

# SHIRE OF JERRAMUNGUP



## AGENDA

### COUNCIL ORDINARY MEETING

19<sup>th</sup> APRIL 2017

Dear President and Councillors,

## **NOTICE OF ORDINARY COUNCIL MEETING**

Please note that the next Ordinary Meeting of Council of the Shire of Jerramungup will be held in the Town Hall, Bremer Bay on Wednesday 19<sup>th</sup> April 2017, commencing at 2:00pm.

**BRENT BAILEY**  
**CHIEF EXECUTIVE OFFICER**

13<sup>th</sup> April 2017

## **DISCLAIMER**

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**Progressive, Prosperous and a Premium Place to Live and Visit.**

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## **SHIRE OF JERRAMUNGUP**

**ORDINARY MEETING OF COUNCIL TO BE HELD IN THE TOWN HALL,  
BREMER BAY ON WEDNESDAY 19<sup>th</sup> APRIL 2017, COMMENCING AT 2:00PM.**

- 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**
- 2. RECORD OF ATTENDANCE**
- 3. APOLOGIES**
- 4. LEAVE OF ABSENCE PREVIOUSLY APPROVED**
- 5. PUBLIC QUESTION TIME**
- 6. APPLICATIONS FOR LEAVE OF ABSENCE**
- 7. PETITIONS / DEPUTATIONS / PRESENTATIONS**
- 8. DECLARATIONS OF FINANCIAL INTEREST**
- 9. CONFIRMATION OF MINUTES**
  - 9.1 Ordinary Council Meeting held 15<sup>th</sup> March 2017**

**WORKS**

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<b>SUBMISSION TO:</b>	<b>Works</b>
<b>AGENDA REFERENCE:</b>	10.1.1
<b>SUBJECT:</b>	Works Report
<b>LOCATION/ADDRESS:</b>	Shire of Jerramungup
<b>NAME OF APPLICANT:</b>	N/A
<b>FILE REFERENCE:</b>	
<b>AUTHOR:</b>	Murray Flett
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	11 <sup>th</sup> April 2017

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### **ATTACHMENT**

Attachment 10.1.1(a) - Jerramungup, Bremer Bay & rural road maintenance report  
Attachment 10.1.1(b) - Road construction program schedule

### **ROAD CONSTRUCTION**

The Construction crew finished gravel sheeting 3kms of Carney Road commencing at the Cowalallep Road intersection. The finished works have made a huge difference to this section of road that previously had extensive pavement failures which required constant maintenance. This section of road is also part of the school bus route which has been greatly improved as a result of these works.

The gravel material for these works was sourced adjacent to the works which has greatly reduced cartage costs. It is a great credit to those farmers who contribute to the upgrade of our road network by providing gravel for these works. Without this contribution we could not deliver the annual roads program.

The crew have moved onto the Boxwood Ongerup Road and commenced gravel sheeting the next 3km section adjacent to Monjebup Road. These works have included some minor curve realignment which will substantially increase traffic safety through this section.

Focus is still on obtaining appropriate approvals to undertake future works, in the interim, work practices have been amended to adhere to DER (Department of Environment and Regulation) requirements until appropriate approvals are obtained.

Riverhill Contracting and Gaia Civil are still undertaking road maintenance and drainage works respectively from the damage sustained in the storm event of January 2016. The works are progressing well and the standard of work is a credit to these crews.

Attached is the completed 2016 / 2017 construction program

### **ROAD MAINTENANCE**

Given the recent rains, the roadside spraying program will need to commence shortly to restrict weed infestations.

Routine Maintenance grading and gravel patching is continuing on roads in both the Bremer Bay and Jerramungup areas with emphasis on patching all the blowouts prior to the wet weather onset. There will be a significant number of pavement failures on most roads so please be mindful of the road conditions and drive accordingly.

The crew are still focused on clearing of back-slopes especially on bends and intersections to improve sight distances for the road user.

### **TOWN SERVICES**

The town services team has completed forming and gravel sheeting Stage 2 of the Walk Trail in Bremer Bay. The asphalt surfacing of the path will be undertaken in conjunction with the town centre works. The trail has been well utilised by pedestrians since it was opened.

The team have been kept busy on weed eradication in both towns which has been a great effort by those involved. They are also undertaking maintenance of the parks and gardens in Jerramungup and Bremer Bay.

### **STATUTORY REQUIREMENTS**

Nil

### **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**Aspiration 3.4:** To lobby, advocate for and deliver a first class transport and telecommunications network.

### **FINANCIAL IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **WORKFORCE IMPLICATIONS**

This report provides an overview of the outside workforce operations for the month.

### **VOTING REQUIREMENTS**

Simple Majority

**COMMENTS**

Nil

**RECOMMENDATION**

**That Council adopt the March works report.**



# **FINANCE**

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<b>SUBMISSION TO:</b>	<b>Finance</b>
<b>AGENDA REFERENCE:</b>	10.2.1
<b>SUBJECT:</b>	Accounts Payable
<b>LOCATION/ADDRESS:</b>	Shire of Jerramungup
<b>NAME OF APPLICANT:</b>	
<b>AUTHOR:</b>	Kiara Leeson
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	3 <sup>rd</sup> April 2017

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**ATTACHMENT**

Attachment 10.2.1(a) - List of Accounts Paid to 31<sup>st</sup> March 2017  
Attachment 10.2.1(b) - Credit Card Statement 21/02/2017 – 18/03/2017

**BACKGROUND**

<b>FUND</b>	<b>VOUCHERS</b>	<b>AMOUNTS</b>
<b>Municipal Account</b>		
Last Cheque Used	28093	
	EFT 13104 – 13109	\$107,119.04
	EFT 13111 – 13205	\$856,200.42
	EFT 13207 – 13223	\$139,494.75
	EFT 13225 – 13247	\$140,849.93
	Cheque 28094 – 28099	\$20,493.15
	Cheque 28100 – 28100	Unused – Printing Error
	Cheque 28101 – 28102	\$1,559.75
	Direct Deposit	\$25,779.08
<b>Municipal Account Total</b>		<b>\$1,291,576.12</b>
<b>Trust Account</b>		
	EFT 13110 – 13110	\$ 272,356.87
	EFT 13206 – 13206	\$ 256,661.76
	EFT 13224 – 13224	\$2,000.00
<b>Trust Account Total</b>		<b>\$531,018.63</b>
<b><u>Grand Total</u></b>		<b><u>\$1,822,594.75</u></b>

## **CERTIFICATE**

This schedule of accounts as presented, which was submitted to each member of the Council, has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and the rendition of services and as to prices computation, and costings and the amounts shown have been paid.

## **VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

**That Council, pursuant to Regulation 13 of the Local Government (Financial Management) Regulations 1996, confirm;**

- a) The List of Accounts Paid to 31<sup>st</sup> March 2017 as detailed in Attachment 10.2.1(a); and**
- b) The Credit Card Statement for 21/02/2017 – 18/03/2017 as detailed in Attachment 10.2.1(b)**

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<b>TO:</b>	<b>Finance</b>
<b>AGENDA REFERENCE:</b>	10.2.2
<b>SUBJECT:</b>	Monthly Financial Report
<b>LOCATION/ADDRESS:</b>	Shire of Jerramungup
<b>AUTHOR:</b>	Charmaine Solomon
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	31 <sup>st</sup> March 2017

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## **SUMMARY**

This report presents the monthly financial report to Council which is provided as an attachment to the agenda. The recommendation is to receive the monthly financial report.

## **ATTACHMENT**

Attachment 10.2.2 – Monthly Financial Report Period Ending 31<sup>st</sup> March 2017

## **BACKGROUND**

As per the Financial Management Regulation 34 each Local Government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1) (d), for that month with the following detail

- The annual budget estimates,
- The operating revenue, operating income, and all other income and expenses,
- Any significant variations between year to date income and expenditure and the relevant budget provisions to the end of the relevant reporting period,
- Identify any significant areas where activities are not in accordance with budget estimates for the relevant reporting period,
- Provide likely financial projections to 30 June for those highlighted significant variations and their effect on the end of year result,
- Include an operating statement, and
- Any other required supporting notes.

## **CONSULTATION**

Council financial records.

## **COMMENT**

This report contains annual budget estimates, actual amounts of expenditure, revenue and income to the end of the month. It shows the material differences between the budget and actual amounts where they are not associated to timing differences for the purpose of keeping Council abreast of the current financial position.

## **STATUTORY REQUIREMENTS**

Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996 require that financial activity statement reports are provided each month reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month.

The report is to be presented at either the next Ordinary meeting after the end of the month, or if not prepared in time to the next Ordinary meeting after that meeting.

## **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**Aspiration 2.5:** To provide strong civic leadership and governance systems that are open and transparent and ethical.

## **FINANCIAL IMPLICATIONS**

As detailed within the Monthly Financial Report

## **POLICY IMPLICATIONS**

Accounting policies as detailed within the Monthly Financial Report

## **WORKFORCE IMPLICATIONS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That Council receive the Monthly Financial Report for the period ending 31<sup>st</sup> March 2017 in accordance with Section 6.4 of the Local Government Act 1995.**

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<b>SUBMISSION TO:</b>	<b>Finance</b>
<b>AGENDA REFERENCE:</b>	10.2.3
<b>SUBJECT:</b>	Rates Exemption
<b>LOCATION/ADDRESS:</b>	Lot 1923 Swamp Road & Lot 1 Dillon Bay Road, Bremer Bay
<b>NAME OF APPLICANT:</b>	Banjelungup Aboriginal Corporation
<b>FILE REFERENCE:</b>	A80288 & A1601473
<b>AUTHOR:</b>	Charmaine Solomon
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	5 <sup>th</sup> April 2017

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## **SUMMARY**

This item requests Council to formally consider a rates exemption for two properties being Lot 1923 Swamp Road Bremer Bay and Lot 1 Dillon Bay Road Bremer Bay.

The Banjelungup Aboriginal Corporation have objected to the rate record in respect of the properties under Section 6.76(1)(a)(ii) of the Local Government Act 1995, on the basis that the properties are used exclusively for charitable purposes and therefore not rateable land under s. 6.26(2)(g) of the Local Government Act 1995.

## **ATTACHMENT**

CONFIDENTIAL Attachment 10.2.3(a) - Banjelungup Aboriginal Corporation application for rate exemption and supporting documentation  
CONFIDENTIAL Attachment 10.2.3(b) - Legal advice received

## **BACKGROUND**

Lot 1923 Swamp Rd, Bremer Bay (A80288) and 261 Dillon Bay Rd, Bremer Bay (A1601473) were both owned by Indigenous Land Corporation from 2004 – 2010. Indigenous Land Corp. had approved exemptions for rates on both properties. Ownership was transferred to Banjelungup Aboriginal Corporation in 2010.

On the 4<sup>th</sup> March 2016 the Shire wrote to Banjelungup Aboriginal Corporation advising that the Shire was undertaking a review of properties which have previously been determined for an exemption from rates and have changed ownership since the original determination.

The purpose of the review was to ensure that properties still constituted rateable land under section 6.26 of the Local Government Act 1995. The rates exemption application was required to be returned to the Shire by the 28<sup>th</sup> March 2016.

The Shire received the rate exemption application from Banjelungup Aboriginal Corporation on the 6<sup>th</sup> April 2016, after a review from staff the Shire wrote to Banjelungup Aboriginal Corporation on the 8<sup>th</sup> April 2016 advising that pursuant to Section 6.26(2)(g) of the Local Government Act 1995, land is not rateable where the land is used exclusively for charitable purposes. The nature of this provision is to consider the land's use as opposed to just the owner's purpose or charitable status.

Based on the information provided to the Shire in their original application, the properties at Lot 1923 Swamp Road, Bremer Bay and Lot 1 Dillon Bay Road, Bremer Bay were not being used exclusively for charitable purposes at this time as the Shire was provided with a sub-lease agreement between the Banjelungup Aboriginal Corporation (Sub-Lessor) and the 'Sub-Lessee'.

The nature of the lease document indicates that the land is being used as commercial farmland under a commercial lease. Accordingly the review of the rates exemption has determined that the subject properties are not being used exclusively for charitable purposes and therefore are not exempt from rates as non-rateable land under s. 6.26(2)(g) of the Local Government Act 1995. Rates will be applied accordingly from the date of this determination.

On the 8<sup>th</sup> November 2016 the Shire received an objection to the Shire's decision to apply the rates levy to the Banjelungup Aboriginal Corporation. The Banjelungup Aboriginal Corporation have objected to the imposition of rates under Section 6.76(1)(a)(ii) of the Local Government Act 1995, on the basis the properties were used exclusively for charitable purposes.

The Banjelungup Aboriginal Corporation is a 'not for profit' organisation, which is registered with the Australian Charities and Not-for-profits Commission. The land was acquired through the Indigenous Land Corporation's (ILC) social acquisition program on the 1<sup>st</sup> October 2004. The ILC is a government body whose objective is to further the social aspirations of indigenous people through the acquisition of land for recreational, health, social, cultural or diversionary purposes. The land was not purchased under the ILC Economic program.

Banjelungup Aboriginal Corporation advised in their application; "they lease the land to a local farmer, all monies go directly back into the property for public amenity and accommodation improvements for Banjelungup Aboriginal Corporation community and its members. This is to promote greater social and cultural well-being for members and extended family. The Corporation rely on personal loans and grant monies in addition to the lease income.

No money is paid to members of the Banjelungup Aboriginal Corporation except where the Corporation's 'rule book' allows members to be remunerated for services provided. The 2016 financial statements are due to be finalised by the Auditor and can be provided to the Shire if requested".

The Shire has been provided with the Corporation's certificate of 'Not for Profit' and a summary of last year's financial statements (2015) that were provided to the Office for the Registrar of Indigenous Corporations as part of the Banjelungup Aboriginal Corporations compliance requirements of the CATSI Act 2006.

## **CONSULTATION**

McLeods Barristers and Solicitors  
Banjelungup Aboriginal Corporation  
Senior Staff  
Local Government Act 1995

## **COMMENT**

Under Section 6.76 of the Local Government Act 1995 a person may in accordance with this section, object to the rate record of a local government on the ground that the land or part of the land is not rateable land.

The Shire has sought legal advice regarding the rate exemption for the two properties. The Shire is of the view that the Properties in this case are being used under a lease by private individuals for commercial grazing and farming activities. Whilst the revenue from the lease (that is the rent) is directed toward the charitable objects of Banjelungup Aboriginal Corporation this does not in itself change the commercial, non-charitable character of the use of the Properties. In previous cases, commercial uses of this nature undertaken by charitable organisations have been held to not constitute the charitable use of land.

The recommendation is to disallow the objection made by the Corporation for rates raised in 2016/17 financial year in respect of Lot 1923 Swamp Road Bremer Bay and Lot 1 Dillon Bay Road Bremer Bay.

Any person who is dissatisfied with the decision of a local government on an objection by that person under section 6.76 may, within 42 days (or such further period as the State Administrative Tribunal, for reasonable cause shown by the person, allows) after service of notice of the decision, apply to the State Administrative Tribunal for a review of the decision.

## **STATUTORY REQUIREMENTS**

### **Local Government Act 1995;**

#### **6.12. Power to defer, grant discounts, waive or write off debts**

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) When adopting the annual budget, grant a discount or other incentive for the early payment of any amount of money;
  - (b) Waive or grant concessions in relation to any amount of money; or
  - (c) Write off any amount of money, which is owed to the local government.

#### **6.26. Rateable land**

- (1) Except as provided in this section all land within a district is rateable land.
- (2) The following land is not rateable land —
  - (a) land which is the property of the Crown and —
    - (i) is being used or held for a public purpose; or
    - (ii) is unoccupied, except —
      - (I) where any person is, under paragraph (e) of the definition of **owner** in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the *Mining Act 1978* in respect of land the area of which does not



exceed 10 ha or a miscellaneous licence held under that Act; or

- (II) where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of **owner** in section 1.4 occupies or makes use of the land;

and

- (b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and
  - (c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and
  - (d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and
  - (e) land used exclusively by a religious body as a school for the religious instruction of children; and
  - (f) land used exclusively as a non-government school within the meaning of the *School Education Act 1999*; and
  - (g) land used exclusively for charitable purposes; and
  - (h) land vested in trustees for agricultural or horticultural show purposes; and
  - (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the *Financial Management Act 2006*) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and
  - (j) land which is exempt from rates under any other written law; and
  - (k) land which is declared by the Minister to be exempt from rates.
- (3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.
- (4) The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.
- (5) Notice of any declaration made under subsection (4) is to be published in the *Gazette*.

- (6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

*[Section 6.26 amended by No. 36 of 1999 s. 247; No. 77 of 2006 Sch. 1 cl. 102; No. 24 of 2009 s. 506 (correction to reprint in Gazette 7 Sep 2012 p. 4329).]*

#### **6.76. Grounds of objection**

- (1) A person may, in accordance with this section, object to the rate record of a local government on the ground —
- (a) that there is an error in the rate record —
    - (i) with respect to the identity of the owner or occupier of any land; or
    - (ii) on the basis that the land or part of the land is not rateable land;
  - or
  - (b) if the local government imposes a differential general rate, that the characteristics of the land recorded in the rate record as the basis for imposing that rate should be deleted and other characteristics substituted.
- (2) An objection under subsection (1) is to —
- (a) be made to the local government in writing within 42 days of the service of a rate notice under section 6.41; and
  - (b) identify the relevant land; and
  - (c) set out fully and in detail the grounds of objection.
- (3) An objection under subsection (1) may be made by the person named in the rate record as the owner of land or by the agent or attorney of that person.
- (4) The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.
- (5) The local government is to promptly consider any objection and may either disallow it or allow it, wholly or in part.
- (6) After making a decision on the objection the local government is to promptly serve upon the person by whom the objection was made written notice of its decision on the objection and a statement of its reason for that decision.

#### **6.77. Review of decision of local government on objection**

Any person who is dissatisfied with the decision of a local government on an objection by that person under section 6.76 may, within 42 days (or such further period as the State Administrative Tribunal, for reasonable cause shown by the person, allows) after service of notice of the decision, apply to the State Administrative Tribunal for a review of the decision.

*[Section 6.77 amended by No. 55 of 2004 s. 694.]*

#### **6.78. Review of decision to refuse to extend time for objection**

A person who is dissatisfied with a decision of the local government to refuse to extend the time for making an objection against the rate record may apply to the State Administrative Tribunal for a review of the decision.

*[Section 6.78 amended by No. 55 of 2004 s. 695.]*

#### **STRATEGIC IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

The change in rateability will result in a reduction of rates income of \$1975.06 for assessment A80288 and \$5,657.97 for assessment A1601473 plus interest accrued this financial year.

#### **POLICY IMPLICATIONS**

Nil

#### **VOTING REQUIREMENTS**

Absolute Majority

#### **RECOMMENDATION**

That Council:

- 1. Disallow the objection to rates made by Banjelungup Aboriginal Corporation for Lot 1923 Swamp Rd, Bremer Bay (A80288) and Lot 261 Dillon Bay Rd, Bremer Bay (A1601473) on the basis that the Properties are not used exclusively for charitable purposes under Section 6.26(2)(g) and the Properties are rateable land under Section 6.26(1) of the Local Government Act 1995 for rates raised in the 2016/17 financial year.**

**HEALTH,  
BUILDING  
& TOWN  
PLANNING**

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<b>SUBMISSION TO:</b>	<b>Health, Building and Town Planning</b>
<b>AGENDA REFERENCE:</b>	10.3.1
<b>SUBJECT:</b>	Scheme Amendment 13
<b>LOCATION/ADDRESS:</b>	Mary Street and Bremer Bay Town Centre
<b>NAME OF APPLICANT:</b>	Shire of Jerramungup
<b>FILE REFERENCE:</b>	DB.ST.5
<b>AUTHOR:</b>	Planning Officer, Craig Pursey
<b>DISCLOSURE OF ANY INTEREST:</b>	None
<b>DATE OF REPORT:</b>	3 <sup>rd</sup> April 2017

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## **SUMMARY**

Council is to consider amending Local Planning Scheme No.2 (the Scheme) in order to prioritise retail and associated development in the Bremer Bay town centre and to facilitate a new future for various properties in Mary Street, Bremer Bay.

## **ATTACHMENT**

Attachment 10.3.1(a) - Zone draft provisions  
Attachment 10.3.1(b) - Opportunities and Constraints Plan  
Attachment 10.3.1(c) - Documentation Attachments (large file size, dropbox only)

## **BACKGROUND**

Bremer Bay has recently finished stage 1 and substantially progressed stage 2 of a new town centre development. A Structure Plan and Design Guidelines have been adopted to guide future development of this area.

The Bremer Bay Town Centre Structure Plan (BBTC) identified a commercial strategy as a future action to prioritise the new town centre over and above existing zoned land.

As part of the planning for this area it is important to incentivise the Town Centre but provide disincentives to developing commercial and office land uses elsewhere. To achieve this it is important to make 'shop' a discretionary rather than permitted land use in other zones.

The location of the Bremer Bay general store developed organically and it is not well located in terms of the Council's vision for Bremer Bay into the future. The store is currently zoned as an Additional Use Site. 'De-zoning' this site to prevent its future redevelopment as a 'shop' on the same site is important to prioritising the new town centre. However, imagining its future and changing the zoning to enable and encourage its redevelopment for a higher and better use in this location is required.

Lastly, the existing Community Resource Centre site, town hall and unmade road reserve facing Mary Street require rezoning from a Public Purpose reserve and road reserve to a zone that will allow for the sites' redevelopment. The sale of these sites is intended to assist in funding the redevelopment of these public facilities within the new Town Centre.

The general store combined with the Community Resource Centre and surrounds form a good sized precinct that could be shaped to serve the Bremer Bay townsite without compromising the Town Centre development.

Therefore, at least three aspects of the current Scheme need amending:

- De-zone the existing ‘additional use site’ that is the general store but replace this additional use with zoning and other land use controls that incentivize its redevelopment;
- Make ‘shop’ a discretionary land use in the ‘Service Commercial’ zone; and
- Rezone the existing public sites facing Mary Street to increase their value and allow for their redevelopment.

### ***“Mary Street Precinct”***

For the purposes of this scheme amendment the ‘Mary Street Precinct’ includes the land from Pelican Park in the west down to the general store in the east. Attachment 10.3.1(b) shows the Context, Opportunities and Constraints Plan.

## **CONSULTATION**

If the scheme amendment is initiated it will require referral to all relevant government agencies and residents in Bremer Bay with an emphasis on affected landowners.

## **COMMENT**

### ***Proposal***

The intent of the Amendment is to prioritise retail and associated development in the Bremer Bay town centre and to facilitate a new future for the Mary Street precinct given the planned relocation of the CRC, library and Shire office to the town centre. To achieve this, various changes are proposed to the Scheme text along with rezoning land in the Mary Street precinct to ‘Special Use (SU11)’. This includes setting out various land uses that are considered suitable for the precinct and area and which complement rather than compete with the Bremer Bay town centre.

A copy of the proposed Scheme provisions are found at Attachment 10.3.1(a).

### ***Planning Considerations***

#### **Preferred Location of Shops and Commercial Development in Bremer Bay**

Various planning documents, including the Scheme and *Shire of Jerramungup Strategic Community Plan 2016-2026*, highlight the need to develop the Bremer Bay town centre and to secure it as *the principal place for civic, retail, business and administration within the town*. The proposed Amendment supports this through prioritising retail and associated development in the Bremer Bay town centre, changing the permissibility of the shop use in the Service Commercial zone and facilitating a new future for various properties in Mary Street.

The proposed uses for the Mary Street precinct are intended to complement rather than compete with the Bremer Bay town centre.

The development of the town centre as Bremer Bay's primary commercial centre will in-time provide Bremer Bay and surrounding areas with a wide variety of commercial, retail and other uses.

### Changes to the Service Commercial Zone

Various properties on the southern side of Gnorrbup Terrace are zoned 'Service Commercial'. 'Shop' is currently a 'P' (permitted) use in the Service Commercial zone. To promote retail development in the town centre, the Amendment proposes to:

- insert an additional objective for the Service Commercial zone in Clause 4.2 as follows 'to allow shops where they are incidental to the predominant use of the land and where approval will not detrimentally impact the development of the town centre';
- introduce the "I" symbol (incidental) into sub-clause 4.3.2; and
- change the permissibility of the use 'shop' in the Service Commercial Zone from 'P' to 'I' in Table 1 – Zoning Table.

Based on the above, a shop could still be approved in the Service Commercial zone providing it is incidental (such as the floorspace area) to other uses on the property.

The Amendment does not impact previously approved shop uses in the Service Commercial Zone provided they continue to meet conditions of their approval.

### Mary Street Precinct and proposed Special Use Zoning

As part of prioritising/incentivising the Bremer Bay town centre and noting the relocation of the CRC, library and Shire office to the town centre, the Amendment proposes to rezone the existing general store and Shire managed land facing Mary Street (including the existing CRC and Pelican Park) to 'Special Use (SU 11)'. In time, the Shire managed land will be converted to freehold and sold with the expectation that appropriate redevelopment will occur. The sale of the Shire land is intended to assist in funding the redevelopment of these public facilities within the new town centre.

There are opportunities for the precinct to be shaped to serve the Bremer Bay townsite without compromising town centre development along with providing alternative opportunities for residential, tourism and associated uses on a site near the town centre and other facilities. The Amendment seeks to strike a balance between commercial viability and being respectful of nearby development.

A range of potential and suitable uses are proposed for SU 11 which are predominantly residential and tourism related (listed at 10.3.1(a)).

The Amendment proposes that SU 11 has a maximum density of R40. In comparison, the Bremer Bay Town Centre Structure Plan proposes a maximum residential density of R60 in the town centre.

The proposed Special Use SU11 zoning for the Mary Street Precinct is considered to be the most appropriate to facilitate and encourage suitable development and ensure consistency with the planning framework. The precinct is considered appropriate for mixed use development for reasons including:

- the site is currently used for a mix of commercial, community, recreation and other purposes, so there have been long-established co-existence with adjoining and nearby residential areas;
- it promotes redevelopment on a brownfield site which is close to the Bremer Bay town centre (within 400 metres);
- Government policy is to encourage medium and high density housing in and near activity centres;
- the precinct will provide a transition to the adjoining residential areas and provide support for the town centre;
- the precinct is large enough to enable car parking to be retained on site;
- it will be appropriately serviced in accordance with Shire and State Government guidelines;
- the site contains limited environmental assets and future development is unlikely to create adverse environmental impacts;
- the precinct is not subject to heritage or landscape constraints; and
- the site is gently sloping making it particularly attractive to a range of people including elderly people.

### General Store

The Bremer Bay general store developed organically and it is not well located in terms of the Council's vision for Bremer Bay into the future. The general store is currently zoned 'Residential R15/30' with Additional Use (A1) for shop and convenience store and 'Residential R15/30'.

The general store is a valued business in Bremer Bay which sells a wide range of merchandise and provides a wide range of services. This includes groceries, liquor, fuel, hardware, newsagency, post office, lottery agency and ATM.

Removing the current Additional Use zoning of the General Store will limit its future redevelopment as a 'shop' on the same site is important to assist in prioritising the new town centre. There is accordingly a need to consider the future of the general store and replace the current zoning with zoning and other land use controls that incentivise its redevelopment for alternative uses (e.g. SU 11).

The general store currently has non-conforming use rights given Lot 34 Bennett Street is zoned 'Residential R15/30' and Lot 34 does not include Additional Use A1. The use of a shop is an 'X' use (not permitted) in the Residential zone.

Gazettal of the Amendment will result in all of the general store (on Lot 33 Mary Street and Lot 34 Bennett Street) being a non-conforming use in the Scheme.

It is appreciated that the retail use of the general store is expected to be the highest and best use from the viewpoint of the current landowner in the short to medium



term. There would be a range of considerations in changing the use of the general store to uses set out in SU 11 including:

- feasibility and return on investment considerations in closing the store and constructing a new supermarket/general store;
- the ability and cost of the existing general store building to be re-purposed for alternative uses. There are likely to be wide-ranging considerations including structural integrity, energy efficiency, access for people with disabilities etc.; and
- costs associated with removing the fuel bowsers and underground fuel storage, and likely decontamination cost of clean-up the site prior to use for residential or 'sensitive' uses.

### CRC, Library, Shire office and Other Community Uses

The public infrastructure in the Mary Street precinct is aging and the future community and associated uses are in the civic precinct of the new town centre. The relocation of the CRC, library, Shire office and other community uses from the Mary Street precinct to the town centre will assist to prioritise town centre development and to create a 'heart' for Bremer Bay. In time, other community, administrative and civic uses could be developed in the town centre. The co-location of civic and associated uses will conveniently co-locate services and facilities and assist to minimise administration and running costs.

With the intended relocation of the community and civic uses from the precinct, there is a need to set out an alternative vision for the precinct.

### Town Square and Pelican Park

The creation of a new Town Square will commence in the short term. It will provide a range of recreational opportunities including a village green, play area, youth space and community hub. It is expected that high quality facilities will be an asset to locals and visitors in a central location.

The Town Square is located in walking distance to Pelican Park (Reserve 42806). In accordance with sound financial management and asset management principles, the Shire intends to relocate the recreation facilities of Pelican Park to the Town Square over time. The alternative to the planned relocation is to duplicate facilities which are close to each other which will place on-going financial pressures on the Shire.

Having said this, Council should bear in mind that this aspect of the proposed scheme amendment will be likely to cause some resentment in the local community with there being a high level of attachment to Pelican Park as a play space.

### ***Conclusion***

Scheme Amendment 13 will prioritise retail and associated development in the Bremer Bay town centre and facilitate a new future for the Mary Street precinct.

The amendment is a necessary step in planning the future of Bremer Bay and consolidating the planning to date around the town centre.

### **STRATEGIC IMPLICATIONS**

This item relates to the following aspirations of the Shire of Jerramungup Community Plan 2016 - 2026;

**1.2.4** - Ensure that new development is well designed and sustainable, where community needs are met while conserving our natural and built environment

**3.2.1** - Continue the development of the Bremer Bay Town Centre including the town square and designs for the civic centre.

### **STATUTORY REQUIREMENTS**

Section 75 of the Act provides for amending a Local planning scheme.

Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015 relates to the preparation or adoption of an amendment to local planning scheme. A resolution must now:

- a) Specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
- b) Include an explanation of the reason for the local government forming that opinion.

A basic amendment is a largely administrative process and will not require advertising prior to a final decision by the Minister. A standard amendment is the default amendment process for scheme amendments and includes a 42 day advertising period.

A complex amendment requires the approval of the Planning Commission before it can be advertised and this is normally where the amendment is not consistent with the adopted Local Planning Strategy. A complex amendment has a 60 day advertising period.

The revised Regulations do not clearly reference the referral of the Amendment to the EPA pursuant to Section 81 of the Act. However, Regulation 37 relates to the resolution to proceed with an amendment and states that upon completion of the amendment preparation the Local Government must resolve to proceed with the amendment with or without modification.

### **FINANCIAL IMPLICATIONS**

None

### **POLICY IMPLICATIONS**

None

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

1. That the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend Local Planning Scheme No 2 (Amendment No 13) by:
  - a) Inserting an additional objective for the Service Commercial Zone in Clause 4.2.
  - b) Introducing the 'I' symbol into sub-clause 4.3.2.
  - c) Changing the permissibly of the use 'shop' in the Service Commercial Zone in Table 1 – Zoning Table.
  - d) Rezoning Lot 32 on Deposited Plan 208552 and Lot 33 on Deposited Plan 208552 Mary Street, Bremer Bay from 'Residential' zone with 'Additional Use A1' to 'Special Use (SU 11)' zone as per the Scheme Amendment Map.
  - e) Rezoning Lot 34 on Deposited Plan 208552 Bennett Street, Bremer Bay from 'Residential' zone to 'Special Use (SU 11)' zone as per the Scheme Amendment Map.
  - f) Rezoning Lot 649 on Deposited Plan 189638 (Reserve 26384) and Lot 693 on Deposited Plan 191223 (Reserve 42806) Mary Street, Bremer Bay from 'Public Purposes' reserve to 'Special Use (SU 11)' zone as per the Scheme Amendment Map.
  - g) Rezoning the unnamed road reserve from 'Roads' reserve to 'Special Use (SU 11)' zone as per the Scheme Amendment Map.
  - h) Inserting SU 11 zone provisions into Schedule 4 - Special Use Zones.
2. That Amendment 13 be classified as a Standard amendment pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reason(s):
  - a) The amendment is consistent with the Shire of Jerramungup Local Planning Strategy which promotes the Bremer Bay town centre as the principal location in Bremer Bay for retail, business, civic and administration uses.
  - b) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment.
  - c) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
3. That the draft Amendment be referred to the Environmental Protection Authority for examination and assessment pursuant to Section 81 of the Planning and Development Act 2005, the Amendment.
4. Upon receipt of the advice from the EPA Council will consider pursuant to Regulation 37 whether to adopt the Amendment for advertising and referral to the WAPC with or without modification.

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<b>SUBMISSION TO:</b>	<b>Health, Building and Town Planning</b>
<b>AGENDA REFERENCE:</b>	10.3.2
<b>SUBJECT:</b>	Revised Local Planning Policy 16 - Outbuildings
<b>LOCATION/ADDRESS:</b>	N/A
<b>NAME OF APPLICANT:</b>	N/A
<b>FILE REFERENCE:</b>	LU.PL.8
<b>AUTHOR:</b>	Planning Officer, Craig Pursey
<b>DISCLOSURE OF ANY INTEREST:</b>	None
<b>DATE OF REPORT:</b>	3 <sup>rd</sup> April 2017

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## **SUMMARY**

Council resolved to amend Local Planning Policy 16 'Outbuildings' at their February 2017 meeting to allow for outbuildings up to 120m<sup>2</sup> in area on residential lots greater than 2000m<sup>2</sup> in area.

This amendment was advertised for 21 days with only supportive comments received.

This report recommends adopting an amended Local Planning Policy 16.

## **ATTACHMENT**

Attachment 10.3.2(a) - Amended Local Planning Policy 16 - Outbuildings

## **BACKGROUND**

Council considered an application for an oversize outbuilding at Lot 908 Templetonia Road, Bremer Bay at their meeting in February 2017 where it was resolved (in part) to:

*...3. Require staff to amend Local Planning Policy 16 to allow for outbuildings with a floor area of up to 120m<sup>2</sup> on residential properties with an area greater than 2000m<sup>2</sup>.*

## **CONSULTATION**

An amended Local Planning Policy 16 'Outbuildings' (LPP16) was advertised for 21 days during which time one informal, supportive submission was received from the developers of the last stage of 'Freedom Estate'.

## **COMMENT**

### ***Proposed Amendment to LPP16***

In recognition of the principle that larger properties can accommodate larger outbuildings in scale an amended LPP16 was advertised with the following change:

<b>Zoning</b>	<b>Max Wall Height</b>	<b>Max Ridge Height</b>	<b>Max floor area</b>	<b>Special Requirements</b>
<b>Residential &amp; Residential Townsite (Lots <math>\geq</math> 2000m<sup>2</sup>)</b>	<b>3.6m</b>	<b>4.2m</b>	<b>120m<sup>2</sup></b>	<ul style="list-style-type: none"><li><b>Where there is an overlay plan for the future subdivision of an area the outbuilding is to be placed so future setbacks comply with that overlay.</b></li><li><b>Materials are to be non-reflective.</b></li></ul>

A maximum floor area of 120m<sup>2</sup> was chosen for the following reasons:

- A review of other local government policies was undertaken in preparing the amended LPP16 (found at Attachment 10.3.1(a)) which shows a wide variety of approaches to outbuildings on larger residential lots (lots over 2000m<sup>2</sup> in area). There was a range from 80m<sup>2</sup> in Augusta-Margaret River through 170m<sup>2</sup> maximum in the City of Mandurah. Relevant, comparable local governments were between 100m<sup>2</sup> and 150m<sup>2</sup>.
- 120m<sup>2</sup> is a natural graduation from 90m<sup>2</sup> on smaller residential properties and 150m<sup>2</sup> on rural residential properties up to 3ha in area in the current policy;
- Many of the larger residential properties in Bremer Bay have an overlay showing their future subdivision at some time in the future. The standard layout of a 120m<sup>2</sup> shed would be 12m x 10m. This size and dimensioned shed can be accommodated on the future lots sized identified in the subdivision overlays.

The maximum height of the outbuilding was retained to keep a residential scale in future subdivisions and assist in preventing use of these sheds for non-residential purposes.

## **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**1.2.4** - Ensure that new development is well designed and sustainable, where community needs are met while conserving our natural and built environment

## **STATUTORY REQUIREMENTS**

Local Planning Policy procedure is now addressed by the 'Deemed Provisions' of the Planning and Development (Local Planning Schemes) Regulations 2015. Clause 5 of the Deemed Provisions establishes the procedure of amending local planning policies. It requires an amended policy to be advertised for 21 days.

Council is then required to consider any submissions received from the advertising of the draft policy and resolve to modify or not proceed with the policy.

## **FINANCIAL IMPLICATIONS**

None for Council

## **POLICY IMPLICATIONS**

As described in the body of this report

## **VOTING REQUIREMENTS**

Simple majority

## **RECOMMENDATION**

That Council,

- 1. Adopt the amended Local Planning Policy 16 – Outbuildings found at Attachment 10.3.1(a) of this report for final approval.**
- 2. Publish a public notice in an official newspaper circulating in the area to notify the public that Council has adopted Local Planning Policy No 16 (in accordance with Schedule 2, Part 2 (4) of the Planning and Development (Local Planning Schemes) Regulations 2015).**

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<b>SUBMISSION TO:</b>	<b>Health, Building and Town Planning</b>
<b>AGENDA REFERENCE:</b>	10.3.3
<b>SUBJECT:</b>	Proposed Mixed-use Development
<b>LOCATION/ADDRESS:</b>	Lot 1 Seadragon Avenue, Bremer Bay
<b>NAME OF APPLICANT:</b>	The Mitchell Property Trust
<b>FILE REFERENCE:</b>	A1606360
<b>AUTHOR:</b>	Planning Officer, Craig Pursey
<b>DISCLOSURE OF ANY INTEREST:</b>	None
<b>DATE OF REPORT:</b>	7 <sup>th</sup> April 2017

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## **SUMMARY**

There have been a number of delays in the development of Lot 1 Seadragon Avenue, Bremer Bay due in part to complications over the approvals process for the existing building and ongoing negotiations over finished floor levels for the next buildings.

New plans have been lodged for the site that:

1. Retain a two-storey, mixed use building fronting Bremer Bay Road;
2. Propose a new, two storey building fronting Seadragon Avenue that would be a purpose built micro-brewery; and
3. Propose changes to the finished floor levels of Lot 1 and the footpath area immediately adjacent to the site.

This report recommends issuing a conditional planning approval.

## **ATTACHMENT**

Attachment 10.3.3 - Planning application including plans & images

## **BACKGROUND**

Lot 1 Seadragon Avenue, Bremer Bay (Lot 1) is 1276m<sup>2</sup> in area located on the corner of Bremer Bay Road. It is the first retail/commercial lot released as part of the new Bremer Bay town centre development.

Development has commenced on the site with stage 1 of a multiple-staged development. However, development has been delayed for a number of reasons including:

- The approval process for the relocated building has required additional actions such as altering external and internal access and providing a Universal Access Toilet (UAT); and
- A very wet winter has highlighted the nature of the soil types on the site causing concerns with potential for water logging issues in the next stages of the development. Ongoing discussions and negotiations over this matter have led (in part) to the applicant engaging H+H Architects to redesign buildings and propose changes to the footpath area and levels.

Some public infrastructure around Lot 1 has been constructed with stage 1 of the public car park at the rear being completed but the footpaths are to be built at a later date.

### ***Previous Approvals***

Council issued a planning approval for stage 1 of a mix-use development including retail, office and accommodation floorspace at their meeting in November 2015. This approval extended to the transportable building located in the north western corner of Lot 1 and showed the development of the remainder of the site to set the context of this building. Relevant conditions include:

- a) A schedule of improvements to the proposed transportable building including decking, verandahs and architectural features that improve the relationship of the building to the proposed buildings fronting the surrounding streets.
- b) Payment of a parking contribution as detailed in part 8.1.5 of Local Planning Policy 19 – Bremer Bay Town Centre Design Guidelines is required prior to the issue of a Building Permit.
- c) All entrances from the surrounding streets must be at pavement level to allow for Universal Access.

A Building Permit was subsequently approved for the transportable building (stage 1) in July 2016. The documentation received from a private building certifier at the time has subsequently been found to be lacking and the applicant has now lodged amended plans showing a compliant UAT, access and building classes consistent with the Building Code of Australia (BCA) and the planning approval issued.

### ***Zoning & Scheme Requirements***

Lot 1 is zoned 'Special Use Zone No.8' (Town Centre) under the Shire of Jerramungup Local Planning Scheme No.2 (the Scheme). This is a zone that identifies the area as the Bremer Bay Town Centre and establishes the objectives and conditions of development.

Broadly speaking the planning requirements for Lot 1 Seadragon Avenue are:

1. The legal planning framework and objectives for the zone are established by the Scheme;
2. The general direction, subdivision and land use controls are established in the Structure Plan; and
3. Detailed land use requirements are set out in the Design Guidelines.

The Structure Plan and Design Guidelines are explored further below.

### ***Bremer Bay Town Centre Structure Plan***

The Council adopted a Structure Plan for final approval in April 2012 and endorsement subject to modifications was granted by the WAPC in April 2013. The Structure Plan is a broad document that establishes the principles and land use



pattern but does not provide the detail required to guide development applications within the town centre area.

The Structure Plan identifies 4 precincts, each of which will require some guidance with varying levels of complexity. Lot 1 is within the Retail & Commercial precinct.

### ***Local Planning Policy 19 – Bremer Bay Town Centre Design Guidelines***

Council adopted Local Planning Policy 19 – Bremer Bay Town Centre Design Guidelines (Design Guidelines) at their meeting of 18<sup>th</sup> February 2015.

The design guidelines are intended to:

- a) Describe the objectives, appropriate land uses, guide the built form and make recommendations on materials and colours for each precinct within the structure plan area. Materials and colours are proposed to create a beachside village feel and establish an expectation of a certain standard of development.
- b) Identify ‘strategic development sites’ within the area that due to their prominent location that require additional attention to detail and should be designed to add positively to the Town Centre’s distinctiveness. These corner sites set the tone for development throughout the rest of the Structure Plan area.
- c) Provide additional detail on bushfire protection requirements and advertising signage.
- d) Lastly, they provide more guidance on the public domain including landscaping, water sensitive urban design, street trees, street furniture and public art.

### **CONSULTATION**

The Town Centre Structure Plan and Design Guidelines were advertised widely. The Scheme does not require the current planning application to be advertised.

### **COMMENT**

#### ***The Proposal***

Council has now received plans for the development of the entire site (Lot 1 Seadragon Avenue, Bremer Bay) including:

- a) Changes to the finished floor levels across the site and in the footpath areas surrounding the development site;
- b) Retention of the two-storey mixed use development fronting Bremer Bay Road with a number of adjustments including placement of the stairway internally;
- c) Redesign of the two-storey building fronting Seadragon Avenue as a purpose built micro-brewery with beer garden, brewing area, service areas, drinking and eating space; and

- d) An internal courtyard that allows for circulation throughout the development and enables access from the rear courtyard, surrounding footpaths and parking in Seadragon Avenue.

The plans for the proposed development are found at Attachment 10.3.3 of this report. More detailed plans will be provided to Councillors before the Council meeting.

### **Assessment**

The proposed development has retained the elements that resulted in planning approval being issued in 2015. This assessment focussed on the changes to the proposal.

#### Changes in Finished Floor Levels (FFL)

The applicant has been trying to go to detailed design for the next buildings, but has a number of factors that have slowed this process. This includes the recent wet winter highlighting the reactive, clay soil types that hold water in the winter.

To address this issue the applicant proposes to raise the finished floor level of the development to prevent water issues for the new development by raising the FFL of the new buildings by 600-700mm from Natural Ground Level (NGL) across the site.

The floor levels would be raised on Lot 1 and out into portions of the adjacent footpath area, prior to construction of the footpath. A number of options have been provided as to how this could be accommodated, all the changes in height tie into the existing pram ramps and proposed footpath levels as they exit the site.

The adopted 'Design Guidelines state:

*"All pedestrian entrances to buildings – both front and rear – should be clearly identifiable.... Entrances must be at pavement level to allow Universal Access."*

Options available include:

1. Excavate the site and replace with clean fill and cut-off drains; or
2. Build up the surrounding footpath area in a manner that would allow access from surrounding paths and car parking to the site but that would not compromise accessibility in the public space or the look and feel of the town centre development.

The applicant prefers option 2 because excavating the site has the potential to cause a 'swimming pool' effect with water collecting in the site and causing going structural issues over time.

Discussions over this matter have progressed for a number of months ending in H+H Architects preparing plans for the site and footpath area immediately adjacent to the site for Council's consideration.

The proposed plans show changes in the level of the footpath, particularly at the corner of Bremer Bay Road and Seadragon Avenue; the area that effectively forms the entry statement to the new town centre.

The Design Guidelines identify this area as a 'strategic development site' and important for creating a sense of arrival and setting the expectations for development of the remainder of the town centre.

The plans were referred to Porter's (the civil engineers who have designed and project managed the town centre works thus far) for a preliminary assessment and they provided the following feedback:

- The stairs and retaining wall in the verge are within the 3m clear zone – Austroads standards is for minimum of 3m to a non-frangible object. The retaining can be shifted back to comply with this or alternative back to the boundary. The stairs can be adjusted pretty easily to do this.
- The interface/levels to Bremer Bay Rd is not an issue as there is a large verge to accommodate the level change.

The proposed changes in this space:

- Comply with access requirements and gradients for footpaths in public spaces;
- Create a sense of arrival by including stairs, landscaping and a raised area at the corner thereby increasing the presence of the building on this corner.

Changes are supported subject to any additional costs incurred to accommodate the proposed changes are borne entirely by the applicant to the satisfaction of the Shire.

### Micro-Brewery

This building still largely meets the requirements of the Design Guidelines being built up to the footpath with a verandah over, use of lightweight materials and glazing. However, the Design Guidelines require an entrance on the Seadragon Avenue frontage to assist in activating this street.

The main change is that this building no longer wraps around the corner and replaces this elevation with a courtyard entrance and detailing to the southern end of the building. Detailed landscaping, increased architectural attention and public infrastructure and art should be required at this point to improve its street presence and encourage people into the courtyard behind.

The land use itself will assist in activating the new town centre and provide another tourist attraction and entertainment venue for Bremer Bay.

### Noise Management

Mixed use development raises potential issues with conflict between a future brewery/eatery and nearby shop top housing. It is common practice to provide a noise management plan to address this issue early in the planning stages.

Additionally, the shop top housing should be designed up front to deal with the potential noise generated from the future brewery.

### ***Conclusion***

The changes to the FFL can be accommodated in the footpath area whilst still presenting well to the street. The other proposed changes to the buildings and land uses included in this application meet the requirements of the Design Guidelines and approval is recommended subject to conditions.

### **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**1.2.4** - Ensure that new development is well designed and sustainable, where community needs are met while conserving our natural and built environment

### **STATUTORY REQUIREMENTS**

The applicant has a right of review to the State Administrative Tribunal if aggrieved by any decision made by the WAPC.

### **FINANCIAL IMPLICATIONS**

Council has a commitment to constructing the footpaths in the town centre as part of the ongoing development of this area. These footpaths are planned at natural ground level, level with the kerb.

Any costs incurred as a result of changes to this standard of development should be borne entirely by the applicant.

### **POLICY IMPLICATIONS**

The proposal is generally in accordance with Local Planning Policy 19 – Bremer Bay Town Centre Design Guidelines as described in the body of this report.

### **VOTING REQUIREMENTS**

Simple majority

## **RECOMMENDATION**

That Council,

1. Approve the application for a mix-use development including a micro-brewery, retail, office and residential floor space at Lot 1 Seadragon Avenue, Bremer Bay subject to the following conditions:
  - a) Development shall be carried out in full and fully implemented in accordance with the approved plans and details submitted with the planning application including any notes placed thereon in red by the Shire and except as may be modified by the following conditions.
  - b) The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the Shire (generally in the building permit application) and have been approved in writing:
    - An advertising signage plan providing signage panels on all buildings that allow signage to:
      - Be designed to utilise colour schemes and materials that fit in with the overall style of the surrounding development and/or precinct.
      - Be incorporated into the architectural features of the building in placement, style, proportions, materials and finish.
    - Details of the building proposed for the corner of Seadragon Avenue and Bremer Bay Rd showing architectural features, landscaping, public furniture and/or public art.
    - Details of the western facing wall of Building B that fronts oncoming traffic as it enters Bremer Bay along Bremer Bay Road. This should be softened with a combination of landscaping, public art, building details or additional windows.
    - Details of noise attenuation measures for the residential component.
    - Details of the proposed verandah/balcony to the brewery building being provided showing appropriate setbacks to existing public infrastructure including light poles, service access and pedestrian ramps.
    - Details of service vehicle access from the rear carpark.
    - An entrance from Seadragon Avenue into the Brewery Building is required.
  - c) A landscaping plan and pedestrian access plan being prepared and implemented over the balance of the site to the satisfaction of the Chief Executive Officer. This plan should show how pedestrian access from Seadragon Avenue will be achieved and how the balance of the site is kept in an attractive state. All landscaped areas are to be maintained in good condition thereafter.
  - d) The service corridor shown along the northern boundary shall be primarily a pedestrian access way with removable bollards to allow infrequent access by service vehicles only.
  - e) All runoff from impervious surfaces being contained within the property and disposed of to the Shire's satisfaction.

- f) Detailed plans and specifications of the proposed method of stormwater disposal being submitted for approval by the Shire prior to the issue of a building permit. Such plans should identify invert levels, cover levels and pipe size and grade.
- g) Payment of a parking contribution as detailed in part 8.1.5 of Local Planning Policy 19 – Bremer Bay Town Centre Design Guidelines is required prior to the issue of a Building Permit.
- h) Any changes to the finished floor levels in the surrounding road reserve and any infrastructure required to enable this (such as retaining walls) are to be made entirely at the applicant's cost to the satisfaction of the Chief Executive Officer.
- i) All incidental development such as satellite dishes, air conditioners and solar collectors should be located and designed to minimise their visual impact upon the immediate locality to the satisfaction of the Chief Executive Officer.
- j) Windows in ground floor facades may not be tinted, reflective or painted out.

**2. Advise the applicant in footnotes on the planning approval that;**

- a) Planning approval should not be construed as an approval to commence works as a separate building permit is also required.
- b) If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specific in the approval after the date of the determination, the approval will lapse and be of no further effect.
- c) Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.
- d) If an applicant is aggrieved by this determination there is a right of review under Part 14 of the Planning and Development Act 2005. Application for a review must be lodged with the State Administrative Tribunal within 28 days.
- e) Ongoing compliance with the Environmental Protection (Noise) Regulations 1997 is required. This may necessitate the preparation of a Noise Management Plan for the proposed brewery.
- f) A portion of the subject site is identified as 'bushfire prone'. Development will need to be constructed in accordance with AS3959 'Building in Bushfire Prone Areas'.
- g) Occupation of individual tenancies may require planning approval and a building permit as part of the internal fit out.
- h) Provision being made for disabled access and facilities in accordance with the provisions contained in the Building Code of Australia and Australian Standard 1428.

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<b>SUBMISSION TO:</b>	<b>Health, Building and Town Planning</b>
<b>AGENDA REFERENCE:</b>	10.3.4
<b>SUBJECT:</b>	Draft Local Planning Policy 22 – BAL Contour Plan for Jerramungup & Bremer Bay
<b>LOCATION/ADDRESS:</b>	Jerramungup & Bremer Bay townsites
<b>NAME OF APPLICANT:</b>	N/A
<b>FILE REFERENCE:</b>	LU.PL.8
<b>AUTHOR:</b>	Planning Officer, Craig Pursey
<b>DISCLOSURE OF ANY INTEREST:</b>	None
<b>DATE OF REPORT:</b>	6 <sup>th</sup> April 2017

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## **SUMMARY**

Council adopted draft Local Planning Policy No.22 “BAL Contour Plan for Jerramungup & Bremer Bay” at their meeting in November 2016 which:

- Recognises the requirements of the new Bushfire Planning Framework;
- Acknowledges the cost and difficulty in getting fire professionals to come to the Shire of Jerramungup;
- Adopts a BAL Contour Plan for the Bremer Bay and Jerramungup townsites that assigns a BAL rating to a property (rather than each landowner engaging a separate professional); and
- Seeks to provide an option for management of reserves immediately adjacent to residential properties with an ‘extreme’ fire risk.

This policy has been advertised for public comment with five submissions being received.

This report recommends adopting the policy for final approval subject to amendments made in response to the submissions.

## **ATTACHMENT**

Attachment 10.3.4(a) - Amended Local Planning Policy 22 - BAL Contour Plan for Jerramungup & Bremer Bay  
Attachment 10.3.4(b) - Submissions

## **BACKGROUND**

### ***Bushfire Policy Framework***

Large areas of the Shire of Jerramungup are prone to bushfires due to topography, vegetation and climate. In 2015 the state government released a suite of reforms in response to the Keelty Report 2011 that apply across the state and elevate bush fire issues to the highest level of planning policy.

The Department of Fire and Emergency Services (DFES), Building Commission and Western Australian Planning Commission (WAPC) collectively released a 'bushfire policy framework' which includes:

- State Planning Policy 3.7 'Planning in Bushfire Prone Areas';
- Amendments to Planning Regulations;
- Amendments to Building Regulations;
- An order by the Fire & Emergency Services Commissioner designating bushfire prone areas;
- Published the Map of Bushfire Prone areas; and
- Published the Guidelines for Planning in Bushfire Prone Areas

The intention of this policy framework is to "*implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.*"

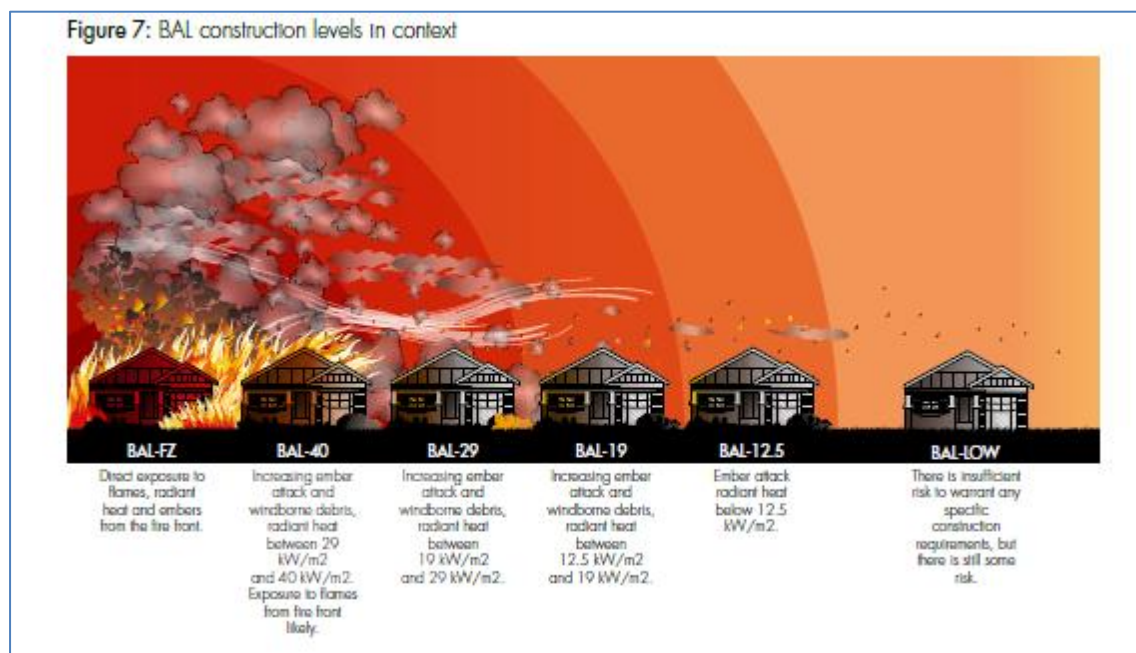
The assessment measure used in determining bushfire threat to a building is the Bushfire Attack Level (BAL) which is based on the heat flux exposure thresholds. The BAL levels range from:

- BAL LOW where the risk is considered to be very low and there is insufficient risk to warrant any specific construction requirements but there is still some risk;
- BAL-Flame Zone (Fz) where the risk is considered to be extreme. There is an extremely high risk of ember attack, burning debris, radiant heat and direct flame contact with the building.

In regard to residential development applications the intention is to ensure that all development is BAL29 or less (i.e. not located in what is deemed to be an extreme risk).



The image below explains the BAL construction standards in context.



Extract from Guidelines for Planning in Bushfire Prone Areas

### Previous considerations

Council considered draft Local Planning Policy 22 “BAL Contour Plan for Jerramungup & Bremer Bay” (LPP22) at their meeting in November 2016 that was intended to:

- Recognise the requirements of the new state Bushfire Planning Framework;
- Acknowledge the cost and difficulty in getting fire professionals to come to the Shire of Jerramungup;
- Adopts a BAL Contour Plan for the Bremer Bay and Jerramungup townsites that assigns a BAL rating to a property (rather than each landowner engaging a separate professional); and
  - Provides options for reducing fuel loads beyond the property boundary where appropriate.
- Achieve a consistent application of AS3959 across the townsites;
- Save costs, time and reduce the complexity of development applications in recognition of the need to support and encourage development in the Shire’s townsites;
- Use the BAL Contour Map as an education tool in bushfire awareness and inform landowners of the development expectations early in the development process; and
- Inform the townsite mitigation planning by highlighting areas with high BAL ratings.

The intention of this policy was to get a more consistent, clear, local approach to fire management for new development that would reduce the burden on people wishing to develop in the Shire of Jerramungup.

In considering the draft local planning policy Council resolved to adopt it for the purposes of advertising for public comment.

## **CONSULTATION**

LPP22 was advertised for 21 days during which time five (5) submissions were received. There major issues raised in the submissions are addressed below. A copy of the submissions are at Attachment 10.3.4(b).

## **COMMENT**

This stage of the process for developing local planning policies is to assess any submissions received and decide whether to adopt the draft policy with or without modifications.

Council received five submissions during the advertising period, two from government agencies who are heavily involved in the implementation of the state's Bushfire Planning Framework and three from local landowners who are also professionals in the development, environmental and/or fire management industries. The submissions raised the following issues, addressed in the table below.

<b>Issue</b>	<b>Response</b>
The broad scale of the BAL Contour mapping makes it difficult to read and apply on a lot by lot basis	The BAL Contour mapping is broad but produced on a lot by lot basis using a GIS product when an enquiry is received.  The BAL Contour plans are being improved by the consultant and will be reproduced at A2 or A1 size.
Areas that fall outside the BAL Contours should be marked as BAL-LOW	Agree; changes will be made.
This information should not be used to support subdivision or strategic planning decisions	Agree, specific statement added to policy.
Policy should explain the requirement for an applicant to provide a statement against bushfire protection criteria in accordance with SPP3.7 and the Guidelines.	SPP3.7 and the Guidelines recommend that an applicant provide a statement of how the proposal meets the requirements of the Guidelines with all planning applications.  At a residential development application stage this would typically cover issues such as access, APZ, water supply & construction standards.  In the Bremer Bay and Jerramungup townsites access & water supply are not able to be influenced by a residential application.  Applying the BAL to the development through the BAL Contour Plan and enforcing an APZ will be conditioned through a planning approval.
The LPP should clarify that a more detailed BAL Assessment may be required at Building Permit stage.	The Shire's Building Surveyor has indicated that he will apply the BAL Contour Plan in every instance provided it is reviewed annually.

Issue	Response
Suggested that the objectives of the LPP align with the objectives of SPP3.7. The current policy objectives read as outcomes.	The draft LPP is only intended to assist with the consistent application of Bushfire Planning Framework. The objectives of this policy have been amended accordingly at attachment 10.3.4 (a).
The BAL Contour Planning and policy should be expanded to consider the broader townsite scale fire management in the form of an opportunities and constraints assessment. Elements of location, siting & design, vehicular access and water should be considered at townsite scale.	The BAL Contour Plans have been used to inform the Shire's Bushfire Risk Mitigation Planning (BRMP) as part of a separate process. Expanding a Local Planning Policy to include assessment of townsite issues is considered to be beyond the scope of a development orientated policy.
There are a number of issues detailed with the way in which the BAL Contour Plan prepared by the Shire's consultants with recommendations on colour schemes, formatting of plans and information to display.	These have been passed to the consultants and changes will be made to reflect the recommendations in the submissions accordingly.
The local Jerramungup, Bremer Bay and Point Henry vegetation communities are often not directly equivalent to AS3959 types, so conclusions cannot be accurately drawn on composition, structure and hazard as identified in the BAL Contour Plan.	It is accepted that vegetation communities will always be a 'best fit' when trying to match them to AS3959. The adoption of a BAL Contour Plan allows for the consistent application of AS3959 that recognises this issue and addresses it in a conservative fashion.
Supportive of the BAL Contour Plan but there could be major consequences and complications and an apposite consultation process with the local community is advocated.	The 'Guidelines for Planning in Bushfire Prone Areas' (the Guidelines) have already been adopted by the WAPC and required to be implemented by the Shire through the 'Deemed Provisions' of the Planning Regulations. The BAL Contour Plan simply provides a BAL Rating to properties in the Jerramungup and Bremer Bay townsites in lieu of each individual landowner preparing their own at the time of preparing to develop their property. Clauses related to managing vegetation beyond the property boundary are discussed elsewhere in this report. Suffice to say there is little point in expending the discussion on this matter when the Guidelines are already in place and the draft Policy is simply trying to make things easier for landowners in trying to deal with them.
Consistent with the findings of the Vegetation Management Study recently completed it may be possible to sustainably manipulate some of the vegetation communities towards a lower hazard rating.	This is difficult to implement at a residential scale, it is seen as a reserve management matter and is being addressed through a separate process - the Bushfire Risk Management Plan. Incidentally, the preparation of the BAL Contour Plan has informed the BRMP by highlighting residential areas at risk.

Issue	Response
<p>The impact of the BAL Contour Planning could be the push to remove large areas of remnant vegetation. This may not align with the original subdivision conditions and the Shire's own Community Strategic Plan 2016-26 (CSP).</p>	<ul style="list-style-type: none"> <li>• The Guidelines require low fuel zones around housing. The BAL Contour Plan assist landowners in determining the construction standards that apply to their new housing development.</li> <li>• Clause 6d of the draft policy provides options to landowners who have properties that are located up against reserves that raise the BAL level to <i>extreme</i> (above BAL-29) on their adjacent property.</li> <li>• The draft policy doesn't advocate wholesale clearing of adjacent reserves, it allows consideration of management of portions of reserves adjacent to private property where assessed and deemed environmentally acceptable.</li> <li>• The Bremer Bay and Jerramungup townsites have no environmental mandate like Point Henry in its establishment.</li> <li>• The Shire's CSP has aspirations that include: <ul style="list-style-type: none"> <li><i>Ensure that new development is well designed and sustainable, where community needs are met while conserving our natural and built environment</i></li> <li><i>Maintain a high standard of emergency planning and preparedness</i></li> <li><i>Continue the delivery of fire mitigation strategies across the Shire</i></li> </ul> </li> </ul>
<p>Mandating BAL29 and clearing around structures is in contravention of the Federal Biodiversity Conservation Act and contrary to the Fitzgerald Biosphere listing</p>	<p>The policy does not mandate BAL-29 development. It reflects the adopted Bushfire Planning Framework adopted by WAPC, DFES and the Building Commission by encouraging all development to be located outside of 'extreme' bushfire areas.</p> <p>The establishment of an Asset Protection Zone around buildings is required by the same policies that the Shire of Jerramungup is required to enforce through its Local Planning Scheme.</p>
<p>There is no practical impediment to the design of fire resistant buildings in Flame Zone bushfire landscapes.</p>	<p>Whilst it is possible to build to flame zone it is generally accepted that building to BAL-40 and Fz construction standards is considerably more expensive than the lower BAL ratings. The clauses around allowing people to investigate permanent fuel reduction in neighbouring reserves is about supporting these landowners who have been recently impacted by changes in legislation but have no ability to do anything about it.</p>
<p>Buildings burn from structural fire not bushfires.</p>	<p>Structural fires often start from external sources including bushfire.</p>
<p>Bush grows over the life of a building; the only safe way to build is to Flame Zone in every instance.</p>	<p>BAL Assessments are conducted on the assumption of the vegetation community being in a mature state.</p>

Issue	Response
Has the Shire carried out a full environmental assessment of these policies?	The draft policy doesn't advocate wholesale clearing of adjacent reserves, it allows consideration of management of portions of reserves adjacent to private property where assessed and deemed environmentally acceptable.
The ability to apply a performance based approach is not explicit in the policy.	The policy should be amended to clearly state that the Guidelines for Planning in Bushfire Prone Areas applies and that this policy does not override any of the standard, approaches available to all development such as performance based approaches under the BCA and method 2 assessments against AS3959.
Council and the state government must consider all design options including BAL-40 & Fz.	The state's Bushfire Policy Framework does allow for BAL40 & Fz construction; where it is not possible to reduce the bushfire threat to a BAL-29 standard.
A BAL Contour Plan should not preclude a landowner from preparing their own BAL Assessment or applying a method 2 assessment process	Clause 6c states that an applicant may prepare their own BAL Assessment.
The policy makes no mention of the ability for home developers to build to BAL-40 and Fz and only spruiks the BAL-29 'mantra'.	The policy should be amended to clearly show that construction to BAL 40 & Fz is possible and permitted but that SPP3.7 and Guidelines encourages all development to meet a maximum of BAL-29 wherever possible.
Clause 6.2(d) is of particular concern as it relies on neighbouring landowners to indemnify a landowner in perpetuity.	Agree. This ability should be removed as it is not supported by the Guidelines.
The highest BAL Rating does not apply to the whole building because of shielding and Class 10A buildings more than 6m from the house.	Agree. These are technical matters that a building surveyor will apply when assessing a house against AS3959. This clause should be removed from the policy.
It should also be noted that compliance with AS3959 is not the only way of complying with the National Construction Code.	Although it is by far the most common way of complying, it is acknowledged that there are performance based avenues available to developers. This should be considered in the 'background' section of the policy.

### **Clause 6d**

This clause seeks to reflect the fact that the adopted Bushfire Planning Framework requires development to try to locate outside of 'extreme' bushfire risk areas (i.e. achieve a maximum of a BAL-29 construction standard) in the first instance.

It also acknowledges that a number of landowners will now have to develop to a BAL-40 or Fz standard due to vegetation in close proximity to their property located in a reserve which they cannot do anything about. Construction is far more expensive at these standards.

However, further detailed assessment of this issue shows that the number of properties significantly affected in the Bremer Bay townsites is 22 and Jerramungup townsite is 4.

The clause is proposed to be removed due (in part) to concerns with potential impact upon adjacent vegetation but also because the Department of Lands has not confirmed the ability to issue a Licence to secure the low fuel zones.

The most appropriate place for the reserves to be managed is the Bushfire Risk Management Plan (BRMP). Whilst planned mitigation measures at this level of planning are about townsite scale effective measures, the accumulative effect of these measures may lead to an improvement for properties located adjacent to reserves.

### ***Revised 'Guidelines for Planning in Bushfire Prone Areas'***

Additionally, during the policy's advertising period the Western Australian Planning Commission released a revised 'Guidelines for Planning in Bushfire Prone Areas (V1.1)' (Guidelines) which include the following changes:

- a) *'Minor development' (as defined in State Planning Policy 3.7 Planning in Bushfire Prone Areas) in an area of BAL-40 or BAL-FZ is no longer a performance principle solution and does not require referral to the Department of Fire and Emergency Services (DFES)*
- b) *The minimum 20 metre requirement for an Asset Protection Zone (APZ) has been removed with an APZ now needing to achieve BAL-29 or less*
- c) *The prescribed standards for vegetation within the APZ have been altered*
- d) *Acceptable solution A2.2 Hazard Separation Zone (HSZ) has been removed*

Essentially this results in a change of width and standard for the low fuel zones around development.

This causes the following issues & benefits:

- Future development may have lesser APZ distances (given the new BAL-29 standard will often result in less than 20m APZ) giving rise to inconsistencies and difficulty in enforcement; and
- If APZ distances are to be inspected at the same time as the fire breaks then a greater degree of documentation will be required for inspecting officers;
- However, on more environmentally sensitive sites it will be a better result allowing for greater scope to retain remnant vegetation in a managed state.

### ***Conclusions***

The intention of drafting LPP22 was to provide a BAL Contour Plan for use by the landowners of Jerramungup and Bremer Bay townsites in lieu of each landowner preparing their own individual BAL Assessment.

Development requirements are established through WAPC State Planning Policy 3.7 and associated Guidelines and required through the 'Deemed Provisions' in the Planning Regulations. The policy should be amended to make this clear.

Many of the submissions received were concerned that the policy advocates excessive clearing and it would result in a poor environmental outcome.

Clause 6d does not allow for mass clearing but assessment on a case by case basis for limited clearing into reserves to achieve a maximum BAL-29 construction standard; a construction standard promoted by the WAPC State Planning Policy 3.7 and associated Guidelines.

However, the Department of Lands have not responded to this proposal and it is not known at this time if it is possible to create a licence over reserve land for this purpose. Additionally, the management of reserve land is best addressed through the BRMP, rather than on an ad-hoc basis through a planning policy. Therefore it is suggested that clause 6d be removed and the policy clarified to ensure that it is clearly only providing a BAL Contour Plan to provide a consistent and clear application of the WAPC Guidelines.

### **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**1.2.4** - Ensure that new development is well designed and sustainable, where community needs are met while conserving our natural and built environment

**2.4.1** - Maintain a high standard of emergency planning and preparedness

**2.4.4** - Continue the delivery of fire mitigation strategies across the Shire

### **STATUTORY REQUIREMENTS**

The Department of Planning have prepared a suite of information sheets, the sheet '*Information for Local Governments*' summarises the statutory situation as follows:

*Areas within Western Australia have now been designated as bushfire prone by the FES Commissioner. This order was gazetted in tandem with the Planning and Development (Local Planning Scheme) Amendment Regulations 2015 and new State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7) which together form the State Government's bushfire planning reforms.*

*The Map of Bush Fire Prone Areas identify the parts of the State that are designated as bushfire prone and come into effect on 8 December 2015.*

*The Planning and Development (Local Planning Scheme) Amendment Regulations 2015 (LPS Amendment Regulations 2015) introduce deemed provisions relating to bushfire at Part 10A and came into effect on 8 December 2015. Due to the transitional arrangements provided by the LPS Amendment Regulations 2015, some provisions will not become operational until 8 April 2016.*

*SPP 3.7 and the Guidelines for Planning in Bushfire Prone Areas were released and took effect on the 7 December 2015. SPP 3.7 provides the foundation for land use planning decisions in designated bushfire prone areas and local governments need to give due regard to the policy provisions.*

## **FINANCIAL IMPLICATIONS**

There will be a cost in keeping the BAL Contour Mapping up to date, with a review undertaken annually by staff in consultation with the local brigades to determine what mitigation has been undertaken over the last year. The plans would then require updating to remain current.

There will be savings for landowners as they will not have to engage fire professionals to prepare BAL Assessments within townsites.

## **POLICY IMPLICATIONS**

As described in this report.

## **VOTING REQUIREMENTS**

Simple majority

## **RECOMMENDATION**

**That Council,**

- 1. Adopt Local Planning Policy 22 - BAL Contour Plan for Jerramungup & Bremer Bay pursuant to Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 subject to the revised local planning policy at Attachment 10.3.4(a).**
- 2. Publish a public notice in an official newspaper circulating in the area to notify the public that Council has adopted a revised Local Planning Policy No 22.**



**A D M I N**

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<b>SUBMISSION TO:</b>	<b>Administration</b>
<b>AGENDA REFERENCE:</b>	10.4.1
<b>SUBJECT:</b>	Waste Transfer Station Arrangements
<b>LOCATION/ADDRESS:</b>	n/a
<b>NAME OF APPLICANT:</b>	n/a
<b>AUTHOR:</b>	Brent Bailey
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	6 <sup>th</sup> April 2017

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## **SUMMARY**

This item addresses proposed changes to the operation of the Shire's waste facilities in preparation for the regional waste site in Ravensthorpe being commissioned. The key recommendations are to limit the volume of waste being deposited in the transfer bins to 1 trailer per property per week and to confirm the kerbside pickup days.

## **ATTACHMENT**

Nil

## **BACKGROUND**

The Shire's of Jerramungup, Ravensthorpe, Katanning, Gnowangerup and Kent have been in partnership to deliver waste management facility improvements throughout the Great Southern. The Shire's were successful in gaining funding through the Country Local Government Fund and Southern Investment Initiative of approximately \$5.5M with the major projects being to construct a regional waste facility at Ravensthorpe and Katanning.

The Shire of Jerramungup's landfill sites were progressively closed over the past 8 years and the Jerramungup landfill facility is nearing full capacity. From July the Ravensthorpe facility will be ready to receive the domestic rubbish and transfer station receptacles from the Shire of Jerramungup under the arrangements signed in 2014.

The significant issues covered by the agreement are as follows;

### **1. Commencement**

The commencement date is the date of practical completion of the landfill facility.

### **2. Expiry**

The agreement is for a term of 10 years after the commencement date or such other date that may be agreed in writing between the Parties.

The Parties may, at any time before the Expiry Date, extend the term for a further period of up to 10 years.

Either Party may terminate this Agreement by giving at least 12 months' written notice to the other Party.

**3. Management**

Subject to the Agreement, the Shire of Ravensthorpe is responsible for the management of the Facility.

**4. Operating costs**

Both the Shire of Ravensthorpe and Shire of Jerramungup are responsible for the operating costs of the facility. The methodology below has applied in terms of equity for each party.

Each party's percentage share of the actual Operating Costs for a particular financial year is to be the same percentage as that Party's percentage of the total waste tonnage (measured in cubic metres) delivered to the Facility by both Parties in the preceding financial year.

On or before 31 March each year, The Shire of Ravensthorpe must give the Shire of Jerramungup details of –

- a) the proposed Operating Costs for the next financial year; and
- b) the actual Operating Costs for the 6-month period ending on the previous 31 December and the forecast Operating Costs for the remainder of that financial year.

**5. Capital Costs**

Capital Costs include expenses for tangible goods such as the purchase of plant and machinery. On or before 31 March each year, each Party must give to the other Party details of any proposed Capital Costs for the next financial year and, if appropriate, for one or more succeeding financial years.

Unless otherwise agreed, each Party is to contribute equally to the Capital Costs.

To facilitate the new waste disposal arrangements Shire staff have been working with Cleanaway who are contracted to undertake kerbside pickups and transfer station bin transfers. The additional travel required to cart rubbish to Ravensthorpe will result in additional costs to the kerbside pickup and transfer station costs. Accordingly this item presents some alternatives for Council to consider to set the service level for the kerbside pickup service and transfer stations.

**CONSULTATION**

Cleanaway  
Shire of Ravensthorpe  
Local Public Notices

**COMMENT**

Cleanaway have provided the Shire with four options to consider the additional logistics to transport waste to Ravensthorpe. The added distance to the rubbish run

will require the driver to stay overnight in either Ravensthorpe or Bremer Bay to meet legislated fatigue management requirements.

	Current Operation	Option 1 Refuse & Recycle Tip at Ravensthorpe	Option 2 Refuse & Recycle Tip at Ravensthorpe	Option 3 Refuse Only No Recycle	Option 4 Refuse & Recycle Tip at Ravensthorpe
Bremer Bay Refuse	Tuesday	Monday	Monday	Monday	Tuesday
Jerramungup Refuse	Tuesday	Tuesday	Monday	Tuesday	Tuesday
Bremer Bay Recycling	Tuesday	Tuesday	Tuesday	-	Tuesday
Jerramungup Recycling	Tuesday	Tuesday	Tuesday	-	Tuesday
Additional cost of tipping at Ravensthorpe		\$610 per week \$31,720	\$500 per week \$26,000	\$825 per week \$42,900	\$720 per week \$37,440
Saving in Recycling collections	-	-	-	(\$61,367)	-
<b>Cost/(Saving) to service per annum</b>		<b>\$31,720</b>	<b>\$26,000</b>	<b>(\$18,467)</b>	<b>\$37,440</b>

At this stage the operations cost contribution which will be paid to the Shire of Ravensthorpe has not been quantified. Under the agreement this payment is calculated after the 31<sup>st</sup> March each year. It is expected that the operation costs for Ravensthorpe will be offset by the savings made through the reduced landfill costs experienced at the Jerramungup facility. Accordingly the change to domestic refuse charges are being considered independently of adjustments to the operations structure of the landfill operation.

The Shire has 610 bins paid for through the rates system and the equivalent of 40 additional bins which are billed to commercial properties with fluctuating rubbish use.

Options 1 and 2 both result in at least one town having to split their pickups over two days which will be experienced 26 times per year on recycling weeks.

To recover the additional cost the domestic pickup fee under Option 1 fees would need to increase from \$309 per annum to \$358 per annum.

To recover the additional cost the domestic pickup fee under Option 2 fees would need to increase from \$309 per annum to \$349 per annum.

Option 3 provides an option to discontinue the recycling service at a small saving. This is not recommended as it would be inconsistent with the Shire's Community Plan and result in the regional waste site reaching capacity earlier than forecast resulting in increased capital costs in the future.

Option 4 while costing more is the preferred option as it retains the service to the community in its existing format. The additional cost relates to the requirement for two refuse trucks to service the Shire. To recover the additional cost the domestic pickup fee would need to increase from \$309 per annum to \$367 per annum. There is also amenity value in only having bins at kerbside for one day. In addition the Shire already incurs costs to clean up rubbish which has blown out of bins. Having bins kerbside for an additional day will also increase costs in this area.

The Shire's cubic metre rate for waste transfer stations has been calculated based on cost equalisation principals with the kerbside service. The following table provides the 3 different scenarios for a cubic metre rate for general waste delivered to the transfer stations. The Shire has classified a loaded tandem axle trailer as 1 cubic metre. Site officers have discretion to charge appropriate to the size of the load delivered at a pro-rata rate of the cubic metre charge.

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 4</b>
Bin charge per annum	358.00	349.00	367.00
Cost per 240L pickup (52 per annum)	6.88	6.71	7.06
Per Litre per week	0.03	0.03	0.03
Per Cubic Metre	28.69	27.96	29.41
<i>Alternative - Per Cubic Metre - Inc GST</i>	31.55	30.76	32.35

An added complexity of equalisation is that GST is not applicable to the rubbish charge when listed on rate notices. At the tipsite a service is being provided that is not exempt from GST – to date the cubic metre rate has been identical and the Council has absorbed a reduction in net income due to the remittance of GST.

Council needs to determine whether to continue this arrangement of full customer price equalisation or begin charging GST to reflect supplier price equalisation. With the target market for the transfer station being rural landholders who do not have access to the kerbside service the GST may be claimed back through their businesses. Regardless of which method is chosen the transfer stations will continue to be a service which is subsidised by the collective ratepayer in comparison to the kerbside service which is cost neutral.

The cubic metre cost of handling rubbish through the transfer stations is significantly more than what is recouped through the cubic metre rate. The following tables provide an overview of the current costs incurred to transfer waste for Council's consideration, 17/18 prices are expected to increase and will be provided to Council at the meeting once made available. The costs provided below do not incorporate any additional costs for transfer station attendants or handling the rubbish at the tipsite which would add further costs but are not yet quantified under the regional arrangements.

<b>From Bremer Bay</b>	Quantity per annum	Unit Cost	Total Cost
1 x 30 M3 Transfer Bin Hire (week)	52	\$ 100.05	\$ 5,202.60
Bin Transfers (each)	18	\$ 1,072.15	\$ 19,298.70
			\$ 24,501.30
Total M3 Transferred	540		
Total cost per m3	\$ 45.37		

<b>From Jerramungup</b>	Quantity per annum	Unit Cost	Total Cost
1 x 30 M3 Transfer Bin Hire (week)	52	\$ 100.05	\$ 5,202.60
Bin Transfers (each)	18	\$ 1,072.15	\$ 19,298.70
			\$ 24,501.30
Total M3 Transferred	540		
Total cost per m3	\$ 45.37		

The most significant cost of the operation is the transfer of waste and accordingly the overuse of this service when suitable kerbside pickup services are available shifts the cost burden to the collective ratepayer rather than the waste producer.

To continue to provide a reasonable subsidised access suitable for domestic use it is proposed that a one trailer load (1m3) per property per week limit is placed on transfer station use. Quantities in excess of this amount will need to be taken to the Ravensthorpe facility by the owner or redirected to the kerbside service where available.

By way of comparison the following cubic metre rates are provided below for other local governments in the Great Southern with similar charging arrangements:

<b>Shire</b>	<b>Cubic Metre Rate – excluding GST</b>
Shire of Denmark	\$ 50.00
Shire of Cranbrook	\$ 30.00 (for non-residents)
Shire of Plantagenet	\$ 13.64
Shire of Ravensthorpe	\$ 11.36
Shire of Broomehill Tambellup	\$ 11.20
City of Albany	\$ 105.00 (per tonne)

## **STATUTORY REQUIREMENTS**

### **Local Government Act 1995**

#### **Subdivision 2 — Fees and charges**

#### **6.16. Imposition of fees and charges**

1. A local government may impose\* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. *\*Absolute majority required.*

2. A fee or charge may be imposed for the following —
  - a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
  - b) supplying a service or carrying out work at the request of a person;
  - c) subject to section 5.94, providing information from local government records;
  - d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
  - e) supplying goods;
  - f) such other service as may be prescribed.
3. Fees and charges are to be imposed when adopting the annual budget but may be —
  - a) imposed\* during a financial year; and
  - b) amended\* from time to time during a financial year. *\*Absolute majority required.*

### **6.17. Setting the level of fees and charges**

1. In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors
  - a) the cost to the local government of providing the service or goods;
  - b) the importance of the service or goods to the community; and
  - c) the price at which the service or goods could be provided by an alternative provider.
2. A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.
3. The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
  - a) under section 5.96;
  - b) under section 6.16(2)(d); or
  - c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.
4. Regulations may —
  - a) prohibit the imposition of a fee or charge in prescribed circumstances; or
  - b) limit the amount of a fee or charge in prescribed circumstances.

### **6.18. Effect of other written laws**

1. If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —
  - a) determine an amount that is inconsistent with the amount determined under the other written law; or

- b) charge a fee or charge in addition to the amount determined by or under the other written law.
2. A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.

### **6.19. Local government to give notice of fees and charges**

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- a) its intention to do so; and
- b) the date from which it is proposed the fees or charges will be imposed.

### **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**1.1.4** - Development of modern, accessible, cost effective and innovative waste disposal options.

### **FINANCIAL IMPLICATIONS**

Financial implications are presented above with the aim to implement a waste fees and charges system reflective of the cost of delivering the service.

### **WORKFORCE IMPLICATIONS**

The regional waste management approach will reduce the Shire's operational staff requirements. At present the workforce is required to provide cover material and site works to ensure a clean an operational landfill site. This will discontinue when the regional facility is operational and the Jerramungup landfill site is decommissioned.

### **POLICY IMPLICATIONS**

Nil.

### **VOTING REQUIREMENTS**

Simple Majority.



## **RECOMMENDATION**

**That Council:**

- 1. Advise Cleanaway that option 4 is the preferred option for waste pickups when the Ravensthorpe Regional landfill site becomes operational.**
- 2. Adopt and advertise the following fees and charges for waste management to commence from 1<sup>st</sup> July 2017.**

<b>Waste Fees and Charges</b>	<b>Ex GST</b>	<b>GST indicator</b>	<b>GST Inc</b>
<i>Cubic Metre Rate - Waste Disposal</i>	\$29.41		
Annual Domestic Rubbish Bin Fee	\$367	NO	\$367
Annual Recycling Charge	\$150	NO	\$150
Commercial Sundry Debtor Extra Waste – Per 240L Bin pickup	\$7.06	YES	\$7.76
Commercial Sundry Debtor Extra Recycling – Per 240L Bin pickup	\$2.88	YES	\$3.17
Waste Transfer Stations - General Waste per cubic metre	\$29.41	YES	\$32.35
Car Body	\$68.18	YES	\$75.00
Truck Body/Large equipment	\$90.91	YES	\$100.00
White Goods ( assessed per cubic metre)	\$29.41	YES	\$32.35
Car Tyres ( per tyre )	\$4.55	YES	\$5.00
Truck Tyres ( per tyre )	\$9.09	YES	\$10.00
Clean uncontaminated Construction and Demolition Waste (C&D) waste that is suitable for cover material. (eg Soil, Rubble)	\$0.00	YES	\$0.00
Green waste and clean plant material	\$0.00	YES	\$0.00
Used Oil per Litre (to be deposited in the Oil Recycling Facility)	\$0.45	YES	\$0.50
Recyclable materials, glass, aluminium, plastics, batteries, cardboard	\$0.00	YES	\$0.00
Opening Transfer Station outside of advertised hours (per hour or part-thereof)	\$60.00	YES	\$66.00

- 3. Restrict the delivery of waste to the transfer stations receptacles to 1 cubic metre per property, per week.**

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<b>SUBMISSION TO:</b>	<b>Administration</b>
<b>AGENDA REFERENCE:</b>	10.4.2
<b>SUBJECT:</b>	Travel and Accommodation Subsidy – Sport and Recreation Grants
<b>NAME OF APPLICANT:</b>	Drew Dawson on behalf of Brock Dawson
<b>AUTHOR:</b>	Brent Bailey
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	6 <sup>th</sup> April 2017

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**SUMMARY**

This item addresses a subsidy request for travel and accommodation under Council's Finance Policy #4 – Sport and Recreation Grants. The recommendation is to approve the subsidy.

**ATTACHMENT**

Attachment 10.4.2 - Correspondence from Drew Dawson

**BACKGROUND**

Council has received an application for a travel and accommodation subsidy to assist with the costs of Brock Dawson attending and participating in the 2017 Interstate Tennis Tour in Darwin in June.

**CONSULTATION**

Applicant

**COMMENT**

The assessment under the criteria of the policy has been provided below which demonstrates the suitability of the applicant to the subsidy requirements.

Applicants must be a resident of the Shire of Jerramungup.	Brock is a current resident in Bremer Bay.
Funding will only be considered after all other funding opportunities have been exhausted e.g. State and Federal Government funding.	Funding has been pursued through the Department of Sport and Recreation and Tennis West. The program is already sponsored by these bodies and accordingly there is no further sponsorship available.
Funding will only be provided for up to 50% of travel and accommodation costs to a maximum of \$500.	The total estimated cost of the program is \$1,000. This subsidy request is for \$500.

The travel/accommodation subsidy donation is only available to participants. Coaches, support staff and chaperones are not eligible to apply for funding.	The subsidy request is to for Brock's participation in the program only.
Selected representatives are entitled to one subsidy donation per activity in any one financial year.	This is the only subsidy application made this financial year.

### **STATUTORY REQUIREMENTS**

Nil

### **STRATEGIC IMPLICATIONS**

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

**2.1.1** - Continue support for community lead sporting infrastructure improvements and strong sporting clubs.

Support for high performing athletes will contribute towards building strong sporting clubs.

### **FINANCIAL IMPLICATIONS**

The subsidy value is \$500 and funds would be allocated to GL Account 110300 – Expenses relating to other recreation and sport.

### **WORKFORCE IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

This application has been assessed in accordance with Finance Policy # 4 Sports and Recreation Grants

### **VOTING REQUIREMENTS**

Simple Majority.

### **RECOMMENDATION**

**That Council approve the application for up to \$500 towards half of the costs of travel and accommodation associated with Brock Dawson's participation in the 2017 Interstate Tennis Tour.**

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<b>SUBMISSION TO:</b>	<b>Administration</b>
<b>AGENDA REFERENCE:</b>	10.4.3
<b>SUBJECT:</b>	Local Emergency Management Committee Meeting Minutes
<b>AUTHOR:</b>	Ashley Peczka
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	7 <sup>th</sup> April 2017

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### **ATTACHMENT**

Attachment 10.4.3(a) – LEMC Meeting Minutes - 12<sup>th</sup> December 2016  
Attachment 10.4.3(b) – LEMC Meeting Minutes - 13<sup>th</sup> March 2017

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That Council;**

- 1. Receive the minutes of the Local Emergency Management Committee meeting held on Monday 12<sup>th</sup> December 2016, and**
- 2. Receive the minutes of the Local Emergency Management Committee meeting held on Monday 13<sup>th</sup> March 2017.**

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<b>SUBMISSION TO:</b>	<b>Administration</b>
<b>AGENDA REFERENCE:</b>	10.4.4
<b>SUBJECT:</b>	Audit Committee Meeting Minutes
<b>LOCATION/ADDRESS:</b>	Shire of Jerramungup
<b>NAME OF APPLICANT:</b>	N/A
<b>FILE REFERENCE:</b>	Nil
<b>AUTHOR:</b>	Elizabeth Hyde
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	6 <sup>th</sup> April 2017

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### **ATTACHMENT**

Attachment 10.4.4(a) - Audit Committee Meeting Minutes - 16<sup>th</sup> March 2016  
Attachment 10.4.4(b) - Audit Committee Meeting Minutes - 20<sup>th</sup> April 2016  
Attachment 10.4.4(c) - Audit Committee Meeting Minutes - 15<sup>th</sup> March 2017

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

That Council;

1. Receive the Minutes of the Audit Committee meeting held 16<sup>th</sup> March 2016.
2. Receive the Minutes of the Audit Committee Meeting held 20<sup>th</sup> April 2016.
3. Receive the Minutes of the Audit Committee Meeting held 15<sup>th</sup> March 2017 and adopt the following recommendation;
  - a) That the Audit Committee resolves to recommend that Council receives the Chief Executive Officer's biennial review of the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal controls, and legislative compliance as detailed in Attachment 6.2.

**C O U N C I L L O R  
R E P O R T S**

**11. COUNCILLOR REPORTS**

**12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY LEAVE OF THE PRESIDING MEMBER**

**12.1 From Officers**

**12.2 From Elected Members**

**13. NEXT MEETING/S**

Ordinary Meeting – to be held Wednesday 17<sup>th</sup> May 2017 commencing 2:00pm at the Council Chambers, Jerramungup.

**14. CLOSURE**