

Ordinary Council

MINUTES

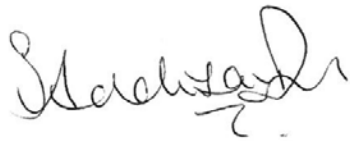
FOR THE MEETING HELD
WEDNESDAY, 28 OCTOBER 2020
IN COUNCIL CHAMBERS,
WALLCLIFFE ROAD, MARGARET RIVER
COMMENCING AT 5:30PM

Meeting Notice

Dear Councillor

I advise that an Ordinary Council Meeting of the Shire of Augusta Margaret River will be held in Council Chambers, Wallcliffe Road, Margaret River on Wednesday 28 October 2020, commencing at 5:30pm.

Yours faithfully



STEPHANIE ADDISON-BROWN
CHIEF EXECUTIVE OFFICER

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Minutes of the Ordinary Meeting held on Wednesday 28 October 2020, in Council Chambers, 41 Wallcliffe Road, Margaret River, commencing at 5.30pm

Ordinary Council Meeting

1. DECLARATION OF OPENING

The Shire President welcomed all in attendance and declared the meeting open at 5.30pm

The Shire President gave an Acknowledgement of Country:

'I acknowledge and respect the traditional custodians of this land and pay our respects to elders past, present and emerging, whose lands we share.'

2. ATTENDANCE

Shire President	:	Cr Ian Earl
Councillors	:	Cr Paula Cristoffanini Cr Naomi Godden Cr Kylie Kennaugh Cr Pauline McLeod Cr Julia Meldrum
Chief Executive Officer	:	Ms Stephanie Addison-Brown
Director Sustainable Development and Infrastructure	:	Mr Nick Logan
Director Corporate and Community Services	:	Mr James Shepherd
Manager Corporate Services	:	Mr Andrew Ross
Manager Planning and Development	:	Mr Matt Cuthbert
Governance Officer / Council Support	:	Ms Claire Schiller
MEMBERS OF THE PUBLIC	:	14
MEMBERS OF THE PRESS	:	AMR Times, Warren Hately ABC News, Anthony Pancia

2.1 Apologies

Ian McLeod, Manager Legal and Governance

2.2. Approved Leave of Absence

Cr Brian Daniel

3. DISCLOSURES OF INTEREST

3.1 Item 11.2.3 Electricity Supply Contract Variations – Impartiality Interest – Cr Cristoffanini

Cr Cristoffanini disclosed an impartiality interest in Item 11.2.3 Electricity Supply Contract Variations, the nature of the interest being:

‘My husband and I are volunteers with the Margaret River Clean Community Energy Group Committee and are involved in discussions with other energy providers on behalf of the MRCCE.’

4. PUBLIC QUESTIONS

4.1. Response to Previous Public Questions Taken on Notice

Nil

4.2. Public Question Time

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

6.1 Ordinary Council Meeting held 14 October 2020

MOTION / COUNCIL DECISION

CR KENNAUGH, CR MELDRUM OM2020/203

That Council confirms the minutes of the Ordinary Council Meeting held on 14 October 2020 to be a true and correct record of the meeting.

CARRIED 6/0

7. DEPUTATIONS

7.1 Item 11.2.2 Scheme Amendment No.67 – for final determination – Mr Ray Swarts

Mr Ray Swarts of Lot 15962 Caves Road, Margaret River, addressed the meeting in relation to Item 11.2.2 Scheme Amendment No. 67 – for final determination.

7.2 Item 11.2.2 Scheme Amendment No.67 – for final determination – Mr Julian Ryan

Mr Julian Ryan, on behalf of residents and owners of 750 Wallcliffe Road, addressed the meeting in relation to Item 11.2.2 Scheme Amendment No. 67 – for final determination.

7.3 Item 11.2.2 Scheme Amendment No.67 – for final determination – Mr Stepan Libricky

Mr Stepan Libricky of 33 Charles Hine Avenue, Margaret River, addressed the meeting in relation to Item 11.2.2 Scheme Amendment No. 67 – for final determination.

7.4 Item 11.2.2 Scheme Amendment No.67 – for final determination – Ms Alexandra Burt

Ms Alexandra Burt of View Street, Peppermint Grove, addressed the meeting in relation to Item 11.2.2 Scheme Amendment No. 67 – for final determination.

8. PETITIONS

Nil

9. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

9.1 Cr Earl – Public Apology – Breach of Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007*

"I advise this meeting that:

- i. A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened the *Local Government (Rules of Conduct) Regulations 2007 (WA)* on two occasions when I failed to declare an impartiality interest in the matter of the transition of bushfire brigades to the Department of Fire and Emergency Services at Council meetings held on 27 November 2019 and 12 February 2020.
- ii. The Panel found that by behaving in this manner I committed two breaches of Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007*.
- iii. I accept that I should not have acted in such a manner and I apologise to the Council and the Shire for having done so."

10. QUESTIONS FROM MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

11. REPORTS OF COMMITTEES AND EMPLOYEE REPORTS

The Shire President brought forward Item 11.2.2 Scheme Amendment No. 67 – for final determination, for consideration while concerned members of the public remained in the gallery.

11.2.2 SCHEME AMENDMENT NO. 67 FOR FINAL DETERMINATION - WALLCLIFFE HOUSE

LOCATION/ADDRESS	Wallcliffe House, Lot 101, Wallcliffe Road, Margaret River.
APPLICANT/LANDOWNER	Taylor Burrell Barnett Town Planning & Design / Wallcliffe House Pty. Ltd.
FILE REFERENCE	LND/1/67
REPORT AUTHOR	Matt Cuthbert, Manager Planning and Development
AUTHORISING OFFICER	Nick Logan, Director Sustainable Development and Infrastructure

IN BRIEF

- The site is the location of the heritage listed 'Wallcliffe House'.
- Buildings on the site were significantly impacted upon by the 2011 bushfires however, the surrounding gardens and heritage listed outbuilding remain intact.
- The proposal is a scheme amendment which seeks to modify provisions relating specifically to the site, to allow for a greater variety of uses to be considered.
- The proposal has been subject to consultation with the majority of submitters supportive of the amendment and redevelopment of the site generally.
- This proposal is not a development application and the exact detail surrounding future built form will come by way of a development application in due course.

RECOMMENDATION

That Council supports Amendment 67 with modifications.

LOCATION

The site is Lot 101 Wallcliffe Road. Lot 101 is 5.2ha in size and directly abuts the Margaret River. Access to the site is via a long driveway which forms part of the lot and connects the lot to Wallcliffe Road. Land to the south of the subject land is state reserve whilst to the east, Lot 102 is zoned 'chalet and camping'.

Vegetation on site is a combination of remnant native vegetation and formal manicured gardens.

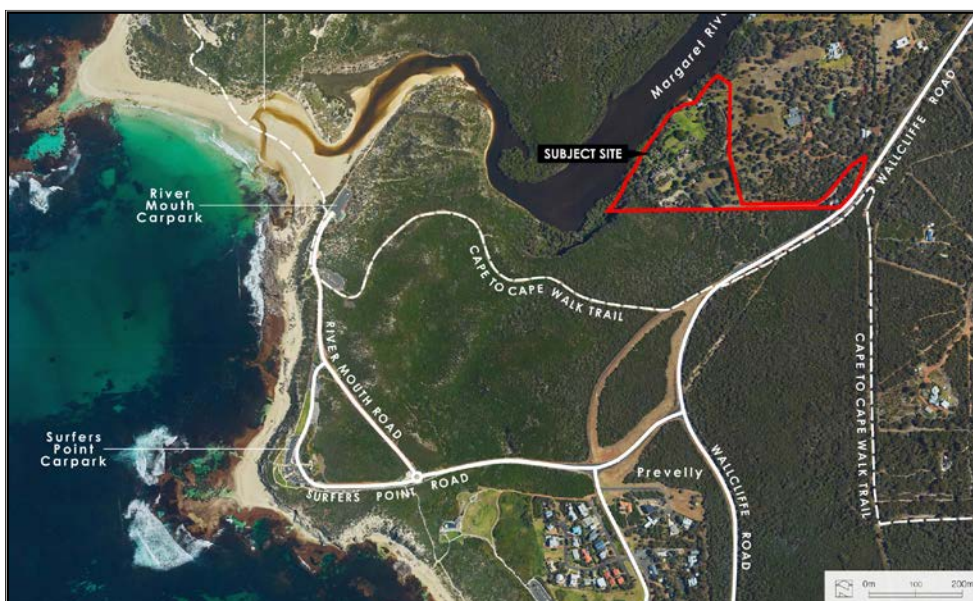


Figure 1 – Location Plan

TABLED ITEMS

Nil

BACKGROUND

Construction of Wallcliffe House was completed in 1865 at which time it was occupied by the Bussell Family. A second house was built on the subject land in 2001 and was commonly referred to as 'the Chaney House' after its then owners. In 2011, fire destroyed the aforementioned buildings and ancillary structure with the exception of a small boat shed adjoining the river foreshore. The extensive formal gardens which surround the houses have continued to be maintained and currently remain at a high standard.

At its meeting of 11 September 2019 Council refused an amendment relating to the site for reasons that:

The amendment will lead to a form of development which has potential for adverse impacts on the surrounding natural environment and on the sites of Aboriginal and colonial cultural importance (within and surrounding the site). In light of the above, the existing scheme provisions represent the maximum development intensity that Council is prepared to support on the subject site without risk of negative environmental and Aboriginal and colonial heritage outcomes.

The proponent subsequently submitted a new amendment modified to address Council's concerns. This amendment was considered at the Ordinary Council meeting of 26 February 2020 at which time Council resolved to initiate the amendment in order to commence a process of public consultation.



Figure 2 – Wallcliffe House



Figure 3 - Boatshed

THE PROPOSAL

The site is zoned 'Tourism' with special provisions set out at Schedule 12 of the Scheme relating specifically to the site. Clause 4.18.1 of the Scheme states that:

Despite anything contained in the zoning table, the land specified in Schedule 12 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 12 with respect to that land.

The amendment is put forward for the purposes of amending 4 of the 5 special provisions which relate to the site. The intent is to increase the range of uses which can be considered. Changes included in the advertised amendment are outlined below with ~~strike throughs~~ indicating deletions and underlining indicating the additions which are sought.

1. Development and land use is limited to a single ~~residential house~~ and ancillary uses consistent with the heritage values of the ~~land~~ site and its National Trust classification unless otherwise approved by the local government.
2. The local government may also approve applications for the following tourist ~~type~~ uses such as: restaurant; tearooms; ~~conference facilities~~ hotel or guesthouse and chalet limited to 40 keys in total; small bar; spa and activities related to public viewing of the buildings and grounds, provided such uses do not conflict with the heritage values of the site. ~~land, and does not require a material change to the visual appearance and character of the site.~~ Exhibition centre, reception centre and conference uses may also be approved on the site, provided the uses are incidental to the predominant use of the land.

3. No development shall be approved by the local government unless ~~it is:~~
 - a) It is consistent with the heritage values and integrity of the site; land and its buildings.
 - b) It is consistent with the landscape significance and setting of the site;
 - c) It is appropriately sited and designed to ensure that fire mitigation measures do not compromise environmental and landscape values;
 - d) It is set back a minimum of 20m from the property boundary where it abuts the Margaret River (with the exception of existing development, landscape works and essential services); and
 - e) The adjacent foreshore values are appropriately enhanced, protected and managed.
4. For the purposes of condition 1 and 3 “development” includes buildings, fencing, driveway, walkways, landscaping, changes in the use of the ~~land-site~~ and buildings and changes in the structural integrity of the buildings.
5. Removal of existing vegetation is not permitted without the approval of local government.

CONSULTATION

Prior to consultation with the wider public the proposal was referred to the Environmental Protection Agency (EPA) and Heritage Council as required by the *Planning and Development Act 2005*. The EPA’s decision was not to ‘formally assess’ the proposal with advice provided confirming that “the amendment can be managed to meet the EPA’s environmental objectives”. The Heritage Council indicated their support for the proposal.

Council’s decision to initiate the amendment included a recommendation that *“the proponent undertakes a direct and interactive consultation process with the community during the advertising period.”* Due to COVID restrictions which applied at the time, the proponent’s consultation program consisted of a website and blog, with three topic based webinar presentations conducted online which allowed viewers to ask questions and receive answers in real time. The results of each Q&A session were subsequently posted to the blog site. The webinars and an additional meeting held with the local business community engaged approximately 100 individuals.

The Shire’s consultation program involved writing directly to groups, agencies and individuals likely to have direct interest in the proposal e.g. Undalup, Nature Conservation Margaret River and neighbouring property owners. A Your Say page was also set up to collect submissions from the general public.

The Shire directly received 108 submissions in total, with 57 being in favour, two were indifferent and 40 being in objection to the proposal. A total of nine submissions were received from service providers and government agencies.

Issues of particular note as were highlighted throughout the public consultation period were:

- The suitability of the proposed 20m setback from the river, as raised by the EPA.
- The suitability of the submitted Bushfire Management Plan as raised by DFES.
- The capacity of the local road network to cater for the anticipated level of traffic as raised by nearby residents/landowners.
- The capacity of the site to be developed without compromising environmental, indigenous and colonial heritage values.

A summary of each submission can be found at Attachment 1.

DISCUSSION / OFFICER COMMENTS

Margaret River Foreshore

In initiating the amendment Council noted that an anomaly exists in that for a 30m section of the river frontage, no foreshore reserve exists and the subject land directly abuts the river. Council requested *“that staff liaise with the proponent and relevant State Government agencies to address the lack of a foreshore reserve fronting a 30m (approx.) section of the Margaret River abutting the subject land”*

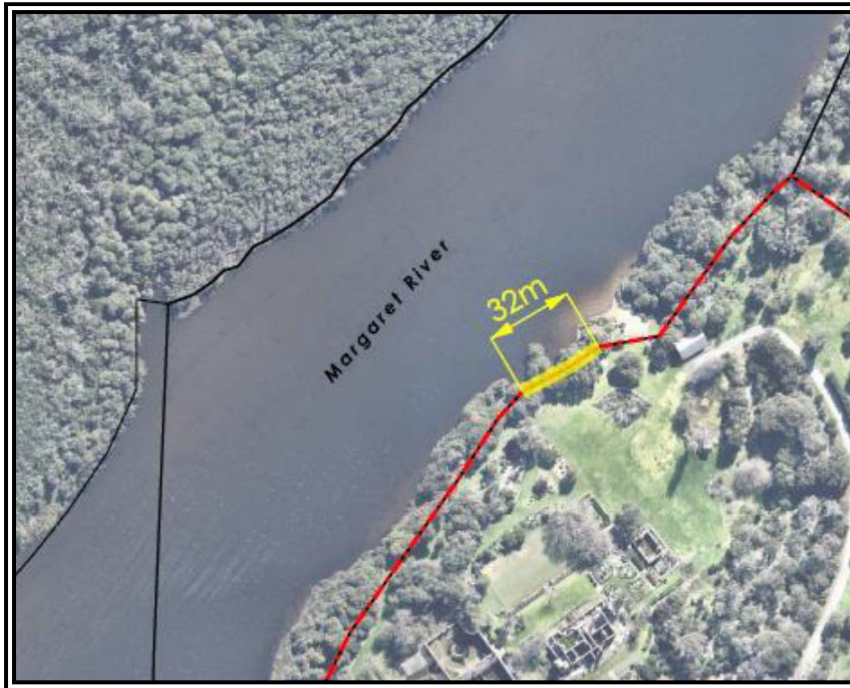


Figure 4 – Extent of river frontage with no foreshore reserve

One option available to the landowner to rectify this situation is to voluntarily cede land free of cost, to extend the foreshore. The applicant has advised that their position is not to be cede the land for the following reasons:

- Physical access to the river exists via the cleared beach adjacent to the section of river frontage referred to.
- Public access to other parts of the river foreshore, including the section of river frontage referred to is to be discouraged because of the potential impact on the remnant natural riverine vegetation.
- The requirement to prepare and implement a FMP (foreshore management plan) at the Development Application stage.
- The landowners' commitment to protecting and reinstating the environmental values of the foreshore.

It should be noted that neither the EPA or Department of Water and Environmental Regulation raised the lack of foreshore reserve as an issue. Nature Conservation Margaret River did not make a submission on the proposal however it is understood that they are in the process of finalising a Memorandum of Understanding with the landowner regarding foreshore restoration works. The Friends of the Margaret River registered an objection to the proposal generally.

A further issue relating to the interaction between the development and the Margaret River, is the sufficiency of the development setback set by Council at the time of initiating the amendment (20m). In giving consent to advertise the proposal the EPA commented that the setback of future development from the property boundary abutting the river should be 30m *“unless an alternative setback is identified through a site specific study undertaken in consultation with the Department of Water and Environmental Regulation (DWER) South West Region office.”*

The South West DWER office has since confirmed that the 20m setback as proposed is supported.

Bushfire

In response to the Bushfire Management Plan (BMP) provided by the applicant, DFES provided detailed comments regarding the consistency of the BMP with the Planning for Bushfire Prone Area Guidelines.

The DFES submission is summarised at Attachment 1 however the overall nature of the DFES comments are encompassed by the last paragraph of their letter which states:

“A number of issues need to be addressed prior to support of the proposal. Notably, the proposed development is intensifying land use in a bushfire prone area close to the termination of a non-compliant dead-end road which passes through an extreme bushfire hazard.”

The applicant was provided with the DFES comments and has provided a comprehensive response to the issues raised.

In considering the weight which should be placed on the DFES comments, it should be noted that:

- DFES have not assessed the proposal against the most relevant policy document being the DPLH's Tourism Position Statement;
- The assumption that the proposal intensifies the landuse, misunderstands the scope for development of a similar capacity which is already allowable;
- The majority of the Shire is bushfire prone and the site is unremarkable in this context;
- The Tourism Position Statement specifically provides for tourism development to be located on roads having one point of egress in defined circumstances.
- The extreme fire hazard located in proximity to the site is caused by the existence of native vegetation which is present throughout the Shire and therefore the hazard rating of the site is unremarkable.

The relevance of the BMP at this stage in the process is simply to demonstrate that it will be possible to prepare a detailed and compliant BMP at the time that a development application is lodged. The comments provided by DFES do not lead to a conclusion that preparation of such a BMP will be impossible. It is recommended that the BMP which forms part of the package of documents prepared to support the amendment is modified to include a management action as follows:

“Prepare a revised BMP to support the development application, responding to the detailed design of the proposed development and addressing the requirements of SPP 3.7 and the relevant position statements and guidelines. This may include a comprehensive risk assessment in line with Position Statement: Tourism land uses in bushfire prone areas, to be determined in consultation with the decision maker.”

Traffic

Submissions from the adjoining landowner and residents, raised concerns with the impact of the proposed development upon the utility and safety of the shared access road. The road, which is approximately 130m in length, links the subject lot and adjoining Lot 102 with Wallcliffe Road. A key concern was that the traffic impact assessment submitted with the application, underestimated the level of traffic likely to be facilitated by a change to the Scheme.

The traffic assessment viewed by submitters estimated that future development would generate 322 vehicle movements per day. This was based on a 50 key hotel. Given Council's decision to limit the hotel to 40 keys, a revised report has been provided which shows a reduced generation of 272 movements per day. This figure assumes that restaurant patrons would be completely separate from hotel guests which is at odds with the expectations of the proponent who assumes that 90% of the restaurant capacity would be occupied by hotel guests. The corresponding impact on vehicle movement would be a reduction to 207 movements per day which is on the further assumption that the hotel would be fully occupied at all times.

For the purposes of comparison, traffic modelling in a residential context is generally undertaken on the assumption of 10 movements per day per household. Vehicle movement assumptions in the order of 200 per day could be associated with short, quiet and narrow cul-de-sac roads. A further comparison should be made with the possible traffic generated by the level of development currently permissible by the Scheme. It would not be unrealistic to assume that a popular restaurant (a use that is currently allowable) could generate in excess of 200 vehicle movements a day.

Values of the Site

A key concern of Council at the time of initiating the amendment was whether or not the subject land could be developed in way that would not compromise the environmental, Indigenous and colonial heritage values which make the site so unique. These concerns were reiterated by many of the 40% of public submissions which objected to the amendment.

The proposal does not determine whether or not the subject land can be developed. It is already possible for a landowner to progress with “*tourist type facilities such as restaurant and...guesthouse*” and it would be generally accepted that the level of development associated with these uses could be consistent with the level of development that has previously existed on the site. With this in mind, the potential impacts of the type of future development contemplated by the amendment should be compared to the already allowable extent of development and not compared to the subject land as it exists today.

The submission period has allowed the Shire to seek advice from various agencies and groups with a key interest in environmental protection. All of the submissions from agencies of this type indicated ‘no objections’ to the proposal. No response was received from Nature Conservation Margaret River, whilst the Friends of Margaret River community group raised an objection. The Shire has not been made aware of any environmental impacts which were present relative to the former development on the subject land which would otherwise set a benchmark for assessment of the proposal. The amendment does provide an opportunity to set in place ‘rules’ which do not currently exist in the scheme relating to the protection and enhancement of the river foreshore. In any event, a future development application will be rigorously assessed to determine whether it would cause environmental impacts and if so, whether they can be addressed.

The acceptability of the amendment relative to colonial heritage values was the subject of consideration by the Heritage Council. The Heritage Council responded to the Shire’s referral by advising that the proposal was supported. Representatives of the Bussell Family who built Wallcliffe House in the 1860’s, made submissions on the proposal which were generally supportive. Their interest in the proposal provides an opportunity for the proponent to keep those with a strong personal connection to the property engaged throughout the development process, benefitting from the unique perspectives that they can bring.

The Aboriginal Heritage Enquiry System administered by the Department for Planning, Lands and Heritage, maps the coordinates of two heritage sites intersecting with the subject land, being those associated with the Margaret River and Wallcliffe Cliffs. The mapped coordinates extend well beyond the actual heritage features and serve to flag the necessity to undertake consultation and referral to the DPLH.

The proximity of the land to listed sites of Indigenous heritage significance nonetheless requires that development occur in a sensitive and respectful manner. There is at this stage, no indication that any heritage sites would be impacted upon by the future development and the DPLH have confirmed in writing that approvals under the Aboriginal Heritage Act 1972 are not required at this time but will be required prior to ground disturbing activities.

The legal responsibilities of the Act are generally regarded as being the minimum obligations for development in proximity to known heritage sites. Both the Shire and proponent have undertaken consultation with Traditional Owners and have thus far not received any direct negative feedback. In any event, if the proposal progresses, dialogue should be ongoing and development intentions expressed in a transparent manner.

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

The amendment is being progressed in line with the *Planning and Development Act 2005* and Planning and Development (Local Planning Scheme) Regulations 2015.

Under Regulation 50(3) the Shire must make one of the following resolutions:

- (a) to support the amendment without modification; or
 - (b) to support the amendment with proposed modifications to address issues raised in the submissions;
- or
- (c) not to support the amendment.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2020-2024

Key Result Area 3: Ensuring sustainable development

Community Outcome 1: Clearly defined areas for growth, renewal and protection.

Strategic Response: Ensure structure plans are designed to preserve and enhance the unique character and sustainability of centres, towns and villages

FINANCIAL IMPLICATIONS

Implications

Nil

Long Term Financial Plan

Nil

Whole of Lifecycle considerations

Nil

SUSTAINABILITY IMPLICATIONS

Environmental

The site contains areas of remnant vegetation which will not be impacted upon as a direct result of the subject proposal. Future development of the site provides an opportunity to enhance and protect foreshore vegetation.

Social

Redevelopment of the site provides an opportunity to restore buildings of significant heritage importance and provide for greater community access. An important consideration for future development will be the compatibility with Aboriginal heritage elements.

Economic

Redevelopment of the site will require significant resources which if sourced locally will have a positive impact on the local economy.

ADVOCACY

Nil

IMPLICATIONS OF ALTERNATIVE RESOLUTION

The Shire is not the final decision maker with respect to this proposal. Notwithstanding what the Council's recommendation might be, the Minister for Planning will have the opportunity to make a contrary and final decision.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council in accordance with Regulation 50(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to support Amendment No. 67 to the Shire of Augusta Margaret River Local Planning Scheme No.1 by replacing the text at 'T5' of Schedule 12 with the following, subject to the modifications outlined at Attachment 2.

1. Development and land use is limited to a single residential house and ancillary uses consistent with the heritage values of the ~~land~~ site and its National Trust classification unless otherwise approved by the local government.
2. The local government may also approve applications for the following tourist ~~type~~ uses ~~such as:~~ restaurant; tearooms; ~~conference facilities~~ hotel or guesthouse and chalet limited to 40 keys in total; small bar; spa and activities related to public viewing of the buildings and grounds, provided such uses do not conflict with the heritage values of the site, land, and does not require a material change to the visual appearance and character of the site. Exhibition centre, reception centre and

conference uses may also be approved on the site, provided the uses are incidental to the predominant use of the land.

3. No development shall be approved by the local government unless it is:
 - a) It is consistent with the heritage values and integrity of the site; land and its buildings.
 - b) It is consistent with the landscape significance and setting of the site;
 - c) It is appropriately sited and designed to ensure that fire mitigation measures do not compromise environmental and landscape values;
 - d) It is set back a minimum of 20m from the property boundary where it abuts the Margaret River (with the exception of existing development, landscape works and essential services); and
 - e) The adjacent foreshore values are appropriately enhanced, protected and managed.
4. For the purposes of condition 1 and 3 “development” includes buildings, fencing, driveway, walkways, landscaping, changes in the use of the ~~land-site~~ and buildings and changes in the structural integrity of the buildings.
5. Removal of existing vegetation is not permitted without the approval of local government.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Schedule of Submissions
2. Schedule of Modifications

RECOMMENDATION / COUNCIL DECISION

CR MCLEOD, CR KENNAUGH OM2020/204

That Council in accordance with Regulation 50(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to support Amendment No. 67 to the Shire of Augusta Margaret River Local Planning Scheme No.1 by replacing the text at ‘T5’ of Schedule 12 with the following, subject to the modifications outlined at Attachment 2.

1. **Development and land use is limited to a single residential house and ancillary uses consistent with the heritage values of the ~~land-site~~ and its National Trust classification unless otherwise approved by the local government.**
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 - d) **It is set back a minimum of 20m from the property boundary where it abuts the Margaret River (with the exception of existing development, landscape works and essential services); and**
 - e) **The adjacent foreshore values are appropriately enhanced, protected and managed.**
4. **For the purposes of condition 1 and 3 “development” includes buildings, fencing, driveway, walkways, landscaping, changes in the use of the ~~land-site~~ and buildings and changes in the structural integrity of the buildings.**
5. **Removal of existing vegetation is not permitted without the approval of local government.**

CARRIED 5/1

CR GODDEN VOTED AGAINST

Cr Godden requested her reasons for voting against the recommendation be recorded as follows:

1. The greatly increased scope of available development which this Scheme Amendment provides goes against provisions for visual amenity and landscape values (particularly with the site being viewed from the Travel Route Corridor of Wallcliffe Road), environmental conservation and heritage values of the LNRSP (PS 3.3, PS 3.8 and section 4.3) and the Local Planning Scheme (sections 1.6.2, 1.6.4, 4.31, 4.33).
2. The scope of development allowable by the Scheme Amendment does not fit the definition of 'inevident visual alteration' as per the Local Planning Strategy.

Council then moved on to consider 11.1.1.

11.1. Chief Executive Officer

**11.1.1 NOTES OF COUNCILLOR AGENDA BRIEFINGS AND CONCEPT FORUM SESSIONS
FROM 8 JULY TO 23 SEPTEMBER 2020**

LOCATION/ADDRESS	Shire of Augusta Margaret River
APPLICANT/LANDOWNER	Shire of Augusta Margaret River
FILE REFERENCE	COR/221
REPORT AUTHOR	Claire Schiller, Governance Officer / Council Support
AUTHORISING OFFICER	Ian McLeod, Manager Legal and Governance

IN BRIEF

- Council conducts bi-monthly as required Councillor Briefing Sessions which are run in accordance with a Council adopted Policy and Department of Local Government Sport and Cultural Industries (DLGSC) Guidelines.
- Council's policy for the conduct of the Councillor Information Briefing Sessions provides for the proceedings of the briefings to be brought to Council and for wider community awareness as a public record in the form of notes as an additional accountability mechanism.
- Notes of recent Councillor Briefing sessions are presented to be received by Council in accordance with Council's policy.

RECOMMENDATION

That Council receives the Notes of Councillor Agenda Briefing Sessions from 8 July 2020 to 23 September 2020.

LOCATION PLAN

Nil

TABLED ITEMS

Nil

BACKGROUND

The purpose of Councillor Agenda Briefings and Concept Forums is to:

1. Provide relevant information so that Councillors are better informed when participating in Council decision making processes.
2. Provide a forum for two-way communication between elected members and key staff members on important Council related matters.
3. Provide an inclusive opportunity for general community members and the press to receive the same information on Agenda Items being provided to elected members on a range of relevant topics.

Agenda briefings and workshops sessions are centred on one or more of the following outcomes which can be classified under the DLGSC Guidelines for Councillor Forums as either a Concept or an Agenda Forum:

Concept Forums / Workshops

Concept forums generally relate to strategic matters that are not yet on a Council meeting agenda. Concept forums are generally closed to the public to facilitate the open discussion of preliminary ideas and concepts by Councillors, but may be open to the public where the CEO or President believe it would be beneficial.

Matters to be discussed at a Concept forum may include;

- A statement of governance processes and effectiveness

- a statement of principles on key issues
- guidance to the CEO on further avenues of research
- compiling a list of critical issues resulting from the briefing
- the brainstorming of ideas
- policy development and direction (but not adoption)
- ongoing discussion of the Shire's strategic direction

Agenda Briefings

Agenda Briefing Sessions are open to all elected members and generally to all members of the public and press. The Chief Executive Officer is to be in attendance and other relevant Directors and staff as required by the CEO for the provision of information to elected members.

Matters of a confidential nature to be included in a Council agenda will be discussed at closed briefing sessions (i.e. not open to the public). Otherwise normal briefing sessions will be open to the public at a suitable publicly accessible time.

Matters dealt with at agenda briefings may include;

- breaking down of complex issues before Council
- clarification of items on the Council agenda
- requests for additional information on items on the Council agenda
- confidential discussion of items which are on the agenda and which will be discussed with members of the public excluded

CONSULTATION AND ADVICE

External Consultation

The Local Government Operational Guidelines Number 5 Council Forums have been considered and adapted for use in the Shire of Augusta Margaret River setting.

Internal Consultation

Nil

DISCUSSION / OFFICER COMMENTS

The following are the informal notes of the Councillor Agenda Briefings and Concept Forum Sessions recently held as recommended by Council's adopted policy which is consistent with the DLGSC Guidelines.

Notes of Councillor Agenda Briefings and Concept Forum Sessions from 8 July 2020 to 23 September 2020

DATE: 8 JULY 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Kennaugh, McLeod

Officers: Acting Chief Executive Officer, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Apologies: Cr Godden

Concept Forum: Hardship Policy, Economic Stimulus and Community Resilience Funds

Acting CEO, James Shepherd, presented on the Hardship Policy, Economic Stimulus and Community Resilience Funds.

Concept forums are closed to members of the public and press.

Cr McLeod entered the forum late.

Also in attendance: Manager Human and Community Services, Nigel Anderson, Coordinator Community Development, Jason Cleary, Sustainability Planning Officer, Katie Biggs, Manager Legal and Governance, Ian McLeod, Sustainable Economy Officer, Saul Cresswell

DATE: 15 JULY 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod, Meldrum

Officers: Acting Chief Executive Officer, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: White Elephant Development Application and Lease

Manager Legal and Governance, Ian McLeod and Statutory Planning Coordinator, Lucy Gouws, presented on the White Elephant development application and lease.

Concept Forums are closed to members of the public and press.

Concept Forum: Site Visit – Treeton Road – Proposed Feedlot

Director Sustainable Development and Infrastructure, Nick Logan, led a forum and site visit on the proposed feedlot.

Concept forums are closed to members of the public and press

DATE: 22 JULY 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: CapeROC and South West Regional Priorities

The CEO, Stephanie Addison-Brown, led a concept forum on CapeROC and South West Regional priorities.

Concept forums are closed to members of the public and press

Concept Forum: Local Planning Strategy / Scheme

Manager Planning and Development, Matt Cuthbert, and Strategic Projects Officer, Matt Slocomb, led a concept forum on the Local Planning Strategy and Scheme.

Concept forums are closed to members of the public and press

Agenda Briefing: Corporate Plan 2020-24 and Minor Review of Community Strategic Plan 2036

Community and Corporate Planner, Stacey Hutt, presented on the Corporate Plan 2020-24 and Minor Review of the Community Strategic Plan 2036.

Also in attendance: Manager Corporate Services, Andrew Ross

Apologies: Cr Meldrum

Agenda Briefing: Alexandra Bridge Foreshore Management Plan

Environment Officer, Merryn Delaney, presented on the Alexandra Bridge Foreshore Management Plan.

Cr Meldrum entered at 3.10pm

Also in attendance: Manager Asset Services, David Nicholson

Site Visit: 59 Wooditch Road, Margaret River – re. Building Envelope Variation

Manager Planning and Development, Matt Cuthbert, and Strategic Projects Officer, Matt Slocomb, led a site visit to 59 Wooditch Road, Margaret River in relation to 22 July 2020 Council agenda item 11.2.5 Building Envelope Variation.

DATE: 7 AUGUST 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd

Concept forum: Hardship Policy, Economic Stimulus & Community Resilience Grant Funding

Director Corporate and Community Services, James Shepherd, led a concept forum on the Hardship Policy, Economic Stimulus & Community Resilience Grant Funding.

Cr McLeod disclosed a financial interest and left the room during discussion about the Main Street Traders as she owns a business on the main street.

Concept forums are closed to members of the public and press

Concept Forum: CEO KPIs

The CEO and Councillors attended a concept forum on the CEO KPIs.

Concept forums are closed to members of the public and press

Apologies: Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: Main Street – Meeting with Representatives

Councillors met with main street representatives, Neville Veitch, Gary Barnett and Marcelle Egbert.

Concept forums are closed to members of the public and press

Cr McLeod was not in attendance due to a financial interest as she owns a business on the main street

DATE: 12 AUGUST 2020

Attendance:

Crs: Cristoffanini, Daniel, Godden, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: Leeuwin Naturaliste Regional Trails Strategy

Manager Asset Services, David Nicholson, presented on the Leeuwin Naturaliste Regional Trails Strategy.

Concept forums are closed to members of the public and press

Also in attendance: Manager Corporate Services, Andrew Ross, Manager Planning and Development, Matt Cuthbert

Concept Forum: Draft Scott River Sustainable Economy Strategy

Director Sustainable Development and Infrastructure, Nick Logan and Sustainable Economy Officer, Saul Cresswell, presented on the Draft Scott River Sustainable Economy Strategy.

Also in attendance: Manager Asset Services, David Nicholson

DATE: 19 AUGUST 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: Corporate Business Plan – Project Plan & RFQ

Director Corporate and Community Services, James Shepherd, led a concept forum on the Project Plan and RFQ for the Corporate Business Plan.

Concept forums are closed to members of the public and press

Also in attendance: Manager Legal and Governance, Ian McLeod

DATE: 26 AUGUST 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: Increase of Firebreak Width

Coordinator Ranger Services, Sharon McTaggart led a concept forum on changes to firebreak requirements.

Concept Forums are closed to members of the public and press.

Apologies: Director Corporate and Community Services, James Shepherd

Also in attendance: Manager Legal and Governance, Ian McLeod, Community Emergency Services Manager, Adam Jasper

DATE: 9 SEPTEMBER 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod, Meldrum

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Director Sustainable Development and Infrastructure, Nick Logan

Concept Forum: Mitigation Activity Funding

Community Emergency Services Manager, Adam Jasper, presented on the Shire's Hazard Reduction Program for 2021.

Concept forums are closed to members of the public and press.

Also in attendance: Manager Asset Services, David Nicholson, Coordinator Ranger Services, Sharon McTaggart

Open Concept Forum: Ecological Fire Plan

The Director / Principle Consultant of Eco Systems Solutions, Gary McMahon, presented on the Ecological Fire Plan.

Also in attendance: Community Emergency Services Manager, Adam Jasper, Manager Asset Services, David Nicholson, Senior Environmental Officer, Merryn Delaney, Coordinator Environment / Landcare, John McKinney, Manager Planning and Development, Matt Cuthbert, Bush Fire Mitigation Advisor, Greg West

DATE: 23 SEPTEMBER 2020

Attendance:

Crs: Cristoffanini, Daniel, Earl, Godden, Kennaugh, McLeod

Officers: Chief Executive Officer, Stephanie Addison-Brown, Director Corporate and Community Services, James Shepherd, Acting Director Sustainable Development and Infrastructure, David Nicholson

Briefing: Cowaramup Road Widening – Main Roads WA

Main Roads WA presented on the Cowaramup Road widening.

Also in attendance: Coordinator Landcare / Environment, John McKinney

Apologies: Director Corporate and Community Services, James Shepherd

Closed Agenda Briefing: Proposal by Owner's Representatives on Outstanding Rates and Scheme Issues on Augusta Deceased Estate

Manager Legal and Governance, Ian McLeod, presented on a proposal from owner's representatives on outstanding rates and scheme issues on Augusta deceased estate.

Also in attendance: Manager Corporate Services, Andrew Ross, Manager Planning and Development, Matt Cuthbert

Apologies: Director Corporate and Community Services, James Shepherd

The session was closed as per s5.23 a), b) and c) of the Local Government Act 1995.

Concept Forum: Bushfire Policy and Tourism Development

Manager Planning and Development, Matt Cuthbert, led a concept forum on bushfire policy and tourism development.

Also in attendance: Manager Legal and Governance, Ian McLeod, Senior Planner, Lucy Gouws, Director / Principle Consultant of Eco Systems Solutions, Gary McMahon

Apologies: Director Corporate and Community Services, James Shepherd

Concept forums are closed to members of the public and press

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

Local Government Act 1995

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2020-2024

Key Result Area 5: Effective leadership and governance

Community Outcome 1: Responsible ownership of outcomes

Strategy 4: Provide Councillors with high quality and current information and training for effective decision making

Service level strategy/plan 5.1.4.3: Conduct regular briefing sessions for Councillor and community on key issues and projects, prior to Ordinary Council meetings

PLANNING FRAMEWORK

Nil

FINANCIAL IMPLICATIONS

Implications

Nil

Long Term Financial Plan

Nil

Whole of Lifecycle considerations

Nil

SUSTAINABILITY IMPLICATIONS

Environmental

Nil

Social

Nil

Economic

Nil

ADVOCACY

Nil

ALTERNATE OPTIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council receives the Notes of Councillor Agenda Briefing Sessions from 8 July to 23 September 2020.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

Nil

The following administrative correction was made:

- 8 July 2020. Concept Forum: Hardship Policy, Economic Stimulus and Community Resilience Funds The following text has been added: 'Apologies: Cr Godden'

RECOMMENDATION / COUNCIL DECISION

CR GODDEN, CR CRISTOFFANINI OM2020/205

That Council receives the Notes of Councillor Agenda Briefing Sessions from 8 July to 23 September 2020.

CARRIED 6/0

11.1.2 ADOPTION OF CEMETERIES AMENDMENT LOCAL LAW 2020 AND ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING AMENDMENT LOCAL LAW 2020

LOCATION/ADDRESS	Shire of Augusta Margaret River
APPLICANT/LANDOWNER	Shire of Augusta Margaret River
FILE REFERENCE	ENF/22
REPORT AUTHOR	Lauren Bidesi, Senior Legal Officer
AUTHORISING OFFICER	Ian McLeod, Manager Legal Services

IN BRIEF

- After reviewing the *Cemeteries Local Law 2020* (Cemeteries Local Law) and *Activities in Thoroughfares and Public Places and Trading Local Law 2020* (Thoroughfares Local Law) the Joint Standing Committee on Delegated Legislation (JSCDL) on 14 May 2020 raised concerns with one clause in each local law which contain cross referencing errors.
- At the Ordinary Council Meeting on 22 July 2020 it was resolved by Council that when the Cemeteries Local Law and Thoroughfares Local Law were next amended or reviewed, the local laws would be amended in accordance with JSCDL recommendations.
- Advertising as required under the *Local Government Act 1995* of the proposed amendments to the local laws took place on 7 August 2020 in the Augusta Margaret River Times and in The West Australian newspaper, with a 6 week submission period.
- No submissions were received.
- The Department of Local Government, Sport and Cultural Industries (DLGSC) has reviewed the local laws and provided comments.
- It is now recommended that Council adopt the '*Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020*' and the '*Cemeteries Amendment Local Law 2020*' (amendment local laws) and that they both be published in the Government Gazette.

RECOMMENDATION

That Council:

1. Notes that no submissions were received in response to the proposal to make amendments to the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Local Law 2020*;
 2. Accepts the changes suggested by the Department of Local Government, Sport and Cultural Industries to the *Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as the changes are not significantly different from what was proposed when the local laws were advertised in August 2020;
 3. Resolves to make the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* as per Attachment 1 and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as per Attachment 2; and
 4. Authorises the CEO to:
 - a) Affix the common seal to the amendment local laws, or any other documents relevant to making the amendment local laws.
 - b) Publish the amendment local laws in the Government Gazette and forward a copy to the Minister for Local Government.
 - c) Advertise in the Shires public notices the Gazetted Local Laws' title, purpose and effect and availability for inspection as required under section 3.12(6) of the *Local Government Act 1995*.
-

LOCATION PLAN

Nil

TABLED ITEMS

Nil

BACKGROUND

At the Ordinary Council Meeting on 12 February 2020, Council adopted the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* and *Shire of Augusta Margaret River Cemeteries Local Law 2020*.

Following Council's adoption of the Local Laws, they were gazetted and sent to JSCDL in accordance with DLGSC directions. The JSCDL wrote to the Shire in May 2020 setting out the following concerns in relation to the Local Laws:

"Clause 3.2

Clause 3.2 of the Local Law provides as follows:

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of a body.

The definition contains a minor error in that it should refer to clause 3.3 rather than 3.4 as:

- *Clause 3.4 relates to the minimum notice required for a booking to hold a funeral.*
- *Clause 3.3 relates to certificates of identification.*

Although this error is a minor typographical one, the outcome is that technically the local law does not require an application for burial to be accompanied by a certificate of identification."

The JSCDL's concerns in relation to the Thoroughfares Local Law were set out in their letter of 14 May 2020 as follows:

"Clause 1.5

Clause 1.5 of the Local Law provides the definition of 'permissible verge treatments' as follows:

Permissible verge treatment means any one of the 4 treatments described in clause 2.8(2) and includes any reticulation pipes and sprinklers;

The definition contains a minor error in that it should refer to clause 2.7 rather than 2.8(2) as:

- *Clause 2.8 relates to 'only permissible lawn treatments to be installed' and clause 2.8(2) does not exist.*
- *Clause 2.7 relates to 'permissible verge treatments' and appears to be the correct reference."*

At the Ordinary Council Meeting on 22 July 2020, it was resolved by Council that when the Cemeteries Local Law and Thoroughfares Local Law were next amended or reviewed, the local laws would be amended in accordance with JSCDL recommendations. State-wide notification of the amendments in accordance with section 3.12(3) of the LG Act outlining the Shire's intention to amend the local laws took place on 7 August 2020.

If any local law requires amendment, the local government must commence the process outlined in section 3.12 of the LG Act which is the same process as for making a local law.

CONSULTATION AND ADVICE

External Consultation

The proposed Local Laws were both advertised (Advertising) consistently with the *Local Government Act 1995* (the Act) requirements in:

- The Shire's local public notices in the Augusta Margaret River Times on the 7 August 2020;
- The local government notices in The West Australian on 7 August 2020; and
- The Shire office foyer, website and library noticeboards.

The first Advertising commenced on 7 August 2020, with a submission deadline inviting comments by 21 September 2020. This period for submissions exceeded the 6 week minimum period specified by the Act. No submissions were received in relation to the proposed amendments.

Department of Local Government, Sport and Cultural Industries Advice

In accordance with the Act section 3.12(3)(b), a copy of the proposed amendment Local Laws was provided to the DLGSC. The DLGSC reviewed and provided comments and recommendations on the proposed amendments Local Laws. The comments were mostly in respect of typographical and formatting matters.

The proposed Local Laws have been amended from what it was when advertised, to incorporate all the suggestions provided in the DLGSC's comments. These amendments do not affect the operation of the Local Laws.

Pursuant to section 3.12(4) of the Act the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed. If the local government decides to make a local law that would be significantly different from what is first proposed, then the making of the local law procedure is to recommence (s.3.13 of the Act).

Internal Consultation

As the changes do not affect the substance or operation of the Local Laws further internal comment has not been sought.

DISCUSSION / OFFICER COMMENTS

The JSCDL have advised that the Cemeteries Local Law must be amended within 6 months and may be disallowed if the amendment is not made. The Thoroughfares Local Law amendment should be made to avoid confusion as to what a permissible verge treatment is.

Under Section 3.12(1) and (8) of the *Local Government Act*, the procedure for amending a local law is the same as the procedure for making a local law, i.e. there must be:

- A Council resolution giving notice of purpose and effect of proposed amendment,
- Statewide public notice;
- A 6 week submission period;
- A report to Council considering any submissions and recommending adoption;
- A formal Council resolution adopting the amended local law;
- Publishing the amendment in the Government Gazette; and
- Providing local public notice that the amendment has been adopted.

The proposed amendments to the local laws satisfies the objectives of making a local law, by:

1. Implementing a contemporary format for governing the relevant matters;
2. Minimising duplication and ensuring consistency with relevant head of powers; and
3. Using plain English to assist both the public and Shire officers to understand and apply the local law.

It is recommended that the *Cemeteries Local Law 2020* and the *Activities in Thoroughfares and Public Places and Trading Local Law 2020* be amended as proposed in the Attachments.

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

If any local law that is reviewed requires amending, the local government must commence s3.12 process which is the same as for making a local law to implement any changes.

Making Local Laws

Clause 3.12 of the *Local Government Act 1995* prescribes the procedure for making local laws. In accordance with the Act section 3.12, after a proposed local law is advertised:

1. Any submissions received are to be considered; and,
2. If the local law is not significantly different from what was proposed/advertised, then the local law can be made by an absolute majority vote.

If the local law receives an absolute majority vote then:

1. The local law is to be published in the Government Gazette;
2. A copy is to be provided to the Minister LG; and,
3. After being published in the Government Gazette, there is to be local public notice issued:
 - a. Stating the local law's title;
 - b. The local law's purpose and effect; and
 - c. Advising where a copy of the local law can be inspected or obtained.

The Local Law comes into effect 14 days after being published in the Government Gazette.

By virtue of the Local Law Explanatory Memoranda Directions 2010 issued by the Department of Local Government, local governments are required to forward to the Joint Standing Committee (JSCDL), on delegated legislation, within 10 days of the gazettal date, the following:

1. Completed explanatory memorandum relevant to the local law;
2. Copy of the local law adopted as it appears in the Government Gazette;
3. Identification of the model that the local law was based on and any differentiation;
4. Completed Statutory Procedures Checklist; and
5. Supporting material, including copies of advertising and Council Minutes relevant to adopting the local law.

On receiving these materials, the JSCDL has a statutory timeframe to consider the subsidiary legislation and determine if it should be disallowed. The JSCDL limits its disallowance recommendations to circumstances where the local law exceeds its delegation power.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2020-2024

Key Result Area 3: Ensuring Sustainable Development

Community Outcome 2: Liveable, sustainable and well designed places that are inclusive for all cultures and demographics.

Strategic Response: Develop and implement management plans for Shire facilities and projects so they are well designed, sustainable, have aesthetic appeal and are accessible by all.

Service level strategy/plan: The local laws meet compliance obligations, which is consistent with the governance goals in the Strategic Plan.

PLANNING FRAMEWORK

Nil

FINANCIAL IMPLICATIONS

Implications

Advertising of the adopted amended Local Laws is required and also publishing the Local Laws in the Government Gazette. The advertising charges will be covered from existing budget allocations.

Long Term Financial Plan

Nil

Whole of Lifecycle considerations

The Local Laws will need to be reviewed every 8 years after their commencement pursuant to s.3.16 of the LG Act.

SUSTAINABILITY IMPLICATIONS

Environmental

Nil

Social

Nil

Economic

Nil

ADVOCACY

Nil

IMPLICATIONS OF ALTERNATIVE RESOLUTION

Council could resolve to refuse to make the proposed amendments to the local laws. The consequence of this would be that the existing '*Cemeteries Local Law 2020*' may be disallowed by JSCDL.

Without making the recommended changes to the '*Activities in Thoroughfares and Public Places and Trading Local Law 2020*' it would continue to apply as it has previously however what constitutes a 'permissible verge treatment' would not be able to be enforced as it is unclear.

VOTING REQUIREMENTS

Absolute Majority

RECOMMENDATION

That Council:

1. Notes that no submissions were received in response to the proposal to make amendments to the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Local Law 2020*;
2. Accepts the changes suggested by the Department of Local Government, Sport and Cultural Industries to the *Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as the changes are not significantly different from what was proposed when the local laws were advertised in August 2020;
3. Resolves to make the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* as per Attachment 1 and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as per Attachment 2; and
4. Authorises the CEO to:
 - a) Affix the common seal to the amendment local laws, or any other documents relevant to making the amendment local laws.
 - b) Publish the amendment local laws in the Government Gazette and forward a copy to the Minister for Local Government.
 - c) Advertise in the Shires public notices the Gazetted Local Laws' title, purpose and effect and availability for inspection as required under section 3.12(6) of the *Local Government Act 1995*.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020
2. Cemeteries Amendment Local Law 2020
3. Letter from JSCDL

RECOMMENDATION / COUNCIL DECISION

CR MELDRUM, CR KENNAUGH OM2020/206

That Council:

1. Notes that no submissions were received in response to the proposal to make amendments to the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Local Law 2020*;
2. Accepts the changes suggested by the Department of Local Government, Sport and Cultural Industries to the *Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as the changes are not significantly different from what was proposed when the local laws were advertised in August 2020;
3. Resolves to make the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2020* as per Attachment 1 and the *Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020* as per Attachment 2; and
4. Authorises the CEO to:

- a) **Affix the common seal to the amendment local laws, or any other documents relevant to making the amendment local laws.**
- b) **Publish the amendment local laws in the Government Gazette and forward a copy to the Minister for Local Government.**
- c) **Advertise in the Shires public notices the Gazetted Local Laws' title, purpose and effect and availability for inspection as required under section 3.12(6) of the *Local Government Act 1995*.**

CARRIED BY ABSOLUTE MAJORITY 6/0

11.2. Sustainable Development and Infrastructure

**11.2.1 PROPOSED ADDITIONAL NINE (9) CHALETS, 36 (LOT 2) ARMSTRONG ROAD,
COWARAMUP**

LOCATION/ADDRESS	Lot 2 Armstrong Road Cowaramup
APPLICANT/LANDOWNER	PGPM Pty Ltd / Olio Bello Pty Ltd
FILE REFERENCE	PTY/3366, P220338
REPORT AUTHOR	Lezia Sandon, Planning Officer
AUTHORISING OFFICER	Nick Logan, Director Sustainable Development and Infrastructure

ADDENDUM

On 26 October 2020 this item was withdrawn from 28 October 2020 Ordinary Council Meeting agenda by the applicant and will be considered on 11 November 2020.

11.2.2 SCHEME AMENDMENT NO. 67 FOR FINAL DETERMINATION - WALLCLIFFE HOUSE

LOCATION/ADDRESS	Wallcliffe House, Lot 101, Wallcliffe Road, Margaret River.
APPLICANT/LANDOWNER	Taylor Burrell Barnett Town Planning & Design / Wallcliffe House Pty. Ltd.
FILE REFERENCE	LND/1/67
REPORT AUTHOR	Matt Cuthbert, Manager Planning and Development
AUTHORISING OFFICER	Nick Logan, Director Sustainable Development and Infrastructure

This item was brought forward for consideration (page 7)

11.2.3 ELECTRICITY SUPPLY CONTRACT OPTIONS

LOCATION/ADDRESS	Shire of Augusta Margaret River
APPLICANT/LANDOWNER	Shire of Augusta Margaret River
FILE REFERENCE	COR/331
REPORT AUTHOR	Katie Biggs, Sustainability Planning Officer
AUTHORISING OFFICER	Nick Logan, Director Sustainable Planning and Infrastructure

Cr Cristoffanini disclosed an impartiality interest in this item at 3.1.

IN BRIEF

- The Shire has seven “contestable sites” where electricity usage is above a set threshold allowing the Shire to select an electricity retailer.
- The current electricity supply contract with Alinta Energy ends on 31 January 2021.
- The contract includes an option to extend for 12 months, which would delay the expiry to 31 January 2022.
- On awarding the original contract to Alinta Energy, Council required that such an extension option would need to be approved by Council, with the Council report including a reassessment of consumption profiles.
- The energy market is changing rapidly with different supply options, including local suppliers, entering the market.
- There are emerging alternatives for sourcing renewable energy, including the potential for an energy supplier to also provide renewable energy services.
- To maximise the benefit of these new services, market research and scoping is required prior to procurement of a long-term electricity supply contract.

RECOMMENDATION

That Council:

1. Endorses the twelve-month extension available on the Shire’s current contract with Alinta Energy; and
 2. Notes the further investigation to be undertaken into opportunities available to the Shire for increasing renewable energy uptake preceding procurement of a new energy supply contract in 2021/22.
-

LOCATION PLAN

Nil

TABLED ITEMS

Nil

BACKGROUND

The purchase of power is generally restricted to an area specific retailer (Synergy), however, electricity accounts using over 50MWh annually are contestable accounts and can select an electricity retailer from the market. The Shire has seven accounts that are considered eligible. These accounts are packaged up together under one service agreement for procurement.

The current electricity supply contract is with Alinta Energy and ends on 31 January 2021. The contract contains an option to extend for a period of twelve months, with the decision of whether to extend required to be communicated to Alinta Energy by 1 November 2020.

On award of the Alinta Energy contract at the Ordinary Council Meeting on 12 December 2018, Council made the following resolution:

RECOMMENDATION / COUNCIL DECISION

CR GODDEN, CR EARL OM2018/334

That Council:

- 1. Awards the contract for the supply of electricity to contestable sites to Alinta Energy from 1 February 2019 for two (2) years using the pricing rates provided in their submission (response ID: VPR211584); and**
- 2. That any extension of the contract term beyond two (2) years be approved by Council and include a reassessment of consumption profiles.**

CARRIED 7/0

New energy retail opportunities are entering the energy market, including local supply and social enterprise options. There are also several renewable energy opportunities emerging, which minimise the need for capital investment in renewable technologies.

Some of these opportunities are not going to be available until 2021 or 2022. In addition, the structure of the electricity supply procurement requirement and subsequent contractual arrangements require further investigation. These factors support extending the current contract for 12 months so the Shire can undertake further research and procurement of a new supply contract.

CONSULTATION AND ADVICE

External Consultation

Discussions with the WA Local Government Association (WALGA) have indicated that local supply options won't be available as WALGA preferred suppliers until the end of 2020 at the very earliest. The WALGA Preferred Supplier Arrangement system (WALGA PSA) secures discounted rates and provides a level of protection to local governments. WALGA have also indicated that new renewable energy opportunities will be explored on behalf of local governments during 2021.

Internal Consultation

The following officers have been involved in reviewing the options:

- Sustainability Planning Officer
- Project & Procurement Officer
- Manager Corporate Services

DISCUSSION/OFFICER COMMENTS

Renewable Energy Opportunities

When the Shire approaches the market for electricity supply, there is an opportunity to call for innovative funding models to support a faster deployment of renewables, whilst preserving the Shire's capital and reducing operating expenses. These may include Power Purchase Agreements (PPA) or Electricity Supply Agreements (ESA) where a third party installs, owns and maintains infrastructure such as a solar system and sells the power to the Shire at a cheaper rate than from the existing Western Power grid.

These agreements generally include the option to buy out the system at any point if the capital becomes available. There are however, numerous benefits to the Shire with a third party managing these assets. It is in the interest of a third party to ensure that the assets continue to perform at their peak and it saves substantial operational staff time to outsource investigation, procurement, management and maintenance.

WALGA staff are also in early discussions about establishing a large renewable energy Power Purchase Agreement (PPA) on behalf of local governments. If this goes ahead, it is likely to be finalised in 2021 and become operational in 2022.

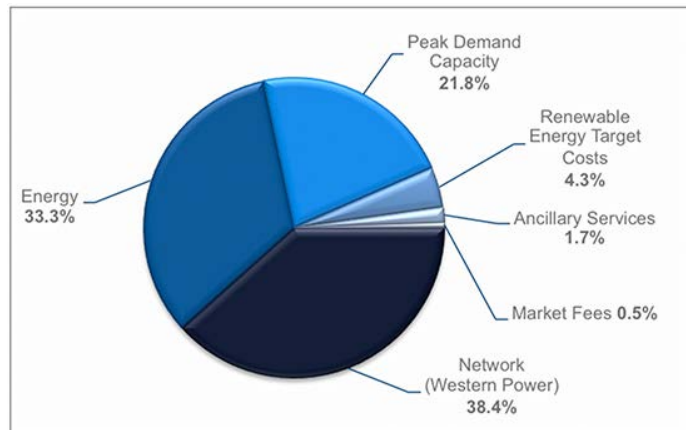
The Draft Climate Action Plan 2020 – 2030 includes a target of 50% renewable energy supply by 2030. The Shire's next tender for supply of energy will request pricing to offset a proportion of the remaining grid power through additional renewable generation. This is likely to be through the purchase of Large-scale Generation Certificates (LGC) with one LGC created for each megawatt-hour of eligible renewable electricity produced by an accredited renewable power station. The LGC Market is forecast to fall, in line with the large volumes of certificates coming onto the market, as the large-scale grid renewable

projects come on stream. As a result, the cost of meeting the Shire's target is likely to fall in line with these lower prices over time.

Western Power Battery

The recent installation of the Western Power Battery opens up opportunities for additional solar power infrastructure. Excess solar power can now be stored for later use, rather than exporting it to the grid. The procurement process will explore this and other opportunities.

The battery also allows the shifting of demand from peak to off-peak times. This has a significant impact on capacity and network charges. It is expected that the capacity savings will be between \$15,000 and \$20,000 per year, whilst the network savings will be around \$10,000 per year. A typical breakdown of electricity costs is provided in the adjacent graphic.



A typical breakdown of electricity costs

Capacity charges are calculated annually by looking back at the previous year to determine the sites relative contribution to peak demand periods on the grid. The benefits from the battery will not be realised until next financial year and therefore undertaking procurement after mid-2021 will allow the Shire to take advantage of these reduced energy supply costs.

Procurement Process

Contestable electricity contracts are particularly complicated, due in part to the complexity of pricing structures and the varied underlying electricity generation models available. During the procurement process for the current electricity supply contract with Alinta Energy, an external specialist consultant was engaged to assist the Shire in interpreting the quotes received and it is envisaged that the same will be required for any future contracts procured by the Shire.

Electricity is a significant input cost for the Shire each year, and contestable supply alone currently amounts to approximately \$400,000 per year. With the rapid pace of change in the market and emerging renewable electricity models, it is worth taking the time to effectively explore all available options and opportunities to ensure the Shire is in a position to maximise its response to climate change and secure affordable energy into the future.

Consultation with WALGA and a number of bodies/organisations has identified that, whilst the Shire could publicly advertise a tender for the supply of electricity to commence now, doing so could miss opportunities which better suit the Shire's sustainability goals and provide better value for money.

Pre-procurement activities such as in-depth market research, consultation with expert organisations and even early contractor involvement may assist in better defining electricity supply (and underlying generation sourcing) requirements will help to inform a Specification which is more likely to be innovative, and which meets the Shire's objectives.

Further, utilising the Energy Services Preferred Supplier Arrangement governed by WALGA – as opposed to conducting a publicly advertised tender – would provide a number of benefits, such as the ability to access reduced prices and rates, and a reduced level of risk.

PPAs need to be approached as long-term electricity supply solutions, as an electricity supplier engaged under a PPA would, as part of the contract, make significant up-front investment in the underlying electricity generation assets.

As such, if the Shire is to seriously consider a PPA as a way of increasing its renewable electricity uptake, utilising the extension option available on the current Alinta Energy contract to allow time for either (i) WALGA to form its new local government-wide PPA arrangement, or (ii) giving the Shire

officers more time to scope the requirements with the assistance of external technical experts is recommended as the most suitable way forward.

Consumption Profiles

The previous Council decision required that any extension of the contract term beyond two (2) years be approved by Council and include a reassessment of consumption profiles. This was to ensure that the climate change objectives were addressed. Following this a report was prepared in 2019 by Perdaman looking at the key opportunities for behind the meter solar installations. This report identified the Margaret River Depot for a 20kW installation which was carried out last financial year and a 100kW installation for the Margaret River Administration Building which will be happening this financial year.

The intention of the twelve-month extension is to investigate emerging renewable energy opportunities beyond these behind the meter installations and new opportunities arising as a result of the recent battery installation at the Margaret River Recreation Centre.

Below is a high-level summary of consumption from 01/02/2019 to 30/09/2020. There is further detail provided in Attachment 1 with a monthly breakdown of energy use across each of the contestable sites.

NMI	Location	Total kWh	Peak kWh	Off Peak kWh
80010530205	Margaret River Library	71,529.29	51,389.96	20,139.33
80018472703	Margaret River Depot	80,960.77	41,615.19	39,345.58
80017236991	Augusta Civic Centre	87,344.08	40,179.26	47,164.82
80021626997	Flinders Caravan Park	167,491.57	76,174.38	91,317.19
80021329666	Margaret River Administration	409,113.07	271,248.54	137,864.53
80010093771	Turner Caravan Park	427,887.98	200,090.26	227,797.73
80010104506	Recreation Centre	1,668,228.03	825,183.15	843,044.88

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

The *Local Government (Functions and General) Regulations 1996*

Part 4 Division 2 Regulation 11(1) requires that tenders are to be publicly invited before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000, unless sub-regulation (2) states otherwise.

The *Local Government (Functions and General) Regulations 1996*

Part 4 Division 2 Regulation 11(2) provides for a number of exemptions from the requirement to publicly invite tenders, which includes instances where the supply of goods or services is to be obtained through the WALGA Preferred Supplier Program. Also, exemptions are allowed for extensions included in the original tender and previously approved by the Local Government.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2020-2024

Key Result Area 3: Ensuring sustainable development

Community Outcomes 3 and 5: Climate change mitigation and response, sustainable water and energy management

Strategic response 1: Reduce the Shire's corporate carbon emissions including energy use and corporate waste, to meet adopted targets

Key Result Area 4: Vibrant and diverse economy

Community Outcome 5: Opportunities arising from climate change adaptation and innovation

Strategic response 3: Identify investment opportunities, leadership in carbon free renewable energy and innovative technologies

Key Result Area 5: Effective leadership and governance

Community Outcome 7: Leadership in climate change mitigation and adaptation

Strategic response 1: Strive to be a National leader in best practice, innovation and technology advancement in addressing climate change mitigation and response goals across Shire operations and responsibilities

Service level strategy/plan: Draft Climate Action Plan 2020 - 2030

The following Key Projects also apply:

Key Project 8: Implement renewable energy on Shire buildings, focused on the Shire main office in 2020-21

Key Project 21: Deliver ongoing iterative mainstreaming of climate change through policy, procedure and cultural change

PLANNING FRAMEWORK

Nil

FINANCIAL IMPLICATIONS

Implications

The existing rates will remain in place for the purchase of electricity for the next year. The investigation process is expected to identify opportunities to meet our renewable energy targets and deliver cost savings over the longer term.

Long Term Financial Plan

There are opportunities to reduce energy costs over time by switching to renewables.

Whole of Lifecycle Considerations

The use of PPAs place the responsibility for management and maintenance of the energy assets onto a third party.

SUSTAINABILITY IMPLICATIONS

Environmental

Investigation of opportunities to reduce carbon emissions and therefore reducing our contribution to climate change

Social

Social impacts will be addressed through development of the selection criteria

Economic

Potential reduction in capital and operational costs over the longer term and reduced reliance on the grid which increases resilience to future shocks.

ADVOCACY

Raise expectations around offsetting carbon from energy consumption and support the rapid decarbonisation of the energy sector.

IMPLICATIONS OF ALTERNATIVE RESOLUTION

An alternative resolution would be to opt not to extend the current Alinta contract for 12 months, and instead approach the market for a new electricity supply contract. This option would still require the Alinta Energy contract to be extended for at least 3 months, to allow sufficient time for the procurement of a new electricity supply contract. This alternative resolution is not recommended, as approaching the market at this time would be premature and could delay the opportunity to be involved in several emerging renewable energy opportunities.

Another alternative resolution would be to opt not to extend the current Alinta contract, and instead approach the market for a new short-term (i.e. one year) electricity supply contract in the interim. This resolution is not recommended, as a short-term contract will not attract competitive rates, and is unlikely to attract options which provide much more renewable benefit than we currently obtain through Alinta Energy.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council:

1. Endorses the twelve-month extension available on the Shire's current contract with Alinta Energy; and
2. Notes the further investigation to be undertaken into opportunities available to the Shire for increasing renewable energy uptake preceding procurement of a new energy supply contract in 2021/22.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Consumption Breakdown

RECOMMENDATION

CR MCLEOD, CR KENNAUGH

That Council:

1. Endorses the twelve-month extension available on the Shire's current contract with Alinta Energy; and
2. Notes the further investigation to be undertaken into opportunities available to the Shire for increasing renewable energy uptake preceding procurement of a new energy supply contract in 2021/22.

0/0

Cr McLeod moved the following amendment:

AMENDMENT / COUNCIL DECISION

CR MCLEOD, CR KENNAUGH OM2020/207

That point 2 be omitted and replaced with the following:

2. Endorses further investigation into opportunities and innovative solutions to inform the scope and specifications for the supply of the Shire's total electricity requirements.

CARRIED 6/0

This then became the primary motion:

PRIMARY MOTION / COUNCIL DECISION

CR MCLEOD, CR KENNAUGH OM2020/208

That Council:

1. Endorses the twelve-month extension available on the Shire's current contract with Alinta Energy; and
2. Endorses further investigation into opportunities and innovative solutions to inform the scope and specifications for the supply of the Shire's total electricity requirements.

CARRIED 6/0

11.3. Corporate and Community Services

11.3. CORPORATE AND COMMUNITY SERVICES

Nil

12. MOTIONS FROM MEMBERS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. MOTIONS FOR CONSIDERATION AT NEXT MEETING

13.1 Endorsement of Rodenticide Action Group's Owl Friendly Margaret River Region Campaign – Cr McLeod

Cr McLeod gave notice of the following motion for consideration at the 11 November 2020 Ordinary Council Meeting:

MOTION

That Council endorses the Rodenticide Action Group's Owl Friendly Margaret River Region Campaign vision 'that the Margaret River Region is a safe haven for owls and other wildlife from rodenticide poisoning' by:

- a) Committing to actions where possible within the Shire's areas of responsibility and influence; and
- b) Supporting Rodenticide Action Group's community engagement activities to educate the community.

14. NEW BUSINESS OF AN URGENT NATURE

14.1. Members

Nil

14.2. CEO

Nil

15. CONFIDENTIAL BUSINESS

PROCEDURAL MOTION / COUNCIL DECISION

CR MELDRUM, CR CRISTOFFANINI OM2020/209

That the meeting go behind closed doors.

CARRIED 6/0

Members of the public, press, CEO and Officers, with exception of the Governance / Council Support Officer, left Chambers at 6.19pm

15.1 CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REVIEW 2019-20

LOCATION/ADDRESS	Shire of Augusta Margaret River
APPLICANT/LANDOWNER	Shire of Augusta Margaret River
FILE REFERENCE	PER/05861
REPORT AUTHOR	Stephanie Addison-Brown, Chief Executive Officer
AUTHORISING OFFICER	Stephanie Addison-Brown, Chief Executive Officer

The CEO disclosed a financial interest in this report as it relates to her principal source of income as the CEO of the Shire.

RECOMMENDATION

That the meeting be closed to the public for the purpose of discussing item 15.1 as it required that this matter be dealt with behind closed doors under section 5.23 (2) (a) of the *Local Government Act 1995*,

Reasons:

5.23 (2) (a) a matter affecting the employee or employees;

VOTING REQUIREMENTS

Simple Majority

PRIMARY MOTION / COUNCIL DECISION

CR EARL, CR CRISTOFFANINI OM2020/210

That Council:

1. Endorses the CEO's performance review for 2019-20 (**CONFIDENTIAL Attachment 1**);
2. Notes the CEO's KPIs for 2020-21 as endorsed in the **Corporate Business Plan 2020-2024 (Attachment 2)**;
3. Endorses the equivalent of the 2019-20 salary package for 2020-21 on the basis the CEO volunteered not to accept a salary increase due to the impact of the COVID-19 pandemic on the Shire's budget; and
4. Authorises the CEO to initiate a procurement process to source an external consultant to facilitate the CEO performance review for 2020-21 and KPI setting processes for 2021-22 and for the CEO to bring a report to Council for endorsement of the consultant's appointment.

CARRIED 6/0

PROCEDURAL MOTION / COUNCIL DECISION

CR MELDRUM, CR KENNAUGH OM2020/211

That the meeting come out from behind closed doors.

CARRIED 6/0

16. CLOSURE OF MEETING

The Shire President thanked all in attendance and declared the meeting closed at 6.23pm