

## Shire of Tammin



### DECLARATION

I declare that the minutes of the:

Ordinary Council Meeting held on 16<sup>th</sup> December 2021 was confirmed at the Ordinary Council Meeting held on 23<sup>rd</sup> February 2022.

Name: Glenice Batchelor

Signed: \_\_\_\_\_

A handwritten signature in blue ink, appearing to read 'Glenice Batchelor', written over a horizontal line.

Being the person presiding at the meeting at which these minutes were confirmed.

Date: \_\_\_\_\_

23 / 2 / 2022.

# Shire of Tammin

## ORDINARY COUNCIL MEETING

### MINUTES



An ordinary meeting of the Shire of Tammin was held on **Thursday 16 December 2021** in Council Chambers, 1 Donnan Street Tammin, commencing at **5:00pm**.

A handwritten signature in black ink, appearing to read 'Joanne Soderlund'.

Joanne Soderlund  
Chief Executive Officer  
16 December 2021

#### MISSION STATEMENT

*"Together with the people of Tammin we will provide leadership, vision and progress to achieve sustainability and growth"*

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## **AGENDA**

### **1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at 5:00pm.

### **2. ACKNOWLEDGMENT TO COUNTRY**

We begin today by acknowledging the Ballardong Noongar People as traditional custodians of the land and skies on which we gather, and we pay our respects to their Elders, past, present and emerging.

### **3. PRESENT / IN ATTENDANCE / LEAVE OF ABSENCE PREVIOUSLY GRANTED / APOLOGIES**

#### **Present:**

Cr G Batchelor	Shire President
Cr T Nicholls	Deputy Shire President
Cr N Caffell	Member
Cr Thomson (Charmaine)	Member
Cr B Leslie	Member
Cr C Thomson (Courtney)	Member

#### **In Attendance:**

Joanne Soderlund	Chief Executive Officer
Fabian Houbrechts	Manager of Works
Morgan Ware	Manager of Finance & Administration

#### **Leave of Absence previously granted:**

Nil

#### **Apologies:**

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

Nil

### **5. PUBLIC QUESTION TIME**

Nil



**6. APPLICATIONS FOR LEAVE OF ABSENCE**

**TSC 112/21 MOTION**

Cr Thomson requested a leave of absence for the Ordinary Council Meeting on Wednesday 23 February 2022.

Moved: Cr Nicholls  
Vote: Simple Majority

Seconded: Cr C Thomson  
Carried: 6/0

**7. DECLARATION OF MEMBER'S INTERESTS IN AGENDA ITEMS**

Cr Caffell declared a financial interest in Item 12.3 due to being a landowner involved in the Southern Link project land purchase transaction.

Cr Leslie declared a financial interest in Item 15.3 due to being a contractor involved in the project.

**8. DECLARATION OF RELATED PARTY DISCLOSURE IN AGENDA ITEMS**

**9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**9.1 Ordinary Council Meeting Minutes – 25 November 2021**

**TSC 113/21 MOTION**

That the minutes of the Ordinary Council Meeting held on 25 November 2021 be confirmed as a true and accurate record of proceedings.

Moved: Cr Thomson

Seconded: Cr Nicholls

Vote: Simple Majority

Carried: 6/0

**10. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**11. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

## 12. MATTERS FOR CONSIDERATION – FINANCE

### 12.1 List of Payments for November 2021

<b>Location:</b>	Shire of Tammin
<b>Applicant:</b>	Administration & Finance Officer
<b>Date:</b>	01 December 2021
<b>Author:</b>	Keira Wirth
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	FIN05
<b>Attachment/s:</b>	Attachment Item 12.1 – Payment List Attachment Item 12.1 - Credit Card Statement

#### Purpose of Report

For Council to ratify the accounts paid under delegated authority.

#### Background

The attached List of Accounts paid during the month of November 2021 totaling \$208,871.70 by way of:

Cheque numbers	6798 - 6798	\$575.40
Direct debit payments	01/11/21 – 30/11/21	\$4,194.16
Licensing transfers	01/10/21 – 30/11/21	\$10,019.80
Bank fees	01/10/21 – 30/11/21	\$182.66
VISA payments	01/10/21 – 30/11/21	\$4,182.76
EFT payments	EFT 4931 – EFT 5002	\$145,987.32
Salaries and wages	01/10/21 – 30/11/21	\$437,29.60
<b>Total payments</b>	<b>01/10/21 – 30/11/21</b>	<b>\$208,871.70</b>

The Shire of Tammin made the following significant purchases during the month of November 2021

Shire of Quairading Contribution CESM Officer	\$ 5,475.89
Department of Fire and Emergency Services 2021/22 ESL Quarter 2 Contribution	\$ 9,000.47
Australian Taxation Office – BAS BAS - September 2021	\$ 13,424.00
Major Motors Supply & Deliver Isuzu Truck (Light Tipper), Model: NLRBA-Z18 as per quote 36301 through Vendor Panel: VP253484	\$ 55,110.82

**Comment**

Nil

**Financial Implications**

All liabilities have been settled in accordance with the Shire of Tammin 2021/2022 Operating Budget

**Policy Implications**

Nil

**Statutory Implications**

***Local Government (Financial Management) Regulations 1996***

**11. Payment of accounts**

(1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —

- a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
- b) Petty cash systems.

(1) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.

(2) Payments made by a local government —

- a) Subject to sub-regulation (4), are not to be made in cash; and
- b) Are to be made in a manner which allows identification of —
  - (i) The method of payment;
  - (ii) The authority for the payment; and
  - (iii) The identity of the person who authorised the payment.

- (3) *Nothing in sub-regulation (3) (a) prevents a local government from making payments in cash from a petty cash system.*

*[Regulation 11 amended in Gazette 31 Mar 2005 p. 1048.]*

### **12. Payments from municipal fund or trust fund**

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

*[Regulation 12 inserted in Gazette 20 Jun 1997 p. 2838.]*

### **13. Lists 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 transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
- a) For each account which requires council authorisation in that month —*
    - (i) The payee's name;*
    - (ii) The amount of the payment; and*
    - (iii) Sufficient information to identify the transaction; and*
  - b) The date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub-regulation (1) or (2) is to be —*
- a) Presented to the council at the next ordinary meeting of the council after the list is prepared; and*
  - b) Recorded in the minutes of that meeting.*

## **Strategic Plan & Corporate Business Plan Implications**

### **Civic Leadership Strategies**

Our Councillors and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

The following outcomes and strategies have been identified to achieve this vision.

Outcome 6.1 Strong governance and leadership, demonstrating fair and equitable community values

6.1.1 Deliver sustainable governance through transparent and robust policy and processes

6.1.2 Undertake the civic duties of Council with the highest degree of ethics



Outcome 6.2 An efficient and effective organisation

6.2.1 Ensure sound long-term financial management and deliver value for money

6.2.2 Provide community leadership and lobby Federal and State Government to strengthen service provision within the Shire. Explore diverse income streams including grants

**TSC 114/21 MOTION**

That Council, pursuant to Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* receives the report from the Chief Executive Officer on the exercise of delegated authority in relation to payments made from municipal funds for the period 1 November 2021 to 30 November 2021 totaling \$208,871.70 as contained in attachments 12.1

Municipal Fund payments totaling \$208,871.70 detailed:

Cheque numbers	6798 -6798	\$575.40
Direct debit payments	01/11/21 – 30/11/21	\$4,194.16
Licensing transfers	01/11/21 – 30/11/21	\$10,019.80
Bank fees	01/11/21 – 30/11/21	\$182.66
VISA payments	01/11/21 – 30/11/21	\$4,182.76
EFT payments	EFT 4874 – EFT 4930	\$145,987.32
Salaries and wages	01/11/21 – 30/11/21	\$43,729.60

Moved: Cr Leslie

Seconded: Cr Nicholls

Vote: Simple Majority

Carried: 6/0



## 12.2 Financial Management Report for the month of November 2021

<b>Location:</b>	Shire of Tammin
<b>Applicant:</b>	Manager of Finance and Administration
<b>Date:</b>	10 December 2021
<b>Author:</b>	Morgan Ware
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Attachment Item 12.2 - November 2021 Monthly Financial Report

### Purpose of Report

For Council to receive the Monthly Financial Statement.

### Background

Enclosed is the Monthly Financial Report for the month of October 2021 inclusive of the Statement of Financial Activity, Current Ratios and Capital Expenditure Report.

### Comment

90.3% of rates have been received with current installment and payment plans in place for rate payers. Council road works program is underway with maintenance grading achieved and capex road works commencing in January 2022 through to April 2022. Additional capex projects have been commenced or in procurement progress. Accordingly, our cash flow position is currently strong; additionally, we have received an advance payment of the Financial Assistance Grants and confirmation of the Southern Link project first payment.

### Financial Implications

There are currently no financial implications as income and expenditure is in accordance with Budget.

### Statutory Implications

#### ***Local Government (Financial Management) Regulations 1996***

#### ***34. Financial activity statement report — s. 6.4***

*(1A) In this regulation — **committed assets** means revenue unspent but set aside under the annual budget for a specific purpose.*

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
- 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 the month to which the statement relates;
  - c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
- a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
  - b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
  - c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity December be shown —
- a) according to nature and type classification; or
  - b) by program; or
  - c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
- a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
  - b) recorded in the minutes of the meeting at which it is presented.

Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

### **Policy Implications**

Council resolved that in accordance with Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996* a variance percentage of 10% or \$10,000, whichever is greater, be adopted for reporting material variances.

### **Strategic Plan & Corporate Business Plan Implications**

#### **Civic Leadership Strategies**

Our Councillors and community leaders have vision, are accessible, act with transparency and integrity, and act in good faith on behalf of their constituents.

The following outcomes and strategies have been identified to achieve this vision.

Outcome 6.1 Strong governance and leadership, demonstrating fair and equitable community values

6.1.1 Deliver sustainable governance through transparent and robust policy and processes

6.1.2 Undertake the civic duties of Council with the highest degree of ethics

Outcome 6.2 An efficient and effective organisation

6.2.1 Ensure sound long-term financial management and deliver value for money

6.2.2 Provide community leadership and lobby Federal and State Government to strengthen service provision within the Shire. Explore diverse income streams including grants

**TSC 115/21 MOTION**

That Council, pursuant to the *Local Government (Financial Management) Regulations 1996* adopt the Monthly Financial Report as contained in attachment 12.2 for the period ending 30 November 2021 comprising;

a) Statement of Financial Activity

b) Note 1 to Note 12

**Moved: Cr Nicholls**

**Seconded: Cr Caffell**

**Vote: Simple Majority**

**Carried: 6/0**

### 12.3 Southern Link Land Purchase

Cr Caffell declared a financial interest and vacated the chamber at 5:07pm.

<b>Location:</b>	Lot 4 Underwood Rd, Lot 500 Hunt Rd and Lot 951 Tammin South Road, South Tammin
<b>Applicant:</b>	Shire of Tammin
<b>Date:</b>	9 December 2021
<b>Author:</b>	Chief Executive Officer
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Attachment Item 12.3 – PRIVATE & CONFIDENTIAL Landgate Valuation Report Attachment Item 12.3 – PRIVATE & CONFIDENTIAL Proposed Acquisition Report

#### **Background**

In November 2020, the Shire of Tammin were notified that they were successful for funding under the Heavy Vehicle Safety and Productivity Program Round Seven. The Shire had applied for a Heavy Vehicle Bypass of Tammin South to remove heavy vehicles from needing to go through the Tammin South town site to access the CBH bins.

Planning of the project has identified privately owned land that will need to be acquired for the project to proceed. The land needed involves a portion of three separate lots, two of which are owned by the same owners.

#### **Comment**

A valuation was undertaken for each portion of required land by Landgate on the 6<sup>th</sup> of October. The Valuation and a Proposed Acquisition Report are included as a confidential attachment to this agenda item.

To date, negotiations for the purchase of the required privately held land have been made in good faith as a private negotiation. Should an agreement not be able to be reached the Shire of Tammin could consider compulsory acquisition of the land. Industry practice with regards to the compensation of land acquired under the Land Administration Act 1997 is valuation plus 10%.

#### **Consultation**

Consultation has occurred with WALGA and Exurban (The Shire's Town Planning Consultant).

#### **Policy Implications**

Nil



### **Financial Implications**

There will be a cost involved with the purchases of the land as outlined in the Confidential Proposed Acquisition Report. Budget for this has been included in the 2021/22 Budget as part of the South Link Project.

### **Strategic Implications**

Strategic Community Plan 2018-2027 – Infrastructure and Transport Strategies

#### **TSC 116/21 MOTION**

That Council, pursuant to Section 9.49A(4) of the Local Government Act 1995, authorise the CEO and Shire President to executive contract documentation and affix the Common Seal, for the purchase of portions of Lot 4 Underwood Rd, South Tammin, Lot 500 Hut Rd, South Tammin and Lot 951 Tammin South Rd, South Tammin as per the details outlined in the Proposed Acquisition Report.

Moved: Cr Thomson

Seconded: Cr Nicholls

Vote: Simple Majority

Carried: 5/0

Cr Caffell returned to the Chamber at 5:11pm and the motion was read aloud.



## 12.4 CRISP Wireless Project

<b>Location:</b>	Shire of Tammin
<b>Applicant:</b>	CRISP Wireless
<b>Date:</b>	17 December 2021
<b>Author:</b>	Chief Executive Officer
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Attachment Item 12.4 – PRIVATE & CONFIDENTIAL - CRISP Wireless Project

### Background

CRISP Wireless were successful in receiving grant funding to expand its internet services to the Shire of Tammin and other neighboring Shires. The Shire of Tammin has previously provided a letter of support to CRISP for the grant application.

At the August 2021 Ordinary Council Meeting the Shire resolved the following:

***That the Council provide a Letter of Commitment to CRISP for the \$20,000 pledge towards this project with payment being subject to;***

- ***Acceptable answers to the email on 14 April 2021 prior to 15 September Ordinary Council meeting; and***
- ***The DPIRD grant being approved and the project proceeding.***

### Comment

Leigh Ballard, CEO of CRISP Wireless, presented to Council at its Information Session on the 28<sup>th</sup> of October 2021. Following this presentation the Shire undertook a survey of the community to gauge the forecast level of uptake of the CRISP Wireless service if it was to become available in the area.

The survey results were presented to Council at the Information Session on the 25<sup>th</sup> of November and showed that there is support for the project in the community and the level of planned uptake is considerable.

Detailed information on the Shire's contribution is included in the Confidential Attachment to this report.

### Consultation

Community feedback was requested through a survey available online with paper versions available at the Shire Office and Post Office. 28 responses were received.

### **Policy Implications**

Nil

### **Financial Implications**

A budget allocation for this project was included in the 2021/2022 budget.

### **Strategic Implications**

Strategic Community Plan 2018-2027 – Economic Development – Outcome 4.3 Support digital connectivity opportunities

#### **TSC 117/21 MOTION**

**That the Council support the CRISP wireless project on the conditions outlined in the Confidential Attachment.**

**Moved: Cr Caffell**

**Seconded: Cr C Thomson**

**Vote: Simple Majority**

**Carried: 6/0**

## 12.5 Annual Report 2020/21 Financial Year

<b>Location:</b>	Shire of Tammin
<b>Applicant:</b>	Manager of Finance and Administration
<b>Date:</b>	14 December 2021
<b>Author:</b>	Morgan Ware
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachments:</b>	Attachment Item 12.5 – Independent Auditors Report 30 June 2021 Attachment Item 12.5 – Transmittal letter to President 30 June 2021 Attachment Item 12.5 - Annual Financial Statement 30 June 2021 Attachment Item 12.5 - Management Letter 30 June 2021 Attachment Item 12.5 – Annual Report 30 June 2021

### PROPOSAL / SUMMARY

For Council to consider the recommendations of the Audit & Risk Committee and is requested to:

1. Accept the recommendations of the Audit & Risk Committee held on 13 December 2021,
2. Accept the 2020/21 Annual Report inclusive of the Auditors Report, and
3. Set a date for the holding of the Annual General Meeting of Electors.

### BACKGROUND

Section 7.12A, clause 2, of the *Local Government Act 1995* requires that a local government is to meet with the auditor as least once in each financial year. MACRI Partners were engaged to conduct the 2020/21 audit to present to the Office of Auditor General (OAG).

The 2020/21 Annual Financial Report and Independent Auditors Report for the 2020/21 financial year have been circulated to all Council members. The Audit Committee representatives Cr Batchelor and Cr Nicholls alongside Executive team Joanne Soderlund and Morgan Ware met with representatives of MACRI and the Office of the Auditor General (OAG) for the exit meeting on Thursday 2 December 2021 to discuss the Audit Closing Report and Annual Financial Statement.

The Annual Report (Attachment Item 12.5 –Annual Report 30 June 2021), which includes the Annual Financial Statements and the Audit Report referred to above, is now submitted for acceptance by Council.

Having accepted the Annual Report, a date is to be set for the Annual General Meeting of Electors.

Notwithstanding, the Auditor's Report noted the following matters, although they will not require any modification to the audit opinion, are of such importance to require additional communication in the report as per below;

*In accordance with the Local Government (Audit) Regulations 1996 I report that:*



- (i) *In my opinion, the following material matter indicates a significant adverse trend in the financial position of the Shire:*
  - a) *The Operating Surplus Ratio as reported in Note 31 of the annual financial report is below the Department of Local Government, Sport and Cultural Industries basic standard for all 3 years reported in the annual financial report.*
- (ii) *The following material matter indicating non-compliance with Part 6 of the Act, the Regulations or applicable financial controls of any other relevant written law were identified during the course of my audit:*
  - a) *For approximately 50% of purchase transactions we sampled, same officer raised and approved the purchase order, receipted goods/services then also approved the associated supplier invoice. Lack of segregation of duties increases the risk of unauthorised purchases occurring without detection, resulting in financial loss.*

## **COMMENT**

Following adoption of the Annual Report the Shire is required to hold its Annual Electors meeting within 56 days being no later than 10 February 2022.

The adverse trend in the Operating Surplus Ratio has been reported in previous Audit Reports and has been the subject of a previous report from management, namely:

### **1. Significant Matter Identified by OAG – Operating Surplus Ratio**

*“Significant adverse trend in the financial position: Operating Surplus Ratio as reported in Note 31 of the annual financial report has been below the Department of Local Government, Sport & Cultural Industries standard for the last three financial years.*

Where the Operating Surplus Ratio is calculated as:

Operating revenue (AAS) LESS Contributions to capital outlays LESS operating expense (AAS)  
DIVIDED BY Own Source Revenue (FR50)

Department Standard - Basic Standard between 0% and 15% and advanced with ratio greater than 15%.

#### **Implication**

*DLGSC Guidelines on Financial Ratios offers the following comment:*

*The ‘Operating Surplus Ratio’ is a measure of the Shire’s financial performance. A positive operating surplus ratio indicates the percentage of total own source revenue available to help fund proposed capital expenditure, transfer to cash reserves or to reduce debt. A negative ratio indicates the percentage increase in total own source revenue (principally rates) that would have been required to achieve a break-even operating result.*

#### **Management Comment**

It is typical of a local government similar to the Shire of Tammin to have an operating surplus ratio that does not meet the department standard, with some 110 of 137 local governments failing to meet the required standard for the 2017/18 financial year.

This result reflects a reliance on sources of funding other than Councils own source revenue such as rates, service charges, reimbursements, interest income and profit on disposal of

assets. Additionally factors such as recognition of Federal Assistance Grants being inconsistent from year to year and the impact of non-cash depreciation directly influence the results of the Operating Surplus Ratio.

Irrespective of the views on the adequacy of this performance indicator, the legislation requires the Shire to calculate and report this ratio in its annual financial report.

Considering the net operating: (before capital contributions and after adjustment for FAG's) the results over the past three years is \$ (1,121,590), \$(1,121,536) and \$1,122,118).

In responding to the Departmental enquiry, it should be noted that the trend for this ratio remains steady, from -51%, -50% to -\$51% in the last three years. The operations of the Shire have not materially changed; indeed, the operations of the Shire have not changed over many decades.

#### ***Action Taken or Intended to be Taken***

The Shire of Tammin has noted that whilst the Ratio has been below the required standard over the past three years, it remains steady.

The Shire will continue to monitor the Ratio results and identify factors within its control that can be addressed with a view to improving the Ratio outcome. The recent Local Government reform released in November 2021 proposes that the financial ratios will be reviewed in detail, building on work already underway by the DLGSC and the ensure that the methods of calculating ratios and indicators are accurate and useful.

#### ***2. Significant Matter Identified by OAG – Material matter indicating non-compliance***

*For approximately 50% of purchase transactions we sampled, same officer raised and approved the purchase order, receipted goods/services then also approved the associated supplier invoice.*

#### ***Implication***

*Lack of segregation of duties increases the risk of unauthorised purchases occurring without detection, resulting in financial loss.*

#### ***Management Comment & Action Taken***

Following the identification of a lack of segregation and control deficiency at the Interim audit, the process of authorising payments and purchase orders has been rectified.

Officers are ensuring goods purchased or services provided are checked and authorised by two people within the management team. This procedural addition limits the risk of fraudulent activity and meets compliance controls.

MACRI and the OAG noted that this control deficiency after being identified has been actioned by the executive team following the interim audit. No cases of this compliance risk was found in the final audit.

#### **CONSULTATION**

Nil



## **STATUTORY ENVIRONMENT**

### **Local Government Act 1995**

#### **5.53. Annual reports**

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain —*
  - (a) *a report from the mayor or president; and*
  - (b) *a report from the CEO; and*
  - [(c), (d)deleted]*
  - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
  - (f) *the financial report for the financial year; and*
  - (g) *such information as may be prescribed in relation to the payments made to employees; and*
  - (h) *the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year; and*
  - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
  - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
    - (i) *the number of complaints recorded in the register of complaints; and*
    - (ii) *how the recorded complaints were dealt with; and*
    - (iii) *any other details that the regulations may require;**and*
    - (i) *such other information as may be prescribed.*

#### **5.54. Acceptance of annual reports**

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.*

*\* Absolute majority required.*

- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

#### **5.55. Notice of annual reports**

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

##### **5.55A. Publication of annual reports**

*The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.*

## **Local Government (Administration) Regulations 1996**

### **19B. Information about numbers of certain employees to be included (Act s. 5.53(2)(g))**

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information —

- (a) the number of employees of the local government entitled to an annual salary of \$100 000 or more;
- (b) the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.

### **5.27. Electors' general meetings**

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

## **Local Government Act 1995**

### **7.1A. Audit committee**

- 1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- 2) The members of the audit committee of a local government are to be appointed\* by the local government and at least 3 of the members, and the majority of the members, are to be council members.  

**\* Absolute majority required.**
- 3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent the CEO as a member of an audit committee.
- 4) An employee is not to be a member of an audit committee.

### **7.1B. Delegation of some powers and duties to audit committees**

- 1) Despite section 5.16, the only powers and duties that a local government may delegate\* to its audit committee are any of its powers and duties under this Part other than this power of delegation.  

**\*Absolute majority required.**
- 2) A delegation to an audit committee is not subject to section 5.17.

### **7.1C. Decisions of audit committees**

Despite section 5.20, a decision of an audit committee is to be made by a simple majority.

### **7.12A. Duties of local government with respect to audits**

- 1) A local government is to do everything in its power to —
  - a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
  - b) ensure that audits are conducted successfully and expeditiously.
- 2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year

## **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; ...

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

Nil

#### **TSC 118/21 MOTION**

That Council:

1) Adopt the recommendations of the Audit Committee being that Council;

- a) Pursuant to *Section 5.54 of the Local Government Act 1995*, accepts the 2020/21 Annual Report inclusive of the audited Financial Statements;
- b) Pursuant to *Section 7.12A (3) of the Local Government Act 1995*, receive the “Unqualified” Independent Audit Report and Management Letter from the Office of the Auditor General for the 2020/21 financial year
- c) Pursuant to *Section 5.55 of the Local Government Act 1995*, authorise the Chief Executive Officer to give local public notice of the availability of the Annual Report;
- d) Pursuant to *Section 5.55A of the Local Government Act 1995*, publish the Annual Report on the Shire’s official website.
- e) Pursuant to *Section 7.12A (2) of the Local Government Act 1995*, recognises the exit meeting held with the Office of the Auditor General and MACRI partners on the 2<sup>nd</sup> of December 2021 as a meeting with the auditor of the Local Government.

2) Pursuant to *Section 5.27 of the Local Government Act 1995*, hold the Annual General Meeting of Electors on Thursday 3 February 2022 commencing at 5:00pm at the Shire of Tammin Council Chambers.

Moved: Cr Leslie

Seconded: Cr Thomson

Vote: Absolute Majority

Carried: 6/0



### 13. MATTERS FOR CONSIDERATION – ADMINISTRATION

#### 13.1 Local Government Reform Submission

<b>Location:</b>	Nil
<b>Applicant:</b>	Nil
<b>Date:</b>	8 December 2021
<b>Author:</b>	Chief Executive Officer
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Attachment Item 13.1 - Local Government Reform Summary of Proposed Reform Attachment Item 13.1 - WALGA Positions and Recommendations

#### Background

The State Government have recently advised of a 3-month consultation period, which was originally due to close on Friday 4 February 2022, on the proposed Local Government Act legislative reforms.

At WALGA's State Council Meeting held on Wednesday 1 December, the State Council resolved to approach the Minister for Local Government for an extension to the consultation period by 1 month due to the Christmas holiday period. A response has been received extending submissions now to 25 February 2022.

The following is the timeline and process for a sector submission on the Local Government Legislative Reform Program developed by WALGA:

- Friday 28 January 2022 - Local Governments requested to provide feedback to WALGA by 5pm;
- February 2022 – Zone Meetings to consider a draft sector submission;
- Wednesday 23 February at 4pm – WALGA Special Meeting of State Council via video conference to endorse submission; and
- Friday 25 February - WALGA to present submission to the State Government.

#### Comment

A review of the State Governments Local Government Reform – Summary of Proposed Reforms has been undertaken. WALGA released a Positions and Recommendations paper to address each reform which has also been considered.

Whilst a number of the reforms seem positive and beneficial to both the Shire and the sector there are some proposed changes that the administration does not support. Outlined below are the areas which are recommended that comments and feedback be submitted to the State Government and also to WALGA and Great Eastern Country Zone Representatives for consideration.

### **CEO Recruitment**

Not enough information is known about the proposed panel of approved panel members to perform the role of the independent person on CEO recruitment panels. Presumably this would be a fee for service arrangement and therefore adds an extra cost impost onto the recruitment process which can already be significant for a smaller local government. Will there be regionally located people of the panel? Potentially consider this as optional for Band 3 and Band 4 councils.

### **Audit Committees**

The proposed reforms include a requirement for a majority of independent members on the audit committee. It is unlikely that enough suitability skilled people would be able to be sourced locally. Currently a sitting fee isn't able to be paid to an independent audit committee member. It is unclear if payment would be allowed to enable suitably qualified people to be enticed to the roles but if so this imposes another financial burden of local governments. It is noted that WALGA also do not support majority independent members of the Audit Committee as outlined in their positions and recommendations paper.

### **Tiered Limits on the Number of Councillors**

In the proposed reforms Local Governments with a population up to 5,000 will only be able to have five Councillors. The Shire of Tammin currently operates with six Councillors and therefore this proposal would see a reduction of one elected member. This proposal will have a much bigger impact on some other larger councils in our region which have a population under 5,000. It is recommended that the Shire advocate for a scale of between 5 and 7 Council Members for populations up to 5,000 which is in line with WALGA's positions and recommendations paper.

### **Introduction of Preferential Voting**

WALGA has indicated that it currently does not support this proposal in its positions and recommendations paper. The introduction of preferential voting will have a significant impact on the cost of running an election for the Shire of Tammin. Preferential voting is much more complex and time consuming than the current First Past the Post system. Preferential voting also encourages alliances to be formed for the distribution of preferences and party politics into local government. Request that the first past the post system be retained at least for Band 3 and Band 4 Councils.

### **Size and scale for templates**

As a general comment there are a number of instances throughout the reforms where templates and models are proposed to be drafted for Local Governments. It is request that these are targeted towards the Band 3 and Band 4 Councils who often do not have the in house resources available for this work. Or alternatively perhaps there are two sets of templates/models developed in each instance, one more geared towards larger metropolitan Local Governments and the other towards the smaller country Local Governments.

Council may wish to alter or add any comments and feedback to what has been proposed.

### **Consultation**

Consultation has occurred with WALGA and other WEROC Local government CEO's.



### Policy Implications

Nil

### Financial Implications

There are potential cost implications for some of the proposals put forward in the Reform Package however there isn't yet enough detail or certainty to calculate what they are likely to be.

### Strategic Implications

Strategic Community Plan 2018-2027 – Civic Leadership Strategies

#### **TSC 119/21 MOTION**

**That Council, pursuant to *Section 2.7(1) of the Local Government Act 1995, Section 5.42(2)*, authorise the CEO to provide feedback and comment on the Proposed Local Government Reforms on the issues raised in this agenda item.**

**Moved: Cr Nicholls**

**Seconded: Cr Leslie**

**Vote: Simple Majority**

**Carried: 6/0**

**14. MATTERS FOR CONSIDERATION – BUILDING & HEALTH**

Nil

## 15. MATTERS FOR CONSIDERATION – TOWN PLANNING

### 15.1 Tammin VFRS – Request for Boundary Relocation

<b>Location:</b>	LOT 124 Donnan Street, Tammin
<b>Applicant:</b>	ACORPP on behalf of the Department of Fire and Emergency Services
<b>Date:</b>	8 December 2021
<b>Author:</b>	Chief Executive Officer
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	Nil
<b>Attachment/s:</b>	Attachment Item 15.1 – Email ACORPP Attachment Item 15.1 – Map 1 Attachment Item 15.1 – Map 2 Attachment Item 15.1 – Map Attachment Item 15.1 – Site Aerial Photograph Attachment Item 15.1 – Site Photograph 1 Attachment Item 15.1 – Site Photograph

#### Background

ACORPP are working on behalf of the Department of Fire and Emergency Services (DFES) to request and facilitate a boundary change at Lot 124 Donnan Street, which is the location of the Fire Station.

The Shire received correspondence from ACORPP on the 11<sup>th</sup> of October 2021 requesting that the Shire consider three proposed options for the boundary change. The three options put forward are:

1. The northern boundary moves 2500mm further to the north. This will leave approximately 1120mm from new boundary position to the proposed wall of the new structure.
2. The northern boundary moves approximately 6500mm further to the north. This will leave approximately 4255mm in width for the access to the play area.
3. The northern boundary relocates to the point of the existing 1600mm high cyclone fence (approximately 10755mm further to the north), leaving access to the play area via the existing outdoor auditorium driveway. This option would give the Tammin VFES volunteers off street parking when they attend an emergency event.

These options were put forward by ACORPP following an onsite meeting on the 18<sup>th</sup> of August 2021 between DFES and the Shire of Tammin's Acting Chief Executive Officer and Manager of Works and Services.

ACORPP advised the following reason for the requested boundary change:  
"The purpose of the boundary relocation is to address the identified operational and functionality gaps. DFES require the addition of a respirator cleaning facility and a dedicated tunic room, to allow for proper storage of volunteer personal protective equipment and privacy when changing for both male and female volunteers."

### Comment

The Shire's Executive Management Team met on site on the 1<sup>st</sup> of December to discuss the proposed options put forward regarding the boundary relocation.

The Shire would like to maintain the double gate access it currently has to the playground area. Therefore option three is not an option that officers would recommend. Both options two and one would maintain the access however option two would make the access much narrower.

To reduce the impact of the boundary change on the area it is recommended that option one be supported for the boundary change.

### Consultation

DFES

### Policy Implications

Nil

### Financial Implications

Nil – DFES have agreed to pay all costs associated with the boundary relocation.

### Strategic Implications

Strategic Community Plan 2018-2027 – Social/Community Strategies – Outcome 1.2.3 Support provision of emergency services and encourage community volunteers.

### **TSC 120/21 MOTION**

#### **That Council:**

- 1. Pursuant to *Section 2.7(1)(a) of the Local Government Act 1995*, advises ACORPP that option one is the preferred option for the boundary change; and**
- 2. Pursuant to *Section 9.49A of the Local Government Act 1995*, authorises the Common Seal to be affixed to and the Chief Executive Officer and Shire President to execute any documentation required to facilitate the boundary change.**

**Moved: Cr Nicholls**

**Seconded: Cr Thomson**

**Vote: Simple Majority**

**Carried: 6/0**



## 15.2 Application for Development Approval – Proposed Revegetation of Unnamed, Unconstructed Road Reserve, North Tammin

<b>Location:</b>	Unnamed, unconstructed road reserve (Landgate Land ID No. 3165954) between Yorkrakine Road and Bungulla North Road, North Tammin
<b>Applicant:</b>	Mr Alex Gardner on behalf of the Shire of Tammin & State of Western Australia (Landowner)
<b>Date:</b>	7 December 2021
<b>Author:</b>	Mr Joe Douglas – Town Planner
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	TBC
<b>Attachments:</b>	Attachment 15.2 – Development Application Documentation and Plans Attachment 15.2 – Submission Received During Public Advertising

### Purpose of Report

Consideration and final determination of a development application for the proposed revegetation of a 3.5 hectare portion of an unnamed, unconstructed road reserve (Landgate Land ID No. 3165954) between Yorkrakine Road and Bungulla North Road, North Tammin for environmental management purposes.

### Background

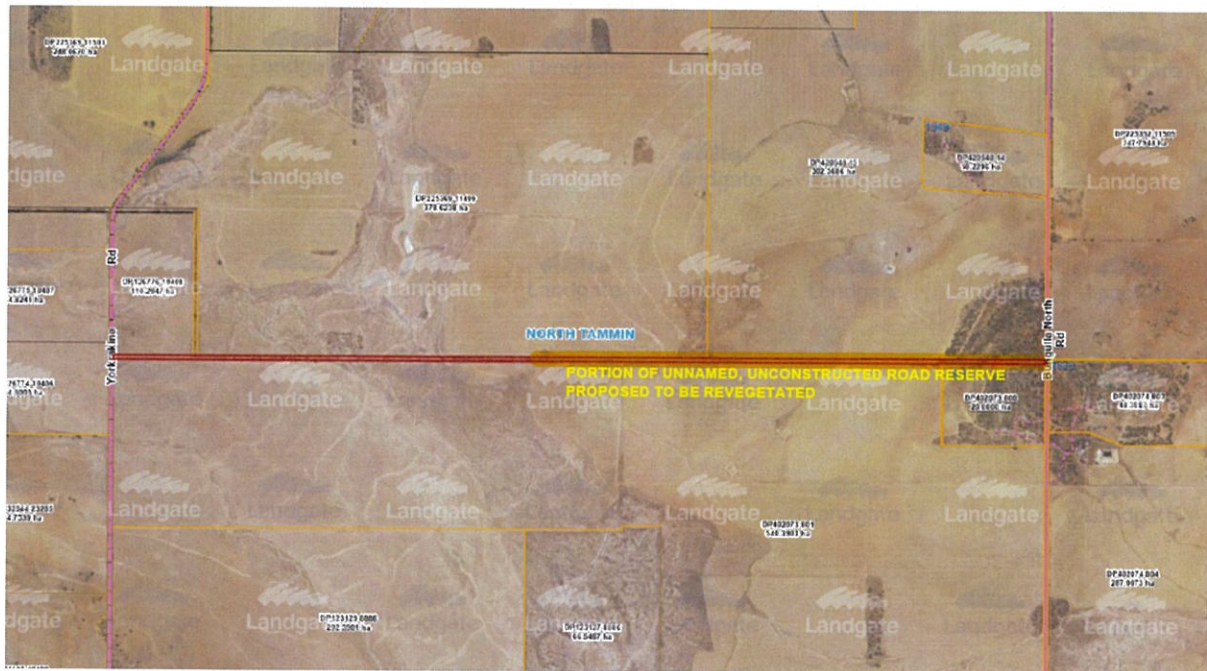
The applicant is seeking Council's development approval to revegetate a 3.5 hectare portion of an unnamed, unconstructed road reserve between Yorkrakine Road and Bungulla North Road, North Tammin.

Under the terms of the application submitted a total of approximately 2,130 seedlings comprising locally endemic species will be planted using a one-pass tree planter in the eastern portion of the road reserve during the 2022 planting season following some preliminary site works. The plan includes provision for in-fill planting and weed control subsequent to the initial planting works.

A complete copy of the development application received, including supporting plans, is provided in Attachment 15.2.

The road reserve, the subject of the application, is located between Yorkrakine Road and Bungulla North Road in the locality of North Tammin and comprises a total area of approximately 9.13 hectares. The road reserve is approximately 4.54 kilometres, 20.12 metres wide and is currently unconstructed. Notwithstanding this fact, it contains an unsealed vehicle access track from Bungulla North Road for a distance of approximately 2.06 kilometres westwards before the track ends. The remaining balance portion of the road reserve has not been constructed for public access purposes, contains a number of small stands of native remnant vegetation and has been cleared in part at its western end for broadacre agricultural purposes (i.e. cropping and grazing).

The road reserve is owned by the State of Western Australia and is a local road under the care, control and management of the Shire of Tammin. All land immediately abutting the northern and southern sides of the road reserve is privately owned and has been extensively developed and used for broadacre agricultural purposes (i.e. cropping and grazing) for many years.



Location & Lot Configuration Plan (Source: Landgate)

It is understood the road reserve is not being used, and is not required, for public access purposes. As such, the Shire has authorised the development application on behalf of the State of Western Australia in its capacity as the legal custodian and manager of the land following preliminary consideration of the proposal.

**Comments**

The road reserve the subject of this application is classified ‘No Zone’ zone under the soon to be revoked Shire of Tammin Town Planning Scheme No.1 (TPS1) and ‘Local Road’ reserve under the Shire’s of Tammin’s new Local Planning Scheme No.2.

Under the terms of TPS1, LPS2 and clause 61(1) of the Deemed provisions for local planning schemes, the proposed development of the road reserve for environmental management purposes is not exempt from the need for Council’s development approval (i.e. a formal development application is required and must be approved by Council prior to the commencement of any works).

The application has been assessed with due regard for all relevant objectives, standards and requirements prescribed in TPS1, LPS2 and clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015*, as well as the outcomes from public advertising. This assessment has confirmed the proposal is compliant or capable of compliance with the following requirements:

- Land capability and suitability including topography, soil types and stability, drainage and flood



risk;

- Land use compatibility;
- Environmental protection and conservation;
- Visual character and amenity;
- Vehicle access for maintenance and farm access purposes; and
- Stormwater drainage and bushfire risk management.

In light of the above findings and conclusions, the significant benefits the project will have from an environmental perspective and the fact no objections were received during public advertising, it is recommended Council exercise its discretion and approve the application subject to a range of conditions and advice notes to ensure the development proceeds in a proper and orderly manner.

### **Consultation**

Details of the proposal, including plans, were forwarded to the owners of five (7) properties immediately abutting the road reserve area for review and comment, none of whom raised any objections. The application was also advertised for public comment on the Shire's website for the minimum required period of 28 days.

At the conclusion of public advertising one (1) submission was received from the owner of the two largest lots abutting the road reserve area advising they are fully supportive of and have no objections to the proposed development (see Attachment 15.2 - Copy of submission received).

### **Statutory Implications**

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Tammin Town Planning Scheme No.1

### **Policy Implications**

- State Planning Policy 2 – Environment and Natural Resources
- State Planning Policy 2.5 – Rural Planning

### **Financial Implications**

There are no immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget and offset by the development application fee paid by the applicant. All costs associated with the proposed development will be met by the applicant with funding assistance from the Department of Primary Industries and Regional Development under the Community Stewardship Grants program.

It is significant to note should the applicant be aggrieved by Council's final decision in this matter, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this

occur for whatever reason, which is considered highly unlikely in this particular instance, the Shire would need to respond. The cost to respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

### **Risk Implications**

**Financial** – Risk rating is assessed as Low. The risk is mitigated through a detailed assessment process and recommendation to support the application with conditions. However, there is potential for increased risk if the applicants/landowner are aggrieved by Council's final decision and apply for a review of that decision by the State Administrative Tribunal.

**Health** – Risk rating is assessed as Low.

**Reputation** – Risk rating is assessed as Low. The application has been through a public consultation process and no objections have been received. The application has been thoroughly assessed by the reporting officer including a detailed report and recommendation to Council.

**Operational** – Risk rating is assessed as Low. The application has been dealt with in accordance the Shire's current Organisational Structure and the procedural requirements of the Planning and Development (Local Planning Schemes) Regulations 2015.

**Natural Environment** – Risk rating is assessed as Low due to the limited impact of the proposed development on the natural environment and the many benefits it will have from an environmental perspective.

### **Strategic Implications**

The proposal is considered to be consistent with the Shire of Tammin Strategic Community Plan 2017-2027 and Corporate Business Plan 2018-2022 as they apply to the key objective of protecting and enhancing the natural environment including revegetation works.

### **Voting Requirements**

Simple Majority



## TSC 121/21 MOTION

That Council resolve to approve the development application submitted by Mr Alex Gardner on behalf of the Shire of Tammin & State of Western Australia (Landowner) to revegetate a 3.5 hectare portion of an unnamed, unconstructed road reserve (Landgate Land ID No. 3165954) between Yorkrakine Road and Bungulla North Road, North Tammin for environmental management purposes subject to the following conditions and advice notes:

### Conditions

1. The proposed development shall be undertaken strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.
2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.
3. All stormwater drainage within and adjacent to the proposed works shall be managed and disposed of on-site (i.e. no stormwater is permitted to be directed and disposed of via any immediately adjoining property) unless otherwise approved by the Shire's Chief Executive Officer in consultation with the Shire's Manager of Works and Services and the affected landowner/s.
4. Opportunity for vehicle access through the road reserve area where the proposed revegetation works will be undertaken shall be maintained at all times to the specifications and satisfaction of the Shire's Chief Executive Officer in consultation with the Shire's Manager of Works and Services. This includes any access required to/from all immediately adjoining privately owned properties.
5. Arrangements shall be made to ensure suitable traffic management measures to the specifications and satisfaction of the Shire's Chief Executive Officer in consultation with the Shire's Manager of Works and Services are put in place when any works are being undertaken on the land. Details of all proposed traffic management measures shall be submitted to the Shire for consideration and determination prior to the commencement of any works.
6. All waste generated by the proposed works shall be disposed of in a timely manner following completion of those works to the specifications and satisfaction of the Shire's Chief Executive Officer in consultation with the Shire's Environmental Health Officer.

### Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicants/landowners and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire of Tammin under its Town Planning Scheme No.1. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicants/landowners to obtain any other necessary approvals, consents, permits and licenses required under any other law,

and to commence and carry out development in accordance with all relevant laws.

3. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.
4. No works shall commence on the land prior to 7am without the Shire's written approval. No works are permitted to be undertaken on Sundays or Public Holidays unless otherwise approved by the Shire's Chief Executive Officer.
5. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Tammin Town Planning Scheme No.1 and may result in legal action being initiated by the local government.
6. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.

Moved: Cr Nicholls

Seconded: Cr C Thomson

Vote: Simple Majority

Carried: 6/0

### 15.3 Application for Development Approval – Proposed New Oversize Residential Outbuilding (i.e. Domestic Storage Shed)

Cr Leslie declared a financial interest and vacated the Chamber at 5:23pm.

<b>Location:</b>	Lot 11 on Plan 9121 being No.15 Nottage Way, Tammin
<b>Applicant:</b>	Mr Wylie Harrison (Landowner)
<b>Date:</b>	7 December 2021
<b>Author:</b>	Mr Joe Douglas – Town Planner
<b>Item Approved by:</b>	Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	TBC
<b>Attachments:</b>	Attachment Item 15.3 – Development Application Documentation and Plans

#### **Purpose of Report**

Consideration and determination of a development application for a proposed new oversize residential outbuilding (i.e. domestic storage shed) on Lot 11 (No.15) Nottage Way, Tammin.

#### **Background**

The applicant/landowner is seeking Council's development approval to construct a new 112m<sup>2</sup> steel framed and clad outbuilding (i.e. domestic storage shed) at the rear of Lot 11 (No.15) Nottage Way, Tammin for domestic storage purposes.

As the proposed outbuilding does not comply with the deemed-to-comply requirements of the Residential Design Codes of Western Australia, Council's development approval is required prior to issuance of a building permit. A full copy of the development application submitted, including supporting plans, is provided in Attachment 15.3.

Lot 11 is located in the north-eastern part of the Tammin townsite in a well-established, low density residential area. The subject land comprises a total area of approximately 997m<sup>2</sup> and is currently vacant, undeveloped and not being used for any specific purpose/s.

The subject land has direct frontage and access to Nottage Way along its eastern boundary which is an unsealed local road under the care, control and management of the Shire.

The property is relatively flat, with the finished ground level being approximately 245 metres AHD, and is not identified as being subject to any inundation or flooding. A search of the Department of Fire and Emergency Services' map of bushfire prone areas has also confirmed the land has not been designated by the Fire and Emergency Services Commissioner of Western Australia as being bushfire prone.





*Location & Lot Configuration Plan (Source: Landgate)*

Existing adjoining and other nearby land uses are predominantly residential in nature comprising single houses, including numerous outbuildings, on lots ranging in size from 994 to 2,005m<sup>2</sup>. Lots 12 and 13 located immediately north of the subject land and Lot 10 located immediately south are currently vacant and are not being used for any approved purpose/s.

### **Comments**

Lot 11 is classified 'Residential' zone under the Shire of Tammin Town Planning Scheme No.1 (TPS1) with a density code of R12.5 which will remain unchanged in the Shire's proposed new Local Planning Scheme No.2 (LPS2).

Under the terms of TPS1, draft LPS2 and clause 61(1) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, the development of a single house, including any associated improvements such as carports, patios, pergolas and outbuildings (i.e. sheds), are listed as being permitted (i.e. a 'P' use) on any land classified 'Residential' zone and therefore exempt from the requirement for development approval subject to:

- i) compliance with the deemed-to-comply provisions of the Residential Design Codes (R-Codes) or any overarching development standards prescribed in a local planning scheme; and
- ii) any such development not being located in a heritage-protected place.

Whilst the subject land is not located in a heritage-protected place, assessment of the application has confirmed it does not comply with the deemed-to-comply requirements of the Residential Design Codes of Western Australia (i.e. the R-Codes) as they apply to the maximum permitted floor area and wall height for residential outbuildings and therefore requires Council's development approval.

Under the terms of the application received the proposed new outbuilding on Lot 11 will:

- a) comprise a total floor area of 112m<sup>2</sup> in lieu of a maximum permitted floor area of 60m<sup>2</sup>; and



- b) have a wall height of 3 metres in lieu of a maximum permitted wall height of 2.4 metres.

When determining the application Council is required to consider the merits of the proposal in the context of the design principles contained in clause 5.4.3 P3 of the R-Codes as they apply specifically to residential outbuildings as well as the outcomes from consultation with all immediately adjoining landowners.

Clause 5.4.3 P3 of the R-Codes allows Council to approve variations to the the deemed-to-comply standards of the R-Codes as they apply to residential outbuildings if it is satisfied any proposed outbuilding will not detract from the local streetscape or the visual amenity of residents or neighbouring properties.

Having regard for the location of the proposed new outbuilding at the rear of Lot 11, its proposed setbacks to all property boundaries which are fully compliant, the proposed external finish and colours of the structure which are likely to be visually attractive, and the outcomes from public consultation in which no objections were received, it is contended the proposal will not detract from the local streetscape or the visual amenity of residents or neighbouring properties and may therefore be supported and approved by Council.

Notwithstanding the above conclusion, Council should note the development and use of an outbuilding on any Residential zoned property that does not contain a dwelling is generally not supported. This can be attributed to the use of an outbuilding on land without a dwelling being classified as 'warehouse/storage' which is not consistent with Council's objectives for the Residential zone and the risk a structure of this type will be used in a manner that could have a negative impact upon the amenity of surrounding Residential zoned properties.

In this case however it is understood the landowner has prepared and lodged a building permit application for the placement and use of a second-hand dwelling on the land with that application currently the subject of assessment by the Shire's Building Surveyor. Given that a dwelling is likely to be placed on the land in the near future pursuant to the required building permit approval, it is considered both reasonable and practical to approve the development application for the proposed new outbuilding subject to the following conditions:

- i) The landowner providing a copy of the building permit approval for the proposed dwelling to the Shire's Chief Executive Officer prior to commencement of development of the proposed new outbuilding including details as to when construction works for both structures will commence and be completed in their entirety; and
- ii) If the proposed development of a dwelling on the land does not proceed for whatever reason within the two (2) year approval timeframe under any building permit approval ultimately granted, the proposed outbuilding shall be removed from the land in its entirety and the land reinstated to its natural condition insofar as possible prior to the commencement of development unless otherwise approved by Council.

In light of the above findings and conclusions, it is recommended Council exercise its discretion and approve the application subject to a range of conditions and advice notes to ensure the development proceeds in a proper and orderly manner.

## Consultation

Details of the proposal, including plans, were forwarded to the owners of five (5) immediately adjoining properties for review and comment. The Housing Division of the Department of Communities was the only landowner who responded to the Shire's invitation to comment and raised no objections to the proposed development. No responses were received from any other adjoining landowners and it is therefore assumed they too have no objections to the proposal.

## Statutory Implications

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Tammin Town Planning Scheme No.1
- Shire of Tammin Local Planning Scheme No.2 (Final Approved Draft)

## Policy Implications

- State Planning Policy 7.3: Residential Design Codes - Volume 1 (R-Codes)

## Financial Implications

There are no immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget and offset by the development application fee paid by the applicant/landowner. All costs associated with the proposed development will be met by the applicant/landowner.

It is significant to note that should the applicant/landowner be aggrieved by Council's final decision in this matter, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this occur for whatever reason, which is considered highly unlikely in this particular instance, the Shire would need to respond. The cost to respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

## Risk Implications

**Financial** – Risk rating is assessed as Low. The risk is mitigated through a detailed assessment process and recommendation to support the application with conditions. However, there is potential for increased risk if the applicants/landowner are aggrieved by Council's final decision and apply for a review of that decision by the State Administrative Tribunal.

**Health** – Risk rating is assessed as Low.

**Reputation** – Risk rating is assessed as Low. The application has been through a public consultation process and no objections have been received. The application has been thoroughly assessed by the

reporting officer including a detailed report and recommendation to Council.

**Operational** – Risk rating is assessed as Low. The application has been dealt with in accordance the Shire’s current Organisational Structure and the procedural requirements of the Planning and Development (Local Planning Schemes) Regulations 2015.

**Natural Environment** – Risk rating is assessed as Low due to the limited impact of the proposed development on the natural environment.

### **Strategic Implications**

The proposal for Lot 11 is considered to be consistent with the Shire of Tammin Strategic Community Plan 2017-2027 and Corporate Business Plan 2018-2022 as they apply to the key objective of creating a well maintained and attractive environment servicing the needs of the local community.

### **Voting Requirements**

Simple Majority



## TSC 122/21 MOTION

That Council resolve to approve the development application submitted by Mr Wylie Harrison to construct a new 112m<sup>2</sup> steel framed and clad outbuilding (i.e. domestic storage shed) at the rear of Lot 11 (No.15) Nottage Way, Tammin for domestic storage purposes subject to the following conditions and advice notes:

### Conditions

7. The proposed outbuilding (i.e. shed) shall be constructed strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.
8. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.
9. Prior to commencement of development of the new outbuilding the landowner shall provide the Shire's Chief Executive Officer with a copy of the building permit approval for the proposed dwelling on the land including details as to when construction of the dwelling and outbuilding will commence and be completed in their entirety.
10. If development of the proposed dwelling on the land does not proceed for whatever reason within two (2) years from the date of issuance of the required building permit approval for that structure, the new outbuilding the subject of this application shall be removed from the land in its entirety and the land reinstated to its natural condition insofar as possible prior to the commencement of development unless otherwise approved by Council.
11. All external surfaces of the new outbuilding shall be clad with new materials only and painted in accordance with the colours nominated in the 'Elevations and Floor Plan' drawing submitted in support of the application prior to occupation and use of the structure.
12. All stormwater drainage generated by the new outbuilding shall be managed and disposed of on-site (i.e. no stormwater is permitted to be directed and disposed of via any immediately adjoining property).
13. The new outbuilding shall only be used for domestic storage, maintenance and hobby purposes unless otherwise approved by Council.

### Advice Notes

7. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicants/landowners and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
8. This is a development approval of the Shire of Tammin under its Town Planning Scheme No.1. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicants/landowners to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
9. In accordance with the Building Act 2011 and Building Regulations 2012, a building permit

application for the new outbuilding must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction and/or earthworks on the land.

10. The new outbuilding is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the building permit application.
11. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.
12. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted to be undertaken on Sundays or Public Holidays unless otherwise approved by the Shire's Chief Executive Officer.
13. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Tammin Town Planning Scheme No.1 and may result in legal action being initiated by the local government.
14. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.

Moved: Cr Nicholls

Seconded: Cr C Thomson

Vote: Simple Majority

Carried: 5/0

Cr Leslie returned to the Chamber at 5:25pm, the motion was read aloud.

**16. ELECTED MEMBERS MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

Nil

**17. MATTERS FOR WHICH THE MEETING MAY BE CLOSED (S`5.23)**

The matter will be considered behind closed doors in accordance with Section 5.23(2) (c) of the Local Government Act as it related to a contract that may be entered into.

**TSC 123/21 MOTION**

**That the meeting be moved behind closed doors at 5:25pm in accordance with Section 5.23(2) (b) and (e) of the Local Government Act 1995.**

**Moved: Cr Nicholls**

**Seconded: Cr Caffell**

**Vote: Simple Majority**

**Carried: 6/0**

**17.1 PRIVATE & CONFIDENTIAL ITEM**

**See report provided under separate cover.**

**Officers Recommendation**

That Council, pursuant to Section 9.49A(4) of the Local Government Act 1995;

1. Authorise the CEO and Shire President to executive contract documentation and affix the Common Seal, for the purchase of land identified in this report should an agreement be reached on purchase price subject to the limit set in this report.

Moved: Cr Nicholls

Seconded: Cr Caffell

Vote: Absolute Majority

Carried/Lost: \_\_/\_\_

**Amendment**

During debate Cr Caffell moved the following amendment to the officer recommendation:

That the confidential report be amended to identify an additional land lot as discussed and increase the purchase price limit by \$5,000 by adding the word amended before land identified and limit set.

Cr Caffell provided the following reason for the proposed amendment:

That it would be beneficial for the Shire to secure an additional block of land in the area to provide more flexibility for future opportunities.

At the conclusion of debate, the Shire President put Cr Caffell proposed amendment, which reads:



### **Amendment of Officers Recommendation**

During debate Cr Caffell moved the following amendment to the officer recommendation:  
That the confidential report be amended to identify an additional land lot as discussed and increase the purchase price limit by \$5,000 by adding the word amended before land identified and limit set.

Moved: Cr Caffell

Seconded: Cr Nicholls

Vote: Absolute Majority

Carried: 6/0

### **TSC 125/21 MOTION**

**That the meeting move from behind closed doors at 5:37pm**

Moved: Cr Nicholls

Seconded: Cr Leslie

Vote: Simple Majority

Carried: 6/0

The amendment was put and carried. The Shire President then put the substantive motion as amended which read:

### **TSC 124/21 MOTION**

**That Council, pursuant to Section 9.49A(4) of the Local Government Act 1995;**

- 1. Authorise the CEO and Shire President to execute contract documentation and affix the Common Seal, for the purchase of amended land identified in this report should an agreement be reached on purchase price subject to the amended limit set in this report.**

Moved: Cr Thomson

Seconded: Cr Caffell

Vote: Absolute Majority

Carried: 6/0

## **18. CLOSURE OF MEETING**

There being no further business the Shire President declared the meeting closed at 5:39pm.