



24 JANUARY 2020

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**Shire of Esperance**

**ORDINARY COUNCIL**

**28 JANUARY 2020**

**SUPPLEMENTARY ITEMS**

we make it

happy

**16. URGENT BUSINESS APPROVED BY DECISION**

**Item: 16.1**

**Local Planning Scheme No. 24 - Amendment No. 5**

<b>Author/s</b>	Richard Hindley	Manager Strategic Planning & Land Projects
<b>Authorisator/s</b>	Terry Sargent	Director External Services

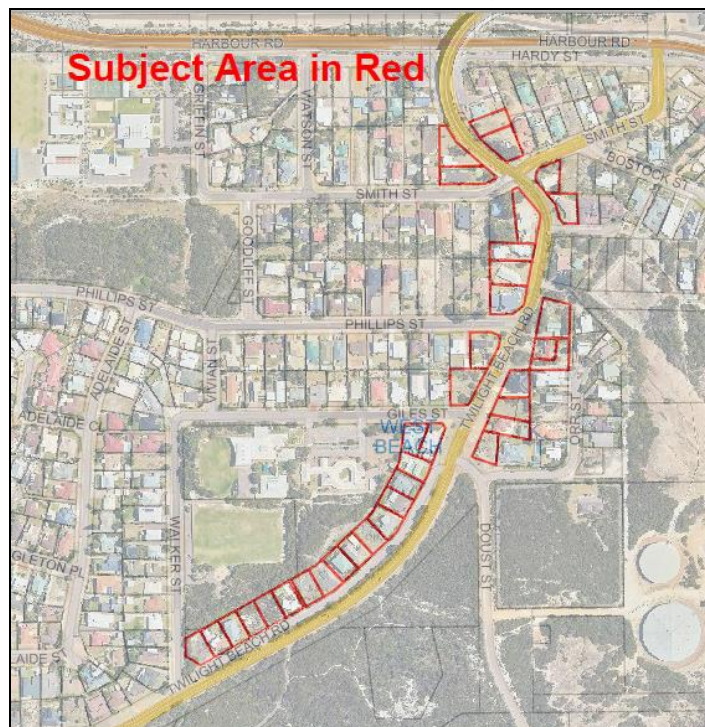
**File Ref: D20/1539**

**Applicant**

Internal (Strategic Planning & Land Projects)

**Location/Address**

Lots fronting Twilight Beach Road to the East of Walker Street, West Beach,



Portion of Lot 50 Wylie Bay Road, Bandy Creek



### Executive Summary

For Council to consider initiating Amendment 5 to Local Planning Scheme No. 24 to amend the Scheme by amending the Modification of R-Codes provision and introducing a new Special Use on a portion of Lot 50 Wylie Bay Road, Bandy Creek.

### Recommendation in Brief

That Council:

1. Amend Local Planning Scheme No. 24 in pursuance of Section 75 of the *Planning and Development Act 2005*.
2. Determining that the amendment is “standard” under the provisions of regulation 35.(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):
  - “... (c) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission...” and;
  - “... (g) any other amendment that is not a complex or basic amendment...”
3. Refer Amendment 4 to the EPA under Section 81 of the *Planning and Development Act 2005* and resolve to proceed to advertising of the amendment for public inspection after referral to the EPA.

### Background

Notice of Final Approval of the Shire of Esperance Local Planning Scheme No. 24 (‘the Scheme’) was published in the Government Gazette on 2 August 2017. Like any such document it is subjected to statutory review and review by Council as circumstances dictate.

The proposed modifications fall into two categories as follows:

1. Clarifying the area that a mandatory 7.5 metre setback applies taking into account current development that has occurred with the area.
2. Insertion of SU8 to reflect the proposed development by Ocean Grown Abalone;

The proposed amendment is consistent with the Local Planning Strategy.

### Officer’s Comment

The following is a summary of the points contained within the amendment document and for the sake of clarity, should be read with Attachment A.

The amendment points contained with the attached document are brought to Council as they have a potential to facilitate development that may otherwise not be approved.

Amend Clause 26.(4) by inserting after ‘Twilight Beach Road’ the following ‘to the west of the intersection with Walker Street’.

This amendment refines the area where a 7.5m setback is established by a provision modifying the R-Codes. Development in the excluded area will still be required to comply with the prevailing R-Code setbacks.

It should be noted that this modification will enable the application of the R-Codes on the affected lots which will assist in reducing the Bushfire Attack Level that is present in the affected area.

Amending Schedule 5 by inserting SU8

Ocean Grown Abalone are currently seeking to establish an aquaculture facility on the southern portion of Lot 50 on DP 411486 Wylie Bay Road.

The proposal is consistent with the Bandy Creek District Structure Plan which identified aquaculture as a land use within the vicinity of the proposed site.

The proposed area of Public Open Space is consistent with the requirements of State Planning Policy 2.6 – State Coastal Planning Policy.

The site had 29 species of flora identified during the flora survey. All species identified are considered to be common to the area.

It should be noted that the Department of Planning, Lands and Heritage – Planning have advised that subdivision of this portion of Lot 50 from the parent title cannot be supported without a change in the zoning.

### **Consultation**

A 42 day advertising period applies for amendment which will commence upon receipt of comments from the EPA.

### **Financial Implications**

Nil

### **Asset Management Implications**

Nil

### **Statutory Implications**

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 24

### **Policy Implications**

Local Planning Strategy

### **Strategic Implications**

Strategic Community Plan 2017 - 2027

*Built Environment*

New developments enhance the existing built environment

Facilitate and guide high quality, compliant and efficient building and development across the Shire

### **Environmental Considerations**

N/A

### **Attachments**

A<sup>1</sup>. Local Planning Scheme No. 24 - Amendment No. 5

### **Officer's Recommendation**

**That Council:**

1. That Council In pursuance of Section 75 of the Planning and Development Act 2005 amend Local Planning Scheme No. 24 by:

- i) Amending Clause 26.(4) by inserting after 'Twilight Beach Road' the following 'to the west of the intersection with Walker Street '.

ii) Amending Schedule 5 by inserting SU8 with the following:

No.	Description of land	Special use	Conditions
SU8	Ocean Grown Abalone  Portion Lot 50 on DP 411486 Wylie Bay Road, Bandy Creek	<p>As a 'D' use:</p> <ul style="list-style-type: none"> <li>• Agriculture – Intensive</li> <li>• Educational Establishment</li> <li>• Restaurant/café</li> <li>• Renewable energy facility</li> </ul> <p>As an 'I' use:</p> <ul style="list-style-type: none"> <li>• Office</li> <li>• Industry – Light</li> </ul> <p>Other complimentary or non-defined uses considered appropriate by the local government.</p>	<p>a) The portion of Lot 50 on DP 411486 subject to SU8 and the adjacent area reserved Public Open Space may be subdivided from the parent lot.</p> <p>b) Development is to be in accordance with Schedules 6 and 7 of the Scheme.</p> <p>c) Development of pipework and incidental pumps and other service is permitted within the portion of the lot reserved as public open space.</p> <p>d) All signage is to be in accordance with an adopted signs Local Planning Policy or otherwise be exempted by Schedule 10.</p> <p>e) Unless exempted by subclause c) all development within SU8 shall require development approval.</p>

iii) Amending the Scheme Map by rezoning a Portion of Lot 50 on DP 411486 from 'Rural' to 'SU8' and 'Public Open Space' as depicted on the Scheme Amendment Map.

2. Determine that the amendment is standard under the provisions of regulation 35.(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

(b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;

(g) any other amendment that is not a complex or basic amendment.

3. Refer Amendment 5 to the EPA under Section 81 of the *Planning and Development Act 2005* and resolve to proceed to advertising of the amendment for public inspection after referral to the EPA.

Voting Requirement

Simple Majority





**SHIRE OF ESPERANCE**  
**LOCAL PLANNING SCHEME NO. 24**  
**AMENDMENT NO. 5**

Form 2A

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION TO ADOPT AMENDMENT  
TO LOCAL PLANNING SCHEME

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 5

Resolved that the local government, in pursuance of Section 75 of the *Planning and Development Act, 2005* amend the above local planning scheme by;

1. Amending Clause 26.(4) by inserting after 'Twilight Beach Road' the following 'to the west of the intersection with Walker Street '.
2. Amending Schedule 5 by inserting SU8 with the following:

No.	Description of land	Special use	Conditions
SU8	Ocean Grown Abalone  Portion Lot 50 on DP 411486 Wylie Bay Road, Bandy Creek	As a 'D' use: <ul style="list-style-type: none"> <li>• Agriculture – Intensive</li> <li>• Educational Establishm ent</li> <li>• Restaurant/ café</li> <li>• Renewable energy facility</li> </ul> As an 'I' use: <ul style="list-style-type: none"> <li>• Office</li> <li>• Industry – Light</li> </ul> Other complimentary or non-defined uses considered appropriate by the local government.	a) The portion of Lot 50 on DP 411486 subject to SU8 and the adjacent area reserved Public Open Space may be subdivided from the parent lot. b) Development is to be in accordance with Schedules 6 and 7 of the Scheme. c) Development of pipework and incidental pumps and other service is permitted within the portion of the lot reserved as public open space. d) All signage is to be in accordance with an adopted signs Local Planning Policy or otherwise be exempted by Schedule 10.

3. Amending the Scheme Map by rezoning a Portion of Lot 50 on DP 411486 from 'Rural' to 'SU8' and 'Public Open Space' as depicted on the Scheme Amendment Map.

The amendment is standard under Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;



- (g) any other amendment that is not a complex or basic amendment.

Dated this.....day of  
.....2020

.....  
CHIEF EXECUTIVE OFFICER

## **SCHEME AMENDMENT REPORT**

### **1.1 Introduction**

Notice of Final Approval of the Shire of Esperance Local Planning Scheme No. 24 ('the Scheme') was published in the Government Gazette on 2 August 2017.

It has recently become clear that the current application of a 7.5 metre setback on Twilight Beach Road to the East of Walker Street, West Beach causes difficulties in developing lots including in some sections the capacity to develop lots given the prevailing bush fire attack level rating.

This amendment seeks to apply the R-Codes setbacks on Twilight Beach Road to the East of Walker Street.

Modifications are proposed to introduce a new Special Use for the proposed development by Ocean Grown Abalone.

A number of amendments are made to the Scheme Map to ensure it reflects changes from the amendment as well as ensuring the Reservation manages accurate reservations for Shire managed reserves.

The specific details of this amendment are specified below.

## 2. AMENDMENT PROPOSAL

### 2.1 Amend Clause 26.(4) by inserting after 'Twilight Beach Road' the following 'to the west of the intersection with Walker Street

It is proposed to limit the application of a mandatory 7.5 metre setback along the portion of Twilight Beach Road to the West of Walker Street. This will result in the R-Codes standards applying to the East of Walker Street.

#### Area reverting to use of R-Codes



The proposed modification is minor in nature and will only have a minor impact on the development potential of the lots that are no longer affected by the 7.5 metre setback.

### 2.2 Amending Schedule 5 by inserting SU8

Ocean Grown Abalone are currently seeking to establish an aquaculture facility on the southern portion of Lot 50 on DP 411486 Wylie Bay Road.



The provisions for SU8 are as follows:

No.	Description of land	Special use	Conditions
SU8	Ocean Grown Abalone  Portion Lot 50 on DP 411486 Wylie Bay Road, Bandy Creek	<p>As a 'D' use:</p> <ul style="list-style-type: none"> <li>• Agriculture – Intensive</li> <li>• Educational Establishment</li> <li>• Restaurant/café</li> <li>• Renewable energy facility</li> </ul> <p>As an 'I' use:</p> <ul style="list-style-type: none"> <li>• Office</li> <li>• Industry – Light</li> </ul> <p>Other complimentary or non-defined uses considered appropriate by the local government.</p>	<p>a) The portion of Lot 50 on DP 411486 subject to SU8 and the adjacent area reserved Public Open Space may be subdivided from the parent lot.</p> <p>b) Development is to be in accordance with Schedules 6 and 7 of the Scheme.</p> <p>c) Development of pipework and incidental pumps and other service is permitted within the portion of the lot reserved as public open space.</p> <p>d) All signage is to be in accordance with an adopted signs Local Planning Policy or otherwise be exempted by Schedule 10.</p>



The proposal is consistent with the Bandy Creek District Structure Plan which identified aquaculture as a land use within the vicinity of the proposed site.



A level 1 flora survey was undertaken at Lot 50 Wylie bay Road, Bandy creek during June 2019 in accordance with the Environmental Protection Authority (EPA) schedule 51, Guidance for the Assessment of Environmental Factors (the Environmental Protection Act 1986) Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in Western Australia.

The site had 29 species of flora identified during the flora survey. All species identified are considered to be common to the area.

#### Species identified during site visit

Genus	Species
Asteraceae	* <i>Arctotheca populifolia</i>
	<i>Olearia axillaris</i> Coast Daisy Bush
	<i>Senecio pinnatifolius</i>
Aizoaceae	<i>Carpobrotus virescens</i>
	<i>Tetragonia implexicoma</i> Bower Spinach
Brassicaceae	* <i>Cakile maritima</i> Sea rocket
Chenopodiaceae	<i>Rhagodia bacata</i> Berry saltbush
Cupressaceae	<i>Callitris preissii</i> Rottnest Island Pine
Cyperaceae	<i>Ficinia nodosa</i> , Knotted Club Rush
	<i>Lepidosperma gladiatum</i> Coastal Sword Sedge
Euphorbiaceae	<i>Adriana quadripartite</i> Coast Bitter Bush
	* <i>Euphorbia paralias</i> Sea spurge
Ericaceae	<i>Leucopogon parviflorus</i> Coast Beard Heath
Fabaceae	<i>Acacia cochlearlis</i>
	<i>Acacia cyclops</i>
	<i>Acacia saligna</i>

	<i>Templetonia retusa</i> Cockies Tounge
Geraniaceae	* <i>Pelagonium capitatum</i> Rose Pelargonium
Goodeniaceae	<i>Scaevola crassifolia</i> Thick Leaved fan flower
Lauraceae	<i>Cassytha racemose</i> Dodder Laurel
Myrtaceae	<i>Eucalyptus platypus</i> Moort
	<i>Melaleuca lanceolata</i> Rottnest Teatree
	<i>Melaleuca pentagona</i>
<b>Pittosporaceae</b>	<i>Billardiera fusiformis</i> Australian Bluebell
Poaceae	<i>Spinefex hirsuta</i> Hairy Spinifex
Polygonaceae	<i>Muehlenbeckia adpressa</i> Climbing Lignum
<b>Scrophulariaceae</b>	<i>Myoporum insulare</i> Blueberry Tree
Ranunculaceae	<i>Clematis linearifolia</i> Old Man's Beard
Rhamnaceae	<i>Spyridium globulosum</i> Basket Bush

Upon inspection it was noted that no threatened ecological communities (TEC) indicator species were present and the vegetation type did not match Proteaceae Dominated Kwongan shrublands.

### 3. LOCAL PLANNING STRATEGY

The proposed amendments are consistent with the Local Planning Strategy.

### 4. CONCLUSION

This amendment includes two modifications being:

- Clarifying the area that a mandatory 7.5 metre setback applies taking into account current development that has occurred with the area.
- Insertion of SU8 to reflect the proposed development by Ocean Grown Abalone;

The proposed provisions are consistent with the Local Planning Strategy.

**PLANNING AND DEVELOPMENT ACT 2005**

**SHIRE OF ESPERANCE**

**LOCAL PLANNING SCHEME NO. 24**

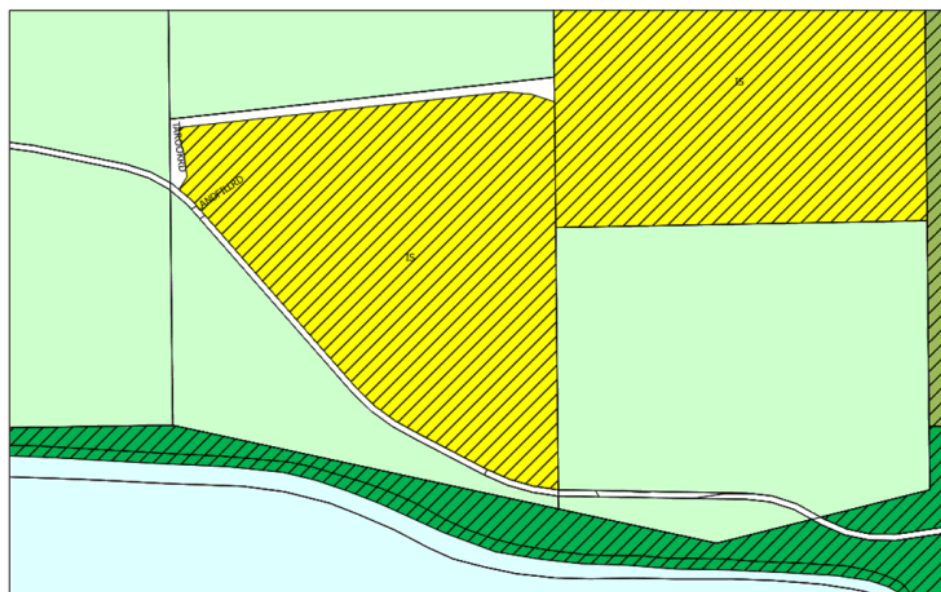
**AMENDMENT NO. 5**

The Shire of Esperance under and by virtue of the power conferred upon it in that behalf by the *Planning and Development Act, 2005*, hereby amends the above local planning scheme by:

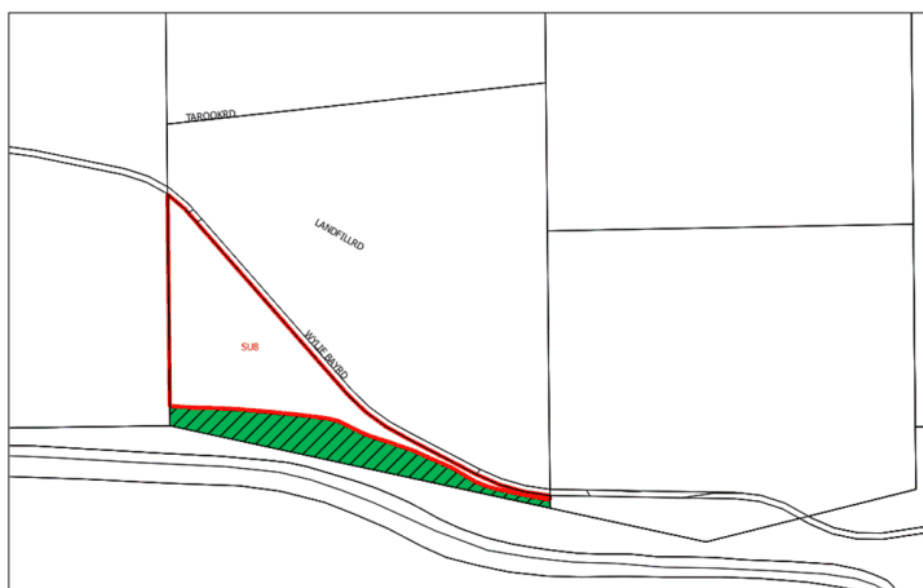
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2. Amending Schedule 5 by inserting SU8 with the following:

No.	Description of land	Special use	Conditions
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3. Amending the Scheme Map by rezoning a Portion of Lot 50 on DP 411486 from 'Rural' to 'SU8' and 'Public Open Space' as depicted on the Scheme Amendment Map.



Current Zoning



Proposed Zoning

LEGEND		
Zones	Reserves	Others
 Rural	 Local Road	 Special Uses
	 Public Open Space	 SU1 - See Scheme Text
	 Environmental Conservation	
	 IS - Infrastructure Services	

**SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24**

AMENDMENT NO. 5



**Form 6A**

**COUNCIL ADOPTION**

This Standard Amendment was adopted by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

.....  
SHIRE PRESIDENT

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RESOLUTION TO ADVERTISE**

by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, proceed to advertise this Amendment.

.....  
SHIRE PRESIDENT

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RECOMMENDATION**

This Amendment is recommended for approval by resolution of the Shire of Esperance at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and the Common Seal of the Shire of Esperance was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....  
SHIRE PRESIDENT

.....  
CHIEF EXECUTIVE OFFICER

**Form 6A – Continued**

**WAPC ENDORSEMENT (r.63)**

.....  
DELEGATED UNDER S.16 OF  
THE P&D ACT 2005

DATE.....

**APPROVAL GRANTED**

.....  
MINISTER FOR PLANNING

DATE.....

**Item: 16.2**

**Disposal of Esperance Tanker Jetty Grade 4 Timbers**

<b>Author/s</b>	Mathew Walker	Director Asset Management
<b>Authorisator/s</b>	Matthew Scott	Chief Executive Officer

**File Ref: D20/2102**

**Applicant**  
Internal

**Location/Address**  
N/A

**Executive Summary**

For Council to consider the Expressions of Interest for the Esperance Tanker Jetty grade 4 timber that demonstrate a

**Recommendation in Brief**

That Council donates all historic Esperance Tanker Jetty Grade 4 Timber to Esperance Men in Sheds Inc.

**Background**

As part of the deconstruction of the Esperance Tanker Jetty, the historic timber from the Jetty is being salvaged. H+ H Architects, who are Heritage Architects, have been engaged to undertake a Watching Brief for the deconstruction of the Jetty, as per the Heritage Council requirements. As part of the Watching Brief H+H Architects has developed a timber sorting matrix for the classification of timber recovered from the Jetty, through the sorting of the Jetty timbers stored at the depot. From this H+H Architects have come up with four grades to classify the Jetty timbers into.

At the December 2019 Ordinary Council Meeting, Council resolved the following:

That Council endorse the following table of actions, for each grade of historic timber that comes of the Esperance Tanker Jetty:

<i>Timber Grade</i>	<i>Action</i>
4	<i>Expression of Interest to donate historic timber to a community group to manage distribution to the community or others</i>

An expression of Interest was opened to the public with a closing date of the 23 January 2020 at 2.00pm.

**Officer's Comment**

There were two expressions of interest received by the deadline that are included in attachment A, as follows:

- YCO Creations; and
- Esperance Men In Sheds.

Given the criteria set by Council for the donation to be to a community group and the response received to the qualitative criteria, it is recommend that Esperance Men in Sheds Inc. be donated all historic Esperance Tanker Jetty Grade 4 Timber.

**Consultation**

Nil

**Financial Implications**

Nil

**Asset Management Implications**

Nil

**Statutory Implications**

Nil

**Policy Implications**

Nil

**Strategic Implications**

Strategic Community Plan 2017 - 2027

*Community Leadership*

Community confidence and trust in Council

Provide transparent and accountable leadership

Corporate Business Plan 2019/20 – 2022/23

B5.6 Manage Tanker Jetty

**Environmental Considerations**

Nil

**Attachments**

A<sup>1</sup>. EOI - Esperance Tanker Jetty - Grade 4 Timber

**Officer's Recommendation**

**That Council donates all historic Esperance Tanker Jetty Grade 4 Timber to Esperance Men in Sheds Inc.**

**Voting Requirement**

Simple Majority

**Part 2 COMPLETE AND RETURN THIS PART**

**3 Respondent's Offer**

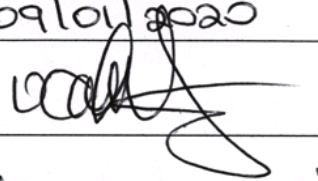
The Chief Executive Officer  
Shire of Esperance  
PO Box 507  
ESPERANCE WA 6450

I / We (registered entity name)	Vanessa Whiting of YCO Creations		
Of (register street address)	RMB 7149 Esperance		
ABN		ACN (if any)	
Telephone		Facsimile	
Email			

**In response to Expression of Interest 0252-19 Disposal of Tanker Jetty Timbers – Grade 4**

I/We agree that I am/We are bound by, and will comply with this Expression of Interest and its associated schedules, attachments, all in accordance with the Conditions contained in this EOI signed and completed.

I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Submission irrespective of its outcome.

Dated this (day, month, year)	09/01/2020
Signature (authorised signatory of Respondent)	
Name (of authorised signatory of Respondent)	Vanessa Whiting
Position (of authorised signatory of Respondent)	owner/creator
Postal address (of Respondent)	RMB 7149 Esperance

**Part 2 COMPLETE AND RETURN THIS PART**

**3.1 Selection Criteria**

**3.1.1 Qualitative Criteria**

A. Community Benefit	Weighting 50%
<p><b>Please detail the community benefit.</b></p> <p>All pieces will be up cycled into functional art pieces. These will be made into serving boards, tables or badly splintered pieces will be turned into pens. They will then be sold with in the Esperance community. How about the thought of your next big purchase being signed up using the old jetty?</p>	

**Part 2 COMPLETE AND RETURN THIS PART**

B. Capacity to Undertake the Work	Weighting 50%
<p>Please provide information on organisation proposes to undertake the works.</p> <p>I am only doing small pieces. (I'm not even sure if this is the right firm.) I have all the tools to complete everything I want to make. Attached is some pictures of boards I have resined. I will be polishing up the wood to restore the colour &amp; show off the beautiful grain &amp; imperfections that give each piece character.</p>	

Part 2 COMPLETE AND RETURN THIS PART

### 3 Respondent's Offer



The Chief Executive Officer  
Shire of Esperance  
PO Box 507  
ESPERANCE WA 6450

I / We (registered entity name)	ESPERANCE MEN IN SHEDS INC.		
Of (register street address)	Unit 2/907 Simpson St. Esperance 6450.		
ABN	4418508858	ACN (if any)	
Telephone		Facsimile	
Email			

**In response to Expression of Interest 0252-19 Disposal of Tanker Jetty Timbers – Grade 4**

I/We agree that I am/We are bound by, and will comply with this Expression of Interest and its associated schedules, attachments, all in accordance with the Conditions contained in this EOI signed and completed.

I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Submission irrespective of its outcome.

Dated this (day, month, year)	7th. January 2020.
Signature (authorised signatory of Respondent)	
Name (of authorised signatory of Respondent)	NEIL WITTORFF
Position (of authorised signatory of Respondent)	CHAIRMAN
Postal address (of Respondent)	36 Ingleton Place Esp. 



Part 2 COMPLETE AND RETURN THIS PART

B. Capacity to Undertake the Work

Weighting

50%

Please provide information on organisation proposes to undertake the works.

WE HAVE A Fork Lift if ANY LARGE TIMBERS  
NEED MOVING.

WE HAVE A LARGE SHEDDING SAW, AND  
VARIOUS THICKNESSERS for processing timber.

WE HAVE PREVIOUSLY PROCESSED Jetty Timber

ALL PROCEEDS FROM TIMBER SALES WILL BE  
USED FOR MAINTENANCE + REPLACEMENT OF SHED  
MACHINERY.

**Part 2 COMPLETE AND RETURN THIS PART**

**3.1 Selection Criteria**

**3.1.1 Qualitative Criteria**

A. Community Benefit	Weighting  50%
<p>Please detail the community benefit.</p> <p>The proposed storage area is easily accessible. We're open 5 days a week (Saturday by arrangement).</p> <p>We have the expertise + machinery to assist any community groups with their projects.</p>	

**17. MATTERS BEHIND CLOSED DOORS**