

**MINUTES
MAY 2019**

Table of Contents

ITEM	DESCRIPTION	PAGE
1	DECLARATION OF OPENING & ANNOUNCEMENT OF VISITORS	2
2	RECORD OF ATTENDANCE/APOLOGIES & APPROVED LEAVE OF ABSENCE	2
2.1	Members on Leave of Absence	
2.2	Apologies	
3	DECLARATION OF:	2
	<ul style="list-style-type: none"> • FINANCIAL INTEREST • MEMBERS IMPARTIALITY INTEREST • PROXIMITY INTEREST 	
4	PUBLIC QUESTION TIME	2
5	APPLICATION FOR MEMBERS FOR LEAVE OF ABSENCE	3
6	CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING	3
6.1	Ordinary Meeting of Council held Wednesday 17 April 2019	
7	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	3
8	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	3
9	OFFICERS REPORTS	
9.1.1	Monthly Financial Reports to 30 April 2019	3
9.1.2	Schedule of Accounts Paid to 30 April 2019	5
9.1.3	Status of Council Decisions – April 2019	6
9.1.4	Bushfire Advisory Committee AGM Minutes	7
9.1.5	Appointment of Fire Control Officers 2019/2020	9
9.1.6	WAPC 157962 Sub Division of Property L9009 Nyabing Road & 9101 Manual Road, Nyabing	15
9.1.7	Development Application – Tourist and Temporary Seasonal Workers Accommodation at Lot 105 (9) Sanderson Street, Pingrup	18
9.1.8	Public Road and Railway Crossing and Grade Interface Agreement	25
10	ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	29
11	NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL	29

12 MATTERS BEHIND CLOSED DOORS 29

13 MEETING CLOSED 29

1. DECLARATION OF OPENING & ANNOUNCEMENT OF VISITORS

The Chair Person, Shire President Cr Alan Smith, declared the meeting opened at 6.03 pm.

2. RECORD OF ATTENDANCE/APOLOGIES & APPROVED LEAVE OF ABSENCE

Members

Cr AL Smith	Shire President
Cr GM Collins	Deputy Shire President
Cr SR Crosby	Member
Cr JN Germain	Member
Cr BC Bamess	Member
Cr KR Stephens	Member
Cr TD Borgward	Member
Cr KV Johnston	Member

Staff

RJ Miller	Chief Executive Officer
M Bamess	Deputy Chief Executive Officer
GD Mathewson	Works Manager

Members of the Public

Nil

Apologies

Nil

3. DECLARATION OF INTERESTS:

- **Financial Interest:**
Nil
- **Members Impartiality Interest**
Nil
- **Proximity Interest:**
Nil

4. PUBLIC QUESTION TIME:

Nil

5. APPLICATION FOR MEMBERS FOR LEAVE OF ABSENCE:

Nil

6. CONFIRMATION and RECEIVING OF MINUTES/BUSINESS ARISING:

6.1 Ordinary Meeting of Council held on Wednesday 17 April, 2019

That the minutes of the Ordinary Meeting of the Shire of Kent held on Wednesday 17 April, in the Shire of Kent Council Chambers be confirmed as a true and accurate record of proceedings and duly signed.

1819/034 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr JN Germain / Cr KR Stephens

That the minutes of the Ordinary Meeting of the Shire of Kent held on Wednesday 17 April, 2019 in the Shire of Kent Council Chambers be confirmed as a true and accurate record of proceedings and duly signed.

**CARRIED 8/0
By Simple Majority**

7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION:

Nil

8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS:

Nil

9. OFFICERS REPORTS:

9.1.1 MONTHLY FINANCIAL REPORTS TO 30 APRIL 2019

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Michelle Bamess –Deputy Chief Executive Officer
REPORTING OFFICER:	Michelle Bamess –Deputy Chief Executive Officer
FILE NO:	FIN30.20
ASSESSMENT NO:	N/A
ATTACHMENTS:	<ul style="list-style-type: none"> Monthly Financial Reports to 30 April 2019 (including Statement of Financial Activities, Notes 3-11 and Budget Variances to 30 April 2019)

PURPOSE

In accordance with the Local Government (Financial Management) Regulations 1996, to follow is the presentation of the Monthly Financial Reports to Council.

BACKGROUND

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

COMMENT

The Monthly Financial Reports as presented indicate that Council continues to be in a sound financial position.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Clause 34 and 35

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.

To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council receive the following Monthly Financial Reports as presented:

- Monthly Financial Reports to 30 April 2019

1819/035 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr TD Borgward / Cr JN Germain

That Council receive the following Monthly Financial Reports as presented:

- Monthly Financial Reports to 30 April 2019

CARRIED 8/0
By Simple Majority

9.1.2 SCHEDULE OF ACCOUNTS PAID TO 30 APRIL 2019

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Michelle Bamess –Deputy Chief Executive Officer
REPORTING OFFICER:	Michelle Bamess –Deputy Chief Executive Officer
FILE NO:	N/A
ASSESSMENT NO:	N/A
ATTACHMENTS:	Schedule of Accounts submitted 15 May 2019

PURPOSE

Council endorsement of payment to Creditors under CEO Delegated Authority 2.1.2.

BACKGROUND

Details payments made to creditors since last Council Meeting.

COMMENT

The Schedule of Accounts Reports as presented, indicate that Council continues to be in a sound financial position.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Part 2 – Regulation 11 & 12

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.
To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council endorse the payments from the Municipal Fund and Trust Fund:

Municipal Fund	\$240,538.37
Trust Fund	\$0.00
Direct Debits	<u>\$120,325.35</u>
TOTAL	\$360,863.72

1819/ 036 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr GM Collins / Cr KR Stephens

That vouchers from the Municipal Fund and Trust Fund as detailed, be approved by Council:

Municipal Fund	\$240,538.37
Trust Fund	\$0.00
Direct Debits	<u>\$120,325.35</u>
TOTAL	\$306,863.72

**CARRIED 8/0
By Simple Majority**

9.1.3 STATUS OF COUNCIL DECISIONS – APRIL 2019

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Rick Miller – Chief Executive Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	041.1.1
ASSESSMENT NO:	N/A
ATTACHMENTS:	1. Council Resolution Register

PURPOSE

To inform Council of the actions taken in relation to Council decisions.

BACKGROUND

By providing this report to Council as an agenda item on a monthly basis will keep Council informed on the progress of decisions made.

COMMENT

The status of Council decisions/resolutions is included as an attachment and updated monthly.

It is requested that action items be reviewed at each Council meeting.

STATUTORY IMPLICATIONS

Local Government Act (1995), Section 5.41

The CEO's functions are to:-

c) Cause Council decisions to be implemented

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Community Strategic Plan 2017-2027**

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council receive the Council Resolutions Register for the month of April 2019.

1819/ 037 - COUNCIL RESOLUTION

MOVED Cr KV Johnston / Cr BC Bamess

That Council receive the Council Resolutions Register for the month of April 2019.

**CARRIED 8/0
By Simple Majority**

9.1.4 BUSHFIRE ADVISORY COMMITTEE AGM MINUTES

PROPOSED MEETING DATE: PROPONENT: LOCATION: AUTHOR: REPORTING OFFICER: FILE NO: ASSESSMENT NO: ATTACHMENTS:	15 May 2019 N/A Whole of Shire Mike Barnes – CESM Rick Miller – Chief Executive Officer N/A N/A Bushfire Advisory Committee AGM Minutes
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PURPOSE

Receive the minutes of the Bushfires Advisory Committee and to adopt the recommendations from that meeting.

BACKGROUND

The Bushfires Advisory Committee has met to discuss a variety of issues and to make recommendations to the Council regarding the appointment of Fire Control Officers/Permit Issuing Officers.

Two recommendations come from the meeting which are listed below for Council consideration.

COMMENT

Nil

STATUTORY IMPLICATIONS

Emergency Management Act 2005
Bushfires Act

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Community Strategic Plan 2017-2027**

Civic Leadership Objective – Continually enhance the Shire's organisational capacity to service the needs of our community

- 4.1 Continually improve operational efficiencies and provide effective services
- 4.1.2 Continue to enhance communication and transparency.
- 4.1.3 Continue to search out advantageous resource sharing opportunities.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. Receive the minutes of the Bushfires Advisory Committee meeting held on 12 April 2019; and
2. Adopt the recommendation, Appointment of Bush Fire Control Officers, of that meeting.

1819/ 038 - COUNCIL RESOLUTION

MOVED Cr SR Crosby / Cr KR Stephens

That Council:

1. Receive the minutes of the Bushfires Advisory Committee meeting held on 12 April 2019; and
2. Adopt the recommendation, Appointment of Bush Fire Control Officers, of that meeting.

CARRIED 8/0
By Simple Majority

9.1.5 APPOINTMENT OF FIRE CONTROL OFFICERS FOR 2019/20 FIRE SEASON

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	N/A
LOCATION:	Whole of the Shire
AUTHOR:	Mike Barnes – CESM
REPORTING OFFICER:	Rick Miller -Chief Executive Officer
FILE NO:	N/A
ASSESSMENT NO:	N/A
ATTACHMENTS:	N/A

PURPOSE

Council is to appoint Bush Fire Control Officers to the Shire of Kent for the 2019/20 season.

BACKGROUND

Bushfire Officers for the upcoming 2019/20 fire season require appointing. The Bushfire Advisory Committee is required to nominate the 2019/20 Bushfire Officers and recommend their appointment by Council.

COMMENT

It is a requirement that the Shire's Fire Control Officers are published at least once in a local publication circulating in the district, once Council has ratified the appointments for the 2019/20 season.

STATUTORY IMPLICATIONS

Bush Fires Act 1954 – s38 Appointment of Bush Fire Control Officers

Local Government may appoint Bush Fire Control Officer

- (1) *A Local Government may from time to time appoint such persons as it thinks necessary to be its Bush Fire Control Officers under and for the purposes of this Act, and of those Officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those Officers, and subject thereto may determine the respective seniority of the other Bush Fire Control Officers appointed by it*
- (2) *(2A) the Local Government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district*
- (2C) *the Local Government shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs and if the Local Government fails or neglects to do so within that time, the FES Commissioner may by notice in writing require the Local Government to appoint a person to the vacant office within one month after service on it of such notice*
- (2D) *where a Local Government that has been served with a notice pursuant to subsection (2C) fails or neglects to comply with the requirements of that notice, the FES Commissioner may appoint a person who is not employed in the Department to the vacant office*
- (2E) *a Bush Fire Control Officer appointed by a Local Government under the provisions of this section shall be issued with a certificate of appointment by the Local Government or, if he is appointed by the FES Commissioner, by the FES Commissioner*
- (3) *The Local Government may, in respect to Bush Fire Control Officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other Officers,*

under the provisions of the Acts under which those other officers are appointed

- (4) A Bush Fire Control Officer appointed under the provisions of this section shall, subject to such directions as may be given by the Local Government and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —
 - (a) carrying out normal brigade activities;
 - [(b), (c) deleted]
 - (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
 - (e) procuring the due observance by all persons of the provisions of Part III.
- (5A) A Local Government may issue directions to a Bush Fire Control Officer appointed by the Local Government, or to an Officer of a Bush Fire Brigade registered by the Local Government to burn, subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the Local Government.
- (5B) The Bush Fire Control Officer, or Officer of the Bush Fire Brigade, may by authority of any directions issued under subsection (5A) carry out the directions but subject to the provisions of this Act
- (5C) The provisions of subsections (5A) and (5B) are not in derogation of those of subsection (4)
- (6) In this section — **Approved Local Government** means a Local Government approved under subsection (7) by the FES Commissioner.
- (7) If it appears to the FES Commissioner that the standard of efficiency of a Local Government in fire prevention and control justifies the FES Commissioner doing so, the FES Commissioner, by notice published in the Government Gazette —
 - (a) may approve the Local Government as one to which subsections (6) to (18) apply; and
 - (b) may from time to time cancel or vary any previous approval given under this subsection.
- (8) An approved Local Government may appoint to the Office of Fire Weather Officer such number of Senior Bush Fire Control Officers as it thinks necessary.
- (9) Where more than one Fire Weather Officer is appointed by a Local Government the Local Government shall define a part of its district in which each Fire Weather Officer shall have the exclusive right to exercise the power conferred by subsection (17).
- (10) An approved Local Government may appoint one or more persons, as it thinks necessary, to be the deputy or deputies, as the case may be, of a Fire Weather Officer appointed by the Local Government and where 2 or more deputies are so appointed they shall have seniority in the order determined by the Local Government.
- (11) Where the office of a Fire Weather Officer is vacant or whilst the occupant is absent or unable to act in the discharge of the duties of the office, any deputy appointed in respect of that office under subsection (10) is, subject to subsection (12), entitled to act in the discharge of the duties of that office.
- (12) A deputy who is one of 2 or more deputies of a Fire Weather Officer is not entitled to act in the discharge of the duties of the office of that Fire Weather Officer if a deputy who has precedence over him in the order of seniority determined under subsection (10) is available and able to discharge those duties.
- (13) The Local Government shall give notice of an appointment made under subsection (8) or (10) to the FES Commissioner and cause notice of the appointment to be published at least once in a newspaper circulating in its district and the FES Commissioner shall cause notice of the appointment to be published once in the Government Gazette.

- (14) *An approved Local Government may appoint a Committee for the purpose of advising and assisting a Fire Weather Officer or any deputy of a Fire Weather Officer acting in the place of that officer under subsections (6) to (18).*
- (15) *Where a Committee is appointed, a Fire Weather Officer, or, as the case may be, a deputy of a Fire Weather Officer while acting in the place of that officer, may exercise the authority conferred on him by subsection (17), notwithstanding the advice and assistance tendered to him by the committee.*
- (16) *The provisions of subsections (6) to (18) are not in derogation of those of any other subsection of this section.*
- (17) *A Fire Weather Officer of an approved Local Government, or a deputy of that Fire Weather Officer while acting in the place of that officer, may authorise a person who has received a permit under section 18(6)(a), to burn the bush in the district of the Local Government notwithstanding that for any day, or any period of a day, specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is "catastrophic", "extreme", "severe" or "very high", and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.*
- (18) *Subsections (6) to (18) do not authorise the burning of bush —*
 - (a) during the prohibited burning times; or*
 - (b) during the period in which, and in the area of the State in respect of which, a total fire ban is declared under section 22A to have effect.*

POLICY IMPLICATIONS

There are no known policy implications.

FINANCIAL IMPLICATIONS

Local advertising costs may apply.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Social Objective – To provide community facilities and promote social interaction.

Outcome 2.2 Build a healthier and safer community

2.2.1 Support the continuing provision of community services and facilities

Outcome 2.3 Existing strong community spirit and pride is fostered, promoted and encouraged

2.3.1 Engage and support community groups and volunteers

Civic Leadership Objective

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. Appoints the following Bushfire Control Officers for the 2019/2020 season:

CHIEF BUSH FIRE CONTROL OFFICER Wayne Tapscott

1ST DEPUTY CHIEF BUSH FIRE CONTROL OFFICER – WEST Grant Collins

2nd DEPUTY CHIEF BUSH FIRE CONTROL OFFICER – CENTRAL Kelvin Holmes

FIRE WEATHER OFFICERS

- | | |
|------------------|------------------|
| • Doug Smith | • Grant Collins |
| • Ian Kent | • John Jolley |
| • Justin Germain | • Kelvin Holmes |
| • Kerry Stephens | • Mike Barnes |
| • Rick Miller | • Wayne Tapscott |

FIRE CONTROL OFFICERS

(Permit Issuing Authority FCO's with Two Way Radios) – Shire of Kent

CALL SIGN	FCO
Boongadoo 1	Scott Crosby
Boongadoo 2	(Deferred to the next BFAC meeting)
Boongadoo 3	Kerry Stephens
Boongadoo 4	Brad Harris
Holland Rock 1	Kelvin Holmes
Holland Rock 2	Doug Smith
Holland Rock 3	Ian Kent
Holland Rock 4	Brad Maher
Mindarabin 1	Grant Collins
Mindarabin 2	Warrick Browne
Mindarabin 3	Terry Hobley
Mindarabin 4	John Jolley
Mindarabin 5	Ashley Stephens
Nyabing Town 1	Darren Gray
Nyabing Town 2	(Deferred to the next BFAC meeting)
Nyabing Town 3	Greg Hobley
Nyabing Town 4	Justin Germain
Pingarnup 1	Wayne Tapscott
Pingarnup 2	Ross Nicholls
Pingrup Town 1	Tim Borgward
Pingrup Town 2	Stephen Hawley
Pingrup Town 3	Darren Hawley
Pingrup Town 4	(Deferred to the next BFAC meeting)
Lakes 1	Mike Barnes
	Rick Miller

DUAL FIRE CONTROL OFFICERS FOR THE SHIRE OF LAKE GRACE

Representatives from the Shire of Lake Grace to be appointed as Dual Fire Control Officers for the following Shires for the 2019/20 Bush Fire Season:

Lake Grace	Kelvin Holmes Ian Kent
Jerramungup	Wayne Tapscott Mike Barnes
Gnowangerup	Greg Hobley Ashley Stephens Mike Barnes
Katanning	Kerryn Stephens Mike Barnes
Dumbleyung	Kerryn Stephens Mike Barnes

2. Authorise the following persons to issue clover and proclaimed plant burning permits during the 2019/2020 season in conjunction with the closest available Fire Control Officer to the person making the application:
 - Chief Bush Fire Control Officer;
 - Deputy Chief Bush Fire Control Officers;
 - Chief Executive Officer; and,
 - Community Emergency Services Manager.
3. Authorise the following persons to supply information relating to harvest bans for general radio broadcasting during the 2019/2020 season:
 - Chief Bush Fire Control Officer;
 - Deputy Chief Bush Fire Control Officers;
 - Chief Executive Officer; and,
 - Community Emergency Services Manager.

1819/ 039 - COUNCIL RESOLUTION

MOVED Cr SR Crosby / Cr JN Germain

That Council:

1. Appoints the following Bushfire Control Officers for the 2019/2020 season:

CHIEF BUSH FIRE CONTROL OFFICER	Wayne Tapscott
1 ST DEPUTY CHIEF BUSH FIRE CONTROL OFFICER – WEST	Grant Collins
2 ND DEPUTY CHIEF BUSH FIRE CONTROL OFFICER – CENTRAL	Kelvin Holmes

FIRE WEATHER OFFICERS

- | | |
|------------------|-----------------|
| • Doug Smith | • Grant Collins |
| • Ian Kent | • John Jolley |
| • Justin Germain | • Kelvin Holmes |

- Kerryn Stephens
- Rick Miller
- Mike Barnes
- Wayne Tapscott

FIRE CONTROL OFFICERS

(Permit Issuing Authority FCO's with Two Way Radios) – Shire of Kent

CALL SIGN	FCO
Boongadoo 1	Scott Crosby
Boongadoo 2	(Deferred to the next BFAC meeting)
Boongadoo 3	Kerryn Stephens
Boongadoo 4	Brad Harris
Holland Rock 1	Kelvin Holmes
Holland Rock 2	Doug Smith
Holland Rock 3	Ian Kent
Holland Rock 4	Brad Maher
Mindarabin 1	Grant Collins
Mindarabin 2	Warrick Browne
Mindarabin 3	Terry Hobley
Mindarabin 4	John Jolley
Mindarabin 5	Ashley Stephens
Nyabing Town 1	Darren Gray
Nyabing Town 2	(Deferred to the next BFAC meeting)
Nyabing Town 3	Greg Hobley
Nyabing Town 4	Justin Germain
Pingarnup 1	Wayne Tapscott
Pingarnup 2	Ross Nicholls
Pingrup Town 1	Tim Borgward
Pingrup Town 2	Stephen Hawley
Pingrup Town 3	Darren Hawley
Pingrup Town 4	(Deferred to the next BFAC meeting)
Lakes 1	Mike Barnes
	Rick Miller

DUAL FIRE CONTROL OFFICERS FOR THE SHIRE OF LAKE GRACE

Representatives from the Shire of Lake Grace to be appointed as Dual Fire Control Officers for the following Shires for the 2019/20 Bush Fire Season:

Lake Grace	Kelvin Holmes
	Ian Kent
Jerramungup	Wayne Tapscott
	Mike Barnes
Gnowangerup	Greg Hobley
	Ashley Stephens
	Mike Barnes
Katanning	Kerryn Stephens
	Mike Barnes
Dumbleyung	Kerryn Stephens
	Mike Barnes

2. Authorise the following persons to issue clover and proclaimed plant burning permits during the 2019/2020 season in conjunction with the closest available Fire Control Officer to the person making the application:
 - Chief Bush Fire Control Officer;
 - Deputy Chief Bush Fire Control Officers;
 - Chief Executive Officer; and,
 - Community Emergency Services Manager.
3. Authorise the following persons to supply information relating to harvest bans for general radio broadcasting during the 2019/2020 season:
 - Chief Bush Fire Control Officer;
 - Deputy Chief Bush Fire Control Officers;
 - Chief Executive Officer; and,
 - Community Emergency Services Manager.

CARRIED 8/0
By Simple Majority

9.1.6 WAPC 157962 SUBDIVISION OF PROPERTY (BOUNDARY REALIGNMENT): LOT 9009 NYABING ROAD & 9101 MANUEL ROAD, NYABING

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	Caldwell Land Surveys, D & K Ogle
LOCATION:	Lot 9009 Nyabing Road & 9101 Manuel Road, Nyabing
AUTHOR:	Carly Rundle, Consultant Planner
REPORTING OFFICER:	Rick Miller, Chief Executive Officer
FILE NO:	1.3.1.2
ASSESSMENT NO:	N/A
ATTACHMENTS:	WAPC Application Details and Plan of Subdivision

PURPOSE

For Council to provide a response to correspondence received from the Western Australian Planning Commission (WAPC) seeking Council's comments on the proposed subdivision of Lots 9009 (1109) Nyabing Road and 9101 (663) Manuel Road, Nyabing. The application involves a proposed lot boundary realignment where no additional lots or dwelling entitlements will be created.

BACKGROUND

Lots 9009 (1109) Nyabing Road and 9101 (663) Manuel Road, Nyabing are adjoining rural land holdings located approximately 6km south of the Nyabing townsite.

Lot 9101 is 732.52ha in area, fronts Nyabing South Road, and is intersected by Manuel Road. Lot 9009 is 930.32ha in area and located directly south of and adjoins Lot 9101. Lot 9009 fronts Nyabing Road South at the north western corner of the lot, and on the southern lot boundary an unconstructed road reserve.

Nyabing Road South and Manuel Road are constructed to a gravel standard.

Lot 9009 is currently vacant of development, containing improvements such as dams and fencing related to the broadacre agricultural uses of the property. Lot 9101 contains an existing dwelling and outbuildings.

Caldwell Land Surveys, on behalf of the current landowner has lodged an application with the WAPC for subdivision (boundary realignment) of Lots 9009 Nyabing Road and 9101 Manuel Road, Nyabing to form two (2) new green title lots which are not intersected by the road. The Plan of Subdivision is provided in Attachment 1 and is summarised in the table below:

Lot	Existing land area	Proposed land area
9009	930.3192ha	
9101	732.5215 ha	
Proposed Lot A		473.1667 ha
Proposed Lot B		1189.6740 ha

In accordance with Section 142 (2) of the Planning and Development Act 2005 the Shire of Kent has forty-two (42) days to provide the WAPC with any comments and/or recommendations considered relevant to the proposal.

COMMENT

In considering this subdivision application Council should have due regard to provisions contained in the following planning documents prior to formulating its response to the WAPC:

- State Planning Policy 2.5 – Rural Planning and Development Control Policy No. DC 3.4 – Subdivision of Rural Land; and
- State Planning Policy 3.7 – Planning in Bush Fire Prone Areas.

Both lots 9009 and 9101 are located outside the scheme map areas of the Shire of Kent Town Planning Scheme No. 2.

State Planning Policy 2.5 Rural Planning (SPP2.5) and Development Control Policy No.3.4 – Subdivision of Rural Land (DC3.4)

The intent of SPP2.5 is to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. To meet the objectives of SPP2.5, a policy measure is listed as to 'creating new rural lots only in accordance with the circumstances under which rural subdivision is intended in DC3.4. DC3.4 outlines that rural subdivision may be supported where it is to realign lot boundaries with no increase in the number of lots and where the resultant lots will not adversely affect rural land uses. It provides the following criteria for boundary realignments:

- there is no increase in the number of lots;
- the new boundaries achieve improved environmental and land management practices and minimise adverse impacts on rural land use;
- In instances where a subdivision only proposes to realign existing lot boundaries, where no change to the land use and/or landform is proposed, and no additional development is proposed, applications for property rationalisation may be unconditionally approved.

The subdivision proposes a boundary realignment which will result in two newly configured lots which are not divided by a road reserve. Both lots will remain of sufficient area for agricultural uses to continue as the predominant land use and will continue to have access to a constructed (gravel) road. No new dwelling entitlements are being created by the subdivision and the new boundaries which remove the previous division by the road, are logical in terms of farm management and constructed features. In considering the nature and intent of the proposed subdivision it is considered that the proposal will facilitate the ongoing use of the land for agricultural purposes and is therefore consistent with broader objectives for 'Rural' land in SPP 2.5 and subdivision criteria outlined in DC3.4.

SPP3.7 Planning in Bushfire Prone Areas (SPP3.7)

Both properties are partially identified as being within a designated 'bushfire prone' area, where SPP3.7 is to be given due regard. The objectives of the policy are generally to avoid any increase in the threat of bushfire to people, property and infrastructure, and that the preservation of life and the management of bushfire impact are paramount. Information to demonstrate compliance with SPP3.7 criteria and guidelines would normally be required to be submitted with any subdivision application, although exemptions to this can be given if it is considered that the proposal does not result in the intensification of development (or land use). It is considered that the boundary realignment falls within this exemption. It is also considered that the modified vacant lot resulting from the subdivision will retain sufficient developable area for a dwelling which could achieve a low/moderate rating, and both lots will retain adequate vehicular access and access to at least one farm dam which is considered appropriate.

In summary it is recommended that Council advise the WAPC that it unconditionally supports the application in accordance with the details of the submitted plans.

STATUTORY IMPLICATIONS

Planning and Development Act (2005)

POLICY IMPLICATIONS

The Council has no specific policy regarding this matter.

Western Australian Planning Commission Development Control Policy No. 3.4 – Subdivision of Rural Land

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Economic Objective - Support growth and progress, locally and regionally.

Outcome 1.4 Agriculture opportunities maintained and developed

1.4.1 Support development of agricultural services.

The subdivision is generally consistent with the Shire of Kent Community Strategic Plan 2017 – 2027 which encourages support of agricultural uses/development.

RISK IMPLICATIONS

There are no medium to high risks identified with the proposal that warrant further discussion.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council advises the Western Australian Planning Commission that it unconditionally supports the proposed subdivision of Lots 9009 and 9101 Manuel Road, Nyabing into two (2) new green title lots in accordance with the Plan of Subdivision Drawing DWG 2019-32-01A dated 30/03/2019.

1819/ 040 - COUNCIL RESOLUTION

MOVED Cr JN Germain / Cr BC Bamess

That Council:

Advises the Western Australian Planning Commission that it unconditionally supports the proposed subdivision of Lots 9009 and 9101 Manuel Road, Nyabing into two (2) new green title lots in accordance with the Plan of Subdivision Drawing DWG 2019-32-01A dated 30/03/2019.

CARRIED 8/0
By Simple Majority

**9.1.7 DEVELOPMENT APPLICATION: TOURIST AND TEMPORARY SEASONAL WORKERS
ACCOMMODATION AT LOT 105 (9) SANDERSON STREET, PINGRUP**

PROPOSED MEETING DATE:	15 May 2019
PROPONENT:	Shire of Kent, Co-operative Bulk Handling
LOCATION:	Lot 105 (9) Sanderson Street, Pingrup
AUTHOR:	Carly Rundle, Consultant Planner
REPORTING OFFICER:	Rick Miller, Chief Executive Officer
FILE NO:	132.1.2 & 103.1.2
ASSESSMENT NO:	N/A
ATTACHMENTS:	Development Plans

PURPOSE

To determine the development application for Tourist and Temporary Seasonal Workers Accommodation at Lot 105 (9) Sanderson Street, Pingrup.

BACKGROUND

Co-operative Bulk Handling (CBH) previously received development approval to construct additional staff accommodation at the Pingrup Grain Receival site at Lot 10 Jolley Street, Pingrup to meet demands during peak seasons (grain harvest). The need for additional accommodation for staff is seasonal during peak times.

The development approval was not acted on and has lapsed.

Further discussion then occurred with CBH regarding placement of accommodation buildings at Lot 105 (9) Sanderson Street, Pingrup, which is 2.3009ha in area, and is Reserve land, vested with the Shire of Kent to manage for the purposes of Caravan Park, Parking and Historical purposes. The property currently contains a parking, rest and picnic area, shears building and caravan park. The caravan park contains a number of sites for camping and caravan parking, ablutions facilities including toilets, showers and laundry and a community room containing kitchen facilities and indoor seating area.

The intent was that the accommodation buildings would provide temporary seasonal accommodation for CBH staff during peak times (harvest) and would be made available for tourist accommodation at all other times. It is understood that the planning, development, construction and maintenance of the accommodation (whilst in use for temporary staff

accommodation) will be the responsibility of CBH, although an agreement setting out the terms between the Shire and CBH is has not been formalised.

Council considered the proposal and resolved at its Ordinary Meeting 20 March 2019 to:

1. *Advise that it provides in principal support for the CBH proposal of supplying unit accommodation on R40279, Pingrup Caravan Park and authorise the CEO to progress discussions and negotiations with CBH; and*
2. *Authorise the Shire President and the CEO to sign an agreement on behalf of Council, resulting from negotiations and to execute the document and affix the common seal.*

The development is not exempt from requiring development approval under Shire of Kent Town Planning Scheme No. 2. As an agreement is yet to be formalised regarding the development/use of the buildings it was also not certain whether the exemption from development approval for 'public works' would apply. A development approval has therefore been submitted for determination by Council and is the subject of this report.

The development application submitted by CBH proposes to place two transportable buildings on the property in between the ablutions and the community room on an existing concrete pad. Each building contains 4 bedrooms, each with individual ensuites. A total of 8 bedrooms/ensuites is proposed as part of the development application. A roof cover is proposed to be constructed over the two buildings and connect to the existing community room providing covered walkways and an undercover area external to the community room. Further modification to the plans may occur during finalisation of the agreement between the Shire/CBH.

COMMENT

The property is zoned 'Special Site 1' by Shire of Kent Town Planning Scheme No. 2 (Scheme). In accordance with Clause 3.3 of the Scheme, the use and development of the land shall be undertaken in accordance with the purpose and conditions set out in Schedule 3.

Land Use

The permitted uses listed for Special Site 1, are Caravan Park, Museum, Reception Centre, and Associated Tourist Uses. 'Associated Tourist Uses' is not defined in the Shire of Kent Town Planning Scheme No. 2, although the *Planning and Development (Local Planning Schemes) Regulations 2015* generally recognise through a number of alternate land use definitions relating to tourism that it includes 'short term accommodation for guests'. Short term accommodation is defined in the Regulations as "*temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12-month period.*"

The predominant use of the accommodation is for the purposes of short term accommodation for tourists/guests. The accommodation is also to be made available for seasonal temporary staff accommodation during peak seasons (grain harvest). The use for temporary staff accommodation is unlikely to result in any one person occupying a unit for more than 3 months in any 12 months, although there is potential that the 3 months may be exceeded given the variable nature of when harvest may commence/end, that the length of the season is weather dependent and whilst the accommodation may not be occupied by any one person over 3 months, it may be reserved for this purpose for longer than 3 months to ensure the accommodation is available for this purpose. Given that the dominant use of the accommodation will still be for short term accommodation, with ancillary use for temporary staff accommodation, it is considered appropriate in the Special Use 1 zone under the land use of associated tourist use. A conditional of approval should be included confirming that the dominant land use should be the use of the accommodation for short term accommodation purposes.

Development Standards

The Scheme also sets the following standards for the development:

- *Schedule 3 – Special Site Zone No. 1 Development Standards/Conditions*
All development shall be designed and landscaped to Council's specification and satisfaction.
- *Clause 5.8 Transportable Homes*
5.8.1 Council may permit the erection or placement of a transportable or prefabricated home on a lot providing that the design of the building is to the satisfaction of the Council and in its opinion, does not adversely affect the amenity of other properties in the vicinity.

The proposed development involves the placement of two transportable buildings, each with dimensions of 14.4m by 3.3m (47.52m²), and each containing 4 bedrooms and ensuites (8 bedrooms/ensuites in total proposed). A roof cover of approximately 19.4m by 9.6m (186.24m²) is proposed to be constructed over the buildings and connecting to the community room providing covered walkways, and undercover area external to the community room. The exterior appearance of the buildings are typical of a 'donga' which involves a roof with minimal pitch, without eave overhang, raised finished floor level from fixing of steel chassis of transportable building to the ground, wall height of 2.4m and minimal major openings (windows). The buildings and roof cover are proposed to be placed in between an existing brick ablution building, and existing transportable building (donga) used as the 'community room' containing kitchen facilities and an internal seating area. To the north of the development site, is existing landscaping, pump station for effluent and picnic area, separated from the site by a 1.8m high colorbond fence.

Whilst the exterior appearance of the development could be improved to create a higher quality development on the site, the buildings are sufficiently setback from lot boundaries and roads, and partly screened (by existing buildings and landscaping) from adjoining properties and Sanderson Street where amenity impacts are anticipated to be minimal. The proposed buildings also match the exterior appearance of the existing community room, which is of a similar transportable (donga) construction. On this basis it is considered that the development is consistent with Scheme provisions and recommended that it be supported, subject to landscaping being provided as required by the Scheme. Although, should Council consider that the buildings may have an impact on amenity, Council could require amended plans being provided which show works to improve the exterior appearance of the building (re-cladding, enclosing of underside, modification of roof design etc). Alternatively, Council could require such works as part of any agreement entered into with CBH regarding the placement of the buildings on the site.

The development plans submitted do not include a full set of elevations depicting the proposed roof cover, and require additional information to be shown such as finished floor levels etc. It is also recognised that further modification to the plans may occur as a result of finalising the agreement between CBH and the Shire. A condition of approval is recommended to be included allowing for final versions of the site plan, floor plan and elevations to be submitted to the Shire which will also allow for minor modifications to be made provided they do not substantially change the development as approved. Given that the modifications are anticipated to be minor, it is recommended that delegation be provided to the CEO to approve the final plans.

Planning and Development (Local Planning Schemes) Regulations 2015

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government,

those matters are relevant to the development the subject of the application. The follow is those most relevant to the application.

Clause	Officer comment
(k) the built heritage conservation of any place that is of cultural significance & (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;	The Scheme refers to an Old Wheat Silo be in Schedule IV – Places of Heritage Value on Reserve 40279, Lot 68 Sanderson St, Pingrup, and is described as an early example of a corrugated iron wheat silo. The exact location of the silo is not known, although the development will not result in the removal of any structures onsite and is in an area where development has previously occurred. The impact on cultural heritage significance is therefore considered likely to be negligible.
m)the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.	The size and scale of the development is compatible with existing buildings, and the location of the development in proximity to other structures with a similar function for tourist/short term accommodation is considered compatible.
the amenity of the locality including the following: (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development.	No adverse impacts on amenity anticipated as a result of the development.
(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource.	It will be a condition of approval that stormwater is managed onsite to the satisfaction of the Shire.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk.	No known issues.
(s) the adequacy of — (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles; (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.	Access to the site is via an existing crossover and accessway from Sanderson Street, which is an appropriate standard for this development. There is no car parking standards specified in the Scheme. It is considered that demand for parking is likely to require one car parking bay per accommodation unit, which will be conditioned on approval.
(u) the availability and adequacy for the development of the following — (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and	The development site is able to be connected reticulated water and power. An effluent application may be required if the existing system does not have sufficient capacity to service the additional accommodation which is a separate approval process.

shower facilities); (v) access by older people and people with disability	The development plans currently do not provide for disability access, which may be requirement as part of the building permit process.
(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.	The proposed development is beneficial to the community providing a cost-effective means of developing tourist and staff accommodation which is positive for the local economy and may not otherwise occur.
(y) any submissions received on the application.	Advertising of the application is not required by the Scheme or Regulations.
(za) the comments or submissions received from any authority consulted under clause 66.	The proposal was referred to the Department of Planning, Lands and Heritage (DPLH). The DPLH provided no objections to the development, or the Shire entering into an agreement for the placement and construction of the units on the property.
(zb) any other planning consideration the local government considers appropriate	The <i>Caravan Parks and Camping Grounds Act 1995</i> and <i>Caravan Parks and Camping Grounds Regulations 1997</i> may apply to the development if it is within an area considered a 'facility' under these provisions. Further advice should be sought from the Shire's Environmental Health Officer to confirm compliance to the agreement being finalised and final plans being approved.

STATUTORY IMPLICATIONS

Local Government Act (1995)

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Kent Town Planning Scheme No. 2

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The officer's recommendation may have financial implications for the Shire depending on the final format of the agreement between the Shire and CBH for the works, use and maintenance of the buildings. Potential financial implications for the Shire should not influence a decision being made under the Scheme and Regulations.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Economic Objective - Support growth and progress, locally and regionally.

Outcome 1.1 Growth in business opportunities

1.1.1 Attract new industry, business, investment and encourage diversity whilst encouraging growth of local business.

Outcome 1.2 Increased Tourism

1.2.1 Promote and develop tourism and maintain local attractions.

1.2.2 Upgrade Caravan Parks and Camping Grounds.

Outcome 1.4 Agricultural opportunities maintained and development

1.4.1 Support development of agricultural services.

RISK IMPLICATIONS

There are no medium to high risks identified with the proposal that warrant further discussion.

VOTING REQUIREMENT

Absolute Majority.

RECOMMENDATION

That Council:

1. Approves the application for development approval for Tourists and Temporary Seasonal Workers Accommodation at Lot 105 (9) Sanderson Street, Pingrup subject to the following conditions:
 - i) The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
 - ii) The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the Shire and except as may be modified by the following conditions.
 - iii) The predominant use of the accommodation hereby approved shall be for short stay accommodation purposes, where accommodation should not be occupied by any one person or family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12-month period.
 - iv) Stormwater is to be managed on site to the satisfaction of the local government.
 - v) A minimum number of eight (8) car parking bays (inclusive of any disabled bay) shall be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, and marked to the satisfaction of the Shire.
 - vi) 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 and have been approved in writing:
 - (a) A final version of the Site Plan, Floor Plan and Elevations being submitted for approval, which shall only include modifications which do not substantially change the development as approved to the satisfaction of the Shire.
 - (b) A Landscaping Plan to the satisfaction of the Shire.
 - vii) The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2, 3, 4 and 5 have been implemented, or the Shire has agreed otherwise.
 - viii) The works undertaken to satisfy Condition(s) 2, 3, 4, 5 and 6 shall be subsequently maintained for the life of the development.

ADVICE NOTES:

Note 1. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2. Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

- i) Note 3. If the applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

Note 4. This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.

2. Delegates authority to the Chief Executive Officer to approve plans and details provided to meet conditions of this planning approval.

1819/ 041 - COUNCIL RESOLUTION

MOVED Cr GM Collins / Cr TD Borgward

That Council:

1. Approves the application for development approval for Tourists and Temporary Seasonal Workers Accommodation at Lot 105 (9) Sanderson Street, Pingrup subject to the following conditions:
 - i) The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
 - ii) The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the Shire and except as may be modified by the following conditions.
 - iii) The predominant use of the accommodation hereby approved shall be for short stay accommodation purposes, where accommodation should not be occupied by any one person or family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12-month period.
- ix) Stormwater is to be managed on site to the satisfaction of the local government.
- x) A minimum number of eight (8) car parking bays (inclusive of any disabled bay) shall be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, and marked to the satisfaction of the Shire.
- xi) 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 and have been approved in writing:
 - (c) A final version of the Site Plan, Floor Plan and Elevations being submitted for approval, which shall only include modifications which do not substantially change the development as approved to the satisfaction of the Shire.
 - (d) A Landscaping Plan to the satisfaction of the Shire.

xii) The development hereby approved shall not be occupied or used until all plans, details or works required by Condition(s) 2, 3, 4 and 5 have been implemented, or the Shire has agreed otherwise.

xiii) The works undertaken to satisfy Condition(s) 2, 3, 4, 5 and 6 shall be subsequently maintained for the life of the development.

ADVICE NOTES:

Note 1. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2. Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 3. If the applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

Note 4. This approval is not a building permit. In accordance with the provisions of the Building Act 2011, an application for a building permit must be submitted to, and approval granted by the local government prior to any change of classification or prior to the commencement of any structural works within the development hereby permitted.

2. Delegates authority to the Chief Executive Officer to approve plans and details provided to meet conditions of this planning approval.

CARRIED 8/0
By Absolute Majority

9.1.8 PUBLIC ROAD AND RAILWAY CROSSING AT GRADE INTERFACE AGREEMENT

PROPOSED MEETING DATE: PROPONENT: LOCATION: AUTHOR: REPORTING OFFICER: FILE NO: ASSESSMENT NO: ATTACHMENTS:	15 May 2019 Arc Infrastructure Pty Ltd Line 63 Rick Miller – Chief Executive Officer Rick Miller – Chief Executive Officer 044.2.2, 122.1.1, IND45.5 N/A Agreement and Maps
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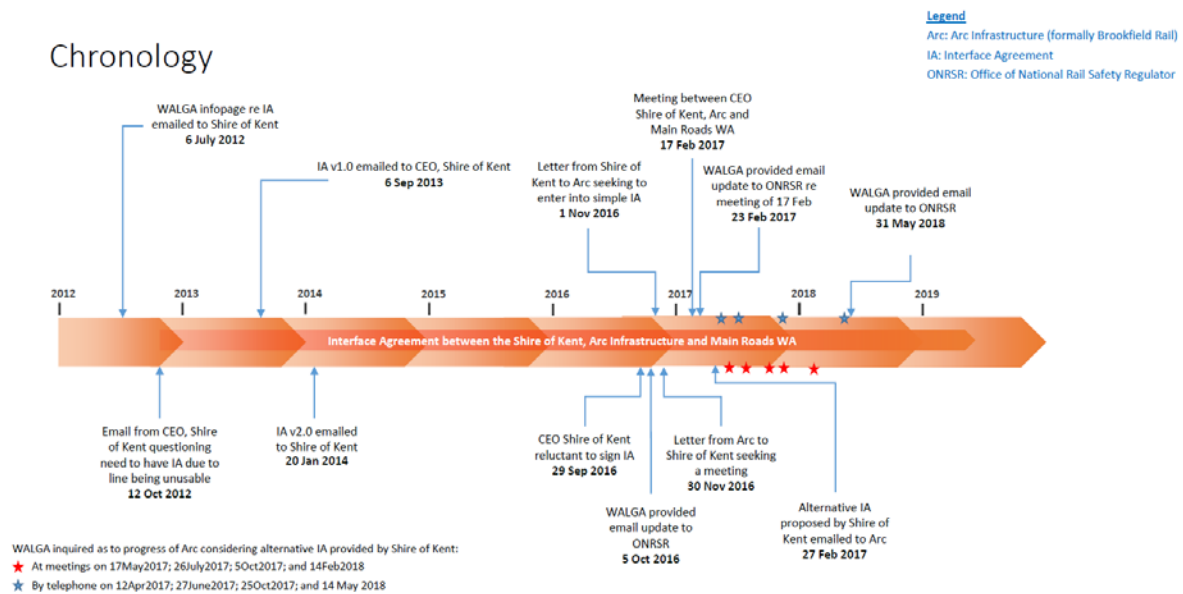
PURPOSE

For Council to consider entering into a Road Rail Interface agreement between Arc Infrastructure and The Commissioner of Main Roads as per the prescribed requirements of the Rail Safety National Law to manage risks to safety at road/rail interfaces.

BACKGROUND

This matter has been ongoing since 2012 as shown on the chronology of events detailed and is still unresolved and has involved at various periods substantial staff time in seeking an amicable solution.

Chronology



WALGA Policy Road Officer Mal Shervill has been involved previously and after my discussions with him following background information is provided.

- The Rail Safety National Law (WA) Act 2015 requires a road manager and a rail infrastructure manager to seek to enter into an Interface Agreement to manage the identified risks associated with a road and rail interface.
- The abovementioned legislation does not exempt disused rail lines, that is, an Interface Agreement is still required for dormant and disused rail lines.
- Arc Infrastructure have a legal requirement to enter into an Interface Agreement with 79 Local Governments.
- 77 Local Governments have signed Interface Agreements with Arc Infrastructure.
- Besides the Shire of Kent, the Shire of Bridgetown-Greenbushes is yet to sign an Agreement due to a change of ownership of a road that crosses a rail line. This is nearing a resolution.
- The Shire of Kent has taken the position that the terms of the Interface Agreement initially issued by Arc Infrastructure were unnecessary due to the Katanning-Nyabing rail line (line 63) being disused and in a state of disrepair.
- The current condition of line 63 prevents rail rolling stock from travelling along its length within the boundaries of the Shire of Kent; therefore there are no associated risks to safety at the crossings.
- There are five crossings on line 63 within the Shire of Kent according to the attached Agreements (as below).

No	Name	Type of Interface	Road number	Rail Line and kms from datum of the Level Crossing	Description of Crossing control
1	Gnowangerup Road	Level crossing	309 0004	Line 63 – 43.320km**	Give Way Sign
2	Hobart Road	Level crossing	309 0066	Line 63 – 49.690km**	Give Way Sign
3	Moornaming South Road	Level crossing	309 0018	Line 63 – 53.200km**	Give Way Sign
4	Ripper Road	Level crossing	309 0086	Line 63 – 57.640km**	Give Way Sign
5	Bin Road	Level crossing	309 0117	Line 63 –	Give Way Sign

				60.290km**	
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***This section of rail line is currently Disused (Non-Operational)*

- *On 27 February 2017 the Shire of Kent provided an alternative Interface Agreement to Arc Infrastructure (via WALGA).*
- *To date, Arc Infrastructure have not responded to the alternative Agreement – it is still with their legal department.*
- *Other Local Governments with disused rail lines within their boundaries have signed Interface Agreements with Arc Infrastructure.*
- *The Shire of Katanning is the only other Local Government that has Line 63 within its boundaries – the Shire of Katanning signed an Interface Agreement with Arc Infrastructure (then Brookfield Rail) in October 2016.*
- *Other Local Governments that share a boundary with the Shire of Kent signed Interface Agreements with Arc Infrastructure (then Brookfield Rail) as follows:*
 - *Shire of Broomhill-Tambellup in September 2016*
 - *Shire of Gnowangerup in September 2014*
 - *Shire of Dumbleyung in January 2014*
 - *Shire of Lake Grace in November 2014*
- **Current**
- *The requirements for a road manager and a rail infrastructure manager to enter into an Interface Agreement is overseen by the Office of the National Rail Safety Regulator (ONRSR).*
- *It is the view of the (Perth) Branch Director of the ONRSR that “Non-operational lines although not currently in use still require an assessment of risk to be conducted and an agreement to be in place”. (Letter dated 25 August 2016 is attached).*
- *I have been keeping the ONRSR informed of progress/status although the last advice I provided was 31 May 18. The (WA) ONRSR is aware of the state of line 63.*
- *The initial version of the Interface Agreement issued by Arc Infrastructure (attached to this email) is currently being revised. The revised version should be available either later this week or next week.*
- *Of the 77 Local Governments that have signed Interface Agreements with Arc Infrastructure, I have not been contacted by any of those Local Government regarding any adverse incident or impact stemming from the Agreement; nor has any adverse incident or impact been raised at a Regional Road Group meeting or Zone meeting that I or other WALGA staff have attended.*

COMMENT

Having read the latest version 2.4 of the agreement there has been some wording changes that allows the shire to assess the risk of carrying out works in the interface and danger area and to determine the need to notify the Rail Infrastructure Manager.

Therefore should the shire determine there is no risk to the rail, then we will be able to carry out what we deem to be necessary roadworks without the need for third party involvement or oversight from the Rail Infrastructure manager and would be treated from a risk perspective the same as any other roadworks that we undertake.

I do not see any benefit in further negotiations or delaying of signing the agreement as it will not adversely affect or delay works that need to be carried out in the interface areas.

Based on all information available it will be recommended to sign the agreement.

STATUTORY IMPLICATIONS

Local Government Act 1995 (WA)

Public Works Act 1902 (WA)

Road Traffic Code 2000 (WA)

Rail Safety National Law Act 2018 (WA)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Economic Objective - Support growth and progress, locally and regionally.

Outcome 1.3 An effective well maintained transport network

1.3.1 Maintain and improve road network in line with resource capacity.

1.3.2 Review and implement the Long Term Roads Program

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

RISK IMPLICATIONS

Entering into the standard agreement to meet Local Government obligations and noting that the lines are disused the risk is considered Low impact.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. Advise Arc Infrastructure Pty Ltd that the Shire of Kent is prepared to enter into the Interface agreement for Public Road and Rail Crossing at Grade Interfaces provided that all costs associated with the agreement documentation is at no cost to the shire.
2. Authorises the Chief Executive Officer, in accordance with section 9.49A(4) of the Local Government Act 1995, to execute the agreement between Arc Infrastructure Pty Ltd, the Shire of Kent and the Commissioner of Main Roads/MRWA.

1819/ 042 - COUNCIL RESOLUTION

MOVED Cr GM Collins / Cr TD Borgward

That Council:

1. Advise Arc Infrastructure Pty Ltd that the Shire of Kent is prepared to enter into the Interface agreement for Public Road and Rail Crossing at Grade Interfaces provided that all costs associated with the agreement documentation is at no cost to the shire.
2. Authorises the Chief Executive Officer, in accordance with section 9.49A(4) of the Local Government Act 1995, to execute the agreement between Arc Infrastructure Pty Ltd, the Shire of Kent and the Commissioner of Main Roads/MRWA.

**CARRIED 8/0
By Simple Majority**

10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL

12. MATTERS BEHIND CLOSED DOORS

That the meeting be closed to the public in accordance with section 5.23 Local Government Act 1995, 5.5.23(2))

- Matters affecting employee(s)
- Personal affairs of any person(s), including financial and/or commercial Contracts
- Commercial Confidentiality
- Legal advice/matters
- Public safety/security matters where public knowledge may be prejudicial.

13. MEETING CLOSED

There being no further business the Shire President Cr Alan Smith, closed the meeting at 6.40pm.