

Notice of Meeting



Dear President and Councillors,

The next Ordinary Meeting of the Council of the Shire of Merredin will be held on Tuesday 21 March 2017 in the Council Chambers, Corner King & Barrack Streets, Merredin. The format of the day will be:

11.30am	Citizenship Ceremony
12.00pm	Lunch
1.00pm	Briefing Session – Presentation from Mick Hayden
3.00pm	Council Meeting

GREG POWELL
CHIEF EXECUTIVE OFFICER

16 March 2017

DISCLAIMER

PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:

Statements or decisions made at this meeting should not be relied or acted on by an applicant or any other person until they have received written notification from the Shire. Notice of all approvals, including planning and building approvals, will be given to applicants in writing. The Shire of Merredin expressly disclaims liability for any loss or damages suffered by a person who relies or acts on statements or decisions made at a Council or Committee meeting before receiving written notification from the Shire.

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

Common Acronyms Used in this Document

WEROC	Wheatbelt East Regional Organisation of Councils
GECZ	Great Eastern Country Zone
WALGA	Western Australian Local Government Association
CEACA	Central East Aged Care Alliance
CEO	Chief Executive Officer
DCEO	Deputy CEO
EMDS	Executive Manager of Development Services
EMES	Executive Manager of Engineering Services
EMCS	Executive Manager of Corporate Services
EA	Executive Assistant to CEO
LPS	Local Planning Scheme
LGIS	Local Government Insurance Services
SRP	Strategic Resource Plan
CBP	Corporate Business Plan
CSP	Community Strategic Plan
MRCLC	Merredin Regional Community and Leisure Centre
CWVC	Central Wheatbelt Visitors Centre
MoU	Memorandum of Understanding

Shire of Merredin
Ordinary Council Meeting
3:00pm Tuesday 21 March 2017



1. Official Opening

2. Record of Attendance / Apologies and Leave of Absence

Councillors:

Cr KA Hooper	President
Cr RM Crees	Deputy President
Cr BJ Anderson	(via teleconference subject to Council resolution)
Cr CA Blakers	
Cr LN Boehme	
Cr MA Crisafio	
Cr JP Flockart	
Cr MD Willis	
Cr ML Young	

Staff:

G Powell	CEO
R McCall	Deputy CEO
P Zenni	EMDS
V Green	EA to CEO

Members of the Public:

Apologies:

Approved Leave of Absence: Nil

Request for Attendance via Teleconference

In accordance with Regulation 14A of the *Local Government (Administration) Regulations 1996* Councillor Anderson has requested attendance at this Council Meeting via telephone communication.

Voting Requirements



Simple Majority



Absolute Majority

Councillor's Recommendation

That Council:

1. approves Councillor Anderson's attendance at the March 2017 Council Meeting via telephone communication in accordance with Regulation 14A(1) of the *Local Government (Administration) Regulations 1996*; and
2. approves a residence at Forrest Street, Kalgoorlie as a suitable place for Councillor Anderson's attendance in accordance with Regulation 14A(4) of the *Local Government (Administration) Regulations 1996*.

3. Public Question Time

Members of the public are invited to present questions to the President about matters affecting the Shire of Merredin and its residents.

4. Disclosure of Interest

5. Applications for Leave of Absence

6. Petitions and Presentations

7. Confirmation of Minutes of the Previous Meeting

- 7.1 [Ordinary Council Meeting held on 21 February 2017](#)

8. Announcements by the Person Presiding without discussion

9. Matters for which the Meeting may be closed to the public

- 19.1 Staff – CEO Performance Appraisal

10. Receipt of Minutes of Committee Meetings

- 10.1 [Minutes of the Great Eastern Country Zone Meeting held on 23 February 2017](#)

11. Recommendations from Committee Meetings for Council consideration

Nil

12. Officer's Reports – Development Services

- 12.1 [No. 7, Lot 22386 Southcott Road, Hines Hill – Application for Development Approval - Telecommunications Facility](#)

- 12.2 [Tender T2016072 - Merredin Railway Museum Rolling Stock Shelters](#)
- 12.3 [Shire of Merredin Town Planning Scheme No. 6 - Planning Policy Review](#)
- 12.4 [Lot 194 Robartson Road, Merredin and Lot 19444 Bruce Rock-Merredin Road, Merredin – Application for Development Approval – Solar Farm Facility](#)

13. Officer's Reports – Engineering Services

Nil

14. Officer's Reports – Corporate and Community Services

- 14.1 [List of Accounts Paid](#)
- 14.2 [Statement of Financial Activity](#)
- 14.3 [Integrated Planning and Reporting – Quarterly Monitoring Review – Corporate Business Plan – February 2017](#)
- 14.4 [Pioneers Pathway Review](#)

15. Officer's Reports – Administration

- 15.1 [Shire of Merredin Local Laws Project 2016 – Standing Orders Local Law 2017](#)
- 15.2 [Shire of Merredin Local Laws Project 2016 – Amendment Local Laws](#)

16. Motions of which Previous Notice has been given

Nil

17. Questions by Members of which Due Notice has been given

Nil

18. Urgent Business Approved by the Person Presiding or by Decision

19. Matters Behind Closed Doors

- 19.1 Staff – CEO Performance Appraisal

20. Closure

7. Confirmation of Minutes of the Previous Meeting

7.1 Ordinary Council Meeting held on 21 February 2017

[Attachment 7.1A](#)

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

That the Minutes of the Ordinary Council Meeting held on 21 February 2017 be confirmed as a true and accurate record of proceedings.

10. Receipt of Minutes of Committee Meetings

10.1 Minutes of the Great Eastern Country Zone Meeting held on 23 February 2017

[Attachment 10.1A](#)

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

That the Minutes of the Great Eastern Country Zone Meeting held on 23 February 2017 be received.

12. Officer's Reports - Development Services

12.1 No. 7, Lot 22386 Southcott Road, Hines Hill – Application for Development Approval - Telecommunications Facility

Development Services



Responsible Officer:	Peter Zenni, EMDS
Author:	As Above
Legislation:	Shire of Merredin Town Planning Scheme No 6.
File Reference:	A7145
Disclosure of Interest:	Nil
Attachments:	Attachment 12.1A - Application and associated plans and specifications
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

An application has been received for development approval for the erection of a telecommunications facility at No. 7 (Lot 22386) Southcott Road, Hines Hill.

Comment

The proposed telecommunications facility will be located at No 7 (Lot 22386) Southcott Road, Hines Hill which is zoned “general farming” in accordance with the Shire of Merredin Town Planning Scheme No. 6.

The proposed telecommunications facility is a “D” use in a general farming zone and as such Council has the discretion to approve or reject this application. It should be noted that Council previously granted planning consent on 20 April 2010 to establish a telecommunications facility on the lot in question (CMRef 30296). It appears that the development did not progress at that time.

The applicant has now lodged an application for development which will consist of one 60m guyed mast, three panel antennas, one three bay equipment cabinet and ancillary equipment associated with operation of the facility.

The applicant highlights that whilst this application has some minor changes to those forming part of the previous planning approval, the exact location and size of the structure are as per the previous approval.

Policy Implications

Nil

Statutory Implications

Compliance with the Shire of Merredin Town Planning Scheme No. 6

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Economic Development

➤ Corporate Business Plan

Strategy: SP.D1.3 – Promote new commercial and industrial development through appropriate zoning of land, provision of suitable infrastructure and efficient and effective business approval processes.

Action #: 1
Action: Regular review of Merredin Town Planning Scheme No. 6
Directorate: Development Services
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Nil

Financial Implications

The relevant planning application fees have been paid.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

That:

- 1. development approval be granted for the erection of a telecommunications facility at No 7 (Lot 22386) Southcott Road, Hines Hill; and**
- 2. the applicant be advised of the following:**
 - a. the proposed development will be classified as a Class 10b structure (non habitable building – mast/antenna) under the National Construction Codes (BCA). The construction of Class 10b structures outside of town site boundaries within the Shire of Merredin does not require a building permit. However it is the responsibility of the applicant to ensure that the proposed structure complies with all structural requirements specified by the relevant Australian Standards.**

12.2 Tender T2016072 - Merredin Railway Museum Rolling Stock Shelters

Development Services



Responsible Officer:	Peter Zenni, EMDS
Author:	As above
Legislation:	<i>Local Government Act 1995; Local Government (Functions and General) Regulations 1996</i>
File Reference:	A228
Disclosure of Interest:	Nil
Attachments:	Nil
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

At its February 2016 meeting Council resolved (CMRef 81742):

“That:

- 1. Should all the grant applications be successful, Council will contribute \$20,000 towards the rolling stock cover project at the Merredin railway Museum; and**
- 2. The Shire of Merredin will auspice the necessary grant applications for the rolling stock cover project on behalf of the Merredin Museum and Historical Society, with all information to be provided by the Merredin Museum and Historical Society committee members.”**

Subsequently the Shire of Merredin was successful in obtaining the following funding for the project:

LotteryWest - \$163,637 (ex GST);

Wheatbelt Development Commission - \$18,182 (ex GST);

Collgar Windfarm – \$18,182 (ex GST); and

Merredin Museum and Historical Society - \$2,727 (ex GST).

The overall budget allocation for the project as adopted by Council is \$220,000 (ex GST).

Comment

With funding for the project having been secured the Shire of Merredin called for tenders for the rolling stock shelters on 1 February 2017 via an advertisement in The West Australian newspaper. Tenders closed on 27 February 2017 and four compliant tenders were received from:

1. AWP Group;
2. Maicon Engineering;
3. QDC Group; and
4. EVI Group.

The tenders ranged from \$260,546 to \$326,813.13. The tenders were assessed for compliance and value for money with AWP Group being considered the “best value for money” tender.

It should be noted that whilst the preferred tenderer is the tender submitted by the AWP Group, all of the tenders are over the \$220,000 (ex GST) amount specified in the 2016/17 Budget.

Policy Implications

Nil

Statutory Implications

Compliance with the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996*.

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Economic Development

➤ Corporate Business Plan

Strategy: SP.D1.3 – Promote new commercial and industrial development through appropriate zoning of land, provision of suitable infrastructure and efficient and effective business approval processes
Action #: 1
Action: Regular review of Merredin Town Planning Scheme No. 6
Directorate: Development Services
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ **Workforce Plan**

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Nil

Financial Implications

The received tenders for the rolling stock shelters are all over budget.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That Council decline to accept any tender (T2016072) for the Merredin Railway Museum Rolling Stock Shelters.

12.3 Shire of Merredin Town Planning Scheme No. 6 - Planning Policy Review

Development Services



Responsible Officer:	Peter Zenni, EMDS
Author:	As above
Legislation:	Shire of Merredin Town Planning Scheme No. 6
File Reference:	LUP/5/1
Disclosure of Interest:	Nil
Attachments:	Attachment 12.3A - Local Planning Policies
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

At its October 2016 meeting Council resolved (CMRef 81850):

“That

1. The Local Planning Policies:

- a. LPP1 Moveable Buildings;
- b. LPP 2 Subdivision for Homestead Lots;
- c. LPP 3 Carparking;
- d. LPP 4 Landscaping;
- e. LPP 6 Rural Residential Development;
- f. LPP 7 Cash in Lieu; and
- g. LPP 8 Signage on Reserves

be referred back to staff for further consideration; and

2. Local Planning Policy 5 – Planning Approval for Single Houses, be rescinded.”

At its November 2016 meeting Council resolved (CMRef 81863):

“That:

1. The proposed changes to the following Local Planning Policies:

- LPP1 Moveable Buildings;**

**LPP3 Carparking;
LPP4 Landscaping;
LPP6 Rural Residential Development; and
LPP7 Cash in Lieu**

be adopted and the revised Planning Policies be advertised in accordance with Clause 2.4 of the Shire of Merredin Town Planning Scheme No. 6 and at the completion of the advertising period the matter be brought back to Council for determination and submission to the Western Australian Planning Commission; and

- 2. The draft Local Planning Policy 8 – signage on reserves be adopted and advertised in accordance with Clause 2.4 of the Shire of Merredin Town Planning Scheme No. 6 and at the completion of the advertising period the matter be brought back to Council for determination and submission to the Western Australian Planning Commission.”**

At its January 2017 meeting Council resolved (CMRef 81902):

“That Local Planning Policy 2 – Subdivision for Homestead Lots be rescinded.”

Comment

In accordance with Council resolution the revised Local Planning Policies were advertised in the Farm Weekly on 16 February 2017. No other advertising was undertaken. Following the statutory advertising period no submissions were received with respect to the proposed Local Planning Policies.

Policy Implications

There have been a number of changes in associated legislation which are captured or called upon in the local planning policies. This, in conjunction with the fact that the local planning policies have been in place for 5 years and that the Shire of Merredin should review its planning policies on a regular basis, provides an opportunity for the local planning policies to be reviewed and updated.

Statutory Implications

Compliance with the *Planning and Development Act 2005* and the Shire of Merredin Town Planning Scheme No. 6.

Strategic Implications

➤ **Strategic Community Plan**

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Economic Development

➤ **Corporate Business Plan**

Strategy: SP.D1.3 – Promote new commercial and industrial development through appropriate zoning of land, provision of suitable infrastructure and efficient and effective business approval processes

Action #: 1

Action: Regular review of Merredin Town Planning Scheme No.6

Directorate: Development Services

Timeline: Ongoing

Sustainability Implications

➤ **Strategic Resource Plan**

Nil

➤ **Workforce Plan**

Directorate: Nil

Activity: Nil

Current Staff: Nil

Focus Area: Nil

Strategy Code: Nil

Strategy: Nil

Implications: Nil

Risk Implications

Nil

Financial Implications

Nil

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That:

- 1. the following Local Planning Policies**
 - a. LPP1 Moveable Buildings**
 - b. LPP3 Carparking**
 - c. LPP4 Landscaping**
 - d. LPP6 Rural Residential Development**
 - e. LPP7 Cash in Lieu**

be formally adopted and a copy of the adopted Local Planning Policies be forwarded to the Western Australian Planning Commission; and

- 2. the draft Local Planning Policy 8 – Signage on Reserves be formally adopted and a copy of the adopted Local Planning Policy be forwarded to the Western Australian Planning Commission.**

12.4 Lot 194 Robartson Road, Merredin and Lot 19444 Bruce Rock-Merredin Road, Merredin – Application for Development Approval – Solar Farm Facility

<h2 style="margin: 0;">Development Services</h2> 	
Responsible Officer:	Peter Zenni, EMDS
Author:	Paul Bashall, Planwest
Legislation:	Local Planning Scheme No. 6
File Reference:	A9516
Disclosure of Interest:	Nil
Attachments:	Attachment 12.4A - Development application
Maps / Diagrams:	Nil

Purpose of Report

- Executive Decision
 Legislative Requirement

Background

An application has been received for Development Approval (DA) on behalf of Stellata Energy for a 120MV solar farm on land about 5 kilometres south south-west of Merredin townsite. The site is composed of two lots Lot 194 (294.2ha) and Lot 19444 (237.77ha) with a total area of 532ha. Lot 194 is traversed by a series of easements for power lines.

These lots face Bruce Rock-Merredin Road with Lot 194 on the intersection with Robartson Road. Abutting the north-west corner of the property is the existing Merredin Power Station and 220/132kV Substation. Figure 1 provides a location plan in respect to Merredin townsite. The figure is sourced from Google Earth.

Existing landuse

The land is currently used for cropping and occasional grazing purposes and is almost completely cleared of vegetation. Figure 2 shows an aerial view of the property showing the few remaining areas of vegetation.

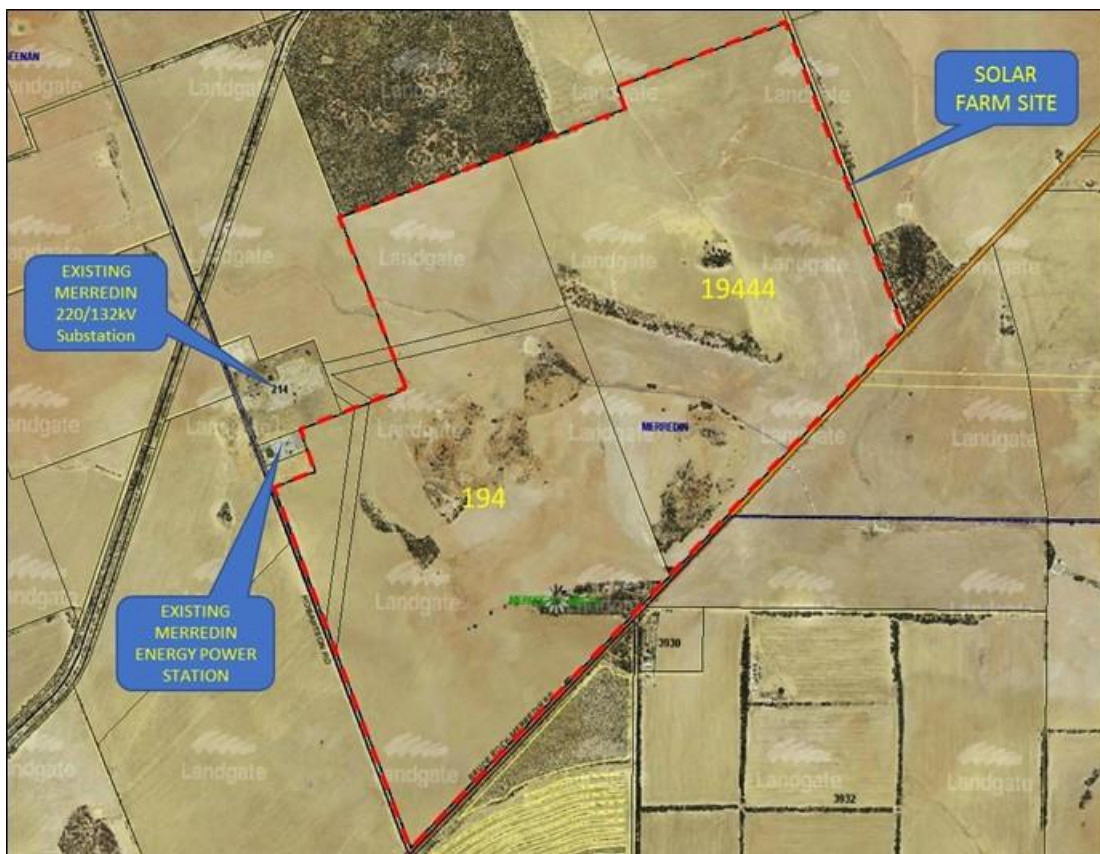
The areas surrounding the subject land are all used for similar purposes except the Reserve abutting the northern boundary of the site. This is a Reserve for Conservation (Reserve 19476) administered by the Department of Parks and Wildlife (DPaW).

FIGURE 1 – AERIAL VIEW OF SITE



Source: Landgate, Planwest

FIGURE 2 – AERIAL VIEW OF SITE



Source: Landgate, Planwest

Proposed Development

The proposed solar farm will have a generation capacity of approximately 120MW (AC) via the use of between 360,000 and 400,000 tracking solar panels and associated infrastructure, including:

1. Photo Voltaic modules;
2. Piles and framework;
3. Inverters (and associated housings);
4. Transformers (and associated housings);
5. Substations (including circuit breakers and metering);
6. Underground cabling;
7. Overhead wires;
8. Perimeter fence;
9. CCTV (at entrance and adjacent to substations);
10. Battery storage;
11. Spares storage building; and
12. Maintenance compound.

The DA application is for Stage 1 of the Merredin Solar Farm only. This Stage will consist of the 120MW (DC) of generation and up to 50 MWh of battery storage. It will cover the entirety of Lot 194 Robartson Road, and the north-western corner of Lot 19444 Bruce Rock-Merredin Road as shown on the Indicative Layout Plan (Figure 3).

Construction will possibly be in up to two phases. The generation equipment will all be constructed in one stage, with the battery storage in a subsequent stage.

Once fully operational, the landowner will have access to most the site for sheep grazing. This will assist in maintaining the ongoing agricultural use of the site and will also assist in keeping vegetation levels low for bushfire management purposes.

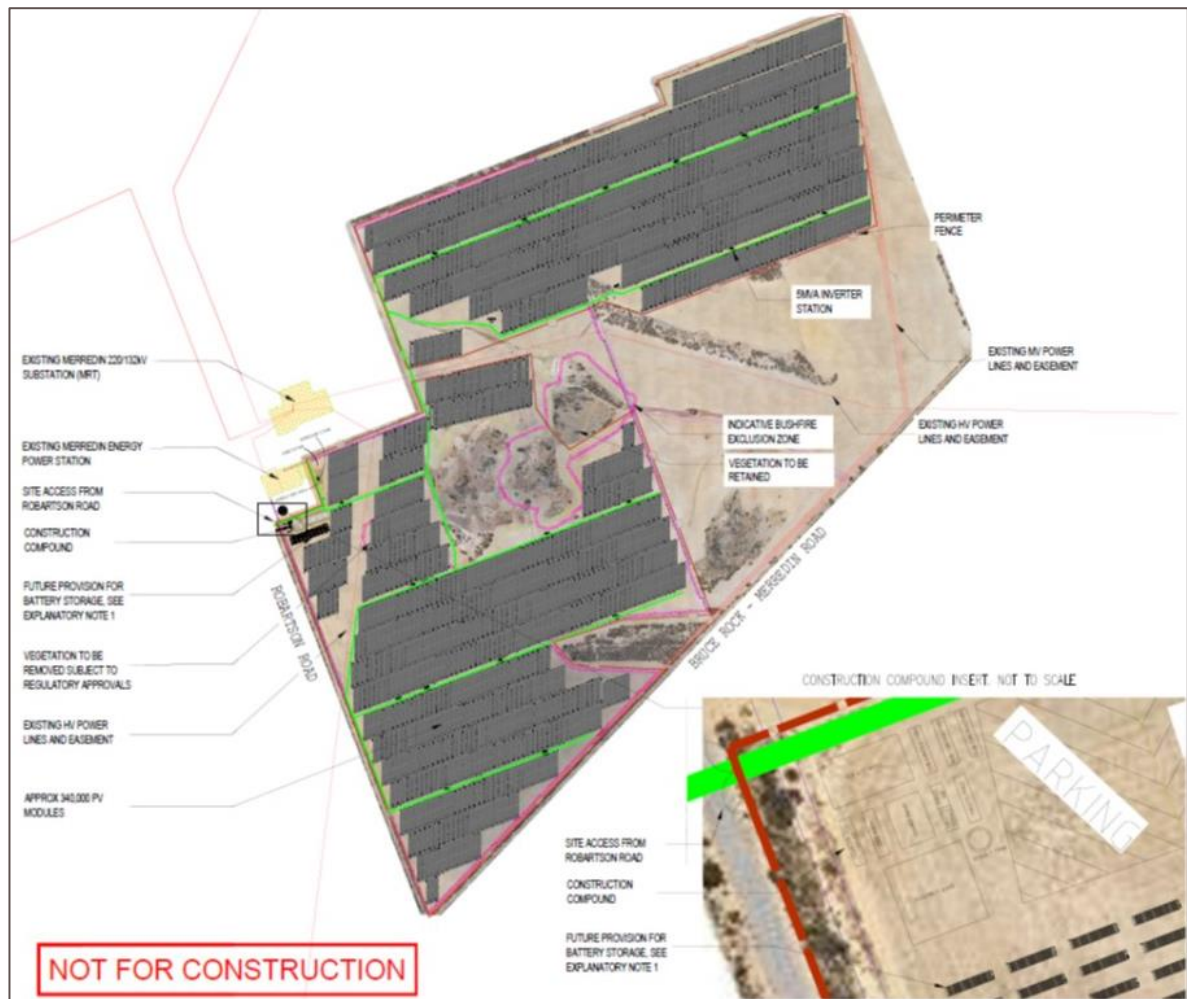
Part of the initial development includes some temporary development on site that will be required during the construction phase of the project. This includes the development of a construction compound and two or three site offices. The site offices spread across the site are likely to include meeting room, lunch room, toilets and ablution facilities.

Operations

The facility will be largely autonomous once operational. Local contractors/employees will be responsible for ongoing management of the site. It would be estimated that regular trips via vehicle would be required for routine maintenance, fire management, panel washing and grass cutting. The facility will be owned and operated by the Stellata Energy (or nominee).

In the longer term the proponents have allocated an area off Robartson Road for future possible battery storage.

FIGURE 3 – SITE LAYOUT



Source: Land Insights, 2017

Traffic and Transport

Shawmac completed a traffic impact assessment associated with the construction phase of the proposed solar farm. The assessment indicated the following:

1. during the construction period of the proposed solar farm, the predicted increase of traffic from the site is 140 vehicles per day. Truck deliveries will typically be from Perth using Great Eastern Highway and Robertson Road. Staff movements in and out is expected to split 80/20 to the north and south of Robertson Road;
2. expected average increase in traffic of both construction and operation of the solar farm will not adversely impact the operation of the existing road network;
3. no modifications are considered necessary to Great Eastern Highway / Robertson Road intersection and Bruce Rock-Merredin Road / Robertson Road intersection;
4. sight distances at the proposed crossover location are considered to be satisfactory and the crossover is expected to operate safely; and

5. the required car parking provision will be in accordance with Shire of Merredin Local Planning Scheme No. 6 and Australian Standards AS2890.1.

Visual Impact

Visual impact on the landscape is based on several factors which affect the perceived visual quality. The degree to which a solar farm development will impact on the landscape will depend upon:

1. siting, layout and design of the infrastructure, signage and ancillary facilities;
2. visibility of the development, having regard to the location, distance from which the development is visible, skyline and view sheds; and
3. significance and sensitivity of the landscape, having regard to topography, the extent and type of vegetation, natural features, land use patterns, built form character and community values. Methods to reduce impacts on visual amenity include:
 - a. siting the solar farm, ancillary buildings, access roads and transmission infrastructure to complement the natural landform contours and landform backdrop, including ridgelines;
 - b. ensuring the choice of materials and colour for the development complements the skyline and the backdrop of the view sheds;
 - c. minimising removal of vegetation and using advanced planting of vegetation screens as visual buffers where appropriate;
 - d. ensuring good quality vegetation and landform rehabilitation, onsite and off-site, where appropriate;
 - e. avoiding clutter, such as advertisements and apparatus; and
 - f. other amenity issues which can affect sensitive land uses including glint or glare, however this impact will be minimal as solar panels are specifically designed to absorb light instead of reflecting light.

Unlike a wind farm there are no large structures and minimal noise is produced.

The Land Insight report states that a visual analysis was undertaken using existing contour data, proposed heights of the solar panels, an average height of a person viewing the facility as being 1.75m, and a maximum horizontal viewing distance of 10 kilometres. The assessment concluded that the site will likely not be visible from the Merredin townsite at all. There may be some glimpses of small areas of the facility from the western approach to Merredin along Great Eastern Highway, but this is likely to be minimal.

Vegetation already existing around the perimeter of the site, particularly along the roads, provides some visual screening.

Environmental Assessment

An Environmental Management Plan (EMP) outlines each environmental feature, the potential impact and the environmental management proposals against each one.

The EMP has been prepared in accordance with the sequence of considerations designed to help manage adverse environmental impacts which includes avoidance, minimisation, rectification, reduction and environmental offsets. In this situation, avoidance of impact has been the priority, followed by minimisation of impact. The assessment shows that most potential environmental impacts have been avoided through careful site planning and management and minimisation of impact can also be achieved where impact cannot be avoided.

The types, locations and significance of flora and fauna, particularly endangered or threatened species in the development area can be mapped once the extent of clearing is known. Field surveys will help avoid highly sensitive areas of vegetation, including remnant native vegetation and enable roads and services to be placed appropriately.

During construction, disturbance and vegetation clearance can be avoided or minimised through careful siting and consideration of issues such as erosion, drainage run-off, habitat or food source destruction, dieback, weed hygiene, introduction of feral animals and contractor guidelines.

The land qualities across the site are relatively good, with low risk of salinity, low susceptibility of subsurface compaction, low water erosion hazard, low land instability and low flood risk and waterlogging risk. The wind erosion hazard is low across most the site, with some areas identified as having higher risk. The site drainage potential is poor to very poor across the site.

The drainage lines are not vegetated and are simply channels which offer the path of least resistance to water flow. Historic clearing and modification of the property for agriculture has most likely resulted in the alteration of natural watercourses and the formation of the existing drainage channels. They do not have any environmental value apart from their role in erosion control and movement of water throughout the landscape.

The site is relatively large and has good separation distances to sensitive land uses in the area. The nearest homestead is located approximately 150 metres to the south-east of the property (on the opposite side of Bruce Rock-Merredin Road). The proposed solar farm is separated from this homestead by approximately 100 metres of vegetation which provides an adequate visual buffer.

The next closest residence is located approximately 1 kilometre to the east of Lot 19444, with another two dwellings approximately 1.75 kilometres away. Another dwelling is located approximately 2.5 kilometres to the north-west of Lot 194.

Bushfire Management Plan

A Bushfire Attack Level (BAL) assessment was undertaken for the proposed development as part of a Bushfire Management Plan. The Plan concludes that the bushfire risk can be managed appropriately.

Heritage

No Registered or Other Heritage Sites have been identified on the site or on the Department of Aboriginal Affairs heritage database. If any heritage sites are identified during construction there are provisions for dealing with this under the *Aboriginal Heritage Act 1972*.

Comment

The value of the proposed development is in excess of \$160 million. As such the DA needs to be determined by the Joint Development Assessment Panel (JDAP), however the JDAP will seek the local government's views on the project.

The report states that construction and operation of the solar farm will aim to source as much local, regional, or Western Australian labour hire and materials as practicable. The construction period is expected to provide up to 200 jobs. There will be specific flow-on economic benefits and local employment for Merredin, including the requirement for housing during the construction period and a higher population in the area requiring goods and services during the construction period which will maximise benefits to the local community.

Policy Implications

The proposal will contribute to achieving the renewable energy targets set by the Australian Government and objectives of the Paris Climate Agreement.

Council has no direct policy on the establishment of a solar farm however it has been supportive of the establishment of sustainable energy sources through its approval of the Collgar Wind Farm.

Statutory Implications

State

The proposal is consistent with State objectives of encouraging the development of sustainable energy sources.

Local Government

The Local Planning Scheme No. 6 includes the land in the 'Rural' zone. Figure 4 provides an extract from the Scheme (source Land Insights/DoP).

The Scheme has no definition for a 'solar farm' and refers to the Model Scheme Text for the majority of its definitions. As a solar farm is an unlisted use it may be considered as a discretionary use for which the DA of local government is required and the public advertising procedures apply.

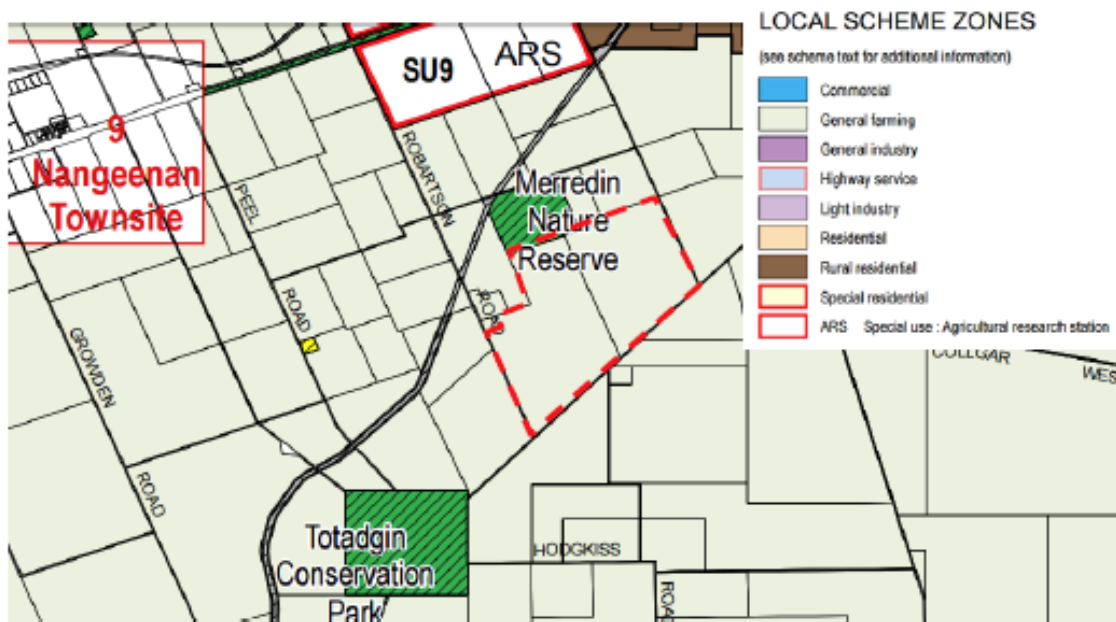
Clause 4.4.2 of the Scheme states that *'If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –*

- a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*

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

It is considered that sub-clause b) should apply as the development is a significant facility for the Shire and district and needs to be considered by all agencies and nearby neighbours.

FIGURE 4 – EXTRACT FROM LOCAL PLANNING SCHEME No 6



Strategic Implications

➤ **Local Planning Strategy**

Council’s Local Planning Strategy is silent on alternative energy production, including solar power, and includes no reference to any opposition to such facilities providing the loss to rural production is minimised. The proposal states that the land will continue to be grazed with sheep after construction is complete.

➤ **Strategic Community Plan**

Vision Element: Developing
 Strategic Goal: The population and economic base is expanding sustainably
 Key Priority: Work with relevant agencies to actively encourage the adoption of efficient energy and water usage

➤ **Corporate Business Plan**

Strategy: SP.D1.3 – Promote new commercial and industrial development through appropriate zoning of land, provision of suitable infrastructure and efficient business approval processes

Action#: 1
Directorate: Development Services
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

There are no implications to the SRP stemming from the proposed development.

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

The development of this facility will be a minimal risk to Council. Initial construction traffic may require some maintenance of local roads however the longer-term benefits outweigh these short term costs.

Financial Implications

The applicant has paid the DA fee of \$34,196 (in addition to the JDAP fee – payable to JDAP).

Voting Requirements

Simple Majority Absolute Majority

Officer's Recommendation

That:

- 1. the Development Assessment Panel (DAP) Secretariat be notified that an application has been received by providing an electronic copy of the entire DAP application, including form, date received, date stamped plans and documents and receipt of DAP fees paid;**
- 2. the Joint DAP be advised Council will advertise the Development Approval application for a period of 21 days, with neighbours and agencies being advised of the advertising period. These agencies are to include:**
 - a. Main Roads WA (MRWA);**
 - b. Department of Environment Regulation (DER);**
 - c. Department of Parks and Wildlife (DPaW);**
 - d. Western Power (WP);**

- e. **Department of Fire and Emergency Services (DFES); and**
 - f. **Department of Health (DoH); and**
- 3. the applicant be advised Council will consider any submissions received during the advertising period, however Council is likely to request at least the following conditions:**
- a. **receipt of the necessary clearing permits from DER;**
 - b. **the submission and approval of a more detailed plan showing the proposed interim and longer term facilities including the building/structure setbacks, carparking facility, a drainage management plan for the administration facilities;**
 - c. **the design and location of on-site effluent systems for the construction phase as well as the longer term;**
 - d. **the removal of all construction infrastructure once the facility has been completed to the satisfaction of the local government; and**
 - e. **the approval of any crossovers required by the development.**

Footnotes:

- 1. The applicant is advised that granting of development approval does not constitute a building permit and that an application for relevant building permits must be submitted to the Shire of Merredin and be approved before any work requiring a building permit can commence on site;**
- 2. Effluent disposal facilities will require an application for the installation or construction of an apparatus for the treatment of sewage to be submitted to the Shire of Merredin;**
- 3. The applicant is advised of the need for annual bushfire compliance; and**
- 4. No structure or effluent disposal system is to be constructed across the boundaries of the two Lots.**

13. Officer's Reports - Engineering Services

Nil items to report

14. Officer's Reports – Corporate and Community Services

14.1 List of Accounts Paid

<h2>Corporate Services</h2>		 SHIRE OF MERREDIN INNOVATING THE WHEATBELT
Responsible Officer:	Charlie Brown, EMCS	
Author:	As above	
Legislation:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>	
File Reference:	Nil	
Disclosure of Interest:	Nil	
Attachments:	<u>Attachment 14.1A</u> - List of Accounts Paid	
Maps / Diagrams:	Nil	

Purpose of Report



Executive Decision



Legislative Requirement

Background

The attached List of Accounts Paid during the month of February 2017 under Delegated Authority is provided for Council's information.

Comment

Nil

Policy Implications

As outlined in the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

Statutory Implications

As outlined in the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Governance

➤ Corporate Business Plan

Strategy: SP.D4.3 – Practice prudent management of financial resources
Action #: 1
Action: Deliver long term financial planning for asset replacement and new capital projects
Action #: 2
Action: Continue to provide prudent financial controls and compliance systems
Directorate: Corporate Services

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Council would be contravening the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* if this item was not presented to Council.

Financial Implications

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

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That the schedule of accounts paid as listed, covering cheques, EFT's, bank charges, directly debited payments and wages, as numbered and totalling \$652,860.11 from Council's Municipal Fund Bank Account and \$550 from Council's Trust Account be received.

14.2 Statement of Financial Activity

<h2 style="margin: 0;">Corporate Services</h2> 	
Responsible Officer:	Charlie Brown, EMCS
Author:	As above
Legislation:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>
File Reference:	Nil
Disclosure of Interest:	Nil
Attachments:	Attachment 14.2A - Statement of Financial Activity, Detailed Schedules and Investment Report
Maps / Diagrams:	Nil

Purpose of Report

Executive Decision

Legislative Requirement

Background

The Statement of Financial Activity is attached for Council's information.

Comment

Operating Income and Expenditure is mainly consistent with Council's YTD Budget, with Expenditure being 9% lower than expected for this period. A detailed report is attached for Council's consideration.

Operating Expenditure

All programs except Health, Recreation & Culture, and Other Property & Services, are under expended and outside the allowable variance.

Operating Income

All programs are within the allowable variance with the exception of Economic Services for this period of time.

Capital Expenditure

A detailed look at capital expenditure can be found in Note 13.

Others

Councillors may note the discrepancies between Financial Activity (PR) and Note 3, and the Trust Bank Note 4 against the Trust Summary on Note 12.

These both currently show a \$516,352.69 variance and this relates to invoices raised on behalf of CEACA for site works on Stage I and Stage II. Once the invoices are paid this variance will not be reported.

Policy Implications

Nil

Statutory Implications

As outlined in the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economics base is expanding sustainably
Key Priority: Governance

➤ Corporate Business Plan

Strategy: SP.D4.3 – Practice prudent management of financial resources
Action #: 1
Action: Deliver long term financial planning for asset replacement and new capital projects
Action #: 2
Action: Continue to provide prudent financial controls and compliance systems
Directorate: Corporate Services

Sustainability Implications

➤ Strategic Resource Plan

Compliance with the *Local Government (Administration) Regulations 1996* and to give Council some direction in regards to its management of finance over an extended period of time.

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Council would be contravening the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* if this item was not presented to Council.

Financial Implications

As outlined in Attachment 14.2A.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

That in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, the Statement of Financial Activity and the Investment Report for the period ending 28 February 2017 be received.

14.3 Integrated Planning and Reporting – Quarterly Monitoring Review – Corporate Business Plan - February 2017

<h2>Corporate Services</h2>		
Responsible Officer:	Rebecca McCall, DCEO	
Author:	As above	
Legislation:	<i>Local Government Act 1995</i>	
File Reference:	CM/13/4	
Disclosure of Interest:	Nil	
Attachments:	Attachment 14.3A - Corporate Business Plan 2015/16– 2018/19: Quarterly Review	
Maps / Diagrams:	Nil	

Purpose of Report

- Executive Decision Legislative Requirement

Background

The IPR planning and monitoring cycle is continuous. The planning cycle requires all local governments to undertake a major Strategic Review in the first four years. This meant the Shire of Merredin’s first Strategic Review was undertaken in 2015/16. Council adopted the reviewed IPR Suite of Plans to include the:

1. Corporate Business Plan 2015/16 – 2018/19;
2. Strategic Community Plan 2015/16-2025/26;
3. Strategic Resource Plan 2016-2031; and
4. Workforce Plan 2015/16 – 2018/19.

Comment

With the implementation of the suite of plans, monitoring is undertaken through the IPR Process Plan outlining Merredin’s Baseline Report to include:

1. Vision Elements;
2. Strategic Goals;
3. Key Priorities;
4. Strategies; and

5. Actions.

The Corporate Business Plan Quarterly Review – February 2017 is presented to Council for its consideration.

Policy Implications

Nil

Statutory Implications

It is a requirement to produce a plan for the future under Section 5.56(1) of the *Local Government Act 1995*. The IPR Framework is being introduced in Western Australia as part of the State Government's Local Government Reform Program.

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Governance

➤ Corporate Business Plan

Strategy: SP.D4.1 – Implement accountable and good governance
Action #: 1
Action: Monitor, report and review IPR Suite of Plans
Directorate: Corporate Services
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

The Strategic Resource Plan 2016-2031 outlines the Shire of Merredin's long term financial commitments and strategies to manage Council's assets.

➤ Workforce Plan

Directorate: Chief Executive Officer
Activity: All Activity Areas
Current Staff: 54
Focus Area: All Focus Areas
Strategy Code: AR
Strategy: Attraction and Retention
Implications: It is anticipated that the workforce will remain the same

Risk Implications

The adoption, implementation and monitoring of the IPR Suite of Plans provides a mechanism to:

1. deliver accountable and measureable outcomes;
2. deliver services and manage assets that can sustain the community; and

3. management of systems with the rigour of process and integrity of data to accurately reflect asset management costs

Financial Implications

There are financial implications to Council in relation to this item as the suite of plans recognise outcomes. Identified outcomes from the IPR Suite of Plans are factored into the Council's Strategic Resource Plan 2016-2031.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That the Corporate Business Plan 2015/16-2018/19: Quarterly Review – February 2017 be received.

14.4 Pioneers Pathway Review

Community Services



Responsible Officer:	Rebecca McCall, DCEO
Author:	As above
Legislation:	<i>Local Government Act 1995</i>
File Reference:	VC/8
Disclosure of Interest:	Nil
Attachments:	Attachment 14.4A - Pioneers Pathway Action Plan Attachment 14.4B - Stakeholder Meeting Minutes March 2017 Attachment 14.4C - Wayfound, Review Pioneers Pathway December 2016
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

At its February 2017 meeting Council resolved (CMRef 81931):

“That:

1. the Pioneers Pathway Review prepared by Wayfound, as presented in Attachment 14.6A, be noted;
2. Council supports the existing funds of \$42,490 for Pioneers Pathways being utilised to implement the recommendations identified in the review;
3. the committee present to the partnering Councils by May 2017, detailed costings to employ an executive officer for the purpose of future marketing initiatives and trail upgrading for a five year period commencing in July 2017; and
4. Council not commit to future support of the Pioneers Pathway until the information outlined in point 3 above is received and the position of other partnering Councils is known.”

Comment

The Pioneers Pathway committee have faith in the economic benefit for the region, having invested in the feasibility review by Wayfound.

The committee agrees with the Wayfound recommendation that investment is required to the product to see economic benefit to the region, however the committee is aware of the budgetary restraints of the local governments and the value of the investment. The committee have prioritised the following recommendations for investment:

1. Priority One – employ an executive officer (1 day per week) to project manage the Pioneer Pathway initiative.
2. Priority Two – research and collate information to create more comprehensive, relevant and attractive information for the target theme and market.
3. Priority Three – develop a new Pioneers Pathway website to contain up to date and relevant content and to be managed by the executive officer.
4. Priority Four – update signage to include interactive and interpretative information.
5. Priority Five – update the pioneer pathway brochure.

The committee will drive the review of the strategic plan and development of a marketing strategy. The review of the strategic plan will take into consideration:

1. continuity of Councils partnership and financial contribution;
2. access to external funding for re-development of the Pioneers Pathway;
3. viability of the product; and
4. new technology.

Upon the review, the strategic plan will be presented to the Councils for consideration, outlining strategies to develop and promote the Pioneers Pathway product, funding revenues, costing and timelines over a five year period. The committee had adopted the following plan to be actioned:

Action Plan

#	Action	Cost (ex GST)	Timeframe	Status
1	Contract an external consultant (Wayfound) to review the feasibility of the Pioneers Pathway product, its value to the region and recommendations to proceed	\$7,950	December 16	Completed
2	Obtain commitment from all seven participating Councils for annual financial support of the development and maintenance of the Pioneers Pathway product for a minimum of 3 years	\$3,500	31 March 17	

3	Create a Memorandum of Understanding between the contributing Councils	\$400	April 17	
4	Create a position description for the Executive Officer in readiness for recruitment and commencement July 1, 2017	\$900	May 17	
5	Review of strategic plan and development of a marketing strategy considering review conducted by Wayfound	\$200	Jul-Sep 17	
6	Develop reporting framework for Executive Officer to collate statistics and present data to Council	\$400	Sep 17	

Actions 3 and 4 – the Council that manages the administration can recoup costs by invoicing Pioneers Pathway. Any work undertaken by the committee is considered to be in-kind.

Actions 5 and 6 will be included in the duties and responsibilities of the Executive Officer in conjunction with the committees in-kind as required.

The Pioneers Pathway Stakeholder meeting held on 2 March 2017 resolved to continue for a minimum of three years' contingent to all seven participating Councils committing to the annual financial contribution of \$3,500. The breakdown of the contribution is as follows:

1. \$1,500 for pathway development and maintenance; and
2. \$2,000 to employ an executive officer.

The Shire of Goomalling is willing to accept the liabilities associated with employing an executive officer to include annual leave, sick leave, long service leave, superannuation and insurances. The contribution from the contributing Councils will cover the cash salary.

Such commitment is to be confirmed by 31 March 2017.

In the case that one or more Councils do not agree with the recommendation and want to opt out of the initiative, that the committee disband and funds are to be distributed in proportion to the Council's contribution.

Policy Implications

Nil

Statutory Implications

Nil

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Economic Development

➤ Corporate Business Plan

Strategy: Facilitate further development of local and regional tourism
Action #: SP.D1.5
Action: 2
Directorate: Community Development
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

The SRP currently identifies the allocated financial contribution of \$1,500 per annum. Additional, ongoing investment of \$2,000 would need to be factored into the SRP.

➤ Workforce Plan

Directorate: Community and Economic Services
Activity: Tourism Services
Current Staff: 2 FTE
Focus Area: Organisation Development
Strategy Code: OD
Strategy: OD1
Implications: Nil

Risk Implications

Without further investment the future of Pioneers Pathway is at risk with the likelihood of removing the trail. With other competing trails within the Wheatbelt, the seven participating Shires could experience further reduction in visitor numbers resulting in decreased economic and social benefits for each of the townships the trail passes.

Financial Implications

The historical annual contribution of \$1,500 is identified in the 2016/17 Budget. Financial implications associated with supporting Pioneer Pathways would involve a minimum three year budget commitment. The annual commitment for financial years 2017/18, 2018/19 and 2020/21 will include employment of an executive officer \$2,000 and contribution for ongoing maintenance \$1,500.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That:

- 1. Council supports the ongoing annual financial contribution of \$1,500 for Pioneers Pathway product development and maintenance for a minimum of 3 years;**
- 2. Council supports the additional financial contribution of \$2,000 to employ an executive officer to project manage the Pioneers Pathway initiative for a minimum of 3 years;**
- 3. the Pioneers Pathway action plan prepared by the Stakeholder committee, as presented in Attachment 14.4A, be noted; and**
- 4. Council will opt out of the Pioneers Pathway initiative if a commitment from all 7 Councils is not forthcoming by 31 March 2017.**

15. Officer's Reports – Administration

15.1 Shire of Merredin Local Laws Project 2016 – Standing Orders Local Law 2017

Administration



Responsible Officer:	Greg Powell, CEO
Author:	Bruce Wittber, BHW Consulting; Vanessa Green, EA to CEO
Legislation:	<i>Local Government Act 1995</i>
File Reference:	Local Laws
Disclosure of Interest:	Nil
Attachments:	Attachment 15.1A – Standing Orders Local Law 2017
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

At its July 2016 meeting Council resolved (CMRef 81815):

“That in accordance with Section 3.12 of the Local Government Act 1995 Council resolves:

- 1. to approve the giving of statewide public notice of the following local laws in order to seek public comment:**
 - 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2016;**
 - 2. Animals, Environment and Nuisance Local Law 2016;**
 - 3. Bush Fire Brigades Amendment Local Law 2016;**
 - 4. Cemeteries Amendment Local Law 2016;**
 - 5. Dogs Amendment Local Law 2016;**
 - 6. Fencing Amendment Local Law 2016;**

- 7. Health Local Law 2016;**
 - 8. Local Government Property Amendment Local Law 2016; and**
 - 9. Standing Orders Local Law 2016.**
- 2. to submit to the Minister for Local Government a copy of all proposed local laws; and**
 - 3. to submit to other Ministers a copy of the relevant local law.”**

Following the above resolution the Shire advertised in the West Australian on Wednesday 27 July 2016 and Farm Weekly on Thursday 28 July 2016 the Standing Orders Local Law 2016. The local public notice was also given on the Shire website and library. The closing date for submissions was Monday 12 September 2016.

At the close of the advertising period there were no comments received from the community in respect to the local laws.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The comments received from the DLGC covered a number of aspects including general typographical and drafting issues. General typographical and drafting issues, which have not affected the intent of the proposed local laws, have been incorporated into the final document.

Other comment from the DLGC that may affect the intent of the proposed local law is detailed in this report.

This report relates to the adoption of the Standing Orders Local Law 2017.

Comment

As the proposed local law is being adopted in 2017 it is proposed that the year of the local law be changed to 2017 to reflect the year of adoption.

Standing Orders Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration and a response was subsequently received from the DLGC recommending a number of amendments.

Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
Use of number – the local law should substitute numbers expressed in words with digits.	Suggestion partly supported. Following a review of the local law each number was considered in its context as to whether it should be changed and where appropriate a change has been made.
It was suggested that clause 1.5 include definitions for original motion , procedural motion and officer .	Relevant clause has been amended as suggested.
The local law uses paragraph, subclause and clause interchangeably. It was suggested that only the terms “clause” and “subclause” be used.	Suggestion supported and minor changes have been made to the local law to reflect the suggestion.

The purpose and effect of the Standing Orders Local Law 2017 is as follows:

Purpose:

Is to provide the rules for the conduct of meetings of the Council, Committees and electors.

Effect:

To result in:

1. the orderly and effective conduct of meetings;
2. greater community understanding of the meeting process;
3. better decision making by the Shire; and
4. better outcomes from decisions made.

It is recommended that the Standing Orders Local Law 2017 be adopted.

Policy Implications

Nil

Statutory Implications

Section 3.12 of the Local Government Act 1995 outlines the process that needs to be followed to adopt new and amendment local laws.

Strategic Implications

➤ **Strategic Community Plan**

Vision Element: Developing
 Strategic Goal: The population and economic base is expanding sustainably
 Key Priority: Governance

➤ **Corporate Business Plan**

Strategy: SP.D4.1 – Implement accountable and good governance
Action #: 2
Action: Ensure policies, procedures and practice are effective, transparent and aligned with service delivery
Directorate: Corporate Services
Timeline: Ongoing

Sustainability Implications

➤ **Strategic Resource Plan**

Nil

➤ **Workforce Plan**

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Council would be contravening the *Local Government Act 1995* should this item not be presented to Council.

Financial Implications

Advertising and Gazettal costs are applicable to this item. Council has allocated funds in the 2016/17 Budget for this purpose.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

That the Shire of Merredin by absolute majority under Section 3.12 of the *Local Government Act 1995* resolves to:

1. note that that no community submissions were received in relation to the Standing Orders Local Law 2017;
2. determine that the proposed changes outlined in the report and included in the Standing Orders Local Law 2017 are not considered significantly different to that which was originally advertised;
3. determine to accept all changes proposed and adopt the Standing Orders Local Law 2017; and
4. authorise the President and the Chief Executive Officer to affix the Common Seal to the Standing Orders Local Law 2017.

15.2 Shire of Merredin Local Laws Project 2016 – Amendment Local Laws

Administration



Responsible Officer:	Greg Powell, CEO
Author:	Bruce Wittber, BHW Consulting; Vanessa Green, EA to CEO
Legislation:	<i>Local Government Act 1995</i>
File Reference:	Local Laws
Disclosure of Interest:	Nil
Attachments:	Attachment 15.2A – Amendment Local Laws
Maps / Diagrams:	Nil

Purpose of Report



Executive Decision



Legislative Requirement

Background

At its July 2016 meeting Council resolved (CMRef 81815):

“That in accordance with Section 3.12 of the Local Government Act 1995 Council resolves:

- 1. to approve the giving of statewide public notice of the following local laws in order to seek public comment:**
 - 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2016;**
 - 2. Animals, Environment and Nuisance Local Law 2016;**
 - 3. Bush Fire Brigades Amendment Local Law 2016;**
 - 4. Cemeteries Amendment Local Law 2016;**
 - 5. Dogs Amendment Local Law 2016;**
 - 6. Fencing Amendment Local Law 2016;**
 - 7. Health Local Law 2016;**
 - 8. Local Government Property Amendment Local Law 2016; and**
 - 9. Standing Orders Local Law 2016.**

- 2. to submit to the Minister for Local Government a copy of all proposed local laws; and**
- 3. to submit to other Ministers a copy of the relevant local law.”**

Following the above resolution the Shire advertised in the West Australian on Wednesday 27 July 2016 and Farm Weekly on Thursday 28 July 2016 the amendment local laws. The local public notice was also given on the Shire website and library. The closing date for submissions was Monday 12 September 2016.

At the close of the advertising period there were no comments received from the community in respect to the local laws.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The comments received from the DLGC covered a number of aspects including general typographical and drafting issues. General typographical and drafting issues, which have not affected the intent of the proposed local laws, have been incorporated into the final document.

Other comment from the DLGC and Department of Fire and Emergency Services (DFES) that may affect the intent of the proposed local law is detailed in this report.

In addition, as the amendment local laws are being adopted in 2017 it is proposed that the year of the amendment local law be changed to 2017 to reflect the year of adoption. This change has also been included in the proposed amendment local laws.

This report relates to the adoption of the six amendment local laws.

	Comment
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Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration and a response was subsequently received from the DLGC recommending a number of amendments.

Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
It is suggested that the term “authorized” be changed to “authorised” throughout the local law.	Suggestion supported and local law amended accordingly.
Insert in clause 1.2 the definition of “nuisance”	Relevant clause has been amended as suggested.
As the Act does not expressly state that local laws can reverse the onus of proof the DLGC were of the view that clause 4.7 which relates to shopping trolleys in the principal local law should be deleted.	An amendment to delete clause 4.7 of the principal local law is included in the amendment local law.
Clause 5.1 of the principal local law currently refers to definitions in the <i>Wildlife Conservation Act 1950</i> . The <i>Biodiversity Conservation Bill 2015</i> passed both Houses of Parliament on 14 September and will repeal the Wildlife Conservation Act. Upon Royal Assent, the defined terms “protected flora” and “rare flora” will be deleted.	Royal Assent occurred on 21 September 2016. The following definitions have been inserted as replacements: <i>specially protected flora</i> has the meaning given to it in section 5 of the Biodiversity Conservation Act 2016. <i>threatened flora</i> has the meaning given to it in section 5 of the <i>Biodiversity Conservation Act 2016</i> .
Clause 6.7 of the principal local law implies that the Shire ‘may’ include such conditions including part (l). It is therefore unnecessary to include “the requirements of clause 6.6(1)(l) of this local law” as the Shire is already able to do this.	Suggestion supported and clause deleted from the amendment local law.

The purpose and effect of the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017 is as follows:

Purpose:

To amend the local law relating to activities in thoroughfares and public places and trading.

Effect:

Some activities are prohibited; some activities are permitted only under permit in thoroughfares and public places. The local law also enables a local government to require house numbering and the erection of fences in certain circumstances.

It is recommended that the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017 be adopted.

Bush Fire Brigades Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government and Minister for Emergency Services for consideration.

A response was subsequently received from the DLGC recommending a number of amendments. Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

DFES (on behalf of the Minister for Emergency Services) has also provided some comments on the proposed amendment local law.

Details of the amendment suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
Clause 4 be amended to include a definition of "Schedule".	Suggestion supported and the local law amended accordingly.

Details of the comment by DFES are detailed below.

Suggested Amendment	Response
<p>DFES are of the view that the proposed wording in proposed clause 2.3(2) doesn't make comment about other officers having control in the absence of the Captain or the bush fire control officer. Whilst DFES does not feel this is incorrect it is more that it is silent, more that it is silent on this matter unlike Section 44(1) of the <i>Bushfire Act 1954</i> which references the chain of command if various people are absent.</p> <p>With regard to the proposed clause 2.3(3), it talks about '...a fire which members of the bush fire brigade have command of under the Act...the most senior bush fire control officer has full</p>	<p>The comments from DFES raises some issues that require further consideration.</p> <p>DFES has provided some wording that is similar to that is in the current Merredin Bush Fire Brigades Local Law and which appears to be included in the WALGA Model.</p> <p>If the amending clause 2.3 is deleted this would be considered a significant change and require the local law process to be restarted.</p> <p>As the clause proposed in the amendment local law has been accepted previously by the Joint Standing Committee it is proposed</p>

<p>control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the firefighters.’</p> <p>It would seem that this provision means that the BFCO is in charge of the fire if they are there. But, it talks about the members of the brigade having command of the fire, and then that the BFCO has full control over other persons.</p> <p>Could this also mean that the BFCO does not have control over the brigade members only other persons fighting the fire? The way it is worded makes it unclear.</p> <p>The <i>Bushfire Act 1954</i> talks about controlling and directing a ‘bush fire brigade’ in both Sections 39(1)(f) and 44(1)(a). The use of the term ‘other persons’ seems to create a different class of people.</p>	<p>that the adoption of the Bush Fire Brigades Amendment Local Law 2017 proceed.</p>
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The purpose and effect of the Bush Fire Brigades Amendment Local Law 2017 is as follows:

Purpose:

To amend the provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect:

To align the existing local law with changes in law and operational practice.

It is recommended that the Bush Fire Brigades Amendment Local Law 2017 be adopted.

Cemeteries Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration.

A response was subsequently received from the DLGC recommending a number of amendments. Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
In clause 1.2 it is suggested: <ul style="list-style-type: none">▪ that the definition animal be clarified to explicitly exclude and assistance animal;▪ that the definition of assistance animal be redrafted.	Suggestions supported and clauses amended accordingly.
As the cemeteries local laws are subject to the assistance animal provisions of the <i>Disability Discrimination Act 1992</i> (Cth) it is suggested that clause 8.1 and 8.2 of the principal local law be deleted and replaced with a new clause 8.1.	Suggestions supported and clauses amended accordingly.
It is suggested that the amendment local law be changed to delete clause 7.20(3) of the principal local law.	This suggestion is not supported as the clause has already been amended by Governor's Order in 2011.

The purpose and effect of the Cemeteries Amendment Local Law 2017 is as follows:

Purpose:

To amend the local law to provide for the orderly management of the public cemetery in the Shire of Merredin.

Effect:

To ensure compliance by all persons engaged in the administration of the cemetery, burying deceased in the cemetery, or otherwise providing services to or making use of the cemetery.

It is recommended that the Cemeteries Amendment Local Law 2017 be adopted.

Dogs Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration.

A response was subsequently received from the DLGC recommending a number of amendments. Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments recommended by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
<p>It is suggested that the term “authorized” be changed to “authorised” throughout the local law.</p>	<p>Suggestion supported and local law amended accordingly.</p>
<p>It is suggested that the definition for “authorised person” be amended to reflect the provisions of the <i>Dog Act 1976</i>.</p>	<p>Suggestion supported and local law amended accordingly.</p>
<p>The DLGC has advised that Item 2 of Schedule 3, as provided in clause 13, states that the modified penalty for an offence under clause 6.1(2) of the local law will be \$60.</p> <p>Clause 6.1(2) of the principal local law states that a penalty for an offence under that clause will be \$200.</p> <p>The Shire should ensure that the local law is consistent with the principal local law.</p>	<p>The original modified penalty was \$40 and it was proposed to increase it to \$60.</p> <p>A modified penalty must not exceed 10% (Section 45A(3) of the <i>Dog Act 1976</i>) of the statutory penalty for the offence. Given that the statutory penalty for the offence in clause 6.2(1) is \$200 the maximum modified penalty permitted is \$20. It would appear that this was an error in the original local law that was adopted by the Shire by reference.</p> <p>It would seem if the Shire increased the penalty in clause 6.2(1) to \$1,000, thereby allowing the modified penalty of up to a maximum of \$100 which is 10% of the stated penalty this would be considered a significant change and require the local law making process to be restarted.</p> <p>Alternatively if a decision was made to revert back to the existing modified penalty of \$40, which in itself seems in excess of was permitted that would also seem to be a significant change.</p> <p>The Joint Standing Committee has dealt with the issue of significant change in 2012 when it disallowed a local law that introduced a new penalty following community consultation.</p>

	It is suggested that to ensure the proposed amendment local law is not disallowed that the local law making process be restarted.
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Recognising the comments relating to the modified penalty and the potential for the Dogs Amendment Local Law 2017 to be disallowed it is proposed that the local law making process be recommenced.

The purpose and effect of the Dogs Amendment Local Law 2017 is as follows:

Purpose:

To amend the local law to make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

Effect:

To extend the controls over dogs which exist under the *Dog Act 1976*.

It is recommended that the Dogs Amendment Local Law 2017 not be adopted and the local law making process be recommenced.

Fencing Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration.

A response was subsequently received from the DLGC recommending a number of amendments. Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
The Joint Standing Committee has determined that the <i>Dividing Fences Act 1961</i> does not provide a head of power for making the local law and as such reference to that legislation in the local law is not required.	Suggestion supported and local law amended accordingly.
The Joint Standing Committee has expressed the view that Australian Standards should be written in full in local laws unless previously defined.	Suggestion is noted and where required has been amended.

<p>The Joint Standing Committee has also expressed that where an Australian Standard is used, the general public should be informed by the Shire as to where they can freely access these standards. It is suggested the Shire provide this information when submitting the required documents to the Committee. The Committee's 84th Report looked at the issue of access to Australian Standards in delegated legislation, including local laws.</p>	<p>Unfortunately Australian Standards are not readily available.</p> <p>It is noted in reviewing some recent local laws adopted by other local governments that they have indicated the relevant standards are available at the Shire.</p> <p>It is also noted that the State Government response to Recommendation 5 in Joint Standing Committee Report 84 does not support the recommendation requiring local governments to have a copy available for inspection.</p> <p>The matter is one for the Shire to consider in adopting the local law.</p>
<p>The DLGC took the opportunity to review the principal local law whilst considering the amendments. One issue in the principal local law which the Shire may wish to deal with in the amendment local law is to clarify the current clause 13(2).</p> <p>As drafted this clause reads that:</p> <ul style="list-style-type: none">▪ Under subclause (1), a person cannot 'have or use' an electrified fence without a licence.▪ Under subclause (2), a license cannot be issued unless the electrified fence complies with the relevant standard.▪ An electrified fence would need to exist in order to comply with the standard.▪ So the only way to obtain a permit for the electric fence is to erect it without a permit in breach of subclause (1). <p>The solution is to take clause (2)(b) and move it to clause (1)(a)(iii). This will mean that compliance with the standard is a requirement for having the fence, not getting a permit for the fence.</p>	<p>Suggestion supported and local law amended accordingly.</p>

Recognising the comments relating to Australian Standards and the potential for the Joint Standing Committee to require the Shire to make the Australian Standards referred to in the Fencing Amendment Local Law 2017 available to the community, it is proposed that the Shire in adopting the Fencing Amendment Local Law 2017 consider making the relevant Australian Standards available in the local library.

The purpose and effect of the Fencing Amendment Local Law 2017 is as follows:

Purpose:

To amend the local law to provide a sufficient fence for purposes of the *Dividing Fences Act 1961* and to state the materials to be used and safety measures to be taken for some types of fencing.

Effect:

Augments the compliance requirements of the *Local Government (Miscellaneous Provisions) Act 1960* with respect to the erection and maintenance of fencing.

It is recommended that the Fencing Amendment Local Law 2017 be adopted and the Shire consider making available a copy of the Australian Standards referred to in the Fencing Amendment Local Law 2017.

Local Government Property Amendment Local Law 2017

At the close of the advertising period no public submissions from the community were received.

As required by the Act a copy of the proposed local law was submitted to the Minister for Local Government for consideration.

A response was subsequently received from the DLGC recommending a number of amendments. Most of the suggested changes relate to drafting issues and correction of typographical errors, and most have been included in the proposed amendment local law as a matter of course.

Details of the amendments suggested by the DLGC (excluding minor typographical and drafting corrections) are detailed below.

Suggested Amendment	Response
<p>It is suggested that clause 3.7 of the principal local law be deleted.</p> <p>While the majority of the local law deals with the use of local government property, clause 3.7 appears to relate to private agreements with the Shire regarding the ownership of material brought onto local government property from non-local government property.</p>	<p>Suggestion supported and local law amended accordingly.</p>

<p>Since the Shire has the power to make such private agreements without the local law, it seems unnecessary to address the matter in clause 3.7. The Shire may wish to take the opportunity to remove this clause from the principal local law.</p>	
<p>It is suggested that a definition for prohibited drug be included in clause 1.2.</p>	<p>Suggestion supported and local law amended accordingly.</p>

The purpose and effect of the Local Government Property Amendment Local Law 2017 is as follows:

Purpose:

To regulate the care, control and management of all property of the local government except thoroughfares.

Effect:

To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

It is recommended that the Local Government Property Amendment Local Law 2017 be adopted.

Conclusion

It is proposed to recommend the adoption of the following amendment local laws:

1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017;
2. Bush Fire Brigades Amendment Local Law 2017;
3. Cemeteries Amendment Local Law 2017;
4. Fencing Amendment Local Law 2017; and
5. Local Government Property Amendment Local Law 2017.

Given the need to change the penalty in the Dogs Amendment Local Law 2017 it is considered that this will be a significant change under Section 3.13 of the *Local Government Act 1995* and it is proposed that the amendment local law not be adopted and action taken to redraft the amendment to be readvertised.

In respect to the Fencing Amendment Local Law 2017, whilst it is proposed to be adopted an issue relating to the availability of Australian Standards has been noted. Such standards are available to be purchased at around \$80 for a single hard copy.

Policy Implications

Nil

Statutory Implications

Section 3.12 of the *Local Government Act 1995* outlines the process that needs to be followed to adopt new and amendment local laws.

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing
Strategic Goal: The population and economic base is expanding sustainably
Key Priority: Governance

➤ Corporate Business Plan

Strategy: SP.D4.1 – Implement accountable and good governance
Action #: 2
Action: Ensure policies, procedures and practice are effective, transparent and aligned with service delivery
Directorate: Corporate Services
Timeline: Ongoing

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

Council would be contravening the *Local Government Act 1995* should this item not be presented to Council.

Financial Implications

Advertising and Gazettal costs are applicable to this item. Council has allocated funds in the 2016/17 Budget for this purpose.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation

That the Shire of Merredin by absolute majority under Section 3.12 of the *Local Government Act 1995* resolves to:

1. note that that no community submissions were received in relation to the:
 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017;
 2. Bush Fire Brigades Amendment Local Law 2017;
 3. Cemeteries Amendment Local Law 2017;
 4. Dogs Amendment Local Law 2017;
 5. Fencing Amendment Local Law 2017; and
 6. Local Government Property Amendment Local Law 2017;
2. determine that the proposed changes outlined in the reports and included in the:
 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017;
 2. Bush Fire Brigades Amendment Local Law 2017;
 3. Cemeteries Amendment Local Law 2017;
 4. Fencing Amendment Local Law 2017; and
 5. Local Government Property Amendment Local Law 2017are not considered significantly different to that which was originally advertised;
3. determine to accept all changes proposed and adopt the following local laws:
 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017;
 2. Bush Fire Brigades Amendment Local Law 2017;
 3. Cemeteries Amendment Local Law 2017;
 4. Fencing Amendment Local Law 2017; and
 5. Local Government Property Amendment Local Law 2017;
4. authorise the President and the Chief Executive Officer to affix the Common Seal to the following Amendment Local Laws:
 1. Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2017;
 2. Bush Fire Brigades Amendment Local Law 2017;
 3. Cemeteries Amendment Local Law 2017;
 4. Fencing Amendment Local Law 2017; and
 5. Local Government Property Amendment Local Law 2017;
5. consider making available in the Shire of Merredin Library a copy of the Australian Standards referred to in the Fencing Amendment Local Law 2017; and
6. redraft the Dogs Amendment Local Law 2017 with the view to the local law making process being reinitiated.

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