Shire of Esperance

ORDINARY COUNCIL

TUESDAY 26 FEBRUARY 2019

MINUTES
DISCLAIMER

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In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the Shire of Esperance during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire of Esperance. The Shire of Esperance warns that anyone who has any application lodged with the Shire of Esperance must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attaching to the decision made by the Shire of Esperance in respect of the application.

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

ATTACHMENTS

Please be advised that in order to save printing and paper costs, all attachments referenced in this paper are available in the original Agenda document for this meeting.
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1. OFFICIAL OPENING

The Shire President declared the meeting open at 4.00pm

The President welcomed Councillors, staff, guests and members of the public to the meeting.

2. ATTENDANCE

Members
Cr V Brown President Rural Ward
Cr N Bowman Deputy President Rural Ward
Cr S McMullen Town Ward
Cr S Payne Town Ward
Cr L McIntyre Town Ward
Cr D Piercey, JP Town Ward
Cr B Parker Rural Ward

Shire Officers
Mr W M (Matthew) Scott Chief Executive Officer
Mr S Burge Director Corporate Resources
Mr M Walker Director Asset Management
Mr T Sargent Director External Services
Mr R Hindley Manager Strategic Planning & Land Projects
Mrs H Hall Executive Assistant
Miss A McArthur Administration Officer - Executive Services
Mr S McKenzie Manager Council Enterprises

Members of the Public & Press
Miss J Burton Media
Mr R Smoker Item 16.1
Mr L Western Observer
Ms L Boardman Item 17.3
Ms A Harlin Item 17.3
Ms R Cail Item 12.1.1
Ms T Ibrahim Observer

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

Cr R Padgurskis Town Ward Granted Leave
Cr J Parsons Town Ward Apology
4. APPLICATIONS FOR LEAVE OF ABSENCE
Nil

5. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION
Nil

6. DECLARATION OF MEMBERS INTERESTS

Cr Brown read aloud a letter of participation approval from the Department of Local Government, Support and Cultural Industries notifying that approval had been granted for Cr Brown, Cr Piercey, Cr Bowman, Cr McIntyre, Cr Payne and Cr McMullen to participate in discussion and voting on Agenda Item 12.1.1, Local Planning Scheme No. 24 – Amendment No 4.

6.1 Declarations of Financial Interests – Local Government Act Section 5.60a

Cr McIntyre declared a financial interest in item 12.1.1 as she owns property used for holiday accommodation in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr Brown declared a financial interest in item 12.1.1 as she owns property in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr Bowman declared a financial interest in item 12.1.1 as she owns property used for holiday accommodation in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr Piercey declared a financial interest in item 12.1.1 as she owns property in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr Payne declared a financial interest in item 12.1.1 as she owns property in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr McMullen declared a financial interest in item 12.1.1 as he leases property in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Mr Scott declared a financial interest in item 17.10 as this item deals with Mr Scott’s contract with the Shire of Esperance.

6.2 Declarations of Proximity Interests – Local Government Act Section 5.60b

6.3 Declarations of Impartiality Interests – Admin Regulations Section 34c

Cr Parker declared an impartiality interest in item 12.1.1 as his son is currently renting a house in the area affected by Local Planning Scheme No. 24 – Amendment No 4.

Cr McIntyre declared an impartiality interest in item 16.1 as a tenderer is her ex-husband.

Cr McIntyre declared an impartiality interest in item 17.8 as the contractor is her ex-husband.

Cr Brown declared an impartiality interest in item 17.8 as current contractor is a family member.

Cr Brown declared an impartiality interest in item 17.6 as she owns a property near the Kirwan Road Proposed Landfill Site.

Cr Brown declared an impartiality interest in item 16.1 as her cousin is the contractor who was awarded the tender to demolish the Esperance Tanker Jetty.
7. **PUBLIC QUESTION TIME**

Mr Smoker requested clarification of the use of the word “overwhelming” when referring to community support for the replacement jetty.

Cr Brown responded by saying that from 1500 surveys relating to the Esperance Tanker Jetty Draft Concept Design, there was an approval rate of 80 percent.

Mr Les Western requested information relating to progress made in the approval for Acacia Gardens.

Cr Brown stated that the Shire was working with the proprietors of Acacia Gardens and she attended a meeting with the proprietors along with Cr McIntyre and Cr Parker to update them on the progress.

Mr Sargent explained to Mr Western the guidelines from the Department of Water regarding this item and explained that the Shire of Esperance is doing all that they can to achieve a positive outcome.

The CEO explained to Mr Western what P1 and P2 means.

Mr Sargent invited Mr Western to meet with him so he can explain the technicalities to him in more detail to avoid confusion.

Ms R Cail read aloud a question from Mr Justin Bellinger SCNRM relating to Item 12.1.1.

Cr Brown took this question on notice.

8. **PUBLIC ADDRESSES / DEPUTATIONS**

The CEO, Mr Matthew Scott presented a fire update to Council and members of the public and press on the Boyatup Hill Fire, Mickel Fire and the 90 Mile Tank. Preparations are underway to convert the Esperance Indoor Sports Stadium for a 120 person base camp to accommodate additional personnel.

Businesses, especially food outlets, have been notified of the increase in number of fire fighters so they can prepare for a busier than usual long weekend.

Mr Scott went on to thank the community for their continued effort in supporting the Emergency Services men and women.

9. **PETITIONS**

Nil

10. **CONFIRMATION OF MINUTES**

Moved: Cr McMullen  
Seconded: Cr McIntyre  

O0219-011  
That the Minutes of the Ordinary Council Meeting of 22 January 2019 and of the Special Council Meeting of 15 January 2019 be confirmed as a true and correct record.  

CARRIED  
F7 - A0
### 11. DELEGATES’ REPORTS WITHOUT DISCUSSION

**Cr Victoria Brown**

26 Jan  
Australia Day Ceremony, Citizen of the Year awards at Adventureland Park and lunch with the Australia Day Ambassador Katie Curo

28 Jan  
Attended Future of Local Government forum, Perth

30 Jan  
Met with Hon Darren West MLC

30 Jan  
Attended GVROC Dinner

1 Feb  
Attended GVROC Meeting

1 Feb  
Attended opening of the Scaddan Bushfire Brigade shed

3 Feb  
Attended Shire stall at the Museum Village Markets to promote Community Perception Survey

7 Feb  
Attended RCAWA meeting, Tourism forum and met with Country Arts WA in Perth

8 Feb  
Attended Heritage Council meeting with Julie de Jong to present Draft Jetty Concept Design

11 Feb  
Attended Australia’s Golden Outback sundowner and dinner with Tourism WA

13 Feb  
Chaired Local Emergency Management Committee meeting

15 Feb  
Met with chair Tjaltjraak Gail Reynolds Adamson

16 Feb  
Visited Wuttrichs at Arcacia Gardens

17 Feb  
Attended Shire stall at the Museum Village Markets to promote Community Perception Survey

19 Feb  
Met with Steve Lewis CEO Southern Ports

21 Feb  
Attended works depot end of year BBQ

22 Feb  
Met with Minister Regional Development Hon Alannah McTiernan MLC and attended Jetty Replacement Working Group Meeting

**Cr Natalie Bowman**

23 Jan  
Attended public information session on South Coast proposed aquaculture zone

26 Jan  
Met with our Australia Day Ambassador – Katie Curo and introduced her to locals at Australia day event.

26 Jan  
Attended Australia Day Ambassador luncheon

26 Jan  
Attended official Australia Day Ceremony

31 Jan  
Attended Business after hours event at Twilight Yoga Studio

31 Jan  
Attended GVROC Dinner

1 Feb  
Attended GVROC meeting at the Civic Centre

1 Feb  
Attended the opening of the Scaddan Bushfire Brigade Shed

3 Feb  
Attended Shire stall at the Museum Village Markets to promote Community Perception Survey

5 Feb  
Met with Jenny Morcombe regarding issues with old landfill site at Fill Rd

7 Feb  
Attended Shire stand at the Boulevard to promote the Community Perception Survey

17 Feb  
Attended Shire stall at the Museum Village Markets to promote Community Perception Survey

21 Feb  
Attended a webinar on Local Government and Social Media

21 Feb  
Attended the Depot End of Year Barbecue

22 Feb  
Met with Minister MacTiernan, Minister for Regional Development, Agriculture and Food and Ports in the Chambers.

**Cr Lara McIntyre**

8 Feb  
Attended South Coast Management Group Executive Meeting

12 Feb  
Attended Visitor Centre Management Committee Meeting with Marcus Falconer

21 Feb  
Attended the Depot End of Year Barbecue

22 Feb  
Met with Minister MacTiernan, Minister for Regional Development, Agriculture and Food and Ports in the Chambers

22 Feb  
Attended Jetty Replacement Working Group Meeting

23 Feb  
Attended Cannery Arts Centre Opening of touring exhibition “The Index”

25 Feb  
Attended Senior Citizens Centre Meeting
Mr Smoker left the chamber at 4.38pm and did not return.
Mr Hughes entered the Chamber at 4.40pm.

12. **MATTERS REQUIRING A DETERMINATION OF COUNCIL**

12.1 **EXTERNAL SERVICES**

12.1.1 **Local Planning Scheme No. 24 - Amendment No. 4**

Officers Recommendation:

That Council:

1. In accordance with Regulation 50(3)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* support draft Amendment No. 4 with the proposed modifications to address issues raised in the submissions:

   a) Amend the Scheme Map by reclassifying Reserve 14541 from ‘Rural’ to ‘Government Services’.

   b) Amend the Scheme Map by reclassifying Portion of Reserve 23527 and Reserve 34788 from ‘Public Open Space’ to ‘Environmental Conservation’.

   c) Amend the Scheme Map by reclassifying the Road Widening on DP411488 from ‘Rural’ to ‘Primary Distributor Road’.

   d) Amend the Scheme Map by reclassifying the Road Widening on DP411489 from ‘Rural’ to ‘Primary Distributor Road’.

   e) Amend the Scheme Map by reclassifying the Lot 500 on DP407020 from ‘Rural’ to ‘Emergency Services’.

   f) Amend the Scheme Map by reclassifying Reserve 33494 and Lot 55 on Plan 9489 from ‘Residential’ to ‘Local Road’.

   g) Amend the Scheme Map by reclassifying Portion of Lot 501 on DP411999 from ‘Local Road’ to ‘Recreational’.

   h) Amend the Scheme Map by reclassifying Portion of Lot 502 on DP411999 from
'Public Open Space' to 'Local Road'.

i) Amend the Scheme by inserting ‘government, public authority or’ before ‘local government’ in Clause 15(3).

j) Amending Schedule 1 Clause 29 by renaming the clause to ‘Outbuildings’

k) Amending Schedule 1 Clauses 29 (b) and (c) by deleting ‘in accordance with subclause (a)’.

l) Amend the Scheme by inserting a new subclause (h) under Schedule 1 Clause 27 as follows:

‘(h) Irrespective of subclauses (c) and (d) a shipping container is not permitted unless development approval has already been issued for the erection of a single house, second-hand dwelling or repurposed dwelling on the lot or that form of development has already occurred.’

m) Amend the Scheme by inserting a new subclause (i) under Schedule 1 Clause 27 as follows:

‘(i) No more than two (2) shipping containers will be permitted on any Rural Residential property at any time. Where more than one (1) sea container is placed on a property, these must be grouped side by side to give the appearance of a single uniform structure and comply with subclause (d).’

n) Amend Schedule 3 Additional Use A18 by replacing ‘R-Codes’ with ‘R20 R-Code’

o) Amend Schedule 3 and the Scheme Map by adding an Additional Use with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Location</th>
<th>Base Zone</th>
<th>Additional Use(s)</th>
<th>Development Standards/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A20</td>
<td>Lots 70 - 74</td>
<td>Commercial</td>
<td>As a ‘D’ use:</td>
<td>Setbacks are to be in accordance with the R-codes.</td>
</tr>
<tr>
<td></td>
<td>The Esplanade,</td>
<td></td>
<td>• Single House</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Esperance</td>
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p) Schedule 5 and the Scheme Map by adding a Special Use with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Special use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SU7</td>
<td>Lucky Bay Brewery</td>
<td></td>
<td>a) The portion of Lot 63 on DP80539 subject to SU7 may be subdivided from the parent lot.</td>
</tr>
<tr>
<td></td>
<td>Part Lot 63 on</td>
<td></td>
<td>b) Any further subdivision greater than outlined in subclause a) will require the preparation and adoption of a structure plan prepared in accordance with clause 16 of Schedule 2 – Deemed Provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015.</td>
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<td></td>
<td>Deposited Plan 80539</td>
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<td>c) All development within</td>
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<td>As a ‘P’ use:</td>
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<td></td>
<td></td>
<td>• Single House</td>
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<td></td>
<td></td>
<td>• Home Occupation</td>
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<td></td>
<td></td>
<td>• Ancillary Dwelling</td>
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<td>• Rural Pursuit/hobby farm</td>
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<td>As a ‘D’ use:</td>
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<td></td>
<td></td>
<td>• Brewery</td>
<td></td>
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<td></td>
<td></td>
<td>• Educational Establishment</td>
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<td>• Small Bar</td>
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<td></td>
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<td>• Holiday House</td>
<td></td>
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<td>As an ‘I’ use:</td>
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<td></td>
<td></td>
<td>• Restaurant/café</td>
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<td>• Reception Centre</td>
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<td>• Industry-Light</td>
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<td>• Other complimentary or non-defined uses</td>
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considered appropriate by the Local Government.
SU7 shall require Development Approval.
d) Parking requirements are to be in accordance with Schedule 7.

q) Amend the Scheme Map to show a buffer in accordance with the Government Sewerage Policy for the Stevens, Doombup and Bannitup Lakes system as part of SCA 11.

2. Further inform the Western Australian Planning Commission that as a result of the local government’s consideration of the draft Amendment No. 2 under Regulation 50 of the Planning and Development (Local Planning Schemes) Regulations 2015, the following modifications are required in addition to those raised in the submissions:

a) Amend Schedule A Clause 61 (1)(k) by replacing ‘Development Approval is required for the placement of a shipping container on a lot except where it is:’ with ‘the placement of a shipping container on a lot where it is:’

b) Amend Table 4 – Zoning and Land Use Table by removing the land use ‘Waste disposal facility’.

c) Amend Schedule 1 Clause 30(a) by deleting ‘on a Residential or Rural Residential zoned lot’.

d) Amend Schedule 3 and the Scheme Map by adding an Additional Use with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Location</th>
<th>Base Zone</th>
<th>Additional Use(s)</th>
<th>Development Standards/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A21</td>
<td>Lot 106 Pink Lake Road, Nulsen</td>
<td>Residential</td>
<td>As a ‘A’ use: • Tourist Development</td>
<td>Development is subject to the controls of the Tourism zone</td>
</tr>
</tbody>
</table>

e) Amend the Scheme Map to show the portion of Reserve 28170 currently reserved ‘Cultural and Natural Resource Zone’ as ‘Environmental Conservation’ reserve.

f) Amend Schedule 3 and the Scheme Map by deleting Additional Use 16 and renumbering all subsequent clauses and map references to take into account the deletion.

g) Amend the Scheme Map to show Lot 55 of Deposited Plan 12843 from ‘Residential’ to ‘Local Road’.

h) Amend the Scheme to replace all instances of ‘Holiday Home’ with ‘Holiday House’.

i) Amend Schedule A Clause 61(1)(p) by replacing ‘Residential and Rural Town site zone’ with ‘Residential or Rural Town site zone’.

j) Amend Schedule A Clause 61(1)(t) by replacing ‘and’ with ‘or’.

k) Amend Schedule 1 Clause 22.(a) by replacing the ‘and’ after ‘Bed and Breakfast’ with ‘or’.

MOTION
Moved: Cr Payne
Seconded: Cr Piercey

That Council lay this matter on the table until the Shire consults with DPCA with respect to the Doombup, Bannitup and Stevens Lake in the sewage sensitive area SCA 11.

LOST
F2 – A5
(Against Cr Brown, Cr Bowman,
Cr McIntyre, Cr Parker & Cr McMullen)
MOTION
Moved: Cr Payne
Seconded:
That Council amend point 1 (g) to include catchment of the Doombup and Stevens Lakes as suggested by the DBCA or SCMG.
Due to lack of a seconder the motion… LAPSED

MOTION
Moved: Cr Payne
Seconded: Cr Piercey
That Council lay this matter on the table until Council can adequately consider the recommendation from DBCA with respect to including the catchment of the Doombup, Bannitup and Stevens Lakes in the sewage sensitive area SCA 11 and further consider a consistent approach to the sewage sensitive area across the lakes system. LOST
F2 – A5
(Against Cr Brown, Cr Bowman, Cr McIntyre, Cr Parker & Cr McMullen)

SUSPENSION OF STANDING ORDERS
Moved: Cr Bowman
Seconded: Cr McIntyre
O0219-012
That Standing Orders be suspended to allow for discussion. CARRIED
F7 - A0

RESUMPTION OF STANDING ORDERS
Moved: Cr Bowman
Seconded: Cr McIntyre
O0219-013
That Standing Orders be resumed. CARRIED
F7 - A0

Moved: Cr McIntyre
Seconded: Cr McMullen
O0219-014
Council Resolution
That Council:
1. In accordance with Regulation 50(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 support draft Amendment No. 4 with the proposed modifications to address issues raised in the submissions:
   a) Amend the Scheme Map by reclassifying Reserve 14541 from ‘Rural’ to ‘Government Services’.
   b) Amend the Scheme Map by reclassifying Portion of Reserve 23527 and
Reserve 34788 from ‘Public Open Space’ to ‘Environmental Conservation’.

c) Amend the Scheme Map by reclassifying the Road Widening on DP411488 from ‘Rural’ to ‘Primary Distributor Road’.

d) Amend the Scheme Map by reclassifying the Road Widening on DP411489 from ‘Rural’ to ‘Primary Distributor Road’.

e) Amend the Scheme Map by reclassifying the Lot 500 on DP407020 from ‘Rural’ to ‘Emergency Services’.

f) Amend the Scheme Map by reclassifying Reserve 33494 and Lot 55 on Plan 9489 from ‘Residential’ to ‘Local Road’.

g) Amend the Scheme Map by reclassifying Portion of Lot 501 on DP411999 from ‘Local Road’ to ‘Recreational’.

h) Amend the Scheme Map by reclassifying Portion of Lot 502 on DP411999 from ‘Public Open Space’ to ‘Local Road’.

i) Amend the Scheme by inserting ‘government, public authority or’ before ‘local government’ in Clause 15(3).

j) Amending Schedule 1 Clause 29 by renaming the clause to ‘Outbuildings’

k) Amending Schedule 1 Clauses 29 (b) and (c) by deleting ‘in accordance with subclause (a)’.

l) Amend the Scheme by inserting a new subclause (h) under Schedule 1 Clause 27 as follows:

‘(h) Irrespective of subclauses (c) and (d) a shipping container is not permitted unless development approval has already been issued for the erection of a single house, second-hand dwelling or repurposed dwelling on the lot or that form of development has already occurred.’

m) Amend the Scheme by inserting a new subclause (i) under Schedule 1 Clause 27 as follows:

‘(i) No more than two (2) shipping containers will be permitted on any Rural Residential property at any time. Where more than one (1) sea container is placed on a property, these must be grouped side by side to give the appearance of a single uniform structure and comply with subclause (d).’

n) Amend Schedule 3 Additional Use A18 by replacing ‘R-Codes’ with ‘R20 R-Code’

o) Amend Schedule 3 and the Scheme Map by adding an Additional Use with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Location</th>
<th>Base Zone</th>
<th>Additional Use(s)</th>
<th>Development Standards/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A20</td>
<td>Lots 70 - 74 The Esplanade, Esperance</td>
<td>Commercial</td>
<td>As a ‘D’ use: • Single House</td>
<td>Setbacks are to be in accordance with the R-codes.</td>
</tr>
</tbody>
</table>

p) Schedule 5 and the Scheme Map by adding a Special Use with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Special use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SU7</td>
<td>Lucky Bay</td>
<td>As a ‘P’ use: • Single House</td>
<td>a) The portion of Lot 63 on DP80539 subject to</td>
</tr>
<tr>
<td>No.</td>
<td>Location</td>
<td>Base Zone</td>
<td>Additional Use(s)</td>
</tr>
<tr>
<td>-----</td>
<td>----------</td>
<td>-----------</td>
<td>-------------------</td>
</tr>
<tr>
<td>A21</td>
<td>Lot 106 Pink Lake Road, Nulsen</td>
<td>Residential</td>
<td>As a ‘A’ use: - Tourist Development</td>
</tr>
</tbody>
</table>

q) Amend the Scheme Map to show a buffer in accordance with the Government Sewerage Policy for the Stevens, Doombup and Bannitup Lakes system as part of SCA 11.

2. Further inform the Western Australian Planning Commission that as a result of the local government’s consideration of the draft Amendment No. 2 under Regulation 50 of the Planning and Development (Local Planning Schemes) Regulations 2015, the following modifications are required in addition to those raised in the submissions:

a) Amend Schedule A Clause 61 (1)(k) by replacing ‘Development Approval is required for the placement of a shipping container on a lot except where it is:’ with ‘the placement of a shipping container on a lot where it is:’

b) Amend Table 4 – Zoning and Land Use Table by removing the land use ‘Waste disposal facility’.

c) Amend Schedule 1 Clause 30(a) by deleting ‘on a Residential or Rural Residential zoned lot’.

d) Amend Schedule 3 and the Scheme Map by adding an Additional Use with the following:

Amend the Scheme Map to show the portion of Reserve 28170 currently reserved ‘Cultural and Natural Resource Zone’ as ‘Environmental Conservation’ reserve.
f) Amend Schedule 3 and the Scheme Map by deleting Additional Use 16 and renumbering all subsequent clauses and map references to take into account the deletion.

g) Amend the Scheme Map to show Lot 55 of Deposited Plan 12843 from ‘Residential’ to ‘Local Road’.

h) Amend the Scheme to replace all instances of ‘Holiday Home’ with ‘Holiday House’.

i) Amend Schedule A Clause 61(1)(p) by replacing ‘Residential and Rural Town site zone’ with ‘Residential or Rural Town site zone’.

j) Amend Schedule A Clause 61(1)(t) by replacing ‘and’ with ‘or’.

k) Amend Schedule 1 Clause 22.(a) by replacing the ‘and’ after ‘Bed and Breakfast’ with ‘or’.

**AMENDMENT**

Moved: Cr Payne
Seconded:

That Council remove SCA11 from this item.

Due to lack of a seconder the motion…

LAPSED

The presiding member put the original motion and it was…

CARRIED

F5 – A2

(Against Cr Piercey & Cr Payne)

**MOTION**

Moved: Cr McIntyre
Seconded: Cr Piercey

O0219-015

That Council request the CEO to schedule a workshop in conjunction with SCNRM, DBCA and other relevant parties to establish the level of protection being sought for protection of the Doombup, Bannitup and Stevens Lakes.

CARRIED

F6 – A1

(Against Cr Payne)

Miss McArthur left the Chamber at 5.11pm and did not return.
12.1.2 Development Application - 3.6 Metre Tennis Court Style Fencing for Outdoor Activity Area associated with Youth Drop-in Centre - Lots 109-110 Milner Street, Sinclair

Moved: Cr Piercey
Seconded: Cr Bowman

O0219-016

Council Resolution
That Council resolve to approve development application 10.2018.3957.1 for 3.6 metre high tennis court style fencing around an outdoor activity area associated with the Youth Drop-in Centre at Lots 109-110 Milner Street, Sinclair subject to the following conditions:

1. Development shall be carried out and fully implemented in accordance with the details indicated on the stamped approved plan(s) unless otherwise required or agreed in writing by the Shire of Esperance (Planning Services).
2. During construction stage, adjoining lots are not to be disturbed without the prior written consent of the affected owner(s).
3. All stormwater and drainage run off from all roofed and impervious areas is to be retained on-site to the satisfaction of the Shire of Esperance (Asset Management Division).
4. The provision of all services, including augmentation of existing services, necessary as a consequence of any proposed development shall be at the cost of the developer and at no cost to the Shire of Esperance.
5. The development hereby approved must not create community safety concerns, or otherwise adversely affect the amenity of the subject locality by reason of (or the appearance or emission of) smoke, fumes, noise, vibration, odour, vapour, dust, waste water, waste products or other pollutants.
6. All other fencing shall be in accordance with the Shire of Esperance Local Law Relating to Fencing.
7. The works involved in the implementation of the development must not cause sand drift and/or dust nuisance. In the event that the Shire of Esperance is aware of, or is made aware of, the existence of a dust problem, measures such as installation of sprinklers, use of water tanks, mulching, or other land management systems as appropriate may be required to be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and manner directed by the Shire of Esperance (Environmental Health Services).
8. The proposed operations, during and after construction, are required to comply with the Environmental Protection (Noise) Regulations 1997.
9. The gate is to open into the property.

And the following advice notes:

1. THIS IS NOT A BUILDING PERMIT. An application for a building permit is required to be submitted and approved by the Shire of Esperance (Building Services) prior to any works commencing on-site.
3. It is the responsibility of the applicant to ensure that building setbacks and fence locations correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Esperance will take no responsibility for incorrectly located buildings.
4. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

5. Horizon Power has requested the Shire to advise Applicants that Horizon Power has certain restrictions regarding the installation of conductive materials near its network assets. Applicants are advised to contact Horizon Power’s Esperance office to ascertain whether any of Horizon Power's restrictions affect their proposed development.

6. The developer is to liaise with Shire of Esperance (Statutory Compliance) to determine any requirement for additional approvals for any signage proposed to be erected on site.

CARRIED F7- A0

Mr Hindley left the Chamber at 5.15pm and did not return.

Ms Cail left the Chamber at 5.15pm and returned at 5.20pm.

Mr Hughes left the Chamber at 5.24pm and returned at 5.26pm.

12.1.3 Surrender of a Portion Reserve 39409 to Facilitate Construction of Telecommunications Infrastructure

Moved: Cr McIntyre
Seconded: Cr McMullen

O0219-017

Council Resolution

That Council:

1. Agree to surrender its management order over a portion of Reserve 39409, subject to the amendment of the Clearing Permit, to facilitate the State entering into a lease with a telecommunications provider.

2. Require Kordia Solutions Pty Ltd to cover all costs in relation the surrender and subsequent amendments (including amendment to the Clearing Permit) to the reserve to facilitate access to the land and approval of the development.

CARRIED F7 - A0

12.1.4 Community Grants Program 2019 - 2020

Moved: Cr Bowman
Seconded: Cr McMullen

O0219-018

Council Resolution

That Council:

1. Endorse the amendments to the Community Grants Program; and


CARRIED F7 - A0
12.2 ASSET MANAGEMENT

12.2.1 Draft Esperance 2050 Cycling Strategy

Moved: Cr Piercey
Seconded: Cr Parker

O0219-019
Council Resolution
That Council advises the Department of Transport of its support for the Draft Esperance 2050 Cycling Strategy to proceed to formal comment.

CARRIED
F7 - A0

12.3 CORPORATE RESOURCES

12.3.1 Neridup Bush Fire Brigade Shed Lease - David and Sally Cox

Moved: Cr Parker
Seconded: Cr Piercey

O0219-020
Council Resolution
That Council agrees to;
1. Enter into a lease with David and Sally Cox for portion of Lot 127 Green Road Neridup;
2. The term of the lease being 15 years or until the property is sold;
3. The previous lease being deemed to be terminated due to the Lessor no longer owning the property and being deceased; and
4. The lease being drawn up using the Community and Sporting Group Lease Template.

CARRIED
F7 - A0

12.3.2 Financial Services Report - January 2019

Moved: Cr McMullen
Seconded: Cr Bowman

O0219-021
Council Resolution
That the report entitled Monthly Financial Management Report (incorporating the Statement of Financial Activity) for the month of January 2019 as attached be received.

CARRIED
F7- A0
12.3.3 Local Government Elections 2019

Moved: Cr Bowman
Seconded: Cr Piercey

O0219-022

Council Resolution

That Council:

1. Declare in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary election together with any other elections or polls which may be required; and

2. Decide, in accordance with Section 4.61(2) of the Local Government Act 1995 that the method of conducting the 2019 Local Government Election will be as a postal election.

CARRIED

12.4 EXECUTIVE SERVICES

12.4.1 Information Bulletin - January 2019

Moved: Cr McMullen
Seconded: Cr McIntyre

O0219-023

Council Resolution

That Council accepts the Information Bulletin for January 2019 and;

1. Register - Delegations Discharge - Corporate Resources
2. Corporate Performance Report - January 2019
3. WALGA Quarterly Report - 2018 Q4 - Shire of Esperance
4. Esperance Chamber of Commerce - Certificate of Membership 2019
5. Certificate of Appreciation - Support of Esperance Short Course Delivery

CARRIED

13. REPORTS OF COMMITTEES

13.1 Minutes of Committees

Moved: Cr Piercey
Seconded: Cr Bowman
O0219-024

Council Resolution

That Council receive the following unconfirmed committee minutes:

1. Esperance RoadWise Committee - 21 January 2019

CARRIED
14. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN
Nil

15. MEMBERS QUESTIONS WITH OR WITHOUT NOTICE
Nil

16. URGENT BUSINESS APPROVED BY DECISION

MOTION
Moved: Cr Bowman
Seconded: Cr McMullen

O0219-025
That Council accept late items 16.1 and 17.11.

16.1 Replacement Jetty - Final Concept Design

Committee Recommendation:
That Council:
1. Endorse the Replacement Jetty Final Concept Design Report;
2. Instruct H+H Architects to proceed to the detail design stage of the project; and
3. Instruct H+H Architects provide the further information requested by the Heritage Council of Western Australian as part of the detailed design stage.

MOTION
Moved: Cr Payne
Seconded: Cr McIntyre

That Council:
1. Endorse the Replacement Jetty Final Concept Design Report subject to renaming node 3 to remove the word memorial;
2. Instruct H+H Architects to proceed to the detail design stage of the project; and
3. Instruct H+H Architects provide the further information requested by the Heritage Council of Western Australian as part of the detailed design stage.
4. Instruct H+H Architects to develop a Consultation Plan for the development of the Interpretation Nodes and ensure that it includes Community consultation.

LOST
F2 – A5
(Cr Brown, Cr Bowman, Cr Parker, Cr Piercey & Cr McMullen)
Moved: Cr Bowman
Seconded: Cr McMullen

O0219-026

Council Resolution

That Council:

1. Endorse the Replacement Jetty Final Concept Design Report;
2. Instruct H+H Architects to proceed to the detail design stage of the project; and
3. Instruct H+H Architects provide the further information requested by the Heritage Council of Western Australian as part of the detailed design stage.
4. Instruct H+H Architects to develop a Consultation Plan for the development of the Interpretation Nodes and ensure that it includes Community consultation.

CARRIED

F6 – A1

(Against Cr Piercey)

Reason: Council wanted to ensure there was a consultation plan for the next phase.

Ms Ibrahim, Ms Boardman, Ms Harlin & Mr Western left the Chamber at 5.40pm and did not return.

17. MATTERS BEHIND CLOSED DOORS

Moving behind closed doors

Moved: Cr Bowman
Seconded: Cr McMullen

O0219-027

That the meeting proceed behind closed doors in accordance with section 5.23(2) of the Local Government Act 1995, to consider the following items, which are considered confidential for the reasons indicated.

17.1 Lease Surrender - Old Chemist Shop Museum Village
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government (Section 5.23(2)(e)(i)).

17.2 Outstanding Rate - Legal Action on Assessment 9761.
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government (Section 5.23(2)(e)(iii)).

17.3 Jetty Headland Site 2 Expression of Interest
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government (Section 5.23(2)(e)(iii)).

17.4 Lease Surrender - Old School Master’s Residence Museum Village
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government (Section 5.23(2)(e)(iii)).
17.5 Community Airfares - Regional Express (Rex) Airlines
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

17.6 Environmental Scoping Document Costing - Proposed Landfill at Kirwan Road
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

17.7 Fire Damaged Asbestos Clad Structure - Lot 421 (77) Pink Lake Road Nulsen
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, could be reasonably expected to prejudice the maintenance or enforcement of a lawful measure for protecting public safety (Section 5.23(2)(f)(iii)).

17.8 0160-18 Town Boat Ramp and James Street Jetty Maintenance Works
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

17.9 Proposed Lease and Possible Purchase of a Portion of Lot 50, Wylie Bay Road
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

17.10 CEO Performance Review
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter affecting an employee or employees (Section 5.23(2)(a)); and a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

17.11 Construct Coomalbidgup Bush Fire Brigade Facility
This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)).

CARRIED
F7 - A0

MOTION
Moved: Cr McIntyre
Seconded: Cr Piercey

O0219-028

That Council bring the following items forward for discussion:

17.8 0160-18 Town Boat Ramp and James Street Jetty Maintenance Works
17.11 Construct Coomalbidgup Bush Fire Brigade Facility

CARRIED
F7 - A0

Cr McMullen left the Chamber at 6.59pm.
17.8 0160-18 Town Boat Ramp and James Street Jetty Maintenance Works

Moved: Cr Payne
Seconded: Cr Bowman

O0219-029

Council Resolution

That Council rejects all tenders for Request for Tender 0160-18 Town Boat Ramp and James Street Jetty Maintenance Works.

CARRIED

F6 - A0

Cr McMullen returned to the Chamber at 7.02pm, Cr Brown read aloud the resolution of item 17.8.

17.11 Construct Coomalbidgup Bush Fire Brigade Facility

Moved: Cr McMullen
Seconded: Cr Parker

O0219-030

Council Resolution

That Council:

1. Award Construction of the Coomalbidgup Bush Fire Facility to Greg Horan Construction Pty Ltd as per the lump sum price; and
2. Approve a budget variation as per the table below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Budget Figure</th>
<th>Amended Figure</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coomalbidgup Fire Brigade Shed W3207</td>
<td>$345,674</td>
<td>$355,674</td>
<td>$10,000</td>
</tr>
<tr>
<td>Net result</td>
<td></td>
<td></td>
<td>$10,000</td>
</tr>
</tbody>
</table>

CARRIED

F5 – A2
(Against Cr Payne and Cr Piercey)

17.1 Lease Surrender - Old Chemist Shop Museum Village

Moved: Cr Parker
Seconded: Cr Piercey

O0219-031

Council Resolution

That Council agrees to;

1. Surrender the lease with Delcia Hubble for the Old Chemist Shop, portion of Lots 59 and 60 Dempster Street Esperance;
2. Lease surrender fee of $210 Inc GST being payable; and
3. Any outstanding invoices being paid prior to the Surrender being finalised.

CARRIED

F7 - A0
17.2 Outstanding Rate - Legal Action on Assessment 9761.

Moved: Cr McIntyre
Seconded: Cr McMullen

O0219-032

Council Resolution

That Council

1. Notes the legal action has been undertaken by the Shire of Esperance under Section 6.56 and 6.64 of the Local Government Act (1995) on assessment 9761 to recover outstanding rates, penalty interest and legal expenses.

2. Request the CEO to write to the owners of assessment 9761 advising that unless payment is received within 14 days, the Shire of Esperance will exercise its power of sale under Civil Judgment Enforcement Act (2004) Property Seizure and Sale Order (PSSO).

3. Grants delegation to the CEO to authorise to proceed to Property Seizure and Sale Order on the Land if there is no response from the owner.

CARRIED F7 - A0

17.3 Jetty Headland Site 2 Expression of Interest

Moved: Cr McMullen
Seconded: Cr Bowman

O0219-033

Council Resolution

That Council, subject to Department of Lands’ approval, agrees to;

1. Lease portion of Lot 991 The Esplanade Reserve 27318, being Jetty Headland Mobile Food Van Site 2, to Lisa Boardman;

2. Term of the lease being 5 years;

3. Lease rent being $4,675 Inc GST per year and Council consider the valuation obtained in February 2017 to be a true indication of the current market rental rate;

4. Lease rent being subject to annual rent increases based on CPI;

5. Lease preparation fee of $565 Inc GST payable;

6. The disposition being advertised in accordance with s3.58 of the Local Government Act 1995 for Disposal of Property; and

7. The Lessee liaising with current tenants to discuss the items they intend to sell prior to finalising their menu.

CARRIED F7 – A0
17.4 Lease Surrender - Old School Master's Residence Museum Village
Moved: Cr McMullen
Seconded: Cr Piercey

O0219-034
Council Resolution
That Council agrees to;
1. Surrender the lease with Brian Gallop for the Old School Master’s Residence Museum Village, Lot 59 Dempster Street Esperance;
2. Lease surrender fee of $210 Inc GST being payable; and
3. All outstanding invoices being paid prior to the surrender being finalised.
CARRIED
F7 - A0

17.5 Community Airfares - Regional Express (Rex) Airlines
Moved: Cr Parker
Seconded: Cr McMullen

O0219-035
Council Resolution
That Council authorise the CEO to accept the requested amendment to the Rex community fare agreement subject to:
1. The revised agreement continuing until at least 28 Feb 2021.
2. Improved customer service outcomes in the event of flights being cancelled outside of Eastern Standard Time business hours.
3. Improved availability of community fares for bookings made within 24 hours of the scheduled flight.
CARRIED
F7 - A0
17.6 Environmental Scoping Document Costing - Proposed Landfill at Kirwan Road

Officers Recommendation

That Council

1. Continue with the Public Environmental Review for Lot 12 Kirwan Road,
2. Undertake the required works in Attachment B in priority order, and
3. The CEO to advise Council on the results of each study as they become available to enable Council to reassess the decision to proceed with this site if test result indicate a potential fatal flaw in the project.

MOTION
Moved: Cr Payne
Seconded:

That Council:

The Environmental Scoping Document Proposed Landfill at Kirwan Road, Item 17.6 be released for public information so the item can be made public with sensitive information in attachments on page 60 redacted, being the last point of the required works and this information is included in the minutes of this meeting.

Due to lack of a seconder the motion…

LAPSED

MOTION
Moved: Cr Payne
Seconded:

Due to the significant nature of this decision this matter will be laid on the table for a special meeting where all Councillors will be in attendance.

Due to lack of a seconder the motion…

LAPSED

SUSPENSION OF STANDING ORDERS

Moved: Cr Bowman
Seconded: Cr McIntyre

O0219-036

That Standing Orders be suspended to allow for discussion of item 17.6.

CARRIED
F6 – A1
(Against Cr McMullen)

RESUMPTION OF STANDING ORDERS

Moved: Cr McMullen
Seconded: Cr Parker

O0219-037

That Standing Orders be resumed.

CARRIED
F7 – A0
MOTION
Moved:          Cr Bowman  
Seconded:      Cr McMullen

O0219-038

That Council;
1. Continue with the Public Environment Review process for Lot 12 Kirwan Road
2. Undertake the required works in Attachment B in the amended priority order
3. Instruct the CEO to advise Council on the results of each study as they become available to enable Council to reassess the decision to proceed, and release the results to the community once considered by Council; and
4. Instruct the CEO to release to the public the priority order of works and;
   a. Total estimated costs of implementing the scoping document.
   b. The portion of the estimated costs required for DWER approval; and
   c. The balance being the cost of works associated with the PER process.

CARRIED
F4 – A3
(Against Cr Piercey, Cr Parker & Cr Payne)

Reason: Council wants to keep the Community informed as to the progress of this process.

Mr McKenzie left the Chamber at 6.58pm and did not return.

17.7 Fire Damaged Asbestos Clad Structure - Lot 421 (77) Pink Lake Road Nulsen

Moved:          Cr McIntyre  
Seconded:      Cr Bowman

O0219-039

That Council:
1. Amend its 2018/19 budget by providing $38,900 to general Ledger account 01-4200-370 to allow expenditure associated with the remediation of the fire affected property at 77 Pink Lake Rd and recovery of costs from the owner of the land.
2. Authorize the CEO undertake remediation of the fire affected property at 77 Pink Lake Rd, Nulsen and raise the costs of such work as a charge against the land in accordance with clause 371 of the Health (Miscellaneous Provisions) Act 1911.

CARRIED
F7 - A0
17.9 Proposed Lease and Possible Purchase of a Portion of Lot 50, Wylie Bay Road

Officer’s Recommendation:

That Council:

1. Instruct the Chief Executive Officer to:
   a. Commence the disposal of property process, via a Public Notice as per Section 5.58(3)(a), Local Government Act 1995, for a portion of Lot 50, Wylie Bay Road as per the offer provided by Ocean Grown Abalone Ltd; and
   b. Prepare relevant agreement documents for the proposed land transaction;

2. Allocate net funds generated from this transaction to the Priority Projects Reserve.

AMENDMENT

Moved: Cr McMullen
Seconded: Cr McIntyre

That Council

1. Instruct the Chief Executive Officer to:
   a. Commence the disposal of property process, via a Public Notice as per Section 5.58(3)(a), Local Government Act 1995, for a portion of Lot 50, Wylie Bay Road as per the offer provided by Ocean Grown Abalone Ltd for the purpose of an abalone farm and hatchery; and
   b. Prepare relevant agreement documents for the proposed land transaction.

2. Allocate net funds generated from this transaction to the Priority Projects Reserve.

CARRIED

F6 – A1
(Against Cr Payne)

Reason: Council want to ensure the land is used only for the purpose of an abalone farm and hatchery.

Cr Brown left the Chamber at 7.20pm and returned at 7.22pm.
Mr Sargent, Mr Walker and Mrs Hall left the Chamber at 7.20pm.

17.10 CEO Performance Review

Moved: Cr Payne
Seconded: Cr Piercey

That Council endorse the appointment of Price Consulting to conduct the 2019 CEO Performance Review.

CARRIED

F7 - A0

Mr Sargent, Mr Walker and Mrs Hall returned to the Chamber at 7.24pm.
Cr Brown read aloud the resolution of Item 17.10.
Moved: Cr Bowman
Seconded: Cr McMullen

O0219-042
That the meeting come from behind closed doors.

CARRIED
F7 - A0

18. PUBLIC QUESTION TIME
Nil

19. CLOSURE

The President declared the meeting closed at 7.25pm.

These Minutes were confirmed at a meeting held on _______________

Signed ______________________________________

Presiding Member at the meeting at which the Minutes were confirmed.

Dated____________________