

**AGENDA
AUGUST 2021
Table of Contents**

ITEM	DESCRIPTION	PAGE
1	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS	2
2	RECORD OF ATTENDANCE/APOLOGIES AND APPROVED LEAVE OF ABSENCE	2
3	DISCLOSURE OF INTERESTS:	2
	<ul style="list-style-type: none"> • Direct Financial Interest • Indirect Financial Interest • Closely Associated Persons • Proximity Interest 	
4	PUBLIC QUESTION TIME	2
5	APPLICATION FOR MEMBERS FOR LEAVE OF ABSENCE	2
6	CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING	2
	6.1 Ordinary Meeting of Council held Wednesday 21 July 2021	
	6.2 Special Meeting of Council held Monday 9 August 2021	
7	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	2
8	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	2
9	OFFICERS REPORTS	
	9.1.1 Monthly Financial Reports to 31 July 2021	3
	9.1.2 Schedule of Accounts Paid to 31 July 2021	4
	9.1.3 Status of Council Decisions – July 2021	5
	9.1.4 Draft Local Planning Scheme No.3 and Local Planning Strategy	6
	9.1.5 Unbudgeted Expenditure – Flood Damage	14
10	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	16
11	NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL	16
12	MATTERS BEHIND CLOSED DOORS	16
	12.1.1 CONFIDENTIAL – Tender RFT01-21/22 Teacher Housing	16
13	MEETING CLOSED	16

**MINUTES
ORDINARY MEETING OF COUNCIL
18 AUGUST 2021**

DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

- 1 The Presiding Member, Shire President Cr Scott Crosby, declared the meeting opened at 5.34pm.

2 RECORD OF ATTENDANCE/APOLOGIES & APPROVED LEAVE OF ABSENCE

Members

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

Staff

RJ Stewart	Acting Chief Executive Officer
M Bamess	Deputy Chief Executive Officer
PE Spencer	Works Manager

Members of the Public

Nil

Apologies

Cr RA Jury	Member
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Members on Approved Leave of Absence

Nil

3. DISCLOSURE OF INTERESTS:

• **Direct Financial Interest:**

12.1.1 Confidential – Tender Rf01-21/22 Teacher Housing

- Cr BC Bamess declares a direct financial that requires disclosure as he has provided a quote to CLPM Pty Ltd for Pest Management services in the event that they are the successful tenderer.
- The DCEO declares a direct financial that requires disclosure as she is a Director of the company that has provided a quote to CLPM Pty Ltd for Pest Management services in the event that they are the successful tenderer.

• **Indirect Financial Interest:**

Nil

• **Proximity interest:**

9.1.4 Draft Local Planning Scheme No 3 and Local Planning Strategy

- Cr SR Crosby declares a proximity interest as his parents own and he farms the land receiving income from the land next to Nyabing Town Site that is included in the Local Planning Scheme No 3.

• **Impartiality:**

Nil

PUBLIC QUESTION TIME

Nil

5 APPLICATION FOR MEMBERS FOR LEAVE OF ABSENCE

2122/021 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr BC Bamess / Cr TD Borgward

That Leave of Absence be granted to Cr JN Germain and Cr KV Johnston for the 15 September 2021 Ordinary Meeting of Council.

**CARRIED 6/0
By Simple Majority**

6 CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING

6.1 Ordinary Meeting of Council held on Wednesday 21 July, 2021

That the Minutes of the Ordinary Council Meeting of the Shire of Kent held at the Council Chambers, on Wednesday 21 July, 2021 be CONFIRMED as a true and accurate record.

OCM2122/022 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr KV Johnston / Cr JN Germain

That the Minutes of the Ordinary Council Meeting of the Shire of Kent held at the Council Chambers, on Wednesday 21 July 2021 be CONFIRMED as a true and accurate record.

**CARRIED 6/0
By Simple Majority**

6.2 Special Meeting held on Monday 9 August, 2021

That the Minutes of the Special Council Meeting of the Shire of Kent held at the Council Chambers, on Monday 9 August, 2021 be CONFIRMED as a true and accurate record.

OCM2122/023 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr TD Borgward / Cr BC Bamess

That the Minutes of the Special Council Meeting of the Shire of Kent held at the Council Chambers, on Monday 9 August, 2021 be CONFIRMED as a true and accurate record.

**CARRIED 6/0
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 31 JULY 2021

PROPOSED MEETING DATE:	18 August 2021
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Senior Finance 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 31 July 2021
DISCLOSURE OF INTEREST:	Nil

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. Please note the reports are the unaudited version, audit will be undertaken in September 2021 and audited financials will be presented to Council accordingly and the brought forward balance may need to be adjusted in this financial year. Most variances are due to timing, with the financial year just commencing and budget adoption being mid July 2021.

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 31 July 2021**

OCM2122/024 - COUNCIL RESOLUTION

MOVED Cr TD Borgward / Cr JN Germain

That Council receive the following Monthly Financial Reports as presented:

- **Monthly Financial Reports to 31 July 2021**

**CARRIED 6/0
By Simple Majority**

9.1.2 SCHEDULE OF ACCOUNTS PAID TO 31 JULY 2021

PROPOSED MEETING DATE:	18 August 2021
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Senior Finance Officer
REPORTING OFFICER:	Michelle Bamess – Deputy Chief Executive Officer
FILE NO:	042.6.2
ASSESSMENT NO:	N/A
ATTACHMENTS:	1. Schedule of accounts paid
DISCLOSURE OF INTEREST:	2. Schedule of direct debits Nil

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 for the period ending 31 July 2021:

Municipal Fund	\$341,671.97
Trust Fund	\$ 0.00
Direct Debits	\$124,280.33
<u>TOTAL</u>	<u>\$465,952.30</u>

OCM2122/025 - COUNCIL RESOLUTION

MOVED Cr BC Bamess / Cr KV Johnston

That Council endorse the payments from the Municipal Fund and Trust Fund for the period ending 31 July 2021:

Municipal Fund	\$341,671.97
Trust Fund	\$ 0.00
Direct Debits	\$124,280.33
<u>TOTAL</u>	<u>\$465,952.30</u>

CARRIED 6/0
By Simple Majority

9.1.3 STATUS OF COUNCIL DECISIONS – JULY 2021

PROPOSED MEETING DATE:	18 August 2021
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

18 August 2021 – Ordinary Meeting of Council

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 July 2021.

OCM2122/026 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr TD Borgward / Cr BC Bamess

That Council receive the Council Resolutions Register for the month of July 2021.

**CARRIED 6/0
By Simple Majority**

Cr SR Crosby declared a Proximity Interest in Agenda Item 9.1.4 and left the room at 5.39pm.

Cr KV Johnston assumed the Chair

9.1.4 DRAFT LOCAL PLANNING SCHEME NO. 3 AND LOCAL PLANNING STRATEGY

PROPOSED MEETING DATE:	18 August 2021
PROPONENT:	Shire of Kent
LOCATION:	Shire of Kent
AUTHOR:	Carly Shaddick, Consultant Planner
REPORTING OFFICER:	Rick Miller, Chief Executive Officer
FILE NO:	103.1.3
ASSESSMENT NO:	N/A
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Draft Local Planning Strategy 2. Draft Local Planning Scheme No. 3 & Maps 3. EPA Decision & Advice 4. WAPC Notices - Certification to Advertise 5. Officer Modifications 6. Copy of Submissions 7. Schedule of Submissions
DISCLOSURE OF INTEREST:	

PURPOSE

To consider submissions received during the consultation period for the draft Local Planning Strategy and Local Planning Scheme No. 3 and responses to each submission.

For Council to determine to either:

- (a) Support the draft Local Planning Strategy and Local Planning Scheme No.3 without modification;
- (b) Support the draft Local Planning Strategy and Local Planning Scheme No. 3 with modifications to address issues raised in the submissions (with further advertising if modifications are 'significant'); or
- (c) Not to support the draft Local Planning Scheme No.3 and provide a summary of reasons why the local government does not support the draft Scheme.

BACKGROUND

The current Shire of Kent Town Planning Scheme No. 2 (Scheme) was gazetted 17 May 1996, and consolidated October 2007. A Local Planning Scheme (in conjunction with the deemed provisions of

the Regulations) is the principal statutory tool for achieving the local governments aims and objectives with respect to development within its boundaries. The Scheme applies to the Scheme map area which currently only includes the Nyabing and Pingrup townsites.

The *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015* (referred herein as the Regulations), requires a local authority to review its Local Planning Scheme within six months of the five-year anniversary of the date their Scheme is approved.

To support the preparation of a Local Planning Scheme, the Regulations require a Local Planning Strategy to be adopted where its purpose is to:

- Set the long -term planning directions for the local government
- Apply state or regional planning policy that is relevant to the strategy
- Provide the rationale for zoning of or classification of land under the Local Planning Scheme.

At its Ordinary Council Meeting 20 April 2016, Council resolved **[4570 – COUNCIL RESOLUTION)** to:

1. *In pursuance of Section 72 of the Planning and Development Act (2005) to prepare a new Local Planning Scheme No. 3, which will cover the entire Local government boundary, and shown as the Scheme Map Area as titled in Attachment 1 and upon gazettal revoke Town Planning Scheme No.2.*
2. *Pursuant to Section 72 of the Planning and Development Act (2005) and Regulations 19 and 20 of the Planning and Development (Local Planning Schemes) 2015, to forward to the Western Australian Planning Commission:*
 - a) *A copy of Council's resolution deciding to prepare a new Local Planning Scheme No. 3, certified by the Chief Executive Officer;*
 - b) *A map marked 'Scheme Map Area' signed by the Chief Executive Officer, on which is delineated the area of land proposed to be included in the Scheme; and*
 - c) *That the preliminary intentions and objectives of the new Local Planning Scheme No.3 will be:*
 - i. *That having regard to the Shire of Kent Local Planning Strategy (which will be prepared concurrently with the Scheme) the objections and intentions of Local Planning Scheme No.3 will be to update the statutory planning controls within the municipality to be consistent with current standards, reflect current best practice with regard to land use planning, and provide guidance for the future development of the Shire of Kent municipality.*
 - d) *That the anticipated format of Local Planning Scheme No. 3 will be prepared in accordance with Schedule 1: Model Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015 and comprise of:*
 - (i) *Scheme Text; and*
 - (ii) *Scheme Map(s).*
3. *Subject to Council receiving notification from the Western Australian Planning Commission pursuant to Regulations 19 and 20 of the Planning and Development (Local Planning Schemes) Regulations 2015:*
 - a) *Publish a notice within the Government Gazette and a newspaper circulating in the district of the Local Government of the passing of the resolution deciding to prepare a Local Planning Scheme No. 3.*
 - b) *Forward a copy of the notice to the Local Government of every adjoining district, each licensee under the Water Services Act 2012 likely to be affected by the Scheme, the CEO of the Department of the Public Service principally assisting in the administration of the Conservation and Land Management Act 1984 and each public authority likely to be affected by the Scheme for their recommendations in regards to preparation of the new Local Planning Scheme No. 3.*
 - c) *Pursuant to Section 81 of the Planning and Development Act 2005, forward a copy of the notice to the Environmental Protection Authority.*
4. *For the purposes of compliance with Regulation 11 of the Planning and Development (Local Planning Schemes) Regulations 2015, to prepare a draft Local Planning Strategy be prepared concurrently with the preparation of a new Local Planning Scheme.*

The notice of intention to adopt a new local planning scheme was advertised, consultation was undertaken and a draft Local Planning Strategy and Local Planning Scheme No. 3 was prepared. At the Ordinary Council meeting held on the 18 December 2019 Council resolved to **[OCM1920/116 – COUNCIL RESOLUTION]**:

1. Pursuant to Section 72(1) of the *Planning and Development Act 2005*, and section 21 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts for the purposes of advertising, the draft Local Planning Scheme No. 3.
2. Adopts the draft Local Planning Strategy for the purposes of advertising.
3. Forwards the draft Local Planning Strategy and Local Planning Scheme No. 3 to:
 - (i) the Western Australian Planning Commission for assessment and following receipt of certification, advertises the draft Local Planning Strategy and Local Planning Scheme No. 3 for public comment in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
 - (ii) the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act 2005*.
 - (iii) The Heritage Council of Western Australia for advice.

Resolution 3(i), (ii) and (iii) have been undertaken and the draft Local Planning Strategy (draft Strategy) and draft Local Planning Scheme No.3 (draft Scheme) was advertised. A copy of the advertised versions is provided at Attachment 1 and 2.

11 submissions were received from government authorities and similar organisations. One public submission was received.

It is a requirement of the Regulations that the Shire consider and provides a response to each submission received within 120 days after the end of the submission period for the draft Scheme, or a longer period which is otherwise agreed by the WAPC.

Council is requested to consider the submissions received during the consultation period, responses to each submission and to either:

- (a) Support the draft Strategy and Scheme without modification;
- (b) Support the draft Strategy and Scheme with proposed modifications to address issues raised in the submissions (with further advertising if modifications are 'significant'); or
- (c) Not to support the draft Scheme and provide a summary of reasons why the local government does not support the draft scheme. The Regulations do not specify that is an option not to adopt the Strategy.

COMMENT

The draft Local Planning Strategy and Local Planning Scheme No. 3 was adopted by Council for advertising at its Ordinary meeting held on the 18 December 2019. A detailed background on the formulation of the draft strategy and scheme is available in the Council minutes. A summary of the actions taken in response to Council resolution OCM1920/116 – COUNCIL RESOLUTION is provided below.

Environmental Protection Authority (EPA) Referral

In accordance with Section 81 of the *Planning and Development Act 2005*, the draft Scheme (and Strategy) was forwarded to the EPA for assessment.

The EPA issued notice on the 27 July 2020 of its decision not to assess the draft Scheme but provided advice and recommendations under Section 48(1)(a) of the *Environmental Protection Act 1986*. A copy of this decision and advice is provided at Attachment 3.

The advice provided that the draft Scheme would allow for a range of potential uses within several zones which have potential for environmental impacts and recommended that the Scheme be modified as follows:

- Include a new section which requires development of public purpose reserves that involve the clearing of native vegetation or modification to waterway(s) to have regard to the

suitability of the land for development taking into account potential impacts to environmental values, and that such proposals should be referred to relevant state government agencies for comment prior to development occurring.

- two parcels of land located outside of townsites to be identified as Environmental Conservation as opposed to public purpose reserve.

WAPC Certification to Advertise

The draft documents and the EPA decision notice was forwarded to the WAPC for assessment and certification prior to advertising commencing.

On the 25th November 2020 the WAPC issued notice that:

- The draft Scheme is suitable to be advertised once modifications have been undertaken; and
- That the draft Strategy is suitable to be advertised without modification.

Modifications to the Scheme were undertaken by Shire officers, and the WAPC provided notice on the 7th December 2020 that the modified draft Scheme was suitable to be advertised. A copy of the notices included required modifications is provided at Attachment 4.

The modifications were generally minor administrative changes or related to incorporating the EPA advice and recommendations into the draft Scheme.

Although, some modifications required changes to land use permissibility's, such as Motor Vehicle Repair and Industry-Light being amended from discretionary uses (D) in the Mixed Use zone, to an 'X' use meaning it is prohibited. The change in land use permissibility's affects the ability of the Mixed-Use zone to cater for industrial land use needs within the townsites. The land use of Transport Depot was also required to be amended from a discretionary use in the light industry zone to an 'X' use.

The WAPC advised these modifications were required because the land uses were not consistent with the intent of these zones.

In response to these modifications, officers have proposed the following modifications occur to provide flexibility for industrial land uses to be developed, and in some instances avoid the creation of a non-conforming use:

- Lot 1 (140) Aspendale Street, Nyabing to be zoned 'Light Industry' instead of 'Mixed Use'. This retains the current 'Industry' zoning of the land in Town Planning Scheme No. 2 (albeit updated to Light Industry in the draft Scheme in accordance with the Regulations) and avoids the existing motor vehicle repair use on the land becoming a non-conforming use;
- Lot 67 on P172932 and adjoining Crown Land (Land ID No. 3055756) in the Pingrup townsite being zoned Light Industry instead of Mixed Use. The change in zoning of land is necessary to enable opportunity for light industry land use needs to be met in the Shire given that the WAPC modifications to change the land use permissibility's will not allow for a range of industrial land uses to occur in the Mixed-Use zone.
- Transport Depot be amended from an 'I' use in the Rural zone to an 'A' use which means that it may be permitted at the discretion of the Shire (and after the proposal has been advertised for comment), rather than only being permitted as an incidental land use. This allows flexibility to accommodate Transport Depots on Rural land given that it is not permitted in the Light Industry zone.

It is noted that the WAPC modifications to the land use permissibility's in the Mixed-Use zone will mean that some land uses will remain 'non-conforming' uses in the draft Scheme, however this is already an existing situation in the Shire of Kent Town Planning Scheme No. 2 and is not being created as a result of the draft Scheme.

During the advertising period, officers also identified the following modifications should be undertaken:

- Reserve Additional Use 1 (RA1) be extended to apply to Reserves 17930 and 20892. The RA1 is currently proposed to apply to Reserve 20890 only in the draft Scheme and permits the additional uses of caravan park and workforce accommodation subject to conditions. All three reserves are located in the Nyabing Recreational Ground Precinct.

Council at its meeting held on the 16 December 2020 resolved (OCM2021/058) to apply to the DPLH to request that the purpose of reserves 20893, 17930 and 20892 be amended to 'Recreation, Caravan Park, Camping and Associated Accommodation' and requested management orders be granted. The intent being that the three reserves are in close proximity and used in tandem with each other, where the caravan park and workforce accommodation may end up being located over one or more of the Reserves. To accommodate this intention the AR1 designation should be extended so that it also applies to Reserves 17930 and 20892. It is also recommended that the AR1 land use be modified to refer to the additional land use of 'Holiday Accommodation' to encompass any short-term accommodation development that may fall outside of the definition of a 'caravan park'.

- In response to the modifications to the land use permissibility's in the Mixed-Use zone, which will no longer provide flexibility to cater for light industrial needs of the Shire, officers are recommending that the draft Strategy be modified to insert a new 'Rural Enterprise' zone. A rural enterprise zone allows predominantly light industry land uses, with ability to construct an ancillary dwelling on the same lot and caters for lot sizes in the order of 1-4ha in proximity to townsites. This will provide for an alternate form of industrial development within the Shire which can promote economic development and provide employment which is supported. The modifications will insert criteria for when land for Rural Enterprise may be supported. A Scheme Amendment will be required should rezoning of land for Rural Enterprise in the Scheme be proposed.

A copy of officer's modifications is provided at Attachment 5.

Cl 26 of the Regulations provides that the local government may decide to advertise a proposed modification to the draft scheme if the local government proposes the modification to address issues raised in submission on the draft scheme and the local government is of the opinion that the proposed modifications are significant.

Officers consider that the proposed modification(s) are not significant as the modifications are either minor amendments or will require a further scheme amendment for land to be zoned 'Rural Enterprise'. Further advertising is not proposed.

Advertising

The draft Scheme and Strategy was advertised from the 13th February 2021, ending on the 22 May 2021 by:

- Publishing a notice in the Western Australian on the 13 February 2021;
- Providing notice and a hard copy of the documents in the Shire of Kent local government office and Community Resource Centre in Pingrup; and
- Publishing a copy of the notice and documents on the local government's website

The notices advised that subject to interest and registration the Shire would hold a community information day on the draft documents. No registrations were received.

A copy of the notice was forwarded to adjoining local governments, Department of Fire and Emergency Services (DFES), Department of Biodiversity, Conservation and Attractions (DBCA), Main Roads Western Australia (MRWA), Housing Authority, Department of Local Government, Sport and Cultural Industries, Department of Jobs, Tourism, Science and Innovation, Department of Planning, Lands and Heritage (Heritage Council & Aboriginal Heritage sections), Department of Health, Western Power, Telstra, Western Power, Water Corporation, Department of Water and Environmental

Regulation (DWER), Great Southern Development Commissions, Department Mines, Industry Regulation and Safety, Public Transport Authority and Department of Primary Industries and Regional Development.

Submissions

11 submissions were received from government authorities or similar organisations. One public submission was received. A copy of submissions is provided at Attachment 6.

Submissions received predominantly advised no comment or provided general information for consideration which has either been noted or included as a modification where appropriate.

A submission was received from the Department of Fire and Emergency Services which advised that the Strategy considers intensification through the Shire in areas that are in or near designated Bushfire Prone Areas, and that a Bushfire Hazard Level Assessment is required to comply with State Planning Policy 3.7 Planning in Bushfire Prone Areas. DFES advised that as no BHL assessment has been undertaken that there is insufficient information and advised that a bushfire assessment should be provided in support of the Strategy.

Officers are of the opinion that no intensification of land has been proposed within bushfire prone areas. Development Investigation Areas have been identified, although are identified as such because of the requirement for further investigation to take place to prove the land is suitable for development such as provision of a bushfire assessment. Officers have not recommended modifications in response to DFES's submission.

The public submission received requested that Lot 1 on Diagram 18483 be zoned for industrial uses or similar. A modification to rezone the land to 'Light Industry' is recommended to be supported by officers for the following reasons:

- The land is in proximity to and is a logical extension of the townsite;
- Offsite buffers are not required for light industry zones;
- Appropriate servicing and roads are available to the site.
- Given the land is affected by the Special Control Area – Odour Buffer for the Septage ponds, it is not suitable for residential uses. Industrial uses within the special control area can be supported.
- The land is not bushfire prone;
- Following WAPC modifications to the land use permissibility's in the Mixed Use zone, this zone no longer caters for light industrial or similar development. Additional land suitable for industrial uses is necessary to cater for the future needs of the Nyabing townsite.

Given that amenity impacts to properties in the townsite are anticipated, the modification is considered not significant and re-advertising is not proposed.

A detailed summary of submissions, response to each submission and recommended modification is provided at Attachment 7.

Summary

The local government is required to make a decision on the draft strategy and draft scheme as set out in the Regulations. This does not allow for the draft strategy not to be supported, only allowing for endorsement. It is a requirement of the Regulations that the Council consider submissions and make a resolution within 120 days after the end of the submission period or a day approved by the WAPC in accordance with section 25 of the Regulations.

Officers' recommendation is to support the local planning strategy and local planning scheme, with modification as set out in Attachments 5 and 7, and endorse the response to each submission received. The following options are also available to Council:

- Provide different responses, or modifications, and in respect of the local planning scheme resolve to advertise the modifications, if they are considered 'significant'.
- Provide different responses to submissions and adopt the local planning strategy and local planning scheme without modification.

- Resolve not to support the draft scheme and provide a summary of reasons why.

Referral to WAPC

Following a Council resolution for this matter, unless there is a resolution for further advertising for 'significant modifications', the Shire is required to forward information as set out in the Regulations to the WAPC for assessment. The Regulations require that information on the draft local planning scheme be provided to the WAPC within 21 days of Council resolution.

The WAPC is then in accordance with section 15 of the Regulations required to within 60 days of receipt of the draft Local Planning Strategy to:

- (a) *Endorse the strategy without modification; or*
- (b) *Endorse the strategy with some or all of the modifications proposed by local government;*
- (c) *Require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to Commission for endorsement; or*
- (d) *Refuse to endorse the strategy.*

On receipt of the local planning scheme, in accordance with section 29 the Commission must within 120 days of receiving the document, or within such longer period as the Minister or an authorised person allows –

- (a) *Consider the documents; and*
- (b) *Make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and*
- (c) *Submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.*

The Minister, or an authorised person may then either in accordance with section 30 and 31, either then approve the draft scheme, direct the local government to modify the scheme, or direct the local government to modify the draft scheme and advertise modifications. If the Minister approves the Scheme, this must then be published in the Gazette and the local government is required to publish a notice in a local publication advising of the approval of the scheme and notify each person who made a submission.

STATUTORY IMPLICATIONS

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Environmental Protection Act 1986

POLICY IMPLICATIONS

Nil. The development of future local planning policies will be required to be consistent with the draft Local Planning Strategy and Local Planning Scheme No. 3 (if gazetted).

FINANCIAL IMPLICATIONS

Should the draft Scheme and Strategy be endorsed/approved by the WAPC/Minister, a notice advising of its adoption is required to be published which will incur advertising costs.

Should the draft Scheme be approved by the WAPC/Minister, it is required to be published in the government gazette which incurs a publishing fee per page.

Advertising and gazettal costs are anticipated not to exceed \$5,000.

STRATEGIC IMPLICATIONS

The draft Local Planning Strategy and Local Planning Scheme No. 3 has been prepared to align with and support the vision, objectives and desired outcomes of the Shire of Kent Community Strategic Plan 2017-2027.

RISK IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. *Pursuant to Regulation 14(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft Local Planning Strategy with proposed modifications in response to submissions as set out in Attachment 7 and further officer modifications identified during consultation in Attachment 5.*
2. *Pursuant to Regulation 25(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft local planning scheme with proposed modifications in response to submissions as set out in Attachment 7 and officer modifications identified during consultation in Attachment 5.*
3. *Endorses the responses to submissions set out in Attachment 7.*
4. *Authorises the Chief Executive Officer to:*
 - (a) *pursuant to Regulation 14(3) and 28 of the Planning and Development (Local Planning Schemes) Regulations 2015 forward all relevant information required to the Western Australian Planning Commission.*
 - (b) *execute documents and modifications as required by the Planning and Development (Local Planning Schemes) Regulations 2015 and Planning and Development Act 2005.*

OCM2122/027 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr AL Smith / Cr JN Germain

That Council:

1. *Pursuant to Regulation 14(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft Local Planning Strategy with proposed modifications in response to submissions as set out in Attachment 7 and further officer modifications identified during consultation in Attachment 5.*
2. *Pursuant to Regulation 25(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 supports the draft local planning scheme with proposed modifications in response to submissions as set out in Attachment 7 and officer modifications identified during consultation in Attachment 5.*
3. *Endorses the responses to submissions set out in Attachment 7.*
4. *Authorises the Chief Executive Officer to:*
 - (c) *pursuant to Regulation 14(3) and 28 of the Planning and Development (Local Planning Schemes) Regulations 2015 forward all relevant information required to the Western Australian Planning Commission.*
 - (d) *execute documents and modifications as required by the Planning and Development (Local Planning Schemes) Regulations 2015 and Planning and Development Act 2005.*

CARRIED 5/0
By Simple Majority

Cr SR Crosby returned to the meeting room at 5.41pm and resumed the Chair

9.1.5 UNBUDGETED EXPENDITURE – FLOOD DAMAGE

PROPOSED MEETING DATE:	18 August 2021
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Senior Finance Officer
REPORTING OFFICER:	Paul Spencer – Works Manager
FILE NO:	122.8.1
ASSESSMENT NO:	N/A
ATTACHMENTS:	Nil
DISCLOSURE OF INTEREST:	Nil

PURPOSE

Council to consider approval of expenditure from the municipal account that has not been included in the 2021/2022 adopted budget for repair to flood damaged roads within the Shire of Kent road network.

BACKGROUND

Following wet months in May and June (approximately 200mm) there was a large rainfall event 26-27th July 2021 with approximately 50mm being recorded in a number of locations in the Shire, this fell on already waterlogged ground and creating significant runoff.

This runoff has caused damage to floodways, culverts and other road infrastructure which is now becoming clearer as water recedes.

COMMENT

DFES has not “activated” this event for a Flood Recovery claim as individually it has been seen as a series of smaller events, although discussions between DFES and Federal counterparts is ongoing. Accordingly there is no financial assistance available at this stage and even if there was, a significant portion must be covered by the Shire before assistance kicks in, this figure is around \$180,000.

Rough estimates indicate that there are between 50 to 100 locations have been affected and a ballpark estimate of around \$150,000—\$200,000 of damage caused. Inspections have not yet been completed and the focus has been on road signage, tree removal and immediate safety measures. Whilst \$150-200k is relatively small compared to the millions other Shires have received under flood recovery in other events, it is still a lot in comparison to our 21-22 maintenance budget.

At this stage it is planned that council will use its resources (with overtime works) to attend to minor repairs and may engage some local contractors to assist where possible. It is recommended that these cost be partitioned under a separate cost code so they can be monitored and kept in case there are opportunities to make claims later.

The Works Manager will make a more detailed damage report and update on repairs to Council at the meeting. Budgets for this work can be considered, as can the option of bringing in more support in the form of an external contractor.

STATUTORY IMPLICATIONS

Local Government Act 1995:

6.8 Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

- (a) Is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) Is authorised in advance by resolution*; or
- (c) Is authorised in advance by the mayor or president in an emergency.

**Absolute majority required.*

POLICY IMPLICATIONS

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

This is an unbudgeted expense and therefore requires approval by Absolute Majority. Council may be able to utilise some of the LRCIP phase 3, Road Reserve funds or general funds. This can be assessed at budget review in March 2022.

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

Absolute Majority

RECOMMENDATION

That Council:

Approve unbudgeted expenditure up to \$200,000 to cover the cost of repairs from flood damage caused to roads within the Shire of Kent.

OCM2122/028 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr TD Borgward / Cr JN Germain

That Council:

Approve unbudgeted expenditure up to \$200,000 to cover the cost of repairs from flood damage caused to roads within the Shire of Kent.

**CARRIED 6/0
By Absolute Majority**

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

Nil

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

Nil

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.

PROCEDURAL MOTION

That Council closes the meeting to the public to consider matters of a confidential nature behind closed doors.

OCM2122/029 - COUNCIL RESOLUTION (Officer Recommendation)
--

MOVED Cr TD Borgward / Cr AL Smith

That Council closes the meeting to the public to consider matters of a confidential nature behind closed doors.

**CARRIED 6/0
By Simple Majority**

DCEO left the meeting room at 5.43pm

Cr BC Bames declared a Direct Financial Interest in Agenda Item 12.1.1 and left the meeting room at 5.43pm

12.1.1 CONFIDENTIAL – TENDER RFT01-21/22 TEACHER HOUSING

PROPOSED MEETING DATE:	18 August 2021
PROPONENT:	Shire of Kent
LOCATION:	6 Paterson St, Pingrup and 16 Bourke St, Nyabing
AUTHOR:	Rick Miller – Chief Executive Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	046.3.1
ASSESSMENT NO:	N/A
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Confidential-Tender Evaluation Report 2. Confidential-Draft Housing Plans 3. Confidential-RFT01-2122 Tender Documents
DISCLOSURE OF INTEREST:	CEO has no interest to declare.

PURPOSE

For Council to consider submitted tender for the design and construct of Teacher Housing in Pingrup and Nyabing

REASON FOR CONFIDENTIALITY

That in accordance with Section 5.23 (2) of the *Local Government Act 1995* the which permits the meeting to be closed to members of the public for business relating to the

following:

- Commercial Confidentiality

OCM2122/030 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr TD Borgward / Cr AL Smith

That Council:

- 1. Accepts the most advantageous tender, that being submitted by CLPM Pty Ltd, to provide in accordance with Tender RFT – 01/2122 Teacher Housing Design and Construct for a total payment of \$1,639,721.90 inc GST;**
- 2. Authorises the Acting Chief Executive Officer, to liaise with the successful tenderer to make minor variations to achieve design outcomes before entry into contract;**
- 3. Authorises the Acting Chief Executive Officer, in accordance with section 9.49A(4) of the Local Government Act 1995, to execute the contract for Tender RFT – 01/2122 Teacher Housing Design and Construct.**

**CARRIED 5/0
By Simple Majority**

PROCEDURAL MOTION

That Council re-open the meeting to the general public

OCM2122/031 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr TD Borgward / Cr KV Johnston

That Council re-open the meeting to the general public

**CARRIED
By Simple Majority**

**DCEO returned to the meeting room at 5.55pm
Cr BC Bamess returned to the meeting room at 5.55pm**

13. MEETING CLOSED

There being no further business the Shire President Cr Scott Crosby, closed the meeting at 5.56pm.