



Shire of
Perenjori
Embrace Opportunity

AGENDA
for the
ORDINARY COUNCIL
MEETING

18 FEBRUARY 2021



NOTICE OF AN ORDINARY COUNCIL MEETING

Dear Council Member

The next Ordinary Meeting of the Shire of Perenjori will be held on Thursday 18 February 2021 in the Shire of Perenjori Council Chambers, 56 Fowler Street, PERENJORI WA 6620 - commencing at 5:00 pm.

A handwritten signature in black ink, appearing to read 'M Romeo', is positioned below the meeting details.

Mr Mario Romeo
CHIEF EXECUTIVE OFFICER

Date: 12 February 2021

TABLE OF CONTENTS

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS:	5
2.	OPENING PRAYER:	5
3.	DISCLAIMER READING:	5
4.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:	5
4.1	ATTENDANCE:	5
5.	PUBLIC QUESTION TIME:	6
5.1	RESPONSE TO QUESTIONS TAKEN ON NOTICE:	6
5.2	QUESTIONS WITHOUT NOTICE:	6
6.	APPLICATIONS FOR LEAVE OF ABSENCE:	6
6.1	APPLICATION/S FOR LEAVE OF ABSENCE:	6
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS:	6
7.1	ORDINARY MEETING HELD ON 17 DECEMBER 2020	6
8.	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION:	6
9.	PETITIONS/DEPUTATIONS/PRESENTATIONS:	6
10.	ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED:	6
11.	DECLARATION OF INTEREST:	6
12.	FINANCE REPORTS	7
12.1	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2020	7
12.2	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2021	9
12.3	SCHEDULE OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2020	11
12.4	SCHEDULE OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2021	14
13.	COMMUNITY DEVELOPMENT	17
15.	PLANT AND WORKS	17
15.1	POLICY 3007 - LONG VEHICLE (EXTRA MASS) PERMITS	17
16.	GOVERNANCE	20
16.1	UPDATE – LOCAL GOVERNMENT ACT REVIEW	20
16.2	LOCAL GOVERNMENT ORDINARY ELECTION 2021	22
16.3	LOCAL PLANNING SCHEME REVIEW	26
16.4	PERENJORI CIVIL ENGINEERING BUSINESS – LOT 150 NORTH ROAD, PERENJORI	32
16.5	ELECTED MEMBER MANDATORY TRAINING	41
17.	CONFIDENTIAL REPORTS	44
17.1	COUNCIL DECISION TO GO BEHIND CLOSED DOORS	44
17.2	CONFIDENTIAL ITEM – OVERDUE RATES AND CHARGES	44
17.3	COUNCIL DECISION TO RETURN FROM BEHIND CLOSED DOORS	44
18.	ORDERING THE COMMON SEAL	44
19.	REPORTS OF COMMITTEES AND MEMBERS	44
20.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	44
21.	NOTICE OF MOTIONS	44
22.	NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL	44
23.	CLOSURE OF MEETING	45
24.	NEXT MEETING:	45

COUNCIL ROLE

Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government /body /agency.
Executive/Strategic	The substantial direction setting and oversight role of the Council e.g. Adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
Legislative	Includes adopting local laws, town planning schemes and policies.
Review	When Council reviews decisions made by Officers.
Quasi-Judicial	When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g.: under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

DISCLAIMER

“Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity that has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request.”

SHIRE OF PERENJORI

Agenda for the Shire of Perenjori Ordinary Meeting of Council to be held on Thursday 18 February 2021, at the Shire of Perenjori Council Chambers, 56 Fowler Street, Perenjori WA 6620.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS:

The Shire President to declare the meeting open and welcome those in attendance.

Welcome to Country: -

As per the Shire of Perenjori Policy (N^o 1021) we wish to acknowledge the traditional owners of the land upon which the Shire of Perenjori is situated and to demonstrate respect for the original custodians.

Therefore, I respectfully acknowledge the past and present custodians of the land on which we are meeting, the Badymia people.

I also acknowledge the pioneers who settled this country, developed the land and turned it into the productive country that we know today, allowing us to enjoy the lifestyle to which we have become accustomed.

2. OPENING PRAYER:

The Shire President to read.

3. DISCLAIMER READING:

As printed.

4. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

4.1 ATTENDANCE:

MEMBERS:

STAFF:

DISTINGUISHED VISITORS:

MEMBERS OF THE PUBLIC:

LEAVE OF ABSENCE:

APOLOGIES:

5. PUBLIC QUESTION TIME:

5.1 RESPONSE TO QUESTIONS TAKEN ON NOTICE:

5.2 QUESTIONS WITHOUT NOTICE:

6. APPLICATIONS FOR LEAVE OF ABSENCE:

6.1 APPLICATION/S FOR LEAVE OF ABSENCE:

OFFICER RECOMMENDATION

THAT: - _____ be granted leave of absence for the meeting of _____

Moved: _____ Motion put and carried/lost

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS:

7.1 ORDINARY MEETING HELD ON 17 DECEMBER 2020

OFFICER RECOMMENDATION

THAT the Minutes of the Ordinary Meeting of Council held on 17 December 2020, presented in attachment 7.1 (a), be confirmed as true and correct subject to no / the following corrections.

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION:

9. PETITIONS/DEPUTATIONS/PRESENTATIONS:

10. ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED:

Matters Behind Closed Doors

In accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

A matter affecting an employee or employees

The personal affairs of any person;

A matter that if disclosed, would reveal –

A trade secret; or

Information that has a commercial value to a person; or

Information about the business, professional, commercial or financial affairs of a person.

11. DECLARATION OF INTEREST:

“Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.”

12. FINANCE REPORTS

12.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2020

Applicant:	Shire of Perenjori
File:	ADM0081
Disclosure of Interest:	Nil
Author:	Deb Barndon – Accountant
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	12.1 (a) - Monthly Statement of Financial Activity for 31 December 2020

Executive Summary:

This item recommends that Council receive the Financial Activity Statements for the period ending 31 December 2020.

Background:

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires local governments to prepare a Monthly Statement of Financial Activity.

Details:

Nil.

Legal Compliance:

Nil.

Policy Implications:

Nil.

Financial Implications:

Shown in the attached data.

Strategic Community Plan:

Area 5: Investing in Councils Leadership.

Goal: Strengthen the Shire's position as an innovative, independent local government providing excellence in all areas of governance, management and leadership.

Consultation:

Nil.

Precedents:

Nil.

Officer Comment:

Nil.

CEO Comment:

Nil.

Voting Requirements: Simple Majority

Change to Officer Recommendation

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

12.1.1 THE FINANCIAL ACTIVITY STATEMENTS FOR THE PERIOD ENDING 31 DECEMBER 2020

OFFICER RECOMMENDATION

THAT Council receive the Financial Activity Statement Reports for the period ending 31 December 2020.

12.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2021

Applicant:	Shire of Perenjori
File:	ADM0081
Disclosure of Interest:	Nil
Author:	Deb Barndon – Accountant
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	12.2 (a) - Monthly Statement of Financial Activity for 31 January 2021

Executive Summary:

This item recommends that Council receive the Financial Activity Statements for the period ending 31 January 2021.

Background:

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires local governments to prepare a Monthly Statement of Financial Activity.

Details:

Nil.

Legal Compliance:

Nil.

Policy Implications:

Nil.

Financial Implications:

Shown in the attached data.

Strategic Community Plan:

Area 5: Investing in Councils Leadership.

Goal: Strengthen the Shire's position as an innovative, independent local government providing excellence in all areas of governance, management and leadership.

Consultation:

Nil.

Precedents:

Nil.

Officer Comment:

Nil.

CEO Comment:

Nil.

Voting Requirements: Simple Majority

Change to Officer Recommendation

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

12.2.1 THE FINANCIAL ACTIVITY STATEMENTS FOR THE PERIOD ENDING 31 JANUARY 2021

OFFICER RECOMMENDATION

THAT Council receive the Financial Activity Statement Reports for the period ending 31 January 2021.

12.3 SCHEDULE OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2020

Applicant:	Shire of Perenjori
File:	ADM0082
Disclosure of Interest:	Nil
Author:	Deb Barndon – Accountant
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	12.3 (a) - Accounts for Payment 31 December 2020

Executive Summary:

Council is presented the list of payments made from the Municipal, Trust and Reserve Accounts under delegation since the last Ordinary Council Meeting.

Background:

Council delegates authority to the Chief Executive Officer annually:

- To make payments from Trust, Reserve and Municipal Fund;
- To purchase goods and services to a value of not more than \$200,000;

Legal Compliance:

Local Government Act 1995

S6.5. Accounts and records

Local Government (Financial Management) Regulations 1996

R11. Payments, procedures for making etc.

R12. Payments from municipal fund or trust fund, restrictions on making

(1) A payment may only be made from the municipal fund or the trust fund —

(a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or

(b) otherwise, if the payment is authorised in advance by a resolution of the council.

(2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

S13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

(a) the payee's name; and

(b) the amount of the payment; and

(c) the date of the payment; and

(d) sufficient information to identify the transaction.

(2) A list of accounts for approval to be paid is to be prepared each month showing —

(a) for each account which requires council authorisation in that month —

(i) the payee's name; and

(ii) the amount of the payment; and

(iii) sufficient information to identify the transaction; and

- (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub-regulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

Policy Implications:

Nil.

Council Role:

Nil.

Council Policy Compliance:

Payments are checked to ensure compliance with Council's Purchasing Policy Number 4007 – Procurement Policy.

Financial Implications:

All payments are made in accordance with the adopted annual budget.

Strategic Community Plan:

Strategy 1.3.2 of the Strategic Community Plan – Monitor and produce statutory budgetary and financial reporting requirements applicable to local government operations.

Consultation:

Nil.

Risk Assessment:

Nil.

Precedents:

Council endorses the Schedule of Paid Accounts at each Ordinary Council Meeting.

Officer Comment:

This is a schedule of 'paid accounts' - the accounts have been paid in accordance with Council's delegation.

Accounts Paid for the Month Ending 31 December 2020

Municipal Account	
EFT	\$ 282,579.17
Direct Debits	\$ 61,825.79
Cheques	\$ 0.00
Corporate MasterCard	\$ -76.29
Bank Fees	\$ 166.46
Total	\$344,495.13

Trust Account – Mt Gibson Public Benefit Funds	
EFT	\$3,850.00
Cheques	\$
Bank Fees	\$
Total	\$3,850.00

Totalling **\$348,345.13** from *Municipal and Trust Accounts* for the month ending **31 December 2020**.

Voting Requirements: Simple Majority

Change to Officer Recommendation:

No Change/OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

12.3.1 SCHEDULE OF PAID ACCOUNTS AS AT 31 DECEMBER 2020

OFFICER RECOMMENDATION

THAT Council receives the December Schedule of Paid Accounts Report.

12.4 SCHEDULE OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2021

Applicant:	Shire of Perenjori
File:	ADM0082
Disclosure of Interest:	Nil
Author:	Deb Barndon – Accountant
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	12.4 (a) - Accounts for Payment 31 January 2021

Executive Summary:

Council is presented the list of payments made from the Municipal, Trust and Reserve Accounts under delegation since the last Ordinary Council Meeting.

Background:

Council delegates authority to the Chief Executive Officer annually:

- To make payments from Trust, Reserve and Municipal Fund;
- To purchase goods and services to a value of not more than \$200,000;

Legal Compliance:

Local Government Act 1995

S6.5. Accounts and records

Local Government (Financial Management) Regulations 1996

R11. Payments, procedures for making etc.

R12. Payments from municipal fund or trust fund, restrictions on making

(1) A payment may only be made from the municipal fund or the trust fund —

(a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or

(b) otherwise, if the payment is authorised in advance by a resolution of the council.

(2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

S13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

(a) the payee's name; and

(b) the amount of the payment; and

(c) the date of the payment; and

(d) sufficient information to identify the transaction.

(2) A list of accounts for approval to be paid is to be prepared each month showing —

(a) for each account which requires council authorisation in that month —

(i) the payee's name; and

(ii) the amount of the payment; and

(iii) sufficient information to identify the transaction; and

- (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub-regulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

Policy Implications:

Nil.

Council Role:

Nil.

Council Policy Compliance:

Payments are checked to ensure compliance with Council's Purchasing Policy Number 4007 – Procurement Policy.

Financial Implications:

All payments are made in accordance with the adopted annual budget.

Strategic Community Plan:

Strategy 1.3.2 of the Strategic Community Plan – Monitor and produce statutory budgetary and financial reporting requirements applicable to local government operations.

Consultation:

Nil.

Risk Assessment:

Nil.

Precedents:

Council endorses the Schedule of Paid Accounts at each Ordinary Council Meeting.

Officer Comment:

This is a schedule of 'paid accounts' - the accounts have been paid in accordance with Council's delegation.

Accounts Paid for the Month Ending 31 January 2021.

Municipal Account	
EFT	\$ 174,296.15
Direct Debits	\$ 146,342.69
Cheques	\$ 0.00
Corporate MasterCard	\$ 3,629.19
Bank Fees	\$ 200.57
Total	\$324,468.60

Trust Account – Mt Gibson Public Benefit Funds	
EFT	\$0.00
Cheques	\$0.00
Bank Fees	\$0.00
Total	\$0.00

Totalling **\$324,468.60** from *Municipal* and *Trust Accounts* for the month ending **31 January 2021**.

Voting Requirements: Simple Majority

Change to Officer Recommendation:

No Change/OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

12.4.1 SCHEDULE OF PAID ACCOUNTS AS AT 31 JANUARY 2021

OFFICER RECOMMENDATION

THAT Council receives the January Schedule of Paid Accounts Report.

13. COMMUNITY DEVELOPMENT

15. PLANT AND WORKS

15.1 POLICY 3007 - LONG VEHICLE (EXTRA MASS) PERMITS

Applicant:	Shire of Perenjori
File:	Nil
Disclosure of Interest:	Nil
Author:	Ken Markham – Manager Infrastructure Services
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	15.1 (a) – Proposed Draft Long Vehicle (Extra Mass) Policy

Executive Summary:

This item seeks Council's endorsement in updating the title and content of Council Policy 3007 currently titled "Long Vehicle (Extra Mass) Permits" by deleting its title and content and replacing it with the WALGA Policy template for "Assessing Applications to Operate Restricted Access Vehicles (RAV) on Local Government Roads" that has been modified for the Shire of Perenjori's use.

Background:

Council Policy 3007- Long Vehicle (Extra Mass) Permits is out of date and statements largely redundant. The policy needs to assist the Shire of Perenjori in achieving a sustainable road network that balances the needs of the community and the provision of an efficient freight network to support economic growth and development.

The proposed draft policy "Assessing Applications to Operate Restricted Access Vehicles (RAV) on Shire of Perenjori Roads" outlines the questions to be considered when assessing an application for RAV Access. It also provides some of the possible conditions that could be applied to roads for a particular RAV and will then assist in developing a consistent approach across the Shire.

The current policy is detailed below:

3007 – LONG VEHICLE (EXTRA MASS) PERMITS

POLICY STATEMENT:

This policy may be redundant as there are specific conditions relating to Permits that will encompass the basis of this Policy.

POLICY NO: 256 - LONG VEHICLE (EXTRA MASS) PERMITS

That the following policy setting for the delegated power to the CEO to grant approval for long vehicle (extra mass) permits:

1. Road trains and up to 19 metres in length – can use all roads within the Shire of Perenjori
2. Road trains over 19 metres and up to 27.5 metres in length can use all roads within the Shire of Perenjori, restricted to 80km/hr. speed loaded or unloaded.
3. Road trains over 27.5 metres and up to 36.5 metres are restricted to the following roads only:
 - Wubin/Mullewa Road

- Perenjori/Carnamah Roads
 - Perenjori/Rothsay Road
 - Perenjori/Three Springs Road
with speed restriction to 80km/hr loaded or unloaded
4. Road trains over 36.5 metres and up to 52 metres can only be granted approval by special resolution of Council to a specific road/s and/or route, with speed restricted to 75km/hr. loaded or unloaded.

A general condition to be attached to all permits, that where rainfall in any 24 hours has exceeded 25mm, or at the discretion of the CEO, Operators of road trains on gravel roads must cease operation until approval to resume has been granted by the CEO or a minimum of 48 hours has elapsed since the last rain on the route.

The Shire recognises that Main Roads WA is responsible for assessing the suitability of roads for Restricted Access Vehicles, and for issuing permits for vehicle combinations.

The Shire will seek Main Roads WA advice whenever changes to the RAV Network are considered.

Where Main Roads WA includes roads on the RAV Network subject to Shire approval for individual operators, the CEO is delegated authority to determine these applications.

POLICY ADMINISTRATION

Date Adopted:	Item N° 14022.11	20th February 2014
Reviews/Amendments:	Item N° 17032.5	16th March 2017

The recommendation is to use WALGA's Policy for Assessing Applications to Operate Restricted Access Vehicles (RAV) on Local Government Roads template to create a new policy replacing the current out of date policy.

The policy gives clear guidance when assessing applications requesting roads to be added or upgraded on the RAV network.

Applications received from RAV operators seeking written permission from the Shire of Perenjori for use on certain roads which are already RAV and require permission from the Shire are usually approved and are subject to renewal on a yearly basis.

The proposed policy has a statement which says that support of an application to amend a RAV Route shall be a decision of Council unless otherwise delegated.

Delegation 2009 -Support or Oppose Restricted Access Vehicle Heavy Haulage Applications, delegates authority to the Chief Executive Officer to carry out the above and this authority is sub delegated to the Manager Infrastructure Services.

Statutory Environment:

Nil.

Policy Implications:

Council Policy 3007 – Long Vehicle (Extra Mass) Permits.

Legal Compliance:

Nil.

Risk Management:

Risk Statement	Level of Risk	Risk Mitigation Strategy
Not updating current policy will lead to confusion and conflict with current Main Roads practices and guidelines	Medium	Update policy to reflect current guidelines and practices

Consultation:

Chief Executive Officer

WALGA

Financial Implications:

Nil.

Precedents:

Nil.

Strategic Community Plan:

Area 1: Infrastructure and Natural Assets - Our Natural and Built Environment

Goal: A community that develops and lives sustainably in a thriving natural and quality built environment, which meets and maintains current and future community needs.

CEO Comment:

The current Shire of Perenjori Works Policy 3007 – Long Vehicle (Extra Mass) Permits is outdated and requires updating to reflect current industry practice. The current WALGA template “Policy for Assessing Applications to Operate Restricted Access Vehicles (RAV) on Local Government Roads” reflects current industry practice. Adopting this policy for the Shire of Perenjori use will also ensure consistency in application with other Local Governments.

Officer Comment:

By adopting WALGA's template policy, we will bring the policy into line with current industry practices and guidelines providing the Shire with a clear and consistent decision making process.

Voting Requirements: Simple Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

15.1.1 POLICY 3007 - LONG VEHICLE (EXTRA MASS) PERMITS

OFFICER RECOMMENDATION

THAT Council amend the content of the current Policy 3007- Long Vehicle (Extra Mass) permits by deleting its current title and content and replacing it with the Title and Policy “Policy for Assessing Applications to Operate Restricted Access Vehicles (RAV) on Shire of Perenjori Roads”.

16. GOVERNANCE

16.1 UPDATE – LOCAL GOVERNMENT ACT REVIEW

Applicant:	Shire of Perenjori
File:	ADM0835
Disclosure of Interest:	Nil
Author:	Wayne Scheggia – Executive Advisor
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	16.1 (a) – Advocacy Positions for a New Local Government Act

Executive Summary:

This report outlines the process to date for the establishment sector positions to inform the development of a new Local Government Act. This report is provided for information to ensure Councillors are aware of the proposals and how the process is likely to unfold moving forward.

Background:

The current Local Government Act was established in 1995 after an extensive consultation and development process between the Local Government Department and the sector.

As part of its election platform and following its successful election to Government in 2017, the McGowan Government committed to a 2 stage Local Government Act review process. The first stage was to address urgent Act amendments and the second stage involved a complete Local Government Act review process.

Consultation with the sector has occurred since this time to inform the review process, which is currently on hold, pending the March State election.

Statutory Environment:

Local Government Act (1995).

Policy Implications:

Nil.

Legal Compliance:

Nil.

Risk Management:

Risk Statement	Level of Risk	Risk Mitigation Strategy
Elected members may not be aware of sector positioning.	Low	Ensure Council is regularly updated.

Consultation:

CEO, WALGA, Department of Local Government.

Financial Implications:

Nil.

Precedents:

Nil.

Strategic Community Plan:

Area 5: Investing in Council's Capacity – Our Leadership

Goal: Strengthen the Shire's position as an innovative and proactive local Government providing excellence in all areas of governance, management and leadership.

Officer Comment:

Local Government Act Review – Phase 1 Update

The Local Government Legislation Amendment Act 2019 introduced a range of amendments to the Local Government Act including requirements for Elected Member training, reviewed gift provisions for Elected Members and CEO's and increased access to public information. A number of provisions from the Amendment Act have yet to commence. The Government only recently consulted on the draft Mandatory Code of Conduct, draft Chief Executive Officer Standards for Recruitment, Performance Review and also the draft Code of Conduct for Employees. It is anticipated that the regulations on these 3 matters will be gazetted in early 2021.

Local Government Act Review – Phase 2

Consultation on a new Local Government Act commenced in October/November 2018 and the sector endorsed new Act positions in March 2019. The Minister for Local Government then announced in November 2019, the formation of an expert panel to progress the next stage of the Act review process, which will include carrying out work to prepare for a Draft Local Government Act (Green Bill) to be developed in 2020/21. WALGA's position was that the State Government needed to identify the key principles for the Act in the first instance and then develop supporting policies. The detail of the Act should then follow the principles and policies that are established.

The Panel finalised their work and the State Government released their report in August 2020. WALGA's response to the Panel report (*and the Select Committee into Local Government and the findings of the City of Perth inquiry*) was to adopt sector positions on issues important to the sector. Please find attached WALGA's endorsed positions.

Future Process

The process going forward, including preparing a New Local Government Act (Green Bill), will need to be confirmed by the State Government following the March 2021 State Election. The sector will need a commitment from the next State Government on whether a New Act will continue to be pursued. This commitment is currently being pursued with all political parties as part of the sector's election strategy.

Voting Requirements: Simple Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

16.1.1 UPDATE – LOCAL GOVERNMENT ACT REVIEW

OFFICER RECOMMENDATION

THAT the report be noted.

16.2 LOCAL GOVERNMENT ORDINARY ELECTION 2021

Applicant:	Shire of Perenjori
File:	ADM0845
Disclosure of Interest:	Nil
Author:	Bianca Plug – Executive Assistant
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	16.2 (a) – Letter from the Electoral Commission

Executive Summary:

This report recommends that Council appoint the Western Australian Electoral Commissioner to conduct the Shire of Perenjori election to be held on 16 October 2021, and that the election be held by postal ballot.

Background:

The 2018 Council election was conducted as a postal ballot by the WA Electoral Commission. This is the preferred methodology throughout Western Australia, with approximately 70% of local governments preferring postal voting in recent years. Historically voter turnout has been significantly enhanced across the sector by postal voting. An absolute majority decision of council is required to appoint the WA electoral Commission to conduct the poll by postal voting.

In the 2020 Ordinary Election 141 out of 289 eligible Electors participated in the election which resulted in 1,331 votes being received and seven (7) vacancies being filled. Three (3) of these positions are up for re-election in 2021.

Statutory Environment:

2.7. Role of council

- (1) The council —
 - (a) governs the local government's affairs; and
 - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to —
 - (a) oversee the allocation of the local government's finances and resources; and
 - (b) determine the local government's policies.

Local Government Act 1995

4.20. CEO to be returning officer unless other arrangements made

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for —
 - (a) an election; or
 - (b) all elections held while the appointment of the person subsists.

* Absolute majority required.

- (3) An appointment under subsection (2) —
 - (a) is to specify the term of the person's appointment; and
 - (b) has no effect if it is made after the 80th day before an election day.
- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

* *Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

[Section 4.20 amended: No. 64 of 1998 s. 19(1); No. 49 of 2004 s. 16(4) and 32(1)-(4).]

4.61. Choice of methods of conducting election

- (1) The election can be conducted as a —
postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or
voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
- (2) The local government may decide* to conduct the election as a postal election.

* *Absolute majority required.*

- (3) A decision under subsection (2) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- (5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

[Section 4.61 amended: No. 64 of 1998 s. 25; No. 49 of 2004 s. 16(4) and 32(5).]

Policy Implications:

Nil.

Legal Compliance:

Nil.

Risk Management:

Risk Statement	Level of Risk	Risk Mitigation Strategy
Consolidate the validity of the elected council. Maintain the autonomy of the administration from the election of the Council.	Low.	Appoint the WA Electoral Commissioner to conduct the election and utilise postal voting for the election.

Consultation:

WA Electoral Commission.

Financial Implications:

An allocation of \$12,000 inc GST will be included in the 2021/22 annual budget to meet all election costs inclusive of advertising, WA Electoral Commission charges and incidentals.

Precedents:

The 2020 Council election was successfully conduct by the WA Electoral Commission utilising postal voting.

Strategic Community Plan:

Area 5: Investing in Council's Capacity – Our Leadership

Goal: Strengthen the Sire's position as an innovative and proactive Local government providing excellence in all areas of governance, management and leadership.

CEO Comment:

There are a number of advantages to appointing the WA Electoral Commission to conduct the election using postal voting: -

- The Electoral Commissioner appoints the returning officer. Shire employees are still involved in helping electors with replacement ballot papers, with the independent Returning Officer providing the training and guidance as required
- Removes any perception of bias if the election is run by the Chief Executive Officer
- Every elector receives the ballot papers with clear instructions including a profile of each candidate
- There is no inconvenience on election day if events occur that distract electors from attending the polling place/s
- Absentee owners that are registered on the Shire's electoral roll receive the ballot papers
- Electors have the convenience of time to deliver the completed ballot paper to the post office or the Shire office
- Candidates profiles are delivered to every elector with their voting package..

The cost equates to \$4000 per elected member vacancy.

Should there be no election required after the close of nominations, the cost will be limited to the expenses incurred up until this time.

Voting Requirements: Absolute Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

16.2.1 LOCAL GOVERNMENT ORDINARY ELECTION 2021

OFFICER RECOMMENDATION

THAT:

- 1. The Western Australian Electoral Commissioner to appointed to conduct the Shire of Perenjori Ordinary election on Saturday 16 October 2021.**
- 2. The Ordinary Council election to be held on 16 October 2021 be conducted as a postal election.**

16.3 LOCAL PLANNING SCHEME REVIEW

Applicant:	Shire of Perenjori
File:	ADM0826
Disclosure of Interest:	Nil
Author:	Simon Lancaster – DCEO Shire of Chapman Valley
Responsible Officer:	Mario Romeo - Chief Executive Officer 16.3(a) - Advertised Shire of Perenjori Local Planning Scheme No.3
Attachments:	16.3(b) – Schedule of Submissions 16.3(c) – Copies of Received Submissions 16.3(d) – Schedule of Proposed Scheme Modifications

Executive Summary:

Council resolved at its 16 April 2020 meeting to adopt draft Shire of Perenjori Local Planning Scheme No. 3 for the purpose of advertising. The advertising period has now been completed and this report recommends that Council resolve to adopt the reviewed Scheme subject to modifications arising from the submissions received during the advertising period, and forward it to the Western Australian Planning Commissions ('WAPC') seeking final approval.

Background:

The current Shire of Perenjori Local Planning Scheme No.2 was gazetted on 28 July 2011 and requires review to ensure the Shire's statutory planning document is consistent with the Planning and Development (Local Planning Schemes) Regulations 2015 ('the Regulations').

The Regulations introduced a standardised state-wide template for the layout of Local Planning Schemes and the Shire's current Scheme No.2 requires updating to ensure it is consistent with legislation. The review of the Scheme will ensure it remains contemporary and is also more robust to challenge in the event that Council finds itself subject to appeal.

A copy of the advertised draft Shire of Perenjori Local Planning Scheme No.3 (text and maps) has been provided as **separate Attachment 16.3(a)**.

For comparative purposes the current Shire of Perenjori Local Planning Scheme No.2 can be viewed at the following link to the Department of Planning, Lands & Heritage website:

<https://www.dplh.wa.gov.au/perenjori>

Draft Scheme No.3 does not represent a major overhauling of the existing Scheme No.2, rather a fine-tuning exercise with changes limited to the following:

- Updating the Scheme Text provisions to reference those as contained in the Regulations to ensure consistency and assist Council in statutory matters.
- Reconciling omissions and anomalies in the Scheme Text provisions.
- Inserting into the Zoning Table and Schedules the updated and standardised land use definitions as contained in the Regulations and the current Regulations review.
- Standardise the zonings upon the Scheme Map and their corresponding objectives in the Scheme Text with those in the Regulations.
- Minor modifications to the Scheme Maps around the Perenjori townsite to correct land use anomalies.

- The rezoning of a 27ha area of land to 'Rural Residential' on the south-eastern edge of the Perenjori townsite that was identified for this strategic direction in Council's previously adopted Local Planning Strategy.
- Introduction to the Scheme Text and Map of a Public Purpose zoning and accompanying Special Control Area for the Perenjori Waste Disposal site.
- Modifications to the Scheme Maps to correct minor anomalies where privately owned land has been identified for public purposes and where Crown Land has not been identified as Reserves and ensuring also that the Reserve zonings match the assigned (or Council sought) Reserve management purpose/vesting order.
- Modifications to the Scheme Maps (particularly in the north-eastern area of the Shire) so that the Unallocated Crown Land parcels containing remnant vegetation that have been identified as Conservation Estate (and that will be jointly managed by the claimant groups and the Department of Biodiversity, Conservation & Attractions) in the Yamatji Nation Indigenous Land Use Agreement, to resolve native title in the Mid West region, are rezoned from 'Rural' to 'Environmental Conservation'.

Council resolved at its 16 April 2020 meeting as follows:

"That Council resolve to:

- 1 Adopt Shire of Perenjori Local Planning Scheme No. 3 pursuant to Part 5 of the Planning and Development Act 2005 and forward, in accordance with Part 5 Division 3 Section 81 of the Planning and Development Act 2005, notice of the resolution to adopt and a copy of the Scheme to the Environmental Protection Authority to determine whether the Scheme should be formally assessed.
- 2 Forward the Shire of Perenjori Local Planning Scheme No. 3, in accordance with Part 4 Division 2 Section 21 of the Planning and Development (Local Planning Schemes) Regulations 2015, to the Western Australian Planning Commission seeking its consent to advertise.
- 3 Delegate to the Chief Executive Officer to undertake minor modifications to the Shire of Perenjori Local Planning Scheme No. 3 that do not significantly alter the intent of the Scheme (including but not limited to; changes to format, spelling, grammar, numbering; Model or Deemed provisions; updates necessitated by Scheme Amendments, Structure Plans, Policies or other Strategies that have been given approval in the interim period etc.) as may be required by the Western Australian Planning Commission or otherwise prior to its advertising consent being granted.
- 4 Upon receipt of the Western Australian Planning Commission's advice that the Shire of Perenjori Local Planning Scheme No. 3 can be advertised, and compliance with Part 5 Division 3 Section 82 of the Planning and Development Act 2005, proceed to advertise the Scheme in accordance with Part 4 Division 2 Section 22 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- 5 At the conclusion of the advertising period return the draft Shire of Perenjori Local Planning Scheme No. 3, and any received submissions, to Council for its further consideration."

The Environmental Protection Authority ('EPA') determined on 13 May 2020 that draft Scheme No.3 should not be assessed under Part IV of the Environmental Protection Act 1986 and the Shire advised the WAPC of the EPA's determination and requested the WAPC's consent to advertise draft Scheme No.3.

The WAPC advised on 21 July 2020 of its consent to advertise Scheme No.3 subject to a number of modifications, these modifications were minor in nature and intended to align the draft Scheme with the WAPC's current Regulations Review. The duly modified Scheme No.3 was therefore returned to the WAPC and confirmation that advertising may commence was received on 31 July 2020.

Advertising of Scheme No.3 commenced on 2 September 2020 and concluded on 4 December 2020 and is addressed in greater details in the Consultation section of this report.

Statutory Environment:

Section 88 of the *Planning and Development Act 2005* ('the Act') requires Local Governments to review their planning scheme every 5 years. Schemes are prepared and adopted under Part 5 of the Act and in compliance with the Regulations.

Part 5 (Local Planning Schemes) of the Act and Part 4 (Preparation or adoption of Local Planning Scheme) of the Regulations provide the procedure by which a Local Planning Scheme is required to be reviewed.

Following the 16 April 2020 meeting where Council resolved to adopt draft Scheme No.3, it was required to be forwarded to the EPA for assessment in accordance with Section 81 of the Act and Section 48 of the *Environmental Protection Act 1986*.

On 13 May 2020 the EPA determined that Scheme No.3 did not warrant assessment under Part IV of the *Environmental Protection Act 1986* and on 31 July 2020 confirmation was received from the WAPC advising that advertising may commence.

With the conclusion of the advertising period Council can now consider the submissions received and, if satisfied, subsequently forward the Scheme to the WAPC, with or without request for modification to the advertised version. The WAPC and Minister for Planning may then resolve to either:

- approve Scheme No.3; or
- require modification to Scheme No.3; or
- refuse Scheme No.3.

Policy Implications:

Nil.

Legal Compliance:

Nil.

Risk Management:

Risk Statement	Level of Risk	Risk Mitigation Strategy
<p>The <i>Planning and Development Act 2005</i> and <i>Planning and Development Regulations 2015</i> set the requirement for Local Planning Schemes under which Council has the responsibility to administer and make determination upon planning matters.</p>	<p>The Shire of Perenjori Local Planning Scheme No.3 is due for review in accordance with the legislative requirements.</p>	<p>The risk level is considered low if Council's Local Planning Scheme is consistent with the legislative requirements.</p>

Consultation:

The draft Scheme No.3 was advertised as per Section 84 of the Act and Regulation 22 for a period of 93 days, commencing on 2 September 2020 and concluding on 4 December 2020, and the advertising included the following actions:

- display of the Scheme at the Shire office;
- display of the Scheme at the WAPC office in Perth;
- display of the Scheme on the Shire website;
- notice inviting comment in the Mid West Times on 2 September 2020;
- correspondence inviting comment being sent to the following 35 state government agencies, neighbouring local governments and interested parties:
 - ATCO Gas;
 - Australian Gas Infrastructure Group;
 - Cooperative Bulk Handling;
 - Department of Biodiversity, Conservation and Attractions;
 - Department of Communities;
 - Department of Education;
 - Department of Finance;
 - Department of Fire & Emergency Services;
 - Department of Health;
 - Department of Jobs, Tourism, Science and Innovation;
 - Department of Lands;
 - Department of Local Government, Sport and Cultural Industries;
 - Department of Mines, Industry Regulation and Safety;
 - Department of Planning, Lands and Heritage;
 - Department of Primary Industries and Regional Development;
 - Department of Transport;
 - Department of Water and Environment Regulation;
 - Development WA ;
 - Horizon Power;
 - Housing Authority;
 - Karara Mining Ltd;
 - Land Information Authority Western Australia (Landgate);
 - Shire of Carnamah;
 - Shire of Coorow;
 - Shire of Dalwallinu;
 - Shire of Morawa;
 - Shire of Three Springs;
 - Shire of Yalgoo;
 - Silver Land Resources;
 - Main Roads WA;

- Mid West Development Commission;
- Mount Gibson Iron;
- Telstra;
- Water Corporation;
- Western Power.

At the conclusion of the advertising period 11 submissions had been received, with 4 of these offering support for the Scheme, 6 expressing technical comment/seeking some minor modifications to the Scheme, and 1 seeking the rezoning of a property contained within the Scheme area.

A Schedule of Submissions has been provided as **separate Attachment 16.3(b)** that identifies the respondents, the nature of their submissions, and provides individual comment and recommends a modification to the Scheme based upon the submissions (if considered required). Regulation 28(1)(a) requires that the Schedule of Submissions is forwarded to the WAPC with Council's resolution.

Copies of the received submissions have been provided as **separate Attachment 16.3(c)**.

A Schedule of Modifications is also required to be prepared by Shire staff following Council's determination. The Schedule of Modifications will draw upon the individual recommendations of the Schedule of Submissions, and any required Council modifications and will list the suggested changes to the Scheme. Regulation 28(1)(c) requires that the Schedule of Modifications is forwarded to the WAPC with Council's resolution.

A copy of the draft Schedule of Modifications has been provided as **separate attachment 16.3(d)**.

Financial Implications:

Reflecting the intention that the Scheme Review process should be one of ensuring the Scheme is updated to meet the state-wide template, rather than requiring complete overhaul, the Shire engaged the Department of Planning, Lands and Heritage to prepare the draft Scheme Maps, and the Scheme Text updating has been undertaken in-house with assistance from the Department of Planning, Lands and Heritage.

Precedents:

Council previously undertook a Scheme Review through 2009-2011 that replaced Local Planning Scheme No.1 with Local Planning Scheme No.2.

Strategic Community Plan:

Area 2: Industry and Business Development – Our Economy

Goal: Fostering and maximising growth across the economy, seeking and embracing opportunities for diversifying and strengthening our economic base.

Officer Comment:

The public advertising process for draft Scheme No.3 has concluded with 11 submissions being received. Council is required to consider the submissions received and further deliberate as to whether it wishes to undertake further modifications to the Scheme Text and Maps.

The Schedule of Submissions provided as **separate Attachment 16.3(b)** summarises the received submissions and makes recommendation on whether modification to the Scheme should be made based upon each of the received submission.

Voting Requirements: Simple Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

16.3.1 LOCAL PLANNING SCHEME REVIEW

OFFICER RECOMMENDATION

THAT Council:

- 1 Note the submissions received during the formal advertising period of the draft Shire of Perenjori Local Planning Scheme No.3 as outlined in the Schedule of Submissions provided as Attachment 16.3(b) pursuant to Regulation 25 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 2 Adopt Shire of Perenjori Local Planning Scheme No.3 pursuant to Regulation 25 of the *Planning and Development (Local Planning Schemes) Regulations 2015* subject to the modifications as outlined in the recommendations of the Schedule of Submissions and instruct Shire staff to accordingly prepare the Schedule of Modifications pursuant to Regulation 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 3 Forward to the Western Australian Planning Commission the following, pursuant to Section 87 of the *Planning and Development Act 2005* and Regulation 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:**
 - (a) Notice of Council's resolution to adopt Shire of Perenjori Local Scheme No.3;**
 - (b) Schedule of Submissions made on Shire of Perenjori Local Scheme No.3;**
 - (c) Schedule of Modifications made to Shire of Perenjori Local Scheme No.3.**
- 4 Requests the Honourable Minister for Transport, Planning and Lands grant final approval to Shire of Perenjori Local Planning Scheme No.3.**
- 5 Inform those agencies and persons who made a submission on the Draft Shire of Perenjori Local Planning Scheme No.3 of its resolution.**

16.4 PERENJORI CIVIL ENGINEERING BUSINESS – LOT 150 NORTH ROAD, PERENJORI

Applicant:	Kings WA Pty Ltd
File:	ADM0826
Disclosure of Interest:	Shire President – Cr Chris King
Author:	Simon Lancaster – DCEO Shire of Chapman Valley
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	16.4(a) – Copy of Development Application 16.4(b) – Copy of Rezoning Submission 16.4(c) – Copy of Received Submissions

Executive Summary:

Council resolved at its 17 December 2021 meeting to advertise for comment an application to operate a civil engineering business upon Lot 150 North Road, Perenjori and return this matter to Council for consideration of the received submissions.

Background:

Lot 150 is a triangular 1.0158ha property, owned by Penelope & Steven King, bordered on all sides by road. Lot 150 borders North Road on its 168m eastern frontage, Hesford Street on its 134m north-western boundary and Downer Street on its 114m south-western boundary.

Figure – Location Plan for Lot 150 North Road, Perenjori



The applicant is seeking approval to operate a civil engineering business upon Lot 150. A copy of the application, that includes supporting correspondence, site plan and additional information has been provided as **separate Attachment 16.4(a)** for Council's information.

The proposed development would consist of the following:

- parking of vehicles associated with the civil engineering business (including semi water cart, road train, trailers, excavator, loader and smaller vehicles);

- permanent siting of 4 sea containers, with 1 serving as a site office and the other 3 for storage;
- maintenance area;
- wash down bay and associated water tanks;
- diesel tank (10,000L); &
- internal sealed vehicle network.

The applicant has also mentioned that they would seek to construct a caretaker's residence upon Lot 150 in the future.

The proposed activities are considered to meet various land use definitions that are listed as not-permitted within the 'Residential' zone (and this is discussed in greater detail in the Legislation Compliance section of this report) and ordinarily the application should be recommended for refusal at the outset.

However, it is noted that there are some factors peculiar to this application and property and Council therefore considered it appropriate to advertise the matter, inviting comment from surrounding landowners and relevant government and service agencies, prior to making its determination.

It is noted that Lot 150, whilst being zoned 'Residential', has previously been used for other development not listed for this zone, with a workforce accommodation camp sited upon the property previously, as illustrated in the below aerial photograph from 2014.

Figure – 2014 Aerial Photograph of Lot 150 illustrating Redland Mining Pty Ltd Camp



Statutory Environment:

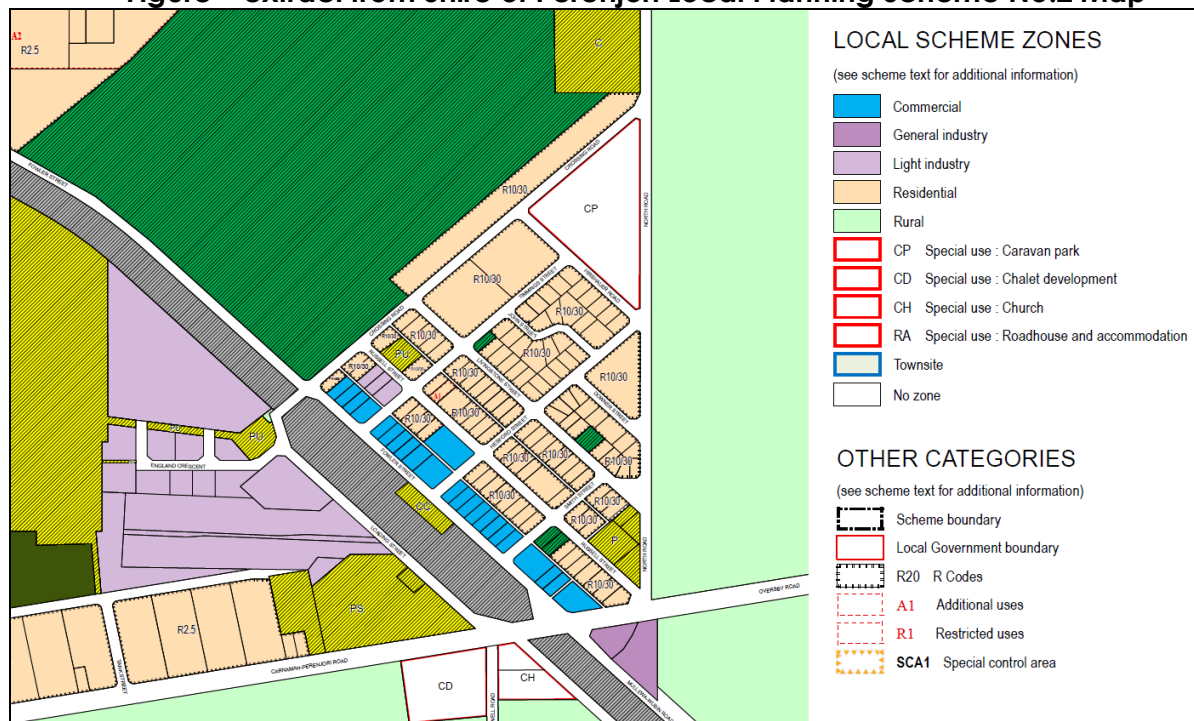
Lot 150 North Road, Perenjori is zoned 'Residential R10/30' under the Shire of Perenjori Local Planning Scheme No.2 ('Scheme No.2').

Section 4.2 of Scheme No.2 lists the following objectives for the 'Residential' zone:

- “• To provide for predominantly residential development with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes of Western Australia.
- Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.
- A non-residential use shall only be permitted if the use does not detract from the amenity of the area.”

The application cannot be considered to accord with these objectives.

Figure – extract from Shire of Perenjori Local Planning Scheme No.2 Map



The application, and aspects thereof, would meet with the following land uses as defined under the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') all of which are listed as 'X' uses (i.e. not permitted) within the 'Residential' zone under Scheme No.2.

“industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) *the storage of goods;*
- (b) *the work of administration or accounting;*
- (c) *the selling of goods by wholesale or retail;*
- (d) *the provision of amenities for employees;*
- (e) *incidental purposes”*

“industry — light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed”

“office means premises used for administration, clerical, technical, professional or similar business activities”

“transport depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and*
- (b) any ancillary storage of goods brought to the premises by those vehicles; and*
- (c) the transfer of goods or persons from one vehicle to another”*

The Regulations define a ‘commercial vehicle’ as being:

“commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including —

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and*
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a)”*

Schedule 1 Part 3 Clause 18(6) of the Regulations states

“If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless —

- (a) the development approval application relates to land that is being used for a non-conforming use; and*
- (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.”*

On this basis the application should ordinarily be refused, however, it is acknowledged that there are certain factors relevant to this matter that may warrant some consideration (and these are further discussed in the Officer Comment section of this report)

It is also noted that Section 88 of the *Planning and Development Act 2005* requires local governments to review their planning scheme every 5 years.

Scheme No.2 was gazetted on 28 July 2011 and required review to ensure the Shire's statutory planning document is consistent with the subsequent 2015 Regulations.

To this end it was resolved at the 20 February 2020 Council meeting to initiate the preparation of Shire of Perenjori Local Planning Scheme No.3 ('Scheme No.3') and at the 16 April 2020 Council meeting to adopt draft Scheme No.3 for the purposes of advertising.

Draft Scheme No.3 does not represent a major overhauling of the existing Scheme No.2, rather a fine-tuning exercise with changes generally limited to the following:

- updating the Scheme Text provisions to reference those as contained in the Regulations to ensure consistency and assist Council in statutory matters.
- reconciling omissions and anomalies in the Scheme Text provisions.
- inserting into the Zoning Table and Schedules the updated and standardised land use definitions as contained in the Regulations and the current Regulations review.

- standardise the zonings upon the Scheme Map and their corresponding objectives in the Scheme Text with those in the Regulations.
- minor modifications to the Scheme Maps around the Perenjori townsite to correct land use anomalies and accord with the strategic direction in Council's previously adopted Local Planning Strategy.
- modifications to the Scheme Maps to correct minor anomalies where privately owned land has been identified for public purposes and where Crown Land has not been identified as Reserves and ensuring also that the Reserve zonings match the assigned Reserve management purpose/vesting order.

Following the obtaining of the necessary statutory consents to advertise from the Environmental Protection Authority and the Western Australian Planning Commission ('WAPC') Scheme No.3 was advertised for comment from 2 September 2020 until 4 December 2020 and included the following actions:

- display of Scheme No.3 at the Shire office;
- display of Scheme No.3 at the WAPC office;
- display of Scheme No.3 on the Shire website;
- notice inviting comment being published in the Mid West Times;
- notice inviting comment being sent to all relevant government agencies.

The landowner of 2 (Lot 150) Downer Street, Perenjori lodged a submission during the Scheme Review advertising period requesting Council's (and subsequently the WAPC's) consideration for the rezoning of their property from 'Residential' to 'Special Use' with specific allowance for the following land uses:

- Transport Depot;
- Commercial Vehicle parking;
- Office; &
- Caretaker's Dwelling.

A copy of the rezoning submission has been provided as **separate Attachment 16.4(b)** for Council's information.

The matter of Scheme No.3, and the submissions received during the advertising period, is also brought before Council for its consideration at its 18 February 2021 meeting.

Council therefore resolved at its 18 December 2020 meeting to advertise the received application for a civil engineering business to surrounding landowners and relevant government and service agencies, providing opportunity for them to comment upon this matter. This advertising also served to assist Council in making its determination upon the matter of the requested rezoning of 2 (Lot 150) Downer Street, Perenjori.

Schedule 2 Part 9 Clause 67 of the Regulations lists the following relevant matters to be considered by local government in determining a development application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely*

- effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;...*
 - ...(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
 - ...(r) the suitability of the land for the development taking into account the possible risk to human health or safety;*
 - (s) the adequacy of –*
 - (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
 - (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
 - ...(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
 - (w) the history of the site where the development is to be located;*
 - (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
 - (y) any submissions received on the application;*
 - (za) the comments or submissions received from any authority consulted under clause 66;*
 - (zb) any other planning consideration the local government considers appropriate."*

Policy Implications:

Nil.

Council Role:

Council is the decision making authority in relation to development applications.

Council is the instigating authority in relation to rezoning applications, and following its determination regarding Scheme No.3, Council's resolution is forwarded to the WAPC for the Minister's final determination (either support, support in part, or refuse).

Legal Compliance:

Nil.

Risk Management:

Consultation:

The application for a civil engineering business upon Lot 150 North Road was advertised for comment from 22 December 2020 until 1 February 2021 and included the following consultation actions:

- display of application at the Shire office;
- display of application on the Shire website;
- display of signs at 2 locations on-site inviting comment;

- notice inviting comment being published in the West Australian;
- notice inviting comment being sent to the landowner of the 19 surrounding properties;
- notice inviting comment being sent to all relevant government and service agencies.

At the conclusion of the advertising period, 2 submissions has been received both from government agencies offering the following technical comment. Copies of the received submissions are provided as **separate Attachment 16.4(c)**. No objections were received.

Department of Water and Environmental Regulation comment:

"Stormwater should be managed to ensure that no stormwater leaves the site and washdown facilities should have a sump for the collection and separation of washdown fluids, such as hydrocarbons, degreasers and cleaning detergent."

"Proponent to investigate the suitability of the existing infrastructure to ascertain if the concrete base is suitable for the size of the proposed diesel tank and would have sufficient capacity for bunding."

Shire Officer comment:

The comments of DWR are noted and in the event of development approval being granted for the application the raised issues can be addressed through conditions of approval.

Main Roads WA comment:

"The proposed development site is not located within or adjacent to a road reserve under Main Roads jurisdiction. It is considered that the proposal would have no detrimental impact on the level of service, amenity or safety of users of the existing Main Roads network. Additionally, Main Roads has no current plans in the area that would impact the development and therefore has no further comments."

Financial Implications:

The application would incur standard legislative planning and building fees.

Precedents:

Redland Mining Pty Ltd established a workforce accommodation camp upon Lot 150 in 2011, that was approved for expansion by Council at its 17 July 2014 meeting, and the associated services remained upon Lot 150.

Strategic Community Plan:

Area 2: Industry and Business Development – Our Economy

Goal: Fostering and maximising growth across the economy, seeking an embracing opportunities for diversifying and strengthening our economic base.

Area 3: People and Place – Our Community

Goal: Demonstrating a high quality of life for all, offering relevant activities, facilities, and services to enable people to meet their needs and achieve or exceed their potential.

Officer Comment:

Main Roads WA submission noted.

Given that surrounding landowners have not raised objection to the received development application, and the government/service agencies have also offered technical comment (and not objection) Council might therefore deem that the proposed development warrants some further consideration (pending the outcome of the Scheme No.3 process).

Voting Requirements: Simple Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

16.4.1 PERENJORI CIVIL ENGINEERING BUSINESS – LOT 150 NORTH ROAD, PERENJORI

OFFICER RECOMMENDATION

THAT Council advise the applicant that it considers that the operation of a civil engineering business upon Lot 150 North Road, Perenjori could be conducted without negative impact to the amenity of the surrounding area, subject to adherence to conditions, and on this basis issue delegated authority to the Shire CEO to approve the application subject to the following conditions:

- 1 The approval for the civil engineering business shall not be issued until such time as the subject property has been rezoned to an appropriate zoning (noting that the subject property is subject to consideration for rezoning as part of the current Scheme Review process) and in the event that such rezoning is not approved as part of Shire of Perenjori Local Planning Scheme No.3 then this matter be returned to Council for further consideration.**
- 2 Development shall be in accordance with the plan(s) provided in the Attachments to this report and subject to any modifications required as a consequence of any condition(s) of this approval.**
- 3 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.**
- 4 The applicant is to prepare, submit and adhere to a Management Plan.**
- 5 The proponent is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan.**
- 6 The vehicle access shall be onto North Road only and the location, design and construction/upgrading of the access point shall be to the requirements of the local government, with all costs met by the applicant.**
- 7 The installation of any signage in the vicinity of the vehicle access point, and relating to the development, shall be to the requirements of the local government, with all costs met by the applicant.**
- 8 All parking of vehicles associated with the development shall be provided for within the property boundary, and the road verge area shall be kept free of such vehicles.**
- 9 Repairing of any damage to the road network is required by reason of use of the road(s) in connection with the development and associated operations to the requirements of the local government, with all costs met by the applicant.**

- 10 All lighting devices must be installed and shaded in such a way as to not cause undue light spill to passing motorists or neighbouring landowners to the approval of the local government.**
- 11 The internal vehicle manoeuvring and parking areas shall be constructed and maintained to the approval of the local government with all costs met by the applicant.**
- 12 The installation and maintenance of landscaping and fencing along the Downer Street and Hesford Street frontage for the purpose of screening the development and reducing its visual impact to the approval of the local government with all costs met by the applicant**
- 13 Structures upon the property shall comply with the Building Code of Australia.**

Advice Notes for Applicant relating to Conditions:

- (a) In relation to condition 4 the Management Plan is to include sections relating to:**
 - Stormwater Management - that has regard for the Water Quality Protection Notes as prepared by the Department of Water & Environmental Regulation and ensures that stormwater is retained upon the development site and washdown facilities have a sump for the collection and separation of washdown fluids, such as hydrocarbons, degreasers and cleaning detergent.**
 - Fire & Hazard Management - that has regard for the requirements/guidelines of the Department of Fire and Emergency Services.**
 - Fuel Storage - that has regard for the requirements/guidelines of the Department of Mines, Industry Regulation & Safety, and also the issue raised by the Department of Water & Environmental Regulation requiring the concrete base to be of suitable size for the fuel tank(s) and with sufficient capacity for bunding.**
 - Noise, Dust and Vibration Management – that has regard for the requirements/guidelines of the Department of Water & Environmental Regulation and the Department of Health.**
 - Complaints Register and Emergency Contacts List – to be established and maintained by the operator of the facility.**
- (b) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the obtaining of any required approvals from the Department of Health, the Department of Mines, Industry Regulation & Safety, and the Department of Water & Environment Regulation. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.**

16.5 ELECTED MEMBER MANDATORY TRAINING

Applicant:	Shire of Perenjori
File:	ADM0070
Disclosure of Interest:	Nil
Author:	Wayne Scheggia – Executive Advisor
Responsible Officer:	Mario Romeo - Chief Executive Officer.
Attachments:	Nil

Executive Summary:

This report outlines options for the delivery of mandatory training to Shire of Perenjori elected members required within 12 months of election to Council.

The original proposal presented in December was to conduct the training on site, in early February, late February and early March 2021.

This matter was deferred at the December meeting, pending exploration of on-line training options.

Background:

Elected members must successfully complete the following 5 subjects within 12 months of being elected;

- Understanding Local Government
- Conflicts of Interest
- Serving on Council
- Meeting Procedures
- Understanding Financial Reports and Budgets

The training can be delivered either online, in person in Perth, in person onsite in Perenjori or via a combination of delivery methods.

At its December meeting Council resolved;

THAT this matter be deferred to the next Ordinary Council Meeting, to further investigate online options.

Statutory Environment:

Regulation 35 of the *Local Government (Administration) Regulations 1996* specifies the training requirements for elected members.

Policy Implications:

Nil.

Legal Compliance:

Nil.

Risk Management:

Risk Statement	Level of Risk	Risk Mitigation Strategy
<p>Elected members may not be aware of the primary responsibilities of their role.</p> <p>Elected members may miss the deadline for completion of the training.</p> <p>Elected members may have differing levels of knowledge.</p>	<p>Medium</p>	<p>Conduct training at the earliest possible opportunity.</p>

Consultation:

CEO, Training providers, elected members.

Financial Implications:

On-site, in person, delivery of the training at the Shire office has been quoted at \$18,000.00 plus expenses.

“E-Learning”, (*the on-line delivery of the training*) has been quoted at **\$6,825.00** based on individuals using their own computer equipment.

A combination of on-site and on-line delivery (*e.g.: 3 sessions on-site and 2 sessions on-line*) has been quoted at **\$16,730.00** plus expenses.

\$10,000.00 is currently allocated for elected member training.

Precedents:

Nil.

Strategic Community Plan:

Area 5: Investing in Council's Capacity – Our Leadership

Goal: Strengthen the Shire's position as an innovative and proactive local Government providing excellence in all areas of governance, management and leadership.

Comment:

Our original concern about utilising the e-learning training option revolved around the intermittent quality of internet access at our location.

To help us understand this more clearly WALGA provided temporary access to the training modules for staff to run a trial of the on-line modules and the system functioned appropriately. Assuming that elected members have internet access that is equivalent to that available at the council office, they should have the ability to successfully access and complete the training modules.

It should be noted that access must be via either a desktop or laptop computer and cannot be successfully navigated using a portable device, such as an I-Pad or smart phone.

Council previously indicated a strong preference to conduct the training in February/March and this can still be achieved by utilising the e-learning option.

A number of the dates indicated at the December meeting for conducting the training (*on-site and in person*) during February/March are no longer achievable, so if elected members were to prefer this approach the earliest scheduling of the training would occur during March and requires 3 sessions (*2 sessions X 2 days and a final one day session*) with 2 weeks between each session.

Given the lower cost and continuing desire to have the training undertaken as soon as possible, together with the successful accessibility trial of the on-line training platform, it is recommended that the training be undertaken utilising the WALGA E-Learning platform.

Voting Requirements: Simple Majority

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

16.5.1 ELECTED MEMBER MANDATORY TRAINING

OFFICER RECOMMENDATION

THAT elected members be enrolled in the WALGA “Member Essentials” e-Learning program in order to undertake the five mandatory elected member training modules at a cost of \$6,850.00.

17. CONFIDENTIAL REPORTS

17.1 COUNCIL DECISION TO GO BEHIND CLOSED DOORS

THAT Council go behind closed doors to consider matters that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person.

17.2 CONFIDENTIAL ITEM – OVERDUE RATES AND CHARGES

Applicant:	Shire of Perenjori
File:	ADM0033
Disclosure of Interest:	Nil
Author:	Louise Sequerah – Rates Officer
Responsible Officer:	Mario Romeo - Chief Executive Officer
Attachments:	17.2 (a) - Defaulting Rate Payers – January 2021

Voting Requirements: Absolute Majority

Change to Officer Recommendation

No Change. OR:

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

17.2.1 OVERDUE RATES AND CHARGES

OFFICER RECOMMENDATION

THAT the overdue rates and charges report totaling \$28,672.28 be received.

17.3 COUNCIL DECISION TO RETURN FROM BEHIND CLOSED DOORS

THAT Council return to standing orders and re-open the meeting to the public.

18. ORDERING THE COMMON SEAL

Document	Organisation	Purpose	Date
-	-	-	-

19. REPORTS OF COMMITTEES AND MEMBERS

20. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

21. NOTICE OF MOTIONS

(for consideration at the following meeting, if given during the meeting).

22. NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL

23. CLOSURE OF MEETING

24. NEXT MEETING:

The Shire President advises that the date of the next Ordinary Meeting of Council will be held on Thursday 18 March 2021, commencing at 5:00 pm at the Shire of Perenjori Council Chambers 56 Fowler Street, Perenjori WA 6620.