Officer and President to discuss a further lease term.

Legal advice and consultation has been undertaken and obtained from McLeod's Barristers and Solicitors concerning the lease options available to Council under common law and the *Local Government Act 1995*.

Primaries of WA 'Interested Party' made a presentation to the June 2017 Council meeting indicating their interest in utilising the Boyanup saleyards to sell stock if leased by another party or would be interested in undertaking the lease and providing other agents access to the saleyards.

### **COMMENT**

The Boyanup saleyards play an important role in facilitating the sale of stock in the South West. The failure of WALSA however to indicate that they wished to exercise the option in the existing lease to extend the term originally meant that Council had a number of potential pathways leading forward.

The wording of the resolution on June 28 (OC0603) has however limited the number of potential options available.

#### **1. *Interim Lease for 3 months: 01.07.17 – 30.09.17***

Legal advice has made it clear that inclusion of a new, higher rent in resolution OC0603 implied that Council required a new interim lease and were unwilling to exercise the holding over clause of the existing lease. The holding over clause would have allowed Council to continue the terms of the existing lease until such time as a new lease was prepared.

McLeod has advised that the most cost and time effective option in the absence of an option to hold over the existing lease is to prepare a Deed of Extension and Variation for the period 01.07.17 – 30.09.17 incorporating the new rental value.

They have also advised that the requirements of s 3.58 of the *Local Government Act 1995* were met when the lease was first executed and will carry over to the Deed of Extension and Variation.

It is also possible to include a new holding over clause that allows the lease to remain in place until such time as a new agreement is drawn up.

The Deed of Extension and Variation has been prepared and sent to WALSA to be signed.

## **2. New agreement: 01.10.17 – 30.06.22**

Based on the Council resolution of 28 June 2017:

*'That Item 13.1 Lease – Boyanup Saleyards, be deferred for a period of 1 to 3 months to allow the Chief Executive Officer to investigate allowing other agents into the yards and other legal issues and that the CEO be authorised to offer a short term lease for a period of 3 months to the current lessee, Elders Limited and Landmark Operations Limited (operating as WALSA) at a fee of \$14,000 plus GST for the 3 month period.'*

McLeod has presented two options for a new agreement, given that there is already an existing entity (WALSA).

- (i) A **suite of licences** can be utilised to split sales days between agents so that each stock agent has a non-exclusive right to access the yards on particular days. Although this has the advantage of allowing multiple stock agents to access the yards, the disadvantages include a requirement for the Shire to manage and organise bookings, and the fact that individual agents will be unlikely to account for damage incurred on their day or invest in necessary infrastructure repairs.
- (ii) A **management agreement** that incorporates a lease for the purpose of managing. This allows the Shire to appoint one stock agent or individual to manage the yards on behalf of the Shire, and the yards are leased to that agent for that specific purpose. The Agreement can include provisions to ensure that no stock agent is treated more favourably than any other. Some thought would need to be given to the financial arrangements to ensure that additional fees are not passed on to growers, however this too can be addressed in the agreement.

Legal advice was also sought on the following matters raised at the July Council meeting by Councillors:

### **Allowing Other Stock Agents to use the Facility**

If the provision is being included in a new lease then it would be permissible as it would operate as a reservation of the Lessor (Shire) and the Shire can require the Lessee to allow other organisations/stock agents access to the premises to sell stock.

This provision is considered to be a 'reasonable restraint on trade' as the restraint operates to increase competition and not restrict it; it is linked to increasing the access of primary producers to a market.

### **Calling Tenders for the Lease of the Saleyards – Stipulate the Annual Fee**

It is possible to stipulate what the annual fee would be in a new lease but it is not clear what the tender response would be when the fee has been set. It would be better to include the terms and conditions of the lease to occupy the property and then each tenderer could submit the

annual rent the tenderer would pay and the fees charged to the third party users of the saleyards and Council could award the tender based on the assessment of the responses.

### **WALSA Position**

A letter dated 10 August 2017, from WALSA's Lawyers, Leaker Partners has been received by the Shire of Capel and in part makes the following comments:

*78. The Shire and WALSA were of the mutual understanding that the Lease would be renewed until 2022 and both parties, particularly WALSA, have acted on this basis.*

*79. The Lease has been renewed until 2022 in accordance with the terms of the Lease. Alternatively, the Shire, by their conduct, is stopped from denying that the Lease has been renewed.*

*80. It is submitted that the multiple party access licence condition propounded by the Shire is completely unworkable. There are numerous legal and practical difficulties arising out of such an arrangement. In any case, the arrangement is not acceptable to WALSA and will not be considered any further.*

*81. In the event the Shire determines that the Lease has not been renewed and issues WALSA with a notice to quit the Lease, WALSA reserves the right to take further steps to enforce its right, including taking legal action against the Shire to recover its loss. WALSA also reiterates that it will be removing its infrastructure from the Boyanup Saleyards in the event the Lease is terminated.*

### **The proposed multiple party access licence condition is unworkable**

*57. WALSA have serious concerns about the granting of a licence to third parties to access and use the Boyanup Saleyards and consider such a licence to be completely unworkable. The reasons for this position are set out as follows.*

*58. As referred to earlier, WALSA holds an EPA Licence. The EPA Licence relates to the Boyanup Saleyards. Various conditions are attached to the EPA Licence, requiring, for example, the prompt disposal of animal carcasses, annual reporting, prevention of dust emissions and monitoring of water samples. Will third parties be assisting physically and financially in the conducting of the required sampling, testing and monitoring?*

*59. Responsibility for compliance with the EPA Licence rests solely upon WALSA. WALSA are liable for fines of up to \$125,000 and daily penalties of up to \$25,000 for contraventions of any EPA Licence conditions. If multiple parties were permitted to access and use the Boyanup Saleyards, and the actions of a third party resulted in the contravention of a condition of the EPA Licence, WALSA would be liable for the subsequent penalty and its EPA Licence would be compromised through no fault of its own.*

*60. A similar concern applies in relation to the insurance of the Boyanup Saleyards. WALSA are required by the Lease to take out various insurances. WALSA are required to abide by the terms of their insurance policies. If multiple parties were permitted to access and use the Boyanup Saleyards, and the actions of a third party resulted in a breach of the conditions of an insurance policy, WALSA's insurances may be voided through no fault of its own.*

*61. As lessee under the Lease, WALSA are solely responsible for the property. WALSA are subject to various covenants, including the requirement to immediately make good any damage to the premises caused by WALSA and their employees, agents and licensees (per clause 4.2(a) of the Lease). If multiple parties were permitted to access and use the Boyanup Saleyards, WALSA may be liable for damages or to make good for damage under the Lease, in circumstances where third parties may be competing companies to WALSA and therefore have no financial interest in WALSA (in fact they have, by definition, competing interests).*

62. WALSA submits that these issues of licencing, insurance and requirement to adhere to covenants in the Lease all constitute examples of moral hazard in that the contemplated third parties would have no incentive to comply with the licence, insurance and Lease requirements. WALSA refuses to be liable for the actions of any licensees that are imposed on WALSA in those circumstances.

63. The operation of a livestock saleyard is subject to legislation and regulations, particularly in relation to animal welfare, the environment and occupational health and safety. Non-compliance may result in penalties being imposed by regulatory authorities, without WALSA being indemnified by the third party or the Shire. Furthermore, consider, for instance, if complaints were made by neighbouring residents to the Shire concerning excessive dust or noise being emitted from the Boyanup Saleyards. In the event multiple parties are permitted to access and use the Boyanup Saleyards, it might be impossible to determine which party is at fault for a particular contravention or problem. How will the relevant authority or the Shire determine responsibility in the event of multiple users and sheet home liability to the appropriate party? The consequence of this potential issue is unclear.

64. In the event of a multiple party arrangement, WALSA are also concerned about the potential for the unauthorised use or misuse of WALSA property, confidential information, trade secrets or customer lists. The same can also be said about WALSA's reputation generally. This concern is heightened by the fact those third parties will be direct competitors of WALSA. WALSA would be required to take stricter security measures to protect its commercial interests. However, the implementation of enhanced security is unable to resolve all of these concerns. For example, third party agents will undoubtedly have access to WALSA clientele, which represents a commercial issue to WALSA.

65. There are also practical and logistical issues in the workability of an arrangement where multiple parties are allowed access to the Boyanup Saleyards. How will two different operators handle separate weighing of cattle? The Boyanup Saleyards would become overcrowded and occupancy limits of persons and cattle may be exceeded (the nominal rated throughput at the Boyanup Saleyards is 50,000 animals, per the EPA Licence). WALSA have safety and regulatory concerns regarding this.

66. Another issue involves competitor use of WALSA property and the fact that WALSA will be required to share access to its own property, such as the holding pens, with third party competitors. This is ripe for disputes arising between the parties. The parties may seek to have those disputes resolved by the Shire.

67. It is stressed that WALSA has paid for and owns all the property on the Boyanup Saleyards. WALSA have invested significant capital into the Boyanup Saleyards. It, like any commercial enterprise, is seeking a return on that investment. The concept that competing third parties would be allowed to use and access the Boyanup Saleyards offends this notion.

68. The land is an asset of the Crown. The Shire has the authority to 'dispose' of the property in certain circumstances under s3.58 of the Local Government Act 1995. However, in our view, the authority to 'dispose' does not include the authority to dispose of the property by leasing the property to one party on the basis that multiple parties are permitted access, which causes damage to the commercial interests of WALSA and advances the commercial interests of other parties. If the Shire imposes a requirement on WALSA to licence the Boyanup Saleyards to multiple parties as a condition of the Lease, then the Shire is effectively imposing commercial terms on WALSA's dealing with third parties. This is beyond the powers of the Shire.

69. The consent of the Department of Lands to the Lease is on the basis that WALSA are the lessees. The consent is not a blanket consent to any other lessees or licensees for access to the Boyanup Saleyards. On our view, any new parties as lessees would require the consent of the Department of Lands.

70. WALSA's concerns in relation to multiple party access are not directed to any specific person or company. The concerns stem from the indisputable fact that WALSA has no control over the

*actions of third party agents, however WALSA is expected to bear the risk of their conduct. WALSA considers the significant risk exposure in this context to be completely unacceptable.*

A perusal of the previous lease agreements does not appear to clearly outline that the Lessee at the expiry of the lease period, unless a new lease is granted due to the failure of the state government to build new regional saleyards elsewhere, is required to remove all infrastructure and contaminated material from the site and restore the site to a level site. Discussion will be held with McLeods to clarify this matter and insert appropriate clauses if required.

Finally given the potential risk of Council having to incur substantial legal costs and fees to defend a proposal to allow other agents, other than Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA), to utilise the Boyanup saleyards, that the lease period is for just under five (5) years and that any future regional saleyards will provide 'open access' for all agents, it is recommended that Council support the provision of a lease with the current incumbents until 30 June 2022.

### **VOTING REQUIREMENTS**

Simple majority

<b>OC0802 OFFICER'S RECOMMENDATION – 13.1/COUNCIL</b>
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**Moved Cr Bell, Seconded Cr J Scott**

**That Council resolves:**

- 1. To acknowledge the potential legal costs and risks involved in defending the Shire's position that the option to extend the Lease was not validly exercised by the Lessee and in attempting to permit third parties to use the Boyanup Saleyards;**
- 2. To offer to extend the current lease of the Boyanup Saleyards to Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA) until 30 June 2022, at a rent of \$70,000 per annum plus GST with CPI rent reviews annually PROVIDED THAT:**
  - b. Elders Rural Services Australia Limited and Landmark Operations Limited (WALSA) agree to vary the terms of the Lease to include provisions to the Shire's satisfaction in relation to:**
    - i. contamination of the Premises and future remediation by the Lessee; and**
    - ii the removal of Lessee infrastructure at the termination of the Lease including the time for removal and notices to be issued by the Shire.**
- 3. If the Offer in resolution (2) is not accepted, authorise the CEO to negotiate the terms of the extension of lease.**

Carried 5/1

Councillors M Scott and B Smith returned to the Chambers at 5.10pm. Cr Scott resumed the Chair as Presiding Member.

Four members of the public left the meeting at 5.11pm and did not return.

Mr Sheedy declared a Financial Interest in Item 13.2 Annual Appraisal – Chief Executive Officer. The nature and extent of his interest is that he is the employee who will receive the benefit and is the subject of the Review.

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### **OC0803 (13.2) Annual Appraisal – Chief Executive Officer**

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Location: Capel  
 Applicant: JCP Consulting  
 File Reference: Personnel 110  
 Disclosure of Interest: *I wish to declare a financial interest in this matter, being the employee who is the subject of the review.*  
 Date: 07.08.17  
 Author: Chief Executive Officer, PF Sheedy  
 Senior Officer: Chief Executive Officer, PF Sheedy  
 Attachments: Chief Executive Officer - Annual Appraisal Council Report  
**(Confidential)**

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#### **IN BRIEF**

That Council receives the Performance Review report, endorses the overall rating of "Satisfactory", schedules the annual appraisal to be conducted by 30 July 2018 and adopts the Key Result Areas for the period 2017/2018.

#### **RECOMMENDATION**

##### **That Council:**

- 1. Receives the Performance Review report and endorses the overall rating of "Satisfactory."**
- 2. Schedules the annual appraisal to be conducted by 30 July 2018.**
- 3. Adopts the Key Result Areas for the period 2017/2018.**
- 4. Endorses a variation to Council's (voluntary) superannuation from 5% to 4%, and the amount to be included in base salary. The overall Total Reward Package to remain unchanged at \$231,038 per annum.**

#### **BACKGROUND / PROPOSAL**

##### **Background**

The review of Mr Paul Sheedy's performance as the Chief Executive Officer of the Shire of Capel for 2016/17 has been carried out in accordance with Council's statutory obligations and within the terms of Mr Sheedy's contract with the Shire.

Council appointed Mr John Phillips (*John Phillips Consulting*) to assist with the Shire's performance appraisal process. This included obtaining feedback from respondents, compiling a discussion report for the appraisal meeting ('Feedback Report'), facilitating the appraisal meeting scheduled for 26 July 2017 and drafting a report to Council.

Overall Mr Sheedy's performance was considered by Elected Members to be 'Satisfactory'.

##### **Context**

The Review has been conducted in accordance with sections 5.38 and 5.39(3)(b) and Regulation 18D of the Local Government Administration Regulations, which requires that:



- The performance of the CEO be reviewed at least once a year;
- The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review; and,
- A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

The period of the review was July 2016 to July 2017.

### **Methodology**

Elected Members were given the opportunity to provide feedback based on a questionnaire containing a series of questions reflecting the four Key Result Areas and associated objectives and actions.

All nine (9) Elected Members provided feedback.

The Chief Executive Officer provided his own report based on the same questionnaire.

The Key Result Areas used were:

1. Strategic Directions
2. Sustainable Economic Development
3. Service Delivery
4. Financial

Councillors met with Mr Sheedy at a meeting on 26 July 2017 and discussed achievement against the performance criteria, undertook a review of the key focus areas and objectives for 2017/18 as well as reviewing Mr Sheedy's remuneration package ('Total Reward Package').

### **Proposal**

- 1. Performance Review 2016/17:** Overall, the aggregated outcome of all ratings from respondent elected members indicates that the Mr Sheedy's performance during 2016/17 has been 'Satisfactory -performance consistently meets expectations for the criteria. Knows and performs the job well'. This is the same outcome as for the 2016 annual review process.
- 2. Key Result Areas 2017/18:** Councillors and Mr Sheedy reviewed and agreed on the updated key result areas and objectives.
- 3. Total Reward Package:** Councillors and Mr Sheedy noted the Determination of the Salaries and Allowances Tribunal dated 11 April 2017 and agreed that whilst the CEO would not seek an increase to his Total Reward Package, it is reasonable for an adjustment to be made to Council's contribution to his superannuation, reducing it from a 5% contribution to a 4% contribution rate. The difference to be included in base salary, with no effect on the overall Total Reward Package.

### **STATUTORY ENVIRONMENT**

Local Government Act sections 5.38

#### **5.38. Annual review of certain employees' performances**

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

Local Government (Administration) Regulations 1996 section 18D

**18D. Performance review of CEO, local government’s duties as to**

A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

**POLICY IMPLICATIONS**

There are no current policies applicable to this item.

**RISK IMPLICATIONS**

The Risk Implications are considered to be low given that there has been agreement between the Councillors and Chief Executive Officer in regards to the Annual Appraisal and the Key Result Areas for 2017/18.

**FINANCIAL IMPLICATIONS**

**Budget**

Funding is provided within the 2015/16 budget to allow for the implementation of the Actions within the KRA’s based on them being undertaken internally.

**Long Term**

Annual salary increases will require additional funding to be provided in future budgets on an annual basis.

**SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications with this matter.

**STRATEGIC IMPLICATIONS**

Whilst the annual performance review of the Chief Executive Officer is a statutory requirement under the Local Government Act 1995, it is important in ensuring that, the organisation is achieving its objectives, is heading in the direction desired by Council and allows the Council to set specific objectives for the CEO for the next twelve months.

**CONSULTATION**

As part of the review, consultation occurred with Councillors by John Phillips and with the Chief Executive Officer at the workshop to develop the KRA’s. No further consultation is required.

**COMMENT**

The KRA’s for the 2017/18 financial year have been amended to reflect the requirements of Councillors expressed at the workshop on 26 July 2017.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0803 OFFICER'S RECOMMENDATION – 13.2/COUNCIL DECISION</b>
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**Moved Cr Hearne, Seconded Cr Smith**

**That Council:**

- 1. Receives the Performance Review report and endorses the overall rating of "Satisfactory";**
- 2. Schedules the annual appraisal to be conducted by 30 July 2018;**
- 3. Adopts the Key Result Areas for the period 2017/2018; and**
- 4. Endorses a variation to Council's (voluntary) superannuation from 5% to 4%, and the amount to be included in base salary. The overall Total Reward Package to remain unchanged at \$231,038 per annum.**

Carried 8/0

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**OC0804 (13.3) Busselton Margaret River Regional Airport – Future Airport Marketing Fund**


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Location: Busselton  
 Applicant: City of Busselton  
 File Reference: GR.LI.3  
 Disclosure of Interest: Nil  
 Date: 08.08.17  
 Author: Chief Executive Officer, PF Sheedy  
 Senior Officer: Chief Executive Officer, PF Sheedy  
 Attachments: Nil

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**IN BRIEF**

A request for a financial contribution of \$2,000 each year over five (5) years, commencing in the 2018/19 financial year, for a future Airport Marketing Fund that will assist in the attraction and retention of airlines to service the East Coast to South West route, the outcomes of which will provide direct benefits to all regional South West Local Governments.

**RECOMMENDATION**

**That Council approves a contribution of \$2,000 each year, over a five (5) year period commencing in the 2018/19 financial year, to the City of Busselton, for a future Airport Marketing Fund to assist in the attraction and retention of airlines to service the East Coast to South West route subject to:**

- 1. The funds committed by the City of Busselton and the Margaret River Busselton Tourism Association being honoured; and**
- 2. Marketing is to incorporate the South West region as a whole including the Shire of Capel.**

**BACKGROUND / PROPOSAL****Background**

Council has previously indicated, both verbally and in written submissions, its support for the expansion of the Busselton Margaret River Regional Airport (BMRRA) to allow for the attraction of airline services from the eastern states and overseas for passengers and air freight.

**Proposal**

The City has made significant progress on the project to date in terms of infrastructure development and airline engagement, resulting in positive responses from domestic airlines including interest to commence services by the end of 2017. The opportunity for an airline to be a first-mover into the South West region with a fully serviced terminal and ancillary services has been critical to this response.

To assist in securing direct interstate and international flights into the South West region, the City has committed \$3.5 million over five years towards the Airline Marketing fund, with the Margaret River Busselton Tourism Association (MRBTA) committing \$100,000 over two years. In addition, the City, in partnership with Tourism Western Australia has engaged an Airline Engagement Consultant to assist in securing and retaining airlines to service the East Coast to South West route. These ongoing financial and in-kind commitments by stakeholders represent a significant commitment to the South West region and more importantly, to driving significant economic growth opportunities and expansive social benefits.

A redeveloped BMRRA capable of facilitating direct interstate and international flights is poised to play a key role in the increase of visitation to the region, bolstering the tourism industry, increasing occupancy and event attendance and providing incentive to invest in the development of major tourism infrastructure. The ability of the City of Busselton to secure a national carrier with the assistance of an Airport Marketing Fund will only further increase the profile of the South West region on the national and international stage.

The wider regional benefits of a developed airport include a construction workforce of 126; 94 new direct and indirect ongoing jobs over a 30 year period; \$95.5m in Gross Value Add to the South West Region over a 30 year period; \$55m in additional income; and \$220m in additional economic output.

BMRRA also represents a significant opportunity for air freight cargo. The region is renowned as a producer of high calibre horticultural and agricultural produce and is a substantial contributor to Western Australia's export figures. It is estimated that well over half of all airfreight out of Perth Airport comes from the South West region and the South West region is poised to take advantage of maturing markets with a growing emphasis on effectively managing the supply chains and shortening time to markets. Establishing a 'Paddock to Plate' supply chain via underbelly cargo on domestic and international regular passenger transport (RPT) services will provide direct and indirect economic benefits for the whole region.

In addition, the prospect of residing in the idyllic South West region and maintaining a desirable work life balance presents opportunities for the entire South West region to diversify its current workforce and attract new residents. This can be achieved through the redevelopment of BMRRA and increased FIFO services. As the amount of FIFO workers in Western Australia is expected to expand through newly commissioned projects and expansion of existing activities, a significant portion of this additional workforce demand will be met by skilled labour from towns in regional WA, presenting opportunities for the entire South West region to diversify its current workforce and attract new residents.

### **STATUTORY ENVIRONMENT**

There are no statutory acts or regulations applicable to this item.

### **POLICY IMPLICATIONS**

There are no current shire policies relevant to this item.

### **RISK IMPLICATIONS**

It is considered that the financial risks to the organisation are low given the amount of funds requested each year and over the five (5) year period which is not expected to have any significant impact on future budgets.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

Given that the request is not required to commence until the 2018/19 financial year there is no impact on the current, 2017/18 budget.

#### **Long Term**

Given the small annual funding requests it is not expected to have any significant impacts on the long term financial planning of the Shire, but there will be a need to include the provision for an amount of \$2,000 in 2018/19 for a five (5) year period and it would be expected that this request for annual funding may continue after the initial period and more than likely will see a request for an increase annually.

## **SUSTAINABILITY IMPLICATIONS**

The attraction of visitors from the eastern states and overseas has the potential to improve the economic sustainability of the local businesses in the Shire, albeit by potentially only a small amount. It may also improve the social sustainability of the Shire with some visitors potentially moving to the Shire on a permanent basis.

Access to eastern states and overseas direct freight opportunities from the South West has the potential to see an expansion of investment in various horticulture, farming and other rural pursuits.

The increase in airline movements into the South West could potentially have some negative environmental impacts from increased noise and air pollution.

## **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community.'

Strategic Outcomes:

- 1.3 Develop, support and implement innovative solutions.
- 1.5 Ensure the effective management of Council's resources.

4. The Economic Experience 'Foster and support responsible and progressive economic development opportunities within the Shire.'

Strategic Outcomes:

- 4.1 Provide opportunities to take advantage of the Shire's location.
- 4.3 Enhance the local economy by promoting local produce.
- 4.7 Promote tourist interests and provision of tourism accommodation.

Shire of Capel Corporate Business Plan 2016-2020

Strategies:

- 4.1A Support and encourage marketing and promotion.
- 4.1B Promote the lifestyle living benefits of the area.
- 4.3B Develop the Shire of Capel as the home of clean, green farm produce and cottage based visitor experiences.
- 4.7A Support and encourage the development of tourist accommodation.

## **CONSULTATION**

Consultation has been undertaken with the City of Busselton to clarify the amount required each year and when the contributions would be expected to commence. Also consultation has been undertaken with other local government CEOs in the Greater Bunbury area to determine their intentions on this matter.

## **COMMENT**

Given the potential of the project to positively impact the South West and particularly FIFO workers, tourism and future freight of South West produce it is considered to be a small investment particularly given the input of City of Busselton and its Tourism Association.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0804 OFFICER'S RECOMMENDATION – 13.3/COUNCIL DECISION</b>
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Moved Cr J Scott, Seconded Cr McCleery

**That Council approves a contribution of \$2,000 each year, over a five (5) year period commencing in the 2018/19 financial year, to the City of Busselton, for a future Airport Marketing Fund to assist in the attraction and retention of airlines to service the East Coast to South West route subject to:**

- 1. The funds committed by the City of Busselton and the Margaret River Busselton Tourism Association being honoured; and**
- 2. Marketing is to incorporate the South West region as a whole including the Shire of Capel.**

Carried 8/0

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**OC0805 (13.4) Unbudgeted Expenditure – Valuation Ocean Forest Lutheran College**

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Location: Dalyellup  
Applicant: Shire of Capel  
File Reference: N/A  
Disclosure of Interest: Nil  
Date: 08.08.17  
Author: Chief Executive Officer, PF Sheedy  
Senior Officer: Chief Executive Officer, PF Sheedy  
Attachments: Nil

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**IN BRIEF**

Approval of unbudgeted expenditure, to allow the Chief Executive Officer, to obtain a property valuation of the Ocean Forest Lutheran College land and buildings.

**RECOMMENDATION**

**That Council, as required by section 6.8 (1)(b) of the Local Government Act 1995, authorises unbudgeted expenditure of up to \$12,000 to allow the Chief Executive Officer to obtain two valuations for the Ocean Forest Lutheran College land and buildings at Lot 1431, 133 Norton Promenade, Dalyellup.**

**BACKGROUND / PROPOSAL****Background**

Following the announcement of the closure of the Ocean Forest Lutheran College at the end of 2017 Council has been advised that the property is being offered for sale and expressions of interest are being sought.

The Ocean Forest Lutheran College is to be sold by way of an Expression of Interest campaign with the following timeline:

17 July to 18 August 2017: Interested parties to register initial interest by completing the Expression of Interest – Phase One form.

23 August to 29 September 2017: Parties undertake their Due Diligence, site visits to be arranged.

29 September 2017: Detailed Expressions of Interest packages (Expression of Interest – Phase Two) to be lodged by 12 noon.

4 to 6 October 2017: Parties notified of shortlist.

9 to 27 October 2017: Consultation with shortlisted parties and further Due Diligence, including reviewing of the proposed Contract of Sale and further site visits if desired.

End of October 2017: Contract of sale to be finalised and exchanged.

**Proposal**

Following discussion with Council at its previous meeting, an initial Expression of Interest has been lodged by the due date (18 August 2017). The indicative purchase price range is optional at this stage.



In order for the Shire to lodge a valid detailed Expression of Interest by the 29 September 2017 it is expected that it will be required to indicate a possible purchase price or purchase price range. To be in a position to do this a valuation will need to be obtained from an authorised valuer prior to this time.

It is proposed to potentially seek two valuations from separate valuers, but as there are no funds allocated in the 2017/18 budget for such matters, prior Council approval of the unbudgeted expenditure is required.

### **STATUTORY ENVIRONMENT**

Local Government Act 1995 section 6.8(1)

#### **6.8. Expenditure from municipal fund not included in annual budget**

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

*Absolute majority required.*

### **POLICY IMPLICATIONS**

There are no current Shire policies relevant to this item.

### **RISK IMPLICATIONS**

The obtaining of a current valuation of the property would be considered to be a high priority action to take to minimise the potential risk to the Shire of making an offer to purchase that exceeds the value of the property. It will also provide the opportunity for the Shire to consider its ability to fund such an offer that does not put the future financial sustainability of the Shire at risk.

Approving of funds to obtain a valuation of the property is considered to be a low risk as the allocation of funds can be absorbed within the 2017/18 operating costs without any significant impact on the budget.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

As there is no funds allocated in the current 2017/18 budget the allocation of these funds will require an adjustment of the budget as part of the annual budget review in early 2018.

#### **Long Term**

There are no long term financial implications with approving the unbudgeted expenditure to obtain a property valuation. Long term financial implications would occur if the Shire chooses to make a final offer at the relevant time and was successful with that offer to purchase the property.

### **SUSTAINABILITY IMPLICATIONS**

There are no sustainable implications relevant to the approval of unauthorised expenditure in this item.

## **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience ‘Ensure open, transparent, effective good governance and communication within the organisation and the community.’

Strategic Outcomes:

1.4 Provide efficient and effective financial management to ensure the long term financial sustainability of the organisation.

1.5 Ensure the effective management of Council’s resources.

2. The Community Experience ‘Provide facilities and services which recognise the diverse needs of the community and strive to make the Shire a safe place to live, work and visit.’

Strategic Outcome:

2.1 Provide social, recreational and cultural opportunities and facilities for our communities.

Shire of Capel Corporate Business Plan 2016 - 2020

Strategies:

1.4A Sustainable financial planning.

1.5A Effectively and efficiently manage Council’s resources.

1.5B Achievement of the Strategic direction and the vision of the community and Council.

2.1A Plan for sustainable community facilities, sport and recreation space and other infrastructure which addresses the current and future needs of the community.

## **CONSULTATION**

Consultation has been undertaken with Council, Executive Managers and staff at the College in regards to the Shire potentially submitting an expression of interest for the purchase of the land and buildings.

## **COMMENT**

Given the potential impact on the Shire and Dalyellup community if access to the existing sporting ovals was removed as a result of the sale of the property to another party who potentially did not wish to retain the ovals, and that the Shire has a long term plan to develop community facilities at Dalyellup in the next five to six years, it would be prudent for Council at this time to explore its options in regards to possible ownership of the land and buildings.

The lodgement of an initial expression of interest will allow the Council the opportunity to further explore the potential financial implications if it was to acquire the property and to be in a position to lodge a detailed expression of interest by the end of September 2017 if it chose to do so. This would then potentially, if shortlisted, allow the Council to enter into negotiations on a possible purchase and finance payment arrangements.

In order to proceed to the final stage of the process Council needs to be in a position to have an understanding of the potential worth of the property to make an offer and negotiate on a purchase price, so approval of unbudgeted expenditure to obtain a land and buildings valuation is required at this time.

Mrs D Bell joined the meeting at 5.26pm.

## **VOTING REQUIREMENTS**

Absolute majority

**OC0805 OFFICER'S RECOMMENDATION – 13.4/COUNCIL MOTION**

**Moved Cr McCleery, Seconded Cr Norton**

**That Council, as required by section 6.8 (1)(b) of the Local Government Act 1995, authorises unbudgeted expenditure of up to \$12,000 to allow the Chief Executive Officer to obtain two valuations for the Ocean Forest Lutheran College land and buildings at Lot 1431, 133 Norton Promenade, Dalyellup.**

Lost 0/8

Cr Bell foreshadowed a motion to increase the amount to \$13,000 to cover two quotes if the first motion is lost.

**OC0806 COUNCIL DECISION**

**Moved Cr Bell, Seconded Cr McCleery**

**That Council, as required by section 6.8 (1)(b) of the Local Government Act 1995, authorises unbudgeted expenditure of up to \$13,000 to allow the Chief Executive Officer to obtain two valuations for the Ocean Forest Lutheran College land and buildings at Lot 1431, 133 Norton Promenade, Dalyellup.**

Carried with an Absolute majority 5/3

**ENGINEERING AND DEVELOPMENT SERVICES REPORTS****OC0807 (14.1) Lot 228 Bourne Loop, Stratham – State Administrative Tribunal Orders**


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Location:	Lot 228 Bourne Loop, Stratham
Applicant:	Tecon Australia, on behalf of Ms V House
File Reference:	A8787
Disclosure of Interest:	Nil
Date:	25.01.17
Author:	Executive Manager Engineering and Development Services, J Gick
Senior Officer:	Chief Executive Officer, P Sheedy
Attachments:	1. Tecon Australia correspondence (14 July 2017) 2. Special Rural Zone Area 1B Land Use Management Plan (2013) 3. Land Capability and Effluent Disposal Investigation (Coffey, 2007) 4. Supplementary Ground Investigation (WML, 2012)

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**IN BRIEF**

Filtrex Innovative Solutions, on behalf of Ms Vicki House, has lodged an appeal with the State Administrative Tribunal (SAT). The appeal is in relation to Council Decision OC0203 at Council's Ordinary meeting held on 22 February 2017, thus:

*That Council:*

1. *Not agree to the request from Ms Vicki House to consider the Filtrex Alternative Treatment System as a suitable effluent disposal system for Lot 228 Bourne Loop, Stratham; and*
2. *Maintains the use of the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013) as a guide to development of lots in the Stratham Park Estate subdivision.*

The appeal has been considered by the SAT, who has invited Council to reconsider its decision.

**RECOMMENDATION**

**That Council, in response to State Administration Tribunal Orders dated 30 June 2017, and pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) varies Decision OC0203 of its 22 February 2017 meeting to:**

1. **Agree to consider an Alternative Treatment System for Lot 228 Bourne Loop, Stratham, subject to confirmation from an independent technical expert that the site is capable of meeting the Department of Health conditions of approval and that the apparatus is capable of performing its proposed functions; and**
2. **Maintains the use of the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013) as a guide to development of lots in the Stratham Park Estate subdivision.**

**BACKGROUND / PROPOSAL****Background**

The background to this matter is considered in three parts, being the background to the land use planning framework, the background to Ms House's request to Council to amend the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013), and the background to the current SAT appeal against Council Decision OC0203.

## **Background to the Planning Framework**

1 November 2007: Thompson McRobert Edgeloe (TME) wrote to the Shire requesting initiation of a Town Planning Scheme amendment to support Special Rural subdivision, in accordance with a Subdivision Guide Plan.

27 March 2008: The Shire responded to the proposal including the Subdivision Guide Plan on a number of issues, including concerns about the suitability of effluent disposal for lots within three different soil types.

16 June 2009: Thompson McRobert Edgeloe provide updated information including reference to Land Capability and Effluent Disposal Investigation report (Coffee Environments Pty Ltd, October 2007), which includes recommendations for effluent treatment on three different soil types, including the potential for effluent disposal through standard leach drains. It does, however, also recognise the site constraints of these soils, including the need for large lots, insufficient phosphorous retention capacity of the soils, limited infiltration capacity of the soils and seasonal waterlogging. Seasonal water logging is evidenced in photos attached.

12 August 2009 (OC0804): Council adopted Town Planning Scheme No. 7 – Amendment No. 40, for the purposes of advertising, including Specific Provision 26: “A Land Use Plan and report is to be prepared by the subdivider and adopted by Council prior to commencement of subdivision development. The plan is to include details of land use and management practices that future land owners are required to comply with in the use of any subdivided lots...”.

17 March 2010: Amendment No. 40 referral letter sent to agencies and stakeholders for comment, including Environmental Protection Authority (EPA) and Capel Land Conservation District Committee (Capel LCDC).

30 April 2010: Letter dated 19 April 2010 received from the Capel LCDC in response to the Amendment, raising concern about effluent seepage from leach drains, amongst other things.

4 March 2010: Letter dated 2 March 2010 received from the EPA advising that the proposed scheme amendment should not be assessed under the Environmental Protection Act (1986), but notes three specific environmental issues for attention, including “water quantity and quality”. Specifically, the EPA noted the existing Local Water Management Strategy (October 2009) which has been endorsed by the Department of Water (DoW), and recommended the preparation of an Urban Water Management Plan.

13 May 2010: Letter dated 6 May 2010 received from the Health Department expressing concerns with separation to the water table and land suitability to accommodate on-site effluent disposal.

7 October 2010: Letter dated 7 October 2010 from the Health Department advising that it has no objection to the rezoning proposal due to new information from the developer on the varying soil types.

27 October 2010 (OC1015): Council adopted Town Planning Scheme No. 7 – Amendment No. 40, including Specific Provision 30: “A Land Use Plan and report is to be prepared by the subdivider and adopted by Council prior to commencement of subdivision development. The plan is to include details of land use and management practices that future land owners are required to comply with in the use of any subdivided lots...”

23 September 2011: Town Planning Scheme No. 7 – Amendment No. 40 gazetted, including Specific Provision 23: “At the time of subdivision the subdivider may be required to prepare a Land Use Plan and report to be adopted by Council.

15 December 2011: WAPC subdivision approval No. 144666 issued for 43 lots subject to conditions, including Condition 38: “The subdivider making suitable arrangements with the Local

Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Local Governments town planning scheme that relate to the use and management of the land”, which is coupled with Advice Note (viii): “In relation to Condition 38, the Shire of Capel advise that a land Use Plan is required to be prepared to the satisfaction of the Shire”.

16 December 2011: WAPC endorses the Subdivision Guide Plan.

11 January 2012: The developer’s consultant requested reconsideration of Condition 38 (amongst others) and its removal from the subdivision approval, under appeal. The Condition was supported by the Shire and subsequently retained on the subdivision approval.

30 October 2012: The developer submits the draft Land Use Plan for consideration, which is a collaboration of outcomes in supporting management plans and studies.

November 2012 - April 2013: communication exchanges between the developer’s consultant and the Shire on the inclusion of ATU’s in the Land Use and Management Plan. Lot 228 has been identified as a lot (amongst others) that requires an ATU with phosphorous removal capacity, due to its previously recognised soil type. This exchange begins the formulation of the separation of lots into three categories of ATU as documented in the adopted Land Use and Management Plan, and is agreed to by the developer’s consultant.

26 June 2013 (OC0607): Council adopted the Special Rural Zone Area 1B Stratham Land Use and Management Plan (LUMP) (June 2013), which makes provision for the use of Aerobic Treatment Units for effluent disposal.

August 2013 – October 2013: communication exchanges between the Shire and the developer on how to clear conditions, including Condition 38, where the developer advised: “I believe that given we have provided our undertaking to inform all purchasers of the Land Use Plan, we have included it as a condition of the sales contracts and that a Notification will be recorded on titles...”.

### **Background to Ms House’s request to amend the LUMP to Lot 228 Bourne Loop**

4 January 2016: Building application lodged for single dwelling and rainwater tank.

9 March 2016: Letter received from Ms House requesting the Shire consider allowing the installation of a Filtrex ATU, with supporting documentation from Filtrex and Lanfax Laboratories.

10 March 2016: Letter of response from the Shire explaining the difference between an Aerobic Treatment Unit (ATU) as described in the Land Use and Management Plan (June 2013) and an “Alternative Treatment Unit” as promoted on the Filtrex documentation. The letter explains that the Filtrex device is in fact licensed by the Department of Health as an Alternative Treatment System (ATS).

March 2016: Ms House contacted some Councillors expressing concern that her application for a Filtrex ATS would not be supported. Ms House contacted the Executive Manager Engineering and Development Services to discuss the process and an explanation of process given.

1 April 2016: Ms House was provided email advice outlining her options to pursue the installation of an Alternative Treatment System:

- Submit an effluent disposal application, and if it is refused appeal the decision via the State Administration Tribunal (SAT); or
- Submit a case to amend the Land Use and Management Plan (2013) for Lot 228.

29 April 2016: Application for Apparatus for the Treatment of Sewerage lodged for Aquarius 02 ATU.

5 May 2016: Approval to Construct or Install an Apparatus for the Treatment of Sewage (No. 314) was issued to Mr Simon Norton of Plumbwell Plumbing and Gas Services for a Domestic Aquarius Aerobic Treatment Unit, subject to conditions.

24 May 2016: Building Permit No. 14375 was issued to Ms House and her builder, Farnell Constructions Pty Ltd, which included advice on seven Health Act Regulations and Local Laws, including wastewater disposal. The Building Permit includes Engineering Drawings that confirm the soil is Class 'M' (Moderately reactive clay or silt sites) and shows strengthening of the slab to reflect this. The site layout plan shows the effluent disposal system as "Aquarius ATU and irrigation".

5 September 2016: Letter of response to Ms House reiterating the need to employ an Aerobic Treatment Unit (ATU) in accordance with the adopted Land Use and Management Plan (2013).

23 September 2016: Letter from Ms House requesting the case be elevated to the Council for consideration, including documentation from Filtrex and Mr Rob Jeffery of Soil Management Consultants.

21 December 2016 (OC1209): Council decided to defer the item to the February 2017 meeting to allow staff to investigate the potential use of the alternative treatment processes to achieve a better than or similar outcome to the specified Aerobic Treatment Units.

22 February 2017 (OC0203): Council considered Ms House's request for use of a Filtrex Alternative System and decided:

*That Council:*

1. *Not agree to the request from Ms Vicki House to consider the Filtrex Alternative Treatment System as a suitable effluent disposal system for Lot 228 Bourne Loop, Stratham; and*
2. *Maintains the use of the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013) as a guide to development of lots in the Stratham Park Estate subdivision.*

### **Background to SAT proceedings leading up to this agenda item**

20 March 2017: Application lodged at the SAT to appeal Council's position.

21 March 2017: Filtrex notifies the Shire of Capel that it has lodged an application with SAT to appeal Council's position, based on letters provided by staff.

21 March 2017: SAT issues Notice of Directions Hearing to the Shire of Capel, set for 4 April 2017.

21 March 2017: Shire of Capel requests the case be dismissed on the following grounds:

- *'The applicant to SAT, Filtrex, has not lodged an application with the Shire for assessment. The Shire has been dealing formally with the land owner, Ms Vicky House, not Filtrex; and*
- *you referred to the Filtrex application to SAT being based on communications from September 2016 and 10 March 2016. These communications are with Ms House and offer advice on why a decision could not be supported, but do not provide a decision. They are not a formal decision and they are not accompanied by a formal application'.*

23 March 2017: SAT re-issues Notice of Directions Hearing to the Shire of Capel set for 28 April 2017.

24 March 2017: Filtrex included email copy of additional information sent to the SAT.

28 April 2017: Executive Manager Engineering & Development Services, J Gick, attended SAT Directions Hearing. Four Orders were issued, as follows:

*Amended on 18 May 2017 pursuant to s 83 (1)(a) of the State Administrative Tribunal Act 2004 (WA)*

- 1. The application is amended to be an application under s 252(1) of the Planning & Development Act 2005.*
- 2. The name of the applicant is amended to Ms Vicki House and Ms House is to confirm in writing to the Tribunal on or before 5 May 2017 that she consents to being the applicant.*
- 3. By 8 May 2017 the respondent must file and serve an indexed and paginated bundle of the documents it is required to file under s 24 of the State Administrative Tribunal Act 2004 (WA) (s24 bundle).s24 bundle.*
- 4. The proceeding is adjourned to a further directions hearing at 2 pm on 19 May 2017 at 565 Hay Street, Perth, Western Australia.*

19 May 2017: Executive Manager Engineering & Development Services, J Gick, attended SAT Directions Hearing. Two Orders were issued, as follows:

- 1. The proceeding is adjourned to a further directions hearing at 2 pm on 9 June 2017 at 565 Hay Street, Perth, Western Australia to allow the applicant time to seek legal advice.*
- 2. The parties may attend the directions hearing by telephone using a telephone number provided to the Tribunal in writing at least 48 hours prior to the directions hearing.*

9 June 2017: Executive Manager Engineering & Development Services, J Gick, attended SAT Directions Hearing. One Order was issued, as follows:

- 1. The proceeding is adjourned to a further directions hearing at 2:30 pm on 30 June 2017 at 565 Hay Street, Perth, Western Australia to allow the further time for the applicant to obtain advice.*

30 June 2017: Executive Manager Engineering & Development Services, J Gick, attended SAT Directions Hearing. Three Orders were issued, as follows:

- 1. On or before 14 July 2017 the applicant is to file with the Tribunal and provide to the respondent any information it wishes the respondent to consider in any reconsideration of the matter.*
- 2. Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision on or before 23 August 2017.*
- 3. The proceeding is adjourned to a further directions hearing at 2 pm on 1 September 2017 at 565 Hay Street, Perth, Western Australia.*

14 July 2017: Tecon Australia, on behalf of the applicant, requests Council to reconsider the applicant's request to use an Alternative Treatment System (ATS) at her property at Lot 228.

23 August 2017: The matter is presented to the Council.

## **Proposal**

It is proposed that the Council vary its decision OC0203 from the 22 February 2017 meeting, in response to SAT Orders.



## **STATUTORY ENVIRONMENT**

### **Town Planning Scheme No. 7**

#### “5.6 Special Rural Area

5.6.2 In addition to any provisions which are more generally applicable to land zoned Special Rural, Appendix 6 sets out specific provisions for controlling, land uses and development relating to particular Special Rural Zone Areas. No person shall use or develop land zoned Special Rural except in accordance with the provisions set out for the particular Special Rural Zone Area...

5.6.3 On land zoned Special Rural, the following general provisions shall apply:  
(a) Subdivision to be generally in accordance with and adopted subdivision guide plan for a particular Special Rural Zone Area;”

#### Appendix 6

Special Rural Zone No. 1B (Lots 11, 12 and 70 Fishermans Road, Stratham) – Specific Provision 23: “At the time of subdivision the subdivider may be required to prepare a Land Use Plan and report to be adopted by Council.”

#### 8.10 Relaxation of Standards

8.10.1 If a development the subject of an application for planning consent does not comply with a standard prescribed by the Scheme applicable thereto the Council may, notwithstanding the non-compliance, by resolution passed by an absolute majority grant planning consent to the development subject to any conditions the Council thinks fit if it is satisfied that:

- (a) If approval were granted, the development would be consistent with the orderly and proper planning of the locality or the likely future development of the locality; and
- (b) The non-compliance will not have an adverse effect upon the occupiers or users of the development or the inhabitants of the locality or the likely future development of the locality.

8.10.2 Prior to granting planning consent under Clause 8.10.1 the Council may advertise its intention to consider doing so in accordance with Clause 8.2.3.

### **Health (Miscellaneous Provisions) Act 1911**

#### 344A. Incorporation by reference

(1) Any regulations or local laws made under this Act may adopt wholly or partly (or varied as specified in the regulation or local law) a code published under subsection (2) or any of the standards, rules, codes or other provisions of Standards Australia, or other Australian and international bodies of well-established high repute, as in force at the time of adoption or as amended from time to time.”

This section establishes a head of power for provisions under the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

### **Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974**

#### 4. Approval of construction or installation of apparatus by local government

(1) For the purposes of section 107(2)(a) of the Act, an apparatus is to be approved by a local government if it is intended to serve —  
(a) a single dwelling; or

- (b) any other building that produces not more than 540 litres of sewage per day.
- (2) A person may apply for an approval under this regulation by —
  - (a) completing an application in a form approved by the Chief Health Officer; and
  - (b) forwarding the application to the relevant local government together with —
    - (i) any documents required under regulation 5; and
    - (ii) the fee specified in item 1 of Schedule 1.
- (3) Upon an application under subregulation (2), a local government shall, as soon as practicable after receiving the application —
  - (a) subject to these regulations, grant the approval —
    - (i) in a form approved by the local government; and
    - (ii) subject to such conditions as the local government thinks fit; or
  - (b) refuse to grant the approval.
- (4) A local government may grant an approval under this regulation only if, under the application, the apparatus is to be constructed or installed in accordance with these regulations.
- (5) Where a local government refuses to grant an approval under this regulation, it shall, as soon as practicable, provide to the person applying for the approval a written notice —
  - (a) advising the person of the refusal; and
  - (b) setting out the reasons for the refusal.

#### 5. Documents to accompany application for approval

- (1) An application under regulation 4 or 4A shall be accompanied by —
  - (a) a copy of plan and specifications of the proposed apparatus, that comply with all relevant provisions of these regulations, showing plan and longitudinal section to a scale of not less than 1:50; and
  - (b) 2 copies of a site plan of the premises accurately drawn to a scale not less than 1:100, showing —
    - (i) the position of all buildings erected or proposed and the position of the proposed apparatus; and
    - (ii) the position, type and proposed use of all fixtures intended to discharge into the apparatus; and
    - (iii) the position of all drains, pipes, inspection openings, vents, traps and junctions in relation to buildings and boundaries; and
    - (iv) the size of pipes and fittings and the fall of the drains; and
    - (v) details of the effluent disposal system; and
    - (vi) the source of water supply to be used in connection with the apparatus, and except where the plans refer to a building of Class 1a under the Building Code the plans shall be separate from the application form; and
  - (c) if so requested by the approving body —
    - (i) a detailed architectural drawing of the proposed apparatus; and
    - (ii) a certificate from an independent technical expert that the apparatus —
      - (I) complies with these regulations or any relevant code or standard; and
      - (II) is capable of performing its proposed functions; and
      - (III) is reliable and durable; and
    - (iii) any other information or documents relevant to the application; and
  - (d) in the case where the proposed apparatus is an aerobic treatment unit, details of arrangements that have been made for the future maintenance of the unit by an authorised person, including a copy of any agreement entered into for that purpose.

#### **Approved Aerobic Treatment Units (Department of Health publication)**

The Department of Health maintains a list of approved Aerobic Treatment Units on its website.

**Approved Alternative Treatment Systems (Department of Health publication)**

The Department of Health maintains a list of approved Alternative Treatment Systems on its website. The website specifies eight separate approved systems, including five Filtrex brands.

**Filtrex Alternative Treatment Systems – Conditions of Approval**

Department of Health publication issued 26 October 2015 certifying approval of five Filtrex Alternative Treatment Systems approved by the Executive Director, Public Health under the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 for use in Western Australia in accordance with the conditions specified in Schedule 1 and 2.

**State Administrative Tribunal Act (2004)**

s31. Tribunal may invite decision maker to reconsider decision

- (1) At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision maker to reconsider the decision.
- (2) Upon being invited by the Tribunal to reconsider the reviewable decision, the decision maker may —
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute its new decision.
- (3) If the decision maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn, it is taken to be for the review of the decision as varied or the substituted decision.

s83. Correcting mistakes

- (1) The Tribunal may correct a decision it gives or a statement of the reasons it has given for its decision to the extent necessary to rectify —
  - (a) a clerical mistake; or
  - (b) an error arising from an accidental slip or omission; or
  - (c) a material miscalculation of figures or a material mistake in the description of any person, thing, or matter referred to in the decision; or
  - (d) a defect of form.
- (2) The correction may be made —
  - (a) on a party's application made in accordance with the rules; or
  - (b) on the Tribunal's own initiative.

**Planning and Development Act (2005)**

s252. Decision made in exercise of discretionary power under planning scheme

- (1) Subject to subsection (3), if —
  - (a) under a planning scheme, the grant of any consent, permission, approval or other authorisation is in the discretion of a responsible authority; and
  - (b) a person has applied to the responsible authority for such a grant; and
  - (c) the responsible authority has —
    - (i) refused the application; or
    - (ii) granted it subject to any condition, the applicant may apply to the State Administrative Tribunal for a review, in accordance with this Part, of the responsible authority's decision.

- (2) Subject to subsections (1) and (3), an applicant may apply to the State Administrative Tribunal for a review, in accordance with this Part, of the responsible authority's decision under a local planning scheme or an improvement scheme as to —
  - (a) the classification of a use under the planning scheme; or
  - (b) the permissibility of a use that is not listed under the planning scheme.
- (3) Subsections (1) and (2) do not affect the operation of a right given or taken to be given by a planning scheme to apply for a review of a decision, but where rights are given or taken to be given by a planning scheme and under subsection (1) or (2), the exercise of one of those rights extinguishes the other right to apply for a review of the same decision.

**POLICY IMPLICATIONS**

Policy 2.29 – State Administration Tribunal was adopted by Council at its 26 April 2017 meeting and is applicable.

Draft Government Sewerage Policy 2016

The draft Government Sewerage Policy (November 2016) seeks to establish a whole of government policy position of sewerage management across Western Australia. Although the policy is not retrospective, it provides an overview of the State's intended direction in the management of sewerage, including:

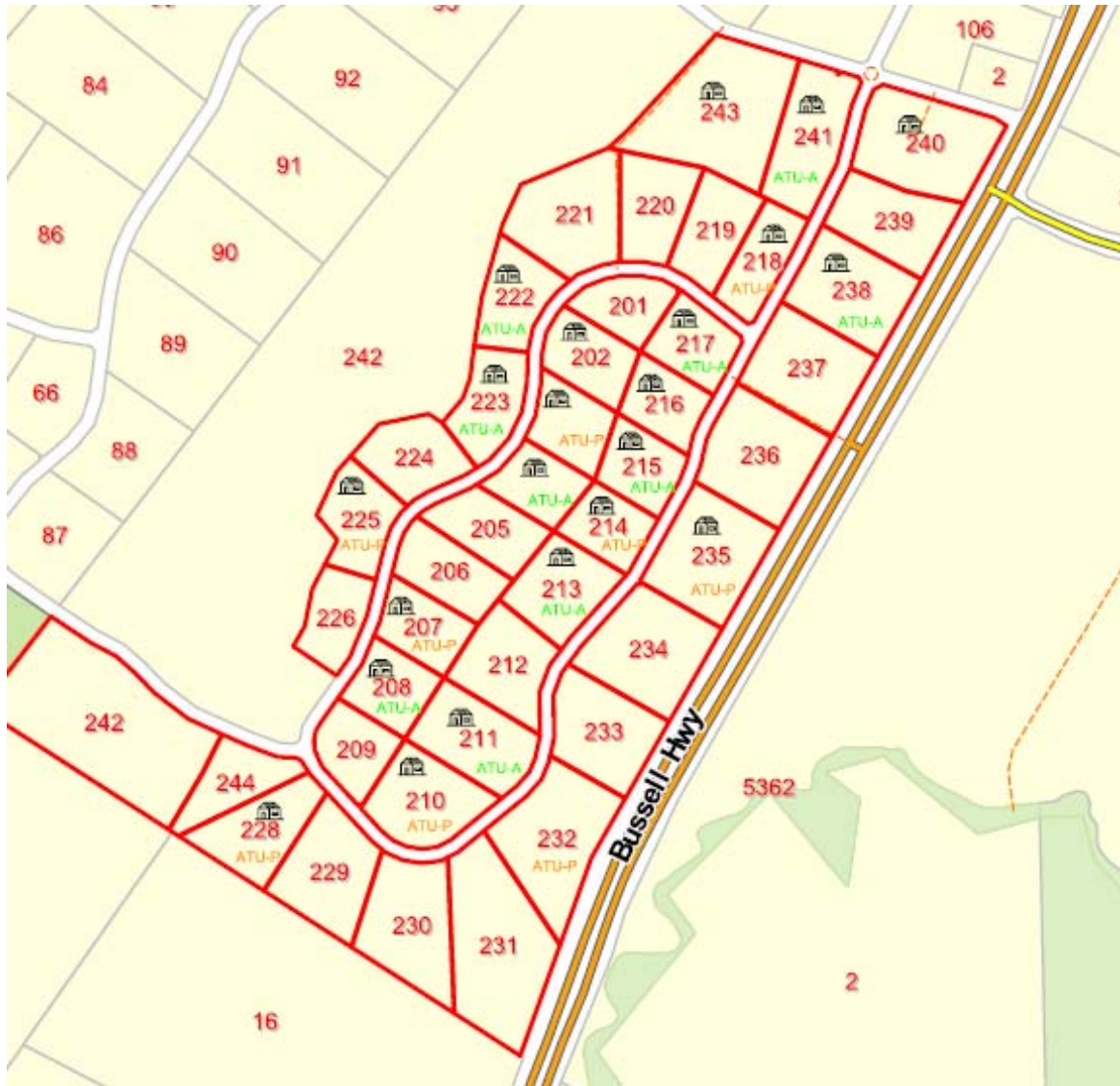
- Provide guidance for the consideration of subdivision and development proposals where the provision of reticulated sewerage cannot be achieved; and
- Identifying the type of on-site sewage disposal system used to be determined in response to the site and soil conditions, vulnerability of the receiving environment and the nature of the proposal.

**RISK IMPLICATIONS**

The risks associated with this item are discussed in the Comments section, whilst considering opportunities that decision making options present.

In terms of the ongoing administration of the LUMP, the following plan shows developed lots with ATUs:

Number of residential lots	42
Number of Building Licences for Class 1A (dwellings)	22 (including Lot 228)
Number of approved ATUs	15
Number of pending ATU final inspections	5 (including Lot 228)



ATU – A – Approved  
 ATU – P – Pending  
 House Symbol – Approved Building Licence

The subdivision is about half developed, with a mixture of undeveloped lots in three different soil land units.

**FINANCIAL IMPLICATIONS**

**Budget**

Costs have been borne internally, including staff time, travel, and accommodation. In complying with Order No. 2 of the SAT’s 30 June 2017 Orders, the Shire has engaged its lawyers, McLeods Barristers and Solicitors, with an estimated fee cost of about \$4,500. This figure could increase if additional legal advice is required following the 1 September 2017 Directions Hearing.

If Ms House uses her approval dated 5 May 2016, there will be no further fees applicable.

If the Council seeks to allow Ms House the use of the Filtrix Alternative Treatment System, another \$118.00 fee may be applicable. Similarly, if the SAT rules in favour of Ms House through a full hearing, a fee of \$118.00 may apply.

If the Council seeks to, or the SAT directs the Council to modify the LUMP, advertising and staff costs will be attributable. These have not been calculated at this time.

### **Long Term**

There are no long term financial implications related to this matter.

### **SUSTAINABILITY IMPLICATIONS**

The subdivision, and the subsequent LUMP, has been approved.

The environmental implications of this item relate to the effective management and disposal of domestic effluent and nutrients. The use of an ATS instead of an ATU has come about through the questionability of the soil capability at this location.

The cost of installing and maintaining effluent disposal systems is one of the principle differences between the ATUs and ATSS, for individual land owners. More broadly, there may be economic impacts to the industry.

The proper disposal of effluent on individual lots allows the community to function. The improper disposal of effluent may result in social friction and possible health concerns.

### **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013-2031

2. The Community Experience: 'Provide facilities and services which recognise the diverse needs of the community and strive to make the Shire and safe place to live, work and visit.'

Strategic Objective:

2.3 Preserve and protect the character of the communities.

3. The Environmental Experience: 'To preserve and enhance the natural and built environment to ensure it is liveable, sustainable and adapts to our communities' needs and expectations.'

Strategic Objectives:

3.1 Promote the diverse lifestyle opportunities in the Shire.

3.2 Maintain and enhance the quality of our unique natural environments.

### **CONSULTATION**

This report provides comment on the consultation applicable to Ms House's request, and subsequent SAT Directions Hearings, but does not provide commentary on the consultation undertaken during the Town Planning Scheme amendment, subdivision or Land Use and Development Plan work.

Following Ms House's request in March 2016, she made contact with some Councillors seeking advice on her capacity to request the use of the Filtrex system.

Ms House contacted several staff including the Executive Manager Engineering & Development Services to request the elevation of her case to the Council.

Ms House's request was presented to the Council at its December 2016 meeting, which was attended by Ms House and support people.

Filtrex presented information to the Council at the December 2016 meeting, indicating that its system was effective in achieving nutrient stripping as required for the site.

On 19 December 2016, the Department of Health provided brief advice on the status of the Filtrex ATS including:

- Confirmation that Conditions of Approval 2.2 does not certify the system for heavy soils installation.
- Receipt of testing results from Filtrex showing the system performance in regards to BOD, TSS and *E.Coli*, which have not been assessed in any formal revision of the approval.

In January 2017, Filtrex extended an invitation to Councillors, the CEO, the Executive Manager Engineering & Development Services and the Manager Health Services to view a demonstration of a model of an alternative treatment system. The demonstration was attended by Cr Hearne and the Executive Manager Engineering & Development Services.

In early February 2017, the Executive Manager Engineering & Development Services contacted the developer's engineering consultant to discuss the findings of the soil investigations undertaken for the subdivision planning. The consultant confirmed that the soil investigations and the management of effluent lead both the developer and the Shire to agree on the employment of ATUs.

During the course of the SAT Directions Hearings, the Shire has been in contact with the applicant's agent in response to SAT Orders, and has undertaken further internal consultation on the matter.

The Shire has recently consulted with the Department of Health to confirm its position with regards to the Filtrex Conditions of Approval and its view on the approval process.

#### **COMMENT**

This proposal has been generated by the request from Ms House to install an Alternative Treatment System, her request to elevate the case to the Council for consideration, and the subsequent appeal to the SAT. The Council has been invited by the SAT to reconsider its Decision OC0203, based on submission made by Tecon Australia, on behalf of the applicant.

Tecon Australia puts forward three key points that the applicant believes are worthy of Council's reconsideration:

1. Department of Health view of the Filtrex System for Lot 228;
2. Soil capability based documentation; and
3. Relaxation of Town Planning Scheme to standards.

These points are addressed as follows:

#### **Department of Health view on Filtrex System for Lot 228**

The Department of Health, under provisions of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974, approves Aerobic Treatment Units and Alternative Treatment Systems for use under certain conditions.

Filtrex Alternative Treatment Systems – Conditions of Approval (26 October 2015) applies to five specific system models, approved by the Executive Director, Public Health. Specific conditions that are of interest to this case are:

- 2.2 Filtrex ATSS are approved for use in sand and loam/gravel soils as defined by Regulation 49 of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

- 2.3 A minimum path length of 600mm soil absorption (from the discharge point of the membrane) to any ground or pooled waters at the wettest time of the year must be maintained for all installations.
- 2.4 A minimum path length of 600mm soil absorption (from the discharge point of the membrane) to heavy soils must be maintained for all installations.
- 2.12 All necessary measures shall be taken by Filtrex as directed by the Executive Director, Public Health to rectify any Filtrex ATS installation that is not compliant with this approval and any additional requirements of the Local Government within the warranty period for the system.

Preceding the 22 February 2017 Council meeting, the Department of Health was contacted to determine its view on the use of the Filtrex ATS at Lot 228. The Department of Health advised:

- *“Warranty for the system is listed on Appendix 3. Effluent quality is guaranteed for 10 years.*
- *You have mentioned that the development has heavy clay. Please note approval condition 2.2. The system is yet to be certified for heavy soils installation.*
- *We have received testing results from Filtrex showing the system performance in regards to BOD, TSS and E.coli, which are the main assessment criteria for “secondary treated effluent”. We have not initiated our assessment of the testing results and have not made any formal decision on the revision of their approval.”*

During the course of the initial 28 April 2017 SAT Directions Hearing it was mooted that should the Department of Health provide an overarching view that the use of the Filtrex system was suitable, the Shire of Capel may consider an application for an Alternative Treatment System.

The applicants agent contacted the Department of Health to determine its view on the use of the Filtrex ATS at Lot 228 Bourne Loop, Stratham, based on the Land Capability and Effluent Disposal Investigation (Coffey Environments Pty Ltd, October 2007), which was used as an informing document throughout the subdivision planning process, including the development of the Land Use & Management Plan (2013).

Based on the information provided, the Department of Health provided the following advice to the Shire of Capel:

“Upon your advice, Filtrex has met up with the Department of Health to discuss the use of the Filtrex ATS on Lot 228 Bourne Loop, Stratham.

We have advised Filtrex of the following after our discussion and review of the documents they have provided:

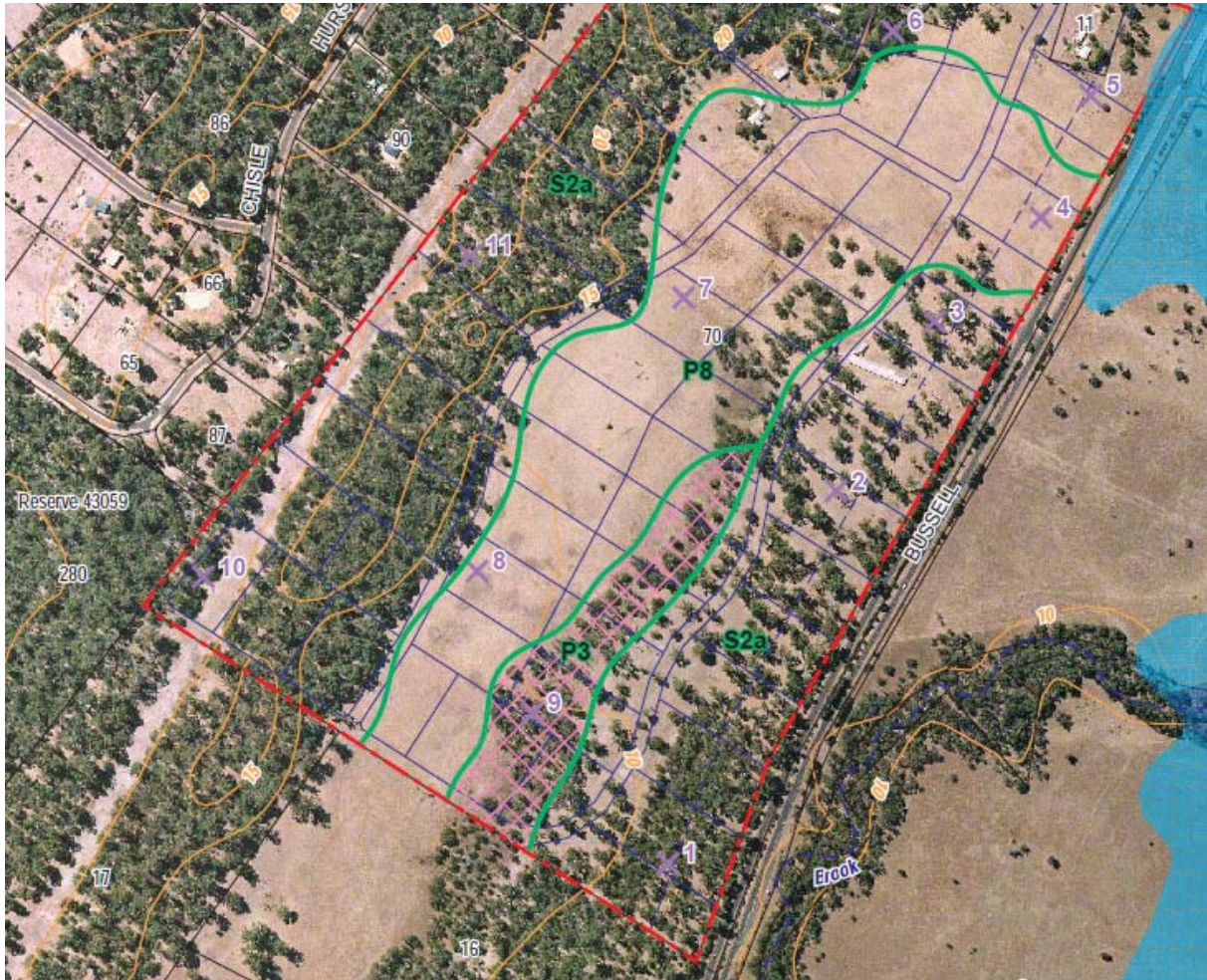
- *“Basing on the Coffey Report (attached) that was provided where the soil category of the lot is classified as “loams” and the advice from the Local Government in 2011 that on-site disposal of wastewater is achievable, the Filtrex ATS will be able to dispose of the wastewater on-site adequately.*
- *The Department of Health was not the regulatory agency that required the installation of the Aerobic Treatment Units (ATU’s) specified in the “Special Rural Zone Area 1B – Stratham Land Use and Management Plan”.*
- *The Department of Health advised Filtrex to contact the Local Government to seek further clarification on which agency required the use of ATUs and if the use of Alternative Treatment Systems such as FILTRETAX ATS will fulfil the basis of that requirement and if a variation to the requirement for ATUs can be given.”*

On 8 August 2017 the Shire consulted with the Department of Health to confirm its position with regards to the Filtrex Conditions of Approval and its view on the approval process. The principle issue is whether the soil at Lot 228 is clay which the Conditions of Approval do not cover. This leads to the discussion of the second point.



**Soil Capacity based on documentation**

There are three key sources of documentation that discuss the soil profile of the subdivision development. The first is a Soil Landscape Map of the Capel-Augusta Area, as published in the AGMAPS Land Profiler CDROM, Department of Agriculture Western Australia (October 2003). A map extract overlain on an aerial photograph of the subdivision development shows the extent of three distinct soil land units, S2a, P3 and P8.



The three soil land units are described:

Land Unit	System	Landform / Topography and Soil Description
S2a	Spearwood	Lower slopes (1-5%) of dune ridge with minor limestone outcrop. Moderately deep to deep siliceous yellow-brown sands or pale sands with yellow-brown subsoils.
P8	Pinjarra	Broad poorly drained flats and poorly defined stream channels. Moderately deep to deep sands over mottled clays. These may be acidic or less commonly alkaline grey and yellow duplex soils.
P3	Pinjarra	Flat to very gentle undulating plain. Imperfect to poorly drained. Deep acidic gradation yellow or grey.

The second source of documentation describing the soil is the Land Capability and Effluent Disposal Investigation (Coffey, October 2007), as attached. In addition to the use of the Soil Landscape Map of the Capel-Augusta Area, Coffey excavated 12 test pits, using a backhoe, to a maximum depth of 2.5m, noting soil type and characteristics, presence of groundwater, and depth to impervious horizons.

The Phosphorus retention index (PRI) of a soil indicates a measure of the phosphorus holding capacity, which provides an indication of whether effluent discharged phosphorus will be bound to the soils or leached into the groundwater. Coffey cites the Department of Health which suggests that a PRI greater than 20 is necessary for surface irrigation of effluent material.

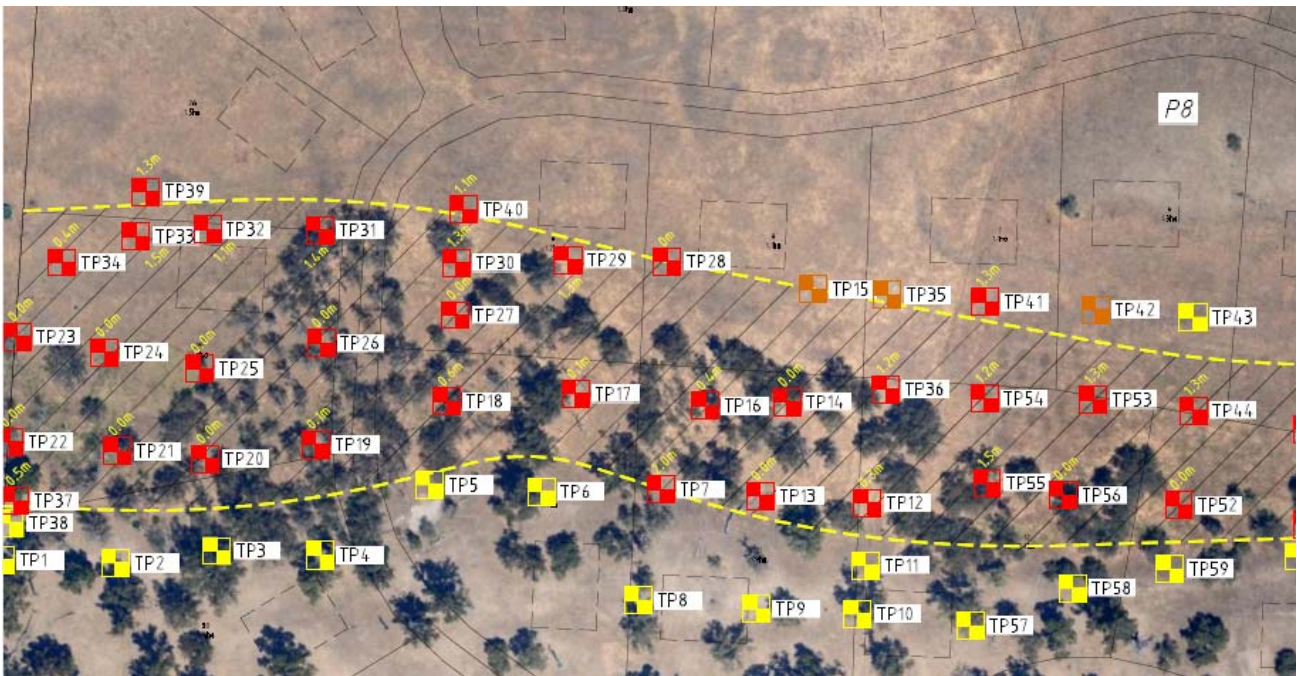
Excavation pit TP8 is in close proximity to Lot 228. Coffey summarises the soil characteristics at this location as:

- Land Unit P8
- Soil Type Loams, weekly structured
- PRI at 0.5m depth 23.6
- Soil Permeability Moderately well drained
- Depth to groundwater Not detected
- Soil profile
  - 0 – 50cm Dark brown loam
  - 50 – 190cm Brown sand, medium grain
  - 190 – 250cm Yellowish brown sand

In conclusions and recommendations, Coffey identifies that “soil within land units S2a and P8 at the site is characterised as sand, sandy loams, loams and clay loams which have suitable infiltration capacity for effluent disposal through standard leach drains or irrigation.”

The third source of documentation describing the soil is the Supplementary Ground Investigation (WML Consultants, May 2012), as attached. The objective of the Supplementary Ground Investigation is to better delineate the extent of the poorly drained P3 soils, to ensure that any on-site effluent disposal is clear of this area.

Specifically, WML machine excavated 60 test pits in February 2012, followed up with another 28 hand augered pits in March 2012 to extend the investigation area. The test area is shown in the following map extract overlaid on an aerial photograph:



Excavation pit TP39 is located within the eastern extremities of Lot 228, whilst excavation pits TP31, TP32, TP33 and TP34 are located on the western boundary of the adjoining Lot 229. The following table provides a summary of the WML test pit logs:

Test Pit	Depth (m)	Description
TP31	0.0 – 0.6	Dry, red/brown fine to medium grained silty SAND
	0.6 – 1.4	Dry, orange/brown medium to coarse clayey SAND
	1.4 – 2.2	Dry, grey mottled red very stiff CLAY
	2.2 – 3.0	Dry, cream/grey stiff sandy CLAY
TP32	0.0 – 0.2	Dry, brown fine grained silty SAND
	0.2 – 1.0	Dry red/brown fine to medium grained silty SAND
	1.0 – 1.1	Damp, orange fine to medium grained clayey SAND
	1.1 – 1.9	Damp, grey mottled orange brown CLAY with some sand
	1.9 – 2.5	As above, grey
TP33	0.0 – 0.2	Dry, dark brown fine to medium grained silty SAND
	0.2 – 2.5	Dry to damp with depth, orange/brown mottled red clayey SAND/sandy CLAY
	2.5 – 3.3	Damp cream/brown, sandy loams clayey SAND
TP34	0.0 – 0.4	Dry, brown very stiff CLAY with a trace of clay
	0.4 – 1.0	Dry, grey mottled orange, stiff CLAY with a trace of sand
	1.0 – 2.1	Damp, grey brown stiff CLAY
	2.1 – 3.0	Damp, grey fine grained clayey SAND/sandy loams
TP39	0.0 – 0.2	Dry, dark brown fine to medium grained silty SAND
	0.2 – 1.3	Dry, orange fine to medium grained sandy loams
	1.3 – 1.6	Damp, grey mottled orange stiff CLAY with some sand

These log descriptions demonstrate to more detail the typical extent and depth of the clay layers at, and adjoining, Lot 228.

The Coffey report alone may support the applicants claim that the soils at Lot 228 can support an ATS. Detail shown by WML demonstrates that there is clay material present, which may affect the performance of the effluent disposal system.

There is no specific documentation that comments on the capability of Lot 228 to dispose of effluent suitably, Coffey and WML provide the basis for further investigation.

### **Relaxation of Town Planning Standards**

Tecon Australia, explains that at the 22 February 2017 meeting the Council was only presented with two options available to the Council:

*Support the status quo and maintain the requirements of the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013) to only allow the installation of ATU's in this subdivision; or*

*Amend the Land Use and Management Plan to require effluent disposal to be managed using performance criteria that achieve the objectives and standards of the Department of Health and associated regulations.*

Tecon Australia is of the belief that Part 8.10 (Relaxation of Standards) of the Town Planning Scheme No. 7 provides Council with the ability to apply discretion and vary a provision of the Scheme. Part 8.10 is quoted in the Statutory Environment, above.

Tecon is of the view that the development controls contained within the Special Rural Zone Area 1B – Stratham Land Use and Management Plan are an example of standards and provisions of the scheme, and therefore the Council has the ability to consider the matter and vary a specific provision of the Scheme without amending the LUMP.

This position has been forwarded to McLeods, for advice. McLeods in the background facts notes that the LUMP has the status of a policy or guideline.

Furthermore, McLeods notes that Clause 5.6 of TPS7 relates to the Special Rural Zone, which includes specific provisions and makes reference to Appendix 6, which sets out further specific provisions relevant to development in a Special Rural Zone.

As a check, McLeods were asked to specifically comment on whether the Land Use and Management Plan prepared in response the specific provisions for Amendment No. 40 and reflected as a condition of subdivision, constitutes in itself a provision within TPS7. McLeods advice is that it does not, as approval of the Minister and publication in the Gazette are required to effect a Scheme Amendment.

McLeods view that the LUMP has the status of a policy or guideline, introduces the capacity for the Council to apply discretion.

### **Comment on SAT Proceedings**

Through the course of this case, the Shire of Capel has participated, in good faith, with the SAT directions and Orders. The Shire has indicated to the SAT and the applicant that it is willing to participate in the SAT process following this Council decision.

Whilst obtaining legal advice, McLeods has identified that the SAT's initial Order No. 1 at the 28 April 2017 Directions Hearing does not appear to fall within the scope of s.83(1) of the SAT Act (2004). McLeods comments that the powers of the SAT to assess the application under the Planning and Development Act (2005), when in fact the applicant originally sought to vary her 'building permit' in relation to the her preferred use of an ATS. The applicant has subsequently requested to have the LUMP amended, but this request does not apply to a development application for Lot 228.

The appeal to SAT was lodged by Filtrex for:

*Adjudication on the suitability of an Alternative Treatment System (Filtrex) to be installed as an acceptable system in the Stratham Park estate and in particular in reference to Lot 228 Bourne Loop, Stratham.*

*That such system does not need to be specifically an Aerobic Treatment Unit and that an Alternative Treatment System to meet the site and soil requirements and one that is a system that is Department of Health WA approved should be accepted.*

McLeods' advice points to the fact that s252(1) of the Planning and Development Act (2005) relates to a decision made in the exercise of a discretionary power under a planning scheme, however the decision made by the Council at its 22 February 2017 meeting was not such a decision. Neither Ms House, nor Filtrex, made an application under the Planning and Development Act (2005).

Furthermore, McLeods advise that it is difficult to see how the Order to amend the application for review could have been made under s.83(1), as this Clause relates to the correction of decisions and miscalculations. As no decisions have been taken, the question of how s.83(1) has been employed is raised.

There is therefore a suggestion that the present proceedings in the SAT are of no effect.

Challenging the SAT proceedings, although there seems to be some scope to do so, may not serve the Council well. Through the course of the proceedings the SAT has shown a tendency to support the applicant, as demonstrated through the following actions:

- The Shire's request to dismiss the case based on the ineligibility of Filtrex as the applicant was not considered, and the matter proceeded to Directions Hearing at 28 April 2017;
- The SAT issued Orders to allow Filtrex to obtain the legitimate applicants signature by 5 May 2017, and allowed the proceedings to continue, despite Ms House not signing at application until the following day;

- The SAT has taken upon itself to amend the application to address the Land Use and Management Plan, and not Filtrex's original request;
- The Directions Hearing has been adjourned three times to allow the applicant to seek, firstly 'legal advice' (19 May 2017), then 'advice' (9 June 2017), where the member indicated strongly that the applicant needed planning advice, and finally to present its request at the 30 June 2017 Directions Hearing;
- During the course of four separate Directions Hearings, the SAT has dedicated the majority of allocated time coaching the applicants and its agents in due process and the SAT framework;
- The SAT has confirmed the case as a Class 1 Hearing, which obviates the use of legal counsel at a subsequent Hearing. This means that the Shire will need to be represented by staff, without the direct involvement of a legal professional, although legal advice may be used leading to the Hearing.

**Where to next?**

The SAT has issued Order No. 2 at its 30 June 2017 Directions Hearing, thus:

2. Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision on or before 23 August 2017.

Section 31(1) of the State Administrative Tribunal Act (2004) provides three options for the Council to consider, with respect to its 22 February 2017 Decision OC0203, being:

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute its new decision.

Going forward, the Council needs to make a decision that is in the best public interest, including consideration of the specifics of this case, the interest of the balance of the subdivision, the community at large, the Shire administration and the environment. There are opportunities and risks with each of the SAT decision making options, including some tabled below:

Decision Option	Opportunities	Risks
Affirm the decision	Allow the Council to maintain its Land Use and Management Plan for future use  Mandates the use of ATU's for better environmental outcomes	SAT has demonstrated a willingness to allow the application to be considered and shown leniency in adjourning the Directions Hearing three times.  A full Hearing may result in the dismissal of the Land Use and Management Plan, including other aspects not related to this case.
Vary the decision	Varying part a) of the decision allows the use of Council discretion. This may satisfy Ms House and allow her to complete development of her dwelling.  Maintaining part b) of the decision allows the ongoing use of the Land Use and Management Plan for the balance of the subdivision.	The applicant may not be satisfied with this position and seek further resolution through SAT to address the Land Use and Management Plan.  There are a number of lots that have not been developed, which may attract the same level of appeal each time a new effluent treatment system is to be assessed and approved.

<p>Set aside the decision and substitute a new decision</p>	<p>The opportunity exists to review the effluent disposal section of the LUMP, to reflect alternative options.</p> <p>The LUMP may be used as a policy tool to guide land owners to undertake studies to determine the most suitable effluent disposal method for each property, whilst considering the cumulative effect of each system on the whole land mass.</p>	<p>Setting aside the decision requires a suitable decision to be made in its place.</p> <p>The applicant may not be satisfied with this position and seek further resolution through SAT to address the Land Use and Management Plan.</p>
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Where the Council chooses to vary or set aside a decision, the review through the SAT process, unless withdrawn by the applicant, continues based on the varied or substituted decision.

The Shire has invested substantial time, effort and money into this case, with intent to maintain its position developed since adopting the LUMP in 2013. More recently, the SAT has entertained the request for review and allowed the case to be adjourned to give the applicant opportunity to properly establish its case. It would seem that affirming the Council’s Decision OC0203 of 22 February 2017 may not be in the best interest of the Council, if the matter is taken to full Hearing. There is potential to take the matter to mediation, but this may not eventuate given the substantial delay in the process so far.

Legal advice showing that the LUMP may be considered as a policy or guideline introduces the potential for Council discretion to relax elements of the plan. This introduces the potential for the Council to vary its decision to address the applicant’s request, whilst dealing with the risks of on site clay. A slight variation to the Council’s decision will not necessarily compromise the ongoing use of the LUMP.

In this regard, the concept of a relaxation of the requirement to use an ATU on Lot 228 Bourne Loop has been mooted through the applicant’s planning consultant to determine the applicant’s appetite to continue the request for review. Advice received from the consultant indicates that the applicant is inclined to support this arrangement.

If the Council were to set aside its decision and substitute it with a new decision, the question to be asked is: ‘for what purpose it would do such a thing?’ There is a view expressed from Filtrex that the Council is ‘excluding’ it from the Stratham Estate market through the employment of the LUMP. The Shire has consistently maintained the position that the LUMP has been established in the best health and environmental interests of the residents living in the estate. Whilst there is some conjecture on the extent and influence of clay soils on Lot 228, there is no doubt that there is extensive presence and influence of clay across the estate.

This point is emphasised by McLeods, who indicate that it is “appropriate for the Shire to emphasise to the SAT that the present case does not involve only a single application for one lot in a special rural subdivision” and that extensive work should be done to confirm the use of ATs “in the remainder of the estate would be acceptable from a health and environment point of view, and that the soil types within the estate would be appropriate...”.

This has been a difficult case to administer. The Council will need to make a sound decision that is in the best interests of the Stratham Estate land owners, the community at large, the Shire Administration and the environment. A recommendation is provided to vary its Decision OC0203 to address the competing interests of all.

**VOTING REQUIREMENTS**

Simple majority

**OC0807 OFFICER'S RECOMMENDATION – 14.1/COUNCIL DECISION**

**Moved Cr Hearne, Seconded Cr J Scott**

**That Council, in response to State Administration Tribunal Orders dated 30 June 2017, and pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) varies Decision OC0203 of its 22 February 2017 meeting to:**

- 1. Agree to consider an Alternative Treatment System for Lot 228 Bourne Loop, Stratham, subject to confirmation from an independent technical expert that the site is capable of meeting the Department of Health conditions of approval and that the apparatus is capable of performing its proposed functions; and**
- 2. Maintains the use of the Special Rural Zone Area 1B Stratham, Land Use and Management Plan (June 2013) as a guide to development of lots in the Stratham Park Estate subdivision.**

Carried 7/1

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**OC0808 (14.2) Asset Management Plan – Roads 2017 - 2020**

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Location:	Whole of Shire
Applicant:	Shire of Capel
File Reference:	AS.RD.0
Disclosure of Interest:	Nil
Date:	24.07.17
Author:	Manager Technical Services, K McKeachie
Senior Officer:	Executive Manager Engineering and Development Services, J Gick
Attachments:	1. Roads Asset Management Plan 2017 – 2020 (Version 2) 2. Roads Maintenance Management Guideline (Version 1)

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**IN BRIEF**

Asset Management Plans prepared for Council in 2013 are undergoing review. The Roads Asset Management Plan (AMP), derived from the original Transport Asset Management Plan is now ready for consideration for adoption by Council.

This AMP is specifically focused on the needs of the roads, whereas the previous version also included discussion of other asset classes. It contains more accurate and more extensive historical and supporting information upon which its conclusions are based.

The adoption of the Roads AMP is consistent with the State Integrated Planning and Reporting Framework.

**RECOMMENDATION**

**That Council adopt the Roads Asset Management Plan 2017 - 2020.**

**BACKGROUND / PROPOSAL****Background**

The Shire of Capel is required to produce a Plan for the Future of the district as a requirement of the Local Government Act. As part of the development of this Plan and as required by the Integrated Planning and Reporting Framework, a Strategic Community Plan and Corporate Business Plan are produced.

Asset Management Plans expand upon the overarching objectives outlined in the Strategic Community Plan and the Corporate Business Plan to detail the management actions to be carried out on infrastructure asset classes. These Plans specify how the Shire will operate, maintain and renew assets within in the most cost effective and sustainable manner, whilst providing an agreed Levels of Service (LoS).

Core components of Asset Management Plans are:

- Levels of Service
- Future Demand
- Risk Management
- Lifecycle Management
- Financial Summary
- Plan Improvement and Monitoring

26 June 2013 – (OC0613) Shire of Capel Asset Management Plans 2013: *‘That Council adopts the Asset Management Plans as part of the State Integrated Planning and Reporting Framework compliance process.*



The Shire adopted an initial set of AMP's covering its principal infrastructure groupings of transport (roads, paths and bridges), buildings, public open space, stormwater drainage and plant and fleets in 2013. In their initial form, these AMP's were high level documents intended to establish foundational asset management procedures and practice for the Shire of Capel. As such, some Asset Classes with common requirements such as Transport, were aggregated together for simplicity of delivery.

## Proposal

Review of each of the initial Asset Management Plans delivered in 2013 is now being progressively undertaken. In line with a recommendation from the Department of Local Government and Communities *Better Practice Review* conducted in 2016, it is intended to substantially complete the review of all Asset Management Plans by June 2018.

Part of this review has included the disaggregation of the Transport Asset Management Plan into its component parts, ('Roads', 'Paths & Trails' and 'Bridges'). This has been carried out in order to permit much greater emphasis to be placed on each of the individual Asset Classes, along with more in-depth analysis of the costs and benefits of ownership of the assets.

The first Asset Class chosen to receive such a comprehensive review of its Asset Management Plan has been the Roads Asset Class. It was decided to start with this Asset Class as it represents the largest proportion of the Shire's overall asset portfolio both in scale and in value.

Asset Class	Asset Fair Value \$	% Total Value
Roads	99,303,297	51.31%
Drainage	39,102,696	20.20%
Buildings	19,135,900	9.89%
Footpaths	14,206,588	7.34%
Reserves (Land)	6,375,200	3.29%
Bridges	6,220,000	3.21%
Other	3,890,000	2.01%
Infrastructure		
Plant & Equipment	3,288,000	1.70%
Car Parks	1,519,416	0.79%
POS	490,000	0.25%
	<b>193,531,097</b>	<b>100%</b>

As at June 2016, roads represented \$99.3 million (51.3%) of the Shire's total \$193.5 million Fair Value Asset Portfolio Valuation. The next largest Asset Class by value is drainage (\$39.1 million or 20.2% of the total.) Therefore, any improvement in the management of the roads Asset Class has the greatest potential to deliver benefit to the Shire in the short term.

The attached Roads Asset Management Plan 2017 – 2020 and its supplementary document, the Roads Maintenance Management Guideline, accompanying this report are (in combination) the first revised AMP to be presented for Council's consideration.

This Road Asset Management Plan represents continuous improvement of the practice of Asset Management as it relates to roads within the Shire of Capel. This is a living document and will continue to be updated and refined throughout its period of application. This AMP is scheduled for further review by June 2020 (three years following adoption.)

## **STATUTORY ENVIRONMENT**

Local Government Act 1995, Section 5.56

### **5.56 Planning for the Future**

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

**Local Government (Administration) Regulations 1996 apply. Specifically:-Division 3 — Planning for the future****19C. Planning for the future: strategic community plans — s. 5.56**

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
  - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
  - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
  - (c) demographic trends.
- (6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.  
\*Absolute majority required.
- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the

*Note: Asset Management Plans support Council by informing decision making with respect to (in particular) subregulation (5) of the above Regulation 19C. The DoLG&C Integrated Planning and Reporting Framework (Dec, 2015) identifies AMP's as 'informing and resourcing plans' contributing to the SCP and CBP.*

**POLICY IMPLICATIONS**

Policy 7.1 Asset Management applies.

**RISK IMPLICATIONS**

LIKELIHOOD		RISK RATING MATRIX				
		CONSEQUENCES				
		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
<b>A</b>	<b>Almost Certain</b>	Medium	High	High	Extreme	Extreme
<b>B</b>	<b>Likely</b>	Medium	Medium	High	High	Extreme
<b>C</b>	<b>Possible</b>	Low	Medium	High	High	High
<b>D</b>	<b>Unlikely</b>	Low	Low	Medium	Medium	High
<b>E</b>	<b>Rare</b>	Low	Low	Medium	Medium	High

The Risk Implication associated with this Asset Management Plan is High (Possible with Moderate Consequences.)

The AMP identifies a shortfall in the ability of the Shire to meet the recommended (0.9 to 1.0) Sustainability Ratio for long term renewal and upkeep of its road assets based on current Capital funding priorities. The AMP recommends incremental increases in annual budget in the order of \$100,000 plus CPI in order to overcome the funding gap identified.

If the recommended additional funding is not forthcoming, then Council will need to consider reduction of the overall Level of Service for roads across the network in order to match delivery to available funds.

## **FINANCIAL IMPLICATIONS**

### **Budget**

The adoption of the AMP itself has no implications for the current (2017/18) budget as all proposed costs and actions have been considered during development of the budget.

However, following adoption of the Shire of Capel 2017/18 Budget, Main Roads WA, as the administrator of the Regional Roads Group (RRG), advised that all LG Direct Grants had been reduced by 42% in response to State Government adjustments to the available pool of funds following the decision by the State Upper House of Parliament to disallow the removal of the vehicle licensing and stamp duty concession.

Main Roads have now advised of the likely impact on local governments in the South West and has indicated that the Shire of Capel's grant will likely be reduced from \$131,293 to \$75,613, a net reduction of \$55,680.

The potential loss of Revenue will need to be considered through the delivery of the 2017/18 Roads Program.

### **Long Term**

The Plan considers the following items which may have long term cost implications:

- the need for additional human resources for inspection, data management and audit of the network; in the order of \$45,000 per annum (shared across all asset types).
- the need for additional capital works funds to meet future renewal obligations as the existing asset ages; in the order of \$100,000 compounding per annum.
- the need to increase the forecast acquisition rate for roads by way of non-cash contributions from \$300,000 to \$500,000 per annum. This will increase the long term forecast depreciation expense in the order of \$3,770 compounding per annum.

## **SUSTAINABILITY IMPLICATIONS**

Sustainability has been defined by the UN World Commission on Environment and Development as: *"development that meets the needs of the present world without compromising the ability of future generations to meet their needs"*.

This Asset Management Plan represents the Shire of Capel's response to this requirement. It outlines long term physical and financial management practices and principles that aim to ensure the provision of a safe and effective road transport network that will continue to provide 'fit for purpose' service for the maximum achievable length of time at the lowest achievable cost to the community.

## **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community.'

Strategic Outcomes:

- 1.1 Ensure continuous improvement of the organisation.
- 1.4 Provide efficient and effective financial management to ensure the long term financial sustainability of the organisation
- 1.5 Ensure the effective management of Council's resources.

5. The Infrastructure Experience 'Plan and facilitate safe, sustainable and efficient infrastructure and transport networks to meet the needs of the community.'

Strategic Outcomes:

- 5.1 Provide and maintain a safe and efficient transport, cycle, and pedestrian network throughout the Shire
- 5.2 Maintain and enhance the quality of our built environment
- 5.3 Improve connectivity throughout our communities and to the region
- 5.5 Engage in high level advocacy with the State Government and liaise with other infrastructure providers to obtain best possible levels of service for the community
- 5.6 Effectively manage the Shire's assets and resources.

## **CONSULTATION**

The review of the Roads Asset Management Plan has included extensive consultation with all stakeholders including Council and staff in order to develop:

- accurate Road Hierarchy
- customer expectations in terms of desired Levels of Service;
- effective works selection criteria;
- accurate Unit Rates for maintenance and capital works and;
- analysis of historical trends to refine forecast projections

In particular the following activities have been carried out:

- Councillors workshop to confirm the multi-criteria selection methodology for roads capital works projects (detailed in the Roads Maintenance Management Guideline)
- Visual Condition Rating for all roads (internal and external resources)
- Unit Rate update for road works (by external consultant)
- Fair Value Valuation of all roads (by external consultant)
- Field data validation for Program of Works – Roads (Engineering Operations and Technical Services personnel)
- Internal consultation with Planning and Engineering staff to develop forecasts of potential scale and timing of future subdivisional development.
- Internal consultation with Finance and Engineering staff to review potential for more accurate assignment of costs to specific assets, (as opposed to attributing costs to an overall asset class)

- Internal consultation with Operations and Technical Services with respect to Intervention Levels and triggers for maintenance scheduling
- Ongoing liaison with Main Roads Western Australia
- As required liaison with adjoining Local Governments including the City of Bunbury, Shires of Dardanup and Donnybrook-Balingup and the City of Busselton.

**COMMENT**

The Roads Asset Management Plan 2017 - 2020 has been prepared in response to the Western Australia Integrated Planning Framework. The Shire of Capel has taken this opportunity for review to fundamentally alter the delivered product.

The previous AMP was prepared from an educational perspective focussing to a large extent on 'How' the Shire should prepare its Asset Management Plan.

The revised AMP has been built upon the lessons learned from the previous version. It provides a strong management platform detailing 'What' the Shire will do with respect to development, upgrade and operation of its roads and 'Why' it will do those things.

Educational material and static information that is unlikely to alter fundamentally between reviews of the Asset Management Plan, (e.g. the Road Hierarchy or prioritisation criteria), have been moved into a stand-alone supporting document, the Road Maintenance Management Guideline.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0808      OFFICER'S RECOMMENDATION – 14.2/COUNCIL DECISION</b>
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**Moved Cr McCleery, Seconded Cr Bell**

**That Council adopts the Roads Asset Management Plan 2017 – 2020.**

Carried 8/0

Three members of the public left the meeting at 5.45pm and did not return.

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**OC0809 (14.3) Development Approval – R-Code Variation (Garage Wall Lot Boundary Setback)**

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Location: 205 Peppermint Grove Terrace, Peppermint Grove Beach  
Applicant: WA Country Builders - Bunbury Office  
File Reference: PA110/2017  
Disclosure of Interest: Nil  
Date: 31.07.17  
Author: Planning Officer, S Occhipinti  
Senior Officer: Executive Manager Engineering and Development Services, J Gick  
Attachments: 1. Location Plan  
2. Development Plans  
3. Detailed Area Plan  
4. Objection  
5. Applicant response to objection

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**IN BRIEF**

Council is requested to consider an application for Development Approval, for a variation to part 5.1.3 of the Residential Design Codes (R-Codes) for walls on boundaries. The application proposes the setback of a garage wall at 0.1m from the boundary, in lieu of 1m. The land is coded R5/10. Coding R10 applies in accordance with the Detailed Area Plan for this lot.

The application has been made under clause 5.3.3.5 of the Shire of Capel Town Planning Scheme No.7 (TPS7).

The application has received an objection and is therefore referred to the Council for a decision.

**RECOMMENDATION****That Council:**

- a. **Agrees to a variation to Part 5.1.3 of the Residential Design Codes to allow a wall to be setback from a lot boundary 0.1m in lieu of 1m, at Lot 1 P406053 (205) Peppermint Grove Terrace, Peppermint Grove Beach WA 6271.**
- b. **Pursuant to Clause 68(2)(b) of the Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Scheme) Regulations 2015, grants approval for development of a dwelling at Lot 1 P406053 (205) Peppermint Grove Terrace, Peppermint Grove Beach, in accordance with the plans submitted with the development application and subject to the following conditions:**
  - i. **All development being in accordance with the Approved Development Plan(s) dated 23 August 2017;**
- c. **Advises all submitters of the above decision.**

**BACKGROUND / PROPOSAL****Background**

The land is vacant and is part of a mostly undeveloped residential subdivision. There have not been any prior development applications on the subject lot.

## **Proposal**

The applicant seeks a variation to the R-codes to allow the garage wall to be located 0.1m from the eastern boundary, rather than setback 1m from the eastern boundary. In other words, a 900mm variation to the deemed to comply provisions is sought for the garage wall.

The dwelling is a single storey, four bedroom/two bathroom brick dwelling of modest scale and design. It is located largely on a previously levelled site. In order to maximise solar access, minimise site works, and restrict the building footprint to the flatter area of the lot, the dwelling has been oriented generally along a south-east-north-west axis. This results in the garage being located within 1m of the eastern boundary, atop the existing retaining wall. The top of the wall is not excessively high, being approximately 0.3-0.5m above the natural ground level of the abutting lot to the east. The garage wall is approximately 2.76m in height from the top of the retaining wall, and does not contain any windows.

The subject lot lies between a Council reserve (R49913) to the west, which contains a pedestrian walkway to the coastal reserve north of the subject land, and undeveloped residential lots to the east. The lot immediately east, adjacent the proposed garage wall, has no previous development applications, nor any current Development Approval. All three of the eastern residential lots, including the subject lot, have been cleared of vegetation, benched in part, and retained with low sandstone retaining walls.

## **STATUTORY ENVIRONMENT**

### Town Planning Scheme No. 7 (TPS7)

The subject lot is zoned 'Residential'. Under the Residential Design Codes the lot is coded R5/10. The R10 development standards apply to the lot.

### Planning and Development (Local Planning Schemes) Regulations 2015

Clause 61 (c) of the Planning and Development (Local Planning Schemes) Regulations 2015 states that development approval of the local government is not required for the erection or extension of a single house on a lot if the R-Codes apply and the development satisfies the Deemed-to-comply requirements of the R-Codes. The proposal does not comply with the Deemed-to-comply requirements of the R-Codes as listed in part 5.1.3 'Lot Boundary Setback' (item c3.1i.), and therefore development approval is required.

## **POLICY IMPLICATIONS**

The proposal has been considered in the context of the following State Planning Policy 3.1, Residential Design Codes.

## **RISK IMPLICATIONS**

The decision is considered to be low risk if the application is approved, as there are no third party (objector) appeal rights. The reputational risk to Council is also considered low.

## **FINANCIAL IMPLICATIONS**

### **Budget**

The applicant has paid the relevant Development Application fee.

If Council resolves to refuse the application, or impose conditions to which the applicant objects, the applicant may seek review of the decision through the State Administrative Tribunal (SAT) and costs may be incurred through that process. This is considered to be a moderate risk.

## **Long Term**

There are no long term financial implications relevant to this matter.

## **SUSTAINABILITY IMPLICATIONS**

The proposal is considered to contribute to environmental sustainability outcomes as the location, orientation and design of the dwelling make good use of passive solar access, without the need to undertake any significant cut or fill on the lot. The subject land and nearby vacant lots can reasonably be considered part of the coastal dune system. The three vacant lots east of the pedestrian walkway have already been benched in part, and retained with sandstone walls, to provide a stable building site. Any significant cut or fill may destabilise the sensitive coastal system, particularly given that these lots have been cleared of all vegetation. The design of the dwelling is appropriate in this regard, however it does result in a 900mm encroachment into the site boundary setback required.

The proposal has economic implications as the development of the dwelling will generate employment in the building sector.

The proposal has social implications as the dwelling will provide a place for people to live, and the economic benefits will have flow-on social benefits.

## **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience “Ensure open, transparent, effective good governance and communication within the organisation and the community.”

Strategic Outcome:

1.3 Develop, support and implement innovative solutions.

2. The Community Experience “Provide facilities and services which recognise the diverse needs of the community and strive to make the Shire a safe place to live, work and visit.”

Strategic Outcome:

2.3 Preserve and protect the character of the communities.

3. The Environment Experience “To preserve and enhance the natural and built environment to ensure it is liveable, sustainable and adapts to our communities needs and experiences.”

Strategic Outcome:

3.1 Promote the diverse lifestyle opportunities in the Shire.

4. The Economic Experience “Foster and support responsible and progressive economic development opportunities within the Shire.”

Strategic Outcome:

4.1 Provide opportunities to take advantage of the Shire's location.

## **CONSULTATION**

The application was referred to adjoining land owners and one objection to the application was received. The primary concerns raised in the submission were:

- The building is on the property boundary
- The setback is not in accordance with the Planning Guidelines
- The building should comply with the minimum setback requirement.



The issues listed above are discussed further in the 'Comment' section below. The applicant has responded to the objector's submission, and the Planning Department has forwarded that response to the objector and offered mediation. That offer has not been accepted and the objection remains.

### **COMMENT**

Following the advertising period, the applicant was provided with the opportunity to comment on the submission (see Attachment 4). Having considered the objection, the applicant is continuing to seek a variation to the R-Codes.

Part 5.1.3 (P3.1) of the R-Codes (Lot boundary setback), aims to:

- reduce impacts of building bulk on adjoining properties;
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

The proposal achieves good solar access to the subject land, does not significantly impact on solar access or overshadowing to the abutting land due to its overall height, and does not impact on privacy as no windows are proposed in the eastern elevation. Whilst the wall will be setback within 1m of the boundary, due to the overall height of the wall and the pitch of the roof on the eastern (boundary) side, the reduced setback has little additional impact on shadowing of the neighbouring property. The proposal meets the deemed-to-comply provisions for 'solar access for adjoining sites'. Further, the adjoining vacant lot has ample space for outdoor living and good solar access design, such that any impacts can be avoided.

Part 5.1.3 (P3.2) enables buildings to be built on or within 600mm of lot boundaries where this:

- makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;
- does not compromise the design principle contained in clause 5.1.3 P3.1;
- does not have any adverse impact on the amenity of the adjoining property;
- ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and
- positively contributes to the prevailing development context and streetscape.

Again, the design protects the privacy of both lots by not including windows on the eastern elevation. No impact to the amenity of the adjoining lot is expected to result from the variation, and the objector has not provided details of how they may be impacted.

It has previously been noted that the abutting (objector's) lot is not currently developed, nor has any Development Approval or Building Permit been issued. There is no prevailing streetscape along this part of Peppermint Grove Terrace as the surrounding lots on the northern side of the road are vacant, and much of the southern side of the road is also vacant. Those lots that have been developed on the southern side of the road contain a mixture of single and double storey dwellings, in a variety of styles. As such, the character of the streetscape is not readily identifiable. Therefore, the encroachment of the garage wall into the lot boundary setback is considered unlikely to noticeably impact the streetscape.

### **VOTING REQUIREMENTS**

Simple majority

**OC0809 OFFICER'S RECOMMENDATION – 14.3/COUNCIL MOTION**

Moved Cr J Scott, Seconded Cr Bell

That Council:

- a. **Agrees to a variation to Part 5.1.3 of the Residential Design Codes to allow a wall to be setback from a lot boundary 0.1m in lieu of 1m, at Lot 1 P406053 (205) Peppermint Grove Terrace, Peppermint Grove Beach WA 6271.**
- b. **Pursuant to Clause 68(2)(b) of the Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Scheme) Regulations 2015, grants approval for development of a dwelling at Lot 1 P406053 (205) Peppermint Grove Terrace, Peppermint Grove Beach, in accordance with the plans submitted with the development application and subject to the following conditions:**
  - i) **All development being in accordance with the Approved Development Plan(s) dated 23 August 2017;**
- c. **Advises all submitters of the above decision.**

Lost 3/5

**OC0810 COUNCIL DECISION**

Moved Cr Hearne, Seconded Cr McCleery

**That Council resolves to refuse a variation to Part 5.1.3 of the Residential Design Codes to allow a wall to be setback from a lot boundary 0.1m in lieu of 1m at Lot 1 P406053 (205) Peppermint Grove Terrace, Peppermint Grove Beach WA 6271, due to the following reasons:**

- **Impacts of building bulk on adjoining property Lot 2;**
- **Inadequate direct sun and ventilation to the building on adjoining property Lot 2.**

Carried 5/3

One member of the public left the meeting at 6.13pm and did not return.

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**OC0811 (14.4) Draft Scheme Amendment No. 66**

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Location:	Pt Sub Lot 49 (158) Capel Drive, Capel
Applicant:	RPS
File Reference:	PA45/2017
Disclosure of Interest:	Nil
Date:	02.08.17
Author:	Planning Officer, L Sandon
Senior Officer:	Executive Manager Engineering and Development Services, J Gick
Attachments:	Locality Plan – Lot 49 Capel Drive, Capel

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**IN BRIEF**

Consideration of submissions received during the advertising of the proposed Scheme Amendment for Pt Sub Lot 49 (158) Capel Drive, Capel, and determination of whether to proceed to seek the final approval of the Hon Minister for Planning to Amendment No. 66 to Town Planning Scheme No. 7 (TPS7).

**RECOMMENDATION**

**That Council support Scheme Amendment No. 66 to Town Planning Scheme No. 7 by amending the scheme text 'Special Use' permitted use to include 'Single Dwelling' for Pt Sub Lot 49 Capel Drive, Capel.**

**BACKGROUND / PROPOSAL****Background**

1993 March: Application for Development Approval - School of Hospitality.

1993 April: Application for Development Approval - Café Restaurant extension.

1995 May: Application for Development approval - Café Restaurant extension (Bar).

1995 May: Application for Development Approval - Motel and Workers accommodation with conditions.

1995 December: Signage Application - (Deferred).

1997 December: Application for Development Approval - Restaurant/Function Centre and Motel.

1998 February: Application for Development Approval - Section 40 (Liquor Licensing).

1998 September: Application for Development Approval - Motel building, amenity building and car parking and landscaping.

2017 January: Application for Development Approval - Outbuilding.

**Proposal**

The applicant is requesting to amend the Shire of Capel Town Planning Scheme No. 7 Appendix 4 Special Use to read:

“Motel, Restaurant, Craft Shop, Reception Centre, Single Dwelling”.

The proposal does not require amendments to the Shire of Capel Town Planning Scheme Maps.

The purpose of the amendment is to facilitate the establishment of a residential dwelling on the subject to support the intended use of Craft shop.

### **STATUTORY ENVIRONMENT**

#### Town Planning Scheme No. 7 (TPS7)

Lot 49 is zoned 'Special Use' with permitted uses as detailed in Appendix 4 of TPS7 'Motel, Restaurant, Craft Shop and Reception Centre'. The Special Use does not include specific development standards or conditions.

Pursuant to Clause 3.4 of TPS7 Special use zones *"No Person shall use land or any building or structure thereon in a special use zone except for the purpose set against that land in Appendix 4 and subject to compliance with any conditions specified in the appendix with respect to the land."*

Clause 5.8 states *"Notwithstanding any other provisions of the Scheme in regards to a development permitted in a Special Use Zone Council may at its discretion specify additional site requirements in regard to lot area, minimum effective frontage, development type and style, plot ration car parking, setbacks or any other development provisions."*

#### Greater Bunbury Region Scheme

The Greater Bunbury Region Scheme (GBRS) has identified the subject land as "Urban" and located adjacent to a Primary Regional Road Reserve under the GBRS. The proposed amendment will not require an amendment to the GBRS map(s).

#### Planning and Development Act 2005

Section 75 – A local government may amend a planning scheme with reference to any land within its district by an amendment proposed by all or any owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.

Section 77 – Every local government in preparing or amending a local planning scheme – is to have regard to any State Planning Policy which affects its district and may include in the scheme a provision that a specified State Planning Policy, with such modifications as may be set out in the scheme, is to be read as part of the scheme.

Section 81 - Requires that when Council resolves to prepare or adopt an amendment that the proposal be referred to the Environmental Protection Authority for the determination of whether the amendment requires a formal review.

Section 82 – If the local authority wishes to proceed with the amendment it must firstly comply with or resolve any review requirements of the EPA. The commencement of advertising is not to be undertaken until this action is completed.

Section 83 – A local government, before submitting an amendment to the Minister is to make reasonable endeavours to consult such public authorities and persons as appears to be likely to be affected by the amendment.

Section 84 – After compliance with sections 81 and 82 an amendment to a planning scheme prepared or adopted by a local government is to be advertised for public inspection in accordance with the regulations.

Planning and Development (Local Planning Schemes) Regulations 2015

The Planning and Development Act 2005 outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this amendment.

The Planning and Development (Local Planning Schemes) Regulations 2015, which came into operational effect on 19 October 2015, identifies three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation of the reason for the local government forming that opinion.

Regulation 34 details the meaning of the Basic, Standard and Complex Amendments.

Standard Amendments means any of the following amendments to a local planning scheme -

- (a) *An amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;*
- (b) *An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- (c) *An amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is basic amendment;*
- (d) *An amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;*
- (e) *An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
- (f) *An amendment that does not result in any significant environment, social, economic or governance impacts on land in the scheme area;*
- (g) *Any other amendment that is not a complex or basic amendment.*

Regulation 35 addresses the requirements for adoption of a scheme amendment. Regulation 47 addresses the requirements for advertising of a standard amendment and Regulation 50 addresses the consideration of submissions.

Other Regulations address the specific requirements for amending a local planning scheme e.g. the information to be provided to the Commission when seeking final approval (Regulation 53).

**POLICY IMPLICATIONS**State Planning Policy 3.7 Planning in Bushfire Prone Areas

The Department of Fire and Emergency Service (DFES) Bushfire Prone Maps indicate that the site is partially identified as a Bush Fire Prone Area.

The Guidelines for Planning in Bushfire Prone Areas Clause 5.2.4.1 details that a conservative approach should be taken for local planning scheme amendment, if proposed to facilitate an intensification or settlement or development. As the subject lot is partially within the identified Bush Fire Prone Area and not proposing rezoning consideration has been taken in relation on the proposed additional use of Single Dwelling to the 'Special Use' zoning which currently allows for intensification of development.

It has been considered that it is not necessary for the proposed Scheme Amendment to be accompanied by a Bushfire Hazard Level assessment or Bushfire Attack Level Contour Map. The amendment has a low risk of increasing higher fuel loads, changing the land use intensity or vulnerability.

The proposed amendment to included Single Dwelling may require a Bushfire Attack Level (BAL) assessment completed by an accredited BAL assessor. Issues associated with the Bush Fire Regulations including construction standards would be addressed at the development application stage.

### **RISK IMPLICATIONS**

The level of risk applying the Shire Risk Management Matrix is considered to be 'Low' to the Shire in terms of Financial and Compliance matters.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

Fee rates for Scheme Amendments are set by the Town Planning (Local Government Planning Fees) Regulations and are effectively based on cost recovery. The applicant will be required to meet all administrative and advertising costs. The fees will need to be paid prior to the Scheme Amendment documents being forwarded to the Western Australian Planning Commission for endorsement.

#### **Long Term**

Increased development resulting from Amendment 66 may result in some additional demand on infrastructure and services and will contribute additional rate revenue as development occurs.

### **SUSTAINABILITY IMPLICATIONS**

It is anticipated that Amendment No. 66 will enable a more efficient use of the existing urban zoned land through allowing more mixed use development. Amendment No. 66 will in part assist to implement a key objective of the Capel Townsite Strategy to promote and facilitate the growth of the Capel townsite as a sustainable and vibrant town that is a significant settlement and economic centre within the Shire of Capel.

The proposal is likely to contribute to the economy and social sustainability of the site. The proposal is likely to have minimal environmental implication associated with Amendment No. 66.

### **STRATEGIC IMPLICATIONS**

#### **Shire of Capel Land Use Strategy 1999**

The subject site is contained within Planning Unit CA3 – Capel Townsite. The Outcomes of this Strategy have been incorporated into the adopted Capel Townsite Strategy.

#### **Shire of Capel Strategic Community Plan 2013 - 2031**

3. The Environment Experience 'To preserve and enhance the natural and built environment to ensure it is liveable, sustainable and adapts to our communities needs and experiences.'

Strategic Outcome:

3.1 Promote the diverse lifestyle opportunities in the Shire.

4. The Economic Experience 'Foster and support responsible and progressive economic development opportunities within the Shire.'

Strategic Outcomes:

- 4.1 Provide opportunities to take advantage of the Shire's location.
- 4.2 Pursue diversity and vitality in the local economy.
- 4.9 Encourage business development.

### Capel Townsite Strategy

The Capel Townsite Strategy was adopted by Council in July 2008. The Strategy sets out the long term strategic planning direction for land use and development for the Capel townsite.

A key focus of the Strategy is to identify land for future urban development and to make more efficient use of land within the townsite. In this regard the Strategy identifies areas considered appropriate for intensification of the Capel locality.

Within the Strategy the subject lot is located within *Precinct 5 - North West*. The Strategy describes the precinct as dominated by the Iluka mineral sand processing plant, offices and associated buffer with key issues to be addressed for future planning. Overall the Strategy designates the precinct as Long Term Urban Deferred for future residential development, research and technology opportunities.

Amendment No. 66 addresses the following aims and objectives of the Strategy:

- *Provide a variety of development to meet the needs of the community with regards to housing, employment and services, and to facilitate the provisions of a wide range of social and cultural facilities and services.*
- *Improve the ability of the town to attract and accommodate tourists by highlighting the country village atmosphere, historical character and location as the gateway to the South West Region.*
- *To promote sustainable development that integrates considerations of economic, environmental and social goals.*

Amendment No. 66 does not conflict with the Strategy.

### **CONSULTATION**

Amendment No. 66 was referred to the Environmental Protection Authority on the 5 May 2017, and the Shire received a decision on the 26 May 2017:

*"Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. No Advice Given. (Not Appealable)".*

Amendment No. 66 was advertised for the purpose of community consultation for 42 days between 15 June and 28 July 2017. Advice was sent to five landowners adjoining the Scheme Amendment area and one government agency inviting comment on the proposal. One submission was received from Main Roads Western Australia.

The consultation process reflected the requirements of Sections 83 and 84 of the Planning Development Act 2005 and the Planning and Development (Local Planning Scheme) Regulations 2015 and included:

- Mail-out to land owners in the locality;
- One notice in the Bunbury *South Western Times*;
- Shire of Capel website and social media sites;
- Referral to Main Roads WA;
- Notices and copies of documentation at the Shire office and Capel Library; and
- Notice Sign at subject site.

The submission from Main Roads is summarised below.

*"Main Roads has no objection to the Draft Amendment."*

**COMMENT**

The formal referral and advertisement as required by the Act and Regulations identified that no modifications to the draft scheme amendment is required as the government agencies and community have 'No objections' or 'Comments' to the proposed scheme text amend to Appendix 4.

**CONCLUSION**

The addition of a Single Dwelling in the Special Use zones does not compromise the achievability of the future intent of the site or residential development. The amendment will assist to support the intended use of the lot in a planned and orderly manner.

It is recommended that 'Standard' Scheme Amendment be supported and seek the final approval of the Hon Minister for Planning to Amendment No. 66 to TPS7.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0811 OFFICER'S RECOMMENDATION – 14.4/COUNCIL DECISION</b>
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Moved Cr J Scott, Seconded Cr Bell

That Council:

- (A) In accordance with Section 75 of the Planning and Development Act, 2005 agrees to support 'Standard' Amendment No.66 to Town Planning Scheme No. 7 by:
  - (1) Amending the scheme text 'Special Use' permitted uses to include 'Single Dwelling' for Pt Sub Lot 49 Capel Drive, Capel.
  
- (B) In accordance with regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, specifies that draft Amendment No. 66 is a 'Standard amendment', for the following reason(s):
  - (1) the draft Amendment is consistent with the objectives identified in the Scheme for that zone;
  - (2) the draft Amendment is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission;
  - (3) the draft Amendment is consistent with a Region Planning Scheme that applies to the scheme area, other than an amendment that is a basic amendment;
  - (4) the draft Amendment is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment; and
  - (5) the draft Amendment will have no significant environmental, social, economic or governance impacts on land in the Scheme area not subject to the draft Amendment proposal.
  
- (C) In accordance with Regulation 53 (1) of the Planning and Development (Local Planning Schemes) Regulations 2015 forwards the advertised amendment to the Western Australian Planning Commission for endorsement and subsequent forwarding to the Minister for Planning for final approval.
  
- (D) Advises the applicant that the assessment fee pursuant to the Planning and Development Regulations 2009 is to be paid prior to the Scheme Amendment documents being forwarded to the Western Australian Planning Commission for endorsement.

Carried 8/0



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**OC0812 (14.5) Support for Dedication – Portion of Lot 1 Boyanup Capel Road**

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Location:	Lot 1 Boyanup-Capel Road (1386 Railway Road), Boyanup
Applicant:	Main Roads Western Australia
File Reference:	RO.DC.3
Disclosure of Interest:	Nil
Date:	17.07.17
Author:	Manager Technical Services, K McKeachie
Senior Officer:	Executive Manager Engineering and Development Services, J Gick
Attachments:	<ol style="list-style-type: none"> <li>1. Locality Plan – Lot 1 Boyanup-Capel Road (1386 Railway Road)</li> <li>2. Main Roads Land Dealing drawing 201702-0308-1</li> <li>3. Lot 1 Boyanup Capel Road and Road Reserve Overview Post Designation</li> </ol>

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**IN BRIEF**

Main Roads Western Australia (Main Roads) is seeking Council support for dedication of a portion of land at Lot 1 Boyanup-Capel Road over which it has discovered the road has been built.

**RECOMMENDATION**

**That Council supports the dedication of the land contained in Main Roads Land Dealing Drawing 201702-0308-1 as road under Section 56 of the Land Administration Act (1997).**

**BACKGROUND / PROPOSAL****Background**

Main Roads has initiated action to acquire land from Lot 1 Boyanup-Capel Road, Boyanup. The acquisition of the land will rationalise the land parcels after it was discovered that the road is built over a corner of Lot 1.

Main Roads has initiated acquisition action with the land owner and negotiation is progressing.

Boyanup-Capel Road (Main Roads designation M061) comprises (in whole or in part) those roads locally known as Trigwell, Railway and Gavins roads.

Lot 1 to which this application relates is located at the intersection of Trigwell Road, Railway Road and Reilly Road as shown on the attached Locality Plan (Attachment 1).

**Proposal**

To satisfy the statutory requirements of Section 56 of the Land Administration Act (1997) Main Roads request Council's support for the future dedication of the land being acquired for road purposes.

The area of land affected by the dedication will comprise 2,348m<sup>2</sup> (0.45%) of the existing lot which currently comprises 522,992m<sup>2</sup>.

**STATUTORY ENVIRONMENT**

Land Administration Act (1997)

Section 56 Dedication of land as road states that:

- (1) If in the district of a local government —
- (a) land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government; or
  - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —
    - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or
    - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;
- or
- (c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,
- and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.
- (2) If a local government resolves to make a request under subsection (1), it must —
- (a) in accordance with the regulations prepare and deliver the request to the Minister; and
  - (b) provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.
- (3) On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then —
- (a) subject to subsection (5), by order grant the request; or
  - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
  - (c) refuse the request.
- (4) On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.
- (5) To be dedicated under subsection (3)(a), land must immediately before the time of dedication be —
- (a) unallocated Crown land or, in the case of a private road, alienated land; and
  - (b) designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.
- (6) If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.

### **POLICY IMPLICATIONS**

There are no current Shire Policies relevant to this matter.

### **RISK IMPLICATIONS**

The Risk Implication of this proposal is low.

Main Roads will indemnify Council against all costs and charges in respect to the dedication action.

## **FINANCIAL IMPLICATIONS**

### **Budget**

There are no financial implications relevant to the current budget arising from this matter.

### **Long Term**

Lot 1 Boyanup-Capel Road is rated based upon its Unimproved Value (UV). It is possible that, (pending future advice from the Valuer-General), the rateable value of the affected Lot (Shire of Capel Assessment No. A277) may reduce by a nominal amount.

Should the Valuer-General see fit to amend the rates on this property, an estimate of the loss of revenue to Council might be in the order of \$7.20 plus CPI per annum (pro-rate reduction of 2017 assessed Rates based on land area reduction of 0.45%)

Any such reduction in rates will act in perpetuity from the time of the Valuer General's advice.

## **SUSTAINABILITY IMPLICATIONS**

This proposal represents a rationalisation of existing land uses to regularise the ownership of land to which historical improvement has already occurred.

Acceptance of Main Road's request for support therefore does not raise any new sustainability implications.

Rejection of Main Road's request for support may require Main Roads to undertake a re-alignment of the existing Railway Road segment of the Boyanup-Capel Road (M061) to the north in order to avoid the portion of Lot 1 upon which the road currently encroaches.

Any such realignment would require breaking new ground in the northern extent of the existing road reserve, and the application of additional resources in the form of gravel for sub-base and bitumen for road surfacing. The creation, carting and laying of road base and surfacing materials are known contributory sources of CO<sup>2</sup> and limitation of their use where possible was noted as a desirable outcome by the Carbon Storage Taskforce report '*National Carbon Mapping and Infrastructure Plan – Australia*' tabled to the Western Australian Parliament in September 2009.

## **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

5. The Infrastructure Experience 'Plan and facilitate safe, sustainable and efficient infrastructure and transport networks to meet the needs of the community.'

Strategic Outcomes:

- 5.1 Provide and maintain a safe and efficient transport, cycle, and pedestrian network throughout the Shire
- 5.5 Engage in high level advocacy with the State Government and liaise with other infrastructure providers to obtain best possible levels of service for the community.

## **CONSULTATION**

Internal consultation with respect to Main Roads request for support for dedication of a portion of Lot 1 Boyanup-Capel Road has been undertaken with:

- Chief Executive Officer
- Executive Manager Engineering and Development Services
- Customer Service Co-ordinator.

Shire Officers are satisfied that the acquisition by Main Roads of the nominated portion of Lot 1 Boyanup-Capel Road is appropriate and acceptable.

**COMMENT**

Main Roads' request for support for dedication of the affected portion of Lot 1 Boyanup-Capel Road arises as a consequence of an historical error in the construction of the intersection of the Railway Road and Trigwell Road segments of the Boyanup-Capel Road (M061).

The Boyanup-Capel Road (M061) is a significant strategic route connecting two of the Shire's major townsites (Boyanup and Capel). This link is considered vital to the social and economic development of both towns and is heavily utilised by surrounding rural and regional industries.

This proposal is considered a low-risk solution to preserving the status-quo on a major regional infrastructure asset.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0812 OFFICER'S RECOMMENDATION – 14.5/COUNCIL DECISION</b>
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**Moved Cr Hearne, Seconded Cr J Scott**

**That Council supports the dedication of the land contained in Main Roads Land Dealing Drawing 201702-0308-1 as road under Section 56 of the Land Administration Act (1997).**

Carried 8/0

## CORPORATE SERVICES REPORTS

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### OC0813 (15.1) Audit Committee Minutes

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Location: Capel  
Applicant: Shire of Capel  
File Reference: N/A  
Disclosure of Interest: Nil  
Date: 06.08.17  
Author: Governance Officer, A Handley  
Senior Officer: Executive Manager Corporate Services, S Stevenson  
Attachments: Minutes of the Audit Committee meeting held 26 July 2017

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#### **IN BRIEF**

The Minutes of the Audit Committee meeting of 26 July 2017 are attached for Council consideration and endorsement.

#### **RECOMMENDATION**

**That Council receives the Minutes of the Audit Committee meeting held on 26 July 2017 and adopts the Committee's recommendations:**

##### **AC0702**

**That Council accepts Progress Report 8 generated in response to the second (April 2016) AMD Regulation 17 Report on the appropriateness and effectiveness of Council's risk management, internal controls and legislative compliance; and**

##### **AC0703**

**That Council accepts Progress Report 3 on the development of the Shire of Capel Risk Register.**

#### **BACKGROUND / PROPOSAL**

##### **Background**

Changes to the *Local Government Act 1995* (the Act) that were enacted in 2005 required that Council establish an Audit Committee. The delegation of powers and duties to the Audit Committee was agreed to by Council at the meeting of 28 September 2005 (OC0926).

##### **Proposal**

This item proposes that Council considers and endorses the minutes of the Audit Committee meeting held on 26 July 2017.

#### **STATUTORY ENVIRONMENT**

Local Government Act 1995

##### **5.22 Minutes of council and committee meetings**

- (2) The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

##### **7.1A Audit Committee**

- (1) A local government is to establish an audit committee.

Local Government (Audit) Regulations 1996

**16. Audit Committee, functions of an audit committee —**

- (a) is to provide guidance and assistance to the local government —
  - (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and
  - (ii) as to the development of a process to be used to select and appoint a person to be an auditor; and
- (b) may provide guidance and assistance to the local government as to —
  - (i) matters to be audited; and
  - (ii) the scope of audits; and
  - (iii) its functions under Part 6 of the Act; and
  - (iv) the carrying out of its functions relating to other audits and other matters related to financial management; and
- (c) is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
  - (i) report to the council the results of that review; and
  - (ii) give a copy of the CEO's report to the council.

**POLICY IMPLICATIONS**

There are no policy implications for this item.

**RISK IMPLICATIONS**

An effective Audit Committee reduces the risk to Council of statutory or financial non-compliance by regular scrutiny of audit results, compliance reports and the Shire of Capel Risk Management Register. The Audit Committee also plays an active role in reducing risk to the Shire by examining the reports provided by the Chief Executive Officer in relation to risk management, internal controls and legislative compliance as per the requirements of regulation 17 of the *Local Government (Audit) Regulations 1996*.

**FINANCIAL IMPLICATIONS**

**Budget**

There are no budget implications for this item.

**Long Term**

As no assets/infrastructure are being created, there are no long term financial implications relevant to this matter.

**SUSTAINABILITY IMPLICATIONS**

Continued financial and legislative compliance and a reduction in exposure to risk will have a positive impact on the long term business and operational sustainability of the Shire of Capel.

**STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community.'

Strategic Outcomes:

- 1.1 Ensure continuous improvement of the organisation.
- 1.5 Ensure the effective management of Council's resources.

**CONSULTATION**

No consultation was required for this item.

**COMMENT**

There were two reports presented at the Audit Committee meeting of July 26, 2017. Regulation 17 Progress Report 8 was tabled, describing officer progress in meeting the items identified as requiring attention in the second AMD Regulation 17 Audit Report (2016).

Significant progress has been made and there are now only a limited number of outstanding items. Plans have been made to complete the major outstanding item (lack of a Business Continuity Plan) by June 2018. In addition, the final implementation of the Local Emergency Recovery Plan will be approaching completion by the end of 2018.

The Audit Committee then considered a second item presenting Progress Report 3 on development of the Shire of Capel Risk Register. This is an aggregated reporting tool that provides the Executive Management Team, Audit Committee and ultimately Council with a 'snapshot' of the Shire's current level of exposure to risk, and the controls in place to manage that exposure. It is a fluid document designed to be updated regularly as new risks are identified and controls implemented. Consideration of the effectiveness of controls in the fifteen individual risk themes is complete. Work is now underway identifying indicators that demonstrate changes in effectiveness of the controls, and setting appropriate benchmarks for those indicators.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0813 OFFICER'S RECOMMENDATION – 15.1/COUNCIL DECISION</b>
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Moved Cr J Scott, Seconded Cr Hearne

**That Council receives the Minutes of the Audit Committee meeting held on 26 July 2017 and adopts the Committee's recommendations:**

**AC0702**

**That Council accepts Progress Report 8 generated in response to the second (April 2016) AMD Regulation 17 Report on the appropriateness and effectiveness of Council's risk management, internal controls and legislative compliance; and**

**AC0703**

**That Council accepts Progress Report 3 on the development of the Shire of Capel Risk Register.**

Carried 8/0

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**OC0814 (15.2) Financial Statements for 31 July 2017**

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Location: Capel  
Applicant: Shire of Capel  
File Reference: N/A  
Disclosure of Interest: Nil  
Date: 09.08.17  
Author: Manager Finance, A Mattaboni  
Senior Officer: Executive Manager Corporate Services, S Stevenson  
Attachments: Financial Statements for July 2017

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**IN BRIEF**

Council to consider adopting the monthly financial statements for July 2017.

**RECOMMENDATION**

**That Council adopts the financial statements for the period ending 31 July 2017 as attached.**

**BACKGROUND / PROPOSAL**

**Background**

Local Government (Financial Management) Regulations 1996 prescribe the requirement to prepare financial reports on a monthly basis and also prescribe their format and content.

**Proposal**

The financial statements provided to Council satisfy the requirements.

**STATUTORY ENVIRONMENT**

Local Government Act 1995, Section 6.4 (1) & (2).

**6.4 Financial Report**

Section 6.4 of the Local Government Act 1995 specifies that a local government is to prepare such other financial reports as are prescribed.

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as prescribed.
- (2) The financial report is to –
  - (a) be prepared and presented in the manner and form prescribed; and
  - (b) contain the prescribed information.

Local Government (Financial Management) Regulations 1996, Regulation 34 (1).

**Financial Activity Statement Report**

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



- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
- (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
- (e) the net current assets at the end of the month to which the statement relates.

Sections 2, 3, 4, 5 and 6 prescribe further details of information to be included in the monthly statement of financial activity.

### **POLICY IMPLICATIONS**

Policy 2.6 – Financial Reports, Policy 2.8 – Purchasing, Policy 2.9 – Budget Management – Capital Acquisition & Works, 2.10 – Fixed Asset Accounting, Policy 2.11 – Fair Value of Assets, Policy 2.12 – Investment of Funds.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

Reports showing year to date financial performance allow monitoring of actual expenditure, revenue and overall results against budget targets.

#### **Long Term**

As all expenditure is covered in the current annual budget allocation, there are no long term financial implications from this item.

#### **Whole of Life**

As no assets/infrastructure is being created, there are no whole of life costs relevant to this item.

### **SUSTAINABILITY IMPLICATIONS**

The Monthly Financial Report includes the financial details of a number of projects that have a positive environmental impact and a direct social benefit for the community. Many of the projects and items included in the Monthly Financial Report have or will generate a significant economic benefit for the State and some businesses within the Shire of Capel have already shared in this benefit.

### **STRATEGIC IMPLICATIONS**

The Strategic Community Plan 2013 to 2031 includes the following strategic objectives which have relevance:

- Provide efficient and effective financial management to ensure the long term financial sustainability of the organisation.
- Ensure the effective management of Council's resources.

### **CONSULTATION**

The monthly Financial Statement was developed with the assistance and input of staff who determined expenditure needs and revenue expectations for the remainder of the financial year based upon actual performance compared against budget.

### **COMMENT**

At 31 July 2017, Council's net current assets position was a surplus of \$15,794,331. The forecast 2017/18 year end net current asset position is a surplus of \$222,276.

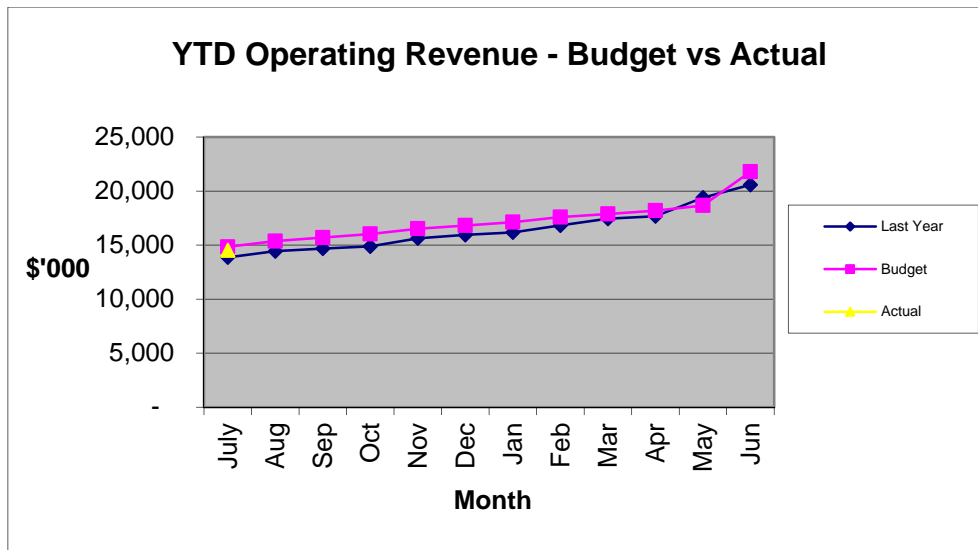
The 2016/17 year end net current asset position is a surplus of \$272,209. This amount may vary to the final surplus (deficit) as accounts are finalised for the 2017 financial year. The 2016/17 forecast net current asset position used for the 2017/18 budget was a surplus of \$61,802.

Compared to the annual budget approximately 85% of Operating Revenue has been invoiced and 4% of the Operating Expenditure budget has been spent. As shown at Note 18, rates have been assessed for the 2017/18 financial year. The monthly budget of income and expenditure has yet to be adjusted to reflect the expected timing of actual income and expenditure throughout the financial year.

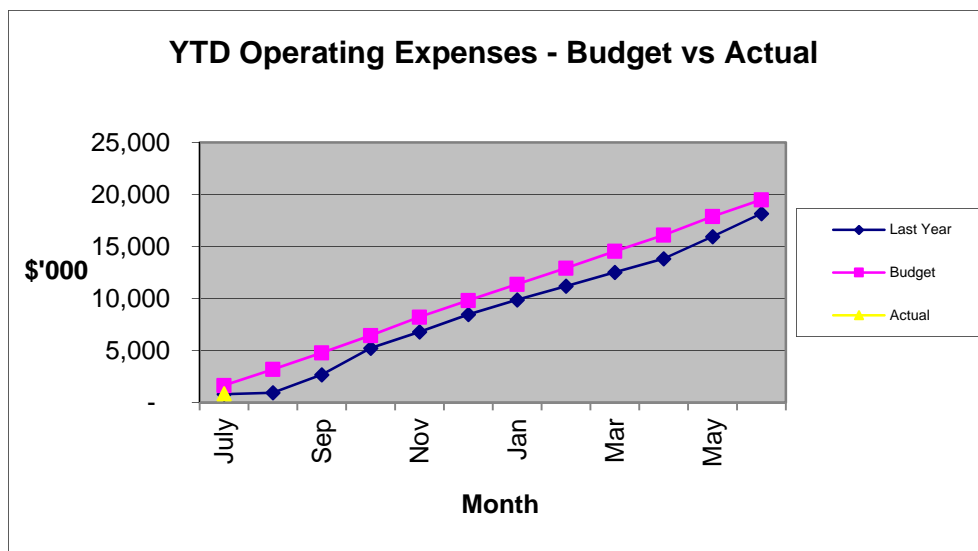
A comparison of employee costs shows that 7% of the annual budget has been spent. Leave liability expenses have been calculated.

Fixed asset depreciation has not been calculated for the month of July 2017 pending the update of the fair value of all assets as at 30 June 2017.

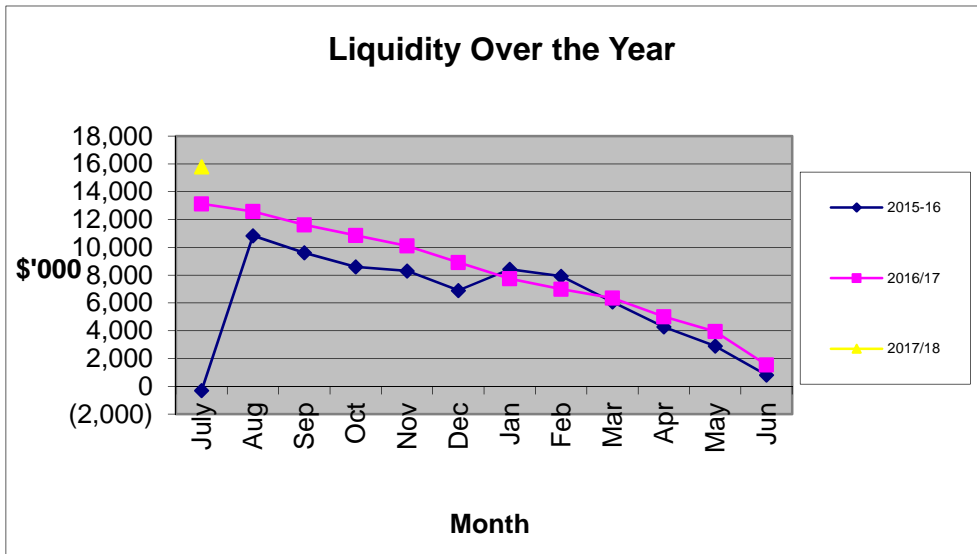
The following graphs compare actual Operating Revenue and Operating Expenditure against the approved budget on a year to date basis. Last year’s actual is also included for comparative purposes.



Year to date actual expenditure compared to budget and last year.

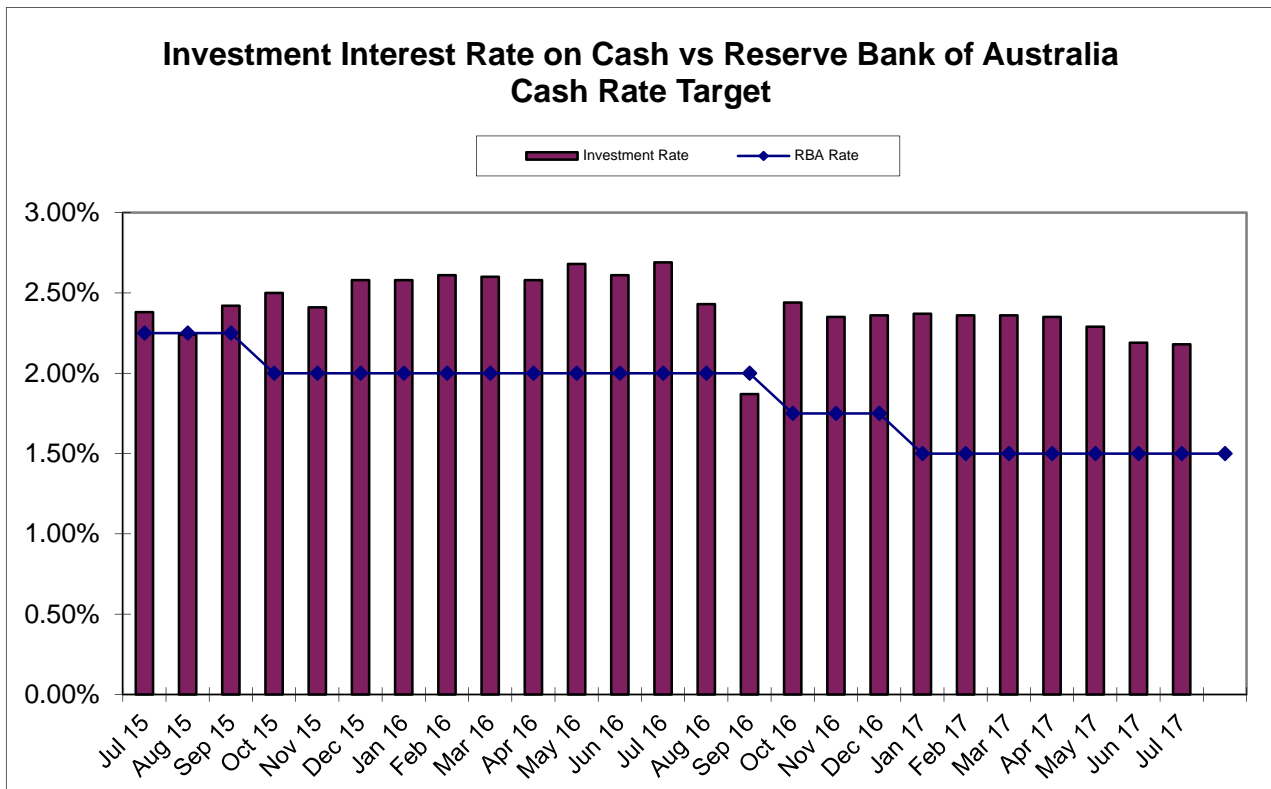


The liquidity graph compares the current year’s net current assets position against that of the two previous years.



Council’s municipal cash and investments position has decreased by \$1,311,961 compared to June 2017. The Municipal cash position is an amount of \$13,327,967 of which \$11,097,745 is restricted for specific purposes as shown at Note 3. The reserve proportion is still to be finalised. Cash revenue came from rates receipts and grant funding. Cash revenue came from Rates receipts and Business Activity Statement refund from the Australian Taxation Office. Major cash expenses were for payroll and contractor payments.

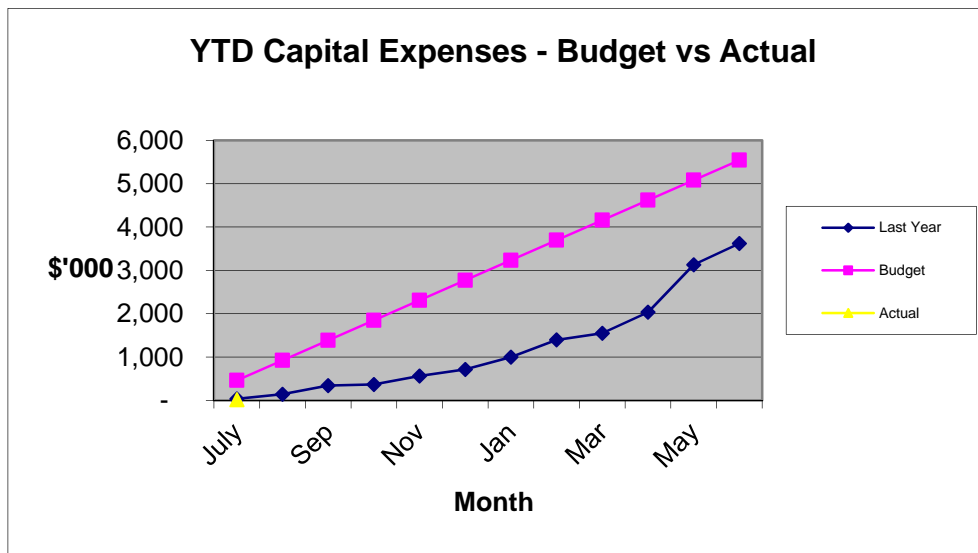
Total interest earned year to date is \$8,295 which is below the year to date budget of \$31,197. The average investment rate of return has decreased to 2.18% which exceeds the Reserve Bank’s cash reference rate of 1.50%. The Reserve Bank Board on 1 August 2017 made no change to their target cash rate of 1.50%. The Shire has term deposits maturing from August 2017 to November 2017, investment terms ranging from 63 days to 182 days and interest rates from 2.20% to 2.50%.



Capital works expenditure of \$15,681 was incurred during the month on:

- \$4,283 Shire boundary signs,
- \$7,950 Playground replacement programme, and
- \$3,448 Age Friendly Community Plan.

The following graph compares actual capital expenditure against budget on a year to date basis. Last year’s actual is included for comparative purposes. The monthly budget is yet to be adjusted to reflect the expected timing of capital expenditure throughout the financial year. Non cash infrastructure has not been included in the graph.

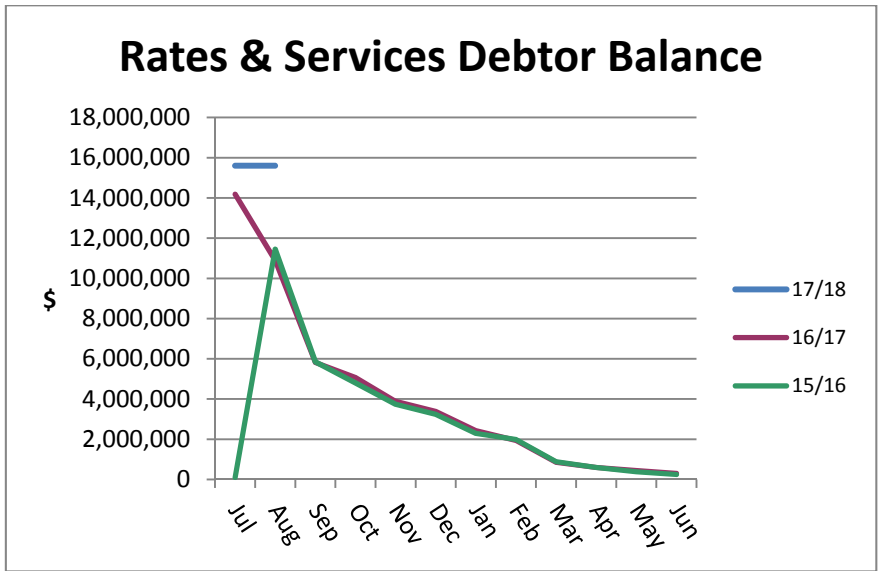


Council’s financial ratios are disclosed in Note 14.

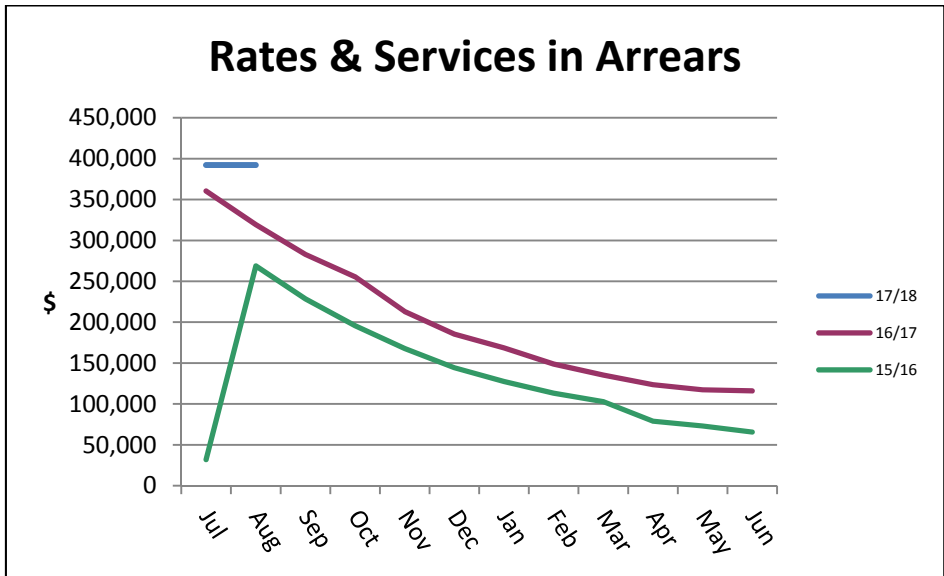
The following graph illustrates Council’s current level of general Debt recovery for 31-60 days, 61-90 days and greater than 90 days.



The following illustrates Council’s current level of Rate Debtors recovery and compares this with previous years. The amount includes both current and in arrears rates & services debtor balance. The Rates Debtor balance continues to fall in line with previous years.



The following graph shows the level of rates and services in arrears for the last three years. Rates and Services in Arrears at the start of each financial year as a percentage of the Rates and Services Debtor Balance has been: 2017/18 2.51%, 2016/17 2.54% and 2015/16 2.35%.



A review of the Statement of Financial Position and the attendant notes indicates there are no adverse trends evident in the year to date financial statements as at 31 July 2017.

**VOTING REQUIREMENTS**

Simple majority

**OC0814 OFFICER’S RECOMMENDATION – 15.2/COUNCIL DECISION**

**Moved Cr McCleery, Seconded Cr J Scott**

**That Council adopts the financial statements for the period ending 31 July 2017 as attached.**

Carried 8/0

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**OC0815 (15.3) Accounts Due and Submitted for Authorisation**

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Location: Capel  
Applicant: Shire of Capel  
File Reference: N/A  
Disclosure of Interest: Nil  
Date: 23.08.17  
Author: Finance & Accounts Payable Officer, S Searle  
Senior Officer: Executive Manager Corporate Services, S Stevenson  
Attachments: Nil

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**IN BRIEF**

Adoption of accounts to be paid.

**RECOMMENDATION**

**That Council authorises the Schedule of Accounts covering vouchers EFT24895 to EFT24928, a total of \$57,133.10 for payment.**

**BACKGROUND / PROPOSAL**

**Background**

Accounts for payment are required to be submitted each month for authorisation.

**Proposal**

The list of accounts listed for payment have been checked and certified by staff as being correct and are submitted for the endorsement of Council.

**STATUTORY ENVIRONMENT**

Local Government Act 1995, section 6.10

**6.10. Financial management regulations**

- (d) The general management of, and the authorisation of payments out of-
  - (i) the municipal fund; and
  - (ii) the trust fund,of a local government.

Local Government (Financial Management) Regulations 1996, regulation 13, 1 & 2

**13. List of accounts**

- (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;
  - (b) the amount of the payment;
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transactions.
- (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;
  - (ii) The amount of the payment; and
  - (iii) sufficient information to identify the transactions;and
- (b) the date of the meeting of the council to which the list is to be presented.

### **POLICY IMPLICATIONS**

There are no current policies relevant to this matter.

### **RISK IMPLICATIONS**

Risk is medium. The schedule of accounts is a list available to the public of Council creditors, the amounts paid to these creditors and a description of the transaction.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

Payment from Council's Municipal Fund.

There are no financial implications relevant to this matter in the annual budget.

#### **Long Term**

There are no long term financial implications relevant to this matter.

#### **Whole of Life**

As no asset/infrastructure is to be created there are no whole of life costs relevant to this matter.

### **SUSTAINABILITY IMPLICATIONS**

The Shire provides monetary funds to suppliers in exchange for goods and services received. Where possible it is preferred to pay suppliers by electronic funds transfer; with remittances emailed thereby reducing the amount of paper used, lessening the environmental impact.

### **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community'.

Strategic Outcomes:

1.4: Provide efficient and effective financial management to ensure long term financial viability of the organisation.

### **CONSULTATION**

Relevant staff have been consulted and authorised the payments. Documents have been reviewed by Manager Finance, A Mattaboni.

### **COMMENT**

Accounts due and submitted for authorisation are as follows:

EFT24895	24/08/2017	AUSTRALIA DAY COUNCIL OF WA (INC)	STANDARD MEMBERSHIP 2017/18	242.00
EFT24896	24/08/2017	SOUTHWEST TYRE SERVICE	WHEEL ALIGNMENT - CP9477	150.00
EFT24897	24/08/2017	BUNBURY TYREPOWER	NEW REAR WHEEL FOR OUTFRONT MOWER	110.00
EFT24898	24/08/2017	B & B STREET SWEEPING	CLEARING OF CAPEL GPTS AND SUMP SUCKER HIRE	1237.50
EFT24899	24/08/2017	BUNNINGS BUILDING SUPPLIES PTY LTD	4 LENGTHS OF JARRAH BATTERNS, TIN OF JARRAH STAIN, BOX OF SCREWS, NYLON NUTS AND WASHERS FOR PUBLIC TOILETS MAINTENANCE AND VANDAL PROOF TAPS	249.79
EFT24900	24/08/2017	BLACKWOODS	ONE PAIR OF FIRE FIGHTING BOOTS	189.60
EFT24901	24/08/2017	BRAD BROOKSBY	TRAFFIC MANAGEMENT PLAN REVIEW AND APPROVAL SERVICES JUNE 2017	264.00
EFT24902	24/08/2017	BLUE'S TOWING	TOW TOYOTA COROLLA HATCH FROM NORTON PROM.	88.00
EFT24903	24/08/2017	STAPLES AUSTRALIA PTY LTD	2017/2018 STATIONERY	674.95
EFT24904	24/08/2017	CLEANAWAY	COLLECTION & DISPOSAL OF WASTE FROM CAPEL WASTE TRANSFER STATION FOR 2017/18 AS PER CONTRACT	10931.57
EFT24905	24/08/2017	FAST FINISHING SERVICES	BOOK BINDING OF COUNCIL MINUTES (27/01/16 TO 25/01/17)	438.08
EFT24906	24/08/2017	CARBONE BROS PTY LTD	105 TONNES GRAVEL	1858.74
	24/08/2017	DISCOUNT AUTO PARTS	REPLACEMENT OF LEFT SIDE HEAD LIGHT 44CP	70.80
EFT24908	24/08/2017	FENNESSY'S	30,000KM SERVICE CP9320	434.25
EFT24909	24/08/2017	GRACE RECORDS MANAGEMENT	RECORDS STORAGE AND DESTRUCTION FOR 2017/18-JULY 17	370.09
EFT24910	24/08/2017	SUEZ RECYCLING & RECOVERY (PERTH) PTY LTD	PROCESSING OF RECYCLABLES AS PER CONTRACT DATED JULY 2017	4734.26
EFT24911	24/08/2017	STATE LIBRARY OF WESTERN AUSTRALIA	DELIVERY OF BETTER BEGINNINGS PROGRAM 2017-18	1221.00
EFT24912	24/08/2017	LOCAL HEALTH AUTHORITIES ANALYTICAL COMMITTEE	ANALYTICAL EXPENSES	4302.08



EFT24913	24/08/2017	LD TOTAL	LANDSCAPING MAINTENANCE FOR TOWN PARK, LANDSCAPE MAINTENANCE CAPEL CIVIC PRECINCT, REMOVAL OF BUSH CAMP AT MCMILLAN PARK AND PRUNING TREES AT KAMBANY PARK	2898.50
EFT24914	24/08/2017	LANDGATE	9 X LAND ENQUIRIES	101.20
EFT24915	24/08/2017	LOCAL GOVERNMENT PROFESSIONALS AUSTRALIA WA	2017-18 MEMBERSHIP SUBSCRIPTIONS LGPA	1223.00
EFT24916	24/08/2017	MALATESTA ROAD PAVING & HOT MIX	400 LITRES OF EMULSION	608.00
EFT24917	24/08/2017	MCLEODS BARRISTERS AND SOLICITORS	LEGAL ADVICE FOR BOYANUP SALEYARDS	4307.48
EFT24918	24/08/2017	MJB INDUSTRIES	CONCRETE PIPE AND HEADWALL SPURR ST	691.90
EFT24919	24/08/2017	MARKETFORCE	ADVERTISING FOR PROPOSED LOCAL LAWS, 5 AD PACK AND EARLY SETTLEMENT DISCOUNT	1831.66
EFT24920	24/08/2017	FULTON HOGAN INDUSTRIES PTY LTD	48 X 20KG BAGS - EZISTREET	1795.20
EFT24921	24/08/2017	PRIME INDUSTRIAL PRODUCTS	VARIOUS HARDWARE INCLUDING GLOVES EARPLUGS SAFETY SPECS CAR WASH AND TOILET ROLLS	263.23
EFT24922	24/08/2017	RTW STEEL FABRICATION	SUPPLY AND INSTALL GAUGE FOR HOSE AND STAND WITH LID FOR CARAVAN DUMP POINT AT BUCHANAN RD CAPEL	2827.00
EFT24923	24/08/2017	SCS SAND & PLANT HIRE	ROLLER HIRE FOR 8 DAYS	1672.00
EFT24924	24/08/2017	SIRSIDYNIX	SIRSIDYNIX SYMPHONY SAAS VPN SUBSCRIPTION - ADDITIONAL SITE & VPN CONNECTION ADDITIONAL SITE SERVICE	539.00
EFT24925	24/08/2017	TRUCK & MACHINE	REMOVE REVERSING CAMERA AND IN CAB SCREEN BOYANUP LT	173.25
EFT24926	24/08/2017	TOTAL HORTICULTURAL SERVICES	GARDEN RENOVATIONS ALONG MAIDMENT PDE. EXTRA MULCHING WITH LEFTOVER MULCH.	6566.28
EFT24927	24/08/2017	WESTRAC EQUIPMENT	ROLLER SERVICE - CP4833 - SHIRE DEPOT ON WED 5TH 2017 - 2000 HOUR SERVICE AND 500 HOUR SERVICE ON CP339	3406.69
EFT24928	24/08/2017	THE PRINT SHOP	10000 DLX ENVELOPES	662.00
				57,133.10

OUTSTANDING CREDITORS AS AT 31 July 2017: \$190,586.41

CERTIFICATE OF CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for 23 August 2017 have been checked and are fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and services and as to prices, computations, and costings and the amounts shown are due for payment.

*P.F. Sheedy.*

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

**VOTING REQUIREMENTS**

Simple majority

**OC0815 OFFICER'S RECOMMENDATIONS – 15.3/COUNCIL DECISION**

**Moved Cr Hearne, Seconded Cr Bell**

**That Council authorises the Schedule of Accounts covering vouchers EFT24895 to EFT24928, a total of \$57,133.10 for payment.**

Carried 8/0

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**OC0816 (15.4) Accounts Paid During the Month of July 2017**

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Location: Capel  
Applicant: Shire of Capel  
File Reference: N/A  
Disclosure of Interest: Nil  
Date: 23.08.17  
Author: Finance & Accounts Payable Officer, S Searle  
Senior Officer: Executive Manager Corporate Services, S Stevenson  
Attachments: Nil

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**IN BRIEF**

Authorisation of accounts paid during the month.

**RECOMMENDATION**

**That Council receives:**

- 1 The Schedule of Accounts covering vouchers 812-819, EFT24651 to EFT24827, CHQ48548 to CHQ4856 totalling \$1,055,806.07 during the month of July 2017;**
- 2 Payroll payments for the month of July 2017, totalling \$423,629.08; and**
- 3 Transfers to and from investments as listed.**

**BACKGROUND / PROPOSAL****Background**

Accounts paid are required to be submitted each month.

**Proposal**

The list of accounts listed for payment have been checked and certified by staff as being correct and are submitted for the endorsement of Council.

**STATUTORY ENVIRONMENT**

Local Government Act 1995, section 6.10

**6.10. Financial management regulations**

- (d) The general management of, and the authorisation of payments out of-
  - (iii) the municipal fund; and
  - (iv) the trust fund,  
of a local government.

Local Government (Financial Management) Regulations 1996, regulation 13, 1 & 2

**13. List of accounts**

- (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;

- (b) the amount of the payment;
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transactions.
- (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;
    - (ii) The amount of the payment; and
    - (iii) sufficient information to identify the transactions;
  - and
  - (b) the date of the meeting of the council to which the list is to be presented.

### **POLICY IMPLICATIONS**

There are no current policies relevant to this matter.

### **RISK IMPLICATIONS**

Risk is medium. The schedule of accounts is a list available to the public of Council creditors, the amounts paid to these creditors and a description of the transaction.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

Payment from Council's Municipal Fund.

There are no financial implications relevant to this matter in the annual budget.

#### **Long Term**

There are no long term financial implications relevant to this matter.

#### **Whole of Life**

As no asset/infrastructure is to be created there are no whole of life costs relevant to this matter.

### **SUSTAINABILITY IMPLICATIONS**

The Shire provides monetary funds to suppliers in exchange for goods and services received. Where possible it is preferred to pay suppliers by electronic funds transfer; with remittances emailed thereby reducing the amount of paper used, lessening the environmental impact.

### **STRATEGIC IMPLICATIONS**

Shire of Capel Strategic Community Plan 2013 – 2031

1. The Leadership Experience 'Ensure open, transparent, effective good governance and communication within the organisation and the community'.

Strategic Outcome:

1.4: Provide efficient and effective financial management to ensure long term financial viability of the organisation.

### **CONSULTATION**

Relevant staff have been consulted and authorised the payments. Documents have been reviewed by Manager Finance, A Mattaboni.

**COMMENT**

Payments made during the month of July 2017 are as follows:

EFT24651	03/07/2017	WESTNET PTY LTD	CAPEL ADMINISTRATION	264.88
EFT24652	05/07/2017	BOYANUP P & C	CATERING OF THE 2017 VOLUNTEER BUSH FIRE BRIGADE THANK YOU BREAKFAST	1600.00
EFT24653	05/07/2017	ARROW BRONZE	OMEGA VASE FEDERICK CHARLES KING - BOYANUP NICHE WALL	95.64
EFT24654	05/07/2017	ARBORGUY	CUT BACK VEGETATION ALONG PEPPERMINT GROVE TERRACE FOR LINE OF SIGHT AND CLEARANCE ISSUE	3036.00
EFT24655	05/07/2017	BOYANUP HALL ADVISORY COMMITTEE	DONATION FOR CARETAKING OF BOYANUP HALL JULY- SEPT	219.25
EFT24656	05/07/2017	BOYANUP FOUNDATION INC	CORPORATE MEMBERSHIP FOR 2017/2018	66.00
EFT24657	05/07/2017	B & B STREET SWEEPING	JETTER & SUCKER - KILLERBY DRIVE	1320.00
EFT24658	05/07/2017	BUSSELTON NETBALL ASSOCIATION	KIDSPORT VOUCHERS	394.00
EFT24659	05/07/2017	STAPLES AUSTRALIA PTY LTD	2016/17 STATIONERY	385.96
EFT24660	05/07/2017	BUNBURY CITY BULLS JUNIOR RUGBY CLUB	KIDSPORT VOUCHER	200.00
EFT24661	05/07/2017	COFFEY SERVICES AUSTRALIA PTY LTD	RADIOLOGICAL SURVEY OF CAPEL SPORTS OVAL, BUSHLAND AND BOWLING CLUB	5362.50
EFT24662	05/07/2017	CAPEL CLEANING	WEEKLY VACUUMING SHIRE OFFICES AND PLAYGROUP BUILDING 23/6/17	135.00
EFT24663	05/07/2017	CAPEL NEWSAGENCY	STATIONERY, CLASSIFIEDS AND NEWSPAPERS FOR JUNE	203.77
EFT24664	05/07/2017	CURTIN UNIVERSITY OF TECHNOLOGY	TUITION FEES FROM YOUTH DEVELOPMENT SCHOLARSHIP	3393.00
EFT24665	05/07/2017	DALYELLUP DOCKERS FOOTBALL CLUB	KIDSPORT VOUCHERS	919.98
EFT24666	05/07/2017	GIRL GUIDES WA INC	KIDSPORT VOUCHERS	352.00
EFT24667	05/07/2017	HBL JUNIOR FOOTBALL CLUB AUSKICK	KIDSPORT VOUCHER	85.00
EFT24668	05/07/2017	LESCHENAULT NETBALL ASSOCIATION	KIDSPORT VOUCHER	200.00
EFT24669	05/07/2017	LGIS WORKCARE SCHEME	HEALTH ASSESSMENT	666.50

EFT24670	05/07/2017	SOUTH WEST TREE SAFE	GELORUP RISE -CLEAR VEGETATION FOR DRAINAGE WORK, REMOVE TREE OVER PLAYGROUND CAPEL OVAL AND REMOVE DEAD TREE AND GRIND STUMP DALYELLUP	3850.00
EFT24671	05/07/2017	SOUTHERN LOCK & SECURITY	SUPPLY 6 PADLOCKS KEYED TO L1 ON SHIRE SYSTEM	499.75
EFT24672	05/07/2017	SOS OFFICE EQUIPMENT	SHIRE AND LIBRARIES PHOTOCOPIER METERBILLING	2238.62
EFT24673	05/07/2017	STRATHAM BOBCAT HIRE	BOBCAT HIRE FOR SHOULDER WORK ON MANEA DR	1776.50
EFT24674	05/07/2017	SPRAYMOW SERVICES	ROAD VERGE SPRAYING ON VARIOUS VERGES IN DALYELLUP	1408.00
EFT24675	05/07/2017	T & V FENCING CONTRACTORS	MODIFICATION TO BOUNDARY FENCE IN GELORUP APPROX 18M	855.80
EFT24676	05/07/2017	TOTALLY WORKWEAR	STAFF UNIFORMS	125.40
EFT24677	05/07/2017	VACUUM WORLD SALES & SERVICE	SUPPLY 3 PACKS VACUUM BAGS	60.00
EFT24678	05/07/2017	WESTRAC EQUIPMENT	NEW GRADER - P0119	184613.00
EFT24679	05/07/2017	WESTERN AUSTRALIAN TREASURY CORPORATION	LOAN NO. 89 - CAPEL CIVIC PRECINCT	72089.62
EFT24680	05/07/2017	ZARBELLIKA	GIS CONSULTING - MAY 2017	3482.88
EFT24681	10/07/2017	FUJI XEROX AUSTRALIA PTY LTD	17/18 LEASE OF PHOTOCOPIER PER MONTH - CAPEL LIBRARY	132.00
EFT24682		-EFT24714	PAYMENT ALREADY APPROVED BY COUNCIL, PLEASE REFER TO AGENDA ON 26.07.17	0.00
EFT24715	12/07/2017	AMITY SIGNS	ROAD SIGNS	121.00
EFT24716	12/07/2017	AUSTRALIA POST	MONTHLY POSTAGE INCLUDING 2 AND 3 BIN CALENDARS	5674.26
EFT24717	12/07/2017	AMPAC DEBT RECOVERY	DEBT RECOVERY	8.84
EFT24718	12/07/2017	ARBORGUY	REMOVE DEAD PEPPI AND OVERHANGING LIMBS FROM STAIR CASE AT DIGGERS RESERVE BOYANUP	1320.00
EFT24719	12/07/2017	BUNBURY MOWER SERVICE	MISC PARTS INCLUDING HEADS, SPOOLS, CORD AND CLEANING FLUID	616.50
EFT24720	12/07/2017	TRISSET BOSS PTY LIMITED	8000 RATES NOTICES A4	3858.00

EFT24721	12/07/2017	BUSSELTON NETBALL ASSOCIATION	KIDSPORT VOUCHER	147.00
EFT24722	12/07/2017	BUSSELTON CIVIL PTY LTD	BRIDGE STREET, BOYANUP UPGRADE	5056.31
EFT24723	12/07/2017	BENDIGO BANK BUSINESS CREDIT CARD	03.06.17 - \$76.85 - WOOLWORTHS - STAFF MOVE DAY 03.06.17 - \$200.00 - EAGLE BAY BREW - STAFF REWARD AND RECOGNITION 06.06.17 - \$158.40 - SAFETY CULTURE - IAUDITDOR ANNUAL SUBSCRIPTION 10.06.17 - \$1640.00 - VARIDESK - 2 VARIDESKS AND 2 MONITOR ARMS 11.06.17 - \$228.94 - NOVOTEL LANGLEY - ACCOMMODATION FOR WORKSHOP 13.06.17 - \$200.00 - MARKET EATING HOUSE - STAFF RECOGNITION 13.06.17 - \$36.30 - CAPELBERRY - CEO FUNCTION 20.06.17 - \$107.50 - CAPELBERRY - LUNCH EXEC MANAGERS AND CONSULTANT 21.06.17 - \$2114.60 - ALL OCCASIONS GROUP - INTERNATIONAL PUBLIC WORKS CONFERENCE 21.06.17 - \$2114.60 - OCCASIONS GROUP - IPW CONFERENCE 23.06.17 - \$295.00 - VARIDESK - DUAL MONITOR ARM 29.06.17 - \$8.00 CARD FEE	7180.19
EFT24724	12/07/2017	BUNBURY NETBALL ASSOCIATION	KIDSPORT VOUCHERS	360.00
EFT24725	12/07/2017	BLADE RUNNER GRADER HIRE	MAINTENANCE GRADING	2043.80
EFT24726	12/07/2017	STAPLES AUSTRALIA PTY LTD	2016/17 STATIONERY	173.47
EFT24727	12/07/2017	CAPEL NEWSAGENCY	LIBRARY NEWSPAPERS	50.90
EFT24728	12/07/2017	DATA #3	GFI ARCHIVER ADDITIONAL MAILBOXES	273.13
EFT24729	12/07/2017	DX PRINT GROUP PTY LTD	5 X VEHICLE IMPOUND NOTICE STICKER BOOKS	506.00

EFT24730	12/07/2017	FIT 2 WORK.COM.AU	EMPLOYEE CHECK	40.59
EFT24731	12/07/2017	GHD PTY LTD	GROUNDWATER MONITORING & LIAISON WITH DER RE REQUIREMENTS FOR FURTHER MONITORING	5082.00
EFT24732	12/07/2017	HANSON CONSTRUCTION MATERIALS PTY LTD	101 TONNE AG FILL	945.66
EFT24733	12/07/2017	INSPIRED DEVELOPMENT SOLUTIONS	LEADERSHIP DEVELOPMENT AND COACHING	13560.84
EFT24734	12/07/2017	IVC COMPUTER SERVICES IVC	S X 24 LG MONITORS AND CABLES	437.90
EFT24735	12/07/2017	LD TOTAL	REPLACE DAMAGED /DANGEROUS CABLE PIT AND REPLACE MISSING SLAT ON PARK BENCH	441.76
EFT24736	12/07/2017	MUIR'S MANJIMUP	30,000KM SERVICE FOR FORD RANGER CREW CAB 80 CP AND REPLACE BROKEN TAIL LIGHT COVER	787.03
EFT24737	12/07/2017	MILLWOOD FOREST PRODUCTS	DEPOSIT FOR WORK ON TUART BUFFET FOR CHAMBERS	2500.00
EFT24738	12/07/2017	PERTH MANAGEMENT SERVICES	DALYELLUP LIBRARY SHOP RENTAL	1552.77
EFT24739	12/07/2017	KRISTINA RUSSELL	CROSSOVER CONTRIBUTION	300.00
EFT24740	12/07/2017	SOUTH WEST TREE SAFE	REMOVE 2 DEAD GUMS	1540.00
EFT24741	12/07/2017	SOS OFFICE EQUIPMENT	METERBILLING FOR SHIRE AND LIBRARY PHOTOCOPIERS	15.39
EFT24742	12/07/2017	STRATHAM BOBCAT HIRE	SUPPLY AND SPREAD CRACKER DUST AT DALYELLUP SURF CLUB, DIGGER HIRE ON MANEA DVE AND DIG OUT DRAIN AT BOYANUP REC GROUNDS	2873.75
EFT24743	12/07/2017	ST JOHN AMBULANCE WESTERN AUSTRALIA LTD	PORTABLE REPLACEMENT FIRST AID KITS	1422.30
EFT24744	12/07/2017	SOURCE SEPARATION SYSTEMS PTY LTD	COMPOSTABLE BAGS - 162 CARTONS (62 ROLLS, 52 BAGS PER ROLL)	24527.45
EFT24745	12/07/2017	THOMPSON SURVEYING CONSULTANTS	PROVISION FOR FIELD SURVEY	990.00
EFT24746	12/07/2017	TOTALLY WORKWEAR	STAFF UNIFORMS	2374.85
EFT24747	12/07/2017	TRAFFIC FORCE	SUPPLY TRAFFIC CONTROLLERS LILLYDALE RD OIL SPILL	987.61



EFT24748	12/07/2017	VACUUM WORLD SALES & SERVICE	FILTERS FOR DYSON	60.00
EFT24749	12/07/2017	VASSE ROYALS FOOTBALL CLUB	KIDSPORT VOUCHERS	280.00
EFT24750	12/07/2017	DIRT DESIGN	REMOVE OLD PLANTS, BOX OUT ADD SOIL CON, MULCH AND PLANTS TO CAPS GARDENS ON MAIDMENT PDE. TRAFFIC MANAGEMENT INCLUDED	28964.10
EFT24751	12/07/2017	FINES ENFORCEMENT REGISTRY	LODGEMENT FEE FOR INFRINGEMENT 1309 (STANDLEY)	708.00
EFT24752	13/07/2017	FINES ENFORCEMENT REGISTRY	LODGEMENT FEE FOR INFRINGEMENT 1292 (GEE)	59.00
EFT24753	17/07/2017	BENDIGO BANK LIMITED	BANK CONFIRMATION FEE 17/7/17	30.00
EFT24754	19/07/2017	AUSQ TRAINING	BASIC WORKSITE TRAFFIC MANAGEMENT AND CONTROLLER TRAINING	3829.00
EFT24755	19/07/2017	ANIMAL PEST MANAGEMENT SERVICES	FOX TRAPPING IN DALYELLUP BUSHLAND RESERVES	1094.50
EFT24756	19/07/2017	BUNBURY MOWER SERVICE	2 X SAFETY HELMETS, EAR MUFF, SWEAT BANDS ETC	358.50
EFT24757	19/07/2017	BUNBURY TYREPOWER	WHEEL ALIGNMENT, BALANCE AND ROTATE CP9503	120.00
EFT24758	19/07/2017	BUSSELTON TOYOTA	60,000KM SERVICE AND HIRE OF A LOAN VEHICLE FOR THE DAY	331.45
EFT24759	19/07/2017	BUNBURY HARVEY REGIONAL COUNCIL	DISPOSAL WASTE FOR THIRD ORGANIC BIN DOMESTIC SERVICE AND REGIONAL WASTE EDUCATION OFFICER PART COST	7014.09
EFT24760	19/07/2017	BASKETBALL SOUTHWEST	KIDSPORT VOUCHER	220.00
EFT24761	19/07/2017	BP AUSTRALIA	7800 LITRES DISTILLATE	8735.39
EFT24762	19/07/2017	STAPLES AUSTRALIA PTY LTD	2016/17 STATIONERY	424.80
EFT24763	19/07/2017	CARBONE BROS PTY LTD	100 TONNE GRAVEL	1780.94
EFT24764	19/07/2017	DELRON CLEANING	CARRY OUT WEEKLY CLEANING OF EAST DALYELLUP PAVILION AS QUOTED COMMENCING 20 FEB TO JUNE 30	330.00
EFT24765	19/07/2017	DORMAKABA AUSTRALIA PTY LTD	SERVICE AUTO DOORS AT SHIRE OFFICE 16/17	132.00

EFT24766	19/07/2017	EASIFLEET MANAGEMENT	2017/18 NOVATED LEASE	753.86
EFT24767	19/07/2017	EARTH 2 OCEAN COMMUNICATIONS	INSTALL RADIO INTO NEW GRADER + NEW AERIAL - (TM8115)	814.38
EFT24768	19/07/2017	EDGE TOURISM AND MARKETING	BUNBURY GEOGRAPHE GROWTH PLAN - PROJECT TECHNICAL OFFICER CONTRACT 5 DEC 2016 TO 30 JUNE 2017	6699.00
EFT24769	19/07/2017	FENNESSY'S	45,000 KM SERVICE FOR HOLDEN CALAIS CP 0	655.49
EFT24770	19/07/2017	GANNAWAYS	BUS CHARTER FOR INZONE	375.00
EFT24771	19/07/2017	HANSON CONSTRUCTION MATERIALS PTY LTD	47.32 TONNE OF RIP RAP	1769.77
EFT24772	19/07/2017	HARVEY FARM SERVICE	BLADES, BOLTS AND WASHERS FOR MOWERS, FIND AND REPAIR FAULTY SEAT COMPRESSOR, SPACERS FOR JOCKEY WHEEL AND REAR FLASHING LIGHT	1216.88
EFT24773	19/07/2017	JUMOR WASTEWATER SERVICE & REPAIRS	ANAEROBIC TREATMENT UNIT MAINTENANCE	1006.30
EFT24774	19/07/2017	KLEENHEAT GAS	CYLINDER SERVICE CHARGE PEPPERMINT GROVE BEACH	75.90
EFT24775	19/07/2017	SUEZ RECYCLING & RECOVERY (PERTH) PTY LTD	DISPOSAL OF KERBSIDE RECYCLING - MAY AND JUNE	9024.73
EFT24776	19/07/2017	KEEN'S TRUCK DRIVING TRAINING	MR LICENCE TRAINING COURSE	400.00
EFT24777	19/07/2017	LD TOTAL	DALYELLUP ESTATE - BOX OUT EXISTING GARDENS & ADD SOIL CON, MULCH & NEW PLANTS AS QUOTED, OIL PICNIC SET AND BENCH AND FILL IN WASH AREA WITH LIMESTONE, CARRY OUT WEED CONTROL & UNDERTAKE SPRAY TO CUT STUMPS, REMOVE GRAFFITI FROM SEVERAL LOCATIONS IN LAWSON POS & REPAIR DAMAGED LATERAL PIPES IN MCMILLAN POS	19276.40
EFT24778	19/07/2017	KJ & TM LOUBSER	RATES REFUND	159.77

EFT24779	19/07/2017	MAINSPRAY	RURAL ROAD AND TOWNSITE SPRAYING AND WEED CONTROL AT DIGGERS RESERVE INCLUDING REMOVAL OF KURRAJONG TREES	17149.00
EFT24780	19/07/2017	MOUNTS BAY WATERS APARTMENT HOTEL	ACCOMMODATION - MOUNTS BAY WATERS APARTMENTS - 20 - 24 AUGUST	1143.00
EFT24781	19/07/2017	VODAFONE HUTCHISON AUSTRALIA PTY LTD	17/18 VODAFONE MESSAGING FOR BFB	236.96
EFT24782	19/07/2017	PRESTIGE PRODUCTS-BUSSELTON	VARIOUS CLEANING AND TOILETRY PRODUCTS	278.41
EFT24783	19/07/2017	PICTON TYRE CENTRE PTY LTD	NEW FRONT TYRE CP9112	839.00
EFT24784	19/07/2017	AUSTRALIA TAXATION OFFICE	PAYG WITHHOLDING 4.07.17 AND 11.07.2017	66107.37
EFT24785	19/07/2017	RAMM SOFTWARE PTY LTD	RAMM SOFTWARE ANNUAL SUBSCRIPTION	8594.09
EFT24786	19/07/2017	CAPEL FRESH IGA	DRINKS, MILK, COFFEE ETC FOR TRAINING	27.15
EFT24787	19/07/2017	STEWART & HEATON CLOTHING CO PTY LTD	10 PAIR OF S & H WILDLAND GLOVES	243.76
EFT24788	19/07/2017	SONIC HEALTHPLUS PTY LTD	PRE-EMPLOYMENT MEDICAL WASTE TRANSFER STATION CASUAL	291.50
EFT24789	19/07/2017	THINKTANK MEDIA PTY LTD	REGISTRATIONS FOR CORPORATE PA SUMMIT + 2 MASTERCLASSES	4380.49
EFT24790	19/07/2017	WESTERN AUSTRALIAN TREASURY CORPORATION	GOV GUARANTEE LOAN FEE JUN17	25551.59
EFT24791	19/07/2017	WREN OIL	COLLECTION AND DISPOSAL OF WASTE OIL AND OILY WATER FROM CAPEL WASTE TRANSFER STATION FOR 2016/17	16.50
EFT24792	19/07/2017	GELORUP COMMUNITY MANAGEMENT COMMITTEE	COMMUNITY GRANTS SCHEME - ROUND 2 16/17	3000.00
EFT24793	19/07/2017	PELLING FAMILY INVESTMENTS PTY LTD	RATES REFUND	537.46
EFT24794	20/07/2017	BANKWEST	BANKWEST AUDIT CERTIFICATE FEE	60.00
EFT24795	21/07/2017	CALTEX AUSTRALIA	FLEET FUEL	2517.17
EFT24796	26/07/2017	SOUTHWEST TYRE SERVICE	TYRE REPAIR - PUNCTURE EMERGENCY REPAIR	38.00
EFT24797	26/07/2017	BUNBURY WELLINGTON ECONOMIC ALLIANCE	MEMBERSHIP FEES 2017/18	12127.50

EFT24798	26/07/2017	BLACKWOODS	12X CLEAR SAFETY AND TINTED GLASSES	167.65
EFT24800	26/07/2017	CLEANAWAY	16/17 WASTE, RECYCLING & ORGANIC COLLECTION	60573.82
EFT24801	26/07/2017	CAPEL GARAGE	BATTERY FOR CP9132	345.95
EFT24802	26/07/2017	D-RANGED ART & DESIGN	RON MAIDMENT & WIFE PORTRAIT FOR CAPTIVATE CAPEL	1650.00
EFT24803	26/07/2017	CAPEL PANEL & PAINT	CP9378 - EXCESS - CLAIM 633565734	1000.00
EFT24804	26/07/2017	CARBONE BROS PTY LTD	100 TONNE GRAVEL	1786.58
EFT24805	26/07/2017	DELRON CLEANING	CLEANING OF SHIRE OFFICES, EAST DALYELLUP PAVILION AND 2 TRANSPORTABLES AT WTS	1041.15
EFT24806	26/07/2017	CAROLYN DEBEAUX AND NEIL MEEK	CROSSOVER CONTRIBUTION	300.00
EFT24807	26/07/2017	ELGIN HALL COMMITTEE	REIMBURSEMENT FOR ELECTRICITY CONSUMPTION AT ELGIN HALL	120.22
EFT24808	26/07/2017	GOLDEN WEST PLUMBING & DRAINAGE	CARRY OUT SERVICE OF UV FILTER AT CAPEL HALL, GELORUP COMMUNITY CENTRE, CAPEL WASTE TRANSFER AND ELGIN HALL	1599.40
EFT24809	26/07/2017	BRIAN FISHER FABRICATION	REPAIR TO GUARDRAIL NORTON PROMENADE	3278.00
EFT24810	26/07/2017	GANNAWAYS	BUS FOR INZONE	425.00
EFT24811	26/07/2017	SMALL BUSINESS CENTRE	INSTAGRAM FOR BUSINESS TRAINING WORKSHOP	65.00
EFT24812	26/07/2017	LD TOTAL	EXTRA LANDSCAPE MAINTENANCE AT CAPEL CIVIC PRECINCT AND DALYELLUP ESTATE, CONTRACT MAINTENANCE FOR EAST DALYELLUP SPORTS PAVILION AND CAPEL CIVIC PRECINCT	4004.00
EFT24813	26/07/2017	LGIS FIRE INSURANCE	LGIS BUSHFIRE INSURANCE	10780.00
EFT24814	26/07/2017	LGIS LIABILITY SCHEME	17/18 LIABILITY INSURANCE 1ST INSTALMENT AND CRIME INSURANCE	22168.30
EFT24815	26/07/2017	LGIS WORKCARE SCHEME	17/18 WORKCARE INSURANCE - 1ST INSTALMENT	107866.90

EFT24816	26/07/2017	LGIS INSURANCE BROKING	PERSONAL ACCIDENT, MARINE CARGO, MANAGEMENT LIABILITY, TRAVEL, MARINE HULL COMMERCIAL, CYBER LIABILITY AND MOTOR VEHICLES INSURANCES	33523.35
EFT24817	26/07/2017	JUST YOUNGER CATERING	CATERING FOR MONTHLY COUNCIL MEETINGS	392.00
EFT24818	26/07/2017	MARGARET RIVER BUSSELTON TOURISM ASSOCIATION	NGILGI CAVE INZONE SCHOOL HOLIDAY PROGRAM	290.00
EFT24819	26/07/2017	OUTBACK IMAGING PTY LTD	ANNUAL SOFTWARE MAINTENANCE RENEWAL 15/5/17 - 14/8/18	924.00
EFT24820	26/07/2017	PERTH MANAGEMENT SERVICES	ANNUAL RENTAL AND VARIABLE OUTGOINGS FOR DALYELLUP LIBRARY	1552.77
EFT24821	26/07/2017	SOUTH WEST TREE SAFE	VARIOUS TREE REMOVALS AND PRUNINGS IN SHIRE	7150.00
EFT24822	26/07/2017	ST JOHN AMBULANCE W A LTD	FIRST AID KIT FOR LOADER	65.00
EFT24823	26/07/2017	IT VISION	SYNERGYSOFT ANNUAL LICENCE RENEWALS	68054.36
EFT24824	26/07/2017	BPS	PUMP OUT SEPTIC TANKS & GREASE TRAP	959.90
EFT24825	26/07/2017	LGIS PROPERTY SCHEME	1718 PROPERTY INSURANCE - 1ST INSTALMENT	42392.63
EFT24826	31/07/2017	AUSTRALIAN TAXATION OFFICE	LATE PAYMENT OF SUPERANNUATION GUARANTEE INTEREST CHARGE	3.82
EFT24827	31/07/2017	FUJI XEROX AUSTRALIA PTY LTD	ANNUAL PHOTOCOPIER RENTAL AND SERVICE AGREEMENT FOR SHIRE PHOTOCOPIERS	1369.61
48548	05/07/2017	TELSTRA CORPORATION LTD	MOBILE RENT AND CALLS	2110.97
48549	07/07/2017	TELSTRA CORPORATION LTD	VELOCITY INTERNET SERVICE FOR EAST DALYELLUP SPORTS PAVILION	81.00
48550		CANCELLED		0.00
48551	12/07/2017	SHIRE OF CAPEL	SHIRE PETTY CASH	145.75
48552	12/07/2017	SYNERGY	ELECTRICITY	30673.55
48553	12/07/2017	TELSTRA CORPORATION LTD	RENT & CALLS	2127.25
48554	12/07/2017	COURIER AUSTRALIA INTERNATIONAL	FREIGHT FOR EASYPOL FLOOR POLISH	98.48
48555	12/07/2017	TELSTRA CORPORATION LTD	VELOCITY INTERNET SERVICE FOR EAST DALYELLUP SPORTS PAVILION	95.00

48556	19/07/2017	COURIER AUSTRALIA INTERNATIONAL	COURIER COSTS	91.32
48557	19/07/2017	SHIRE OF CAPEL	DALYELLUP LIBRARY NEWSPAPERS PETTY CASH RECOUP	28.00
48558	19/07/2017	SHIRE OF DARDANUP	R FENECH - ATTENDANCE AT PUBLIC SECTOR NETWORK SMART CITIES EVENT	218.90
48559	19/07/2017	SHIRE OF KALAMUNDA	RATES REFUND	2150.81
48560	19/07/2017	WATER CORPORATION	WATER USAGE	230.61
48561	19/07/2017	WCAA	REFUND FOR CANCELLED BOOKING	60.00
48562	20/07/2017	JACOB D'ATH	REFUND FOR CANCELLED BOOKING	114.63
48563	26/07/2017	SHIRE OF CAPEL	LOCAL GOV CONVENTION SUNDRY EXPENSES POLICY 1.6 AND 3.10	262.70
48564		-48564	CANCELLED	0.00
48565	26/07/2017	SYNERGY	ELECTRICITY	1161.85
48566	26/07/2017	WATER CORPORATION	WATER USAGE	663.84
812	12/07/2017	BUILDING & CONSTRUCTION IND TRAINING FUND	JUNE 2017 BCITF LEVY COLLECTED	10682.03
813	12/07/2017	DEPARTMENT OF COMMERCE - BUILDING COMMISSION	JUNE 2017 BSL LEVY'S COLLECTED	11074.67
814	12/07/2017	SHIRE OF CAPEL	JUNE 2017 BSL COMMISSION COLLECTED	446.75
815	12/07/2017	LIANE MOLEWYK	T2256 HALL BOND REFUND	150.00
816	12/07/2017	TOBIE WUNDENBERG	HALL BOND REFUND	500.00
817	19/07/2017	JACOB D'ATH	T2260 CANCELLED BOOKING REFUND OF BOND	500.00
818	19/07/2017	SUSAN DOWNES	T2255 BOND REFUND	150.00
819	19/07/2017	BEN SMALL	T2251 BOND REFUND	500.00
				1,055,806.07

11.07.17	SHIRE OF CAPEL PAYROLL PAYMENTS	\$165,985.44
04.07.17	SHIRE OF CAPEL PAYROLL PAYMENTS	92,417.25
25.07.17	SHIRE OF CAPEL PAYROLL PAYMENTS	\$165,226.39

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**\$423,629.08**

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12.07.17	TRANSFER to MUNICIPAL ACCOUNT	\$670,000.00
26.07.17	TRANSFER to MUNICIPAL ACCOUNT	\$682,000.00

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**\$1,352,000.00**

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CERTIFICATE OF CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment, covering vouchers as detailed above which was submitted to each member of Council on 23 August 2017 have been checked and are fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and services and as to prices, computations, and costings and the amounts shown are due for payment.

*P.F. Steady.*

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

**VOTING REQUIREMENTS**

Simple majority

<b>OC0816 OFFICER'S RECOMMENDATIONS – 15.4/COUNCIL DECISION</b>
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**Moved Cr J Scott, Seconded Cr Schiano**

**That Council receives:**

- 1 The Schedule of Accounts covering vouchers 812-819, EFT24651 to EFT24827, CHO48548 to CHO48566 totalling \$1,055,806.07 during the month of July 2017;**
- 2 Payroll payments for the month of July 2017, totalling \$423,629.08; and**
- 3 Transfers to and from investments as listed.**

Carried 8/0

## COMMUNITY SERVICES REPORTS

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### OC0817 (16.1) Parking Amendment - Ferndale Avenue, Dalyellup

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Location:	Dalyellup
Applicant:	Shire of Capel
File Reference:	LE.LL.1
Disclosure of Interest:	Nil
Date:	03.08.17
Author:	Manager Emergency & Ranger Services, D Freeman
Senior Officer:	Executive Manager Community Services, M Plume
Attachment:	Map - Ferndale Avenue Dalyellup – No Stopping Locations

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#### **IN BRIEF**

To adopt parking restrictions in Ferndale Avenue, Dalyellup adjacent to the Tuart Forest Primary School to enhance safety of students.

#### **RECOMMENDATION**

**That Council, in accordance with provisions of the Shire of Capel Parking and Parking Facilities Local Law 2016 adopts the parking restrictions as shown in Ferndale Avenue, Dalyellup – Proposed No Stopping Location – attached to this agenda.**

#### **BACKGROUND / PROPOSAL**

##### **Background**

The Tuart Forest Primary School has been established on Ferndale Avenue as part of the overall community infrastructure required for the Dalyellup Community.

The School was opened in 2013 and is attended by some 470 students, many of whom are dropped off at the start of the school day, and picked up at the end of the day by parents/carers.

The Shire's Community Rangers, when patrolling this area have noticed that many drivers either park in the median strip, or drive over the footpath to park between the footpath and the school fence.

The problem is at its worst at school pick up times as all students are released from the school at the same time. Parents also arrive at the school often well in advance of the end of the school day and wait for the students. This means that the peak duration of this problem is often drawn out over a long period of time.

Cars park in the bays on the northern side of Ferndale Avenue meaning that students are crossing a busy road to get to their parent/carer. It is considered that the provision of clear lines of sight for motorists by regulating illegal parking will substantially increase student safety.

##### **Proposal**

It is considered that the most effective solution to this matter, in terms of cost and maintaining traffic flow is for the Shire to place appropriate parking restrictions along the southern carriageway of Ferndale Avenue from Parade Road to the entrance to the East Dalyellup Sports Pavilion and on the median strip in Ferndale Avenue.

The parking restrictions proposed are shown on the attachment to this item.



## **STATUTORY ENVIRONMENT**

In relation to parking control amendments or the adoption of new parking controls, the Shire of Capel Parking and Parking Facilities Local Law 2016 requires the following process:

### **Part 2 – Parking stalls and parking stations**

#### 2.1 Determination of parking stalls and parking stations

(1) The local government may by resolution constitute, determine and vary and also indicate by signs –

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

(2) Where the local government makes a resolution under this clause, it shall erect signs to give effect to the resolution.

## **POLICY IMPLICATIONS**

There are no current Council Policies that are relevant to this matter.

## **RISK IMPLICATIONS**

There is a possible low level of risk (reputational) if Council adopts the officer's recommendation as there may be some backlash at Council by drivers who currently park in this area.

Should Council choose not to address this matter as recommended, it is considered that a high level of potential risk to the reputation of Council should an incident occur involving a student from the school as a consequence of unmanaged parking.

## **FINANCIAL IMPLICATIONS**

### **Budget**

While there are some minor costs to be incurred in the installation of the signage required, it is considered these can be accommodated within existing budget allocations. There is also possible future income from parking infringement notices however it is hoped that this will not be significant due to community acceptance of the parking restrictions.

### **Long Term**

Although an asset (the signs) is being created, these signs, along with every other sign in the Shire have a finite life but are replaced on an "as needs" basis and within current budget maintenance allocations for this purpose.

## **SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications associated with this matter.

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2013 to 2031

5. The Infrastructure Experience “Plan and facilitate safe, sustainable and efficient infrastructure and transport networks to meet the needs of the community.”

Strategic Outcome:

5.1 Provide and maintain a safe and efficient transport, cycle, and pedestrian network throughout the Shire.

## **CONSULTATION**

This matter and potential solutions have been considered by officers from the Shire’s Rangers, Planning and Engineering Services.

The matter has also been discussed with school representatives. School representatives are aware of the problems and risks posed to the students and have agreed to promote the reasons (student safety) behind the installation of the signage and enforcement of the parking restrictions.

## **COMMENT**

There are currently 70 parking bays within a 100 metre walk from school gates. There are 12 parking bays along the northern side of Ferndale Avenue, from Parade Road east to Jargoan Approach and a further 7 along the southern side of the carriage way immediately adjacent to the school. There are also a further 51 bays within the parking area of the adjacent East Dalyellup Sports Pavilion.

Notwithstanding the close proximity of available parking to the school boundary, drivers have been observed driving over the footpath and parking on the verge, or parking on the median strip.

In arriving at the recommendation to Council on this matter, the following process has taken place:

- Problem identified – this problem was identified by direct observation of driver behaviour by Shire staff.
- Facts of the situation assessed/clarified – Officers met onsite with School representatives to observe firsthand the issues to be considered. Officers were satisfied that a problem exists that needed to be rectified if possible.
- Risk Assessment – the risks associated with the current situation were considered to establish what level of action should be undertaken. Officers considered that there was a high level of risk due to the high number of students crossing lanes of traffic as well as traffic seeking to pass parked vehicles being forced to cross over into the path of oncoming traffic.
- Consideration of solution options – The provision of additional “off road” parking areas was not considered feasible for financial and strategic planning reasons. There is no other land under the control of the Shire on which additional parking can be constructed. The concept of purchasing some of the as yet undeveloped future residential land north of Ferndale Avenue for the purposes of parking associated with school activities was not considered feasible or in keeping with the planned development in this locality. It is considered, however, that there is more than adequate “off carriageway” parking available, providing that parents/carers are prepared to accept that students may have to walk a short (50m – 100m) distance. Drivers using this facility also benefit by their children not having to cross any roads to get to cars parked in this location.

In addition to the parking at the pavilion and also the on street parking, there is parking within the school boundaries as well as parking to the south of the school on Crystal Bend (2 x 4 car Kiss and Drop bays).

- Consider whether restrictions, signage or road side marking are necessary – the marking of the proposed restrictions by way of traffic signs will be necessary to enable enforcement under the Shire’s Parking and Parking Facilities Local Law by Shire staff.
- Consider the risks associated with the proposed solution – there are no direct risks associated with the proposed solution.
- Is public consultation warranted – As this is a matter of student/public safety and given the amount of alternative and safer parking options available, it is considered that no further public consultation is required.
- Enforcement – given the importance of this matter in resolving a high risk situation, and the publicity to be given by the school, it is intended that Shire staff would initially provide an “educational presence” for the first week or so, but after that time, it would be expected that alternative enforcement measures would be implemented.

Council could consider not adopting the Officer’s Recommendation on this matter. The matter is considered however to be of sufficient seriousness/risk that an alternative solution would need to be determined; possibly at greater expense to the Shire.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0817 OFFICER’S RECOMMENDATION – 16.1/COUNCIL DECISION</b>
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**Moved Cr McCleery, Seconded Cr Norton**

**That Council, in accordance with provisions of the Shire of Capel Parking and Parking Facilities Local Law 2016, adopts the parking restrictions as shown in Ferndale Avenue Dalyellup – Proposed No Stopping Location – attached to this agenda.**

Carried 8/0

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**OC0818 (16.2) Local Emergency Management Committee**

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Location:	Whole of Shire
Applicant:	Shire of Capel
File Reference:	RM.EM.1
Disclosure of Interest:	Nil
Date:	08.08.17
Author:	Manager Emergency & Ranger Services, D Freeman
Senior Officer:	Executive Manager Community Services, M Plume
Attachments:	Local Emergency Management Committee Minutes 01.08.2017

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**IN BRIEF**

To consider the minutes of the meeting of the Shire of Capel Local Emergency Management Committee held on 1 August 2017.

**RECOMMENDATION**

**That Council receives the minutes of the Local Emergency Management Committee meeting held on 1 August 2017.**

**BACKGROUND / PROPOSAL****Background**

The Shire of Capel Local Emergency Management Committee (LEMC) was established as an advisory committee to the Council in response to the obligations placed upon Local Government arising from the proclamation of the Emergency Management Act 2005.

The Committee in accordance with the Emergency Services Act must meet at least four times per year and shall conduct an annual exercise.

**Proposal**

That the minutes of the meeting of the Shire of Capel Local Emergency Management Committee held on 1 August 2017 be received.

**STATUTORY ENVIRONMENT**

Emergency Management Act 2005

**Sections 36 and 38**

- Section 36 provides that it is a function of a local government to ensure that effective local emergency management arrangements are prepared and maintained for its district.
- Section 38 requires a local government to establish one or more local emergency management committees for the local government's district.

Local Government Act 1995

**Section 5.22**

5.22 - that the minutes of a committee are to be submitted to the next Ordinary Meeting of the Council for confirmation.

**POLICY IMPLICATIONS**

Council Policy - There are no Council Policies that are relevant to this matter.

Consideration of matters relating to local emergency risks is consistent with the objectives of the Shire's local emergency management arrangements and State Emergency Policy 3.2 – Emergency Risk Management Planning as follows:

### **3.2 Emergency Risk Management Planning**

3.2.1 Mitigation strategies should be guided by emergency risk management (ERM) planning. ERM is defined as 'a systematic process which contributes to the wellbeing of communities and the environment. The process considers the likely effects of hazardous events and the controls by which they can be minimised.

3.2.2 One of the State Emergency Management Committee's (SEMC) functions is 'to develop and coordinate risk management strategies to assess community vulnerability to emergencies' (s. 14(e) Emergency Management Act).

3.2.3 The SEMC has endorsed six State Core Objectives, which apply to Western Australia, to assist in measuring the risk posed to Western Australian communities as part of ERM planning. These highlight important objectives for the State which may be impacted by an emergency event, as they contain identifiable vulnerable elements (i.e. key vulnerabilities).

3.2.4 As further explained in Appendix B and on the OEM website, the State Core Objectives relate to:

- people;
- economy;
- social;
- government;
- infrastructure; and
- environment.

#### State Emergency Management Committee Policy 2.5

Emergency Management in Local Government Districts provides local governments are required to ensure that local emergency management arrangements are prepared for their districts. Local Emergency Management Arrangements should reflect the emergency management capabilities and responsibilities of the agencies and industries involved and recognise and comply with any of their statutory responsibilities.

### **RISK IMPLICATIONS**

There are no risks to Council arising from any matters in these minutes.

### **FINANCIAL IMPLICATIONS**

#### **Budget**

There are no financial implications for the budget associated with this matter.

#### **Long Term**

As no assets/infrastructure are being created there are no whole of life costs relevant to this item.

### **SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications associated with this matter.

**STRATEGIC IMPLICATIONS**

Consideration of this matter is consistent with the following Strategies and Actions of the Shire of Capel Corporate Business Plan 2016– 2020:

- Strategy 2.4A Enhance community safety and wellbeing.
- Action 2.4A1 Plan for the safety of the community
- Action 2.4A2 Promote emergency and fire risk awareness and implement fire and emergency management initiatives.
- Strategy 3.4A – Develop community awareness and involvement in risk management.
- Strategy 3.4B Lead our communities in emergency management.
- Action 3.4B1 – Review and maintain the Shire’s Emergency Management Plan, enabling adequate preparedness and response to emergencies.
- Action 3.4B2 – Support and promote the development of capacity and community involvement in the Local Emergency Management Committee and Local Recovery Committee.

**CONSULTATION**

Membership of the LEMC is comprised of representatives from a number of external agencies as well as officers and elected members of the Shire of Capel. No further consultation is required.

**COMMENT**

The minutes provided as an attachment to this item are a true and correct record of proceedings.

Council is advised that officers will work with the District Emergency management Advisor to ascertain ways in which the \$4,000 grant allocation from the Office of Emergency Management can be utilised.

**VOTING REQUIREMENTS**

Simple majority

<b>OC0818 OFFICER’S RECOMMENDATION – 16.2/COUNCIL DECISION</b>
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**Moved Cr J Scott, Seconded Cr Smith**

**That Council receives the minutes of the Local Emergency Management Committee meeting held on 1 August 2017.**

Carried 8/0

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**OC0819 (16.3) Bush Fire Advisory Committee**

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Location:	Capel
Applicant:	Shire of Capel
File Reference:	ES.ME.2
Disclosure of Interest:	Nil
Date:	09.08.17
Author:	Manager Emergency & Ranger Services, Dean Freeman
Senior Officer:	Executive Manager Community Services, M Plume
Attachments:	1. Minutes of the meeting of the Bush Fire Advisory Committee held on 7 August 2017 2. Attachments to BFAC Agenda meeting 7 August 2017

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**IN BRIEF**

To consider the minutes of the meeting of the Shire of Capel Bush Fire Advisory Committee (BFAC) held on 7 August 2017.

**RECOMMENDATION**

**That Council receives the Minutes of the Bush Fire Advisory Committee held on 7 August 2017, and adopts the Committee's recommendations.**

**BACKGROUND / PROPOSAL****Background**

The BFAC meets a minimum of twice each year to advise Council on matters relating to its responsibilities under the Bush Fires Act 1954.

Consistent with Council Policy 4.1 – Bush Fire Advisory Committee Meetings, the draft Bush Fire Order for the ensuing fire season shall be considered at the August meeting of the BFAC each year.

**Proposal**

The minutes of the meeting of the Shire of Capel Bush Fire Advisory Committee held on 7 August 2017 be received and the recommendations therein be adopted.

**STATUTORY ENVIRONMENT**

Section 33 of the Bush Fires Act empowers a local government to, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, to give notice in writing to the owners or occupiers of land requiring them to undertake specified works by a specified date.

Section 67 of the Bush Fires Act 1954 provides that a local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires and any related matters.

**POLICY IMPLICATIONS**

This item is relevant to all of the Council's Policies relating to Law Order & Public Safety, as the BFAC has reviewed these policies as part of the Shire's biennial review of all policies.

## **RISK IMPLICATIONS**

There are no risk implications associated with this matter.

## **FINANCIAL IMPLICATIONS**

### **Budget**

Provision has been made within the 2017/18 budget for the printing and postage of the 2017/18 Bush Fire Order and the enforcement of the Order by Shire staff.

### **Long Term**

As no assets are to be created as a result of any recommendations from the BFAC meeting, there are no long term financial implications for the Shire related to this matter.

## **SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications associated with this report.

## **STRATEGIC IMPLICATIONS**

Consideration of this matter is consistent with the following Strategies of the Shire of Capel Corporate Business Plan 2013 – 2017

- Strategy 2.4A Enhance community safety and wellbeing.
- Strategy 2.4A1 Plan for the safety of the community
- Strategy 2.4A2 Promote emergency and fire risk awareness and implement fire and emergency management initiatives.
- Strategy 3.4B Lead our communities in emergency management
- Strategy 3.4B1 Review and maintain the Shires Emergency Management Plan, enabling adequate preparedness and response to emergencies.

## **CONSULTATION**

The BFAC membership comprises representatives of all of the Shire's Bush Fire Brigades, Council delegate, the Chief and Deputy Chief Bush Fire Control Officers and other agencies involved in bush fire suppression and risk mitigation. No further consultation is considered necessary.

The adopted Bush Fire Order will be mailed out to individual landowners, placed on the Shire's website and published in accordance with the Bush Fires Act 1954.

No further consultation is considered necessary.

## **COMMENT**

The following matters are provided to Council as they either require a resolution from Council or are considered of particular interest:

### **2018/19 Annual Bush Fire Order – Consideration of Possible Amendments**

The Committee has considered how best to deal with the risk of bush fire on farm land which is not being actively managed/farmed. Current requirements for rural land only address firebreak installation but do not address the matter of fuel levels across the land parcel.

Traditionally, the majority of rural land has been actively farmed in a manner that reduces fuel levels, either by harvesting of feed or grazing. As there appears to be an increasing number of land parcels which are not being actively managed, the Committee has requested the Manager Emergency & Ranger Services conduct further investigation on the matter and present a full



report on how to manage unmanaged rural land to the committee for consideration at its next meeting in February 2018.

The Committee also considered whether there was merit in considering bringing forward the date for compliance with the Bush Fire Order having regard for the trend of drier weather and the need to have the community fire prepared earlier in the season.

### **2017/18 Annual Bush Fire Order**

The Committee have reviewed the 2016/17 Bush Fire Orders and whether any changes are required to reduce the risk of bush fire and protect assets within our community.

The Committee has acknowledged that the current requirements for the protection of buildings is inadequate and therefore more specific requirements have been included in the 2017/18 Bush Fire Order as agreed to by the Committee.

### **Review of Council Policies**

The Committee has reviewed the policies of the Council relating to Section 4 – Law Order and Public Safety. The changes recommended, and as contained in the draft attachments to this agenda are summarised as follows:

- All instances of the term “Firebreak Order” have been replaced with “Bush Fire Order”;
- All references to the “Emergency Management Coordinator” have been replaced with “Manager Emergency & Ranger Services”;
- Where operationally appropriate, the Executive Assistant Community Services has been added as an additional point of contact.
- All references to the “Department of Parks & Wildlife (DPAW)” have been replaced with “Department of Biodiversity, Conservation & Attractions (DBCA);
- All references to points of contact with Shire Staff have been amended to reflect the order in which that contact should be made (Policies 4.4, 4.5, 4.13 & 4.14);
- Policy 4.1 (Bush Fire Advisory Committee Meetings) – points 1 and 2 of Policy Statement 1 have been removed;
- Policy 4.9 (Duties of Rangers at Fires) has been removed completely;
- All references to the requirement for Fire Control Officers to Complete the Volunteer Captain/Fire Control Officer/Chief Bush Fire Control Officer (VFF 6) Course have been removed and replaced with the Fire Control Officer course, now a separate course delivery;
- Policy 4.11 – ‘Manager Engineering’ has been replaced with ‘Manager Operations’
- Policy 4.13 (Fire Fighter’s Meals – Fire Service Incidents) – the “breakfast, lunch or tea” requirement for meals to be supplied has been removed and replaced with a 4 hour attendance minimum. Point 4 has also been removed;
- Policy 4.15 (Payment to Chief & Deputy Chief Bush Fire Control Officers) – the following section of the Policy Statement has been removed “The amount of this ex-gratia payment is recommended to Council by the Bush Fire Advisory Committee”, “and Deputy Chief” has been added to relevant areas of this policy (see attached);

- What was previously Policy 4.21 (Use of Warning Lamps and Audible Warning Systems) has been brought forward to Policy 4.17 so that it follows on fluidly from Policy 4.16 Minimum Driver Training – Shire of Capel Fire Appliances;
- Policy 4.20 (Brigade Members – Competence at Fire Grounds) – Objective – further definition has been added as follows “(a fire ground includes a Bushfire and also includes Hazard Reduction Burns)”;
- What is now Policy 4.21 (Brigade Officer Qualifications), under the requirements for Chief/Deputy Bush Fire Control Officer, the requirements have been simplified into one statement “Demonstrated competence as a Fire Control Officer, with at least 5 years’ active experience in that role.”

### **VOTING REQUIREMENTS**

Simple majority

<b>OC0819 OFFICER’S RECOMMENDATION – 16.3/COUNCIL DECISION</b>
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**Moved Cr J Scott, Seconded Cr Bell**

**That Council receives the Minutes of the Bush Fire Advisory Committee held on 7 August 2017, and adopts the Committee’s recommendations as follows:**

**BF 0806**

1. **2017/18 Draft Bush Fire Order – Rural be adopted with the following amendments:**
  - a. **Points 3 & 4 are to be amended to read “A 2 metre firebreak (ground cleared to raw mineral state) is required right around all buildings and haystacks on the property at no less than 20 metres from them, OR, A ‘Low Fuel Zone’ must be maintained for a distance of 20 metres around all buildings on the property.**
  - b. **Point 5 – the size of the required firebreak is to be amended to 2 metres.**
2. **2017/18 Draft Bush Fire Order – Large Residential / Commercial / Industrial Land / Special Rural Land be adopted;**
3. **2017/18 Draft Bush Fire Order – Townsite Residential / Commercial / Industrial Land be adopted; and**
4. **2017/18 Draft Bush Fire Order – Plantations be adopted.**

**BF 0807**

**It be recommended to Council that the Policies relating to the operations of the Shire of Capel Volunteer Bush Fire Brigades as attached to this agenda be adopted.**

Carried 8/0

<b>OC0820 COUNCIL DECISION</b>
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**Moved Cr Bell, Seconded Cr J Scott**

**That Council resolves that Mr Chris Scott be included in all 2017/18 Bush Fire Orders as an FCO for Gelorup.**

Carried 8/0

**NEW BUSINESS OF AN URGENT NATURE** Nil

**PUBLIC QUESTION TIME** Nil

**MOTIONS WITHOUT NOTICE (ABSOLUTE MAJORITY BY COUNCIL)** Nil

**NOTICES OF MOTION FOR CONSIDERATION AT THE NEXT ORDINARY MEETING OF THE COUNCIL** Nil

**ITEMS FOR CONSIDERATION BEHIND CLOSED DOORS** Nil

**MEETING CLOSURE**

The meeting closed at 6.29pm.

These minutes were confirmed at an Ordinary Council meeting on 27 September 2017.

Signed

Presiding Person at the meeting at which time the minutes were confirmed.

Date