



Shire of
Collie

AGENDA

for the

ORDINARY MEETING OF COUNCIL

to be held on

Tuesday, 7 May 2019

**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

A connected community that is as rich
and diverse as its heritage and landscape.

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, 7 May 2019

in Council Chambers at 87 Throssell Street, Collie WA,



David Blurton
Chief Executive Officer

3 May 2019

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.

MEETING SCHEDULE

May 2019

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.

Tuesday 7 May 2019	Ordinary Meeting of Council 7.00pm in Council Chambers
Thursday 9 May 2019	Community Safety and Crime Prevention Committee 2.00pm in Library Undercroft Room
Thursday 9 May 2019	Economic Development Advisory Committee 4.00pm in Council Chambers
Thursday 30 May 2018	Weeds & Waterways Advisory Committee 9:00am in Council Chambers
Thursday 30 May 2019	Access and Inclusion Committee 12.15pm in Elected Members 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, 7 May 2019

Agenda for the Ordinary Meeting of the Collie Shire Council to be held in Council Chambers, 87 Throssell Street Collie, on Tuesday, 7 May 2019 commencing at 7:00pm.

1. OPENING/ATTENDANCE/APOLOGIES & LEAVE OF ABSENCE

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

The following questions were taken on notice:

EFT 25587 – Omega Rentals – Hire of Forklift. Why are we hiring a forklift when we have our own?

Response:

This payment was for the hire of the forklift before we received ours. They had under invoiced last year and this payment is to settle the account.

EFT25534 – Preston Power Equipment – Honda Mower. Why didn't we source a mower locally?

Response:

Shire staff sought a quote from a local supplier but they were unable to supply the Honda model required. Honda was specified due to the mowers ability to individually control blades and throttle in separate levers independent of each function. This is a safety feature required at Central Park when constantly emptying a catcher.

EFT25576 – East End Contractors - Inv. 1428 D6 Dozer. How many days work was this?

Response:

The work was for 2 days which includes crushing a large stockpile of wooden pallets and also preparing a pad in the rubble area to receive the pallets.

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There are a number of payments for Aboriginal Monitoring throughout the accounts. Can we please check the rates?

Response:

The rates paid are an industry standard similar to other Shires, the State Government and private industry and have been verified as appropriate by the Shire's Aboriginal Heritage Consultant engaged for the Minninup Pool Project.

4. DISCLOSURE OF FINANCIAL 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 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 MEETINGS OF COUNCIL MINUTES

Recommendation:

That Council confirms the Minutes of the Ordinary Meeting of Council held on 16 April 2019.

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

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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 Economic Development Advisory Committee

Recommendation:

That Council receives the minutes of the Economic Development Advisory Committee held on 11 April 2019.

10.2 Adopt the Recommendations of the Minutes of the Economic Development Advisory Committee

Recommendation:

That Council adopts en bloc the recommendations contained within the minutes of the Economic Development Advisory Committee held on 11 April 2019.

That Council;

10.2.1 write to universities to request a media/marketing student to assist with the marketing of Collie as an attractive place to live.

10.2.2 advertise for expressions of interest for the promotion of Collie as an attractive place to live.

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 18 April 2019.

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11. CEO REPORTS

11.1 Local Government Week and WA Local Government Association Annual General Meeting - 2019

Reporting Department:	Chief Executive Office
Reporting Officer:	Belinda Dent – CEO PA
Accountable Manager:	David Blurton – Chief Executive Officer
Legislation	
File Number:	GVR/001
Appendices:	Yes – Appendix 1
Voting Requirement	Simple Majority

Report Purpose:

Advise Council of the upcoming 2019 Local Government Week and WA Local Government Association Annual General Meeting.

Officer's Recommendation:

That Council:

- 1. Nominates the Shire President and Deputy Shire President as voting delegates at the 2019 WA Local Government Association Annual General Meeting;*
- 2. Authorises interested individual Elected Members to attend Local Government Week 2019, requiring registration forms to be completed by Councillors and submitted to the CEO PA prior to 4.00pm Tuesday 18 June 2019.*

Background:

The Annual General Meeting (AGM) for the WA Local Government Association (WALGA) will be held as part of the Annual Local Government Week on Wednesday, 7 August 2019 in Perth at the Perth Convention Exhibition Centre.

The Council is provided with the opportunity to submit any Agenda Items to be discussed at the AGM. Council is also provided with the opportunity to nominate up to two (2) voting delegates. Proxy voting is available if the nominated representative is unable to attend. Closing date for submission of motions is Tuesday, 4 June 2019.

Statutory and Policy Implications:

Policy 8.2 – Attendance at Conferences by elected members requires an authorising resolution of Council. Policy also details accommodation and reimbursement provisions.

Budget Implications:

Costs associated with attendance at the Annual General Meeting and Local Government Week will be incurred in accordance with Council Policy

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Communications Requirements: (Policy No. CS 1.7)

Nil

Strategic Community Plan/Corporate Business Plan Implications:

2.5 – Our Council Priorities

Good governance and an effective, efficient and sustainable organisation

- Good governance and leadership

Goal 5 – Our business

Good governance and effective, efficient and sustainable organisation

Outcome 5.1 – Good governance and leadership

Strategy 5.1.2 – Promote the role of Council by informing, resourcing, skilling and supporting Elected Members

Action 5.1.2.2 – Provide professional development for Councillors as required

Relevant Precedents:

The WALGA Annual General Meeting and Local Government week are held yearly.

Comment:

Local Government Week will be held at the Perth Convention Exhibition Centre commencing on Wednesday, 7 August 2019 and finishing on Friday, 9 August 2019. Local Government Week also offers Elected Member training opportunities. Details of the various Local Government Week sessions and training opportunities will be available late April/early May.

The WALGA AGM provides the opportunity for member Councils to submit written motions which will be included as part of the AGM proceedings. The final date by which notice of motions must be provided to WALGA is **Tuesday, 4 June 2019**. Each notice of motion provided by the Council must include research and the relevant background information to provide the members of WALGA sufficient information to make determination on the matter.

Any motions proposing alterations or amendments to the Association's Constitution must be received by **Friday, 10 May 2019** in order to satisfy the 60 day constitutional notice requirements.

In the event an individual Councillor has a matter they wish to be raised at WALGA, it must gain the support of the entire Council. As a consequence Councillors are invited to provide the CEO with any written notice of motion (including relevant background and research) which they would like Council to consider submitting to the WALGA AGM at this meeting of Full Council.

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12. CORPORATE SERVICES REPORTS

12.1 Adoption – Shire of Collie Cemeteries Local Law 2019

Reporting Department:	Corporate Services
Reporting Officer:	Allison Fergie – Director Corporate Services
Accountable Manager:	Allison Fergie – Director Corporate Services
Legislation	WA Local Government Act 1995, Cemeteries Act 1986
File Number:	LAW/001
Appendices:	Yes – Appendices 2 and 3
Voting Requirement	Absolute Majority

Report Purpose:

To present the submission received regarding the Council's proposed *Shire of Collie Cemeteries Local Law 2019* and for Council to formally adopt the new local law.

Officer's Recommendation:

That Council by ABSOLUTE MAJORITY adopts the Shire of Collie Cemeteries Local Law 2019 as presented in Appendix 2.

Background:

The Council resolved at its meeting on 12 February 2019 the following in relation to the above Local Law.

8058 – That Council by ABSOLUTE MAJORITY:

- 1. Advertises its intention to make a new local law to be known as the Shire of Collie Cemeteries Local Law 2019 as per Appendix 4 and forwards a copy of the proposed local law to the Department of Local Government for the Minister's consideration;*
- 2. Notes the purpose of the proposed Shire of Cemeteries Local Law 2019 is to provide for the orderly management of the Shire of Collie's public cemetery; and*
- 3. Notes the effect of the proposed Shire of Collie Cemeteries Local Law 2019 is to establish a management regime for the public cemetery, establish what is appropriate behaviour within the cemetery and create offences for inappropriate behaviour within the cemetery.*

The Council was required to advertise the proposed law for a period of no less than 6 weeks (as per section 3.12 (3) (a) (iii) of the Act) and consider any submissions received relating to the law at the close of this period.

As per legislative requirements, a copy of the proposed local law was advertised by local and state-wide public notice and a copy of the Law was provided to the Minister for Local Government, Sport and Cultural Industries for comment.

Statutory and Policy Implications:

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The process required to be used when adopting or amending a local law is set out in s3.12 –3.14 of the Local Government Act 1995 and is extracted below:

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
 - (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
 - (3) *The local government is to —*
 - (a) *give State wide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
 - (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
 - (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
- * Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
 - (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law;*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
 - (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

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(8) *In this section —*

“making” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

[Section 3.12 amended by No. 1 of 1998 s. 8; No. 64 of 1998 s. 6; No. 49 of 2004 s. 16(4) and 23.]

Budget Implications:

Costs for advertising of the new local law and for publication in the Government Gazette.

Communications Requirements: (Policy No. CS 1.7)

Local public notice and publication in the Government Gazette.

Minister’s Directions – pursuant to s. 3.12(7) of the LG Act 1995

Once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister’s *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within ten working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address –

Committee Clerk
Joint Standing Committee on Delegated Legislation
Legislative Council Committee Office
GPO Box A11
PERTH WA 6837

Strategic Community/Corporate Business Plan Implications:

Goal 5 Our Business – Good governance and an effective, efficient and sustainable organisation.

Outcome 5.1: Good governance and leadership

Strategy 5.1.5: Administer local laws and ensure compliance with statutory obligations.

Action 5.1.5.4: Review local laws for the Shire to ensure relevance and compliance with the Local Government Act.

Relevant Precedents:

Council has previously adopted local laws. At its meeting held 21 August 2018 Council resolved:

7906 – That Council by ABSOLUTE MAJORITY adopts the Shire of Collie Standing Orders Amendment Local Law 2018 as presented in Appendix 1.

Comment:

Only one submission was received from the Department of Local Government, Sport and Cultural Industries [Appendix 3] suggesting a number of changes and edits. These changes are presented in the table below, with the corresponding staff comment next to each issue raised.

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Comment from Department of Local Government, Sport and Cultural Industries	Response
<p>Clause 1.2 Application Clause 1.2 states that the local law applies to the district. However, the local law is only intended to apply to the specific cemeteries that the Shire regulates, rather than the whole district. It is suggested that the word “throughout” be replaced with “in each cemetery in”. It is also suggested that the following definition be included in clause 1.5: cemetery means any cemetery managed by the Board under the Act;</p>	<p>Changes made to draft local law as suggested.</p>
<p>Clause 5.4 Vehicle access and speed limitations It is suggested that in subclause (1) after “use of vehicles” add “within the cemetery”.</p>	<p>Change made to draft local law as suggested.</p>
<p>Clause 7.12 Placing of glass domes, vases, grave ornaments and memorials Clause 7.12(2) provides that memorials which do not comply with the local law may be removed. It is suggested that this subclause is unnecessary since the sections 31 and 32 of the <i>Cemeteries Act 1986</i> (the Act) already provides removal powers subject to the issuing of sufficient notice. It is suggested that the reference to monuments be deleted from subclause (2). Alternatively, if the subclause is retained, it is suggested that a new subclause be added as follows:</p> <p style="padding-left: 40px;">(3) Any removal of a monument under subclause (2) is subject to sections 31 and 32 of the Act.</p>	<p>Alternative of new subclause added to local law.</p>
<p>Clause 7.20 Cancellation of a monumental mason’s licence It is suggested that subclause (3) be deleted. The Delegated Legislation Committee has determined that section 19(2) of the <i>Cemeteries Act 1986</i> (the Act) provides a right of appeal, but only to funeral directors. The section does not provide any express right of appeal for a mason to appeal a licence cancellation.</p>	<p>Clause (3) deleted.</p>
<p>Clause 8.2 Guide dogs Clause 8.2 allows a person to bring a dog into the cemetery if they are a guide or hearing dog. However, it does not account for other kinds of assistance animals recognised by federal legislation. As a result, the local law would potentially prohibit assistance animals from being on the cemetery, including dogs that are trained to assist with other forms of disability. It is suggested that the Shire redraft the text of clause 8.2 so it uses the standard wording in the WALGA template:</p> <p style="padding-left: 40px;">“Clause 8.1 does not apply to a person accompanied by an ‘assistance animal’ as defined in section 9(2) of the Disability Discrimination Act 1992 (Cth).”</p> <p>If the correction is not made, it is likely that the Delegated Legislation Committee will recommend that the local law be disallowed or request amendments from the Shire.</p>	<p>Changes made to draft local law as suggested</p>
<p>Minor Edits A number of minor edits were also suggested – refer Appendix 3.</p>	<p>Changes made to draft local law as suggested.</p>
<p>Clause 7.13 Specification of monuments Technical services staff have advised that the overall height of monuments specified at 7.13(1)(c)(i) should not exceed 1100mm.</p>	<p>Change made as suggested.</p>

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Where indicated in the Response column, the local law now presented at Appendix 2 incorporates the recommended changes.

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12.2 Tender 01/2019 – Supply, Delivery and Installation of Electric Heat Pumps to the Collie Mineworkers Memorial Swimming Pool

Reporting Department:	Corporate Services
Reporting Officer:	Allison Fergie – Director Corporate Services
Accountable Manager:	Allison Fergie – Director Corporate Services
Legislation	Local Government Act 1995 – Section 3.57 Local Government Function (Function & General) Regulations 1996
File Number:	CMG/259
Appendices:	No
Voting Requirement	Simple Majority

Report Purpose:

For Council to award Tender 01/2019 – Supply, Delivery and Installation of Electric Heat Pumps to the Collie Mineworkers Memorial Swimming Pool.

Officer's Recommendation:

That Council;

- 1. Receive the tenders submitted by Heliocol Solar Pty Ltd, Horrobin Nominees Pty Ltd (Pool and Spa Mart), Jako Industries Pty Ltd, QIS Energy Conservation Systems Pty Ltd (QIS Solarwise), Trisley's Hydraulic Services Pty Ltd and Wetdeck Pools; and*
- 2. Award the contract to Wetdeck Pools for the supply, delivery and installation of electric heat pumps to the Collie Mineworkers Memorial Swimming Pool in the amount of \$176,250 Excl GST.*

Background

The Collie Mineworkers Memorial Swimming Pool (the Pool) was extensively refurbished with the exception of the heating system for the main pool.

The current heat pumps that service the main pool are approaching the end of their useful life. They were installed in 2006 and over the last two summers have required significant maintenance.

At the Council Meeting of 11 December 2018, Council made the following resolution:

8006 – That Council:

1. Receive the Indoor Heated Pool Needs Assessment and Feasibility Study;
2. Advertise the Indoor Heated Pool Needs Assessment and Feasibility Study for community and stakeholder comment, and report the results back to Council; and
3. Authorise staff to call for tenders for the replacement of the electric heat pumps at the existing pool in 2019 and report back to Council.

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The Indoor Heated Pool Needs Assessment and Feasibility Study considered heating options for both the main 50m pool and the leisure pool and the electric heat pump option was the preferred option. Given the high running and maintenance costs and limited remaining life of the existing pumps, it was recommended that these be replaced in 2019 using funds from the Swimming Pool Reserve. Additional electric heat pumps can be added in the future if Council should resolve to proceed with an indoor heated pool.

Tender 01/2019 – for the Supply, Delivery and Installation of Electric Heat Pumps to the Collie Mineworkers Memorial Swimming Pool was advertised in the Collie Mail, South West Times and the West Australian newspaper.

When the tenders closed on Friday 8 March 2019, submissions were received from six (6) companies:

- | | |
|---|---|
| 1) Heliocol Solar Pty Ltd | Unit4/103 Campbell Street
Belmont WA 6104 |
| 2) Horrobin Nominees Pty Ltd
(Pool and Spa Mart Bunbury) | PO Box 1032
Bunbury WA 6231 |
| 3) Jako Industries Pty Ltd | 12 Sabre Crescent
Jandakot WA 6164 |
| 4) QIS Energy Conservation Systems Pty Ltd
(QIS Solarwise) | 3/25 Eurora Street
Kingston QLD 4114 |
| 5) Trisley's Hydraulic Services Pty Ltd | Unit 3/23 Catherine Street
Bentley WA 6102 |
| 6) Wetdeck Pools | PO Box 6153
Waikiki WA 6169 |

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:

Council has established a Swimming Pool Reserve for the purpose of replacing the heat pumps at the Pool, contributing \$25,119 into the Reserve in the current financial year. The 2018/19 Closing Balance for the Reserve is \$163,550. A contribution of \$12,700 would be required in the coming financial year if Council accepts the Officer's Recommendation.

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Communications Requirements: (Policy No. CS 1.7)

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

Strategic Community Plan/Corporate Business Plan Implications:

Goal 1 Our Community A thriving, supportive and safe community

Outcome 1.2: Participation in sport, recreation and leisure opportunities.

Strategy 1.2.1: Provide and promote sport, recreation and leisure facilities and programs.

Action 1.2.1.2 Revitalise Collie Mineworkers Memorial Pool precinct

Relevant Precedents:

The heat pumps have not previously been replaced.

Comment:

The tender document outlines that the contract may be awarded to the company whose tender is 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.

The Tenders were evaluated by a panel consisting of the Director of Corporate Services, the Chief Executive Officer and the Pool Managers.

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

Criteria	Max Score	Wetdeck	Trisley's	Heliocol	Jako	Pool & Spa Mart	QIS
Price	70%	63 \$176,250	61 \$187,289	70 \$141,884	21 \$385,690	28 \$347,814	12 \$429,292
Relevant Experience	10%	10	9	5	10	5	5
Skills & Experience of Key Personnel	10%	10	10	5	10	5	5
Demonstrated Understanding	10%	10	9	7	8	5	5
Total Score	100%	93%	89%	87%	49%	43%	27%
RANK	-	1	2	3	4	5	6

The price variation between the three companies ranked 1-3 compared to the three companies ranked 4-6 was considerable. There was also a significant spread of relevant experience, demonstrated understanding and skills and experience of key personnel.

The tenderer which demonstrated the best understanding of the project, relevant experience, skills and experience of key personnel value is Wetdeck Pools. This company was responsible for the refurbishment of the current 50m pool, the building of the leisure pool, and is now the recommended tenderer for the replacement of the heat pumps.

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The Rheem heat pumps recommended are engineered for Australian conditions and were used for international events such as the Commonwealth Games, Asian Games, Pacific Games and Pan Pacs. The titanium heat exchangers carry a 10 year warranty.

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12.3 Adoption of Sporting Bodies Fees 2018/19

Reporting Department:	Corporate Services
Reporting Officer:	Hasreen Mandry – Finance Manager
Accountable Manager:	Allison Fergie – Director Corporate Services
Legislation:	WA Local Government Act (1995)
File Number:	FIN/005
Appendices:	Yes – Appendix 4
Voting Requirements:	Absolute Majority

Report Purpose:

For the Council to adopt the sporting bodies fees for the 2018/19 financial year.

Officer's Recommendation:

That Council adopts by an ABSOLUTE MAJORITY sporting bodies fees for the financial year 2018/19 as per below:

- *Collie Junior Football Club – \$378 per annum*
- *Collie River Valley Little Athletics – \$378 per annum*
- *Collie Eagles Football Club – \$2,500 per annum*
- *Collie Fossils – \$445 per annum*
- *Collie Lawn Tennis – \$1,639 per annum*
- *Collie Harness Racing – \$893 per annum*
- *Collie Soccer Club – \$2,500 per annum*
- *Collie Cricket Association – \$2,500 per annum*
- *Collie Motor Cycle Club – \$860 per annum*
- *Collie Swimming Club – \$1,113 per annum (including lighting)*
- *Collie Underwater Hockey Club – \$1,113 per annum (including lighting)*

Background:

The proposed changes to the sporting bodies fees for 2018/19 financial year is to reassess the cost recovery to Council. At its meeting on 2 October 2018, Council requested a workshop to be held to address the issue. At the workshop on 10 April 2019, the detailed revenue and expenses supporting sporting activities across the Shire was presented.

At the Council meeting on 2 October 2018, Council resolved:

7945- That Council defer the adoption of sporting body fees until all cost and expenses supporting sporting activities and facilities across the Shire have been reviewed and the cost recovery model benchmark with all similar councils. The review to include a workshop with elected members and a full report to Council.

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A 3-year analysis has been done by staff which compared the cost to maintain each sporting facility against the fees levied by Council. The analysis showed that the average cost recovery for each Shire maintained sporting facility was 5% in 2015/16 and 6% respectively for 2016/17 and 2017/18. The average excludes the fees charged for:

- a) Motor Cycle Scramble Club: this area is leased by Council from the Department of Biodiversity, Conservation and Attractions (DBCA) and Council then sublease to the Motorcycle Club. The proposed fee payable by the club for 2018/19 represents the fee which Council pays to BDCA plus a \$93 administration fee.
- b) Collie Swimming Club and Collie Underwater Hockey Association: A fee review was completed in 2015 after the upgrade to the Mineworkers Memorial Pool. A fee increase of 7% or \$73 is recommended for 2018/19 for each club in line with an increase in utility costs.

Statutory and Policy Implications:

Section 6.16 to 6.19 of the WA Local Government Act (1995) governs the imposition of fees and charges.

Budget Implications:

A decrease of \$370 in the budgeted sporting bodies fees for 2018/19.

As required by section 6.17 of the Act, the following was taken into account in determining the amount of a fee or charge for a service;

- (a) the cost to the local government of providing the service or goods;
- (b) the importance of the service or goods to the community; and
- (c) the price at which the service or goods could be provided by an alternative provider.

Communications Requirements: (Policy No. CS 1.7)

Public notice will be issued after adoption on 7 May 2019. An explanatory letter will be provided to each club.

Strategic Community Plan/Corporate Business 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:

Council has previously adopted the sporting bodies fees at its meeting held on 9th May 2017. Council resolved as follows:

7411- That Council adopts by an ABSOLUTE MAJORITY, the attached schedule of fees and charges (Appendix 3) as part of the 2017/18 draft budget document with an amendment to copying charge from \$30 to \$3 and an increase to fees associated with trading places by 20%.

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Comment:

The 2018/19 sporting bodies fees as recommended is calculated based on 7% cost recovery (capped at \$2,500) on a 3-year Council cost average to maintain the respective sporting venue. The impact on the respective sporting bodies is as per below and the detailed analysis can be found in Appendix 3.

Staff consider that aligning all clubs to a fee based on 7% cost recovery with a \$2,500 cap is a fair and reasonable outcome. The Collie Rugby Club is moving its games to the Collie High School for the 2018/19 season; hence no fee is required to be levied for the 2018/19 financial year.

Clubs	2017/18 Fees	Proposed 2018/19 Fees	Difference
Collie Junior Football Club	\$320	\$378	\$58
Collie River Little Athletics	\$320	\$378	\$58
Collie Eagles Football Club	\$2,240	\$2,500	\$260
Collie Fossils	\$377	\$445	\$68
Collie Lawn Tennis	\$1,462	\$1,639	\$177
Collie Harness Racing Club	\$2,240	\$893	(\$1,347)
Collie Soccer Club	\$2,240	\$2,500	\$260
Collie Cricket Association	\$2,240	\$2,500	\$260
Motorcycle Scramble Course	\$850	\$860	\$10
Collie Swimming Club (including lighting)	\$1,040	\$1,113	\$73
Collie Underwater Hockey Association (including lighting)	\$1,040	\$1,113	\$73
Collie Rugby Club	\$320	\$0	(\$320)
	\$14,689	\$14,319	(\$370)

Due to the late imposition of these fees, invoices for 2019/20 ground maintenance fees will be delayed.

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12.4 Disposal of Property to Recover Rates- A440, A1604, A2050, A2131, A2713 & A5713

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

Report Purpose:

For the Council to consider issuing a Property Sale and Seizure Order for Land under CS3.16 Rating Policy.

Officer's Recommendation:

That Council

- 1) *Proceeds with issuing a Property Sale and Seizure Order for Land under CS3.16 Rating Policy to the following properties for the non-payment of rates:*
 - *A440 (34 Raymond Street, Collie)*
 - *A1604 (8 Coverley Drive, Collie)*
 - *A2050 (218 Prinsep Street, Collie)*
 - *A2131 (26 Mary Street, Collie)*
 - *A2713 (172 Steere Street, Collie)*
 - *A5713 (186 Atkinson Street, Collie)*

- 2) *That Council approves the use of the common seal on the application to Register a Discharge of Property (Seizure and Sale) Order for Lot 25 on Plan 7296 (45 Elouera Road, 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 goods, however the debt collection agency was unable to locate any goods of value. The only option left to Council is to issue a land warrant pending Council approval.

In pursuing a Property Sale and Seizure Order (PSSO) for the ratepayer's property on 218 Prinsep Street, Council's debt recovery agency has accidentally issued a

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PSSO on 45 Elouera Road, Collie. In order to discharge the PSSO the application requires the use of the common seal.

Statutory and Policy Implications:

Corporate Services Policy CS3.16 Rating Policy

8.4 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.

Standing Orders Local Law 2017

Part 20- Local Government's Common Seal

- (1) The CEO is to have charge of the common seal of the local government and is responsible for its safe custody and proper use.
- (2) The common seal may be used only on the authority of the Council, given either generally or specifically, and every document to which the seal is affixed must be signed by the President (unless otherwise authorised by the Council) and by the CEO or a senior employee authorised by the CEO.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) The CEO is to record in a register each date on which the common seal of the local government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed
- (5) The person who, without authority uses the common seal of the local government or a replica of it commits an offence.

Budget Implications:

Approximately \$95,454 in total remains outstanding in rates, charges, ESL and interest for A440, A1604, A2050, A2131, A2713 & A5713. 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;

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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 before on 23 October 2018.

Motion: 7969

That Council proceeds with action under s6.64 (1) 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)*
- *A518 (8 Gane Road, Collie)*
- *A1795 (9 Hodgson Terrace, Collie)*

Comment:

A Property Sale and Seizure Order has been issued to the properties for goods and returned as Nulla Bona (no goods). As per Council Policy CS3.16 Rating Policy subsection 8.4 the next step is to issue a land warrant. If Council wishes not to go ahead with the land warrant the following alternative recommendation will be required to withdraw the application.

Alternate Officer's Recommendation:

That Council approves the use of the common seal on the application to Register a Discharge of Property (Seizure and Sale) Order

- 1) *A1604 (8 Coverley Drive, Collie)*
- 2) *A2050 (218 Prinsep Street, Collie)*
- 3) *A2131 (26 Mary Street, Collie)*
- 4) *A2713 (172 Steere Street, Collie)*
- 5) *A5713 (186 Atkinson Street, Collie)*

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13. DEVELOPMENT SERVICES REPORTS

13.1 Application for Development Approval – Proposed Depot – Lot 51 Patstone Road Collie

Reporting Department:	Development Services
Reporting Officer:	Shire Planner - Robert Quinn
Accountable Manager:	Andrew Dover – Director Development Services
Legislation	Planning and Development Act 2005
File Number:	A3462
Appendices:	Yes - Appendices 5, 6, 7 and 8
Voting Requirement	Simple Majority

Report Purpose:

To seek a Council decision on a Development Application for a Transport Depot for lot 51 Patstone Road as directed by the State Administration Tribunal Direction Notice (DR 21/2019) dated 24 January 2019.

Officer's Recommendation:

That Council pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to advise Planning Solutions acting on behalf of David Churches, Smargassi Nominees Pty Ltd and Jenny Lee that Council refuse a Development Application dated 2 April 2019 at lot 51 Patstone Road Collie for the following reason:

- 1. That the proposed development is categorised as an "Industry – Light" land use and therefore is not permitted on land zoned Rural 1 under the Shire of Collie Local Planning Scheme No. 5.*
- 2. That the application does not provide the accompanying material as required by Section 63(1) of the Planning and Development (Local Planning Schemes) Regulations 2015– Schedule 2.*

Background

Lot 51 Patstone Road is 27.47 hectares in area, relatively flat and zoned Rural 1 under the Shire of Collie Local Planning Scheme No. 5. The north west and south west boundaries of the site are adjacent to State Forest and the north east boundary fronts Patstone Road. The south east lot boundary is adjacent to a lot zoned Rural 2.

The south east portion of the lot is within the Collie Coal Basin and advice has previously been received from the Department of Mines Industry, Regulation and Safety which advised that there were no constraints with placing buildings on lot 51.

The Shire received separate applications for a Transport Depot and Laydown Area on the 8 August 2013 for lot 51 Patstone Road. At that time the site was being

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monitored for non-compliance for unauthorised land use. On the 12 November 2013 Council refused the application for a Laydown Area and a Transport Depot. See Appendix 5 2013 Decision

Subsequently the Council's decision was reviewed by the State Administration Tribunal (SAT) and a conditional temporary planning approval was delivered for a Transport Depot on the 9 February 2015. See Appendix 6 SAT Approval Conditions The temporary approval was for a period of five (5) years which expires on the 9 February 2020.

It is Shire Officer's opinion that this conditional temporary planning approval has lapsed as the development never 'substantially commenced' within the 2 year substantial commencement period provided by clause 10.5.1(a) of the Shire of Collie Local Planning Scheme No. 5.

On the 30 October 2018 an application for a Depot was received by the Shire of Collie for a Depot. See Appendix 7 Application On the 22 November 2018 a request for further information was sent to the consultant acting on the proponent's behalf. On the 11 December 2018 a response was received from the consultant providing some of the information requested. On the 14 January 2019 a letter was sent to the consultant advising that the further information previously requested is still required.

Subsequently an application for review of the application was lodged with SAT based on a deemed refusal of the application as no decision had been made within 90 days of receipt of the application. On the 15 March 2019 a Direction was issued by SAT that a formal Council decision is to be made on the proposal. The matter is further listed for a two-day hearing with SAT on 11 June 2019.

As a result of the Direction a revised application was submitted on the 2 April 2019 for a Depot.

The application submitted on the 2 April 2019 will be the application considered in this report.

Statutory and Policy Implications:

PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS
2015 - SCHEDULE 2

63. Accompanying material

(1) An application for development approval must be accompanied by —

(a) a plan or plans in a form approved by the local government showing the following —

- (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;*
- (ii) the existing and proposed ground levels over the whole of the land the subject of the application;*

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- (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;*
 - (iv) the structures and environmental features that are proposed to be removed;*
 - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;*
 - (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;*
 - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;*
 - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;*
 - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;*
 - (x) the nature and extent of any open space and landscaping proposed for the site; and*
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and*
- (c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and*
- (d) any other plan or information that the local government reasonably requires.*

Local Planning Scheme No. 5

Objectives

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The subject lot is zoned Rural 1.

The objectives of the Rural 1 zone are:

To provide for the sustainable use of land for a range of rural pursuits which are compatible with the capability of the land and retain the rural character and amenity of the locality.

Development requirements

Clause 5.9.1 states:

5.9.1 Rural 1 zone

In the Rural 1 zone the following shall apply:

(a) In considering any rezoning, subdivision or development within the Rural 1 zone the local government will have regard to whether the proposal may prejudice current or potential agricultural activities and production within the zone.

(b) No more than one single dwelling per lot shall be erected unless the local government is satisfied that an additional dwelling is required to provide accommodation for a farm employee or tenants in common on a lot used as part of an economically active farming enterprise.

(c) When considering an application for a second dwelling the local government will also have regard to:

(i) whether the subject land has legal road frontage and the proposed means of access;

(ii) the size of the subject land and its capacity to operate as a farm; and

(iii) the landscape values of the area and any impact of the proposal upon these values.

The proposal has been assessed in accordance with the following clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015:

67. Matters to be considered by local government

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

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes)

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Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;

- (c) *any approved State planning policy;*
- (d) *any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) *any policy of the Commission;*
- (f) *any policy of the State;*
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) *any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

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- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

Shire of Collie Local Planning Scheme No. 5 Definitions

“industry” means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises on the same land used for:

- (a) *the storage of goods;*
- (b) *the work of administration or accounting;*
- (c) *the selling of goods by wholesale or retail; or*
- (d) *the provision of amenities for employees, incidental to any of those industrial operations*

“industry — light” means an industry:

- (a) *in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality; and*
- (b) *the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;*

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“industry—general” means an industry other than a cottage, extractive, light, mining, rural or service industry;

“transport depot” means any land or buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons, or for the transfer of goods or persons from one motor vehicle to another of such motor vehicle and includes ambulance depot, fire brigades depot and milk depot) and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers;

Draft Local Planning Strategy

Council has approved Draft Local Planning Strategy for advertising only. The Draft Local Planning Strategy has been publicly advertised, however, Council has not considered the submissions received. The Draft Local Planning Strategy will be considered by Council on 28 May 2019 for support to be submitted to the Western Australian Planning Commission for approval. Once endorsed by the Western Australian Planning Commission the new Local Planning Strategy will be published on the Shire’s website and a copy kept for the purpose of public inspection.

As this document has had significant input and consultation by Department of Planning Officers and approved by Council for advertising it considered to have serious planning merit and weight. This opinion is based on clause 67 (b) of the ***Error! Use the Home tab to apply Name of Act/Reg to the text that you want to appear here.*** where Council is seriously considering approving the Draft Local Planning Strategy.

Draft Local Planning Scheme

The Draft Local Planning Scheme has been informally reviewed by the Department of Planning. This is an iterative process and once completed the Draft Local Planning Scheme will be presented to Council for request to consent to advertise. It is considered the Draft Local Planning Scheme is in its early stages of approval and has no planning weight at this stage as this document has not progressed to a stage where Council is seriously considering approval.

In summary, the Draft Local Planning Strategy is far more advanced in the approval process than the Local Planning Scheme. In regard to planning merit and weight, it is considered that the Draft Local Planning Strategy and can be considered in the assessment of this proposal.

Budget Implications:

Nil

Communications Requirements: (Policy No. CS 1.7)

1. *Providing regular and consistent communication on Council’s projects and activities to all stakeholders*
2. *Creating a positive and professional image for the Shire of Collie through open, transparent communication and increased awareness of Council’s projects and activities*
3. *Fostering meaningful community consultation processes in Council’s activities.*

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The proposal was advertised in the Collie Mail seeking public comment on the 11 and 18 March with submissions closing on the 23 April 2019.

Letters seeking comment were sent to adjoining landholders in the locality and the Department of Biodiversity Conservation and Attractions were also requested to make comment on the proposal.

Seven submissions were received as a result of the public consultation. Two were in support of the application. These submissions have been considered and are contained with Schedule of Submissions. See Appendix 8 Schedule of Submissions

Strategic Community Plan/Corporate Business Plan Implications:

Goal 3: Our Built Environment

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.

Relevant Precedents:

Council previously refused an application for a Transport Depot and Laydown Area on this site at its meeting on 12 November 2013. The current proposal is similar to the past proposal Council refused.

There is a significant change in the planning framework since the last proposal was refused being the drafting of the Local Planning Strategy. It needs to be considered if this change affects the application assessment.

Comment:

Before the content of the Development Application is assessed there a number of preliminary tests that are required to be satisfied. It is pointless assessing the following, but not limited to, issues of the proposal such as;

- Bushfire risk;
- Bushfire management;
- Coal Basin Issues;
- Traffic generation;
- Impact on rural amenity;
- Noise Generation;
- Environmental Issues;
- Drainage;
- Landscaping;
- Natural watercourses;
- Buffers to noise sensitive premises, and
- Visual amenity.

if the Development Application fails to meet the preliminary tests.

These preliminary requirements are tested in all applications. If the Development Application does not pass these basic requirements they are not fully assessed.

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The preliminary steps to be undertaken in the assessment process for this application:

1. Is a Development Application required?
2. Categorisation of proposed land use.
3. Can categorised land use occur in zone?
4. Impact of Draft Local Planning Scheme and Draft Local Planning Strategy on zoning.

Further to these preliminary requirements it is considered sound planning practice to advertise this Development Application to provide public information and seek public comment.

Is a Development Application required?

The proposed development is considered to require a Development Application as it is not an exempt development under the Shire of Collie Local Planning Scheme No. 5.

Categorisation of proposed land use.

The proposed development has been described as a 'depot' by the applicant's planning consultant who also submits it is appropriately classified as a 'transport depot' under Local Planning Scheme No. 5. ". For the purposes of determining the application it is necessary to consider whether the proposed development is appropriately classified as a Transport Depot or should be classified by reference to another use class under LPS5. A proponent may categorise a land use for the purposes of a Development Application, however, this categorisation requires separate consideration by the Shire.

A Transport Depot (defined above) that meets the definition requirements can be considered in a Rural 1 zone. If a proposed use does not fit into the definition it may not be able to considered in the Rural 1 Zone.

Further to this, the proposal states:

"It is proposed to develop the subject site with a depot for the parking and maintenance of commercial vehicles and the storage of articles."

Clause 4.4 of Local Planning Scheme No. 5 below deals with the process for assessing and categorising unlisted land uses

4.4. Interpretation of the Zoning Table

4.4.1. *Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*

4.4.2. *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category, the local government may:*

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- (a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or*
- (c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

Clause 4.4 requires an analysis and assessment of the proposed land use to determine if it can be “..... *reasonably be determined as falling within the type, class or genus of activity of any other use category.....*”.

The proposed land use contains the components/activities:

- Workshop 1 steel shed with office, bathroom and lunch room
- Workshop 2 dome shelter open ended canvas and steel dome shelter
- Dome shelter mounted on shipping containers
- Single level accommodation block with two bedrooms, living area and amenities
- Hardstand roads and gravel bands
- Toilet block
- Storage of shipping containers and other materials
- Office building
- Parking for the maintenance of commercial vehicles and storage of articles

The proposed land use occupies approximately 50% of the site area and the remainder of the area is proposed to remain for rural activities such as pasture and grazing.

The proposal is silent on how the land will be used in regard to storage of materials as there is no detail on how the sheds/workshops will be used as there is approximately 3,308 m² of workshop floor space. This amount of workshop floor space is considered a large area for a transport depot/depot.

In the proposal, the land use is categorised as a “Transport Depot”. The issue then remains are the proposed activities/land use able to be classified as a “Transport Depot”. If this proposal is a Transport Depot what is being transported stored and then transported off-site. Further, how long are the transported materials being stored on-site before they are transported off-site. The previous SAT approval imposed a condition placing a three month time limit on materials being transferred through the site. However, this is not specified by the “transport depot” definition itself.

Further to this, the proposal states:

“It is proposed to develop the subject site with a depot for the parking and maintenance of commercial vehicles and the storage of articles.”

In regard to this above statement the ‘Storage’ of articles is an ‘X’ use in Rural 1 and cannot be considered by Council. An ‘X’ use means a use that is not permitted by the

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Shire of Collie Local Planning Scheme No. 5. Simply put, an 'X' use cannot be considered for Council for approval as it is not permitted. It then follows that the sheds proposed in the Development Application cannot be primarily used for Storage on Rural 1 zoned land.

In regard to storage the 2015 SAT decision clause 28 states:

*28. The suspicions of the respondent about the applicant's motives, and his or his associates' 'true' business activities, cannot be allowed to colour an objective analysis of the proposal. It must not be assumed, at least in the ordinary case, that an applicant is about to break the law in terms of any approval granted and, in this regard, if cause for suspicion arose on the respondent's part, the enforcement obligations imposed upon the Shire, particularly as to the monitoring of any alleged **storage of excessive or superfluous industrial material**, [emphasis added] would appear to be not unduly onerous, as visual inspections over time (from public land) would confirm whether there were any problems in this regard. Likewise, the shipping containers may presumably be opened and inspected at random, at least for good cause.*

A site inspection from public land on the 11 April 2014 revealed that there is a significant amount of “*storage of excessive or superfluous industrial material*” stored on-site. However, this is a separate enforcement issue.

An objective analysis of the current proposal tends to indicate the proposed land use leans more towards either “Industry-Light” or “Industry-General” land use. Both of these terms are defined above.

One of the factors which leads to this conclusion is the large area of workshops proposed. It is considered 3,308 m² of workshop floor space tends to indicate that the proposal does not reasonably fall into the Transport Depot category. It is acknowledged that some maintenance and management of vehicles is allowed in a Transport Depot land use.

It appears that the predominant land use of this proposal is workshops, and long term storage of second hand industrial machinery with transport depot being minor and incidental to the proposal.

Based on this assessment it is argued that the proposed application for a Transport Depot should be categorised as an Industry-Light. Based on this assessment the application cannot be considered in a Rural 1 zone and, therefore, refusal of the application is recommended.

Impact of Draft Local Planning Scheme and Draft Local Planning Strategy on zoning.
The Draft Local Planning Scheme is not considered to have any planning weight and merit due to the document being in its early stages of the approval process. Therefore, this document has no impact on the application.

In regard to the Draft Local Planning Strategy, this document is considered to have significant planning weight and merit as it in the final stages of adoption and approval.

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It then needs to be determined if the Draft Local Planning Strategy influences the current proposal.

Lot 51 Patstone Road is identified in the Draft Local Planning Strategy as Industrial 2 (IND 2). The Draft Local Planning Strategy does not propose Lot 51 to be rezoned to an industrial zoning. The Draft Local Planning Strategy provides for this area to be zoned Industrial Development in the future which requires Structure Planning over the area. There are a range of planning issues for this area which need to be addressed through the Structure Planning process. The planning issues which would be addressed, but not limited to, in the Structure Planning process are:

- Bushfire risk
- Land use
- Subdivision layout
- Road layout/connections
- Bushfire management
- Coal Basin Issues
- Traffic generation
- Impact on rural amenity
- Noise Generation
- Environmental Issues
- Drainage
- Strategic planning implications
- State Planning Policies
- Landscaping
- Natural watercourses
- Buffers to noise sensitive premises
- Any other planning issues

A rezoning would occur as a result of this Structure Planning process to amend the Shire of Collie Local Planning Scheme No. 5 to change the Rural 1 zone to an Industrial type zoning which would allow an Industry – Light land use to be considered by Council for lot 51 Patstone Road.

In summary, although the Draft Local Planning Strategy indicates this area should become an Industrial type zoning, it requires Structure Planning and a Shire of Collie Local Planning Scheme No. 5 amendment before it occurs. Therefore, the Draft Local Planning Strategy has no material impact on the permissibility of a Transport Depot or Industry-Light on lot 51 Patstone Road as the Draft Local Planning Strategy is not proposing a rezoning from Rural 1 to Light or General Industry. Rather it indicates that the Shire supports a rezoning and Structure Planning is required for this lot.

Advertising of application to seek comment.

The application has been advertised in the Collie Mail on the 11 and 18 April seeking comment. Letters were sent to landholders in the locality seeking comment due to the nature of the application. As this application is in the direction of the SAT, it is considered sound planning practice to seek public comment.

Due to the categorisation of the proposal as Industry-Light, the fact that this use is prohibited within this zone overrides the public comment submitted. However these

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comments are still relevant to be considered, particularly during the SAT process. These comments are included in the Appendices.

Summary

The content of the Development Application has not been fully addressed as it is contended that the proposed land use cannot be considered by Council on lot 51 Patstone Road as the proposed use has been categorised as an Industry-Light land use. Thereby, making this proposal an "X" use under the Shire of Collie Local Planning Scheme No. 5 which is not permitted. As an Industry-Light land use that is not a permitted land use under the Shire of Collie Local Planning Scheme No. 5 in land zoned Rural 1 the proposal cannot be considered by Council for approval.

Subsequently, it is the officer's recommendation that the Development Application for a Depot/Transport Depot dated 2 April 2019 for lot 51 Patstone Road be recommended for refusal as Council is unable to approve the proposed land use on land zoned Rural 1 under the Shire of Collie Local Planning Scheme No. 5.

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14. **TECHNICAL SERVICES REPORTS**

Nil

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 BY 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 OR BY DECISION**

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 9
- 'All Open' at Appendix 10

20. **CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC**

21. **CLOSE**