

**Shire of Moora
Ordinary Council Meeting
17th June 2020**

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Moora
will be held on **Wednesday 17th June 2020**
in the Council Chambers, 34 Padbury Street, Moora
via videoconference, commencing at 5.30 pm



AJ Leeson
Chief Executive Officer

14th June 2020

The Shire of Moora Vision and Mission Statement

Vision

Our vision is:

Shire of Moora - a vibrant, affordable Regional Centre with a growing, caring community.

Mission

Our mission is:

To provide the leadership, services and infrastructure that will meet the needs of the community and surrounds.

SHIRE OF MOORA

WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL

Chief Executive Officer
Shire of Moora
PO Box 211
MOORA WA 6510

Dear Sir/Madam,

Re: Written Declaration of Interest in Matter Before Council

I, ⁽¹⁾ _____ wish to declare
an interest in the following item to be considered by Council at its meeting to be held on ⁽²⁾
_____ .

Agenda Item ⁽³⁾ _____

The type of interest I wish to declare is: ⁽⁴⁾

- Financial pursuant to Section 5.60A of the Local Government Act 1995
- Proximity pursuant to Section 5.60B of the Local Government Act 1995
- Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is ⁽⁵⁾

The extent of my interest is ⁽⁶⁾

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Yours faithfully,

Signed

Date

1. Insert your name.
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 of the Act).

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SHIRE OF MOORA
ORDINARY COUNCIL MEETING AGENDA
17 JUNE 2020
 COMMENCING AT 5.30PM

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* Separate Attachments

- 9.1.1 *List of Payments Authorised Under Delegation 1.31*
- 9.1.2 *Statement of Financial Activity for Period Ended 31 May 2020*
- 9.1.3 *Policy 9.1 – Significant Account Policies*
- 9.1.4 *Policy Section 12 – Purchasing & Tender Policy*
- 9.1.5 *Register of Delegations*
- 9.1.6 *Corporate Credit Card Policy / OAG*
- 9.1.8 *Local Govt. Information Paper (December 2019)*
- 10.2 *Attachment 1*

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**1.1 DECLARATION OF OPENING****1.2 DISCLAIMER READING**

No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****4. PUBLIC QUESTION TIME****5. PETITIONS AND PRESENTATIONS****6. APPLICATIONS FOR LEAVE OF ABSENCE****7. ANNOUNCEMENTS BY THE PRESIDING MEMBER****8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 20 MAY 2020**

That the Minutes of the Ordinary Meeting of Council held on 20 May 2020 be confirmed as a true and correct record of the meeting.

9. REPORTS OF OFFICERS

9.1 GOVERNANCE AND CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 12 June 2020

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, Creditors Officer

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

BACKGROUND

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31

<i>Municipal Fund</i>	<i>Cheques 62447 to 62448</i>	<i>\$3,014.00</i>
	<i>EFT 23333 to 23500</i>	<i>\$791,934.83</i>
	<i>Direct Debit 13182.1 to 13209.11</i>	<i>\$72,857.12</i>
	<i>[DD13209.1] Credit Card 03/04/20 to 03/05/20</i>	<i><u>\$1,130.45</u></i>
		<i>\$868,936.40</i>
<i>Trust Fund</i>	<i>Cheques 5532 to 5533</i>	<i><u>\$123.30</u></i>
		<i>Subtotal \$869,059.70</i>
<i>Net Pays</i>	<i>PPE 12/05/2020</i>	<i>\$91,809.17</i>
	<i>PPE 26/05/2020</i>	<i>\$91,583.89</i>
		<i>\$183,393.06</i>
		<i>Total <u>\$1,052,452.76</u></i>

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 MAY 2020

REPORT DATE: 11 June 2020

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, LG Corporate Solutions

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 May 2020

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 May 2020.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2019/20 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and receives the Statement of Financial Activity for the period ended 31 May 2020.

9.1.3 POLICY MANUAL – 9.1 SIGNIFICANT ACCOUNTING POLICIES

FILE REFERENCE: PL/POPI-2

REPORT DATE: 11 June 2020

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, LG Corporate Solutions

ATTACHMENTS: Policy 9.1 – Significant Account Policies

PURPOSE OF REPORT:

This report recommends that Council amend the capitalisation threshold to bring the policy in line with Local Government (Financial Management) Regulations 1996.

BACKGROUND:

From 1 July 2018, an asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition is under \$5,000.

In addition, in the Department of Local Government Sport & Cultural Industries Circular it states that the CEO is responsible to take all reasonable steps to prevent the theft or loss of non-consumable portable and attractive items valued under \$5,000.

COMMENT:

In June 2019 an amendment was made to the Local Government (Financial Management) Regulations 1996 for an asset to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5 000.

It is also a requirement for the local government to maintain a register of all such items under \$5,000 that are expensed. The Shire is currently meeting this requirement with several different asset registers being maintained.

The Shire currently has a policy that refers to the threshold for assets being capitalised. The current amount stated in the Significant Accounting Policies Policy is \$2,000 which is not consistent with the regulations.

It is therefore the recommendation that Council amend the threshold for assets capitalised from \$2,000 to \$5,000 in part (i) of Policy 9.1 – Significant Accounting Policies to align with Local Government (Financial Management) Regulations 17A(5).

POLICY REQUIREMENTS:

Policy 9.1 – Significant Accounting Policies

LEGISLATIVE REQUIREMENTS:

Local Government (Financial Management) Regulations 1996

17A. Assets, valuation of for financial reports etc.

(1) In this regulation —

carrying amount, in relation to an asset, means the carrying amount of the asset determined in accordance with the AAS;

fair value, in relation to an asset, means the fair value of the asset measured in accordance with the AAS.

- (2) Subject to subregulation (3), the value of an asset shown in a local government's financial reports must be the fair value of the asset.
- (3) A local government must show in each financial report —
 - (a) for the financial year ending on 30 June 2013, the fair value of all of the assets of the local government that are plant and equipment; and
 - (b) for the financial year ending on 30 June 2014, the fair value of all of the assets of the local government —
 - (i) that are plant and equipment; and
 - (ii) that are —
 - (I) land and buildings; or
 - (II) infrastructure;

and

 - (c) for a financial year ending on or after 30 June 2015, the fair value of all of the assets of the local government.
- (4) A local government must revalue an asset of the local government —
 - (a) whenever the local government is of the opinion that the fair value of the asset is likely to be materially different from its carrying amount; and
 - (b) in any event, within a period of at least 3 years but no more than 5 years after the day on which the asset was last valued or revalued.
- (5) An asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5 000.

17B. CEO to take steps to protect excluded portable and attractive assets

A CEO must take all reasonable steps to prevent the theft or loss of —

- (a) a non-consumable asset that is susceptible to theft or loss due to its portable nature and attractiveness for personal use or resale; and
- (b) an asset referred to in regulation 17A (5).

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**

FINANCIAL IMPLICATIONS:

Nil

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council amend the threshold for assets capitalised from \$2,000 to \$5,000 in part (i) of Policy 9.1 – Significant Accounting Policies, Shire of Moora Policy Manual to align with Local Government (Financial Management) Regulations 17A (5).

9.1.4 POLICY MANUAL – SECTION 12 PURCHASING & TENDER POLICY**FILE REFERENCE:** PL/POPI-2**REPORT DATE:** 11 June 2020**APPLICANT/PROPONENT:** Shire of Moora**OFFICER DISCLOSURE OF INTEREST:** Nil**PREVIOUS MEETING REFERENCES:** Nil**AUTHOR:** Martin Whitely, LG Corporate Solutions**ATTACHMENTS:** Policy Section 12 – Purchasing & Tender Policy**PURPOSE OF REPORT:**

This report recommends that Council amend the tender threshold to bring the policy in line with Local Government (Functions & General) Regulation 1996.

BACKGROUND:

Legislative changes recently implemented in response to the COVID-19 pandemic have now taken effect with significant changes to the Local Government (Functions & General) Regulations 1996 in relation to tenders. The tender threshold has now been increased from \$150,000 to \$250,000 and tenders do not need to be publicly invited where the supply of the goods or services is associated with a state of emergency.

COMMENT:

As a result of the changes to the Regulations the Shires Purchasing & Tender Policy needs to be amended to remain consistent with the regulations.

It is therefore the recommendation that Council make the following amendments to the current Purchasing & Tender Policy;

- Increase the threshold for tenders from \$150,000 to \$250,000 (Part 12.2)
- Add the supply of the goods or services associated with a state of emergency as exempt from the tender process (Part 12.7)
- Increase threshold from \$149,999 to \$249,999 (Part 12.8)
- Increase threshold from \$150,000 to \$250,000 (Part 12.8)
- Remove all other reference to the \$150,000 threshold and change to \$250,000

POLICY REQUIREMENTS:

Policy Manual – Section 12 Purchasing & Tender Policy

LEGISLATIVE REQUIREMENTS:**Local Government (Functions & General) Regulations 1996**

11A. Purchasing policies for local governments

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.

11. When tenders have to be publicly invited

- (1A) In this regulation —
state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
- (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
 - (aa) the supply of the goods or services is associated with a state of emergency; or
 - (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Nil

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council make the following amendments to the Shire's Purchasing & Tender Policy to align with Regulation 11 & 11A of the Local Government (Functions & General) Regulations

- 1. Increase the threshold for tenders from \$150,000 to \$250,000 (Part 12.2)*
- 2. Add the supply of the goods or services associated with a state of emergency as exempt from the tender process (Part 12.7)*
- 3. Increase threshold from \$149,999 to \$249,999 (Part 12.8)*
- 4. Increase threshold from \$150,000 to \$250,000 (Part 12.8)*
- 5. Remove all other reference to the \$150,000 threshold and change to \$250,000*

9.1.5 PARTS 5 & 13 – SHIRE OF MOORA – REGISTER OF DELEGATIONS

FILE REFERENCE: PL/DELI

REPORT DATE: 11 June 2020

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, LG Corporate Solutions

ATTACHMENTS: Parts 5 & 13 Shire of Moora – Register of Delegations

PURPOSE OF REPORT:

This report recommends that Council amend the Delegations Register to bring it in line with Local Government (Functions & General) Regulation 1996.

BACKGROUND:

Legislative changes recently implemented in response to the COVID-19 pandemic have now taken effect with significant changes to the Local Government (Functions & General) Regulation 1996 in relation to tenders. The tender threshold has now been increased from \$150,000 to \$250,000 and tenders do not need to be publicly invited where the supply of the goods or services is associated with a state of emergency.

COMMENT:

As a result of the changes to the Regulations it was recommended that the Shires Purchasing & Tender Policy needs to be amended to remain consistent with the regulations.

In addition to the Purchasing & Tender Policy amendments will also be required to the Shire's Delegation Register.

It is therefore the recommendation that Council make the following amendments to the following delegations to increase threshold from \$150,000 to \$250,000

- Delegation 5 – Budget Implementation
- Delegation 13 – Purchase Order Authorisation
- Any other delegations as required where there is reference to the \$150,000 threshold

POLICY REQUIREMENTS:

Delegations Register

LEGISLATIVE REQUIREMENTS:**Local Government (Functions & General) Regulations 1996****11A. Purchasing policies for local governments**

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.

11. When tenders have to be publicly invited

- (1A) In this regulation —
state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
 - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
 - (aa) the supply of the goods or services is associated with a state of emergency; or
 - (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Nil

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council make the following amendments to the Delegation Register to align with Regulation 11 & 11A of the Local Government (Functions & General) Regulations in relation to the increased tender threshold from \$150,000 to \$250,000;

- *Delegation 5 – Budget Implementation*
- *Delegation 13 – Purchase Order Authorisation*
- *Any other delegations as required where there is reference to the \$150,000 threshold*

9.1.6 CORPORATE CREDIT CARD POLICY UPDATE - REVIEW

FILE REFERENCE: PL/POPI-2

REPORT DATE: 11 June 2020

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, LG Corporate Solutions

ATTACHMENTS: Corporate Credit Card Policy
OAG

PURPOSE OF REPORT:

This report recommends that Council updates its policy for use of corporate credit cards.

BACKGROUND:

The Auditor General conducted an audit assessment of 8 local governments in May 2018 to see whether they have effective controls over the use of corporate credits cards. The report together with the findings and recommendations is attached for Council information.

COMMENT:

The draft policy clearly articulates responsibilities, expectations and limitations in relation to use of corporate credit cards associated with Shire operations.

POLICY REQUIREMENTS:

Draft Corporate Credit Policy

LEGISLATIVE REQUIREMENTS:

Local Government (Financial Management) Regulations 1996

11. Payments, procedures for making etc.

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
 - (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Nil

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council adopt the Corporate Credit Card Policy as attached.

9.1.7 APPOINTMENT/NOMINATIONS TO COMMITTEES / WORKING GROUPS

FILE REFERENCE: PL/DELI
REPORT DATE: 11 June 2020
OFFICER DISCLOSURE OF INTEREST: Nil
AUTHOR: Alan Leeson, Chief Executive Officer
ATTACHMENTS: Nil

Council last reviewed its appointments to Committees/Working Groups in November 2019. There has been changes to the membership of Council as a result of Mr Phil Bellamy's resignation from the office of Council and the fact that Mr Michael Monaghan did not take up of the Office of Councillor. An extra Ordinary election was scheduled for 28th February 2020 to fill the two vacancies. At the close of nominations on the 22 January 2020 Peter Nixon and Tracy Humphry were elected to the office of council unopposed. It is recommended Council review the 'Appointments/Nominations to Committee's/Working Groups'. A list of the current appointments/nominations is below for review.

Management & Audit Committee

Membership - 9 Councillors

General Purpose Committee

Membership - 9 Councillors

Avon-Midland Country Zone WALGA

Appointees - Shire President & Deputy President

Local Government Grain Freight Group

Appointee - Currently Cr Seymour as Avon Midland Zone delegate

Meets: Quarterly at WALGA

Development Assessment Panel

Appointees - Clydesdale-Gebert and Cr Thomas

Alternate members: Cr Lefroy and Cr Gilbert

Meets: On demand / when required by Department of Planning

Local Emergency Management Committee (LEMC)

Membership - Shire President (Chair), Chief Executive Officer, Manager Engineering Services, Community Emergency Services Manager plus representatives appointed by the LEMC Committee

Meets: Quarterly

Moora Residential College Linc Advisory Committee

Appointee - Cr Hamilton

Meets: On demand / when required

Community Resource Centre Mgmt. Committee

Appointees - Cr Hamilton with proxy Cr (vacant)

Meets: Monthly (2nd Wednesday)

Landcare Groups (Rural Water Council / West Koojan-Gillingarra LCDC)

Appointees - Cr (to be appointed) with proxy Cr Thomas

Meets: 3 monthly in Northam and Bi Monthly in Gillingarra

Wildflower Country Inc. Committee

Appointees - Cr Hamilton with proxy Cr (to be appointed)

Meets: Bi Monthly in Three Springs

Wheatbelt North Regional Road Group

Appointees - Shire President with proxy Cr Gilbert

Meets: Half Yearly in Northam

Moora Sub Regional Road Group

Appointees - Shire President with proxy Cr Gilbert

Meets: On demand / when required in Moora

Innovation Central Midlands WA Incorporated

Appointees - Cr Seymour, Cr Lefroy, Michael Monaghan

Meets: Monthly

Bushfire Advisory Committee

Appointee – Cr (to be appointed)

Education Training Strategy / Education Liaison Group

Appointees – Cr Hamilton with proxy Cr (to be appointed)

Community representative Peter Nixon

Meets: On demand / when required in Moora

VOTING REQUIREMENTS

Absolute Majority Required

RECOMMENDATION

That the Councils review of Appointments/Nominations to Committee's/Working Groups be endorsed and updated as detailed below;

Management & Audit Committee

Membership - 9 Councillors

General Purpose Committee

Membership - 9 Councillors

Avon-Midland Country Zone WALGA

Appointees - Shire President & Deputy President

Local Government Grain Freight Group

Appointee - Currently Cr Seymour as Avon Midland Zone delegate

Development Assessment Panel

Appointees - Clydesdale-Gebert and Cr Thomas

Alternate members: Cr Lefroy and Cr Gilbert

Local Emergency Management Committee (LEMC)

Membership - Shire President (Chair), Chief Executive Officer, Manager Engineering Services, Community Emergency Services Manager plus representatives appointed by the LEMC Committee

Moora Residential College Linc Advisory Committee

Appointee - Cr Hamilton

Community Resource Centre Mgmt. Committee

Appointees - Cr Hamilton with proxy Cr (to be appointed)

Landcare Groups (Rural Water Council / West Koojan-Gillingarra LCDC)

Appointees - Cr (to be appointed) with proxy Cr Thomas

Wildflower Country Inc. Committee

Appointees - Cr Hamilton with proxy Cr (to be appointed)

Wheatbelt North Regional Road Group

Appointees - Shire President with proxy Cr Gilbert

Moora Sub Regional Road Group

Appointees - Shire President with proxy Cr Gilbert

Innovation Central Midlands WA Incorporated

Appointees - Cr Seymour, Cr Lefroy, Michael Monaghan

Bushfire Advisory Committee

Appointee – Cr (to be appointed)

Education Training Strategy / Education Liaison Group

Appointees – Cr Hamilton with proxy Cr (to be appointed)
Community representative Peter Nixon

9.1.8 NATIONAL REDRESS SCHEME (PARTICIPATION OF WA LOCAL GOVERNMENTS)

FILE REFERENCE:**REPORT DATE:** 15 June 2020**OFFICER DISCLOSURE OF INTEREST:** N/A**PREVIOUS MEETING REFERENCES:** Nil**AUTHOR:** Alan Leeson, Chief Executive Officer**ATTACHMENTS:** Local Government Information Paper (December 2019)**PURPOSE OF REPORT:**

This item is for the Shire of Moora to:

- Note the background information and the WA Government's decision in relation to the National Redress Scheme;
- Note the key considerations and administrative arrangements for the Shire of Moora to participate in the National Redress Scheme;
- Formally endorse the Shire of Moora's participation as part of the WA Government's declaration in the National Redress Scheme; and
- Grant authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received.

BACKGROUND:

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future facing, ensuring better child safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of Moora) will be required to consider leading practice approaches to child safeguarding separately in the future.

National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

The Western Australian Government (the State) started participating in the Scheme from 1 January 2019.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), local governments may be considered a State Government institution.¹

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

DETAILS:

Following extensive consultation, the State Government (December 2019):

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

¹ Section 111(1)(b).

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and
3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the Shire of Moora's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the Shire of Moora formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government's amended participation declaration.

The Shire of Moora will not be included in the State's amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

The option also exists for the Shire of Moora to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire of Moora formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire of Moora include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire of Moora having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire of Moora.

Considerations for the Shire of Moora

Detailed below is a list of considerations for the Shire of Moora to participate in the Scheme:

1. Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the Shire of Moora will receive a Redress application. A Service Agreement will only be executed if the Shire of Moora receives a Redress application.

Shire of Moora needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

2. Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

3. Application Processing / Staffing and Confidentiality

Administratively the Shire of Moora will determine:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements

4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of

child sexual abuse. The Shire of Moora's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in *The Act*.

5. Redress Decisions

The Shire of Moora should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of Moora do not have any influence on the decision made and there is no right of appeal.

CONSULTATION:

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;

- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State's decision, in particular to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

STATUTORY IMPLICATIONS:

The Shire of Moora in agreeing to join the Scheme, is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*.

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

STRATEGIC IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil

liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

VOTING REQUIREMENTS:

Simple Majority

RECOMMENDATIONS*That Council:*

- 1) *Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;***
- 2) *Notes that the Shire of Moora will not be included in the WA Government's amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire of Moora makes a specific and formal decision to the be included;***
- 3) *Endorses the participation of the Shire of Moora in the National Redress Scheme as a State Government institution and included as part of the State Government's declaration;***
- 4) *Grants authority to the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received; and***
- 5) *Notes that a confidential report will be provided if a Redress application is received by the Shire of Moora.***

10. REPORTS OF COMMITTEES**GENERAL PURPOSE COMMITTEE MEETING – 3 JUNE 2020****10.1 QUOTATION 06/2020 – SUPPLY OF 1 x NEW COMPACTOR RUBBISH TRUCK**

FILE REFERENCE: L/TEPI
REPORT DATE: 28 May 2020
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: John Greay, Manager Engineering Services
ATTACHMENTS: RFQ 6-2020 received

PURPOSE OF REPORT:

Quotations closed for the supply of a new compactor rubbish truck on 22nd May 2020 at 4.00pm and are now presented to Council for evaluation.

BACKGROUND:

Council has budgeted \$350,000 plus GST this year for the replacement of the 2009 Hino rubbish truck with a trade value of \$47,000 leaving a changeover of \$303,000 plus GST.

COMMENT:

Council's existing truck is now 11 years old and has travelled in excess of 491,000kms; it is in need of replacement. Quotes were invited via the WALGA portal on 8th May 2020 and at the time of closing, Council had received submissions from three companies. All quotes received are attached for Council's evaluation.

POLICY REQUIREMENTS:

Council has complied with its policy in calling quotations for items of plant with a value greater than \$250,000.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 (as amended) 3.57

Regulations 11 (1) & 18 of the Local Government (Functions & General) Regulations 1996

11. When tenders have to be publicly invited

(1A) In this regulation —

state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3.

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
 - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
 - (aa) the supply of the goods or services is associated with a state of emergency; or
 - (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program;

This authorises Members to purchase any value of goods and services over any time period through WALGA Arrangements without going to Tender. This is because WALGA has already undertaken a fully compliant public procurement process on behalf of the State's local government sector.

Preferred Supply Arrangements are compliant with national competition laws, including the provisions of the Competition and Consumer Act 2010 (Cth).

STRATEGIC IMPLICATIONS:

The kerbside refuse collection is a key function of Councils overall waste management services. The author recommended Council retain the service in-house as against contracting the kerbside collection service out to external contractors. The demonstrable benefits of long-term consistent maintenance of responsive and flexible kerbside collection services support this approach. The approach enables the many occasions whereby Council offers additional collection services for community events such as the community show, equestrian events, local winter sports grand final day and others. of collection.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

Council provides a rubbish pickup service to its urban and some rural ratepayers (who deliver their bin into a designated bin pickup location) throughout the district on a weekly basis. It is important that a service is provided to collect household waste, and have it disposed of in an effective manner on a regular basis. This reduces the likelihood of indiscriminate dumping which could cause a health hazard and have a detrimental impact on the environment.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Council's 2020/2021 budget provides for a changeover price of \$303,000 comprising of;

- Purchase price \$350,000 (ex GST)
- Trade price \$47,000 (ex GST)
- Changeover price \$303,000 (ex GST)

Only one supplier offered a trade price, therefore in order to maximise the market value of the trade it is recommended the existing rubbish truck is sold via auction.

VOTING REQUIREMENTS:

Simple Majority Required

COMMITTEE RECOMMENDATION

That the item lay on the table pending consideration of a cost analysis comparing the outsourcing of the Shire of Moora's collection of domestic waste and the purchase of a new refuse truck.

10.2 APPLICATION FOR DEVELOPMENT APPROVAL (RETROSPECTIVE) – PROPOSED CHANGE OF USE FROM ANCILLARY OFFICE TO CARETAKER'S DWELLING, LOT 202 TOOTRA STREET, MOORA

FILE REFERENCE: TP/DA25/1920
REPORT DATE: 14 May 2020
APPLICANT/PROPONENT: Mr Alan J. Phillips (Landowner)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: 3/6/2020 (65/20) 20/5/2020 (59/20), 19/9/2012 (Res. 112/12) - Conditional development approval for a new storage shed and second-hand transportable office building.
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachment 1 (previously circulated)

PURPOSE OF REPORT:

Consideration and final determination of a development application to change the current approved use of an existing transportable building on Lot 202 Tootra Street, Moora from 'office' to 'caretaker's dwelling'.

BACKGROUND:

Council at their 20 May meeting resolved to lay the item on the table in order to confirm details in relation to noise restrictions associated with caretaker dwellings in industrial / commercial areas.

The applicant is seeking Council's development approval to change the current approved use of an existing transportable building on Lot 202 Tootra Street, Moora from 'office' to 'caretaker's dwelling'.

On 19 September 2012 Council considered and granted conditional development approval for the placement of a second-hand transportable office building on Lot 202 to support the continued use of the land for industrial purposes by the previous owners Gregory & Helen Reilly.

The applicant purchased the property in December 2016. In July 2019 the Shire Administration became aware of, and subsequently wrote to the applicant regarding the unauthorised use of the transportable office building for residential purposes. The applicant has now submitted a development application seeking Council's approval to change the use of the building from 'office' to caretaker's dwelling'. A full copy of the development application, including supporting documentation and plans, is provided in Attachment 1.

Lot 202 is located in the north-eastern part of the Moora townsite on the western edge of a designated industrial precinct and comprises a total area of approximately 4,047m². The subject land is generally flat throughout its entire area with the natural ground level being approximately 203.5 metres AHD.

The property has direct frontage and access to Tootra Street along its western boundary which is a sealed and drained local road under the care, control and management of the Shire of Moora. It is also served by key essential service infrastructure including power, water, telecommunications and stormwater drainage. As the land is not connected to the town's reticulated sewerage disposal scheme, all effluent disposal is undertaken on-site using septic tanks and leach drains previously approved by the Shire's Environmental Health Officer. Lot 202 has been extensively cleared and developed for industrial purposes and contains a number of associated improvements including a 381 m² shed in its front portion facing Tootra

Street and a 108m² second-hand transportable office building immediately behind. Other notable improvements include a patio and carport structure, vehicle accessways, parking / loading / unloading areas and landscaping, all of which are understood to be the subject of previous approvals.



Location & Lot Configuration Plan (Source: Landgate 2020)

Immediately adjoining and other nearby land uses include a range of well-established general and light industry-type uses immediately north, east and south, Tootra Street immediately west with an operational railway reserve, the Moora Sports Ground and Moora Primary School beyond.

COMMENT:

Lot 202 is classified 'Industrial' zone under the Shire of Moora Local Planning Scheme No.4 (LPS4).

Council's stated objectives for the development and use of any land classified 'Industrial' zone are as follows:

- (a) To provide for the needs of industry to support the community;
- (b) To provide appropriate buffers between industry and adjacent land uses so as to avoid land use conflicts.
- (c) To provide landscaped buffers along the branch of the Moore River to the established industrial area;
- (d) To avoid direct discharge of stormwater drainage or the discharge of any deleterious substances into the branch of the Moore River; and
- (e) To avoid non-industry related uses establishing in the industrial area.

Under the terms of LPS4 the development and/or use of any land classified 'Industrial' zone for the purposes of a caretaker's dwelling is listed as being a discretionary (i.e. 'D') use which means it's not permitted without Council's formal development approval. Council's development approval is also required given the subject land's location within Special Control Area 1 of LPS4 entitled 'Land Subject to Flooding'.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as

well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with the Department of Water and Environmental Regulation pursuant to the specific requirements of clause 4.11.2.2 of LPS4 as it applies to all land subject to flooding in the Moora townsite, has confirmed the proposal is generally compliant or capable of compliance with all relevant requirements.

Notwithstanding the above conclusion, Council should note the following issues have been identified which require consideration when finally determining the application:

i) Minimum Required Finish Floor Level for Flood Protection Purposes

The transportable office building proposed to be converted for use as a caretaker's dwelling does not strictly comply with the minimum required finished floor level recommended by the Department of Water and Environmental Regulation (DWER) to provide adequate protection during extreme flood events. The DWER has confirmed a minimum finished floor level of 204.56 metres AHD is recommended to help guard against any future potential flood risk. The building's finished floor level is 204.42 metres AHD which is 0.14 metres less than that recommended by the DWER.

Given the nature of the proposed development, the existing improvements on the land and the impracticality and cost of raising the building's current finished floor level to the recommended height, the DWER has confirmed the building will still provide protection against any future possible major flooding similar to that experienced in May 1999 provided all electrical installations are located above 204.56 metres AHD and suitably insulated.

Having regard for the DWER's advice and the discretion afforded by clause 4.11.3.1(e) of LPS4, it is recommended Council support a slight reduction to the minimum required finished floor level for the proposed caretaker's dwelling and advise the applicant of the potential risks and obligations.

ii) Land Use Permissibility

Under the terms of LPS4 a caretaker's dwelling is defined as a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant.

It is significant to note Lot 202 is not currently being used for industrial purposes of any sort which raises questions as to the permissibility of the proposed 'caretaker's dwelling' use. Strictly speaking, without there being an existing industrial use on the land, it could be argued the proposal to convert and use the existing transportable office building for caretaker purposes does not accord with the above definition and that the proposed use of the building for residential purposes should in fact be classified as a 'single house' which is listed in LPS4 as being prohibited on any land classified 'Industrial' zone.

The applicant has clearly stated his family's intention to look at establishing some sort of industrial use on the land in the near future either themselves or by leasing it to others to ensure compliance with the specific requirements of LPS4. The applicant has requested that Council take a lenient, empathetic view of his family's current needs and intentions when considering the application.

Given the current COVID-19 pandemic, the significant difficulties many people are currently experiencing and the State Government's recent response to the crisis which allows local governments across the State to exercise greater flexibility and discretion

when dealing with planning and development related matters, it is considered reasonable to consider granting conditional approval to this application. In doing so however it is recommended that any approval granted be time limited for a maximum period of two (2) years after which a new development application will be required to allow for its continuation. This approach is consistent with the guidance provided by the State Government and will give the applicant sufficient time to establish some type of industrial use on the land to legitimise the 'caretaker's dwelling' use. Should an industrial use not be established on the land by the end of the two (2) year approval period as proposed, the approval for the 'caretaker's dwelling' use will lapse and have no further affect (i.e. a new development application will be required at which point Council can decide whether or not to allow it to continue having regard for the circumstances at the time).

In light of the above findings, it is concluded the proposal for Lot 202 is acceptable and unlikely to have any negative impact on the general amenity, character, functionality and safety of the immediate locality. As such it is recommended Council exercise its discretion and grant conditional approval to the application.

POLICY REQUIREMENTS:

Nil. The requirements of Council's Policy No.7.6 entitled 'Building and Development Control Strategies' and Policy No.7.8 entitled 'Relocated Buildings' were considered and addressed in September 2012 when Council approved a development application for the existing storage shed and second-hand transportable office building on the land.

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Moora Flood Management Strategy 2000
- Shire of Moora Strategic Community Plan 2018-2028

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no known financial implications to Council in relation to this item. All costs associated with the proposed development are the responsibility of and will be met by the applicant/ landowner.

VOTING REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION

That it is recommended Council APPROVE the development application submitted by Mr Alan J. Phillips (Landowner) to change the current approved use of an existing transportable building on Lot 202 Tootra Street, Moora from ‘office’ to ‘caretaker’s dwelling’ subject to the following conditions and advice notes:

Conditions

- 1. The proposed development shall be undertaken strictly in accordance with the information and plans submitted in support of the application subject to any modifications required because of any condition/s of this approval or otherwise approved by Council.***
- 2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.***
- 3. All electrical installations for the second-hand transportable building to be converted for use as a caretaker’s dwelling shall be located at least 0.15 metres above the building’s final finished floor level of 204.42 metres AHD and suitably insulated to help guard against any future flood risk during extreme rainfall events.***
- 4. This approval is temporary and limited to a maximum period of one (1) year only and expires 30 June 2021. Should an approved industrial use not be established on the land by 30 June 2021 as proposed, this approval for the ‘caretaker’s dwelling’ use will lapse in its entirety and have no further affect (i.e. a new development application is required to allow for its continuation regardless of an industrial use being established on the land or not, approval for which will be at Council’s discretion at that time).***

Advice Notes

- 1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether it has been drawn to the Shire’s attention or not.***
- 2. This is a development approval of the Shire of Moora under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.***
- 3. The applicant/landowner is reminded of their obligation to ensure compliance with the following requirements:***
 - i) Shire of Moora Annual Firebreak Notice as this applies specifically to land within the Moora townsite comprising an area of 3,000m² or more to help guard against any potential bushfire risk; and***
 - ii) Shire of Moora Health Local Law 2016.***
- 4. An ‘Application to Construct or Install an Apparatus for the Treatment of Sewage’ prepared pursuant to the specific requirements of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 may be required and***

must be prepared and submitted to the Shire or the Executive Director of Public Health for consideration and determination prior to preparation and lodgement of a building permit and/or building approval certificate application. Confirmation of the relevant requirements in this regard can be obtained by contacting the Shire's Environmental Health Officer.

- 5. In accordance with the Building Act 2011 and Building Regulations 2012, a building approval certificate application for the existing unauthorised caretaker's dwelling on the land the subject of this approval must be submitted to and approved by the Shire's Building Surveyor.**
- 6. The proposed caretaker's dwelling is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the required building approval certificate application.**
- 7. The Department of Water and Environmental Regulation (DWER) has advised a minimum habitable floor level of 204.56 metres AHD (i.e. 0.3 metres above the relevant March 1999 flood level) is recommended for the proposed caretaker's dwelling to ensure adequate flood protection. The DWER has confirmed the proposed dwelling's existing finished floor level of 204.42 metres AHD, which is 0.14 metres less than that recommended, will still provide protection against any future possible major flooding similar to that experienced in May 1999 provided all electrical installations are located above 204.56 metres AHD and suitably insulated hence the requirements stipulated in Condition 3 of this approval. The local government accepts no responsibility whatsoever for any damage and/or injury caused in the event of a major flood event due to the finished floor level being below that recommended by the DWER. All responsibility in this regard rests with the applicant / landowner or any future owner of the property.**
- 8. The applicant / landowner should note the proposed development is located in close proximity to a number of existing established industrial uses as well as an operational railway line which may give rise to noise, dust and/or odour impacts that could be beyond the local government's ability to control.**
- 9. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted to be undertaken on Sundays or Public Holidays.**
- 10. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Moora Local Planning Scheme No.4 may result in legal action being initiated by the local government.**

Failure to comply with the relevant provisions of the Planning and Development Act 2005 and Shire of Moora Local Planning Scheme No.4 may result in legal action being initiated by the local government. Pursuant to the requirements of section 223 of the Planning and Development Act 2005, any person who commits an offence is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues.
- 11. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.**

10.3 PHYSICAL ATTENDANCE AT MEETINGS OF COUNCIL

Brief discussion was had regarding the preference for meetings of Council to be held as in-person meetings from 6 June 2020 onwards, as COVID-19 restrictions are set to be lifted / ease from 6 June 2020.

COMMITTEE RECOMMENDATION

That meetings of Council recommence as in person meetings from 6 June 2020 as COVID-19 restrictions are lifted, keeping in mind the social distancing requirements.

11. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**13. MATTERS FOR WHICH THE MEETING MAY BE CLOSED****PROCEDURAL MOTION**

That Council close the meeting to members of the public to discuss the item behind closed doors, as the matter is related to the personal affairs of a person and a contract that may be entered into; which relates to a matter to be discussed at the meeting under the Local Government Act 1995, section 5.23(2)(a)(b) & (c).

13.1 APPOINTMENT OF DEPUTY CHIEF EXECUTIVE OFFICER

Provided under confidential cover.

14. CLOSURE OF MEETING