



# AGENDA

for the

## ORDINARY MEETING OF COUNCIL

to be held on

Tuesday, 23 October 2018

**PLEASE READ THE FOLLOWING DISCLAIMER BEFORE  
PROCEEDING**

Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until such time as they have been advised in writing by Council staff.

Council's Vision

Collie – a connected, committed and creative community.

Values

The core values at the heart of the Council's commitment to the community are:

- Acting with integrity, transparency and accountability
  - Leading the delivery of the community's vision
- Enabling community-led endeavours to make the Shire of Collie a better place
  - Respectful progress

# **NOTICE OF MEETING**

Please be advised that meeting of the

## **Ordinary Meeting of Council**

commencing at **7:00pm**

will be held on

**Tuesday, 23 October 2018**

in Council Chambers at 87 Throssell Street, Collie WA,



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David Blurton  
Chief Executive Officer

19 October 2018

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### **DISCLAIMER**

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations, which have not yet been adopted by Council.

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# MEETING SCHEDULE

## October 2018 – November 2018

Councillors are reminded of the following meetings. Please note that other meetings may be planned that are not shown here. Councillors are advised to contact the Committee's Presiding Member/Chairperson if in doubt.

<b>Tuesday 23 October 2018</b>	<b>Ordinary Meeting of Council</b> 7.00pm in Council Chambers
<b>Friday 26 October 2018</b>	<b>Australia Day Panel</b> 9.00am in Elected Members Room
<b>Thursday 8 November 2018</b>	<b>Economic Development Advisory Committee</b> 4.00pm in Council Chambers
<b>Tuesday 20 November 2018</b>	<b>Townscape Advisory Committee</b> 9.00am in Library Undercroft Room
<b>Thursday 22 November 2018</b>	<b>Weeds &amp; Waterways Advisory Committee</b> 9:00am in Council Chambers
<b>Thursday 22 November 2018</b>	<b>Access and Inclusion Committee</b> 12.30pm in Elected Members Room
<b>Thursday 22 November 2018</b>	<b>Education Advisory Committee</b> 4.00pm in Council Chambers
<b>Thursday 29 November 2018</b>	<b>Community Safety and Crime Prevention Committee</b> 2.00pm in Library Undercroft Room



## Local Government Act 1995 - SECT 5.23

### Meetings generally open to the public

- 5.23. (1) Subject to subsection (2), the following are to be open to members of the public
- (a) all Council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following --
- (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal --
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to --
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



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SHIRE OF COLLIE  
**AGENDA - ORDINARY MEETING OF COUNCIL**  
Tuesday, 23 October 2018

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Agenda for the Ordinary Meeting of the Collie Shire Council to be held in Council Chambers, 87 Throssell Street Collie, on Tuesday, 23 October 2018 commencing at 7:00pm.

**1. OPENING/ATTENDANCE/APOLOGIES & LEAVE OF ABSENCE**

1.1 Councillors granted Leave of Absence at previous meeting/s.

Cr King and Cr Hanns have been granted Leave Of Absence at a previous meeting.

1.2 Councillors requesting Leave of Absence for future Ordinary Meetings of Council.

1.3 Councillors who are applying for Leave of the Absence for this Ordinary Meeting of Council.

**2. PUBLIC QUESTION TIME**

A 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration towards the Public:

When public questions necessitate resolutions of Council, the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates need for the public to wait an indeterminate period of time).

**3. RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**4. DISCLOSURE OF FINANCIAL/IMPARTIALITY INTEREST**

Councillors in attendance at meetings must disclose to the meeting any Agenda items upon which they have a Financial Interest. Section 5.65 of the Local Government Act 1995 requires Councillors to: a) give written notification of a financial Interest before the meeting; or b) at the meeting immediately before the particular matter is discussed (notification can be given verbally).

A Disclosure of Financial Interest Form is attached to this Agenda (immediately behind the Index) and can be used by Councillors for disclosure purposes - simply tear out and hand to the Chief Executive Officer. Additional forms will always be available at Council/Committee meetings.

Should Councillors be unsure on Disclosure of Financial Interest matters, further clarification can be obtained by reading Sections 5.53 to 5.59 inclusive of the Act.

**5. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Members of the public invited by the Chairperson may address the meeting after Standing Orders have been suspended.

**6. NOTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

Councillors may disclose at this point any matters which they wish to have discussed 'behind closed doors' ie the meeting is closed to members of the public. Section 5.23 of the Local Government Act 1995 applies and the meeting may only go behind

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closed doors for matters expressly prescribed in the Act - see section of the Act appended immediately after the Disclosure of Financial Interest form.

Any decision (of the meeting) to close the meeting or part of the meeting and the reasons for the decision are to be recorded in the Minutes of the meeting.

**7. ITEMS BROUGHT FORWARD DUE TO INTEREST BY ATTENDING PERSONS**

**8. CONFIRMATION OF THE PREVIOUS MINUTES OF COUNCIL**

**Recommendation:**

*That Council confirms the Minutes of the Ordinary Meeting of Council held on 2 October 2018.*

**9. BUSINESS ARISING FROM THE PREVIOUS MINUTES**

Only items that have been deferred from a previous Ordinary Council Meeting for either further consideration by Councillors or for additional background information may be dealt with under this item. Details of Business Arising items will always be listed on the Agenda.

**10. RECEIPT OF MINUTES OF COMMITTEE MEETINGS HELD SINCE THE PREVIOUS MEETING OF COUNCIL**

**10.1 Receipt of the Minutes of the Townscape Advisory Committee**

**Recommendation:**

*That Council receives the minutes of the Townscape Advisory Committee held on 9 October 2018.*

**10.2 Adoption of the Recommendations of the Townscape Advisory Committee**

**Recommendation:**

*That Council adopts en block the recommendations contained within the minutes of the Townscape Advisory Committee held on 9 October 2018.*

*That Council;*

*10.3.1 request the Director of Technical Services to investigate civil works required to establish bus access to the front door of the Railway Station Building on Throssell Street.*

*10.3.2 submit acknowledgement in the Collie Mail recognizing all Shire employees, Rotary and other organisations involved with the work that was put into preparing Collie for the Tidy Towns competition.*

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*10.3.3 views with concern reports of a roundabout at Throssell and Prinsep Streets and opposes any potential future resumption of Finlay and/or Baarnimar Reconciliation Park in the planning for a roundabout.*

**10.3 Receipt of the Minutes of the Weeds and Waterways Advisory Committee**

**Recommendation:**

*That Council receives the minutes of the Weeds and Waterways Advisory Committee held on 11 October 2018.*

**10.4 Adoption of the Recommendations of the Weeds and Waterways Advisory Committee**

**Recommendation:**

*That Council adopts en block the recommendations contained within the minutes of the Weeds and Waterways Advisory Committee held on 11 October 2018.*

*That Council;*

*10.4.1 adopt the Collie River Revitalisation Plan 2018-2022 at Appendix 1, including the modifications following community consultation.*

**10.5 Receipt of the Minutes of the Access and Inclusion Committee**

**Recommendation:**

*That Council receives the minutes of the Access and Inclusion Committee held on 11 October 2018.*

**10.6 Receipt of the Minutes of the Economic Development Advisory Committee**

**Recommendation:**

*That Council receives the minutes of the Economic Development Advisory Committee held on 11 October 2018.*

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**10.7 Adoption of the Recommendations of the Economic Development Advisory Committee**

**Recommendation:**

*That Council adopts en block the recommendations contained within the minutes of the Economic Development Advisory Committee held on 11 October 2018.*

*That Council;*

*10.7.1 defer the Collie Business Capacity Assessment draft report; and*

*10.7.2 submit an expression of interest to the Federal Government SME export hubs grant scheme to support the further development of intensive cropping opportunities for Collie subject to further advice from the Department of Local Government.*

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**11. CEO REPORTS**

**11.1 Vehicle Policy and OHS Fleet Safety Guidelines**

<b>Reporting Department:</b>	CEO Office
<b>Reporting Officer:</b>	David Blurton - CEO
<b>Accountable Manager:</b>	David Blurton - CEO
<b>Legislation</b>	WA Local Government Act 1995
<b>File Number:</b>	
<b>Appendices:</b>	Yes – Appendix 1
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:** To present a new staff light vehicle policy and OHS Fleet Safety and Motor vehicle guidelines which will guide the replacement, conditions of use and other matters relating to the use of Council's light vehicles by staff.

**Officer's Recommendation:**

*That Council*

- 1. Adopt the amended draft use of Council Vehicles Policy and the OHS Fleet Safety and Motor Vehicle Guidelines document as attached at Appendix 1 with the exclusion of the need to refer all staff vacancies with vehicle entitlements to Council for final determination.*
- 2. Apply the new policy to all future employees with vehicle entitlements who commence employment with the Shire of Collie from date of adoption.*
- 3. Apply the new OHS Fleet Safety and Motor Vehicle Guidelines to all current and future employees*

**Background:**

The Council has previously appointed Uniqco to independently assess the light vehicle needs of the organisation and to provide advice on other matters relating to the light vehicle fleet. Uniqco presented its report to Council and a follow-up report was prepared through the Policy Review Committee.

At the meeting of 27<sup>th</sup> March 2018, the Council resolved as follows;

**Motion #7763**

***That Council, through its Policy Review Committee, develop a policy that includes a list of cars appropriate for each staff position which come with the provisions of a Council funded motor vehicle and that vehicle changes take effect whenever there is a change in staff or contracts for these positions are renegotiated.***

A draft policy was presented to the Policy review committee and at the Council meeting in May 2018 the following decision was made;

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**10.3.3 That a subpanel be formed comprising the CEO, Cr Miffing and Cr Piavanini to integrate the Uniqco Draft Policy with CS2.3 – Vehicle Usage and Replacement Policy and report directly to Council.**

The working panel has since met on three occasions to work through the draft policy and supporting procedures document which was provided by Uniqco and the draft policies are now presented to Council for consideration.

Given the size of the document, it has been emailed to Councillors prior to the meeting to ensure adequate time for reading.

**Statutory and Policy Implications:**

It is the view of the working party that the new policy sit along side the existing and be applied to new employees of the Shire.

**Budget Implications:**

Budget savings can be expected regarding Fringe Benefits tax as the changes are designed to minimise tax payable by the Council.

**Communications Requirements:** (Policy No. CS 1.7)

Internal communication.

**Strategic Community Plan/Corporate Business Plan Implications:**

Goal 5: Our Business

Good governance through an effective, efficient and sustainable organisation

**Relevant Precedents:**

N/A

**Comment:**

Key changes to the existing policy recommended by the panel are as follows;

- Changes are to affect new staff members with vehicle entitlements and not existing employees;
  
- As positions become vacant, a review will be carried out to determine the need for the vehicle and the review shall be referred to Council for determination.;

***note – this is not supported by the CEO as it will increase workload, delay appointments of staff and is considered an operational matter.***

- A payroll deduction will be made by the staff member for the private use of the vehicle

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- A kilometre cap will be introduced limiting the amount of private use by the employee.
- Limited private use of vehicles will be within a 50km radius of Collie. Commuting use will be limited to Collie Shire only.
- More definition around the type of vehicle to be supplied by position and restrictions on accessories.

The guidelines document focuses on Occupational Health and Safety matters relating to the fleet and this crosses over with some procedures which have already been implemented as operational matters by the OHS staff committee. New features of this document include responsibilities of employees regarding driver behaviour, fitting accessories including child seats and fatigue management. Council should be aware that the adoption of this policy will add more administrative tasks to ensure compliance with the policy.

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**11.2 Motoring South West – Interest Free Advance**

<b>Reporting Department:</b>	CEO Office
<b>Reporting Officer:</b>	David Blurton - CEO
<b>Accountable Manager:</b>	David Blurton - CEO
<b>Legislation</b>	WA Local Government Act 1995
<b>File Number:</b>	
<b>Appendices:</b>	No
<b>Voting Requirement</b>	Absolute Majority

**Report Purpose:**

**For Council to consider providing an interest free advance of \$50,000 to Motoring South West (MSW) to facilitate the completion of outstanding works at the new track extension including tyre wall assembly.**

**Officer's Recommendation:**

*That Council*

- 1. By Absolute Majority provide an interest free advance of \$50,000 from Municipal funds to Motoring SW to assist with the completion of the track extension project for a term of 10 years payable semi-annually.*
- 2. Consider re-purposing the Council's Legal Reserve as part of the mid-year budget review process.*
- 3. Provide in kind support to the Collie Motorplex project where possible.*

**Background:**

The Shire of Collie recently project managed the Collie Motorplex track extension project with funding support from the Department of Sport and Recreation, the Department of Regional Development, the Shire of Collie and MSW itself at a total cost of approximately \$3 million.

Works have been undertaken successfully and both licencing agencies Confederation of Australian Motorsports – (CAMS) and Motorcycling Australia (MA) have attended site inspections to ensure compliance with related standards prior to granting accreditation. The most recent inspection was June 2018 and most of the matters raised at this inspection have since been resolved.

The main item of outstanding works preventing licensing of the track is the assembly and placement of approximately 11,000 tyres into triple tyre wall bundles which ensure the safety of riders and drivers of the facility. The method of assembly specified involves drilling and bolting each tyre vertically and horizontally as well as fitting conveyor belt to each tyre bundle as depicted in the photo below.



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The labour required to complete this work is significant and to date MSW have been relying on volunteer labour, busy bees and work for the dole program due to its limited financial capacity. However, the full track not opening in a timely manner puts at risk several events including the National Historic Motorcycle event which is scheduled in September 2019. This event is expected to attract 5,000 + visitors to Collie for a period of 8 days.

It is suggested that Council support MSW by providing an interest free loan which would facilitate the engagement of labour by MSW to ensure completion of outstanding works as soon as possible.

These funds would be matched against a contribution from Motorcycling Australia (WA) who have indicated their willingness to provide a similar financial arrangement to MSW. At present the Collie Motorplex track is the only licenced facility capable of hosting motorcycling events in WA.

**Statutory and Policy Implications:**

Local Government Act s6.11.2, one-month local public notice of the proposed changed of purpose or proposed used of Council's legal reserve is required.

**Budget Implications:**

The advance will reduce Council's current ratio by 0.02.

**Communications Requirements:** (Policy No. CS 1.7)

Correspondence to MSW

**Strategic Community Plan/Corporate Business Plan Implications:**

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Four Year priorities

- project management of further development of the Motorplex facility

Outcome 2.3 A growing tourism industry (see also Goal 1, Outcome 1.4)

**Relevant Precedents:**

N/A

**Comment:**

The Collie Motorplex track is recognised as a regional asset for the south west and attracts significant visitor numbers to the Collie region on a weekly basis. This is expected to increase once the track extension (stage 1) is open.

Council has also been successful in obtaining federal grant funds under the Building Better Regions (BBRF) and contributions from Bendigo Bank and the State government for stage 2 works which include improved pedestrian access, existing track resurfacing and competitor area upgrades. Engineering consultants have recently been appointed and works are expected to commence in January 2019.

Support of the officer's recommendation will ensure that works will be completed as soon as possible with the use of paid labour. It is envisaged that in-kind support may involve the use of Council machinery where required to complete the works.

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**12. CORPORATE SERVICES REPORTS**

**12.1 Renewal of Lease for Collie Agricultural Society**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Allison Fergie – Director Corporate Services
<b>Accountable Manager:</b>	Allison Fergie – Director Corporate Services
<b>Legislation</b>	WA Local Government Act 1995
<b>File Number:</b>	L15195A
<b>Appendices:</b>	No
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

To seek Council authorisation to enter into lease agreement with the Collie Agricultural Society Inc. for the use of the Agricultural Buildings located at the Wallsend Ground.

**Officer's Recommendation:**

*That Council renew the lease of the buildings and structures owned and used by the Collie Agricultural Society located on Reserve 15195 to the Collie Agricultural Society Inc. subject to the consent of the Minister for Lands with the following conditions:*

- 1. lease to be deemed a Community Built and Operated Lease with a term of 5 years with a 5 year option;*
- 2. Annual lease amount payable be \$1 per annum incl GST;*
- 3. The Shire to be responsible for insurance premiums for the pavilion, the shearing shed and the poultry shed; and*
- 4. Other conditions to be in accordance with Council policy DS 1.5*

**Background:**

The Collie Agricultural buildings are located on Reserve 15195, which is vested in the Council for the purposes of recreation and parking and allows for leasing for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

Prior to 2013 no lease agreement existed between the Council and the organisation however Council worked with the Collie Agricultural Society and at its meeting held 5 March 2013 Council resolved:

*6010 - That Council lease the buildings owned and used by the Collie Agricultural Society Inc. located on Reserve 15195 to the Collie Agricultural Society Inc. with the following conditions:*

- A) lease to be deemed Community Built and Operated Lease with a term of 5 years with a 5 year option;*
- B) Annual lease amount payable be \$1 per annum incl GST;*

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**C) Other conditions to be in accordance with Council policy DS 1.5**

The lease area includes the pavilion, poultry shed, shearing shed, cattle and goat yards and the old stable block.

**Statutory and Policy Implications:**

WA Local Government Act (1995)

Section 3.58 of the Local Government Act refers to the disposal of property and includes lease arrangements. Under this section, local public notice and a submission period is normally required to be undertaken by Council's when entering lease arrangements, however there is a specific exemption for the requirement to advertise under section 30 of the associated Functions and General Regulations where the intended lease is with certain organisations;

- 30 (2) (b) (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and  
 (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

**Budget Implications:**

Annual lease fee is proposed to be \$1 per annum.

Insurance premiums for the pavilion, the shearing shed and the poultry shed amount to \$1,536.94 for the 2018/19 financial year.

Council's Development Services Policy 1.5 outlines the responsibilities of the parties to the lease as follows:

Issue	Community built and operated
Building insurance	Lessee
Vandalism damage to building (assuming no negligence on lessee's part)	Building insurance excess Lessee
Contents insurance	Lessee
Public liability insurance of \$10m	Lessee
Compliance with <i>Health (Public Building) Regulations 1992</i>	Lessee
Upgrades required by legislative changes	Lessee
Building additions and alterations	Lessee must obtain Shire approval and comply with Building Code of Australia.
Major maintenance	Lessee
Minor maintenance and cleaning	Lessee
Security system and response	Lessee
Payment of utility charges (power, water etc)	Lessee
Payment of Emergency Services Levy	Shire
Painting upgrade (internal and external)	By Lessee every 5 years to satisfaction of Shire

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<b>Issue</b>	<b>Community built and operated</b>
Asbestos removal (if required)	Lessee
Sub letting	With Shire approval
Use by others	Casual hire with Shire approval

**Communications Requirements:** (Policy No. CS 1.7)

Correspondence to proponent

**Strategic Community/Corporate Business Plan Implications:**

Goal 1: Our Community *A vibrant, supportive and safe community.*

1.3 An active and supportive community

1.3.1 Support community initiated and owned projects

Goal 4: Our Built Environment *Infrastructure, amenities and development that supports the needs and aspirations of the community*

4.5 Council buildings and service related assets that support community needs

4.5.1 Manage and maintain public buildings, facilities and public amenities.

**Relevant Precedents:**

Council regularly renews lease agreements for community groups.

**Comment:**

The buildings are currently maintained and owned by the Collie Agricultural Society. However, since the initial lease was established Council policy has changed and now building insurance is the responsibility of the lessee for community built and operated leases. As the Collie Agricultural Society purpose is to deliver an event for the whole community and not just its members, it is recommended that Council continue to pay the insurance premiums for the pavilion, the poultry shed and the shearing shed.

It is not recommended that the lease be categorised as a long-term lease as then the Shire would become responsible for the maintenance costs as well as the insurance of all the leased structures.

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**12.2 Renewal of Lease for Collie River Valley Little Athletics Club**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Allison Fergie – Director Corporate Services
<b>Accountable Manager:</b>	Allison Fergie – Director Corporate Services
<b>Legislation</b>	WA Local Government Act 1995
<b>File Number:</b>	L6684C
<b>Appendices:</b>	No
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

To seek Council authorisation to renew the lease agreement with the Collie River Little Athletics Club Inc. for the use of the storage shed building at the Collie Recreation Ground.

**Officer's Recommendation:**

*That Council lease the building known as the Collie River Little Athletics storage shed located on Reserve 6684 to the Collie River Little Athletics Club Inc. subject to the consent of the Minister for Lands with the following conditions:*

- 1. lease to be deemed Community Built and Operated Lease with a term of 5 years with a 5 year option;*
- 2. Annual lease amount payable be \$1 per annum incl GST; and*
- 3. Other conditions to be in accordance with Council policy DS 1.5*

**Background:**

The Collie River Valley Little Athletics Club storage building is located on Reserve 6684, which is vested in the Council for the purposes of Recreation and allows for leasing for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

Prior to 2013, no lease agreement existed between the Council and the Collie River Valley Little Athletics, however at its meeting held 5 March 2013 Council resolved:

*6005 – That Council lease the building known as the Collie River Little Athletics storage shed located on Reserve 6684 to the Collie River Little Athletics Club Inc. with the following conditions:*

- A) lease to be deemed Community Built and Operated Lease with a term of 5 years with a 5 year option;*
- B) Annual lease amount payable be \$1 per annum incl GST;*
- C) Other conditions to be in accordance with Council policy DS 1.5*

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**Statutory and Policy Implications:**

WA Local Government Act (1995)

Section 3.58 of the Local Government Act refers to the disposal of property and includes lease arrangements. Under this section, local public notice and a submission period is normally required to be undertaken by Council's when entering lease arrangements, however there is a specific exemption for the requirement to advertise under section 30 of the associated Functions and General Regulations where the intended lease is with certain organisations;

- 30 (2) (b) (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and  
 (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

**Budget Implications:**

Annual lease fee is proposed to be \$1 per annum.

Council's Development Services Policy 1.5 outlines the responsibilities of the parties to the lease as follows:

Issue	Community built and operated
Building insurance	Lessee
Vandalism damage to building (assuming no negligence on lessee's part)	Building insurance excess Lessee
Contents insurance	Lessee
Public liability insurance of \$10m	Lessee
Compliance with <i>Health (Public Building) Regulations 1992</i>	Lessee
Upgrades required by legislative changes	Lessee
Building additions and alterations	Lessee must obtain Shire approval and comply with Building Code of Australia.
Major maintenance	Lessee
Minor maintenance and cleaning	Lessee
Security system and response	Lessee
Payment of utility charges (power, water etc)	Lessee
Payment of Emergency Services Levy	Shire
Painting upgrade (internal and external)	By Lessee every 5 years to satisfaction of Shire
Asbestos removal (if required)	Lessee
Sub letting	With Shire approval
Use by others	Casual hire with Shire approval

**Communications Requirements:** (Policy No. CS 1.7)

Correspondence to proponent

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**Strategic Community/Corporate Business Plan Implications:**

Goal 1: Our Community *A vibrant, supportive and safe community.*

1.3 An active and supportive community

1.3.1 Support community initiated and owned projects

Goal 4: Our Built Environment *Infrastructure, amenities and development that supports the needs and aspirations of the community*

4.6 Council buildings and service related assets that support community needs

4.5.1 Manage and maintain public buildings, facilities and public amenities.

**Relevant Precedents:**

Council regularly renews lease agreements for community groups.

**Comment:**

The building has been erected and paid for by the Club; and the new lease will include a 3 meter extension to the lease area as plans have been submitted to extend the shed.





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**12.3 Renewal of Lease for Collie Underwater Hockey Club Inc**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Allison Fergie – Director Corporate Services
<b>Accountable Manager:</b>	Allison Fergie – Director Corporate Services
<b>Legislation</b>	N/A
<b>File Number:</b>	L0000C
<b>Appendices:</b>	No
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

For Council to consider renewal of the lease portion of the old entrance building at the Collie Mineworkers Memorial Swimming Pool to the Collie Underwater Hockey Club Inc.

*Officer's Recommendation*

*That Council renew the lease of portion of the old entrance building at the Collie Mineworkers Memorial Swimming Pool to the Collie Underwater Hockey Club Inc, with the following conditions:*

- 1. Lease to be a Long Term lease with a term of 5 years with a 5 year option;*
- 2. Collie Underwater Hockey Club Inc to comply with Conditions of Use of the Collie Mineworkers Memorial Swimming Pool;*
- 3. Annual lease amount payable be \$1 per annum incl GST; and*
- 4. Other conditions to be in accordance with Council policy DS 1.5*

**Background:**

The Collie Underwater Hockey Club, Aqua Splash Swim School and Vac Swim programs currently operate successfully from the old entrance building to the Collie Mineworkers Memorial Swimming Pool [CCMSP]. For the 2015/16 season the building was refurbished and a short term lease entered into with the Underwater Hockey Club in accordance with the following Council resolution 21 June 2016:

**7079 - That Council:**

- 1. Endorse the revised Footprint Site Plan of the Collie Mineworkers Memorial Swimming Pool site to reflect the proposed clubrooms for the Collie Swimming Club and a footprint for a future 25m indoor heated lap pool at the locations depicted on Sheet 2 of 5 in Coloured Appendix 1;**
- 2. Retain the refurbished old entry building for use by the Underwater Hockey Club, the Swim School and the Vac Swim programs; and**
- 3. Once completed lease the clubrooms to the Collie Swimming Club with conditions in accordance with Council Policy DS 1.5.**
- 4. That Council authorise staff to assist the Collie Community Broadcasting Association to locate to an alternate site.**

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Since the above decision of Council provided security of tenure, the Underwater Hockey Club and the Aqua Splash Swim School have invested time and funds into refurbishing and improving the interior of the old entrance building. The two groups have now operated successfully from the building for two summers, and therefore the current recommendation is for a long term lease.

**Statutory and Policy Implications:**

DS 1.5 - Buildings on Council Reserves.

**Budget Implications:**

The Annual lease fee is proposed to be \$1 per annum, and the Collie Underwater Hockey Club pays fees to cover the cost of lighting [not yet set for 2018/19].

As per policy DS 1.5, the lease will have the following implications for Council moving forward in relation to the responsibility of each party. The Shire has the building insured on its Property Schedule.

Issue	Long Term Lease – Responsible party
Building insurance	Lessee or Shire
Vandalism damage to building (assuming no negligence on lessees part)	Building insurance excess Lessee or Shire.
Contents insurance	Lessee
Public liability insurance of \$10m	Lessee
Compliance with <i>Health (Public Building) Regulations 1992</i>	Shire
Upgrades required by legislative changes	Shire
Building additions and alterations	Lessee must obtain Shire approval and comply with Building Code of Australia.
Major maintenance	Shire
Minor maintenance and cleaning	Lessee
Security system and response	Lessee or Shire
Payment of utility charges (power, water etc)	Lessee
Payment of Emergency Services Levy	Shire
Painting upgrade (internal and external)	By Lessee every 5 years to satisfaction of Shire
Asbestos removal (if required)	Shire
Sub letting	Not permitted
Use by others	Casual hire with Shire approval

**Communications Requirements:** (Policy No. CS 1.7)

Correspondence to proponent.

**Strategic Community/Corporate Business Plan Implications:**

Goal 1: Our Community *A vibrant, supportive and safe community.*

1.3 An active and supportive community

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1.3.1 Support community initiated and owned projects

Goal 4: Our Built Environment *Infrastructure, amenities and development that supports the needs and aspirations of the community*

4.7 Council buildings and service related assets that support community needs

4.5.1 Manage and maintain public buildings, facilities and public amenities.

**Relevant Precedents:**

Council regularly renews lease agreements for community groups.

**Comment:**

The leasing arrangements in which the Collie Underwater Hockey Club and the Aqua Splash Swim School each have exclusive use of a portion of the building, and then share a common area which includes kitchen facilities and a meeting/training space has worked well for the last two years.

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**12.4 Accounts Paid – September 2018**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Hasreen Mandry – Finance Manager
<b>Accountable Manager:</b>	Allison Fergie – Director of Corporate Services
<b>Legislation:</b>	Local Government Act 1995 & Financial Management Regulations 1996
<b>File Number:</b>	FIN/024
<b>Appendices:</b>	Yes – Appendix 2
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

To present the accounts paid during the month of September 2018.

**Officer’s Recommendation:**

*That Council accepts the Accounts as presented in Appendix 2 being vouchers 3182 & 41479-41493 totalling \$34,057.86 and direct payments totalling \$566,848.03 authorised and paid in September 2018.*

**Background:**

In accordance with clause 12 of the WA Local Government Financial Management Regulations (1996) the Council may delegate the authority to the Chief Executive Officer (CEO) to authorise payments from both the municipal, trust and reserve funds in accordance with the Annual Budget provisions. The CEO shall cause for section 13 of the WA Financial Management Regulations (1996) to be adhered to with a list of accounts for approval to be presented to the Council each month.

Month	2018/19		
	Cheques	Electronic Transfer	Total Payment
July	\$39,724.54	\$422,209.63	<b>\$461,934.17</b>
August	\$54,077.74	\$782,538.66	<b>\$836,616.40</b>
September	\$34,057.86	\$566,848.03	<b>\$600,905.89</b>
October			
November			
December			
January			
February			
March			
April			

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<b>May</b>			
<b>June</b>			

**Statutory and Policy Implications:**

WA Local Government Act 1995

Financial Management Regulations 1996

Council has Policy number CS3.7 which relates to the payment of Creditors, and in particular item 5.0 which relates to the presentation of accounts paid.

A list of all accounts paid in the month prior shall be presented to the Council. The list shall comprise of details as prescribed in the Local Government Financial Management Regulations (1996).

**Budget Implications:**

All liabilities settled have been in accordance with the Annual Budget provisions.

**Communications Requirements: (Policy No. CS1.7)**

Nil

**Strategic Community Plan/Corporate Business Plan Implications:**

Nil

**Relevant Precedents:**

**Comment:**

For a detailed listing of payments see Appendix 2.

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**12.5 Financial Report – September 2018**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Hasreen Mandry – Finance Manager
<b>Accountable Manager:</b>	Allison Fergie – Director of Corporate Services
<b>Legislation:</b>	Local Government Act 1995 & Financial Management Regulations 1996
<b>File Number:</b>	FIN/024
<b>Appendices:</b>	Yes – Appendix 3
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

This report provides a summary of the Financial Position for the Shire of Collie for the month ending September 2018.

**Officers Recommendation:**

*That Council accept the Financial Report for September 2018 as presented in Appendix 3.*

**Background:**

In accordance with Council policy and the provisions of the Local Government Act 1995, the Financial Report for the end of the period is presented to Council for information. Refer to Appendix 3.

**Statutory and Policy Implications:**

WA Local Government Act 1995  
Financial Management Regulations 1996

**Budget Implications:**

Nil

**Communications Requirements: (Policy No. CS1.7)**

Nil

**Strategic Community Plan/Corporate Business Plan Implications:**

Nil

**Relevant Precedents:**

N/A

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**Comment:**

The report provided to Council as Appendix 3 is inclusive of the information required by the Local Government Act 1995 and includes information as set out in Council Policy.

The report includes a summary of the financial position along with comments relating to the statements. If Councillors wish to discuss the report contents or any other matters relating to this, please contact Council Finance staff prior to the meeting.

**Notes to the Financial Statements (items in bold represent new notes).**

**Operating Revenue by Program**

1. Transport is \$152,182 over budget as we received the Regional Road Group grant earlier than expected (\$209,703), the overbudget is reduced as Council is yet to receive the Main Roads Direct Grant (\$27,111) and WA Bike Network Grant (\$31,250).

**Operating Expenditure by Program**

2. Governance and Housing are over budget whilst all the other programs are under budget as the admin allocation, plant allocation and depreciation have not yet been processed. These will remain outstanding until the 2017/18 Annual Report has been finalised.

**Operating Revenue by Nature and Type**

3. Operating grants, subsidies and contributions are under budget by \$148,504 due to the prepayment of the 2018/19 Financial Assistance Grant in June 2018. These will remain the same until the 2018/19 Budget Review.
4. Interest earning is \$10,174 under budget due to timing factor.

**Operating Expenditure by Nature and Type**

5. Utility charges are \$36,805 under budget; most of the utility payments are yet to be made, this is due to timing factor.
6. Depreciation is \$727,077 under budget as it has not been processed due to the 2017/18 Annual Report is yet to be finalised.

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**12.6 Disposal of Property to Recover Rates- A482, A515 & A1795**

<b>Reporting Department:</b>	Corporate Services
<b>Reporting Officer:</b>	Hasreen Mandry – Finance Manager
<b>Accountable Manager:</b>	Allison Fergie – Director of Corporate Services
<b>Legislation</b>	Local Government Act 1995
<b>File Number:</b>	RAV/010
<b>Appendices:</b>	No
<b>Voting Requirement</b>	Absolute Majority

**Report Purpose:**

For the Council to consider enacting section 6.64 (b) of the WA Local Government Act and dispose of property by public auction to recover outstanding rates.

**Officer's Recommendation:**

*That Council proceeds with action under section 6.64 (1) (b) of the WA Local Government Act (1995) and exercises its power to sell the following properties for the non-payment of rates:*

- A482 (88 Coombes Street, Collie)
- A515 (8 Gane Road, Collie)
- A1795 (9 Hodgson Terrace, Collie)

**Background:**

Staff has taken all steps to recover these debts through the normal processes. The debt has been referred to a debt collection agency without success. A Property Sale and Seizure Order (PSSO) has been issued for good, however the debt collection agency were unable to locate any goods of value. The only option left to Council is to issue a land warrant.

**Statutory and Policy Implications:**

Section 6.64 of the act reads as follows:

6.64. Actions to be taken

(1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —

- (a) from time to time lease the land;
- (b) sell the land;
- (c) cause the land to be transferred to the Crown; or
- (d) cause the land to be transferred to itself.



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Corporate Services Policy CS3.16 Rating Policy

17.4 The Property Sale and Seizure Order is a goods order in the first instance and if the Property Sale and Seizure Order is returned Nulla Bona (no goods), then a land warrant is to be issued. Where a Property Sale and Seizure Order involves land where the owner resides, the approval of Council is to be obtained before the land warrant is lodged.

17.5 If any rates and charges which are due to Council in respect of any rateable land have been unpaid for at least 3 years, Council may enact sections 6.63-6.75 of the act to which involves taking possession of the land with a view to either selling the land, leasing the land or reverting the land to the crown. The approval of Council is to be obtained before this course of action is undertaken.

**Budget Implications:**

Approximately \$19,986, \$21,455 & \$12,172 remains outstanding in rates, charges, ESL and interest for A482, A515 & A1795 respectively. A deposit of \$1,800 is required for each property to pay for valuations, statements, advertising etc. These amounts and any other cost incurred will be recoverable from the sale of the properties.

**Communications Requirements:** (Policy No. CS 1.7)

Local public notice is required to be given in regard to the sale by public auction and all communication will be in accordance with the Local Government Act 1995.

There is also a significant amount of correspondence and legal documentation which is required to be completed as part of this process. This will be managed by a third party.

**Strategic Plan Implications:**

KEY OBJECTIVE 5.0

Our Business

Good governance and an effective, efficient and sustainable organisation.

Outcome 5.3:

Financial sustainability and accountability, with emphases on the below strategy;

5.3.5, provide corporate financial services that support the Shires operations and meet planning, reporting and accountability requirements.

**Relevant Precedents:**

The Council has undertaken this process successfully before with several lots in the Wellington Heights subdivision on 13 June 2006.

*Motion: 3244*

*That Council under s 6.68 of the Western Australia Local Government Act 1995 exercises its power to sell the following properties:*

- *Lot 201 Ash Mews, Collie*
- *Lot 202 Ash Mews, Collie*
- *Lot 208 Ash Mews, Collie*
- *Lot 62 Wellington Boulevard, Collie*
- *Lot 65 Wellington Boulevard, Collie*
- *Lot 316 Wellington Boulevard, Collie*
- *Lot 187 Robinia Rise, Collie*
- *Lot 193 Robinia Rise, Collie*
- *Lot 194 Robinia Rise, Collie*

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**Comment:**

Standard debt collection procedures have been unsuccessful, and it is now considered that the Council's only option to recover these funds is to enact section 6.64 (1) (b) of the act and advertise the properties for sale by public auction, which requires a resolution from the Council.

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**13. DEVELOPMENT SERVICES REPORTS**

**13.1 Review of 12 Month Permit for Goods Shed Markets in CBD Carpark**

<b>Reporting Department:</b>	Development Services
<b>Reporting Officer:</b>	Andrew Dover – Director Development Services
<b>Accountable Manager:</b>	Andrew Dover – Director Development Services
<b>Legislation</b>	Local Government Act 1995
<b>File Number:</b>	PHL/011
<b>Appendices:</b>	Yes – Appendix 4
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

For Council to consider submissions from the re-advertisement of the Stall Holder's Permit for the purpose of Markets under the *Activities in Thoroughfares and Public Places and Trading Local Law 2012* issued 19 July 2018.

**Officer's Recommendation:**

*That Council, pursuant to the provisions of the Local Government Act 1995, hereby resolves to amend the Stall Holder's Permit to the Collie Heritage & Men's Shed Group Inc. issued 19 July 2018 to conduct fortnightly Sunday Markets adjacent the Good Shed building on Reserve 47297 to modify condition to read: (h) 'Trading of flowers, sports goods and giftware are not permitted within the permit area. Note: these goods may be sold within the Goods Shed building'.*

**Background:**

The Collie Heritage & Men's Shed Group Inc. applied for a renewal of their permit under the Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012. Council approved this for twelve (12) months at the Council Meeting of 19 July 2018 as per the below resolution.

*Motion # 7844*

*That Council, pursuant to the provisions of the Local Government Act 1995, hereby resolves to grant a Stall Holder's Permit to the Collie Heritage & Men's Shed Group Inc. to conduct fortnightly Sunday Markets adjacent the Good Shed building on Reserve 47297 (as per the attached plan) for a period of 12 months subject to the following conditions:*

- (a) Place to which permit applies:  
Reserve 47297 – Public Carpark*
- (b) Description of stand, structure or vehicle to be used by the licensee:  
Market Stalls*
- (c) Particulars of goods, wares, merchandise or services available:  
Various Market Stalls*
- (d) Permitted days and hours when stall may be operated:  
Every Second Sunday: 8:00am-12:00pm*

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- (e) *This permit is valid for a period of 12 months from the date of issue.*
- (f) *The licensee shall maintain a public liability insurance of not less than \$20 million at all times.*
- (g) *The licensee is to abide by the conditions set under Part 6 Trading in Thoroughfares and Public Places Division 1 - Stallholders and Traders*
- (h) *Trading is not permitted within 400 metres of an established premise selling similar goods.*
- (i) *The Permit Holder must comply with the Shire of Collie Parking and Parking Facilities Local Law 2012 and with all relevant laws regarding stopping and parking of vehicle with regards to road traffic and pedestrian safety.*
- (j) *This permit is only valid for the location specified on the permit, unless otherwise agreed to in writing by the Shire.*

The Collie Heritage & Men's Shed Group Inc. made representation to the Council Meeting of 11 September 2018 requesting the removal of condition (h). Following this, Council made the below resolution.

*Motion # 7916  
That Council permit the good shed markets be run in the car park area on the 23rd September 2018 and staff investigate the matter and report back to Council at the next meeting.*

Following investigation by staff, it was recommended that the removal of condition (h) be advertised to the surrounding businesses to provide an opportunity to object to the removal of this condition. The below resolution to this effect was resolved by Council 02 October 2018.

*Motion # 7937  
That Council:*

1. *Readvertise the Stall Holder's Permit to the Collie Heritage & Men's Shed Group Inc. issued 9 July 2018 to conduct fortnightly Sunday Markets adjacent the Good Shed building on Reserve 47297 to established premises selling similar products within 400 meters of this location and report back to Council 23 October 2018; and*
2. *Allow the Sunday Markets adjacent the Good Shed building on Reserve 47297 to continue to operate in accordance with the permit issued 9 July 2018 including compliance with conditions except condition (h) that 'trading is not permitted within 400 metres of an established premise selling similar goods' until 23 October 2018, with the exception of the sale of fresh flowers.*

The above consultation has now been carried out.

**Statutory and Policy Implications:**

Local Government Act 1995

Under Section 5.42 of the Act Council has delegated to the CEO the power to determine Permits under Part 6 of the *Activities in Thoroughfares and Public Places and Trading Local Law 2012* for a period of 3 months or less and only if in the opinion of the CEO the permit will not adversely affect nearby landowners or shire operations.

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Activities in Thoroughfares and Public Places and Trading Local Law 2012

*Part 6 – Trading in Thoroughfares and Public Places*

Trading includes -

- (b) displaying of good in any public place for the purpose of –
  - (i) Offering them for sale or hire;
  - (ii) Inviting offers for their sale or hire;
  - (iii) Soliciting orders for them; or
  - (iv) Carrying out any other transaction in relation to them

**6.1 Interpretation**

*"stall" means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;*

*"stallholder" means a person in charge of a stall;*

*"stallholder's permit" means a permit issued to a stallholder;*

**6.2 Stallholder's permit**

- (1) *A person shall not conduct a stall on a public place unless that person is –*
  - (a) *the holder of a valid stallholder's permit; or*
  - (b) *an assistant specified in a valid stallholder's permit.*

**6.5 Relevant considerations in determining application for permit**

- (1) *In determining an application for a permit for the purposes of this Division, the local government is to have regard to –*
  - (a) *any relevant policies of the local government;*
  - (b) *the desirability of the proposed activity;*
  - (c) *the location of the proposed activity;*
  - (d) *the principles set out in the Competition Principles Agreement; and*
  - (e) *such other matters as the local government may consider to be relevant in the circumstances of the case.*

**Budget Implications:**

Nil

**Communications Requirements:** (Policy No. CS 1.7)

Consultation with the commercial businesses was carried out within a 400 meter radius of the Goods Shed.

Flowers on Forrest, Sports F1rst and Cheeky Squirrell have submitted an objection to the sale of flowers, sports goods and giftware at the Goods Shed car park. Retro Respectation provided a response in support of the removal of condition (h) in its entirety. These responses are attached at Appendix 4.

**Strategic Community Plan/Corporate Business Plan Implications:**

Goal 3: Our Built Environment

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Outcome 3.1 Appropriate Land Use, Development and Conservation of Heritage;

*Strategy 3.1.1: Ensure appropriate Planning Controls for land use and development through the administration of the local planning scheme and strategies.*

Outcome 5.1: Good Governance and Leadership

*Action 5.1.5.5 Ensure formal land use agreements are in place for all third parties who operate from Council reserves in accordance with Council Policy.*

**Relevant Precedents:**

The Goods Shed Markets need to renew their permit annually to extend the market stalls outside of their lease boundary area under the *Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012*.

Condition (h) stating that '*Trading is not permitted within 400 metres of an established premise selling similar goods*' is a standard condition imposed on approvals issued under this Local Law.

The Goods Shed Markets have used the carpark in front of the building for several years, and the application was formalised in 2015 when the works began for Central Park with the rear carpark construction and realignment of ACROD parking bays. Previously 12 month permits issued under the Local Law were processed under delegation. The previous approval for the carpark adjacent to the Goods Shed Markets does not contain this condition.

There is no precedent for changing a condition of approval on a permit under this local law.

**Comment:**

Readvertising this approval has been completed and three objections were received. These objection relates to flowers, sports goods and giftware. It is recommended that a suitable compromise would be to rephrase condition (h) to read '*Trading of flowers sports goods and giftware are not permitted within the permit area. Note: these goods may be sold within the Goods Shed building*'. This ensures that these goods are not on display, detracting from the established businesses nearby.

**Alternative Recommendation:**

*That Council, pursuant to the provisions of the Local Government Act 1995, hereby resolves to amend the Stall Holder's Permit to the Collie Heritage & Men's Shed Group Inc. issued 19 July 2018 to conduct fortnightly Sunday Markets adjacent the Good Shed building on Reserve 47297 to remove condition (h) that 'trading is not permitted within 400 metres of an established premise selling similar goods'.*

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**13.2 Objection to the Refusal of an Application for Verge Treatment**

**(Basketball Hoop) at 55 Ogden Street**

<b>Reporting Department:</b>	Development Services
<b>Reporting Officer:</b>	Andrew Dover – Director Development Services
<b>Accountable Manager:</b>	Andrew Dover – Director Development Services
<b>Legislation</b>	Local Government Act 1995 Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012
<b>File Number:</b>	A1439
<b>Appendices:</b>	Yes – Appendix 5
<b>Voting Requirement</b>	Simple Majority

**Report Purpose:**

For Council to consider the objection to the refusal previously issued under delegation for a basketball hoop to be granted retrospective approval.

**Officer's Recommendation:**

*That Council dismiss the objection to the refusal of an Application for Verge Treatment (Basketball Hoop) at 55 Ogden Street, Collie for the following reason:*

- *The proposed Basketball Hoop is not a Permissible Verge Treatment under Section 2.8 of the Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012;*

**Background:**

The Shire received a number of complaints from an owner adjoining 55 Ogden Street, Collie in relation to the erection of a basketball hoop on the verge at this address (shown below).

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*Basketball Hoop at 55 Ogden Street, Collie*

An extract from one of the letters from the adjoining owner outlining their reasons to oppose the approval of the Basketball Hoop is below:

We object to any proposal to legitimise this construction for the following reasons.

**It is unsafe:** Ogden St. is a busy corridor for traffic particularly around shift change times. Children and teenagers chase balls becoming oblivious to the busy passing traffic. An incident becomes nearly inevitable.

**Trespass:** Children constantly accessing our property illegally to retrieve balls.

**Property Damage:** Our home is currently clad in asbestos making it vulnerable to balls. Our property will be accessed and occasionally damaged through the retrieval of wayward balls.

**Privacy:** Children, teenagers and adults entering our property to retrieve balls will be a invasion of our privacy.

**Noise:** We don't want to live next to a public basketball court, they are noisy. There are several courts in Amaroo school just around the corner.

**Example:** Setting this precedent allows others to erect structures on council properties for whatever reasons. This may lead to a boom in basketball, netball, hockey or other construction to follow this example.

*Extract of letter from adjoining owner*

In addition to the above, the adjoining owner has stated that this Basketball Hoop will impact their ability to sell their property in the future.

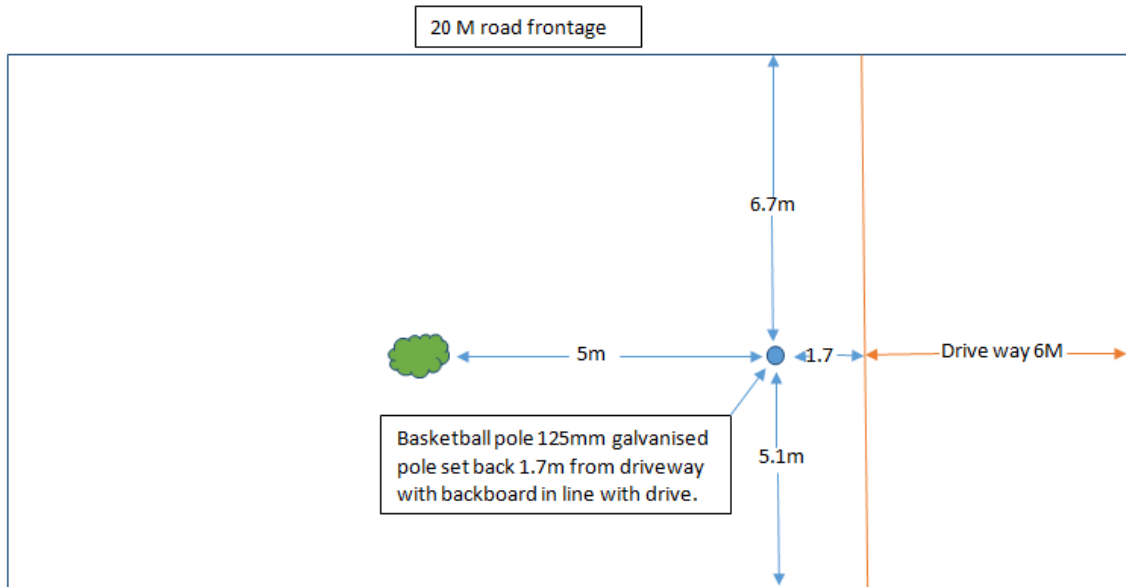
Responding to the complaints made, Shire officers carried out a site inspection and discussed the matter with both parties, resulting in an application being made for a Permissible Verge Treatment for the Basketball Hoop under the Section 2.8 of the *Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012* (the Local Law).



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The below Verge Plan was included as part of the application.



*Existing Basketball Hoop - Verge Plan*

Shire officers assessed the application and considered the following points:

- To 'play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare' is prohibited under the Local Law;
- A Basketball Hoop is not a Permissible Verge Treatment as outlined in Section 2.8 of the Local Law and therefore is prohibited under Section 2.9 of the Local Law 'A person shall not install or maintain a verge treatment which is not a permissible verge treatment';
- The adjoining owner opposes the approval of the Basketball Hoop; and
- An alternative is available to the owner at 55 Ogden Street as the Basketball Hoop may be relocated onto property without requiring any approvals.

Following this assessment, officers refused this application under delegation and advised the applicant of the review rights available under the Local Government Act 1995. In the first instance, the review process is to object to Council and if not satisfied with the outcome, to the State Administration Tribunal (SAT).

The owner of 55 Ogden Street (the objector) has now exercised the right of review by objecting to Council regarding the decision to refuse this application. The objection is attached at Appendix 5.

**Statutory and Policy Implications:**

***Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012***

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**2.1 General prohibitions**

A person shall not—

- (a) plant any plant (except ground coverage to a maximum height of 0.1m) within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or veranda of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

**2.6 Interpretation**

In this Division, unless the context otherwise requires—

**acceptable material** means any of the following materials—

- (1) Gravel;
- (2) Blue metal;
- (3) Brick Paving

**2.8 Permissible verge treatments**

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
  - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
  - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

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**2.9 Only permissible verge treatments to be installed**

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

**PART 8—OBJECTIONS AND APPEALS 8.1**

**Application of Part 9 Division 1 of Act**

When the local government makes a decision—

(a) under clause 7.2(1); or

(b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

**Local Government Act 1995**

**9.6 Dealing with objection**

(1) The objection is to be dealt with by the council of the local government or by a committee authorised by the council to deal with it.

(2) A committee cannot deal with an objection against a decision that it made or a decision that the council made.

(3) The person who made the objection is to be given a reasonable opportunity to make submissions on how to dispose of the objection.

(4) The objection may be disposed of by —

(a) dismissing the objection; or

(b) varying the decision objected to; or

(c) revoking the decision objected to, with or without —

(i) substituting for it another decision; or

(ii) referring the matter, with or without directions, for another decision by a committee or person whose function it is to make such a decision.

(5) The local government is to ensure that the person who made the objection is given notice in writing of how it has been decided to dispose of the objection and the reasons for disposing of it in that way.

**9.7 Review**

(1) An affected person may apply to the State Administrative Tribunal for a review of a decision if the person —

(a) has not lodged an objection to the decision; or

(b) has lodged an objection but, at the expiration of 35 days after it was lodged, has not been given notice in writing of how it has been decided to dispose of the objection.

(2) If the person lodged an objection and has been given notice in writing of how it has been decided to dispose of the objection, the person may apply to the State Administrative Tribunal for a review of the decision on the objection.

\*Relevant sections of legislation underlined by staff

**Budget Implications:**

Nil

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**Communications Requirements:** (Policy No. CS 1.7)

Consultation was held with the objector and the adjacent owner separately both before and after the initial application was refused.

**Strategic Plan Implications:**

**Goal 1 Our Community**

A vibrant, supportive and safe community Infrastructure, amenities and development that supports the needs and aspirations of the community.

1.5 A safe community	1.5.1 Work with the local Police Department and other relevant agencies to provide a safer community
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**Goal 4 Our Built Environment**

Infrastructure, amenities and development that supports the needs and aspirations of the community

4.2 Attractive townscapes and streetscapes	4.2.2 Manage and maintain the Council's parks, gardens, verges and open space
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**Goal 5 Our Business**

Good governance through an effective, efficient and sustainable organisation

5.1 Good governance and leadership	5.1.5 Administer local laws and ensure compliance with statutory obligations
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**Relevant Precedents:**

There is one other Basketball Hoop on the verge within Collie at 19 Shannon Way, Collie. This Hoop is in a state of disrepair and currently is unusable. It was built prior to the Local Law coming into force and therefore is considered permissible under Section 2.12 of the Local Law.

**2.12 Transitional provision**

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions, is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

**Comment:**

Staff have previously assessed the application and have issued a refusal. The reasons for refusal are outlined in the Background section. Council now have the opportunity consider the matter and to:

- dismiss the objection; or
- vary the decision objected to; or
- revoke the decision objected to, with or without —

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- substituting for it another decision; or
- referring the matter, with or without directions, for another decision by a committee or person whose function it is to make such a decision.

As the proposal is contrary to the Local Law, there is no ability for Council to grant an approval for the Basketball Hoop.

**Alternative Recommendation:**

*That Council revoke the refusal of an Application for Verge Treatment (Basketball Hoop) at 55 Ogden Street, Collie.*



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- |                          |   |
|--------------------------|---|
|                          | Whiteman WA 6076                          |
| 2) Martins Environmental | 70 Oldham Road<br>Mornington WA 6221      |
| 3) Weed Pest & Vermin    | 42 Atkinson Street<br>Collie WA 6255      |
| 4) SS Roads              | 69 The Boulevard<br>Australind WA         |
| 5) Chappell landscaping  | Lot 2786 Collins Street<br>Collie WA 6225 |
| 6) Spray Mow Services    | Unit 2, 27 Barlee St<br>Busselton WA 6280 |

**Statutory and Policy Implications:**

Council is obliged to call tenders in accordance with the requirements of the Tender Regulations of the Local Government Act 1995 and Local Government (Function & General) Regulations 1996 where the value of the tender exceeds \$150,000 unless the WALGA preferred option is selected. Furthermore, Council has adopted its own policy CS2.7 Tenders, Quotations & Price Preference Policy to tender works valued at more than \$100,000.

**Budget Implications:**

The Tender is proposed to be awarded using rates only. Work will be scheduled within existing Council budgets for weed control, verge maintenance and parks maintenance.

**Communications Requirements:** (Policy No. CS 1.7)

Staff will notify the tenderers, as per the recommendation which is adopted by Council in accordance with Policy CS 1.7; Section 3.0.

All Contractors will be required to erect suitable signage when spraying to notify the public that chemicals are being used.

**Strategic Plan Implications:**

The item has the following links with the Strategic Community Plan 2017-2027.

OUTCOME 3.1 – A protected manage bushland

Strategy 3.1.1: Sustainably manage bushland

OUTCOME 3.2 – Water resources sustainability

Strategy 3.2.2: Continue the revitalisation of the Collie River environment in the town.

**Relevant Precedents:**

Nil

**Comment:**

The tender document outlines that the contract may be awarded to a sole or panel of Tenderer(s) whose tenders are assessed as offering the best value for money outcome for the Shire of Collie. Tenders are evaluated using a point scoring system with scores being awarded for each selection criteria. Each criterion is weighted to reflect its relative importance. Weighted scores are then summed to yield the total score, the higher the score indicates a more favourable pricing structure for Council.

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The Tenders were evaluated by a panel consisting of two (2) directors being the Director of Technical Services and Director of Development Services.

The criteria and results on which the tender was assessed are as follows:

Criteria	Max Score	Natural Areas	Martins Env	Weed, Pest & Vermin	SS Roads	Chappell Landscaping	Spray Mow Services
Price	70%	33	63	64	70	49	62
Experience	20%	18	18	16	14	12	14
Resources	10%	9	9	7	8	6	7
<b>Total Score</b>	<b>100%</b>	<b>60%</b>	<b>90%</b>	<b>87%</b>	<b>92%</b>	<b>67%</b>	<b>83%</b>
RANK		6	3	2	1	5	4

A Local Price preference of 10% was applied to the rates supplied by Collie based businesses, Chappell Landscaping and Weed Pest & Vermin prior to scoring their submission. In addition, SS Roads have also indicated that they will be sub-contracting some work to East End Contractors (Collie based) if they are successful, however they have not had a Local Price preference applied as the principal contractor (SS Roads) are based in Australind.

All companies that submitted tenders have the capability, expertise and experience to carry out most requirements of the contract, however there is some variation in the experience and resources available to each of them. Staff are confident that by awarding the contract to a panel of the top three (3) ranked tenderers, this will give Council the confidence that all herbicide spraying requirements can be met.



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15. **MOTIONS FOR WHICH PRIOR NOTICE HAS BEEN GIVEN**  
Elected Members have the ability to submit notices of motion between meetings and up to a time prescribed in standing orders before a meeting.
16. **QUESTIONS FROM MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN**  
Members have the ability to submit notices of questions between meetings and up to a time prescribed in standing orders before a meeting.
17. **URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER AND COUNCILLORS**
18. **ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS**
19. **STATUS REPORT ON COUNCIL RESOLUTIONS**  
Summary reports on the status of Council's resolutions are;
  - 'Closed Since Last Meeting' at Appendix 6
  - 'All Open' at Appendix 7
20. **CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC**
21. **CLOSE**