



Shire of
Collie

AGENDA

for the

ORDINARY MEETING OF COUNCIL

to be held on

Tuesday, 11 April 2023



Our Vision

Collie - *A progressive community, rich in opportunities and as diverse as its heritage and landscape.*

Our Values

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

Integrity

Transparency

Accountability

Collaboration

Respect

Our Commitment to Community

We will lead the delivery of our vision

We will support local business wherever possible

We will consult and engage with our community on issues that affect them

We will encourage, welcome and value feedback

We will encourage, support and advocate for our community

NOTICE OF MEETING

Please be advised that the



Ordinary Meeting of Council

commencing at **7:00pm**

will be held on

Tuesday, 11 April 2023

in Council Chambers at 87 Throssell Street, Collie WA



Stuart Devenish
Chief Executive Officer

6 April 2023

**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.

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

April 2023

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 11 April 2023

Ordinary Meeting of Council

7.00pm in Council Chambers

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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Agenda for the Ordinary Meeting of the Collie Shire Council to be held in Council Chambers, 87 Throssell Street Collie, on Tuesday, 11 April 2023 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 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 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.

5.1 Deputation – Stephen Michael Foundation

A deputation will be made by Stephen Michael and Paul Mugambwa, CEO – Stephen Michael Foundation.

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**

Officer's Recommendation:

That Council confirms the Minutes of the Ordinary Meeting of Council held on 14 March 2023.

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 Minutes of the Audit Committee**

Officer's Recommendation:

That Council receives the Minutes of the Audit Committee Meeting held on 30 March 2023.

10.2 **Receipt of Minutes of the Tourism & Marketing Advisory Committee**

Officer's Recommendation:

That Council receives the Minutes of the Tourism & Marketing Advisory Committee Meeting held on 30 March 2023.

11. CEO REPORTS

11.1 Corporate Business Plan – Quarterly Progress Report	
Reporting Department:	Chief Executive Office
Reporting Officer:	Stuart Devenish – Chief executive Officer
Accountable Manager:	Stuart Devenish – Chief Executive Officer
Legislation:	<i>Local Government Act 1995</i>
File Number:	GOV/001
Appendices:	Appendix 11.1.A – Corporate Business Plan Quarterly Progress Report – January to March 2023
Voting Requirement:	Simple Majority

Report Purpose

To receive the quarterly report on progress of actions set out in the Corporate Business Plan 2022/23 – 2026/27.

Officer's Recommendation

That Council resolve to receive the quarterly progress report on actions to give effect to the Strategic Priorities of the Corporate Business Plan 2022/23 – 2026/27 as contained at Appendix 11.1.A.

Background:

At its meeting on 14 March 2023, Council resolved to adopt the Corporate Business Plan 2022/23 – 2026/27. The Plan sets out 56 actions that serve to give effect to the 28 strategic priorities. The strategic priorities are those set out in the adopted Strategic Community Plan, and address the themes of:

- Our Community
- Our Economy
- Our Built Environment
- Our Natural Environment
- Our Organisation

A quarterly progress report is an effective means to update Council and the community on progress against agreed priority actions.

Statutory and Policy Implications:

Corporate Business Plans are prepared and adopted under the terms of the *Local Government (Administration) Regulations 1996*.

Budget Implications:

Resourcing to deliver on the terms of the Corporate Business Plan are provided for in annual budget allocations.

Communications Requirements: (Policy No. CS 1.7)

The Strategic Community Plan was subject to communications through the community engagement process. This report will be published on the Shire website.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	5	Our Business
Outcome:	5.1	Good governance and leadership

Relevant Precedents:

The Strategic Community Plan and Corporate Business Plan are adopted in accordance with the terms of the Act and Regulations. The report on progress against these plans is scheduled to occur quarterly.

Comment:

The progress report appended to this report identifies the status of each of the 56 actions, along with a commentary on the progress. It is noted that 66% of items are on track or complete and 30% are pending (either scheduled for a subsequent year, or pending outcome of another action). Two items are behind target. These relate to the recruitment challenges associated with tourism and marketing resources. Importantly, there are no actions identified as critical (major issues preventing achievement), or deferred/not proceeding.

The quarterly progress report is recommended for noting.

12. CORPORATE SERVICES REPORTS

12.1 Accounts Paid – March 2023	
Reporting Department:	Corporate Services
Reporting Officer:	Hasreen Mandry – Finance Manager
Accountable Manager:	Nicole Wasmann – Director Corporate Services
Legislation:	<i>Local Government Act 1995 & Financial Management Regulations 1996</i>
File Number:	FIN/024
Appendices:	Appendix 12.1.A – Accounts Paid – March 2023
Voting Requirement:	Simple Majority

Report Purpose

To present the accounts paid during the month of March 2023.

Officer's Recommendation

That Council accepts the Accounts as presented in Appendix 12.1.A being vouchers 41907 - 41919 totalling \$20,390.52 and direct payments totalling \$1,335,730.42 authorised and paid in March 2023.

Background:

In accordance with Delegation 14 adopted by Council on 9 August 2022, the Chief Executive Officer is authorised to incur expenditure in accordance with the Annual Budget provisions and limited over-expenditure subject to subsequent budget amendment. In doing so, section 13 of the *Financial Management Regulations 1996* is to be adhered to with a list of accounts for approval to be presented to the Council each month.

Month	2022/23		
	Cheques	Electronic Transfer	Total Payment
July	3,583.29	771,047.53	774,630.82
August	1,860.69	1,070,192.80	1,072,053.49
September	808.37	1,127,453.91	1,128,262.28
October	2,111.39	724,735.09	726,846.48
November	1,166.65	982,186.60	983,353.25
December	1,381.68	1,326,276.04	1,327,657.72
January	2,534.78	898,267.52	900,802.30
February	273.30	1,124,641.19	1,124,914.89
March	20,390.52	1,335,730.42	1,356,120.94

Statutory and Policy Implications:

WA Local Government Act 1995

Financial Management Regulations 1996

Council Policy CS3.7 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 shall be presented to Council within two months. 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:

N/A

Comment:

For a detailed listing of payments see Appendix 12.1.A.

Please raise any queries prior the meeting to enable questions to be investigated and a response prepared.

12.2 Financial Management Report – February 2023	
Reporting Department:	Corporate Services
Reporting Officer:	Hasreen Mandry – Finance Manager
Accountable Manager:	Nicole Wasmann – Director Corporate Services
Legislation:	<i>Local Government Act 1995 & Financial Management Regulations 1996</i>
File Number:	FIN/024
Appendices:	Appendix 12.2.A – Financial Report – February 2023
Voting Requirement	Simple Majority

Report Purpose

To provide a summary of the financial position for the Shire of Collie for the month ending February 2023.

Officer's Recommendation

That Council resolve to accept the Financial Management Report for February 2023 as presented in Appendix 12.2.A.

Background:

In accordance with Council policy and the provisions of the *Local Government Act 1995*, the Financial Report and budget amendments required for the end of the period is presented to Council for information. Refer to Appendix 12.2.A.

Statutory and Policy Implications:

Section 34 (1) (a) of the *Local Government (Financial Management) Regulations 1996* states that a Local Government is to prepare monthly statement of financial activity including annual budget estimates; budget estimates to the end of the month to which the statement relates; actual amounts of expenditure, revenue and income to the end of the month to which the statement relates, material variances between monthly budget and actual figures, and net current assets on a monthly basis.

In accordance with section 34(5) of the *Local Government (Financial Management) Regulations 1996* each year a local government is to adopt a percentage or value to be used in statements of financial activity for reporting material variances. In this case, the Shire of Collie has adopted the material variance of 10% or \$10,000, whichever is greater, for reporting variations to the 2022/23 Budget in the monthly statement of financial activity reported to Council.

In accordance with section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure, not included in the annual budget for an additional purpose unless the expenditure is (b) authorised in advance by absolute majority.

Budget Implications:

Nil

Communications Requirements: (Policy No. CS1.7)

Nil

Strategic Community Plan/Corporate Business Plan Implications:

Nil

Relevant Precedents:

N/A

Comment:

The financial statements provided in Appendix 12.2.A reports on the following information for the reporting period:

- Rate Setting Statement by Nature and Type
- Material Variances
- Statement of Financial Positions
- Cash and Investments
- Receivables & Payables
- Capital Projects
- Other Projects
- Budget Amendments

Commentary for the material variances identified is included in Appendix 12.2.A.

12.3 Budget Review - 2022/23	
Reporting Department:	Corporate Services
Reporting Officer:	Hasreen Mandry – Finance Manager
Accountable Manager:	Nicole Wasmann – Director Corporate Services
Legislation:	<i>Local Government Act 1995</i>
File Number:	FIN/047
Appendices:	Appendix 12.3.A – Budget Review 2022/23
Voting Requirement	Absolute Majority

Report Purpose

To consider the Shire’s financial position as at 31 March 2023 and performance for the period 1 July 2022 to 31 March 2023 in relation to the adopted budget and projections estimated for the remainder of the financial year.

Officer’s Recommendations

- 1) *That Council adopts by absolute majority the budget review for the period ending 31 March 2023 included in Appendix 12.3A.*
- 2) *That Council adopts by absolute majority the following budget amendments to the 2022/23 adopted annual budget:*

<i>Operating revenue</i>	<i>Operating grants</i>	<i>Increase provision by</i>	<i>\$520,563</i>
<i>Operating expenditure</i>	<i>Materials and contracts</i>	<i>Increase provision by</i>	<i>\$495,656</i>
<i>Operating expenditure</i>	<i>Insurance expenses</i>	<i>Increase provision by</i>	<i>\$15,948</i>
<i>Capital revenue</i>	<i>Capital grants</i>	<i>Increase provision by</i>	<i>\$40,392</i>
<i>Capital revenue</i>	<i>Proceeds disposal assets</i>	<i>Increase provision by</i>	<i>\$15,000</i>
<i>Capital expenditure</i>	<i>Land & buildings</i>	<i>Increase provision by</i>	<i>\$22,338</i>
<i>Capital expenditure</i>	<i>Infrastructure</i>	<i>Increase provision by</i>	<i>\$256,745</i>
<i>Capital expenditure</i>	<i>Property plant & equip</i>	<i>Increase provision by</i>	<i>\$99,000</i>
	<i>Surplus carried forward</i>	<i>Increase provision by</i>	<i>\$495,670</i>
	<i>Transfer from Plant Reserve</i>	<i>Increase provision by</i>	<i>\$84,000</i>
- 3) *That Council supports the use of the funds budgeted for the Heritage Upgrade Scheme for the preparation of a heritage conservation plan for the Swinging Bridge.*

Background:

In accordance with Regulation 33A of the *Local Government (Financial Management) Regulations 1996*, a local government is to conduct a review of the annual budget between 1 January and 31 March each year.

The budget review has been prepared to include information required by the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards. The report for the period 1 July 2022 to 31 March 2023 shown in the attachment has been prepared incorporating year to date budget variations and forecasts to 30 June 2023 and is presented for council’s consideration.

A review of the status of various projects and programs was undertaken to ensure any anticipated variances were captured within the review document where possible.

The materiality variance levels which have been reported for the budget review are the same levels as monthly reporting, namely variance of 10% or \$10,000, whichever is greater.

The review report includes at Note 2 a summary of predicted variance by nature and type contained within the rate setting statement, including whether the variances are considered to be permanent (where a difference is likely between the current budget and the expected outcome to 30 June) or due to timing (e.g. where a project is likely to be delayed).

Statutory and Policy Implications:

Section 33A of the *Local Government (Financial Management) Regulations 1996* requires:

- (1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.
- (2A) The review of an annual budget for a financial year must —
 - (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
 - (b) consider the local government's financial position as at the date of the review; and
 - (c) review the outcomes for the end of that financial year that are forecast in the budget.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.
- (3) A council is to consider a review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.
- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

Section 6.8(1) (b) of the *Local Government Act 1995* provides that expenditure can be incurred when not included in the annual budget provided it is authorised in advance by resolution.

Council policy CS3.13 identifies that untied surplus at the end of a financial year will be limited to transfer to a reserve, allocated to a "one-off" capital project or used to retire debt.

Budget Implications:

The budget review details the implications to the predicted financial position at Note 2.

Due to the combined value of the identified adjustments within the attached budget review, the closing position has increased from \$13,700 to \$300,370, reflected in the Statement of Budget Review by Nature and Type.

A number of the variances are timing variances which will be carried forward to a future financial year. The permanent difference of \$217,932 is forecast, once timing adjustments are deducted from the total predicted surplus.

Communications Requirements: (Policy No. CS1.7)

Nil

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	5	Our Organisation
Objective:	5.1	Innovative leadership, forward planning, and mutually beneficial partnerships.

Relevant Precedents:

Council has considered a budget review annually. The 2021/22 budget review was adopted by Council on 8 March 2022.

Comment:

Following the finalisation of the accounts for 2021/22 and after the audit of the annual financial statements, an additional \$495,670 is recognised to the opening surplus. Of this \$73,500 is for expenditure that was intended to be fully accounted in the 21/22 financial year and was not budgeted for in the financial 22/23 year, however due to timing issues it was expended in the financial 22/23 year.

The cost estimates for, and delivery of, the road construction program have negatively impacted on budget surplus expectations. The overall allocation of staff and plant resources to the capital projects is considerably less than anticipated in the adopted budget. Whilst not complete, two of the Regional Road Group projects are expected to be less than budgeted expenditure. Through Main Roads, the Shire receives two thirds funding for these projects. Due to the lower allocations of resources expenditure, the grant income will also be less. Overall, this will result in less external funding to contribute to the cost of the Shires in house labour and plant. To partially offset this impact, the gravel sheeting on Hebb Road, that was to be funded jointly between the Shire and Roads to Recovery (Federal funding), may be fully funded by Roads to Recovery and one of the other Roads to Recovery projects deferred.

Minor predicted variances have not been included in the budget review. Collectively the minor variances are expected to generate a higher than predicted surplus at the end of the financial year.

Additionally, it is proposed to utilise budgeted funds for the Heritage Upgrade Scheme for the purpose of a heritage conservation plan for Swinging Bridge. This will allow future works on Swinging Bridge to be clearly scoped and costed for future programs. Whilst not a budget amendment, the change in purpose of the funds has been identified separately for Council consideration.

Following completion of the budget review and to properly consider the impact of estimated projections at 30 June 2023, some items have been identified as requiring a budget amendment to properly account for these variances where appropriate. Required budget amendments have been included in Note 3 of the attached budget review document, for information, and are also presented as a separate recommendation to the budget review for council consideration.

It is not proposed to fully allocate the predicted surplus at this time. The allocation of the untied surplus will be considered separately as part of the upcoming budget deliberations in accordance with Council policy.

Council is asked to review and adopt the budget review and consider the requested budget amendments.

12.4 2021/22 Annual Electors Meeting

Reporting Department:	Corporate Services
Reporting Officer:	Hasreen Mandry – Finance Manager
Accountable Manager:	Stuart Devenish – Chief Executive Officer
Legislation:	<i>Local Government Act 1995</i>
File Number:	GOV/049
Appendices:	12.4.A – 2021-22 Annual Report
Voting Requirement	Absolute Majority

Report Purpose

For Council to accept the Shire of Collie Annual Report 2021-22 and to consider the proposed time and date for the 2021/22 Annual Electors Meeting.

Officer's Recommendation

That Council resolve to:

1. *receive and adopt the Shire of Collie Annual Report 2021-22; and*
2. *hold the Shire of Collie Annual Electors Meeting on Thursday 4 May in the Margareta Willson Centre at 5.30pm.*

Background:

In accordance with the *Local Government Act 1995*, a local government is required to prepare an annual report for each financial year. The 2021-22 Annual Report has been prepared in accordance with the legislative requirements.

In addition to the adoption of the Annual Report, it is also necessary to set the date for the Annual Electors Meeting.

Statutory and Policy Implications:

In accordance with Section 5.27 of the *Local Government Act 1995*, a general meeting of the electors of a district is to be held once every financial year on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.

Section 5.53 of the Act stipulates the requirements of the Annual Report including:

- (a) a report from the mayor or president;*
- (b) a report from the CEO;*
- (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;*
- (f) the financial report for the financial year;*
- (g) such information as may be prescribed in relation to the payments made to employees;*
- (h) the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year;*
- (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993;*

(hb) details of entries made under section 5.121 during the financial year in the register of complaints, including —

(i) the number of complaints recorded in the register of complaints; and

(ii) how the recorded complaints were dealt with; and

(iii) any other details that the regulations may require;

and

(i) such other information as may be prescribed.

Prescribed information identified in the *Local Government (Administration) Regulations 1996* includes the number of employees of the local government entitled to an annual salary of \$130,000 and within each \$10,000 band over \$130,000.

Annual reports also include information in relation to responsibilities relevant to *WA Freedom of Information Act 1992* and *State Records Act 2000*.

Budget Implications

Nil

Communications Requirements: (Policy No. CS 1.7)

In accordance with the Act, 14 days local notice shall be given of the date, time, place and purpose of the Annual Electors Meeting.

(2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time the notice is first given and is to continue in the prescribed way until the meeting has been held.

In accordance with Section 5.55 of the Act, Local Public Notice of the availability of the Annual Report shall be given and the Report published on the office website within 14 days of acceptance by the local government.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	5	Our Organisation
Objective:	5.1	Innovative leadership, forward planning, and mutually beneficial partnerships.

Relevant Precedents:

The 2021/22 Annual Electors Meeting was held on Tuesday, 12 April 2022 in the Council Chambers.

Comment:

It is proposed to hold the Annual Electors Meeting on Thursday 4 May, commencing at 5:30pm at the Margaretta Wilson Centre.

Council is requested to consider and accept the Annual Report for the 2021/22 financial year and to confirm the arrangements for the Annual Electors Meeting.

13. DEVELOPMENT SERVICES REPORTS

13.1 Omnibus Scheme Amendment No. 1 - Local Planning Scheme No. 6	
Reporting Department:	Development Services
Reporting Officer:	Katya Tripp
Accountable Manager:	Matthew Young – Director Development Services
Legislation	<i>Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015, Regulation 50(2) and 50(3)</i>
File Number:	LUP/058
Appendices:	13.1.A - Scheme Amendment report 13.1.B - Schedule of Submissions
Voting Requirement	Simple Majority

Report Purpose

For Council to consider submissions on the proposed amendment and to forward a recommendation to the WA Planning Commission for its consideration and recommendation to the Minister for Planning.

Officer's Recommendation

That Council, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015, Regulation 50(2)(a) and 50(3)(b), resolves to:

1. *Support with modification the proposed standard Scheme Amendment No. 1 to the Shire of Collie Local Planning Scheme No. 6 as set out in the schedule of submissions.*
2. *Provide the advertised scheme amendment documentation and schedule of submissions to the Western Australian Planning Commission.*
3. *Following approval of the amendment by the Minister for Planning, execute the amendment documents and provide copies to the Commission for endorsement.*

Background:

The proposed Omnibus Scheme Amendment No. 1 to Local Planning Scheme No. 6 (LPS) was presented to Council for initiation at the 11 October 2022 Ordinary Council Meeting. Council resolved to proceed to advertise the proposed amendment subject to environmental review not being required (decision 9070).

The Environmental Protection Agency issued a decision that a formal environmental review was not required and therefore the proposed amendment was subsequently advertised for public comment and referred to the relevant government and service agencies for review.

The Amendment proposes the following modifications to LPS No.6:

1. Changes to some land use permissibility in different zones as contained within Table 4 – Zoning Table and introduce land uses for the Urban Development zone in zoning table;
2. Correction of formatting and topographical errors, and to ensure alignment with the Local Planning Scheme Regulations;

3. Update Scheme Maps 8 & 13 to address anomalies for 3 lots reserved for Public Open Space purposes in Kelly & Bacon Streets, Collie Burn to Rural zone as privately owned and rezone Lot 7 Paull Street, Collie from Civic and Community Reserve to the Residential (R15) zone as this is also a privately owned residential lot. Amend current Reserve 16938 Paull Street from Residential zone R15 to Civic and Community local reserve as this lot is reserved for Church purposes;
4. Update the definition for Industry - Primary Production to the proposed Industry - Rural definition (consistent with proposed new model scheme provisions);
5. Introduce setbacks and other general development requirements for the Urban Development zone in Schedule 1 - Zone Development Requirements;
6. Rezone Lots 2 and 51 Patstone Road from Rural zone to Industrial Development zone and introduce additional requirements for this land in Table 8. Remove this land (A2) from Table 5 - Additional Uses; and
7. Modify clause 32.14 (b) to reduce the potable water tank size for dwellings where potable water is not available.

Please see appendix 13.1.A – Scheme Amendment report for further information on these changes.

Statutory and Policy Implications:

Scheme amendments are undertaken in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Once gazetted for final approval, the amendments will have the full force and effect of law.

Budget Implications:

There are no budget implications for this proposal.

Communications Requirements: (Policy No. CS 1.7)

The proposal has undergone public advertising in accordance with the following Council policy objectives:

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; and*
3. *Fostering meaningful community consultation processes in Council's activities.*

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* the amendment was advertised for a total of 60 days. This was an extended advertising period in excess of the required 42 days to allow for the Christmas holidays. Advertising included:

- A notice in the local newspaper on two occasions, 22 December 2022 and 16 February 2023.
- Letters sent to service authorities, relevant government agencies and any affected land holders.
- Notice on Shire's website and social media page.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	3	Our Built Environment
Objective:	3.2	Sound land planning and building strategies and scheme

Relevant Precedents:

The proposed omnibus amendment is the first amendment to Local Planning Scheme No. 6. A total of six amendments were made to the previous Local Planning Scheme No.5, the last one being in 2020.

Community Consultation and Advertising - Public Submissions:

Following advertising a total of 10 submissions were received during the public advertising period, 9 from Government Departments and 1 from a member of the public. All submissions have been reviewed and recommendations to support or not support including officer comments are provided in Appendix 13.1.B - Schedule of Submissions.

Government Departments

A total of 9 submissions were received from government departments.

Five of these submissions supported the amendment or had no comment to provide. The other four are summarised below:

- Water Corporation noted that wastewater infrastructure suited to industrial waste has not been considered for the Patstone Road land and that a significant upgrade would be required to install water infrastructure to take industrial waste. The information provided by the proponents of Lot 51 Patstone Road proposes low density, low emission industry that will utilise on-site effluent disposal systems for each development. The structure plan for Lots 2 and 51 Patstone Road will need to demonstrate that services (power, water and waste disposal) and the necessary upgrades to these are readily available to meet the needs of the proposed lots or lease sites.
- The Department of Primary Industries and Regional Development requested that the land use permissibility as set out in the Zoning Table for a Tavern on Rural zoned land not be changed to incidental "I". On further investigation and discussion this submission is supported and it is recommended that the land use Tavern remain as an 'A' use on Rural zoned land to ensure that such taverns are considered within the context of the landscape, other supporting rural or tourism based uses and activities. This will ensure that such commercial uses are directed into town centre locations as a matter of preference, and that a tavern in a rural area will only be considered as part of a more comprehensive development of a site (i.e. such as a tourist development or rural based industry).
- The Department of Water and Environmental Regulation sought a rewording to replace "Department of Biodiversity Conservation and Attractions" with "Department responsible for water and environmental regulation" so as to ensure departmental name changes are not impacted. DWER's request to change the permissibility of gully dams and soaks is not supported as this is in addition to what the amendment is proposing. The amendment makes no changes to the permissibility of these works on Rural zoned land.

- The Department of Biodiversity, Conservation and Attractions submission largely focussed on the draft structure plan for Lot 51 Patstone Road. This structure plan, however, does not form part of the Amendment. DBCA's comments on this document have been noted and generally supported, however this has a separate approval process. Once a compliant structure plan has been submitted to the Shire this plan will be advertised for public comment, including referral to all relevant government agencies. At this point there are no plans for a structure plan and therefore industrial development over Lot 2.

As a result of DBCA's submission there are two supported changes to the Amendment relating to Lots 51 and 2 Patstone Road (ASR5) in Table 8 – Additional requirements that apply to specific lots. These are to include the consideration of buffers for waterways and a biodiversity assessment where the clearing of native vegetation is proposed (see Appendix 13.1.B).

Other Stakeholders

One submission was made by Planning Solutions, on behalf of clients Churches, Smargiassi and Lee, in support of the proposed rezoning of Lots 2 and 51 Patstone Road from Rural to Industrial Development.

Internal

An error was found in the scheme amendment report where it showed the land use Tavern in the Rural zone was a D use. This should have been an A use.

Comment:

The omnibus scheme amendment proposes minor changes to text and scheme maps that are partly a result of administrative errors when the Scheme was first introduced or as a result of observations made in the application of the scheme since its gazettal last year.

The scheme omnibus amendment also provides revision and updates to the land use permissibility in the Zoning Table to allow the local government increased flexibility in applying its discretion to receiving and approving development applications for different land uses in the different zones. However, the proposed land uses changes are still consistent with the objectives of the zones.

The rezoning of Lots 2 and 51 Patstone Road from Rural to Industrial Development is consistent with the Shire's 2021 Local Planning Strategy and supported by a draft Structure Plan for Lot 51, including supporting environmental assessment documentation. The Amendment will introduce specific scheme provisions for the Industrial Development zone relating to Lots 2 and 51 and a requirement for a structure plan to be approved in accordance with the Regulations in advance of any subdivision or development.

Land uses and development requirements for the Industrial Development zone have also been included to allow guidance and decision making on the use and development of land within this zone where a structure plan does not exist or is silent on this.

All of the proposed amendments aim to improve the application of Local Planning Scheme No.6 and ensure it remains effective and up to date.

Council is requested to consider Appendix 13.1.B - Schedule of Submissions and adopt Omnibus Scheme Amendment No. 1 to Local Planning Scheme No. 6.

The text modifications requested by three government agencies are minor and do not warrant re-advertising of the Amendment. Officers therefore request Council support the amendment

with modification so that it can be forwarded to the WAPC for consideration of approval by the Minister for Planning.

13.2 Collie Town Centre Car Parking Study	
Reporting Department:	Development Services
Reporting Officer:	Matt Young - Director Development Services
Accountable Manager:	Stuart Devenish – Chief Executive Officer
Legislation	<i>Shire of Collie Parking Local Law</i>
File Number:	CRL/050
Appendices:	Appendix 13.2.A – Project Scope
Voting Requirement:	Simple Majority

Report Purpose

For Council to consider the draft Collie Town Centre car parking brief and interim measures to address current parking issues.

Officer's Recommendation

That Council resolves:

1. *To receive the draft project brief for the car parking study for the Collie town centre and Throssell Street;*
2. *An amount of \$30,000 to be considered in the 2023/2024 budget;*
3. *To direct officers to investigate and report back to Council on the following:*
 - a) *designate a taxi only parking bay(s) on Throssell Street in front of the hotels;*
 - b) *designate a taxi only parking bay on Forest Street close to the front of the Boulevard Shopping Centre;*
 - c) *liaise with private land owners to provide taxi only parking bay(s) close to the entrances to Collie's two supermarkets;*
 - d) *to review an alternative location and Australian Standard compliant disabled bay on close to the entrance to Collie's two chemists;*
 - e) *to investigate additional timed restricted parking within the parking investigation area on Throssell Street, Forrest Street Steere Street North, Johnston Street and Henry Street.*
4. *That officers report back to Council on 3. above following liaison with affected landowners, businesses and the Collie Chamber of Commerce and Industry.*

Background:

Council considered a report on a Collie Town Centre Car Parking Survey at its Ordinary Meeting on 11 October 2022 (Motion 9078) wherein it resolved:

1. *To receive the results of the Collie town centre car parking survey;*
2. *To instruct officers to commence work to scope out a Collie town centre car parking strategy and budget, in consultation with the Chamber of Commerce and Industry and local businesses;*
3. *To instruct officers to address short term parking maintenance (such as re-line marking of car parking bays on Throssell Street) and car parking compliance matters as raised in Appendix 13.6.B; and*
4. *To instruct officers to liaise with local businesses identified in detailed comments to the survey in respect to the maintenance standard of privately owned car parks.*

Officers have been responding to a number of complaints from the public in respect to parking problems, parking bay design and location, vehicle conflicts and accidents, business feedback on staff/customer parking etc.

To first understand issues that the community is experiencing, officers conducted a public survey on the topic of car parking in Collie in order to identify issues that may require further study or investigation.

The survey focussed on the Collie town centre and commercial/mixed use precincts along Throssell Street with the view of developing a strategy that will ensure adequate and suitable parking and associated facilities is provided both now and into the future.

The purpose of the initial scoping survey was to:

- ascertain community and business perceptions of parking issues;
- identify priority issues and priority locations;
- assist defining scope of actions; and
- communicate to stakeholders the Shire's initiative to review the issue and work to improving parking in Collie.

The investigation area was divided into two distinct areas which include the town centre (north of the railway line) and the Throssell Street precinct – roughly in two sub-areas west and east of the swimming pool/Shire offices (see the figure below).



The survey responses are summarised below:

- 91% of respondents were residents.
- 79% of respondents experience parking problems in Collie, with 65% being in Forrest Street, 61% in the town centre generally; 10% on Throssell Street east of the swimming

- pool, 14% west of the swimming pool up to the Collie Ridge Motel
- Beyond those results 36% did experience other parking issues in Collie.
- 74% of respondents were not in favour of parking restrictions such as timed parking, paid parking.

The detailed survey responses and comments suggest that there are specific parking issues that need to be addressed in Collie. Issues range from the location, size and type of parking provided (including taxi ranks and disabled bays), maintenance of car parks and lines, the need to enforce parking restrictions and to apply times parking in the town centre etc.

The survey outcomes led the Council to the conclusion that a more detailed study should be undertaken to fully identify, discuss and resolve the issues raised by Collie residents and businesses.

Whilst there may be specific and detailed parking issues to be addressed there is no need to undertake a more comprehensive modelling of parking supply and demand.

This survey has informed the development of a study brief and will assist in determine resource requirements (ie budget allocation for the study).

Statutory and Policy Implications:

Nil

Budget Implications:

A carparking study will need to be provided by suitably qualified consultants as the Shire does not have the expertise or capacity to undertake this detailed work. It is anticipated that the Council should provision \$30,000 in the 2023/2024 budget for this study.

Communications Requirements:

Nil

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	3	Our Built Environment
Objective:	3.1	Safe and well-maintained shire owned facilities and infrastructure
Strategic Priority	3.1.1	To increase the Shire’s capability to maintain and improve facilities and infrastructure.
Objective:	3.2	Sound land planning and building strategies and schemes
Strategic Priority	3.2.3	To prepare a carparking and access strategy addressing commercial and visitor needs in the town centre.

Comment:

A project brief has been developed (refer Appendix 13.2.1) to take the next step of undertaking a comprehensive evaluation of existing and future car parking in Collie. The scope of a parking strategy will include the following:

- Detail all existing car parking
- Detail traffic demand and movement
- Consideration of future parking and traffic demand within the investigation area as a result of new development. This is to ensure that the current and future parking demand

can be accommodated and to identify where and how car parking is able to be established.

- To provide direction on the need for, and implications of, timed parking limitations.

It is recommended that to undertake this study the Council should provision around \$30,000 to be considered in the 2023/2024 budget setting process.

As per Council's resolution of 11 October 2022 (Motion 9078), Shire officers have commenced the following actions:

- Re-line marking of existing car parking bays in town where they have faded, however further budget provisioning is required for this;
- Written to private land owners requesting that the maintenance of privately owned car parks is improved to the Shire's satisfaction;
- Liaised with business owners and the Collie Chamber of Commerce and Industry regarding localised parking complaints.

A range of parking complaints raised during the community survey period can be actioned in advance of a full parking study. It is recommended that officers work with the Collie Chamber of Commerce and Industry and businesses to investigate and report back to Council on the designation of dedicated taxi bays in high demand areas, improvements to the design and location of disabled bays and an immediate investigation into additional timed restricted parking within in the high demand areas in the town centre and along sections of Throssell Street. All of these issues can be undertaken with existing staff resources.

It is recognised that all such amendments to the parking regime will require engagement with affected businesses and user groups and that once general agreement has been reached it will be reported back to Council for determination.

13.3 Public Health Plan Report	
Reporting Department:	Development Services
Reporting Officer:	Dean Guja
Accountable Manager:	Matt Young – Director Development Services
Legislation	<i>Public Health Act 2016</i>
File Number:	GOV/086
Appendices:	13.3.A Shire of Collie Public Health Plan 2022 - 2027 13.3.B Schedule of Submissions
Voting Requirement:	Simple Majority

Report Purpose

For Council to adopt the final Shire of Collie Public Health Plan, subject to modifications.

Officer's Recommendation

That Council resolve to adopt the Shire of Collie Public Health Plan 2022 – 2027 subject to the matters raised in the schedule of submissions being incorporated into the Plan.

Background:

A Public Health Plan is a strategic document that outlines actions to improve community health and wellbeing. The release of the State Public Health Plan in 2019 coincided with an amendment to the *Public Health Act 2016* (Part 5), to make public health plans mandatory for every local government in WA.

Council at its Ordinary Council Meeting held on 13 December 2022 (resolution 9114) resolved: *That Council resolve to adopt the draft Shire of Collie draft Public Health Plan contained in Appendix 13.1.A for the purposes of a 28 day public advertising period.*

Public advertising of the draft Public Health Plan commenced on 16 January and concluded on 10 February 2023. Two submissions, one from WA Country Health Services South West and the other from Injury Matters were received (refer Appendix 13.3.B).

All comments and recommendation have been reviewed, assessed, prioritised and some minor changes are recommended to be made to the draft Plan.

Statutory and Policy Implications:

Nil

Budget Implications:

Nil

Communications Requirements:

Public advertising of the draft Shire of Collie Public Health Plan commenced on 16 January and concluded on 10 February 2023. This followed earlier engagement in July-August 2022 during the preparation of the draft Plan.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	1	Our Community
Objective:	1.1	Community health, safety and wellbeing
Objective:	1.2	Community connection, engagement and participation

Relevant Precedents:

Nil

Comment:

A Local plan must be consistent with the State Public Health Plan whilst responding to local public health risks.

The Plan:

- identifies the public health needs of the local government district;
- includes an examination of data relating to health status and health determinants in Collie;
- establishes objectives and policy priorities for the promotion and protection of public health in Collie; and
- describe the development and delivery of public health services in Collie.

This five-year plan forms part of the Shire's integrated planning framework and informed our Corporate Business Plan for the Shire's community to become a healthier community.

The Plan also supports the 5 goals contained within the Shire of Collie Strategic Community Plan, which has been consolidated into 3 Public Health Priorities, which we believe reflect the main priorities of the community:

- Supporting Community
- Sustainable (Natural and Built) Environment
- Strong Economy and Services for Everyone

The public engagement process has now been completed and two submissions were received, one from WA Country Health Services South West and the other from Injury Matters. Much of the detail of these submission relate to the extension of services outside of the Shire's areas of responsibility. Officers have sought to restrict the Public Health Plan to local matters that relate to the Shire's capability to directly influence or to advocate for. Broader health issues of State responsibility have intentionally been omitted.

All comments and recommendation have been reviewed, assessed, prioritised and some minor changes have been made to original document (refer Appendix 13.3.B Schedule of Submissions).

13.4 Application for Development Approval - Telecommunications Infrastructure at Lot 2, No. 62 Worsley Back Road, Allanson	
Reporting Department:	Development Services
Reporting Officer:	Isabel Fry- Town Planner
Accountable Manager:	Matt Young – Director Development Services
Legislation	<i>Planning and Development Act 2005</i>
File Number:	A3817
Appendices:	Appendix 13.4.A Location Map Appendix 13.4.B Development Application Report Appendix 13.4.C Neighbour Submission and Applicant Response
Voting Requirement	Simple Majority

Report Purpose

For Council to determine an Application for Development Approval for a Telecommunications Facility at Lot 2, No, 62 Worsley Back Road, Allanson.

Officer's Recommendation

That Council resolve to approve the Application for Development Approval for Telecommunications Infrastructure at Lot 2, No. 62 Worsley Back Road, Allanson, subject to the following conditions:

1. *All development shall be in accordance with the approved development plans (attached) which form part of this development approval.*
2. *This development approval will expire if the approved development has not substantially commenced within two (2) years from the date of issue of the approval, or, within any extended period for which the Shire of Collie has granted prior written consent.*
3. *All works required to satisfy a condition of this approval are required to be installed/ constructed and maintained in accordance with the approved plans (as amended) and conditions of approval for the life of the development.*

Advice Notes:

- a) *This is a Development Approval and is not a Building Permit. The land use and development of the subject premises is also subject to a separate building permit approval. The developer/ landowner is advised that an application for a Building Permit must be made to and approved by the Local Government before the development and / or use authorised by this Development Approval can begin. Further information can be obtained from the Shire of Collie's Building Services on (08) 9734 9000.*
- b) *The Shire of Collie advises that it is a statutory requirement to comply with all conditions of this approval, and not doing so means that the development is not pursuant to the planning permission and is therefore unauthorised development.*
- c) *It is the responsibility of the landowner/ applicant to advise Council when all conditions relating to the development have been satisfied.*
- d) *Any additional development which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by the Shire of Collie.*

- e) *The development the subject of this planning approval must comply with the requirements of the Health (Miscellaneous Provisions) Act 1911.*
- f) *The developer is reminded of the requirement under the provisions of the Environmental Protection (Noise) Regulations 1997 that construction work (which includes earthworks and similar) be managed with due regard for noise control. Construction work generating noise (e.g. through the use of machinery etc.):*
- *Outside the hours of 7:00am to 7:00pm; or*
 - *On a Sunday or Public Holiday.*
 - *is likely to breach noise regulations unless specific authorisation has been obtained from the Department of Water and Environment Regulation.*
- g) *If an applicant is aggrieved by this determination there is a right of review under Part 14 of the Planning and Development Act 2005. An application for review must be lodged with the State Administrative Tribunal within 28 days of the determination.*

Background:

The Shire has received an Application for Development Approval for Telecommunications Infrastructure (monopole tower) at Lot 2, No. 62 Worsley Back Road, Allanson. The application has been submitted by Ventia Pty Ltd, on behalf of Amplitel. The owner of the property is Michael Sherwood.

The application is to be determined by Council as objection was received to the proposed development during the public advertising period.

The subject site is 40.09ha in size and is zoned Rural under the Shire's Local Planning Scheme No.6 (LPS). The site is located north of the Allanson townsite and is surrounded by Rural zoned land (refer Appendix 13.4.A). The site is currently accessed via Worsley Back Road, with an existing dwelling in the centre of the lot. The site is predominantly clear of native vegetation, with some clusters in the north-east and north-west corners of the lot.

The nearest residence to the proposed monopole tower is approximately 100m away and the next nearest Rural Residential zoned property is 700m away. Allanson Primary School is 1.3km from the site, which has been identified as the only community sensitive place of interest.

Application (refer Appendix 13.4.B)

The purpose of the proposal is to install a monopole tower, to improve 4G and 5G telecommunications services within the Allanson area. The proposal is included as part of Telstra's network coverage expansion program, but is through Amplitel which will support additional carriers to locate on the proposed structure.

Proposed works associated with the application include:

- Installation of one new 40m high monopole;
- Installation of a triangular headframe;
- Installation of six new panel antennas (no greater than 2.8m in length);
- Installation of one Telstra equipment shelter that is not more than 3m high with a base area of not more than 7.5m², at the base of the tower;
- Installation of associated ancillary cabling and equipment; and
- Installation of a 10m x 10m fenced compound.

The proposed monopole will be unpainted/ untreated galvanized grey in colour so that it blends in with the sky backdrop. It is anticipated that this will have a low level of visual impact. The proposed Telstra equipment shelter will utilise a pale eucalypt colour as the green-coloured facility will be in keeping with the rural surroundings.

The site has an existing access via a 6m wide gate off Worsley Back Road, along the southern lot boundary. The initial proposal details that light vehicles and small trucks will utilise the existing access, which will not need to be upgraded. For all large trucks, cranes, EWP, concrete trucks, which will likely only be required for construction/ maintenance, will drive across the lot towards the compound, without utilising the access track.

For the constructions works and to enhance the existing access for infrequent future maintenance inspections, Amplitel proposed to widen the existing 2m firebreak parallel to McAvoy Road so that it is 3.5m wide. Amplitel will also add 20m of new 3.5m wide gravel access track from the firebreak to the EWP set up area and 15m of new 6m wide gravel access track to allow for the EWP vehicle to rotate and reverse onto firebreak from the existing grass area.

Maintenance visits are likely to occur 2-4 times annually and the site will be continually unmanned for operation. The proposal will not result in a significant generation of traffic on an ongoing basis. During construction, various vehicles will be used to deliver equipment and construct the proposed development. Traffic impacts association with the construction will be short term, of approximately 5 weeks over non-consecutive periods and are highly unlikely to impact existing traffic flows. It is unlikely that closure of the road would be required at any point, however the relevant permits would be sought if this did eventuate.

Noise and vibration emissions associated with the proposed facility will be limited to the construction period. There will be noise emanating from air-condition equipment within the facilities building, however this would be similar to those used in domestic situations.

State Planning Policy No. 5.2- Telecommunications Infrastructure (SPP5.2)

SPP5.2 aims to balance the need for effective telecommunications services with community interest and protecting visual character of local areas. SPP 5.2 sets measures for assessing the visual impacts of telecommunications infrastructure. The Applicant has provided a detailed assessment against the policy in section 11.3 and 11.4 of the Development Application report in Appendix 13.4.B.

Local Planning Scheme No. 6 (Scheme)

The Scheme defines Telecommunications Infrastructure as:

'A premises used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.'

Telecommunications Infrastructure is a 'D' use in the Rural zone, which means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

The Applicant has provided an assessment against the objectives of the Rural zone in section 12.2 of the Development Application report.

Statutory and Policy Implications:

Local Planning Scheme No.6

- Part 3- Zones and Use of Land, 16. Zone Objectives (Rural zone)
- Table 4- Zoning Table (Telecommunications Infrastructure)
- Division 2- Land Use Terms and Definitions (Telecommunications Infrastructure)
- Schedule 1- Zone Development Requirements

Other relevant legislation-

- *Telecommunications Act 1997*
- *The Telecommunications Code of Practice 2018*
- *Mobile Phone Base Station Deployment Code*
- *The Environmental Protection and Biodiversity Conservation Act 1999*
- State Planning Policy 5.2- Telecommunications Infrastructure

Budget Implications:

Nil.

Communications Requirements:

The proposed development is a 'D' use pursuant to Local Planning Scheme No.6, therefore advertising can be undertaken if Officers determine it to be necessary. In this instance, the proposal was advertised to all adjoining rural properties from February to March 2023.

One submission was received from a property owner located on the opposite side of McAvoy Road, identified as the residence within 100m of the proposed monopole location. The full submission has been included in Appendix 13.4.C. The Applicant has also provided a response to the issues raised in the submission which has been included in Appendix 13.4.C.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	3	Our Built Environment
Objective:	3.1	Safe and well-maintained shire owned facilities and infrastructure
Objective:	3.2	Sound land planning and building strategies and schemes

Comment:

Advertising

One submission was received during the public advertising period which did not object to the installation of the infrastructure, however, did raise concerns relating to inaccuracies in the application, the proposed location and concerns relating to best practice (refer Appendix 13.4.C).

The primary concerns of the submitter were the safety of the proposed second access to the site and also the potential for additional carriers to utilise the facility and this resulting in an increase in Electro Magnetic Emission (EME) levels exceeding what is currently proposed for the site.

The preference of the submitter would be for the monopole to be located to be within their own property, marked as 'candidate B' in the submission, or to a location further west, on the same lot as the proposed site, with the intention of wanting to increase the separation between their residence and the monopole. Shire Officers have investigated issues surrounding the proposed access further and have discussed these concerns with the Applicant.

The proposed site was selected as it is located approximately 300m south and closer to the target area of Allanson townsite. This site is also less costly in terms of underground trenching, boring and hauling works that would be required. The Applicant has advised that if the proposal was to be amended to relocate the tower 80m to the west, there would be very little screening between the 40m tower and the residence at 95 McAvoy Road and visibility would also be increased to the landowners residence at 62 Worsley Back Road. The Applicant has also

advised that EME levels will be calculated and the report updated to ensure standard compliance, prior to additional carriers utilising the tower.

Shire Officers have engaged with the Applicant on the need for the secondary access, given the possible issues with safety and sightlines, as well as the considerable earthworks required to construct the crossover. The Applicant has advised that the crossover can be removed from the site plan and is not required to facilitate the development. The development plans have been updated accordingly.

Visual Impacts

The proposed location was selected based on attempting to locate the monopole tower where clusters of surrounding trees offer some visual screening of the tower from the road and nearby properties. It is acknowledged that the nature of this development makes screening it entirely unachievable and counterproductive. The Applicant has sought to screen the base compound and the associated equipment shed with the existing vegetation surrounding the site, which includes trees ranging from 15-25m in height. It is not an option to reduce the height of the tower, as this specification is required to support the collocation of other carriers at the facility, which is a preferred outcome than having multiple towers in the area. As detailed in the report, colours and finishing have been designed to be consistent with other towers that are being completed and are most sympathetic to their surroundings.

Heritage

The subject site is listed in the Shire of Collie's Municipal Heritage Inventory (Bevan's Dairy-Site, Place No. 06315). This site was considered not to have cultural significance in the 1996 Shire of Collie Municipal Heritage Inventory and is not included on the Local Heritage List 2017 or the State Heritage List and therefore has no heritage protection.

Environment and Bushfire

The site is not within an environmentally sensitive area or an environmental conservation area and is not identified as containing any priority or threatened ecological communities. There is proposed to be some pruning of branches to ensure they do not encroach over the compound. Earthworks and infrastructure provision is intended to use already cleared tracks so will not result in the removal of any native vegetation. There is unlikely to be a significant environmental impact associated with the development.

The site is located within the designated bushfire prone area, however SPP3.7 allows for exemptions from its application, if there is not an intensification of use or an increase of residents, visitors and employees to the site. The facility is also unlikely to increase the risk of bushfire occurring, with the immediate area to the development being managed to reduce bushfire risk and impact.

Health and Safety

The Applicant has detailed in the report (Appendix 13.4.B) that the proposed facility complies with all relevant legislation and that Telstra has strict procedures in place to ensure the low level of emissions are in compliance with Australian standards.

Social and Economic Impact

The proposal is a part of Telstra's broader strategy to increase mobile phone coverage to areas where the community has requested more reliable connections. Reliable connections assist in ensuring the economic growth of communities and the proposal is not anticipated to have negative impacts on the wider community. The design of the proposed development will also enable carriers to remain competitive, due to the opportunity for collocation. More competition in the market will feedback into cost benefits for consumers and the community.

Local Planning Scheme No.6 (Scheme)

The proposal is consistent with the definition of Telecommunications Infrastructure as defined in the Scheme. There is an indication that the use is appropriate within the Rural zone, through being identified as a 'D' use class within the zoning table. The standard setbacks for development in the Rural zone are 30m front, 15m side and 30m rear. The front of the property in this instance is considered to be Worsley Back Road, meaning setbacks of 14m from the rear and 19m from the side are proposed. This varies the standard rear setback from 30m to 14m, however the variation does not impact on the ability for adequate firebreaks to be maintained and allows for the compound and monopole to be located to avoid impacting on vegetation on the site. The adjoining neighbour to the boundary where the reduced setback is proposed did not make a submission on the proposal. Building heights as prescribed in the Scheme are explicitly stated to not apply to monopoles/ towers.

The proposal is consistent with the objectives of the Rural zone through not impacting on or introducing sensitive land uses into the area and allowing for the continued agricultural use of the land. The proposal has a demonstrated benefit to the surrounding community and is compatible with surrounding rural uses.

Conclusion

The proposal has a demonstrated benefit to the wider community in providing access to reliable mobile phone coverage in the Allanson area. The proposed use is one that can be considered in the Rural zone and is not considered to have an impact on the ongoing rural use of the subject site and the surrounding area. Conditional approval is recommended accordingly.

It was recommended to the Applicant that the issue relating to access be addressed through an amended site plan, where the access is to be either removed, or moved further south to a location that will facilitate safer access and better sight lines onto McAvoy Road, this has since been undertaken as reflected in the updated development plans. It is acknowledged that the owner of the residence located 100m from the development site has objected to its location, however it has been clarified by the Applicant that the proposed location is preferred in being able to balance reduced visual impact for all nearby properties through being obscured by existing trees, achieving the required level of network coverage and keeping costs lower than they would be for alternative sites.

13.5 Section 31 Reconsideration- Review of refusal decision and revised application for Tourist Development and retrospective approval for various buildings - Lot 2826, No. 708 Yourdamung Road, Palmer	
Reporting Department:	Development Services
Reporting Officer:	Isabel Fry - Town Planner
Accountable Manager:	Matt Young – Director Development Services
Legislation	<i>State Administrative Tribunal Act 2004</i> <i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
File Number:	A3405
Appendices:	Appendix 13.5.A Location Plan Appendix 13.5.B Development Application Report and Site Plan Appendix 13.5.C Amended Bushfire Management Plan and Bushfire Evacuation Plan Appendix 13.5.D DFES Advice and Applicant Response Appendix 13.5.E Shire CESM Advice NOTE: Appendices 13.5.B -13.5.E were sent under separate cover on 5/4/2023 and are available in hard copy upon request
Voting Requirement:	Simple Majority

Report Purpose

For Council to reconsider its refusal decision and an amended Application for Development Approval comprising retrospective approval for Tourist Development, including proposed expansion of facilities for the management of the development and on-site facilities for guests, retrospective approval for 7 free-standing pagodas, proposed Camping Ground and proposed Assembly Building / shelter / multi-use space at Lot 2826, No. 708 Yourdamung Road, Palmer, as directed by the State Administrative Tribunal.

Officer's Recommendation

That Council reconsiders the amended Development Application as directed by the section 31 State Administration Tribunal direction and resolves to:

1. *Refuse the Application for Development Approval for retrospective approval for Tourist Development, including proposed expansion of facilities for the management of the development and on-site facilities for guests, retrospective approval for 7 free-standing pagodas, proposed Camping Ground and proposed Assembly Building/ Shelter/Multi-Use Space at Lot 2826, No. 708 Yourdamung Road, Palmer for the following reasons:*
 - a) *The performance principles contained within State Planning Policy 3.7- Planning in Bushfire Prone Areas and Element 5 of Guidelines for Planning in Bushfire Prone Areas have not been achieved/demonstrated for the proposed development as the bushfire hazard cannot be reduced to an acceptable level through the implementation of the Bushfire Management Plan.*

- b) *The proposed on-site shelter does not demonstrate compliance with the ABCB Design and Construction of Community Bushfire Refuges Handbook (2014).*
- c) *The Bushfire Risk Management Plan and Bushfire Emergency Evacuation Plan do not establish a suitable basis on which a decision maker can confidently approve the development.*
- d) *Pursuant to clause 67(q) and (r) of the Planning and Development (Local Planning Schemes) Regulations 2015, the land is unsuitable for the proposed development as it creates a possible risk to human life and safety due to the risk of bushfire.*

2. *Advise the State Administrative Tribunal and the Applicant of the Council's decision accordingly.*

Background:

The subject site is an approximately 7ha in area, 18km north-east of the Collie townsite (Appendix 13.5.A). The property is isolated and predominantly surrounded by State Forest, managed by the Department of Biodiversity, Conservation and Attraction. Access to the site is from Yourdamung Road, which is an unsealed, gazetted gravel road managed by the Shire.

Yourdamung Road extends approximately 7km south to the Collie-Williams Road.

Yourdamung Road is not connected to the north into any public road system, however a number of informal tracks and fire breaks create a system of routes through the State Forest. At the Ordinary Meeting of Council held 14 December 2021 (resolution 8892), Council resolved to refuse an application for development approval for a change of use from bed and breakfast to guesthouse, commercial kitchen/ restaurant, expansion of the kitchen and storeroom, change of use from outbuilding to guesthouse, bar and storage, 7 freestanding patios and camping ground (refer Appendix 13.5.B).

The Applicant subsequently appealed the decision through the State Administrative Tribunal (SAT) and following several mediations and direction hearings, Edge Planning and Property, on behalf of Russell Tierney lodged an amended application for consideration by the Shire. Pursuant to S31(1) of the *State Administrative Tribunal Act 2004*, the Shire was directed by SAT to reconsider the amended application, on or before the 13 December 2022, with another SAT Directions Hearing scheduled on 16 December 2022.

At the Ordinary Meeting of Council held 13 December (resolution 9099), Council resolved to defer the matter to a future Council meeting for staff to work through legislation issues with the proponents and DFES to enable the application to be considered for approval. Officers have since met with the bushfire consultant representing the Applicant and DFES officers, both separately and jointly in a further meeting attended by the Shire's Development Services staff, DFES Land Use Planning and Operations staff, the Applicant and planning and bushfire consultants responsible for preparing the application.

An amended Bushfire Management Plan (BMP) (refer Attachment 12.1.3) was provided on 20 February 2023, which was then referred to DFES on 21 February. The Shire also attended a direction hearing held on 24 February and pursuant to S31(1) of the *State Administrative Tribunal Act 2004*, was directed to reconsider the application on or before the 11 April 2023.

DFES provided advice on the amended application / BMP, which was provided to the Applicant's bushfire consultant for them to respond to the comments raised (refer Attachment 13.5.D). The BMP has been amended further to respond to some, but not all of these comments. The Shire's Community Emergency Services Manager (CESM) in liaison with the Collie Bush Fire Brigades lodged a submission regarding the proposal, specifically relating to

Shire's capability in an emergency response at or around the subject site (refer Attachment 13.5.E).

The Application

The amended application (refer Appendix 13.5.B) is seeking approval for:

- Retrospective approval for a tourist development;
- Expansion of the management of the development and on-site facilities for guests;
- Retrospective approval for seven free-standing pagodas (patios);
- Proposed camping ground (12 campsites), proposed to be a 'nature based park'; and
- Proposed assembly building/multiple use space (includes games room, kitchen, ablutions and laundry).

To support the amended application, an updated site plan along with floorplans and elevations for the assembly building/multiple use space have been provided. Previously submitted plans for other components of the development continue to apply.

As detailed in the previous reports to Council, additional to the development approval, there are a significant number of compliance issues relating to the Building Code which would need to be addressed, if development approval was contemplated. These are set out below:

1. Unauthorised addition/fit out to approved outbuilding:
 - a. Comprising of unauthorised patio;
 - b. Use as a public bar;
 - c. Lack of fire separation between unauthorised accommodation element and bar/patio; and
 - d. Unauthorised fit out for accommodation, including laundry and kitchen extension.

All the above require retrospective approval and further remedial works to be compliant with the Building Code/Australian Standards required for a new build.

2. Proposed Tourist Accommodation (Approved as Bed and Breakfast)
 - a. Building is approved for Class 3 Residential only.
 - b. Use of the function/restaurant space for the public is unauthorised and requires approval as a Class9b/6 building.
 - c. Change of classification is required, which triggers the following requirements;
 - i. Upgrade of passive fire protection for Sole Occupancy Units to meet BCA fire resistance levels of 90/90/90 – i.e. all SOU bounding walls, doors;
 - ii. Unprotected exit travel path for SOU occupants to be rationalised by certifier;
 - iii. Upgrade of fire detection and alarm system to comply with AS 1670.1, requires Fire Indicator Panel, extensive re-work;
 - iv. Exit doors, emergency lighting, disability access all need to be addressed;
 - v. Energy Efficiency – this will need to be verified as meeting current section J requirements. The certifier didn't include energy efficiency under their BA18 retrospective approval certificate; and
 - vi. Potentially Bushfire Construction Upgrades – The BA18 Retrospective Approval Certificate received for the Class 3 building was dated 16 March 2016 and declared the site wasn't in a bushfire prone area, despite the land being declared bushfire prone from the 8/12/2015 inception of new bushfire regulation requirements.
3. Unauthorised Ablutions Block
 - a. Retrospective approval required for the building and effluent disposal system.

The application was previously refused on the basis of not being able to achieve the performance principles of SPP3.7, with the bushfire hazard not being able to be reduced to an acceptable level through the implementation of a BMP. The BMP and BEP also did not establish a suitable basis for the Shire to confidently approve the development. It was also determined that the land is unsuitable for the proposed development as it creates a possible risk to human life and safety due to the risk of bushfire.

SPP3.7 stipulates that where a landowner/proponent has not satisfactorily demonstrated that the relevant policy measures have been addressed, responsible decision-makers should apply the precautionary principle to all development applications in designated bushfire prone areas. If a landowner/ proponent cannot satisfy the performance principles of the relevant policy measure through either application of the acceptable solutions endorsed by the WAPC and DFES, the application may not be approved.

Since the initial consideration of the original application, the *Guidelines for Planning in Bushfire Prone Areas* have been updated to introduce Element 5 which relates to Vulnerable Tourism Land Uses. The intent of Element 5 is to provide bushfire protection for tourism land uses relevant to the characteristics of the occupants and/or the location, to preserve life and reduce the impact of bushfire on property and infrastructure. Element 5 sets out acceptable solutions relating to siting and design, vehicular access and provision of water, with varying requirements for the type of vulnerable use proposed.

An amended BMP has been prepared addressing the acceptable solutions contained within Element 5 (refer Appendix 13.5.C). The proposed land uses as contained in the updated BMP are not consistent with what has been detailed in the Development Application Report. The BMP refers to:

- Ancillary dwelling (4 persons)
- Guesthouse with 7 accommodation units – 14 persons
- 12 campsites (48 persons)
- Assembly building constructed to national shelter standard to accommodate maximum of 125 persons.

The Applicant has confirmed that the Development Application Report correctly identifies the land uses proposed.

The property owner has unlawfully continued to host events and provide accommodation at the property, despite being advised against doing so by Shire Officers, and having the development refused in December 2021.

Statutory and Policy Implications:

- *Planning and Development (Local Planning Schemes) Regulations 2015* - Cl 67. Matters to be considered
- Shire of Collie Local Planning Scheme No.6
 - Rural Zone Objectives - Zoning Table
- *Caravan Parks and Camping Ground Act 1997* - Nature Based Parks
- State Planning Policy 3.7- Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas

Budget Implications:

Previously utilised consultancy fee to obtain a peer-review of the BMP.

Communications Requirements:

The amended proposal was referred to the Department of Fire and Emergency Services (DFES). The full response is detailed in Appendix 13.5.D. The recommendation from DFES is summarised below.

Recommendation – Not compliant with Acceptable Solutions, and does not address performance Principles or Intent due to extreme hazard

*The development is **not supported** for the reasons outlined in the submission, including:*

1. *The proposal does not comply with the intent, objectives and policy measures of SPP3.7.*
2. *The proposed development is in an area of extreme bushfire risk making the location unsuitable for intensification and would increase the bushfire threat through the introduction of additional people, property and infrastructure at this location.*
3. *The proposal does not comply with the ‘bushfire protection criteria’ contained within the Guidelines, as detailed in the tables above. BAL level of BAL-FZ (Flame Zone) which means this area identified as a suitable destination is exposed to direct flame contact. DFES has also commented that the reference to a ‘suitable destination’ as used in the BMP is misleading and not consistent with Section 5.5.3.1.2 Sheltering Off-site of the Guidelines, as per the advice from DFES. Referring to a ‘suitable destination’ in this instance should be removed from the BMP, as it appears to provide assurance that the site is safe to shelter on regardless of bushfire conditions, which is not the case.*

The Applicant’s bushfire consultant has responded to the comments made by DFES (refer Appendix 13.5.D). The consultant has maintained that the proposal can meet Element 5 of the Guidelines and also the intent of SPP3.7, contrary to the advice of DFES.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	3	Our Built Environment
Objective:	3.2	Sound land planning and building strategies and schemes

Comment:

Clause 67 of the *Planning and Development (Local Planning Schemes) 2015*, which forms part of LPS6 sets out matters to be given due regard when determining applications for development approval. Three relevant items of Clause 67 apply to the proposal:

- (c) any approved State Planning Policy [in this matter SPP 3.7 Planning in Bushfire Prone Areas];
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, land slip, bushfire, soil erosion, land degradation, or any other risk;
- (r) the suitability of the land for development taking into account the possible risk to human health or safety.

The proposed development site has been identified through designation as being bushfire prone and through the subsequent review of the BMP and BEEP, as not suitable for vulnerable

land uses. This is due to the threat of bushfire and the possible risk to human life and safety in the event of a bushfire, where the risk cannot be adequately managed.

The Shire's Community Emergency Services Manager has provided advice on the practicalities of emergency response to this site and has advised that the Shire does not currently have the capability to protect visitors to the site, due to restricted access, remote location and hazards present. Concern has also been raised around the expectation for emergency responders to get to and defend the on-site shelter during a fire, which will put emergency responders at significant personal risk in getting to this remote location, and potentially divert resources from other priority areas. The full submission is contained in Appendix 13.5.E.

Building Compliance

Non-compliance with the requirements of the Building Code of Australia cannot be considered when determining an application for development approval, as works can be undertaken to bring the existing buildings into compliance. However, it is important to note that the costs associated with the required works to ensure compliance are anticipated to be extensive for this development.

The property owner has acknowledged that if development approval was to be granted, the upgrades to the buildings would need to be undertaken, prior to the buildings being used for the proposed purpose.

As outlined in the previous report to Council, should it resolve to refuse the application as recommended, the following compliance action is required to be taken on the property.

Building No.	Compliance Issues	Refusal Actions
1. Approved Shed (Unauthorised guesthouse fit out and additions)	<p>Unauthorised residential fit out (Class 1b). Unauthorised kitchen and laundry extension. Unauthorised (non-compliant) septic tank system; No windows to habitable rooms; Ceilings to habitable rooms not 2400mm; No Smoke Alarms; Damp proof membrane to slab to meet residential construction standards. Energy efficiency compliance (i.e. wall, roof insulation, glazing, air movement) to be verified Upgrade for BAL Construction needed (i.e. replace windows, bushfire screens, install full sarking beneath roof sheeting). May be too costly if BAL-40 or BAL-FZ; Firewall needed between residence and Public Bar (Class 6 or 9b) use.</p>	<p>Via s.110 'Building Order': Remove unauthorised residential fit-out (i.e. internal walls, mezzanine floor, stair); Demolish kitchen/laundry addition; Pump out septic, break up bottom of tank and fill with sand; Existing shed to be reinstated as originally approved for Class 10a.</p>
2. Unapproved Patio/Bar Addition	<p>130m2 unauthorised partially enclosed patio; Usage intent appears to be for general public (i.e. Class 9b 'Public Bar' or Class 6 'retail/service'; Not enough toilet facilities provided for patrons, including accessible facilities; Timber sizes, spans, connections don't meet Timber Framing Code AS/NZS 1684.4.</p>	<p>Via s.110 'Building Order': Demolish entire 130sqm patio, including internal bar fit out; Existing shed to be reinstated as originally approved for Class 10a.</p>

4. Approved Bed and Breakfast/ Short Stay Accommodation	Building only approved for Class 3 'Short Stay Accommodation'. No other use (i.e. restaurant, or function room) approved. Introduction of Class 6 Restaurant or Class 9b function room will not be achievable for this Building – compliance will not be achievable without significant expense due to modifications needed for: Fire separation of accommodation rooms; Bushfire construction compliance; AS/NZS 1670.1 fire detection system upgrade; Energy Efficiency.	Existing building to be reconciled onsite against existing approved documentation to ensure no unauthorised works have been CARRIED out. Remove any unauthorised additions via s.110 'Building Order' (if applicable). Building to remain as 'Short Stay Accommodation' (as approved) only. No further alternative usage (i.e. public access other than for guests lodging in building) permitted.
5. Stage	Stage – Approved as Class 6 (retail/service) use instead of Class 10a.	Building to remain as approved.
Other	Various Shade structures erected around the site	Remove shade structures >10m2 in area via s.110 'Building Order'
Other	Unauthorised Transportable Ablution block	Remove from site via s.110 'Building Order'

Summary

The Bushfire Management Plan has neglected to consider the intent of SPP3.7 and Element 5 of the Bushfire Protection Criteria as contained in the Guidelines.

The objectives of SPP3.7 and clause 67(q) and (r) of the Planning and Development (Local Planning Schemes) Regulations 2015, are to avoid an increase in the threat of bushfire, where there is a possible risk to human life and to reduce vulnerability to bushfire through decision making. This forms the basis for DFES's primary objection. The subject land is unsuitable for the proposed development and creates significant risk to human life and safety due to possible bushfire.

The surrounding landscape presents an extreme bushfire risk location. There is extreme hazard level vegetation within and adjacent to the site and this vegetation is able to form a significant fire run and impact the site in the event of a bushfire emergency. The site is not located close to any urban areas or townships where fuel loads are managed in a minimum fuel condition and where immediate access is available to a place that provides shelter from bushfire. Evacuation options cannot be relied upon for this site, given the remoteness and topography of the site, the road condition and the presence and extent of vegetation surrounding evacuation routes.

As recognised in the advice provided by DFES for this location, catastrophic bushfire behaviour is likely, and a bushfire could develop rapidly and grow to a significant size, resulting in the loss of life, property and infrastructure. The topography, type and extent of bushfire prone vegetation may result in landscape-scale destruction as it interacts with the bushfire hazard on and close to the site. The site also presents significant complexities for emergency responders and the site may not reasonably and realistically be able to be accessed or defended in the event of a bushfire emergency. Evacuation from the site, via the singular access road may not be possible and if attempted could pose an unacceptable risk to human safety. If the fire front is from the south of the site then there is no clear and logical emergency exit routes available.

In the event of a fire a lot of people will be exiting the site in a southerly direction and emergency responders accessing the site in a northerly direction – ie. head on. This in itself

has the potential to create additional conflict points. Due to this, DFES and the Shire's CESM does not consider sheltering on site as acceptable in any instance.

Element 5 of the Guidelines as it has been amended allows tourism uses to be considered on bushfire prone land, where previously this could not be contemplated under the previous SPP3.7 policy provisions. However, this proposal in this location does not meet access requirements for Vehicular Access under A5.8.2 of the Guidelines and has not been able to provide an emergency accessway, or a plans for a compliant on-site shelter to mitigate this.

The amended proposal relies heavily on the provision of the onsite shelter/ refuge building as a method to manage the risk of bushfire for people on the site. The detail provided for the shelter does not comply or is lacking in detail to demonstrate compliance with the requirements under the ABCB 'Design and Construction of Community Bushfire Refuges Handbook 2014'. The plans for the bushfire shelter have not been amended to reflect compliance with the guidelines and the Applicant maintains that the building will be multi-use.

If the Council were to contemplate an approval for the proposed development, there is extensive retrospective work to be done to existing structures on the site, at a significant cost to the Applicant in order to obtain a Building Permit and to address appropriate conditions of Development Approval. The documents and plans that have been provided are inconsistent and contradictory to one another and would still be required to be reviewed, as well as extensive works on the site and ongoing maintenance to the property to comply with the Bushfire Management Plan and the refuge/ shelter building. Additionally, the applicant has not provided sufficient information on the provision of water in the BMP.

Conclusion

The application proposes a significant intensification of activities, as well as introducing new, vulnerable land uses to the site. Development approval should not be granted for the intensification of uses, or the introduction of vulnerable land uses in areas of extreme bushfire risk, where the risk cannot be appropriately managed.

Following the previous consideration of the application by Council, Shire Officers have attempted to work with DFES and the Applicant to reach a position where the proposal can demonstrate compliance with SPP3.7. This has not been able to be achieved and DFES and officers are not satisfied that the proposal will result in an acceptable level of risk to human life and safety if the development was to be approved.

It is important to note that the recommendation to refuse the application does not impede the Applicant from operating the existing approved Bed and Breakfast. All activities and operations are to be in compliance with the development approval issued for the Bed and Breakfast use.

Following a long-standing history of non-compliance on the subject site, it is anticipated that the determination of this application will clarify for the applicant what uses may be conducted on the site in compliance with Shire approvals. While recognising that the proposal might support economic aspirations associated with Collie's transition away from coal related industries, human safety and non-compliance with relevant planning framework must be given significant consideration in determining this proposal.

It is recommended that the application be refused based on the reasons in the recommendation Officer's Recommendation section of this report.

Should the Council be inclined to apply its discretion and approve the revised application via this s31 SAT direction, then it must be in a position to demonstrate how it has given due

consideration to how the proposal meets SPP3.7, submissions from public agencies expert in their field and other matters listed in the Planning and Development (Local Planning Schemes) Regulations 2015.

It is open to the Council to further defer consideration of the matter until the applicant amends the application and BVMP to address the matters raised by DFES and the Shire's CESM. Such a delay, however will be a matter for the Applicant and SAT to agree.

If the Council refuses the application, the matter is listed by SAT for a Directions Hearing on 14 April 2023. It is up to the Applicant at that stage to request the SAT to schedule a hearing for the application for review to be determined by the SAT.

13.6 Request to Relinquish Management Order of Lot 734 on Plan 222263 (Reserve 34615) Raymond Street, Collie	
Reporting Department:	Development Services
Reporting Officer:	Isabel Fry (Town Planner)
Accountable Manager:	Matt Young – Director Development Services
Legislation	<i>Land Administration Act 1997 (s 50 and 51)</i>
File Number:	R34615
Appendices:	Appendix 13.6.A Location Map Appendix 13.6.B Excerpt from Property Disposal Plan
Voting Requirement:	Simple Majority

Report Purpose

For Council to consider a request to relinquish its Management Order over Reserve 34615, Lot 734 on Plan 222263 Raymond Street, Collie to allow for the land to be disposed of by the Department of Planning, Lands and Heritage.

Officer's Recommendation

That Council resolve to advise the Department of Planning, Lands and Heritage that the Shire:

- 1. Confirms that Reserve 34615 Raymond Street, Collie is surplus to the Shire of Collie's requirements;*
- 2. Consents to relinquish the Management Order over Reserve 34615;*
- 3. Supports the cancellation of Reserve 34615 and the potential disposal of the Reserve; and*
- 4. Provide a statutory declaration regarding contamination and unregistered interests.*

Background:

Correspondence has been received from Blake Playle regarding an expression of interest to purchase Reserve 34615, Lot 734 on Plan 222263, Raymond Street, Collie.

For the Department of Planning, Lands and Heritage (DPLH) to progress this disposal and to change the tenure from Crown land to freehold to be able to be sold, the Shire first needs to consent to relinquishing their Management Order over the reserve, provided that it is satisfied that the reserve is surplus to the Shire's requirements. If the Shire consents, the DPLH will investigate the future use of the land, including determining other State Government priorities and/ or disposal options, including the conversion to freehold title and disposal via an open competitive sale process. The Shire will also need to support the cancellation of the reserve and potential disposal of the reserve, as well as provide a statutory declaration regarding contamination and unregistered interests.

The subject site is 994m² in size and is located on the corner of Raymond and Paul Street, Collie and is opposite the Collie cricket ground (refer Appendix 13.5.A). The site is vested with the Shire of Collie, via a Management Order for the purpose of 'parking' and is zoned Residential R15 under Local Planning Scheme No.6.

The site is currently vacant and adjoins existing residential uses. The site was identified in a Property Disposal Plan prepared by Shire of Collie Officers in 2016 (refer Appendix 13.6.B).

The Property Disposal Plan identified that actions required prior to disposal are;

- Determine requirement for parking
- Check for services
- Undertake geotechnical assessment

A 'dial before you dig' has been undertaken for this reserve and no services impacting the land have been identified. Water, power and electricity are available to the lot, with water and sewer available within the rear laneway and along Paull Street. The reserve is not required by the Shire for parking.

Issues relating to the development capability and potential of the land would be up to any future purchaser to consider.

Statutory and Policy Implications:

Land Administration Act 1997

- Section 50 - Management Order, revocation of
- Section 51 - Cancelling, changing etc. reserves, Minister's powers as to

Budget Implications:

Nil. Relinquishing the Management Order would result in less maintenance costs and once converted to freehold the land would be subject to rates.

Communications Requirements: (Policy No. CS 1.7)

The Shire has no statutory obligation to publish a notification that the Management Order is proposed to be relinquished. The Department of Planning, Lands and Heritage will be required to adhere to their own statutory advertising processes when disposing of the land.

Strategic Community Plan/Corporate Business Plan Implications:

STRATEGIC COMMUNITY PLAN – ADOPTED DECEMBER 2022		
GOAL:	3	Our Built Environment
Objective:	3.1	Safe and well-maintained shire owned facilities and infrastructure
Objective:	3.2	Sound land planning and building strategies and schemes

Comment:

The subject site has been identified as suitable for disposal since the preparation of the Property Disposal Plan in 2016. There has been no identified need for parking on this land, as reflected in the purpose of the Reserve. Should carparking in the vicinity of the cricket ground be required, there are other parcels managed by the Shire which are adjoining the reserve that could be utilised if required and do not require pedestrians to cross Paull Street.

It has been confirmed that there are no service infrastructure or Shire assets contained within the lot, so disposal will not impact on infrastructure provision in the area. It is however recommended that the Shire recommend to the DPLH that a geotechnical assessment be undertaken prior to them disposing of the land.

Relinquishing the Management Order and DPLH disposing of the land is consistent with the State Government and Shire of Collie direction in promoting land availability, particularly for housing, during the current shortage. Relinquishing the Management Order will also result in a decrease in maintenance costs for the Shire and provide an additional rateable land parcel once the land is disposed of as freehold.

It is recommended that Council advises DPLH that Reserve 34615 is surplus to the Shire's requirements and consent to relinquishing the Management Order over the Reserve, pursuant to section 50 of the *Land Administration Act 1997*. Officers will also need to advise DPLH that cancellation of the Reserve is supported, as well as the potential disposal of the reserve, pursuant to section 51 of the *Land Administration Act 1997*.

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.

15.1 Cr Michelle Smith

That a request be made of Main Roads Western Australia to extend the length of the 40km/h speed zone at Throssell Street to begin/finish the 40km/h limit at a point near to Marsh Street intersection.

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.

Responses to questions asked at the October Ordinary Council Meeting, for which an answer has not been provided, are listed below:

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 19.1.A
- 'All Open' at Appendix 19.1.B

20. CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC

20.1 Collie River Valley Tourist Park - Assignment of Lease

21. CLOSE

