



Date: 21 March 2019

To: Shire President
All Councillors

Copy: Directors
Executive Manager
Managers
Staff

ORDINARY COUNCIL MEETING NOTICE AND AGENDA

An Ordinary Council meeting of the Shire of Waroona will be held at the Waroona Shire Offices on 26 March 2019 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in black ink, which appears to read "Ian Curley", is positioned above the typed name of the Chief Executive Officer.

**IAN CURLEY
CHIEF EXECUTIVE OFFICER**

PUBLIC QUESTION TIME

AND

PUBLIC STATEMENT TIME

1. The order of business allows for a Public Question time and a Public Statement time at the beginning of the Meeting. The Presiding Member will announce these times.

2. If you wish to ask a Question or make a Statement about an Agenda Item BEFORE it is considered then it should be made at the Public Question and Public Statement Time at Item 4 on the Agenda Notice Paper in accordance with Council's Procedures and Guidelines for Public Question Time and Receiving Public Statements.

3. The visual or vocal recording of Council meeting proceedings is expressly prohibited, unless the prior approval of the Council has been given.

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AGENDA

1. **DECLARATION OF OPENING/ANNOUNCEMENTS**
2. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED**
3. **RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**
- 4.1 **PUBLIC QUESTION TIME**
- 4.2 **PUBLIC STATEMENTS**
5. **APPLICATIONS FOR LEAVE OF ABSENCE**
6. **DISCLOSURES OF MEMBERS' & OFFICERS' INTERESTS**

(Disclosure of interest MUST ALSO be made by the member or officer immediately prior to a matter, for which an interest is being disclosed, is dealt with.)
7. **PETITIONS/DEPUTATIONS/PRESENTATIONS**
8. **CONFIRMATION OF MINUTES**
- 8.1 **ORDINARY COUNCIL MEETING – 26 February 2019**

OFFICER RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 26 February 2019 be confirmed as being a true and correct record of proceedings.

- 9.0 **REPORTS OF OFFICERS AND COMMITTEES**
- 9.1 **DIRECTOR TECHNICAL SERVICES**

Nil



9.2 DIRECTOR STRATEGIC DEVELOPMENT

9.2.1 REVIEW OF LOCAL PLANNING POLICIES	
Reporting Officer / Officer's Interest:	Chris Dunlop, Senior Town Planner; Nil
Responsible Officer / Officer's Interest	Louis Fouché, Director Strategic Development; Nil
Proponent:	Shire of Waroona
Landowner:	N/A
Date of Report: 5/2/2019	File No.: 111/1
Previous Reference:	Nil
Policy Implications:	Shire of Waroona Local Planning Policies
Statutory Implications:	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015 Shire of Waroona Local Planning Scheme No.7
Strategic Implications:	Shire of Waroona Local Planning Strategy
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): <i>No.3 Land Use: Responsible Land Use Planning, and Protecting Rural Land</i>	

PROPOSAL SUMMARY

Council is requested to consider the adoption of the reviewed Local Planning Policies. A comprehensive review of the planning policies has been undertaken, with numerous modifications and revocations proposed. The regular review of the policies forms part of the continual improvement of the Shire's local planning framework and ensures compliance with the current statutory framework.

BACKGROUND / INITIAL COMMENTS

A number of changes are proposed to the existing Local Planning Policies including the following:

- The removal of procedural provisions, to be included in the Development Services Procedure Manual;
- Revocation of policies no longer required;
- Revocation of policies without a legislative basis for implementation; and
- Reformatting of policies to comply with the standard format of Council's policy manual.

These changes are considered necessary in order to ensure statutory compliance and the efficient day to day management and implementation of the local planning framework. A table of recommendations and changes to the existing policies is at **APPENDIX 9.2.1A**. A copy of the proposed amendments to planning policies is at **APPENDIX 9.2.1B**. Sections of the policies to be deleted are indicated in struck out text while new sections to be included in the policies are shown as green highlighted text.

The reviewed Local Planning Policies will be included in the Planning & Regulatory Policies (PR) section of the Shire's Policy Manual.

To achieve this outcome there are three essential components to each policy which identify:



1. Whether the policy is a requirement of legislation (in which case the legislation is identified).
2. Whether or not the policy has an associated management procedure which will then form part of internal procedures (requiring approval of the CEO)
3. Whether or not the policy has an associated “Delegation” which will then form part of the Council’s delegation register.

The objectives of the Council’s Policy Manual documentation are:

- To provide the Council with a formal written record of policy decisions.
- To provide Council staff with clear direction to respond to issues and act in accordance with the Council’s direction.
- To enable the Council to maintain a process to continually review policy decisions and to ensure they are in keeping with the community expectations, current legislative trends and circumstances.
- To enable residents to obtain immediate advice on matters of planning policy.

Policies provide information and direction on issues of an ongoing nature. Council decisions on single issues are not considered policy.

Changes to Policy will only be made as a result of:

- An annual operational review
- A Council decision arising from an agenda item.

Note: All Local Planning Policies are available for viewing on the Shire’s website at www.waroona.wa.gov.au .

PLANNING – STRATEGIC IMPLICATIONS

The changes to Council’s local planning policies form part of the day to day implementation of the Shire’s Local Planning Strategy but do not impact on its broader strategic objectives.

STRATEGIC COMMUNITY PLAN ISSUES / IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 - Land Use: Responsible Land Use Planning, and Protecting Rural Land.

FINANCIAL ISSUES / IMPLICATIONS

Officer time and advertising associated with the review of the local planning policies are included in the Shire’s operational budget.

STATUTORY ISSUES / ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005

The Planning and Development Act 2005 provides for the preparation of Region and Local Planning Schemes and provides a head of power for the Regulations.



Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)

Schedule 2 of the Regulations sets out deemed provisions for Local Planning Schemes that are to be read as part of the Local Planning Scheme.

Clause 3 of Schedule 2 provides general requirements for making a local planning policy:

- (1) *The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*
- (2) *A local planning policy —*
 - (a) *may apply generally or in respect of a particular class or classes of matters specified in the policy; and*
 - (b) *may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*
- (3) *A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.*
- (4) *The local government may amend or repeal a local planning policy.*
- (5) *In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*

Clause 4 of Schedule 2 sets out the procedure for making a local planning policy.

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
 - (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *where the proposed policy may be inspected; and*
 - (iv) *to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
 - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
 - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).*
- 3) *After the expiry of the period within which submissions may be made, the local government must —*



- (a) *review the proposed policy in the light of any submissions made; and*
- (b) *resolve to —*
 - (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not to proceed with the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.*
- (5) *A policy has effect on publication of a notice under subclause (4).*
- (6) *The local government —*
 - (a) *must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and*
 - (b) *may publish a copy of each of those local planning policies on the website of the local government.*

Clause 5 of Schedule 2 prescribes the procedure for amending a local planning policy.

Clause 6 of Schedule 2 to the Regulations states:

A local planning policy may be revoked —

- (a) *by a subsequent local planning policy that —*
 - (i) *is prepared in accordance with this Part; and*
 - (ii) *expressly revokes the local planning policy; or*
- (b) *by a notice of revocation —*
 - (i) *prepared by the local government; and*
 - (ii) *published in a newspaper circulating in the Scheme area.*

LEGAL ISSUES/IMPLICATIONS

See Statutory Issues.

COMMUNITY CONSULTATION

Clause 4(1) of Schedule 2 to the Regulations requires a draft planning policy to be advertised in a local newspaper, allowing a minimum of 21 days for submissions. Council must consider submissions received on the draft policy and subsequently decide to adopt or not proceed with the policy.

Clause 6 of Schedule 2 requires the revocation of a policy to be undertaken provided a notice of revocation is published in a local newspaper.



OFFICER'S FINAL COMMENTS/CONCLUSIONS

The addressing of the day to day operational issues of the Local Planning Policies forms part of the Shire's ongoing improvement of its local planning framework. The regular review of Local Planning Policies plays an important role in ensuring that all policies are up to date with current legislation, best practice and are achieving their relevant objectives.

Applying the process described in Background / Initial Comments section of the report, the following broad changes are proposed to the Shire's Local Planning Policies:

Policies previously revoked:

- LPP2 – Lake Clifton Herron Structure Plan
- LPP9 – Relocated Dwellings
- LPP17 – Waroona North Structure Plan
- LPP19 – Telecommunications Infrastructure
- LPP20 – Subdivision Guide Plans
- LPP21 – Waroona Townsite Drainage Development

Policies proposed to be revoked:

- LPP1 – Community Consultation
- LPP3 – Commercial Vehicle Parking
- LPP5 – Setbacks and Building Envelopes
- LPP8 – Moyanup Heights and Lake Moyanup Estate - (Urban 5 - Special Residential Zone)
- LPP10 – Fencing
- LPP11 – Home Based Business
- LPP12 – Brooklyn Rise Special Residential Zone Building Standards
- LPP14 – Industrial / Commercial Development
- LPP15 – Extractive Industry
- LPP16 – Geographic Names
- LPP22 – Water Sensitive Urban Design
- LPP23 – Landscaping
- LPP24 – Vegetation Management

Policies to be modified:

- LPP4 – Heritage
- LPP6 – Signage
- LPP7 – Ancillary Accommodation
- LPP13 – Intensive Agriculture
- LPP18 – Sea Containers
- LPP25 – Outbuildings
- LPP26 – Holiday Homes
- LPP27 – Waroona East Hills Development
- LPP28 – Bed and Breakfast Accommodation

Conclusion

Overall the changes to the Local Planning Policies are considered to comply with current legislation and are expected to result in an increased level of efficiency and consistency. It



is therefore recommended that the proposed amendments to and revocation of the planning policies be adopted as per the Officer Recommendation.

Appendices Attached: Yes	Appendices Numbers: 9.2.1A,B
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VOTING REQUIREMENTS

Absolute Majority

<u>OFFICER RECOMMENDATION</u>	
1.	<p>Pursuant to Schedule 2, Clause 5 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Council resolves to advertise the amendments to the following Local Planning Policies as per Appendix 9.2.1B and in accordance with the requirements of Clause 4 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>:</p> <ul style="list-style-type: none"> (i) Local Planning Policy – Heritage (ii) Local Planning Policy – Signage (iii) Local Planning Policy – Ancillary Accommodation (iv) Local Planning Policy – Intensive Agriculture (v) Local Planning Policy – Sea Containers (vi) Local Planning Policy – Outbuildings (vii) Local Planning Policy – Holiday Houses (viii) Local Planning Policy – Waroona East Hills Development (ix) Local Planning Policy – Bed and Breakfast
2.	<p>Pursuant to Schedule 2, Clause 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Council resolves to repeal the following Local Planning Policies:</p> <ul style="list-style-type: none"> (i) Local Planning Policy – Community Consultation (ii) Local Planning Policy – Commercial Vehicle Parking (iii) Local Planning Policy – Setbacks and Building Envelopes (iv) Local Planning Policy – Moyanup Heights and Lake Moyanup Estate - (Urban 5 - Special Residential Zone) (v) Local Planning Policy – Fencing (vi) Local Planning Policy – Home Based Business (vii) Local Planning Policy – Brooklyn Rise Special Residential Zone Building Standards (viii) Local Planning Policy – Industrial / Commercial Development (ix) Local Planning Policy – Extractive Industry (x) Local Planning Policy – Geographic Names (xi) Local Planning Policy – Water Sensitive Urban Design (xii) Local Planning Policy – Landscaping (xiii) Local Planning Policy – Vegetation Management



3. Pursuant to Schedule 2, Clause 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 Council resolves to advertise the notice of revocation of (2.) above.
4. Subject to no objections or modification requests being received during the required advertising period in (1.) above and pursuant to Schedule 2, Clause 4(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council resolves to adopt without modifications the following amended Local Planning Policies:
 - (x) Local Planning Policy – Heritage
 - (xi) Local Planning Policy – Signage
 - (xii) Local Planning Policy – Ancillary Accommodation
 - (xiii) Local Planning Policy – Intensive Agriculture
 - (xiv) Local Planning Policy – Sea Containers
 - (xv) Local Planning Policy – Outbuildings
 - (xvi) Local Planning Policy – Holiday Houses
 - (xvii) Local Planning Policy – Waroona East Hills Development
 - (xviii) Local Planning Policy – Bed and Breakfast
5. The date of the adoption of the amended Local Planning Policies shall be the date of the first Ordinary Council Meeting following the closure of the advertising period.

9.2.2 COMMUNITY SAFETY AND CRIME PREVENTION PLAN 2019 – 2024	
Reporting Officer / Officer's Interest:	Brad Vitale, Community Development Officer; Nil
Responsible Officer / Officer's Interest	Louis Fouche, Director Strategic Development; Nil
Proponent:	Shire of Waroona
Landowner:	Not Applicable
Date of Report: 11/03/19	File No.: 38/1; 110/1; 196/1
Previous Reference:	OCM06/099
Policy Implications:	<i>See heading below</i>
Statutory Implications:	<i>See heading below</i>
Strategic Implications:	<i>See heading below</i>
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>):	
<i>No.4 Society/Community Wellbeing: A strong sense of community, addressing social issues, and effective community wellbeing</i>	
<i>No. 6 Good Governance: Active & responsible civic leadership, & excellence in management</i>	

PROPOSAL SUMMARY

Council is requested to consider the reviewed Community Safety and Crime Prevention Plan 2019 to 2024.

BACKGROUND / INITIAL COMMENTS

In April 2005, the Shire of Waroona entered into a partnership with the Office of Crime Prevention as part of a new State Government initiative for reducing crime and improving community safety. The Shire's first Community Safety and Crime Prevention Plan was adopted in June 2006 and later reviewed in April 2011.

Although law and order and crime prevention is primarily the role of state government, it is recognised that frontline policing is impacted by societal issues resulting from the community. Local government is the tier of government that is closest linked with community, influencing many aspects of how people live and is well placed to assist in addressing issues of community safety and crime prevention. The local approach to community safety and crime prevention works, and is the best way to ensure a coordinated whole of government and community response to issues that matter most in the community.

The Community Safety and Crime Prevention Plan was developed as a whole of community response to reducing crime and improving community safety. The aim is to forge partnerships with residents, police, government, community organisations and businesses by developing a coordinated and preventative approach to these issues.

In order to understand the current situation surrounding community safety and crime prevention, Shire of Waroona engaged with service providers, community organisations, businesses and residents. A community consultation process involving interviews and surveys enabled the Shire to better assess the features, barriers and improvements needed to work towards a safer community.

PLANNING – STRATEGIC IMPLICATIONS

The Community Safety and Crime Prevention Plan is an element (informing strategy) of the Shire's Integrated Planning and Reporting Framework.

REFERRALS

Nil.

STRATEGIC COMMUNITY PLAN ISSUES / IMPLICATIONS

The relevant Strategic Community Plan issue areas are:

Number 4 – Society / Community Wellbeing “Maintain strong sense of community; effective community wellbeing”; and

Number 6 – Good Governance “Active and responsible civic leadership, and excellence in management.

FINANCIAL ISSUES / IMPLICATIONS

Nil.

POLICY ISSUES / IMPLICATIONS

COM002 – Community Engagement

The policy intention is to ensure strategic decisions and long term plans made by Council are aligned to the community's aspirations and are responsive to long-term community needs.

COM020 – Security Cameras and CCTV

The policy intention is to specify guidelines for the operation of security cameras and CCTV (Close Circuit Television) within the Shire of Waroona. This policy applies only to Shire of Waroona current owned, leased band operated CCTV systems and equipment.

STATUTORY ISSUES / ENVIRONMENT / IMPLICATIONS

Nil.

LEGAL ISSUES/IMPLICATIONS

Nil.

COMMUNITY CONSULTATION

During 2018 the Shire collaborated with local stakeholders and surveyed the community about the current understanding of community safety and crime prevention, to inform the review of the Shire's Community Safety and Crime Prevention Plan. A total of 98 responses were received through the community safety and crime prevention survey.

To complement these responses and obtain a greater community representation, the Shire consulted with community organisations, particularly Lake Clifton Herron Residents



Association, Preston Beach Progress Association, Quambie Park, Waroona Community Resource Centre, Waroona Family Support Service, Waroona Interagency Group, Waroona Senior Citizens’ Welfare Committee, Waroona Youth Advisory Council, and local police.

A summary of issues raised during the community engagement and consultation is provided in the “Developing the plan” section of the plan, and results of the survey included as an appendix.

OFFICER’S FINAL COMMENTS / CONCLUSIONS

The overall aspirations and objectives of the reviewed Community Safety and Crime Prevention Plan are to create an environment of safe people and community, safe places and spaces, and safe partnerships.

After undertaking stakeholder collaboration, community consultation and a review of current statistics and trends, three key focus areas have been developed, each with a number of possible strategies that could be considered. The three key focus areas reflect the current situation surrounding community safety and crime prevention, and which areas should be focused on to enhance the desired environment. These key focus areas are:

1. Safe people and community
2. Safe places and spaces
3. Safe partnerships

The reviewed plan contains updated current demographics and statistics, and has been reformatted to be more consistent with Community Safety and Crime Prevention Plans developed by other local governments in Western Australia. This plan has been reviewed by local police, and amended based on their suggestions.

Appendices Attached:	Yes	Appendices Numbers:	9.2.2
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VOTING REQUIREMENTS

Absolute majority.

OFFICER RECOMMENDATION

That Council adopt the reviewed Community Safety and Crime Prevention Plan 2019 – 2024.



9.3 EXECUTIVE MANAGER PLANNING & BUILDING SERVICES

9.3.1 INTENSIVE AGRICULTURE – LOTS 270, 271, 272 & 20 BULLER ROAD, HAMEL	
Reporting Officer / Officer's Interest:	Leonard Long; Executive Manager Planning & Building Services / Nil
Responsible Officer / Officer's Interest	Leonard Long; Executive Manager Planning & Building Services / Nil
Proponent:	Fruitico Investments Pty Ltd
Landowner:	Fruitico Investments Pty Ltd & Alcoa of Australia
Date of Report: 16/03/2019	File No.: TP2083
Previous Reference:	OCM19/02/009
Policy Implications:	Environmental Protection Authority Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses (2005) State Planning Policy 2.5 Land Use Planning in Rural Areas; State Planning Policy 2.1 Peel-Harvey Coastal Plain Catchment (2003); Peel Region Scheme Strategic Agricultural Resource Policy (2003); Department of Health's Guidelines for Separation of Agriculture and Residential land uses – Establishment of Buffer Areas; Local Planning Policy 13 – Intensive Agriculture; Local Planning Policy 1 – Community Consultation.
Statutory Implications:	Planning and Development Act 2005; Agriculture and Related Resources Protection (Spraying Restrictions) Regulations 1979; Peel Regional Scheme 2003 Shire of Waroona Local Planning Scheme No. 7 1996;
Strategic Implications:	Local Planning Strategy 2009; Shire of Waroona Strategic Community Plan 2016/17-2025/26;
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (Strategic Community Plan-SCP): <i>No.3 Land Use: Responsible Land Use Planning, and Protecting Rural Land</i>	

PROPOSAL SUMMARY

At its Ordinary Council Meeting of 26 February 2019, Council resolved as follows:

“That further consideration of the application for the retrospective application for development of Intensive Agriculture – Vineyard on Lots 270, 271, 272 & 20 Buller Road, Waroona be deferred until the March 2019 Ordinary Council meeting and that the Dust Management Plan be circulated to Councillors and that the proponent be requested to provide a detailed chemical spraying procedure, also to be circulated to Councillors.”



As per Councils above resolution the Dust Management Plan (**APPENDIX 9.3.1E**) as well as the Chemical Management Plan (**APPENDIX 9.3.1F**) has been circulated to Councillors and adjoining owners.

Council is requested to consider a retrospective application for development approval for Intensive Agriculture – Vineyard on Lots 270, 271, 272 & 20 Buller Road, Waroona. See location Map at **APPENDIX 9.3.1A**.

The application is retrospective as works have already been undertaken on the site, including the planting of stage 1 and the commencement of the clearing of land for stage 2.

As a result of community consultation a number of submissions / objections were received. The submissions have been considered and are discussed further in this report under Community Consultation.

Officers recommend approval of the development application subject to conditions.

BACKGROUND / INITIAL COMMENTS

The site is located on the north-eastern corner of the intersection of Buller Road and Somers Road, approximately 5 km north-west of the Hamel Town site.

Perennial horticulture has occurred during Stage 1 on Lots 270, 271 and 272, with clearing on Lot 20 having been commenced for the proposed stage 2. The area to be planted as Stage 2 of the vineyard covers 41.74ha and the total area of the vineyard including Stage 1, is 117ha.

The land adjoining the subject lot is freehold general agriculture zoned lots. The closest residence, not a part of the subject horticulture operation, is 65m west of Lot 20.

The proponent proposes to develop the in-ground cultivation system to grow table grape varieties. The table grapes are grafted onto selected rootstock suitable to the soil types of the lot. After the initial setup, no further cultivation is required. Permanent cover crops are planted to maintain soil health throughout summer.

In support of the application the applicant has submitted a Site Management Plan which includes irrigation management, nutrient management as well as a nutrient export risk assessment. Following the first round of consultation the applicant proposed the installation of 5m high fabric windbreaks in a north south orientation as well as a 200m long vegetated screen along a portion of the western boundary of the site as shown in **APPENDIX 9.3.1B**.

The Site Management Plan has been referred to the appropriate government departments to ascertain its acceptability with no government departments having any objection or requiring specific conditions. The comments received are addressed further in this report under Referrals.

Officers hold concerns that the proposed 5m high fabric windbreak along the western boundary of Lot 20 will have a negative impact on the amenity of the area. The negative impact could potentially be addressed by setting back the windbreak 20m from the boundary and planting a natural vegetative screen along its entire length.

PLANNING – STRATEGIC IMPLICATIONS

Local Planning Strategy 2009 (LPS)

The subject lot is designated as Priority Agriculture and located within the Agricultural Precinct.

The objective of the Priority Agriculture Area is to protect it from lifestyle subdivision and other non-compatible development in an area which has, or is capable of having, irrigation infrastructure to allow for a range of diverse agricultural uses.

Under considerations the LPS states the following:

1. *“Applications for Intensive Agriculture shall be referred to the Department of Water and Department of Agriculture for comment.*

Officer Comment:

The application has been referred to the Department of Water and Environmental Regulation and the Department of Primary Industries and Regional Development (which includes the previous Department of Agriculture and Food), who have no objection to the proposed development and have not recommended any conditions.

2. *Applications for Intensive Agriculture shall have regard to groundwater quality and availability.*

Officer Comment:

The proposed development is not reliant on groundwater and obtain water from Harvey Water.

3. *Applications for Intensive Agriculture shall have regard to stocking rates and nutrient management.*

Officer Comment:

The applicant included in the Site Management Plan a Nutrient Export Risk Assessment. This information was provided to the Department of Water and Environmental Regulation as well as the Department of Primary Industries and Regional Development (which includes the previous Department of Agriculture and Food). None of the departments had any objection to the nutrient export risk assessment or required any conditions. The comments received are addressed further in this report under Referrals.

4. *Appropriate buffers are to be determined to separate Intensive Agriculture uses from sensitive land uses such as dwellings.”*

Officer Comment:

There are a number of guidelines that recommend various buffer distances between certain uses. Buffers distances are further addressed under the Policy and Referral sections of this report.

REFERRALS

External Referrals



Following Council Resolution of 26 February 2019, the Dust Management Plan as well as the Chemical Management Plan was referred to the Department of Primary Industries and Regional Development (DPIRD) who commented as follows:

DPIRD: *“the Chemical Management Plan” has been assessed and it does fulfil the requirements.”*

“In reviewing the Dust Management Plan submitted by Fruitico. The only comment we would add is that the language used should be more ‘action orientated’. The management plan should be affirmative and be clear in what action will be taken. That is to say that rather than use the words ‘may’, should be replaced by a stronger commitment, such as the word ‘will’”

The Department of Water and Environmental Regulation had no objection and did not require any conditions, and provided the following comment:

‘The operation employs best management practices to ensure very little nutrients leave the site by applying the required amount of irrigation and fertiliser for plant uptake and monitoring allows any adjustments to the application rates.’

The Department of Primary Industries and Regional Development (which includes the previous Department of Agriculture and Food) had no objection and did not require any conditions and provided the following comment:

- *‘The Pinjarra system, P3, doesn’t have a high to very high risk of phosphorus export, but it is regarded as not suitable for in-ground horticulture due to high risk of waterlogging during winter. The applicant has successfully installed a drainage system in Stage 1 and similar system will be installed in Stage2. The installing of the drainage system does not make this soil suitable for in-ground horticulture as demonstrated by the success of Stage 1.*
- *No application of fertiliser or irrigation will be applied during the wet season. This significantly reduces the risk of nutrient export. The installation of the lysimetric system similar to those in Stage 1 will ensure additional capability to fine tune fertiliser and water applications.’*

The Department of Health had no objection and no conditions required, and provided the following comment:

‘Department of Health WA’s Guidelines for Separation of Agricultural and Residential Land Uses. Notwithstanding this, the principles such as vegetative buffers, suitably designed constructed buffers are options that may assist minimise potential adverse impacts to and from neighbouring farm activities.

The Department of Health WA encourages the proponents to have open communication with their neighbours throughout the planning and operation of their vineyard to foster good neighbour relations, this can include advance warning of certain activities including pesticide treatments that may impact their neighbours. This allows their neighbours to take any appropriate actions and steps they see fit, such as keeping their family, personnel and pets away from the treated vicinity, cover water tanks, susceptible plants etc. Advance notification is not a legal requirement but helps fosters positive relationships.’

Internal Referrals

The development application has been referred internally with any requirements included in the recommendation.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

Shire of Waroona Strategic Community Plan 2016/17-2025/26

This item relates to Theme 3: Land Use – Responsible Land Use Planning and Protecting Rural Land.

FINANCIAL ISSUES/IMPLICATIONS

The retrospective development application fee of \$16,665 has been received.

POLICY ISSUES/IMPLICATIONS

The development application has been assessed against the relative state and local policies with advice received from the various government departments that enforce the policies / acts.

Officers are of the opinion that should Council approve the application with the recommended conditions the application complies with the relative state and local policies.

State Planning Policy 2.1 Peel-Harvey Coastal Plain Catchment

Clause 6.6 - Intensive Agriculture

- 6.6.1 Proposals to develop land for intensive agriculture will require formal development approval from the local government authority.
- 6.6.2 In consideration applications for the use of land or a rezoning for intensive agriculture, a local authority shall take account of the environmental advice of the EPA and land suitability advice from the Department of Agriculture.
- 6.6.3 The responsible authority will take account of soil types, slope and groundwater flows and surface water drainage and proximity to the Estuary in considering the suitability of land for intensive agriculture use. Generally only land on the foothills of the Darling Scarp or deep yellow Spearwood soils on the Western edge of the catchment have suitable qualities to sustain intensive agriculture apart from such uses which rely on hydroponics and thereby do not result in contamination of groundwater or surface drainage, or include red mud, or other suitable soil amendment, at rates recommended by the Department of Agriculture.
- 6.6.4 Proposals which would provide additional direct drainage to the Estuary, its tributaries or Water Authority drainage systems will not be permitted without appropriate nutrient reduction measures.
- 6.6.5 Works approvals and licences will be required from the EPA where the proposal has a wastewater discharge or falls within the list of scheduled premises under Part V of the Environmental Protection Act. Some intensive agriculture proposals may require environmental impact assessment under Part IV of the Environmental Protection Act.

State Planning Policy 2.5 Rural Planning

The objectives of this policy are to:

- (a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;
- (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;
- (e) avoid and minimise land use conflicts;
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- (g) protect and sustainably manage environmental, landscape and water resource assets.

Clause 5.8 – Intensive agriculture:

- (a) intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed;
- (b) intensive agriculture sites of State significance should be protected from encroachment;
- (c) in considering buffer distances between intensive agriculture and sensitive land uses, the requirements of clause 5.12.1 should be observed, and the following matters may also affect the buffer –
 - (i) types of chemicals used and their method of application;
 - (ii) the characteristics of the site/s, including vegetation, topography and prevailing winds;
 - (iii) potential mitigation approaches, including fencing, vegetation buffers, open space, road reserves and other compatible uses; and
 - (iv) potential staging and/or expansion intention of the intensive agriculture operator; and
- (d) where an intensive agriculture proposal may affect the nutrient load of a river, estuary or associated tributary and the system and/or its receiving water body has no further capacity to assimilate nutrients without an adverse impact on ecosystem health, a reduction in nutrient export is to be demonstrated.

Clause 5.12.1 - Avoiding land use conflict



- (b) where a development is proposed for a land use that may generate off-site impacts, there should be application of the separation distances used in environmental policy and health guidance prescribed standards, accepted industry standards and/or Codes of Practice, followed by considering –
 - (i) whether the site is capable of accommodating the land use; and/or
 - (ii) whether surrounding rural land is suitable, and can be used to meet the separation distances between the nearest sensitive land use and/or zone, and would not limit future rural land uses; and
 - (iii) whether if clauses (i) and/or (ii) are met, a statutory buffer is not required;

Peel Region Scheme - Strategic Agricultural Resource Policy (2003)

The objectives of the Policy are as follows:

- (a) To identify strategic agricultural land within the Peel Region Scheme area considered to be of State or regional significance.
- (b) To protect the agricultural base of the Peel Region from the unplanned loss of high quality productive agricultural land due to permanent changes of land use.
- (c) To minimise land use conflicts between agricultural activities and other land uses within and adjacent to the identified strategic agricultural areas.
- (d) To ensure considerations relating to the protection of the identified strategic agricultural areas are taken into account in preparing amendments to the Peel Region Scheme, town planning schemes and scheme amendments, and in assessing subdivision and development applications.

The subject lots are identified as being a strategic agricultural resource.

Local Planning Policy 13 – Intensive Agriculture

The objectives of the Policy are as follows:

- (a) To ensure new Intensive Agriculture enterprises pose a low risk to Catchment water quality and are able to meet or improve Catchment standards for water quality improvement.
- (b) To encourage new types of Intensive Agriculture enterprises to the Policy Area which are compatible with Catchment water quality improvement standards.
- (c) To encourage high standards in Intensive Agriculture management practices in all parts of the local government area.
- (d) To ensure strategic and statutory proposals do not compromise existing well-managed intensive agriculture developments, or compromise the potential future development of relatively high capability areas.

Department of Health's Guidelines for Separation of Agriculture and Residential Land Uses – Establishment of Buffer Areas



Department of Health Guidelines for separation of Agricultural and Residential Land Uses specifies a buffer distance of 300m or alternatively 40m where a vegetative buffer has been adequately designed.

However, it must be noted that the guidelines defines residential development as follows, and as such are not applicable to the subject application.

‘Urban subdivision, low-density residential subdivision and rural allotments created primarily for residential purposes and other places uses as human accommodation, excluding dwellings associated with bona fide agricultural holdings’.

These guidelines exclude single houses on lots predominantly used for agriculture from requiring buffer areas.

Environmental Protection Authority Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses 2005

Appendix 1 of the Guidance Statement provides generic separation distances for industrial land uses where site specific studies have not been carried out, and recommends that a vineyard maintain a minimum separation distance from sensitive land uses (dwellings) of 500m in the absence of site specific investigations or mitigation measures.

Appendix 1 of the Guidance Statement recommends that advice be obtained from the Department of Primary Industries and Regional Development (which includes the previous Department of Agriculture and Food) with regard to the buffer requirements.

In this regard the applicants’ environmental consultant has provided the following:

“Buffer Zone:

The nearby residential property to the west of the Fruitico proposed development is classified zoned as Rural 2 - irrigated agriculture (No R-code) rather than residential.

EPA Guidance Statement 3 may be applicable, however the nearest sensitive receptor, the dwelling to the west of the proposed Stage 2 is surrounded by agriculture with proximity of less than 300m, including on land associated with the dwelling. A large drain has been constructed on the western boundary of the Fruitico property and will not be planted with vines.

The drain provides a buffer of approximately 90m between vineyard planting and the residential dwelling to the west. Fruitico will continue to implement best practice chemical management in accordance with current practices at the existing development. Chemicals will not be sprayed on high wind days when the wind direction is westerly, and Fruitico will continue to use the local weather station measurements and spraying condition advice to identify conditions that may cause drift and are to be avoided for spraying.

The nearest weather station is located approximately 3.5 km to the east of the proposed development within a paddock on the corner of Buller and Fawcett Roads and will provide applicable local data to assess spraying conditions. Visual inspections will be carried out during spraying to ensure spray drift is minimised, as such, overall, the risk of impact to the sensitive receptor to the west of the property is considered low and a buffer zone is not required.”



This advice from the applicant's consultant was referred to the Department of Primary Industries and Regional Development (which includes the previous Department of Agriculture and Food), and has provided the following comment:

'The consultants advise that the drain along the property boundary will provide a 90 metre separation between the vines and the dwelling, and that chemical spraying will follow best practice and will not occur on windy days.'

The consultant refers to not spraying when the winds are westerly. You may wish to clarify this as spraying should not occur when winds blow from the east across the proposed development towards the dwelling, easterly winds.

I agree with the consultant that following industry accredited spray practices (which includes not spraying when winds are blowing towards a sensitive site) combined with the separation of 90 metres from the vines, minimises the risk of spray drift impacting rural amenity of the dwelling along the western boundary.'

The advice from Department of Primary Industries and Regional Development is further supported by the approach taken by the State Administrative Tribunal in the matter of Ivankovich and Shire of Harvey.

The tribunal found that imposing a buffer condition would be unnecessary since not one of the departments who were invited to comment sought to impose any buffer conditions. The Tribunal was satisfied that the combination of the variety of crops grown by the applicant and his best practise spraying regime was sufficient to prevent a potential unacceptable impact on the amenity and health of the neighbours' single residential dwelling located on land zoned General Farming.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005

The Act provides the statutory head of power for enforcement of Local Planning Schemes and regulations made under the Act.

Agriculture and Related Resources Protection (Spraying Restrictions) Regulations 1979

The regulations prohibit any party from keeping or spraying certain herbicides within a 10km radius of a site where grapes are grown for commercial production.

During the assessment of the application advice was sought from the Department of Primary Industries and Regional Development who are responsible for the implementation of the above regulations. The following comments were received:

'Regarding the 'Agriculture and Related Resources Protect (Spraying Restrictions) Regulations 1979', there is no requirement to notify surrounding owners when you plan to plant a sensitive crop. When you use a chemical you (as user) have to ensure that it is used according to the requirements of the product label. The labels of all chemicals affected by the abovementioned regulation does have a warning that these chemicals can be harmful to sensitive crops like vineyards and care should be taken to avoid spray drift.'

Peel Regional Scheme 2003

Clause 12 (e) states that Rural – is to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments.

Shire of Waroona Local Planning Scheme No. 7 (TPS)

The subject lots are zoned Rural 2 - Irrigated Agriculture under the LPS.

Agriculture – Intensive is a P (Permitted) use in the Irrigated Agriculture zone.

Clause 3.13.1 of the LPS states that the objectives of the irrigated Agriculture is to preserve the rural character of the District's farming lands and to ensure that they continue to contribute materially to the District's economy, whilst recognising that changes in land use practices will affect land management and the landscape generally.

Council's policies will therefore be to:

- permit land uses consistent with achieving the objective;
- permit, at Council discretion, Rural Industry;
- require that Intensive Agriculture be subject to the Planning Consent of Council;
- support community endorsed objectives of minimising phosphorous run-off to the Peel-Harvey Estuary including protection of remnant vegetation;
- maintain open rural atmosphere by encouraging generous setbacks.

Clause 3.13.3 Intensive Agriculture & Rural Industry, in considering a proposal to develop land for intensive agriculture the Council shall:

- take account of soil types, slope and groundwater flows and surface water drainage and proximity to the Peel Harvey Estuary;
- take account of the objectives of the Commission's Statement of Planning Policy for the Peel-Harvey Coastal Plain Catchment with respect to the potential impact of the proposal on the environment and water quality;
- Seek advice from relevant agencies and, where the proposal is located within the Peel-Harvey Coastal Plain Catchment, as indicated on the Scheme Maps, have due regard for that advice in making its determination or defer the decision pending formal assessment under Part IV of the Environmental Protection Act.

LEGAL ISSUES/IMPLICATIONS

See statutory issues.

COMMUNITY CONSULTATION

Following Council Resolution of 26 February 2019, the Dust Management Plan as well as the Chemical Management Plan was circulated to Councillors as well as the adjoining property owners with no additional comments received.

In accordance with Clause 64 of the Deemed Provisions the following public consultation has been undertaken:

- Notification letter sent to owners of surrounding lots;



- Display of a sign on the subject site; and
- Advertisement on Shire website.

A 21 day period was provided for comments relating to the application between 21st December 2018 and the 11th January 2019. Further consultation was undertaken on the basis that additional information in relation to the proposal was received from the applicant. This second round of consultation occurred from 31 January 2019 till 15 February 2019.

The submissions / objections received during the community consultation are summarised in **Appendix 9.3.1D**.

The applicants responses to the submissions received is at **APPENDIX 9.3.1C**.

OFFICER'S FINAL COMMENTS/CONCLUSIONS

The development application has been assessed against the following aspects:

Use

The use of the site for Agriculture – Intensive is consistent with the intended land use under the Shire's Local Planning Strategy and the Peel Region Scheme policy on strategic agricultural resources. The identification and protection of land with high agricultural value forms part of the proper and orderly planning of the Shire.

Spray Drift

Concerns have been raised through consultation regarding the potential for spray drift emanating from the site. Advice was obtained from the Department of Primary Industries and Regional Development as well as the Department of Health is that no buffer areas to existing homes on rural zoned land are required.

Notwithstanding the above the applicant has proposed to install four 5m high fabric windbreaks on the eastern and western boundaries of the site as well as internally, and an additional 200m long vegetative screen along a portion of the western boundary of Lot 20, to mitigate any perceived spry drift.

From an amenity perspective Officers are of the opinion that the use of a 5m high fabric windbreak on the western boundary adjoining Somers Road will impact negatively on the rural amenity. To mitigate the negative impact the 5m high fabric windbreak Officers have discussed with the applicant the potential of setting back the 5m high fabric windbreak 20m and planting a vegetated screen along the length of the western boundary of Lot 20.

The applicant has indicated that the proposal to install a 5 metre high fabric windbreak was only due to the perceived risk of spray drift, and that it would not be financially viable for them to setback the windbreak 20m or to install both a 5 metre high fabric windbreak and a vegetative screen along the entire length of the western boundary of Lot 20.

Considering the advice received from Department of Primary Industries and Regional Development as well as the Department of Health, Officers are of the opinion that should the application be approved a vegetated screen which would not have a long term impact on the amenity of the area be conditioned instead of the use of a 5 metre high fabric windbreak.



Alternatively Council may approve the applicant's proposal of installing 5m high fabric windbreaks in a north south orientation as well as a 200m long vegetative screen along a portion of the western boundary of the site as shown in **APPENDIX 9.3.1B**.

It is important when imposing conditions to ensure that they can be considered valid conditions. The State Administrative Tribunal (SAT) and other appeal bodies in Australia have generally adopted the approach taken in *Newbury DC v Secretary of State for the Environment* (1981) when considering the validity of condition. This decision holds that in order to be valid, a condition must:

- Be imposed for a planning purpose;
- Fairly and reasonably relate to the development considered; and
- Be reasonable, i.e. the condition is not so unreasonable that no reasonable planning authority could have imposed it.

In terms of State Planning Policy 2.5 Rural Planning, clause 5.8(a) – Intensive agriculture:

'(a) intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed.'

Environmental Impact

Nutrient export from the site is a significant factor to be considered. Referral responses from the Departments of Water and Environmental Regulation and Primary Industries and Regional Development have stated the acceptability of the onsite management practices and existing soil types in meeting the relevant nutrient export targets.

Dust Management during Construction

Given the nature of the soil on site and the prevailing winds during the summer months dust is considered to be a potential nuisance during construction. It is proposed that a dust management plan be required to be submitted to and approved by the Shire ensuring appropriate mitigation measures are implemented during construction to prevent any dust nuisance to neighbouring properties.

Noise

As with all uses, noise generated from the ongoing use of the site is required to be in accordance with the Environmental Protection (Noise) Regulations 1997. Noise generated is expected to be consistent with surrounding agricultural land uses, however should any issues arise the regulations provide the Shire with the ability to address any non-compliance at that time.

The Environmental Protection (Noise) Regulations 1997 recognise the need for some farming activities to be carried out at night. Vineyards are classified as rural premises under the Regulations and noise emissions from certain farming activities are bound by the requirements of the Regulations.

Conclusion

The development and use of the site as a vineyard is consistent with its identification as a strategic agricultural resource. Potential impacts from the use including spray drift, dust, noise and nutrient export have been assessed and are considered to be acceptable or able to be appropriately managed.



It is therefore recommended that the application be approved subject to appropriate conditions.

Appendices Attached: Yes	Appendices Numbers: 9.3.1 A,B,C,D,E,F
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VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council resolves to:

- A. Approve the retrospective application for development of Intensive Agriculture – Vineyard subject to conditions on Lots 270, 271, 272 & 20 Buller Road, Waroona.**
- 1. The development / use shall be carried out only in accordance with the details of the application and approved plans, subject to the following amendment, unless otherwise agreed in writing by the Shire of Waroona:**
 - a. The exclusion of a 5m high fabric windbreak along the western boundary of Lot 20.**
 - b. The inclusion of a landscaping screen along the entire length of the western boundary of Lot 20.**
- 2. All operations on the site (Irrigation and Nutrient Management) shall be in accordance with the approved Site Management Plan.**
- 3. All operations on the site shall be in accordance with the approved Dust Management Plan.**
- 4. All operations on the site shall be in accordance with the approved Chemical Management Plan.**
- 5. Prior to the continuation of stage 2 the applicant shall submit and have approved a landscaping plan prepared by a suitably qualified person detailing the size and type of vegetation to be planted as an amenity buffer along the western boundary adjoining Somers Road, and thereafter implement and maintained the vegetation screen to the satisfaction of the Shire of Waroona.**
- 6. Within 3 months of the date of this approval the applicant shall construct and seal all vehicle crossovers to the specification and satisfaction of the Shire of Waroona.**

Advice Notes:



- 1. The Departments of Water and Environmental Regulation and Primary Industries and Regional Development advices that spraying should not occur on high wind days.**
- 2. The applicant / operator shall ensure that the development / use complies with all relevant legislation.**

9.3.2 AMENDMENT OF THE ADOPTED 2018/19 BUDGET AS A RESULT OF BUDGET SAVINGS	
Reporting Officer / Officer's Interest:	Leonard Long, Executive Manager Planning & Building Services; Nil
Responsible Officer / Officer's Interest	Leonard Long, Executive Manager Planning & Building Services; Nil
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 18/3/19	File No.: 44/4
Previous Reference:	n/a
Policy Implications:	See heading below
Statutory Implications:	See heading below
Strategic Implications:	See heading below
Financial Implications:	See heading below
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): <i>No.5 Asset Management and Financial Sustainability: Provision of functional Assets to support services, involving built/acquired assets, & Infrastructure; Financial Proficiency & Sustainability</i>	

PROPOSAL SUMMARY

Council is requested to approve the allocation of saved budgeted funds in the adopted 2018/19 budget to the Waroona Recreation Centre maintenance account to fund the resurfacing of the basketball courts.

BACKGROUND / INITIAL COMMENTS

Through the adoption of the 2018/19 budget Council approved the expenditure for the installation of lighting in the footy club parking area as well installation of two CCTV cameras to capture vehicles traveling towards the cricket oval.

As a result of receiving a grant through the Safer Communities Fund for the installation of the lights as well as the cameras, the Shire has had a budget saving of \$22,600.

The Shire has recently obtain confirmation from the State Basketball League that a state league game between Mandurah Magic and Geraldton will be played at the Waroona Recreation Centre (WRAC) in July 2019. This may lead to the future games also being played at the WRAC and possibly the Perth Wildcats.

The resurfacing of the courts should be undertaken every 3 years to prevent damaging the court surface, and will be included in the 2019/20 budget for consideration. However, subject to Councils approval the resurfacing could be undertaken now without having to increase the 2018/19 adopted budget by allocating budget savings.

PLANNING – STRATEGIC IMPLICATIONS

Nil

REFERRALS

Nil



STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

No.5 Asset Management and Financial Sustainability: Provision of functional Assets to support services, involving built/acquired assets, & Infrastructure; Financial Proficiency & Sustainability.

FINANCIAL ISSUES/IMPLICATIONS

As a result of a grant received from the Safer Communities fund for the installation of the CCTV as well as the footy club parking area lights, the funds allocated in the 2018/19 budget could be reallocated, to the Recreation Centres building maintenance account to have the basketball court as well as the squash court floors resurfaced.

The resurfacing of the floor should ideally be done every 3 years and was due to be done in the 2018/19 financial year, however, as a result of financial constraints funds could not be allocated in the 2018/19 budget.

POLICY ISSUES/IMPLICATIONS

Nil

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

- Local Government Act 1995;
- Local Government Act (Functions and General) Regulations 1996;
- Local Government (Financial Management) Regulations 11A; and

Budget amendments are required to be authorised by an absolute majority.

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

OFFICER'S FINAL COMMENTS/CONCLUSIONS

The resurfacing of the basketball courts is required to ensure no damage is caused to the playing surface. By undertaking the resurfacing now will ensure that the courts are in an immaculate condition for the state league game which could be a good source of income for the Shire if it was to become an annual fixture.

Notwithstanding the potential benefits the playing of a state league game would have, the courts are due for resurfacing in 2019/20.

Appendices Attached:	No	Appendices Numbers:
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VOTING REQUIREMENTS

Absolute Majority



OFFICER RECOMMENDATION

That Council resolves to:

A. Approve the amendment of the adopted 2018/19 budget as follows:

- 1. Account income 0923 to be increased by \$11,300;**
- 2. Account income 3723 to be increased by \$11,300; and**
- 3. Account 7162 (AQ02) Building Asset Maintenance Recreation Centre be increased by \$20,600.**

9.3.3 COMMITMENT OF FUNDS IN THE 2019/20 BUDGET FOR THE INSTALLATION OF A POOL LINER AT THE WAROONA RECREATION AND AQUATIC CENTRE AND THE AMENDMENT OF THE ADOPTED 2018/19 BUDGET	
Reporting Officer / Officer's Interest:	Leonard Long, Executive Manager Planning & Building Services; Nil
Responsible Officer / Officer's Interest	Leonard Long, Executive Manager Planning & Building Services; Nil
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 18/3/19	File No.: 44/4
Previous Reference:	n/a
Policy Implications:	See heading below
Statutory Implications:	See heading below
Strategic Implications:	See heading below
Financial Implications:	See heading below
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): <i>No.5 Asset Management and Financial Sustainability: Provision of functional Assets to support services, involving built/acquired assets, & Infrastructure; Financial Proficiency & Sustainability</i>	

PROPOSAL SUMMARY

1. Council is requested to commit \$80,000 funding for the replacement of the pool liner at the Waroona Recreation & Aquatic Centre (WRAC), in the 2019/20 budget.
2. Approve the amendment of the adopted 2018/19 budget by reallocating funds (\$50,000) set aside for the replacement of the aquatic centre roof bolts to the Recreation Centre Building Maintenance Reserve.

BACKGROUND / INITIAL COMMENTS

Leaks within the current liner of the pool has been discovered and is due for replacement in the 2019/20 financial year. Shire officers would like to be able to program the work to be done concurrently with the replacement of the roof bolts budgeted for in the current financial year. However, but due to the contractor having existing work commitments the replacement of the bolts can only be done in the 2019/20 financial year.

Undertaking the work concurrently will result in financial savings and will also have the least disruption on the community with aquatic centre only having to be closed once during the 2019/20 financial year.

As per the Shires procurement policy three quotes have been received for the replacement of the liner with the cheapest one being from MCH Solutions for \$67,980 (this is the same contractor who replaced the current liner). The quote does not include the following:

- Emptying the pool
- Re-rendering of the concrete shell (this can only be determined once the existing liner has been removed)
- Filling the pool
- Chemically balancing and recommissioning the pool.



Council is requested to commit \$80,000, \$12,020 more than the lowest quote to ensure that any unforeseen circumstance that may be uncovered once the existing liner is removed has been budgeted for.

PLANNING – STRATEGIC IMPLICATIONS

Nil

REFERRALS

Nil

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

No.5 Asset Management and Financial Sustainability: Provision of functional Assets to support services, involving built/acquired assets, & Infrastructure; Financial Proficiency & Sustainability.

FINANCIAL ISSUES/IMPLICATIONS

The relining of the pool has been earmarked through the long term financial plan to be done in 2019/20, the commitment of funds will allow the liner to be replaced at the same time as the roof bolts which may lead to a saving.

1. Commit \$80,000 in the 2019/20 financial budget;
2. Re-allocate \$50,000 from Capital Expenditure Buildings A/R 7104 to Recreation Centre Building Maintenance Reserve.

POLICY ISSUES/IMPLICATIONS

Nil

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

- Local Government Act 1995;
- Local Government Act (Functions and General) Regulations 1996;
- Local Government (Financial Management) Regulations 11A; and

Budget amendments are required to be authorised by an absolute majority.

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

OFFICER'S FINAL COMMENTS/CONCLUSIONS

To ensure that the replacement of the liner as well as the bolts can be undertaken concurrently it is necessary to engage the pool liner contractor before the 2019/20 budget has been adopted. If this is not done the work will have to be separated which would result in additional costs.

Appendices Attached:	No	Appendices Numbers:
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That Council resolves to:

- A. Commit \$80,000 to the 2019/20 financial budget for the replacement of the pool liner at the Waroona Recreation and Aquatic Centre.**
- B. Approve the following amendment to the 2018/19 adopted budget:**
 - 1. Account 7104 Building Capital A/R be reduced by \$50,000;**
 - 2. Reserve Account 456300 Rec Centre Building Maintenance Reserve be increased by \$50,000.**

9.3.4 APPLICATION OF COMMON SEAL – SECTION 70A OF THE TRANSFER OF LAND ACT 1893 NOTIFICATION FOR THE SUBDIVISION OF LOT 51 CORONATION ROAD, WAGERUP	
Reporting Officer / Officer's Interest:	Chris Dunlop, Senior Town Planner; Nil
Responsible Officer / Officer's Interest	Leonard Long, Manager Development Services; Nil
Proponent:	Shire of Waroona
Landowner:	Irvin Graham Muir
Date of Report: 15 March 2019	File No.: SD157674
Previous Reference:	OCM18/12/122
Policy Implications:	Shire of Waroona Policy CORP015 – Application of Shire of Waroona Common Seal
Statutory Implications:	Transfer of land Act 1893 Local Government Act 1995 Planning and Development Act 2005
Strategic Implications:	Nil
Financial Implications:	See heading below
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): <i>No.3 Land Use: Responsible Land Use Planning, and Protecting Rural Land</i>	

PROPOSAL SUMMARY

Council is requested to authorise the application of the Shire of Waroona common seal in the execution of documents relating to the registration of notifications under section 70A of the Transfer of Land Act 1893, notifying prospective purchasers of the absence of reticulated sewer and reticulated water supply to lots created under subdivision SD157674.

BACKGROUND / INITIAL COMMENTS

At its meeting of 18 December 2018 Council resolved to acknowledge and accept the subdivision of a portion of Lot 51 Coronation Road, Wagerup, with the subdivided portion to be provided free of cost to the Shire to facilitate the construction of a new facility for the Waroona West Fire Brigade.

On 14 March 2019, the Western Australian Planning Commission approved the application for subdivision. Conditions 1 and 2 of the approval require the registration of notifications under section 70A in relation to the availability of sewer and reticulated water.

PLANNING – STRATEGIC IMPLICATIONS

Nil.

REFERRALS

Nil.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 Land Use: Responsible Land Use Planning, and Protecting Rural Land



FINANCIAL ISSUES/IMPLICATIONS

The required fee for the clearance of the subdivision of \$219 is required to be paid prior to the Shire issuing a clearance of conditions.

POLICY ISSUES/IMPLICATIONS

Shire of Waroona Policy CORP015 – Application of Shire of Waroona Common Seal

Policy CORP015 requires the application of the common seal to be witnessed by the Shire President / Deputy Shire President and Chief Executive Officer / Deputy Chief Executive Officer.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Transfer of Land Act 1893

Section 70A of the Act states:

- (1) *Where, in relation to land under the operation of this Act —*
- (a) *the local government of the district in which the land is situated; or*
 - (b) *a public authority,*

considers it desirable that proprietors or prospective proprietors of the land be made aware of a factor affecting the use or enjoyment of the land or part of the land, the local government or the public authority may, on payment of the prescribed fee, cause a notification of the factor to be prepared in an approved form and lodged with the Registrar.

Local Government Act 1995

Section 9.49A of the Act states:

- (1) *A document is duly executed by a local government if —*
- (a) *the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or*
 - (b) *it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
- (2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- (3) *The common seal of the local government is to be affixed to a document in the presence of —*
- (a) *the mayor or president; and*
 - (b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*

Planning and Development Act 2005

The Planning and Development Act 2005 provides the head of power for the assessment and approval of applications for subdivision.



LEGAL ISSUES/IMPLICATIONS

See statutory issues.

COMMUNITY CONSULTATION

Community consultation is not required for this item.

OFFICER'S FINAL COMMENTS/CONCLUSIONS

The execution of the Section 70A documentation is required for the clearance of the subdivision conditions by the Shire. The notifications are a required inclusion on the titles to be created.

It is therefore recommended that Council authorise the application of the Shire of Waroona common seal in order to execute the documents.

Appendices Attached:	No	Appendices Numbers:
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VOTING REQUIREMENTS

Absolute Majority.

OFFICER RECOMMENDATION

That in relation to the documentation for the registration of notifications under section 70A of the Transfer of Land Act 1893 for the subdivision of Lot 51 Coronation Road, Wagerup and pursuant to section 9.49A of the Local Government Act 1995, Council resolves to authorise:

- 1. The application of the Shire of Waroona Common Seal, and**
- 2. The execution of the required documents by the Shire President and Chief Executive Officer.**



9.3.5 ILLEGAL OUTBUILDING – LOT 360 PANORAMA DRIVE, PRESTON BEACH	
Reporting Officer / Officer's Interest:	Sarah Park, Environmental Officer; Nil
Responsible Officer / Officer's Interest	Leonard Long, Executive Manager Development Services; Nil
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 11/03/2019	File No.: A2178
Previous Reference:	Nil
Policy Implications:	Nil
Statutory Implications:	Building Act 2011
Strategic Implications:	Nil
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (Strategic Community Plan-SCP): <i>No.3 Land Use: Responsible Land Use Planning, and Protecting Rural Land</i>	

PROPOSAL SUMMARY

Council is requested to consider compliance action with possible legal action to resolve the unauthorised construction of an outbuilding within the Preston Beach golf course. Please see **APPENDIX 9.3.5A** for a location plan.

BACKGROUND / INITIAL COMMENTS

The Shire has recently been made aware that an outbuilding has been constructed within the Preston Beach Golf Course, east of Lot 118 Lakeside Terrace, without a building permit or the approval of Council.

The structure is approximately 4m wide and 9m long and is setback 1m east from the rear lot boundary of Lot 118 Lakeside Terrace. Vehicle tracks show the outbuilding is accessed via a local footpath that connects the golf course to Lakeside Terrace. The outbuilding is constructed of Colorbond. Historical aerial photography shows that the building was constructed sometime between 2015 and 2018.

Officers have contacted the Preston Beach Golf Club Secretary to confirm the shed has not been constructed by the club or used by the club.

Photographs of the structure and an aerial photo of the subject property are included in **APPENDIX 9.3.5B**.

The Shire's procedure manual outlines the process for compliance actions. The process as per the manual involves written notification of the offence being provided to the offending party with a timeframe for required action to be provided. General practice for the notifications is to provide a period of 30 days for action to be taken. Should no action be taken during the 30 day period a further notice is provided requiring action within 14 days. Where compliance has not been achieved within the 14 day period a further notice providing a 7 day period is issued. Once the 7 day period has expired the matter is referred to Council for consideration of prosecution by the Shire's solicitors.

PLANNING – STRATEGIC IMPLICATIONS

Nil.



REFERRALS

Nil.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 Land Use: Responsible Land Use Planning, and Protecting Rural Land.

FINANCIAL ISSUES/IMPLICATIONS

If the matter cannot be resolved at officer level, the next step would be to take the matter court which would incur cost for legal representation.

POLICY ISSUES/IMPLICATIONS

Nil.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Building Act 2011

All building works require approval under the Act unless specifically exempt.

LEGAL ISSUES/IMPLICATIONS

There may be legal implications for the Shire associated with this issue as the Shire may be liable for the activities of third parties on land under its control. If damage or injury did occur as a result of the presence of the structure, the Shire may be open to legal action.

COMMUNITY CONSULTATION

Nil.

OFFICER'S FINAL COMMENTS/CONCLUSIONS

The construction of a building on land owned in freehold by the Shire, without the consent of the Shire is a civil matter between the Shire and the builder. Alternatively the construction of a building without a building permit constitutes an offence under the Building Act 2011.

Appendices Attached:	Yes	Appendices Numbers: 9.3.5A,B
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VOTING REQUIREMENTS

Simple Majority



OFFICER RECOMMENDATION

That in relation to the illegal outbuilding at Lot 360 (No. 33-35) Panorama Driver, Preston Beach Council resolves to:

- 1. Investigate the matter to identify the builder / owner of the outbuilding.**
- 2. Provide notification to the builder / owner of the outbuilding requiring the removal of the outbuilding in accordance with the Shire's procedure manual.**
- 3. Should the builder / owner of the outbuilding not achieve compliance within the timeframe provided by notification in accordance with 2 above the matter be referred to Council's solicitors for legal action.**

9.4 DEPUTY CHIEF EXECUTIVE OFFICER / DIRECTOR CORPORATE SERVICES

9.4.1 PAYMENT LISTING FOR THE MONTH OF FEBRUARY 2019	
Reporting Officer / Officer's Interest:	Kathy Simpson, Finance Officer / Nil
Responsible Officer / Officer's Interest	Ashleigh Nuttall – Manager Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report: 12/3/19	File No.: 1/3
Previous Reference:	N/A
Policy Implications:	<i>See heading below</i>
Statutory Implications:	<i>See heading below</i>
Strategic Implications:	<i>See heading below</i>
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (Strategic Community Plan-SCP): No. 6 "Active Civic Leadership, Good Governance, & Excellence in Management"	

PROPOSAL SUMMARY

The purpose of this report is to present the listing of payments made from the Shire’s Municipal and Trust funds throughout the month of February 2019.

BACKGROUND / INITIAL COMMENTS

The attached appendix lists the payments from Council Municipal and Trust funds for the month applicable as per requirements of the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996.

As per Regulation 13 of the Local Government (Financial Management) Regulations 1996 the following information is required to be presented to Council;

- The Payee’s name;
- The amount of the payment;
- The date of the Payment; and
- Sufficient information to identify the transaction

PLANNING – STRATEGIC IMPLICATIONS

Nil

REFERRALS

Nil

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 6 Good Government: Active & Responsible Civic Leadership, & Excellence in Management.

FINANCIAL ISSUES/IMPLICATIONS

Nil



POLICY ISSUES/IMPLICATIONS

Nil

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Local Government Act 1995 – Section 6.4 and Local Government (Financial Management) Regulations 1996 – Section 13

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

OFFICER'S FINAL COMMENTS/CONCLUSIONS

All payments made from Council's Municipal and Trust account were completed in accordance with the adopted budget.

That Council receive the payment listing for the period as per the appendices.

Appendices Attached:	Yes	Appendices Numbers:	9.4.1
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VOTING REQUIREMENTS

Simple Majority

<u>OFFICER RECOMMENDATION</u>		
That Vouchers numbered:		
<u>ACCOUNT</u>	<u>CHEQUE NOS.</u>	<u>TOTAL \$</u>
Municipal	Cheques 9109 - 9127	\$12,705.31
Trust (Cheque/EFTs)	Chq: 11203-11204 EFT 29488, 29489, 29490	\$1,871.58
Electronic Transfers Municipal Fund	EFT 29409 to 29564	\$569,317.04
Direct Wages	01/02/19 – 28/02/19 inclusive	\$205,443.02
Direct Debits	01/02/19 – 28/02/19	\$40,791.36
GRAND TOTAL:		<u>\$830,128.31</u>
and attached at Appendix 9.4.1 be endorsed.		



9.4.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD 1 JULY 2018 TO 28 FEBRUARY 2019	
Reporting Officer / Officer's Interest:	Ashleigh Nuttall – Manager Corporate Services; Nil
Responsible Officer / Officer's Interest	Ashleigh Nuttall – Manager Corporate Services; Nil
Proponent:	N/A
Landowner:	N/A
Date of Report: 18/3/2019	File No.: 1/1
Previous Reference:	N/A
Policy Implications:	<i>See heading below</i>
Statutory Implications:	<i>See heading below</i>
Strategic Implications:	<i>See heading below</i>
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): <i>No 6 Good Government: Active & Responsible Civic Leadership, & Excellence in Management</i>	

PROPOSAL SUMMARY

The purpose of this report is to present the financial position of Council as at the reporting date as per requirements of the Local Government Act 1995 and the Local Government (Financial Management) Regulation 1996.

BACKGROUND / INITIAL COMMENTS

The monthly financial report recognises the financial position of Council at the reporting date and contains the following information;

- a) Annual budget estimates taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c) of the Local Government Act 1995;
- b) Budget estimates to the end of the month to which the statement relates;
- c) Actual amounts of expenditure, revenue and income to the end of the month to which the statements relate;
- d) The material variance between the comparable amounts referred to in the paragraphs (b) and (c); and
- e) The net current assets at the end of the month to which the statement relates.

The following information is included in the report;

- o Statement of Financial Activity by Programme
- o Statement of Financial Activity by Nature and Type, and
- o Statement of Financial Position
- o Note 1 – Significant Accounting Policies
- o Note 2 – Graphical Representation
- o Note 3 – Net Current Funding Position
- o Note 4 – Cash and Investments
- o Note 5 – Major Variances
- o Note 6 – Budget Amendments
- o Note 7 – Receivables
- o Note 8 – Grants & Contributions
- o Note 10 – Capital Disposals and Acquisitions
- o Note 11 – Significant Capital Projects

- Note 12 – Trust
- Note 13 - Borrowings

PLANNING – STRATEGIC IMPLICATIONS

Nil

REFERRALS

Nil

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 6 Good Government: Active & Responsible Civic Leadership, & Excellence in Management.

FINANCIAL ISSUES/IMPLICATIONS

Nil

POLICY ISSUES/IMPLICATIONS

Accounting policies - Policy 3.1.1 to Policy 3.1.7

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Local Government Act 1995 – Section 6.4 and Local Government (Financial Management) Regulations 1996 – Section 34

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

OFFICER'S FINAL COMMENTS/CONCLUSIONS

That Council receive the monthly statement of financial activity for the period as per the appendices.

Appendices Attached:	Yes	Appendices Numbers: 9.4.2
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VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council receive the Monthly Statement of Financial Activity for the period 1 July 2018 to 28 February 2019 as presented.



9.5 CHIEF EXECUTIVE OFFICER

Nil

10. CONFIDENTIAL REPORTS

Nil.

**11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN,
OR FOR CONSIDERATION AT NEXT MEETING**

12. NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION

12.1 ELECTED MEMBERS

12.2 OFFICERS

13. CLOSURE OF MEETING