



*'The Council and Staff of the Shire of Boddington, in partnership with the community,  
are committed to operating effectively and efficiently to provide quality lifestyle  
opportunities  
that encourage population growth and development'*

## AGENDA

For The  
Ordinary Meeting of Council  
To Be Held At

Thursday 17 December 2020

At 5:00pm

Council Chambers  
39 Bannister Rd, Boddington

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In particular and with derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Boddington during the course of any meeting is not intended to be and is not taken as notice or approval from the Shire of Boddington. The Shire of Boddington warns that anyone who has an application lodged with the Shire of Boddington must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of that application and any conditions attaching to the decision made by the Shire of Boddington in respect of the application.

# Agenda

1.	DECLARATION OF OPENING: .....	4
2.	ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE: .....	4
2.1.1	Attendance .....	4
2.1.2	Apologies .....	4
2.1.3	Leave of Absence .....	4
3.	DISCLOSURE OF FINANCIAL INTEREST: .....	4
4.	PUBLIC QUESTION TIME: .....	4
4.1	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE: .....	4
4.2	WRITTEN QUESTIONS PROVIDED IN ADVANCE: .....	4
4.3	PUBLIC QUESTIONS FROM THE GALLERY: .....	4
5.	PETITIONS/DEPUTATIONS/PRESENTATIONS/ SUBMISSIONS: .....	5
6.	CONFIRMATION OF MINUTES: .....	5
6.1.1	Ordinary Meeting of Council held on Thursday 19 November 2020 .....	5
7.	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION: .....	5
8.	REPORTS OF OFFICERS AND COMMITTEES: .....	6
8.1	PLANNING CONSULTANT: .....	6
8.1.1	Local Planning Policy No. 20 – Tourism and Visitor Accommodation: submitted for final adoption .....	6
8.2	MANAGER FINANCIAL SERVICES: .....	71
8.2.1	Monthly Financial Statements – November 2020 .....	71
8.2.2	List of Payments – November 2020 .....	73
8.3	BUILDING SURVEYOR: .....	75
8.4	MANAGER WORKS & SERVICES: .....	75
8.4.1	Removal of Trees .....	75
8.5	DIRECTOR CORPORATE & COMMUNITY SERVICES: .....	76
8.6	ACTING CHIEF EXECUTIVE OFFICER: .....	76
8.6.1	Action Sheet .....	76
8.6.2	Actions Performed Under Delegated Authority for the Month of October 2020 .....	77
8.6.3	LOAF Application – Boddington Progress Group .....	81
8.6.4	LOAF Application – Boddington Community Resource Centre .....	83
8.6.5	Sculpture Competition .....	85
8.6.6	2021 Council Meeting Schedule .....	88
8.6.7	Local Roads and Community Infrastructure Program .....	91
9.	ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN: .....	93
10.	URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING: .....	93
10.1.1	Boddington Pavilion - Exclusive Tenancy Proposal .....	93
18	19 NO RELIANCE ON WARRANTIES AND REPRESENTATIONS .....	102
21	21 SPECIAL CONDITIONS .....	103
11.	CONFIDENTIAL ITEM: .....	111
12.	CLOSURE OF MEETING: .....	111

1.        DECLARATION OF OPENING:

I acknowledge that this meeting is being held on the traditional lands of the Noongar people.

2.        ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

2.1.1	Attendance
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2.1.2	Apologies
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Nil at this time.

2.1.3	Leave of Absence
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Nil at this time.

3.        DISCLOSURE OF FINANCIAL INTEREST:

Nil at this time.

4.        PUBLIC QUESTION TIME:

4.1       RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil at this time.

4.2       WRITTEN QUESTIONS PROVIDED IN ADVANCE:

4.3       PUBLIC QUESTIONS FROM THE GALLERY:

Nil at this time.

5. PETITIONS/DEPUTATIONS/PRESENTATIONS/  
SUBMISSIONS:

Rod McSwain - Boddington Motel

Andrew McKerrell - Peel Chamber of Commerce & Industry Inc.

6. CONFIRMATION OF MINUTES:

6.1.1 Ordinary Meeting of Council held on Thursday 19 November 2020
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That the minutes of the Ordinary Meeting of Council held on Thursday 19 November 2020 be confirmed as a true record of proceedings

7. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT  
DISCUSSION:

Nil at this time.

## 8. REPORTS OF OFFICERS AND COMMITTEES:

### 8.1 PLANNING CONSULTANT:

8.1.1	Local Planning Policy No. 20 – Tourism and Visitor Accommodation: submitted for final adoption
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File Ref. No:	LNUP020
Disclosure of Interest:	Edge Planning & Property receive payment for planning advice to the Shire and declare a Financial Interest (section 5.70 of the Local Government Act 1995)
Date:	14 December 2020
Author:	Steve Thompson
Attachments:	8.1.1A Local Planning Policy No. 20 – Tourism and Visitor Accommodation – version seeking final adoption 8.1.1B Extract of draft Shire of Boddington Local Planning Policy No. 3 text 8.1.1C Submissions 8.1.1D Response of the Western Australian Government to Levelling the Playing Field. Managing the impact of the rapid increase of Short-Term Rentals in Western Australia

#### Summary

To seek Council final adoption of a planning policy relating to tourist/visitor accommodation and tourist development

#### Background

The purpose of this report is to inform Council of the public consultation outcomes and to seek Council's final adoption to *Local Planning Policy No. 20 – Tourism and Visitor Accommodation*. The recommended adopted version of the Policy is set out in Attachment 8.1.1A which incorporates various amendments from the version that was publicly advertised. Recommended amendments are outlined in 'highlight' or 'strikeout'. This includes a suggested modified policy name to better reflect the scope of the Policy.

The Policy includes guidance on a range of short-stay accommodation proposals (from small scale to larger scale, from in-town to rural areas), construction camps/workforce accommodation and for non-accommodation forms of tourist development, including galleries, microbreweries, wineries, restaurants/cafes and leisure/recreation-private uses.

By way of background:

- The Shire does not have a local planning policy relating to tourist and visitor accommodation. Existing policies relate to broader considerations such as flooding, bush fire risk and vehicular access. The Shire's current guidelines provide limited detail on tourist proposals. For instance, there only broad statements relating to tourism in the *Shire of Boddington Local Planning Strategy*. The Local Planning Strategy is supportive of tourism and short stay proposals subject to addressing relevant planning considerations. The Local Planning Strategy however lacks detailed guidance for applicants and the Shire administration. Accordingly, there is limited guidance to applicants as to Council expectations or guidance to the Shire administration in assessing Development Applications;
- The Policy seeks to support and implement the Strategic Community Plan. This includes a thriving and diverse economy, appropriate land use and development and

promotion of holiday homes (holiday house). The Policy is overall supportive of tourist and visitor accommodation subject to the applicant addressing relevant planning considerations.

- With a goal of diversifying and growing the local economy, it is expected that the Shire will receive more development applications for tourist and visitor accommodation along with other forms of tourist development; and
- Following the Council resolution on 20 August 2020 (Resolution 79/20) to request final approval to the draft *Shire of Boddington Local Planning Scheme No. 3* (LPS3), the Western Australian Planning Commission's Statutory Planning Committee considered draft LPS3 at their meeting on 8 December 2020. The Shire is advised the WAPC supported LPS3 and recommends that the Minister for Planning approve LPS3 subject to minor modifications. Attachment 8.1.1B provides an extract of LPS3 (the publicly advertised version which was supported by Council), in particular the Zoning Table which outlines that a wide range of short stay and tourist uses are possible in a range of zones and relevant land use terms (definitions).

The Council at its meeting on 16 July 2020 resolved the following at Resolution 66/20:

'That Council:

1. Support the public release of draft *Local Planning Policy 20 – Tourism and Visitor Accommodation*, outlined in Attachment 8.1.3A, and require the draft policy to be publicly advertised in accordance with the requirements set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* with an increased advertising period of 3 months.
2. Will reconsider draft *Local Planning Policy 20 – Tourism and Visitor Accommodation* following the close of the public submission period and will determine whether or not to adopt the policy with or without modifications, or to not proceed with the policy.'

In accordance with the Council resolution, the Shire administration consulted extensively for a 3 month period through:

- Writing to and inviting comments from relevant stakeholders including local tourist, accommodation providers, real estate agents, business groups and government agencies;
- Placing public notices in local papers on multiple occasions;
- Placing details on the Shire website;
- Having information available at the Shire office; and
- Adding details of the draft policy on the Shire's Facebook page.

The Shire received nine submissions on the draft Policy which are outlined in Attachment 8.1.1C. One submission was in support, five raised no objections/minor suggested modifications and three raised objections/concerns. It is noted the Boddington Motel have provided the Shire with considerable correspondence since the receipt of their submission in Attachment 8.1.1C. Councillors have been provided with a number of the additional correspondence and these can be provided on request.

The objections/concerns on the draft Policy largely relate to impacts from 'disruptive industries' such as holiday homes (holiday house) and bed and breakfast establishments

impacting the Boddington Motel, along with possible implications of State Government registration changes expected in 2021.

### Comment

It is suggested that the Council is now in a position to finally adopt *Local Planning Policy No. 20 – Tourism and Visitor Accommodation* as set out in Attachment 8.1.1A. This is amended from the advertised draft version based on submissions and a review by the Shire administration.

While some components of the submissions have merit, it is suggested the draft Policy is suitable to be finalised with modifications from the publicly advertised version.

The following summarises the key themes raised in the submissions, along with recent correspondence from the Boddington Motel, along with a Shire administration response.

1. Why is the Policy being introduced?	The Shire does not have a local planning policy relating to tourist and visitor accommodation. Accordingly, there is no guidance to applicants as to Council expectations or guidance to the Shire administration in assessing Development Applications.
2. Purpose of policy	The policy is not considered flawed or discriminating in focusing on tourist accommodation. A Local Planning Policy can provide guidance to relevant uses/development including tourist accommodation.
3. Who does the Policy apply to?	The Policy is intended to provide guidance to applicants, stakeholders, the community, the Council and the Shire administration.
4. Why is the Policy better than the current guidelines in Shire policies?	<p>The Shire does not have a local planning policy relating to tourist and visitor accommodation. Existing policies relate to broader considerations such as flooding and fire risk and vehicular access. The Shire's current guidelines provide limited detail on tourism proposals. For instance, there only broad statements relating to tourism in the <i>Shire of Boddington Local Planning Strategy</i>. The Local Planning Strategy lacks detailed guidance for applicants and the Shire administration.</p> <p>While the Policy focuses on tourist accommodation, relevant components of the Policy can be used in assessing development applications for other forms of visitor accommodation, construction camps (workforce accommodation) and for non-accommodation forms of tourist development (especially outside of the Boddington and Ranford townsites). This includes galleries, microbreweries, wineries, restaurants/cafes and leisure/recreation-private uses.</p>
5. What new benefits does the Policy provide?	If finalised, the Policy will set out the Council's position relating to promoting tourism subject to addressing relevant planning considerations. A finalised Policy will assist in increasing transparency to the community, applicants and other stakeholders and the likelihood of greater consistency in decision making.
6. Where does the Policy fit into the Strategic	The Policy seeks to support and implement the Strategic Community Plan. This includes a thriving and diverse economy,



Community Plan?	<p>appropriate land use and development and promotion of holiday homes.</p> <p>Building on the Strategic Community Plan, the Local Planning Strategy, <i>Shire of Boddington Local Planning Scheme No. 2</i> (LPS2) and draft LPS3, the Policy seeks to provide guidance regarding tourist and visitor accommodation. The Policy is overall supportive of tourist and visitor accommodation subject to the applicant addressing relevant planning considerations. In particular, the Policy seeks to encourage appropriate development and where relevant, control tourist and visitor accommodation through establishing minimum requirements. The Policy supports sustainable design along with high quality aesthetic character throughout the municipality.</p>
7. How will the Policy improve the Boddington economy?	By outlining that the Council promotes tourist and visitor accommodation and other forms of tourist development subject to addressing relevant planning considerations. Applicants will have a better understanding of key considerations and how the Shire will assess the Development Application.
8. What has changed since February 2020 following the Councillor Information Session?	<p>Councillors considered the draft Policy at their information session on 4 June 2020 and then at the Ordinary Council meeting on 16 July 2020. The Councillors determined the draft Policy was suitable to be publicly advertised in seeking comments from the community, the accommodation provider sector and other stakeholders. The draft Policy was advertised for 3 months.</p> <p>The need for a Local Planning Policy on tourist development including tourism accommodation has been recognised by the Shire for a number of years.</p>
9. What research has occurred relating to the Policy?	The Shire has reviewed a number of local planning policies relating to tourism and relevant State Government publications. It is noted that most local government policies have a very different context to the Shire of Boddington including the size and complexity of their tourism industry and the likelihood of construction camps (workforce accommodation).
10. Will the Policy have any impact on current accommodation businesses in the Shire and if so, what?	It is expected it will have modest impacts. Whether or not there is a Policy, applicants have a right to lodge Development Applications for tourist accommodation in relevant zones in the Shire. In-turn, the Shire is required to assess Development Applications on their merits based on valid planning considerations (not matters such as competition). The Policy, if finalised, will assist to clarify Council expectations and requirements for applicants and the Shire administration.
11. Is the Shire aware of the 2018 State Government inquiry into Short Term Accommodation state-wide,	Yes. While noting the upcoming of registration for short stay accommodation providers, it is expected most forms of tourist accommodation will continue to require gaining relevant local government approvals before commencing operations. This includes gaining development approval. There will still be a need for local governments to determine their approach to tourist accommodation. Having a Policy to highlight what matters need to be addressed locally will increase transparency and greater

which has a target of early 2021 to be finalised and standards rolled out to all local governments to abide by?	<p>consistency in decision making. If required, the Policy can be modified to reflect the final State Government requirements.</p> <p>As set out on page 7 of Attachment 8.1.1D, it states 'Consistent with the findings of the report, the designation of land use permissibility for unhosted accommodation will be determined through each Local Planning Scheme.'</p>
12. State Government response to 'Levelling the Playing Field' report	The State-wide registration scheme will be a powerful tool; however, it is expected it will have limited implications on local governments setting out their approach to tourism, tourism accommodation and workforce accommodation and assessing development applications.
13. State Government response to 'Levelling the Playing Field' report	While noting the upcoming of registration for short stay accommodation providers, it is expected most forms of tourist accommodation will continue to require gaining relevant local government approvals before commencing operations. This includes gaining development approval. There will still be a need for local governments to determine their approach to tourist accommodation. Having a Policy to highlight what matters need to be addressed locally will increase transparency and greater consistency in decision making. If required, the Policy can be modified to reflect the final State Government requirements.
14. State Government response to 'Levelling the Playing Field' report	In a land use planning space, possibly the greatest unknown relates to the State Government response with hosted accommodation and unhosted short-term rentals and whether hosted accommodation will be exempt from development approval. Whatever the final outcome of the State Government's new legislation, it is expected that the Policy should only require modest changes to ensure compatibility. Most of the Policy is expected to be 'fit for purpose'.
15. State Government Response to 'Levelling the Playing Field' report	Uses such as holiday houses have existed for decades in Western Australia. A key more recent change relates to booking platforms and increased awareness of opportunities to stay in holiday houses. Regardless of the booking platform, the use still remains a holiday home and should be subject to a Development Application. Such a position is set out in LPS2 and draft LPS3.
16. State Government response to 'Levelling the Playing Field' report	Many aspects of the State Government response are outside of the land use planning system and are outside the control of the Shire of Boddington.
17. Unhosted accommodation	Currently, in LPS2, hosted accommodation such as bed and breakfast, requires a Development Application. The version of LPS3 recently supported by the Western Australian Planning Commission also supports bed and breakfast in most zones subject to receipt of a Development Application. At this stage, it is not known whether the State Government will introduce a State-wide exemption for hosted accommodation uses to be able to commence operating without the requirement to gain

		development approval from local government. If such an outcome occurs, this will introduce a significant 'disruptive' element to established/traditional forms of tourist accommodation including the Boddington Motel.
18. Level playing field		There are a number of references in the submissions relating to the Shire needing to 'level the playing field' between new and traditional forms of tourist accommodation. It is highlighted the Policy builds on the existing planning framework (including LPS2, draft LPS3, Local Planning Strategy and the Strategic Community Plan) which adopt a positive approach to promoting tourism, tourist accommodation and in particular, holiday homes.
19. Draft Local Planning Scheme No. 3		<p>The Statutory Planning Committee on 8 December 2020 supported LPS3 which includes holiday house in various zones.</p> <p>When LPS3 is gazetted, following the Minister for Planning approval, it will use the latest definitions applied for tourist accommodation. Local government, including the Shire of Boddington, will continue to be responsible for assessing development applications based on the planning framework.</p>
20. Definitions		<p>To reflect current LPS2, the Policy refers to definitions in LPS2. In accordance with other Shire of Boddington Local Planning Policies, Policy 20 does not repeat definitions in order to assist with reducing duplication and a more focused policy.</p> <p>It is noted there are some changes in definitions between LPS2 and draft LPS3 including from 'holiday home' to 'holiday house'.</p> <p>The only definition introduced in Local Planning Policy 20 is 'tourist accommodation'. Given the Policy covers a wide range of development/uses, including short-term accommodation, construction camp (workforce accommodation) and non-accommodation forms of tourist development, a one-off definition was created for the policy to assist with clarification on the extent of uses.</p>
21. Comparisons with the Shire of Augusta-Margaret River		<p>If we are comparing the Shire of Augusta-Margaret River (AMR) Short Stay Accommodation Policy with the Boddington policy, then there is greater detail in the Boddington policy for most matters including addressing amenity, servicing and Development Application requirements. The AMR policy does however use some different sub-headings.</p> <p>Importantly, the AMR and Boddington policies have a different context including the zones they cover, the issues they seek to address and the matters they cover (including mining buffer, protecting farming operations and the approach to construction camps). AMR also have a comprehensive Local Tourism Planning Strategy, unlike the Shire of Boddington.</p> <p>Various details in the AMR policy are not considered relevant to the Shire of Boddington, in the foreseeable future, including having 'no go' areas for holiday houses and guesthouses. Boddington also has limited single bedroom dwellings. Some of the AMR details are</p>

	covered by the Shire of Boddington Local Planning Scheme and are not duplicated in the Boddington policy. The Boddington policy also seeks to minimise duplication and refers to the Scheme or other local planning policies as relevant.
22.Comparisons with parts of the South West	Tourism in Boddington is very different to tourism in Busselton, Margaret River or other places. For instance, the range of tourist accommodation in Boddington does not the range and depth of accommodation offerings compared to parts of the South West.
23.Concerns regarding unhosted holiday rentals	Noted, however the planning framework includes support for holiday homes (holiday house) subject to addressing relevant planning considerations.
24.Social platforms	The Policy continues to highlight the requirement for bed and breakfast and holiday homes to apply for a Development Application, address relevant planning considerations, and meet relevant regulatory requirements.
25.Holiday homes (holiday house)	The Policy sets out that an applicant needs to address a range of relevant planning considerations. This 'raises the bar' in highlighting the need for the applicant to prepare a Management Plan, a bushfire assessment (as required) and other information relevant to the proposal, context and impacts.
26.Timing of adopting the policy	<p>It is noted that some submissions seek to delay the final adoption of the Policy. Give the Policy assists to fill a missing gap in the local planning framework and has been subject to widespread community/stakeholder review, it is suggested that Council finalise its position on the Policy.</p> <p>The impacts of COVID-19 are noted. Since the receipt of submissions, it is noted that much has changed in the Western Australian and regional economies.</p>
27.Enforcement of current bed and breakfast and holiday homes	Once the Shire is aware of short-stay accommodation operating without necessary approvals, it addresses the matter to ensure compliance.
28.What strategies are in place to support the viability of an expanded tourist accommodation sector?	<p>Tourism is at its 'infancy' in the Shire of Boddington and there is scope for considerable growth and diversification. There are a number of stakeholders involved in expanding tourism and tourist accommodation in Boddington including the local community business sector, Tourism Western Australia, Peel Development Commission, Hotham Williams Economic Development Alliance, Boddington Visitor Centre and the Shire. Viability is dependent on 'growing the pie' including increased attractions and events. This matter is, of course, outside the scope of the Policy.</p> <p>The Shire seeks to support the growth of tourism in Boddington including increased attractions, increased events and an increased range of tourist and visitor accommodation.</p>
29.Market competition	With or without a Policy, there is scope for additional tourist accommodation in the Shire of Boddington. Subject to the proposal, zoning and context, this includes motels, caravan parks, chalets, holiday homes and bed and breakfast. If relevant planning considerations are suitable addressed, new developments will be

	approved and implemented (including for 'disruptive' businesses). Based on the Planning Regulations, market/economic competition is not a valid planning consideration. To remain profitable, all businesses need to provide a product that the market wants at a price that takes account of capital and operating expenses.
30. Information sheet and/or information package	The final policy can be complemented with an information sheet/information package that sets out the key requirements to establish a tourist accommodation business. This should assist in making the process clearer for everyone.
30. Shire of Boddington Sub-Regional Economic Opportunity Analysis (February 2020)	Tourism is a key growth and diversification industry in the Shire of Boddington. The Policy provides a framework to considering tourist development proposals in the Shire related to this economic driver.
31. Review of Policy	The Policy, like all Local Planning Policies, needs to be reviewed as required.

If finalised, the Policy will set out the Council's position relating to promoting tourist and visitor accommodation and other tourist development subject to addressing relevant planning considerations.

#### Strategic Implications

The Policy assists to implement part of the Strategic Community Plan.

#### Statutory Environment

*Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations 2015, Shire of Boddington Local Planning Scheme No. 2, and Draft Shire of Boddington Local Planning Scheme No. 3.*

#### Policy Implications

Local planning policies are non-statutory documents which provide guidance to assist the local government in its decision making. Accordingly, the local government is not bound by the policy but is required to have regard to the policy in determining Development Applications. Finalisation of the Policy will increase certainty for everyone with an interest in the matter and should assist in more consistent decision making.

These are addressed in this report and in the attached Policy. Finalisation of the Policy will assist in increasing transparencies to the community, applicants and other stakeholders, increase certainty for everyone with an interest in the matter and should assist in more consistent decision making.

#### Financial Implications

The Shire met the cost of advertising the draft Policy.

### Economic Implications

The Policy seeks to support tourist and visitor accommodation, to promote non-accommodation forms of tourist development and to diversify and grow the economy.

### Social Implications

Finalisation of the Policy is anticipated to result in various social implications which are, in part, related to the location of the application site and the scale of the proposal. While noting this, the Policy seeks to achieve a balance between retaining amenity and supporting new tourist and visitor accommodation.

### Environmental Considerations

The Policy requires applicants to address environmental considerations.

### Consultation

The draft Policy was recently subject to community and stakeholder consultation.

### Options

The Council can:

1. Finally adopt the planning policy without modifications;
2. Finally adopt the planning policy with modifications;
3. Defer consideration of the matter and require additional information; or
4. Not agree to adopt the planning policy.

### Voting Requirements - Simple Majority

OFFICER'S RECOMMENDATION – ITEM 8.1.1
---------------------------------------

That Council:

1. In accordance with Schedule 2, Part 2 and clause 4 of the *Planning and Development (Local Planning Schemes) Regulation 2015*, to proceed with the policy with modification and to grant final adoption of *Local Planning Policy No. 20 – Tourism Land Uses and Visitor Accommodation* as set out in Attachment 8.1.1A.
2. Note that an information sheet and/or information package will be prepared by the Shire administration to complement Local Planning Policy No. 20 including associated building, environmental health and signage considerations.
3. Note that the Shire administration will review Local Planning Policy No. 20 following finalisation of the suite of State Government/Western Australian Planning Commission changes to the statutory and policy framework on short stay accommodation.

## ATTACHMENT 8.1.1A

~~DRAFT (JULY 2020)~~

### SHIRE OF BODDINGTON LOCAL PLANNING POLICY No. 20 – ~~TOURISM AND VISITOR ACCOMMODATION~~ **TOURISM LAND USES AND VISITOR ACCOMMODATION**

#### 1. Policy Statement

It is Council's policy to promote tourism and visitor accommodation and non-accommodation forms of tourist development in appropriate locations, subject to addressing relevant planning considerations and minimising impacts on the amenity, appearance and character of the locality.

#### 2. Background and Issues

Tourism can assist to diversify and grow the local economy. Tourism and visitor accommodation, however, needs to be compatible and integrated with surrounding land uses and the natural and built environment.

The challenge for local government, applicants and tourism accommodation providers is to achieve (and maintain) the balance between tourism, the environment, and protecting the amenity of adjoining/nearby residents and other land uses.

The local government has the discretion under the *Shire of Boddington Local Planning Scheme No.2* (LPS2) to consider applications for tourism accommodation in most zones. LPS2 sets out the uses of bed and breakfast, camping area, caravan park, chalet, guesthouse, holiday home, hotel and motel. It also sets out a range of other forms of visitor accommodation and tourist development.

While the Policy focuses on tourism accommodation, relevant components of the Policy will be used in assessing Development Applications for non-accommodation forms of tourism development (especially outside of the Boddington and Ranford townsites).

#### 3. Definitions

For the purposes of this Policy, all terms and references shall have the same meaning as given by LPS2.

In this Policy, the following definitions apply:

'Relevant planning considerations' include matters set out in Clause 67 of Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and matters set out in the Policy Provisions section of this Policy.

'Tourism accommodation' - accommodation which, by way of trade or business, is held out as being available or is made available for holiday (tourism) purposes and/or short-term visitation for occupation by persons other than the proprietor. It includes bed and breakfast, camping area, caravan park, chalet, guesthouse, holiday home, hotel and motel. It also includes 'visitor accommodation' and will, as relevant, guide the assessment of non-accommodation forms of tourist development.

## ATTACHMENT 8.1.1A

'Construction camp' is defined by LPS2. In this Policy, a construction camp is not included as tourist accommodation or visitor accommodation but is a separate land use.

### 4. Objectives

The objectives of this Policy are to:

- Support tourist accommodation based on the district's natural and cultural assets.
- Ensure that relevant planning considerations are suitably addressed.
- Tourist accommodation is located and managed so as to prevent inappropriate impacts upon the amenity of surrounding areas.
- Tourist accommodation is sited, sized and designed to be consistent with the character of the surrounding area.
- Retain or enhance the visual amenity of the locality.
- Encourage tourism accommodation in non-urban areas whilst conserving the rural character and protecting primary production.
- Achieve a high standard of tourism accommodation.
- Tourist accommodation is appropriately managed so as not to cause nuisance or annoyance to the owners of adjoining or nearby properties.
- Provide increased certainty for applicants, the community and others and to assist in providing greater consistency in decision making by the local government.

### 5. Application of the Policy

This Policy applies throughout the municipality (the district).

As set out in LPS2, in the Zoning Table or in the Appendices for certain zones, various types of tourist accommodation can be considered in most zones.

### 6. Links to Local Planning Scheme and Other Documents

This is a Local Planning Policy prepared under the Regulations and LPS2.

This Policy relates to various requirements set out in LPS2 and is also guided by the Local Planning Strategy and other documents. Where there is an inconsistency between this Policy and LPS2, then LPS2 prevails to the extent of such inconsistency.

### 7. Policy Provisions

#### 7.1 General

The local government:

- Supports tourist accommodation on appropriately zoned land subject to the applicant addressing relevant planning considerations. This includes appropriately addressing environmental, landscape/visual impact, land use compatibility, risks including bushfire and flooding, access, servicing, design and effective on-going management;
- Supports the provision of a range of tourist accommodation which is appropriate for the site's context and which showcases and complements the attributes of the district;
- Encourages tourist accommodation which is sympathetic with the district's architectural style and climatic conditions. The local government will have regard, as



## ATTACHMENT 8.1.1A

relevant to the location of the application, to other local planning policies and the *Residential Design Codes* (R-Codes);

- Adopts a precautionary approach to minimising bushfire risk;
- Generally does not support tourist accommodation in the mining buffer unless the approval is for a limited period and/or is suitably justified by the applicant and addresses mining impacts. Early liaison and consultation with the holders of a Mining Lease Special Agreement is encouraged by the applicant; and
- Will generally require that tourist accommodation, on 'Rural' zoned land, is ancillary to rural and/or conservation uses. Unless appropriately justified, larger scale developments should be in a Tourism or related zone.

All tourist accommodation requires the submission of a Development Application to the local government.

Based on *State Planning Policy 3.7 Planning in Bushfire Prone Areas* and *Guidelines for Planning in Bushfire Prone Areas*, the Development Application may need to be accompanied by a Bushfire Management Plan (BMP) and/or a Bushfire Emergency Evacuation Plan (BEEP). Further details are outlined in section 7.7.

While the Policy focuses on tourist accommodation, relevant components of the Policy will be used in assessing Development Applications for non-accommodation forms of tourist development (especially outside of the Boddington and Ranford townsites). This includes galleries, microbreweries, wineries, restaurants/cafes and leisure/recreation-private uses.

The 'onus of proof' rests with the applicant to justify their application and variations to this Policy.

### 7.2 Application Site Requirements

Development for tourist accommodation should generally address the following site requirements:

- Provide appropriate setbacks/buffers to adjoining uses to be a 'good neighbour';
- Development should be suitably located to avoid potential conflict with normal farming operations on adjoining properties;
- The site shall, in the opinion of the local government, contain suitable tree cover and/or have other screening adequate to provide visual screening and privacy. The local government may require, as a condition of Development Approval, additional planting and/or other screening measures in order to provide increased screening of the proposed development from State and regional roads, key tourist routes or from surrounding properties;
- Site conditions including topography and soil type to ensure adequate sewerage disposal, building construction and drainage;
- Public road access shall, in the opinion of the local government, be appropriate for the proposed tourist accommodation. All public road access to tourist accommodation, other than land zoned 'Rural', shall be constructed to a sealed standard unless otherwise determined by the local government; and
- Address other matters set out in this Policy.

Minimum boundary setbacks for tourist accommodation are set out in the Development Table or the Appendices of LPS2 or are as per the R-Codes for land subject to the R-Codes.

## ATTACHMENT 8.1.1A

While noting LPS2 sets a minimum boundary setback of 20 metres in the Rural zone, the setbacks for tourist accommodation may need to be greater to be a good neighbour and to address relevant planning considerations.

Where applicable, tourist accommodation should be located within the approved building envelope for the site or outside of building exclusion areas.

### 7.3 Amenity

The local government seeks that tourist accommodation appropriately addresses the amenity of adjoining/nearby properties through addressing the siting and scale of development, access, servicing, building bulk (size and height), design, and on-going management.

The local government will have regard for potential impacts on the amenity of the surrounding area and will consider matters including:

- Existing land uses and the zoning of adjoining/nearby properties;
- The proximity of the site to any potential source of nuisance;
- The siting and location of the building/s to be used for tourist accommodation;
- The number of patrons to be accommodated on the site;
- The location of any on site activity areas and potential for noise; and
- Anticipated traffic generation.

The local government will generally require the applicant to prepare a Management Plan which is submitted with the Development Application. The Management Plan is to address a range of matters including being a 'good neighbour' along with practical on-going management considerations.

The Shire prefers on-site (hosted) management. Where management is 'off site', there should be a manager or a contactable employee that permanently resides no greater than a 45 minute drive from the application site.

The 24 hour contact details of the manager of the tourist accommodation should be visible on the property from the nearest street frontage and maintained to the satisfaction of the local government.

Decks and balconies should be located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided.

### 7.4 Visual Amenity and Visual Impact

The local government:

- Requires tourist accommodation to retain or enhance the visual amenity of the locality including through retaining existing vegetation, undertaking replanting, appropriate building siting and addressing building bulk (size and height), building design and colours;
- Seeks that the design of tourist accommodation should be sympathetic to the landscape, retains significant vegetation (subject to also addressing bushfire risks) and

## ATTACHMENT 8.1.1A

minimises visual impacts, especially when viewed from State and regional roads and key tourist routes;

- Encourages the use of natural materials and colours which architecturally blend into and/or complement the surrounding environment; and
- Supports the planting of native vegetation that is endemic to the district and/or the planting of suitable fire-suppression non-native/exotic vegetation.

The local government will consider the visual impact of tourist accommodation in general. In particular, the local government seeks to carefully consider Development Applications for tourist accommodation:

- Within the town centre;
- Within Landscape Protections Areas (including outlined in the Local Planning Strategy or in an approved Structure Plan); and
- Which adjoin State and regional roads and key tourist routes. The local government's assessment of visual impact is primarily concerned when viewed from State and regional roads and tourist routes. The purpose of the assessment is not in relation to views from other properties, although the local government will separately consider amenity and land use compatibility.

Applicants proposing tourist accommodation in highly valued landscapes are encouraged to submit a landscape assessment from a suitably qualified consultant with the Development Application. The landscape assessment should have regard to the *Visual Landscape Planning Manual* (Western Australian Planning Commission 2008 or any updates).

### 7.5 Traffic and Access

The local government:

- Requires tourist accommodation to have suitable and safe vehicular access;
- Needs to be satisfied that the anticipated traffic generated by the tourist accommodation will not negatively impact on amenity, and that the traffic can be accommodated by the existing road network;
- Will require access from a suitably dedicated and constructed public road or from other forms of legal vehicular access;
- May require the applicant to submit a traffic report, for larger scale tourism accommodation developments, in support of the Development Application;
- May require road upgrading by the developer, at their cost, if the existing road network is inadequate to cater for anticipated traffic generated by the development; and
- Will not support tourist accommodation where there is the potential for traffic generation to cause undesirable nuisance, safety or capability capacity issues; and
- Access to Main Roads controlled roads will need to be approved by Main Roads WA and applicants should liaise with Main Roads regarding location and access design requirements.

The local government will have regard to relevant local planning policies including *LPP 5 Developer and Subdivider Contributions* and *LPP 9 Car Parking and Vehicular Access*.

### 7.6 Car Parking

On-site car parking is required for tourists/visitors, management and staff.

## ATTACHMENT 8.1.1A

A minimum of one car parking bay is required per guest room and/or unit. There is also a need to provide one car parking bay per staff member.

Subject to the proposed type of tourist accommodation and scale of development, there may be a requirement to provide more than one car parking bay per unit and/or provide space for boats, trailers and other vehicles.

Car parking should be constructed to a suitable standard as required by LPS2 or in *Local Planning Policy 9 Car Parking and Vehicular Access*.

Landscaping/revegetation should be provided between car parks and the front boundary of the lot or to a public place.

### 7.7 Bushfire Management

The local government will have regard to State Planning Policy 3.7 and other Western Australian Planning Commission publications.

Tourist accommodation proposed in areas with a Bushfire Attack Level Assessment rated at BAL-40 or BAL-FZ are likely to be granted development approval unless appropriately justified by a Level 2 or a Level 3 bushfire practitioner via addressing the Performance Principles.

### 7.7.8 Water Supply

The applicant is to ensure that an appropriate potable water supply is provided (reticulated scheme water or from on-site supplies) and that there is sufficient water supply for firefighting (if required) prior to occupation of the tourism accommodation.

Where a reticulated scheme water supply is not available and/or feasible to connect, the following guidance is provided for on-site water supplies:

- Water storage tanks of a suitable size are required subject to the size and estimated occupancy of the tourist accommodation unit and to address a changing climate. The tank size to be a minimum of:
  - 45,000 litres for a 2 person unit/room;
  - 90,000 litres for a 4 person unit; and
  - 135,000 litres for a unit accommodating 5 or more people.
- The above is separate to water required for the provision of firefighting for areas not serviced by reticulated water.
- The sharing of water between units may be permitted through a common system.
- As an alternative to the supply of water from roof catchment, the local government may consider a supply from groundwater or from natural soaks. This is subject to supporting evidence of chemical and microbiological analysis to show that the water complies to the *Australian Drinking Water Guidelines*.
- A condition of development approval may include that the water supply is appropriately treated (e.g. chlorination) and require regular testing (not to be less than once per annum) for the chemical parameters of water, however the bacteriological testing of water should be no less than once per month of a NATA Registered Water Testing Laboratory.
- As set out in the Council's annual Schedule of Fees and Charges, a charge for testing of water supply may be imposed by the local government.

## ATTACHMENT 8.1.1A

### 7.89 Building and Environmental Health Requirements

In addition to planning requirements, there is also a need to address building and environmental health requirements. Subject to the nature of the tourist accommodation, this may include:

- The provision of cooking, toilet, ablution or laundry facilities;
- Disability access and mobility - applicants are encouraged to design and construct tourist accommodation units having regard to universal access and mobility. Subject to the scale and nature of the development, some matters will be mandatory;
- A dry chemical powder type fire extinguisher and fire blankets;
- Smoke alarms must be installed as per the *Building Code of Australia* on or near the ceiling:
  - i) in every bedroom;
  - ii) in every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building; and
  - iii) on each storey;
- Sewerage disposal – the local government will have regard to the *Government Sewerage Policy*; and
- Existing or proposed on site sewerage disposal systems are to be sized according to the intended number of guests, or the number of guests reduced accordingly; and
- Water supply (also refer to section 7.78).

### 7.910 Maximum Length of Occupancy

Except with written approval from the local government, a person shall not stay for an aggregate period of more than three months in any consecutive twelve month period in a development approved for tourist accommodation. Subject to the zoning, proposal context and other relevant planning considerations, a development approval could be for an additional use e.g. holiday home and single house.

### 7.1011 Signs

Other than directional signs, any proposed advertising sign must be located within the property boundaries and comply with *Local Planning Policy No.14 Signs and Advertisements*.

### 7.1112 Rating

If the development of tourist accommodation changes the predominant use of a lot from a rural agricultural base to a non-agricultural base, the local government may change the rating of such a lot from Unimproved Value to Gross Rental Value.

### 7.1213 Construction Camps

The local government favours new construction camps (worker workforce accommodation), to support mining, other industries or construction, to be located in or near the Boddington and Ranford townsites. Ideally, the built form and design integrates and complements the townsites.

## ATTACHMENT 8.1.1A

Where a construction camp is proposed, the local government favours it to be located in or near the Boddington and Ranford townsites provided relevant planning considerations are suitably addressed.

The local government will consider construction camps in rural areas on their merits if they are short-term (less than 3 years) and provided relevant planning considerations are suitably addressed.

### 8. Administration

#### 8.1 Matters to be Addressed Prior to Formally Lodging the Development Application

Proponents are encouraged to discuss proposals that seek to vary Policy requirements with the Shire administration early in the planning/design process and prior to lodging a Development Application.

#### 8.2 Application Requirements

Development Applications should include the following:

- A written submission/report addressing this Policy and the site context;
- A site plan (including highlighting existing buildings) and proposed vehicular access, car parking and landscaping/revegetation;
- Floor plan/s and elevations including the external materials and colours to be used;
- Details of intended use/s of the tourism accommodation; and
- A management plan.

Subject to the proposed location and the scale of the proposed tourism accommodation, the local government may also require the applicant to provide:

- A landscape assessment;
- A traffic report;
- Written information setting out why Policy requirements should be varied; and
- Any other plan or information that the local government may reasonably require to enable the application to be determined.

Should Development Approval be issued, it will also be necessary for the proponent to submit a Building Permit application (which gains necessary approvals) prior to undertaking construction. Subject to the type, scale and servicing of the tourism accommodation, other approvals may also be required prior to occupation.

#### 8.3 Consultation with Neighbours and other Stakeholders

In various instances, LPS2 will require the local government to consult on Development Applications for tourism accommodation. The local government will consult with adjoining/nearby landowners and other stakeholders as determined by the local government. The local government will also consult where a Development Application does not comply with this Policy.

## ATTACHMENT 8.1.1A

### 8.4 Assessing the Development Application

In determining a Development Application, the local government will consider matters set out in clause 67 of Schedule 2, Part 9 of the Regulations, LPS2 provisions, the Local Planning Strategy and this Policy.

Should an application for tourist accommodation not comply with requirements of this Policy, the application may be referred to Council for determination.

Where objections are received and the objections are not able to be adequately dealt with through conditions of approval, the Development Application will be referred to Council for determination.

The local government may refuse a Development Application where it is inconsistent with this Policy, LPS2, based on the information provided by the applicant, or based on information set out in any submission.

Related Policies	<i>LPP 2 Boddington Town Centre Design Guidelines</i> <i>LPP 5 Developer and Subdivider Contributions</i> <i>LPP 6 Development in Flood Affected Areas</i> <i>LPP 8 Fire Protection Measures for New Development and Subdivisions</i> <i>LPP 9 Car Parking and Vehicular Access</i> <i>LPP11 Landscaping and Revegetation</i> <i>LPP 14 Signs and Advertising</i> <i>LPP 16 Residential Development and Design</i> <i>LPP 19 Heritage Conservation</i>
Related Procedures and Documents	<i>Government Sewerage Policy</i> <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i> <i>Guidelines for Planning in Bushfire Prone Areas</i> <i>Planning Bulletin 83/2013 Planning for Tourism</i> <i>Visual Landscape Planning Manual</i> <i>Australian Drinking Water Guidelines</i>
Delegation Level	Chief Executive Officer, Principal Environmental Health Officer/Building Surveyor
Adopted	17 December 2020

## 17. Zoning table

The zoning table for this Scheme is as follows –

Table 3 - Zoning Table

USE AND DEVELOPMENT CLASS	ZONES								
	Residential	Rural-Residential	Rural Smallholdings	Rural	Commercial	General Industry	Tourism	Environmental Conservation	Special Use
Abattoir	X	X	X	A	X	X	X	X	
Agriculture – extensive	X	D	P	P	X	X	X	D	
Agriculture – intensive	X	A	D	P	X	X	X	D	
Amusement parlour	X	X	X	X	D	A	A	X	
Animal establishment	X	A	A	D	X	A	X	X	
Animal husbandry – intensive	X	X	A	D	X	X	X	X	
Art gallery	X	A	A	A	D	D	D	A	
Bed and Breakfast	A	A	A	A	D	X	D	A	
Betting agency	X	X	X	X	D	X	X	X	
Brewery	X	A	A	A	A	A	D	X	
Bulky goods showroom	X	X	X	X	A	A	X	X	
Caravan park	X	X	A	A	X	X	D	X	
Car park	X	X	X	X	D	P	P	X	
Child care premises	A	X	X	X	A	X	A	X	
Cinema/theatre	X	X	X	X	D	X	A	X	
Civic use	A	D	D	D	D	D	D	D	
Club premises	X	X	A	A	D	A	A	X	
Commercial vehicle parking	D	D	D	P	D	D	D	D	
Community purpose	A	A	A	A	D	A	A	X	
Consulting rooms	A	X	X	X	D	X	X	X	
Convenience store	X	X	X	X	D	A	A	X	
Corrective institution	X	X	X	A	X	X	X	X	
Dwellings:									
- ancillary dwelling	P	D	D	D	D	X	D	D	
- caretaker's dwelling	X	X	X	D	D	D	D	X	
- single house	P	D	D	P	D	X	D	D	
- grouped dwelling	D	X	X	X	D	X	X	X	
- multiple dwelling	D	X	X	X	D	X	X	X	
- residential building	A	X	A	A	D	X	X	X	
Educational establishment	X	X	A	A	D	X	X	X	
Exhibition centre	X	A	A	A	D	A	A	A	
Family day care	A	A	D	D	D	X	A	X	

As specified in Table 4



USE AND DEVELOPMENT CLASS	ZONES							
	Residential	Rural-Residential	Rural Smallholdings	Rural	Commercial	General Industry	Tourism	Environmental Conservation
Fast food outlet	X	X	X	X	D	X	X	X
Fuel depot	X	X	X	A	X	A	X	X
Funeral parlour	X	X	X	X	D	D	X	X
Garden centre	X	A	A	D	D	D	X	X
Holiday accommodation	A	A	A	A	D	X	D	X
Holiday house	A	A	A	D	D	X	D	A
Home business	A	A	D	D	D	X	A	A
Home occupation	D	D	D	D	P	X	D	D
Home office	P	P	P	P	P	X	P	P
Home store	X	X	A	A	D	X	A	X
Hospital	X	X	X	X	D	X	X	X
Hotel	X	X	X	X	A	X	A	X
Industry	X	X	X	A	X	D	X	X
Industry – cottage	A	A	D	D	D	D	A	D
Industry – extractive	X	X	X	A	X	X	X	X
Industry – light	X	X	X	A	X	D	X	X
Industry – primary production	X	X	A	A	X	D	X	X
Industry – rural	X	X	A	A	X	D	X	X
Industry – service	X	X	X	A	X	D	X	X
Liquor store – large	X	X	X	X	A	X	X	X
Liquor store – small	X	X	X	X	D	X	A	X
Lunch bar	X	X	X	X	D	D	X	X
Market	X	X	A	A	D	A	A	X
Medical centre	X	X	X	X	D	X	X	X
Mining operations	A	A	D	D	A	D	A	A
Motel	X	X	X	X	D	X	D	X
Motor vehicle, boat or caravan sales	X	X	X	X	D	D	X	X
Motor vehicle repair	X	X	X	A	X	D	X	X
Motor vehicle wash	X	X	X	X	A	D	X	X
Nightclub	X	X	X	X	A	A	X	X
Office	X	X	X	X	D	I	X	X
Park home park	A	X	X	X	X	X	A	X
Place of worship	A	A	A	A	D	A	X	X
Reception centre	X	X	A	A	D	X	D	X
Recreation – private	X	X	A	A	D	A	D	X
Renewable energy facility	X	X	X	A	X	X	X	X
Repurposed dwelling	D	D	D	D	D	X	D	D
Residential aged care facility	A	X	X	X	D	X	X	X

USE AND DEVELOPMENT CLASS	ZONES								
	Residential	Rural-Residential	Rural Smallholdings	Rural	Commercial	General Industry	Tourism	Environmental Conservation	Special Use
Resource recovery facility	X	X	X	A	X	A	X	X	
Restaurant/cafe	X	X	A	A	D	X	D	X	
Restricted premises	X	X	X	X	X	A	X	X	
Roadhouse	X	X	X	A	A	A	A	X	
Rural home business	X	X	D	D	X	X	X	X	
Rural pursuit/hobby farm	X	P	P	P	X	X	D	D	
Second hand dwelling	D	D	D	D	D	X	D	D	
Serviced apartment	X	X	X	X	D	X	D	X	
Service station	X	X	X	A	A	A	A	X	
Shop	X	X	X	X	D	X	A	X	
Small Bar	X	X	X	X	A	X	A	X	
Tavern	X	X	X	A	A	X	A	X	
Telecommunications infrastructure	D	D	D	D	D	D	D	D	
Tourist Development	X	X	A	A	D	X	D	X	
Trade display	X	X	A	D	D	D	X	X	
Trade supplies	X	X	A	D	D	D	X	X	
Transport depot	X	X	A	D	A	D	X	X	
Tree farm	X	X	A	D	X	X	X	A	
Veterinary centre	X	X	A	A	D	D	X	X	
Warehouse/storage	X	X	X	X	D	D	X	X	
Waste disposal facility	X	X	X	X	X	X	X	X	
Waste storage facility	X	X	X	X	X	X	X	X	
Winery	X	A	A	D	X	X	A	X	
Workforce accommodation	A	X	X	A	X	X	X	X	

#### 18. Interpreting zoning table

- (1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.
- (2) The symbols used in the zoning table have the following meanings -
  - P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;
  - I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;

X means that the use is not permitted by this Scheme.

Note: 1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.

2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.

3. Where a development proposal is identified as a 'P' use in the zoning table, but the proposed development does not comply with all of the development standards and requirements of the Scheme, then is to be treated as a 'D' use.

(3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

(4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -

(a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or

(b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or

(c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.

(5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.

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

(a) the development approval application relates to land that is being used for a non-conforming use; and

(b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.

- (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land -
- (a) a structure plan;
  - (b) an activity centre plan;
  - (c) a local development plan.

## **Part 6 - Terms referred to in Scheme**

### **Division 1 - General definitions used in Scheme**

#### **58. Terms used**

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows -

<b>Cabin</b>	means a dwelling forming part of a tourist development or caravan park that is - <ul style="list-style-type: none"><li>(a) an individual unit other than a chalet; and</li><li>(b) designed to provide short-term accommodation for guests.</li></ul>
<b>Chalet</b>	means a dwelling forming part of a tourist development or caravan park that is - <ul style="list-style-type: none"><li>(a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and</li><li>(b) designed to provide short-term accommodation for guests.</li></ul>
<b>short-term accommodation</b>	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.

- (2) A word or expression that is not defined in this Scheme -
- (a) has the meaning it has in the *Planning and Development Act 2005*; or
  - (b) if it is not defined in that Act - has the same meaning as it has in the R-codes.

### **Division 2 - Land use terms used in Scheme**

#### **59. Land use terms used**

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows -

## ATTACHMENT 8.1.1B

<b>art gallery</b>	means premises that are open to the public and where artworks are displayed for viewing or sale.
<b>bed and breakfast</b>	means a dwelling –  (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms.
<b>brewery</b>	means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> .
<b>caravan park</b>	means premises that are a caravan park as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5 (1).
<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
<b>holiday accommodation</b>	means 2 or more dwellings on one lot used to provide accommodation for holiday or temporary purposes for persons other than the owner of the lot.
<b>holiday house</b>	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.
<b>hotel</b>	means premises the subject of a hotel licence other than a small bar or tavern licence granted under the <i>Liquor Control Act 1988</i> including any betting agency on the premises.
<b>motel</b>	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> –  (a) used to accommodate guests in a manner similar to a hotel; and (b) with specific provision for the accommodation of guests with motor vehicles.
<b>park home park</b>	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>recreation - private</b>	means premises that are –  (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
<b>restaurant/cafe</b>	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .
<b>serviced apartment</b>	means a group of units or apartments providing –  (a) self-contained short stay accommodation for guests; and (b) any associated reception or recreational facilities.
<b>small bar</b>	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .

## ATTACHMENT 8.1.1B

<b>tavern</b>	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .
<b>tourist development</b>	<p>means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide –</p> <ul style="list-style-type: none"><li>(a) short-term accommodation for guests; and</li><li>(b) onsite facilities for the use of guests; and</li><li>(c) facilities for the management of the development.</li></ul>
<b>winery</b>	means premises used for the production of viticultural produce and associated sale of the produce.
<b>workforce accommodation</b>	<p>means premises, which may include modular or relocatable buildings used –</p> <ul style="list-style-type: none"><li>(a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and</li><li>(b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.</li></ul>

## ATTACHMENTS 8.1.1C

**From:** Peter Haas <[pho@boddington.wa.gov.au](mailto:pho@boddington.wa.gov.au)>  
**Sent:** Wednesday, 15 July 2020 9:29 AM  
**To:** Tamsin Hodder <[sa@boddington.wa.gov.au](mailto:sa@boddington.wa.gov.au)>  
**Cc:** Steve Thompson (<[steve@edgeplanning.com.au](mailto:steve@edgeplanning.com.au)>) <[steve@edgeplanning.com.au](mailto:steve@edgeplanning.com.au)>  
**Subject:** Comment LPP No. 20 - Tourism & Visitor Accommodation

Tamsin/Steve,

### 7.7 Water Supply

4<sup>th</sup> dot point requiring regular testing (not less than once per annum)

This is fine for testing the chemical parameters of water but the bacteriological testing of water should be no less than once per month at a NATA Registered Water Testing Laboratory and I would like this to be included under this clause.

Peter

Regards,

Peter Haas

Principal Environmental Health Officer / Building Surveyor



T +61 8 9883 4999  
E [pho@boddington.wa.gov.au](mailto:pho@boddington.wa.gov.au)  
39 Bannister Road Boddington WA 6390  
[www.boddington.wa.gov.au](http://www.boddington.wa.gov.au)

Please consider the environment before printing this e-mail

## ATTACHMENTS 8.1.1C

**Tamsin Hodder**

---

**From:** DFES Land Use Planning <[advice@dfes.wa.gov.au](mailto:advice@dfes.wa.gov.au)>  
**Sent:** 11 August, 2020 1:47 PM  
**To:** [steve@edgeplanning.com.au](mailto:steve@edgeplanning.com.au)  
**Cc:** Tamsin Hodder  
**Subject:** Shire of Boddington (Shire) draft Local Planning Policy (LPP) No. 20 – Tourism and Visitor Accommodation

DFES Ref: D17548  
YOUR Ref: LNUP020

Dear Mr Thompson

I refer to your letter dated 31 July 2020, in relation to the referral of the Shire of Boddington's (Shire) draft Local Planning Policy (LPP) No. 20 – Tourism and Visitor Accommodation.

DFES welcome the opportunity to provide comment on the draft LPP.

DFES notes the Shire's inclusion of bushfire in section 7.1 which highlights that State Planning Policy 3.7 – *Planning in Bushfire Prone Areas* (SPP 3.7) could apply to Tourism proposals within the Shire. Tourism proposals located within Bushfire Prone Areas can trigger application of SPP3.7. The draft LPP states that a Bushfire Management Plan and / or a Bushfire Emergency Evacuation Plan (BEEP) may be required. Policy measure 6.6.1 of SPP3.7 states that Development Application should include a BEEP.

If you require further information, please contact me on telephone number 6551 4032.

Regards

Craig Scott  
Senior Land Use Planning Officer | Land Use Planning

Emergency Services Complex | 20 Stockton Bend Cockburn Central WA 6164  
T: 08 6551 4032 | E: [advice@dfes.wa.gov.au](mailto:advice@dfes.wa.gov.au) | W: [dfes.wa.gov.au](http://dfes.wa.gov.au)



FOR A SAFER STATE



## ATTACHMENTS 8.1.1C

**From:** DAVIES Paul (Con) <[paul.davies@mainroads.wa.gov.au](mailto:paul.davies@mainroads.wa.gov.au)>  
**Sent:** 25 August, 2020 9:22 AM  
**To:** Tracy Murray <[records@boddington.wa.gov.au](mailto:records@boddington.wa.gov.au)>  
**Cc:** NAUDE Daniel (RCPM) <[Daniel.Naude@mainroads.wa.gov.au](mailto:Daniel.Naude@mainroads.wa.gov.au)>  
**Subject:** Shire of Boddington Draft Local Planning Policy 20 Tourism & Visitor Accommodation ( July 2020 )(3).PDF

Attention Steve Thompson

Hi Steve

I refer to your correspondence regarding the above mentioned Local Planning Policy and advise that Main Roads has no objection to the policy subject to the following comments and requirements:  
It is recommended that an additional dot point be included within part 7.5 advising that ;  
"Access to Main Roads controlled roads will need to be approved by Main Roads WA and proponents should liaise with Main Roads regarding location and access design requirements".

Also, it is noted that dot point 6 refers to capability which should perhaps be modified refer to road capacity requirements.

If you have any queries please phone Daniel Naude

Regards Paul Davies

**For Daniel Naude**  
Road Corridor Planning Manager  
Metropolitan and Southern Regions / South West  
p: 08 9724 5724 | m: 0418931078  
w: [www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au)



mainroads  
WESTERN AUSTRALIA



## ATTACHMENTS 8.1.1C



Government of Western Australia  
Department of Health

Your Ref: LNUP020  
Our Ref: F-AA-40651 D-AA-20/113052  
Contact: Vic Andrich 9222 2000

Mr Graham Stanley  
Acting Chief Executive Officer  
Shire of Boddington  
PO Box 4  
BODDINGTON WA 6390

Attention: Steve Thompson (Consultant Planner)

Via email: [shire@boddington.wa.gov.au](mailto:shire@boddington.wa.gov.au)

Dear Mr Stanley

### **DRAFT LOCAL PLANNING POLICY No. 20 – TOURISM AND VISITOR ACCOMMODATION**

Thank you for your letter of 31 July 2020 requesting comments from the Department of Health (DOH) on the above proposal. The DOH has no objection to the proposed policy. However, the DOH suggests considering:

- incorporating a requirement of the accommodation to comply with health local laws related to accommodation/housing;
- insert 'negative' before 'impacts' in line two, of the first dot point of the Policy Statement;
- add to definition of 'Tourism accommodation' to include 'accommodation as advertised' and 'as advertised' means in social media, leaflet, word-of-mouth, newspaper, website, notice board, signage, etc. but excluding accommodation as part of a lease or tenancy agreement (or words to that effect); and
- encourage applicants to have a fire evacuation plan affixed to a conspicuous part of the room(s) being let.

Should you have any queries or require further information please contact Vic Andrich on 9222 2000 or [ehinfo@health.wa.gov.au](mailto:ehinfo@health.wa.gov.au)

Yours sincerely

Dr Michael Lindsay  
**EXECUTIVE DIRECTOR  
ENVIRONMENTAL HEALTH DIRECTORATE**

8 October 2020

188 Royal Street East Perth Western Australia 6004  
Telephone (08) 9222 2000 TTY 133 677  
PO Box 8172 Perth Business Centre Western Australia 6849  
ABN 28 684 750 332  
[www.health.wa.gov.au](http://www.health.wa.gov.au)

## ATTACHMENTS 8.1.1C

### 7c Shire of Boddington Draft Local Planning Policy No. 20 -Tourism & Visitor Accommodation

Report Author: Adrienne Yzerman - HWEDA Executive Officer

#### Background

On 31 July 2020 the Shire of Boddington invited HWEDA to comment on their Draft Local Planning Tourism & Visitor Accommodation Policy (Appendix 3). At the Board Meeting on 11/8/20, Rod McSwain declared his interest as a short stay accommodation owner and tabled his response (Appendix 4) to the Shire of Boddington's draft Tourism & Visitor Accommodation policy. The Board reserved it's response until they had more time to consider it before responses are due on 26/10/20.

#### Comment

The policy lacks detail with respect to short stay accommodation policy provisions such as: holiday homes, bed & breakfasts, guest houses, single bedroom dwellings, design/layout, management and fire provisions.

Short Term Accommodation Legislation will likely to be introduced by the State Government before March 2021 which will over ride existing LGA policies on short stay accommodation and will also include standards, registration and accreditation.

#### Financial Implications

NIL

#### Recommendation

The Board sends a letter to the Shire of Boddington stating it does not support the adoption of the Draft Local Planning Policy No. 20 - Tourism & Visitor Accommodation pending State Government's legislation in next 6 months.

## ATTACHMENTS 8.1.1C



Your REF: LNUP020

Mr Graham Stanley  
Acting Chief Executive Officer  
Shire of Boddington  
PO Box 4  
BODDINGTON WA 6390

Sent via email: [shire@boddington.wa.gov.au](mailto:shire@boddington.wa.gov.au)

Dear Mr Stanley

**Comment on Draft Local Planning Policy No.20 – Tourism and Visitor Accommodation**

Thank you for your correspondence dated 31 July 2020 providing the Peel Development Commission (PDC) with the opportunity to comment on the Shire of Boddington proposed "Local Planning Policy No.20 – Tourism and Visitor Accommodation" (hereafter referred to as Draft LPP20).

The PDC notes that the 'Shire of Boddington Sub-Regional Economic Opportunity Analysis', released in February 2020, identified tourism as a key growth and diversification industry in the Shire of Boddington, and acknowledges that Draft LPP20 provides a framework to assist in considering tourism development proposals in the Shire related to this economic driver.

Should you have any further questions in relation to this matter, please feel free to contact Wendy Muir on 9535 4140.

Yours sincerely

Andrew Ward  
**CHIEF EXECUTIVE OFFICER**

15 October 2020



Councillor Gary Ventris  
Shire President  
Shire of Boddington  
39 Bannister Road  
Boddington, WA 6390

Peel Chamber of Commerce & Industry  
Mandurah Transit Station Office  
Cnr Galgoyl Rd & Allnut St  
PO Box 574, Mandurah WA 6210  
E: [manager@peelcci.com.au](mailto:manager@peelcci.com.au)

12<sup>th</sup> October 2020

Dear Councillor Ventris,

Re: Letter of Support – Boddington Motel Submission:  
Shire of Boddington Planning Policy No. 20 – Tourism and Visitor Accommodation

On behalf of the Peel Chamber of Commerce & Industry Inc. and the wider business community of the Peel Region I write to you to provide our support for the Boddington Motel and their submission against the proposed Planning Policy No. 20 – Tourism and Visitor Accommodation in its current format.

After considering this proposed policy in detail, many questions have arisen regarding the purpose, immediate need and overall reasoning pertaining to its intended outcomes. Acknowledging the overarching purpose of the policy is to promote tourism and visitor stay in the Shire, to whom does this policy apply to, and what strategies are in place to support the viability of an expanded tourism accommodation sector? Many Chambers of Commerce, business groups and Governments across the nation and the globe have been monitoring the rise of disruptive industries, and the effects these unregulated operators are having on established businesses, and ultimately the economic ecosystem. Our primary concern regarding these disruptive industries in this instance centres around that of the un-hosted holiday rental property market.

Whilst the theory around this accommodation option suggests an increase in tourism visitation and spend to the Local Government Authority or Economic Development body, and value for money to the consumer allowing for additional holiday funds, evidence from other areas around the state where this accommodation is abundant suggests otherwise. The proliferation of such accommodation options in the South West has boasted devastating effects to the traditional accommodation industry, and the localised economy overall. The initial intent of this accommodation option was to provide a platform for short-term hosted room rental, however has quickly evolved into a unregulated sublease market for holiday homes and empty properties; this is evident in such communities as Dunsborough, Yallingup and even Dawesville in the Peel Region. Whilst these properties are still privately owned and therefore result in income for the Local Government Authority through annual rates, the income drawn from sub-leasing for accommodation is most often removed from the community through the property owner residing outside of the community. In addition to this, unlike traditional accommodation providers, these sub-lessors fail to employ locally, or support the local community through the procurement of services or charitable sponsorships. In the big scheme of things, these issues are but minor compared to the complete lack of regulation which these providers operate under, including development applications, business and service charges such as water and toilet connections, taxation rates, safety regulations and LGA rates. Taking all of this into consideration, a clear advantage is being provided to these providers with regulatory constraints stacked heavily against traditional businesses.

Regarding the policy document itself, our concerns centre around how this policy can be interpreted due to the lack of definition throughout, and the lack of information indicating how this policy is to be measured and enforced by the LGA. In its current format, this policy appears to focus solely on new-build accommodation, with no reference or ruling for existing buildings to begin trading as Bed and Breakfast establishments or short-term holiday home rentals. Because of this, we fear this policy in its current format will have a long-term negative affect on an existing business.



## ATTACHMENTS 8.1.1C

*Our final questions with regards to this policy are in connection to the timing of its formation and introduction. Considering the financial struggles many businesses are facing due to the ongoing effects of the global COVID-19 pandemic, has the Shire of Boddington identified a growing need for an increase in accommodation options? In addition to this, understanding the State Government is currently considering information and data with regards to the growing short-accommodation sector and has recently released some recommendations, would it not be best suited to wait for such policies to be drafted at a State level and consider for copy at Council at a later date?*

*For these reasons we fully support our member and a small regional business in the Peel Region, the Boddington Motel and their submission against the proposed Planning Policy No. 20 – Tourism and Visitor Accommodation, and we urge the Council of the Shire of Boddington to reconsider this policy as it currently stands.*

*Thank you for your consideration and we trust you will exercise sound judgment when considering our position with regards to this policy and its possible effects on the community of Boddington and surrounds.*

Kind regards,



Andrew McKerrell  
General Manager, Peel Chamber of Commerce & Industry Inc.



# **Proposed Tourist & Visitor Accommodation Policy**

## **in The Shire of Boddington**

A Submission on behalf of

## **The Boddington Motel**

**October 2020**

As the title indicates, this is;

A proposed Accommodation Policy for Tourists and Visitors.

**Questions that Councillors need to take into consideration.**

1. Why is a Tourism & Visitor Accommodation Policy (TVAP) being introduced now?
2. Why is the proposed TVAP better than current guidelines in Shire policies?
3. What 'new' benefits does the proposed TVAP provide to operators in the sector?
4. How will the proposed TVAP improve the local Boddington economy?
5. What research has each Councillor done to be able to make an informed and fair decision?
6. What impact will the TVAP have on current accommodation businesses within the Shire?

After 6 months of turmoil not seen for a century, the world's economy is struggling to come out of a massive economic slump due to the COVID19 pandemic, forcing many businesses to close or see a severe reduction in patronage and hence income. Boddington is a town 123 kms south east of Perth in Western Australia and despite its isolation, businesses including the Boddington Motel have not escaped the effects of the pandemic.

So with the imminent introduction of strict guidelines for the Short Term Rental Accommodation (STRA) sector by the Western Australian State Government, it is highly questionable as to why the Boddington Council would be considering not only introducing their own version of such a policy, but more importantly, why now?

With nothing in the Annual Shire Budget passed this month that supports the small business sector, Council risks encouraging unregulated competition to the detriment of current regulated accommodation providers, in the business sector, probably worst affected by the COVID19 pandemic.

The following question must therefore be asked after reading this submission.

"By accepting this proposed Tourism and Visitor Accommodation Policy, does Council honestly believe it will be beneficial to the economy of the Shire, or is this economic vandalism?"



**Forward**

This submission after consultation with The Boddington Motel operators, is in response to the proposed above policy which was publicly circulated for comment by the Shire of Boddington in July 2020. This submission is a more detailed one, that was presented to four (4) of the current Councillors in February 2020, to enlighten them of the status of the industry.

The operators of the Boddington Motel (and Hotel), are well aware, that at times when events attract a large number of people to the region, there is a lack of accommodation within the Shire. The Rodeo is a good example, but it would be uneconomical for there to be such a level of supply all year round. Promoting more unregulated short term rental accommodation, is only going to be detrimental to everyone, but in particular, the three (3) businesses which currently provide a service to tourists and visitors for the benefit of the local community and which is likely to provide the only income for the owners as well as any operators, now or in the future. If the occupancy level was consistently high then that would be another matter, but it is not the case. The Motel for example, has an annual average occupancy of less than 60%.

There is nothing wrong with competition, but over recent years there has been a large amount of concern not just in Western Australia, but both nationally and internationally, and rightly so, by traditional accommodation providers with the groundswell of the unregulated and unregistered accommodation market of spare rooms and unhosted houses, making it ***'an uneven playing field'***.

Therein lays the problem.

This unregulated part of the market has been mainly run by non-Australian based online booking platforms. It is a situation that both state and local governments in Australia as well as around the world have struggled with, or have not been prepared to deal with (*view Dick Smith's comments at the link mentioned at the end of this submission*).

This submission brings to the attention of the elected members of Council in the Shire of Boddington, the consequences of promoting such a policy in an unregulated market, especially at a time when the existing accommodation businesses have been and will be for some time, challenged economically due to the enforced government compliance rules and regulations, including lockdowns, during the current Corona Virus pandemic.

### **Background**

The businesses in Boddington have for some time, recognised the need for more accommodation in the region at certain times of the year. As part of the Motel's business plan, the Shire CEO was approached in 2018, proposing a Short Term Accommodation (STA) Policy, as the beginnings of the informal development of this section of the tourist accommodation market began in the Shire. As in other Local Government Authorities (LGA's), this sector began operating with no regulation, resulting in an uncertain legal environment, too numerous examples of inequality, amenity and potential land use conflict. The purpose of the approach by the Motel operators, was to seek some stability and confidence for any business, current or in the future, investing in the sector within the Shire of Boddington.

The CEO conveyed that the McGowan government had set up an Economics and Industry Standing Committee, which had not long prior, called for submissions to an inquiry into '**levelling the playing field**'. Upon further research regarding the inquiry into the sector, the board of the company that owns the Motel business, chose to step back and wait for the outcome of the inquiry and subsequent recommendations to be implemented.

The CEO also indicated that the Shire's town planner's contracted hourly rate would not be good investment of ratepayers' money, seeing that any such policy would have a sunset of just two (2) years at the most.

At a Council Information Session on 6<sup>th</sup> February 2020, a STA policy was discussed. Some in depth background was presented and the decision by Councillors was to put a suggested policy to one side, to wait for the outcome of the government's recommendations. There were no questions and no objections at the time. Yet, at the next opportunity four (4) months later, after there was a change of Councillors and the Deputy CEO stepped up to act as CEO, the exact same word for word proposed document, was back on the table as a proposed policy.

Unregulated hosted and unhosted accommodation locations, continue to emerge and as of the closure of these submissions and despite numerous invitations to do so, it is noted that only two (2) of the seven (7) Councillors have engaged, and then only by email. Information was being sought so it could be addressed in this submission.

As part of the process in analysing submissions, perhaps consideration will be given to a discussion with STA operators and Councillors, for the benefit of all parties. However, most issues have been raised in the Legislative Assembly's Economic and Industry Joint Standing Committee Report (*link at the end of this submission*) with the outcome having overwhelming support by all parties.

**Definitions**

**“Short-Stay Accommodation”**: refers to all properties or parts of properties offered as temporary accommodation to the market, and includes both Traditional Accommodation and Short-Term Rental properties;

**“Traditional Accommodation”**: properties have long existed and have been specifically developed to provide Short-Stay Accommodation. They have been appropriately licensed and registered forms of Short-Stay Accommodation that have long existed, such as hotels, motels and licensed Bed and Breakfasts (B&Bs); and

Under current Local Planning Scheme (LPS) regulation definitions;

**“Short-Term Accommodation”** means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 continuous months in any 12 month period;

Under land use terms;

**“Bed and Breakfast”** means a dwelling;

- (a) used by a resident of the dwelling to provide short-term accommodation, **including breakfast**, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms.

**“Short-Term Rentals”**: refers to all premises (or rooms within premises) that are made available to the market as temporary accommodation but are not Traditional Accommodation properties. The majority of Short-Term Rentals have usually been built for residential purposes in areas zoned for residential use, but have subsequently been offered for short-term letting. Short-Term Rentals are not always licensed and/or registered.

Short-Term Rentals can then be further broken down into two categories: “Hosted” and “Unhosted”. The differences between hosted and unhosted Short-Term Rentals relate to whether guests have either exclusive or non-exclusive use of a premise:

- *Hosted (Non-exclusive use)*—Guest(s) are hosted by the home owner who is present throughout the period of stay for the purpose of short stay accommodation.
- *Unhosted (Exclusive Use)*—Guest(s) have exclusive access to the house or apartment throughout the period of stay for the purpose of short stay accommodation.

**“Carrying on a business”**: RG 235 32 - You will be carrying on a business in Australia if you conduct an activity, or series of activities:

- (a) In the form of a profession, a trade, employment, a vocation or a calling;
- (b) In the form of an adventure or concern in the nature of trade; or
- (c) On a regular basis, in the form of a lease, licence or other grant of an interest in a property.

**Action**

In the Western Australian Parliament in March 2015, Hon Sue Ellery MLC, described Airbnb's operations as "corporate civil disobedience, and it is certainly non-violent ... but they are clearly operating outside the regulatory framework. NSW, Victoria and Tasmania have introduced policies and WA is currently developing a policy that should see it implemented in 2021".

In October 2018, a motion by Hon Terry Redman MLA, was listed for debate and the Minister for Planning and Hon Rita Saffioti MLA, wrote to the Committee Chair saying that she would be happy if the Committee was able to inquire into Short-Stay Accommodation as she was "keen to create more certainty for the accommodation industry". The Minister suggested the inquiry could focus on how the State:

*...best regulate short stay accommodation to ensure the ongoing sustainability of traditional tourism accommodation providers while supporting the original intent of home sharing, which was to provide for hosted accommodation options.*

The Minister's support for the Committee to inquire into Short-Stay Accommodation was announced in a media release on the day after her letter to the Committee.

**Committee Consultations**

1) Economics and Industry Standing Committee Inquiry into Short Term Accommodation

This Inquiry generated a record number of submissions for any Inquiry completed by the Committee since 2000. The submissions were made by people and organisations throughout the State, from Broome to Albany. The Committee received a total of 278 submissions and 14 supplementary submissions, including from:

- 19 local government associations, as well as WALGA;
- the major online accommodation platforms Airbnb, Booking.com and the Expedia Group;
- important industry associations such as the AHA WA, Tourism Council WA, Caravan Industry Association and the Chamber of Commerce and Industry WA.

The Australian Hotels Association (WA) (AHA WA) claimed that:

*Whilst hotels, motels, bed and breakfasts, serviced apartments and hostels all comply with a myriad of regulations, many properties that are listed on peer-to-peer platforms, such as Airbnb, do not. This inequity is impacting the viability of hotels, putting employment and training opportunities at risk, undermining investment decisions and jeopardising the safety of guests.*

2) The Board of Taxation review into taxes on small business - 2018

Legitimate small businesses account for approximately 96 per cent of all businesses in Australia, employ 5.6 million Australians, and produce over \$330 billion of Australia's annual economic output. This review reported that;

*"Achieving a level playing field for small businesses remains a key challenge. Small businesses face competition not only from their larger, more established, counterparts but also from illegitimate operators in the **black economy undercutting them on price**"*

The Chair of this review, was Dr Mark Pizzacalla and the Board has been asked to report to Government by 30 November 2020. Further information can be found by Council at: <https://taxboard.gov.au/>

**Proposed Policy by the Shire of Boddington** states that;

- It "focuses on tourism accommodation", yet
- The Shire already has the discretion to consider applications for tourism accommodation *and*
- It "faces challenges to achieve a balance between the environment and amenity".
- The definitions even refer to "trade of business" yet the Shire openly promotes non-business registered operators.
- It does not address any of the challenges and issue below, to '**level the playing field**' between the new and traditional forms of tourist accommodation.  
On that basis, it is believed that the Council's proposed policy could be discriminatory, knowing after this submission, and reading all the associated information, including the links, what the challenges the traditional businesses face, together with what has transpired in other Shires before them.
- The wording in the policy is not 'black and white' - words used like "generally", "a precautionary approach", "suitable addressed", "a high standard", "sympathetic", "in the opinion of the local government", "should include" and "may", to mention a few. Definitive words such as "shall" "required to" and "will" are few and far between.
- 'Visitor accommodation' is referred to within the policy's definitions, but there is no definition of visitor accommodation.

The objectives are

- To "Achieve a high standard" - How will that be measured?
- To "Retain or enhance the visual amenity" – How will that be assessed and who will assess it?
- To "Provide increased clarity for applicants" - There's no clarity in the proposed policy, so how will this be done?

The provisions included are.

- To have "effective on-going management" - What does this entail?
- "Sympathetic to the with the district's architectural style" – That will always raise a difference of opinion.
- What has a 'construction camp' got to do with visitor or tourist accommodation?
- Generally require tourist accommodation on 'rural zoned land' to be ancillary to other uses - Will it or wont it? - What does that mean? - A separate differential rate like the City of Fremantle would be appropriate to **level the playing field**.

The amenity provisions include

- The number of patrons to be accommodated – Gives no guidance whatsoever.
- The potential for noise – Does this refer to cars starting, children, animals, parties? How will it be monitored and managed? Who will be responsible for responding to complaints? Police (potential 2 hrs response time in Boddington), or Shire Ranger?
- Generally requiring a management plan - A non-commitment by the Shire.

The visual amenity

- Uses the word encourages, seeks and supports – Nothing definitive there.
- Seeks to carefully consider – What does that mean?

Maximum Length of occupancy

- There are LPA regulations in place, but the Shire is not enforcing them.

Signs

- The Shire sign policy is useless if it is not enforced.

Rating

- "May change if accommodation is established on a rural property" - Will it or wont it?

Construction Camps

- Worker accommodation – What is the relevance to visitor or tourists? "However located in or near" – How near? 1 km, 2 klms, 5 klms?
- "Less than 3 years" – Construction period only? What if it goes longer?

Administration

The administration should consult with **ALL** stakeholders regardless, not just determine themselves as to whether they will or not. The accommodation industry is a fluctuating one and open and transparent engagement should be ongoing.

Some background information regarding some of those challenges, has already been conveyed to some of the current Councillors and there is also plenty of information available to all.

With due respect, the contracted Boddington Shire town planner who is author of the proposed policy, does not live local and should be fully aware of the situation in other LGAs. The proposed policy presents as a vanilla version and the current operators were not invited to participate in the process, like was done for the state government's Economics and Industry Standing Committee's Inquiry.

There is also no reference to indicate that the Boddington Shire's Economic Development Officer, Ranger, or Principal Environmental Health Officer / Building Surveyor have had any input to date.



**Challenges**

The following is a list of concerns and at the same time, suggestions for the Boddington Shire to action that not only the Motel team has, but would be more supportive of, if these concerns were addressed in the proposed policy.

- 1) People who let their house online or otherwise for short term rental accommodation, benefit from additional income, including retirees and the unemployed – three (3) known B&B's in the Shire were operating outside Shire policy on numerous occasions, until brought to the attention of the Shire.

**Suggest the Boddington Shire**

Educate Ratepayers, Investors and Real Estate Agents alike regarding the requirements around operating a short term rental.

- 2) Traditional Accommodation providers have greater overhead costs than STRA as a result of Commonwealth, State and Local Government Authorities (LGA) regulations and policies. (See Appendix 1). Traditional Accommodation providers can compete with STRA in every way and more, except for price.

**Suggest the Boddington Shire**

- a) Introduce a commercial category when it comes to annual rates to avoid commercial properties being penalized when residential properties drop in value.
  - b) Introduce a category for Residential Short Term Accommodation, similar to the City of Fremantle - the 2019 revaluation in Boddington saw residential properties revalued down, whilst good performing small business rates went up as much as 49% due to the Shire's rate in the dollar increasing by 27%.
  - c) Rural properties which have accommodation on site and the relevant land area should also be included in the suggested new STA category.
- 3) There is significant variation in the WA STRA market with regard to fire safety standards. The construction requirements for buildings designed for short-term accommodation (that's traditional ones) are more onerous than residential buildings. But all guests really should be protected the same.

**Suggest the Boddington Shire**

Ensure safety regulations are standard and monitored across the industry in the Shire.



- 4) STRA providers – hosted and unhosted, are unlikely to hold adequate public liability insurance, leaving them personally liable and consumers at considerable risk.

**Suggest the Boddington Shire**

Enforce compliance in policies such as fire mitigation and Public liability, which would help there is a standard within the Shire. Accidents happen and visitors to the region have an expectation that their experience can be stress free knowing mitigation practices are in place.

- 5) All accommodation operation, should be required to have an industry or Shire identification code / number, thus giving comfort to guests that the operator is to an extent, recognized or regulated. It is recognized that in the framing of these State based initiatives, there is a case and genuine need for this and all local governments to have the ability to impose additional licensing or operational requirements. Matters such as, setting caps on the number of nights a place can be rented, and setting additional registration or compliance fees and penalties.

**Suggest the Boddington Shire**

Identify STA to be in a position to manage the sector as above.

- 6) There is a tighter compliance on traditional B&Bs relative to STRA.  
Compliance by Traditional Accommodation providers seems to be endless – see *Appendix 1*

**Suggest the Boddington Shire**

Adjust policies to *level the playing field*, including all the universally agreed recommendations of the inquiry.

- 7) STRA is regularly exposed in the media as having an adverse impact on amenity such as parking, creation and collection of rubbish, noise and anti-social behavior of guests and / or their pets.

**Suggest the Boddington Shire**

Insist every proposed accommodation facility submit a Development Application and advertise it in the public arena for comment, to provide an open and transparent process, insisting on a management plan and the Shire follows up by ongoing monitoring.

- 8) Some owners are purchasing properties to use as STRA without establishing land use.

**Suggest the Boddington Shire**

Encourage STRA providers outside the Shire's Commercial Zone / CBD and limit those inside that zone to four (4) B&B providers (8 people) inside.

- 9) Some real estate agents market properties as potential STRA in areas where the land use is prohibited or restricted under the local planning framework.

**Suggest the Boddington Shire**

Engage, educate, monitor and receive a report on housing sales from real estate agents within the Shire. This data could then be used for future guidance when it comes to Strategic Planning. Currently prospective property owners are unable to ascertain whether a property is located near STRA, increasing the risk of finding themselves as unwitting neighbours of a STRA.

**Suggest the Boddington Shire**

Make the local real estate agents responsible for providing the relevant information when properties change hands. The Shire is then provided with the information.

- 10) There is evidence that the more STRA locations there are, the less is the availability of long term rental accommodation and affordable housing.

**Suggest the Boddington Shire**

Continually liaise with all Short-Stay Accommodation providers to assess the need to vary the number of operators in the sector. Set up a billeting option for accommodation for big events – like the rodeo weekend.

- 11) LGA's are not enforcing compliance by STRA with local laws. *See point 1*

**Suggest the Boddington Shire**

Continually review compliance of local laws and penalties, then penalise accordingly.

- 12) When complaints are received, LGAs place a substantial burden on complainants.

**Suggest the Boddington Shire**

Accept photographic and video evidence in assessing complaints and keep a record of complaints.

- 13) The current maximum fines, if any, that LGAs can issue to the STA operators, are not substantial enough to deter no-compliance. *See point 1*

**Suggest the Boddington Shire**

Implement, review and adjust fines and provide to owners when considering a DA.

- 14) In the South West of Western Australia, there is evidence from Traditional Accommodation providers of a significant drop in revenue and occupancy rates, which has coincided with an increase in STRA.

**Suggest the Boddington Shire**

Liaise with Traditional Accommodation providers to find the busy periods and saturation points and consider a register of 'one off hosting / billeting' for busy periods such as the Rodeo weekend.

- 15) There is general agreement that both hosted and unhosted STA in Western Australia should be registered and that it should be simple, low cost and user friendly. The City of Fremantle has had a local law governing short stay accommodation since 2008 (Short Stay Accommodation Local Law 2008). The law requires any dwelling, which provides accommodation for a maximum of six occupants for a minimum of two nights, but no more than three consecutive months, to be registered with the City. The applicant is required to pay an annual fee, agree to the conditions of registration and be issued a registration certificate.

**Suggest the Boddington Shire**

Liaise with WALGA and State Council for a solution, if the outcome of the inquiry does not have a recommendation. Alternatively, look at a similar policy to the City of Fremantle in conjunction with Boddington's STA operators.

- 16) A register, with consistent disclosure requirements, should improve the availability of information about STRA sector, improve policy development, plus improve STRA regulation across the Shire.

**Suggest the Boddington Shire**

Engage with the sector within the Shire to gather information.

- 17) The on-line management of many of the STRA properties is controlled by overseas companies and they don't contribute to local economies. *(see Dick Smith link below)*

**Suggest the Boddington Shire**

Reward STA providers who give back to the local economy.

### **The Motel**

As a commercial enterprise, the Boddington Motel pays a much higher rate in the dollar for utility supply charges verses a B&B paying the domestic rate (see appendix 1).

For example;

- 450% more for water consumption.
- \$667 per annum per toilet (used or not) plus a drainage fee.
- 73% more for supply of power.
- The GRV is based on occupancy and gross income - Because the Motel built a reputable business over 3 years to reach the finals of the 2017 Peel Small Business Excellence Awards **AND** rate 5 out of 5 on trip advisor, the Gross Rental Value (GRV), soared to a point that in 2019, the Shire rates increased 49% over the previous year. This is not the case with B&Bs which are rated purely on a residential Gross Rental Value based on a weekly rent and does not include the extra income generated.

As a business compliant with Australian Securities & Investment Commission (ASIC), the Australian Tax Office (ATO), plus state and local government regulations, the Motel business is compelled to paying all the above and more. At the same time, their room rates have not increased for 7 years.

Every year, the Boddington Motel has financially supported the likes of The Boddington Hospital Auxiliary, The Boddington Youth Centre, The Boddington Football Club, The Boddington Community Club and have sponsored, The Boddington Lion's Rodeo, The Boddington Bowling Club, The Boddington Ride on Mower Club, The Community Bus, The Field of Quilts and the Boddington Safari Car Rally, as well as donating goods to the Boddington Hospital and Community Bus. This support for the community, would be the first financial commitment to be reviewed if expenditure needed to be wound back.

The Motel has also partnered with one of the mines in offering a special room rate to staff who are between shifts, so they don't have to drive to and from Mandurah every day to work (DIDO).

No compliant and regulated business can compete with unregulated Short Term Rental Accommodation room rates, with current offerings in Boddington of as little as \$50 per night, as the Motel's costs of national, state and shire compliance required to operate, are higher. STRA is not developed like traditional providers – no permits, no registration, often cash transactions, increase in complaints, much lower overheads and can affect the availability of long term rentals due to some real estate agents marketing properties as STRA. Even B&B compliance is stronger.

A B&B operator that is able to "masquerade" as a resident, pays significantly lower levels of council rates and as the AirBnB model is "out-of-sight" and "out-of-mind" with local government compliance, many owners have no restrictions enforced on the minimum and maximum length of stay for their guests. From a taxation perspective, guests at Hotels and Motels are exposed to paying GST on their nightly tariffs, whilst



B&B guests are able to avoid this impost. The Hotel and Motel are exposed to a range of taxation obligations which are often not incurred by B&B operators such as Company Tax and State government taxes such as Payroll and Land Tax. Other costs to the traditional operator include: staff wages, workers compensation, superannuation and work safe compliance.

To suggest the operators of the Motel are against competition, shows a lack of understanding by anyone who says so, with a no better example of this lack of understanding shown, when one (1) councillor suggesting that they spoke to several affected businesses, when there are not several businesses within the Shire boundary. Clearly, it is about the lack of comparative compliance. The Shire even broke their own rules by promoting an unregulated STRA on their website and on the screen in reception, without investigating if the operator was compliant or not with Shire policy – and it wasn't. That same STRA operator, continued to defy shire policy and this is just one (1). So under the proposed policy, how can the Shire be confident it can enforce 5, 10 or 15 to be compliant?

The Motel team understands that more accommodation is occasionally needed in Boddington and were prepared to take a financial risk and invest more into the town's economy through an expansion, but as the proposed policy does not address specific guidelines to support a **level playing field**, a propose joint venture is at risk.

This expansion would create local jobs and significantly boost the local economy by employing more locals, who in turn, would support other local businesses. However, the belief is that under the proposed policy, there will be no short term investment in traditional accommodation businesses in the Shire of Boddington for the foreseeable future.

It cannot be doubted that the Boddington Motel is helping to build the local economy in Boddington. The Motel currently employs three (3) local people and as a result of the recent drop in tourist bookings due to COVID19, government support was triggered. The introduction of the proposed policy, could also mean that at least one of the current employees will no longer be required.

The Shire admits it will struggle with compliance. That will not be made any easier, because there is little to no specifics for STRA in the proposed policy. The Shire has managed to date with current policy and the Motel team, doesn't believe there will be any detrimental effect to the economy of the Shire in waiting for the state government's recommended guidelines to **level the playing field**. However with a 49% increase in shire rates in 2019 and a 300% rise in commercial power supply charges, along with a drop in both income and occupancy of 20%+ YOY in Q1 21, the Boddington Motel asks the item to be left on the table and not encourage any further STRA in the region, until such time as the State Government that recognised in the report, the **uneven playing field**, amenity issues for neighbours and confusing regulatory requirements, implement the recommendations, which are scheduled to be rolled out in 2021.

In the July 2020 Regional Pulse, a periodical from the Chamber of Commerce and Industry WA, an ongoing survey revealed that a high proportion of businesses in the Peel Region expect weaker conditions over the short-term compared to those expecting stronger conditions. The majority also expect conditions to worsen over the next twelve months.

## Confidence by Region (WA)

	Short-Term (3-Months)			Longer-Term (12-Months)		
	Stronger	Weaker	About same	Stronger	Weaker	About same
Perth & Peel	20%	54%	26%	18%	67%	14%

In Perth & Peel 66% of businesses reported a decline in profitability to June 30 and 41% still expected to be in decline going forward.

The world is struggling to come out of a massive economic slump due to the COVID19 pandemic, causing all businesses to struggle and no sector more so, than tourism accommodation.

So again, the above and following questions need to be answered by the members of Council, knowing that the introduction of new regulations are imminent.

- 1) Why now? .... and what has changed since February?
- 2) What short term benefits will this proposed Tourism and Visitor Accommodation Policy contribute to the economic development of the Shire of Boddington before the new guidelines are introduced in 2021?
- 3) Will the Shire guarantee that current business will not be worse off and if so, compensate them, now knowing that the outcomes in other Shires including the Shire of Augusta – Margaret River, could be repeated in the Shire of Boddington?

With The Boddington Motel's financials for Q1 2020-21, revealing that year on year occupancy is down 22% and income is down 25%, is the introduction of the proposed policy before the state government recommendations are implemented in 2021, honestly believed by Councillors, to result in economic development or **economic vandalism**?

Surely it would be more beneficial for the Boddington Council to be proactive, being supportive and working with current local businesses, by waiting for those WA State Government recommendations which include standards, registration and industry accreditation that the McGowan government wants to implement. It would even be better if Council liaised with WALGA to implement the suggested Short Term Accommodation recommendations in the report, into a proposed policy.

### Appendix 1

Here is a comparison between a B&B and a Traditional regulated accommodation business.

Comparison	BnB	Traditional - STA
Landscape 10% of Development	No	detailed plans of plants, mulch & retic (why not hand water?) kerbed and maintained to shire satisfaction
Power Supply - rate	92.3c per day	167.7c per day
Power Use - rate	25.7c per kWh	26.1c per kWh
Water supply charge	\$255.80	\$1,118.52
Water Use - rate	\$1.82 per kL	\$8.78 per kL
Water - Toilet Tax	No	\$666 per toilet per year - used or not
Water - discharge	\$200.00 fixed	\$3.85 per kl in excess of 200kl
Water Corp - Annual Waste permit	\$0	\$250
Insurance - Public Liability	?	\$10m - mandatory
Insurance - workers compensation	?	Yes
Hobby	Yes	No
ATO - 1/4ly business activity Stmt	No	Yes - 11% of gross income
ATO - 1/4ly Payg tax	No	yes
Pay cleaners award rates?	?	yes - min \$25.08 per hr
A real Business	No	Yes
ASIC business name registration fee	No	\$87 - 3yrs
ASIC - annual solvency report & fee	No	\$254 - annual
Registered for GST	unlikely	yes
Shire rates calculation (GRV)	Based on house rental	Based on occupancy & business profitability
Shire development application	Mandatory	Mandatory
<b>Community Sponsorship &amp; Support by the Boddington Motel</b>		
Lions Rodeo	Book Week	Football Club
Hospital Auxiliary	Hospital	Youth Centre
State Car Rally	Community Club	Community Bus
Field of Quilts	Bowls Club	Lawnmower Club

**Links, References and Attachments**

[Legislative Assembly's Economic and Industry Joint Standing Committee Report](#)  
[Response by the Western Australian State Government to the above report](#)  
Local Planning Scheme Regulation Definitions as per Department of Planning, Lands & Heritage  
ASIC Regulatory Guide 235  
[The Tax Board Inquiry into Small Business tax – 2018](#)  
[City of Fremantle Short Stay Accommodation Local Law 2008](#)  
<https://www.fremantle.wa.gov.au/locallaws>  
Peel Regional Pulse: July 2020.  
WALGA Newsletter – July 2019.  
Boddington Motel accounts, Q1 2020-21  
Commentary [Dick Smith - On-line booking sites](#)



## ATTACHMENTS 8.1.1C



Government of Western Australia  
Department of Jobs, Tourism, Science and Innovation

Your ref: LNUP020  
Our ref: J0820/201701  
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Mr Graham Stanley  
A/Chief Executive Officer  
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SHIRE OF  
BODDINGTON  
RECEIVED

30 OCT 2020

Distribution ID:  
☐ LCS ☐ HR ☐ EA  
☐ PEHO ☐ FM ☒ CEO  
☐ MWS ☐ TPC ☐ SFO

File No. \_\_\_\_\_  
Date \_\_\_\_\_  
Initial CS

Dear Mr Stanley

Thank you for providing the Department of Jobs, Tourism, Science and Innovation with the opportunity to comment on the Shire's Draft Local Planning Policy No. 20 – Tourism and Visitor Accommodation.

The Department has reviewed the draft and notes that under section 7 Policy Provisions, 7.1 General, it states that local government "*generally does not support tourism accommodation in the mining buffer unless the approval is for a limited period and / or is suitably justified by the applicant and addresses mining impacts*".

The Department recommends adding that consultation with either Alcoa or South32 Worsley is required where any tourism accommodation proposal occurs within Mining Lease 258 Special Agreement or Mining Lease 1 Special Agreement.

Yours sincerely

Kristian Dawson  
A/EXECUTIVE DIRECTOR  
INFRASTRUCTURE, PLANNING AND ECONOMIC DEVELOPMENT

26 October 2020

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**RESPONSE OF THE WESTERN AUSTRALIAN  
GOVERNMENT TO THE**

**WESTERN AUSTRALIAN LEGISLATIVE ASSEMBLY  
ECONOMICS AND INDUSTRY STANDING COMMITTEE**

IN RELATION TO

THE INQUIRY INTO THE REGULATION OF SHORT-STAY ACCOMMODATION IN  
WESTERN AUSTRALIA

*Report 7 - Levelling the Playing Field: Managing the impact of the rapid increase of Short-  
Term Rentals in Western Australia*

## Executive Summary

The Western Australian Government generally agrees with the Report and will consider developing and/or adopting policy to give effect to the intent of the recommendations, including forming an interdepartmental working group to address some of the recommendations.

The Western Australian Government thanks the Committee for undertaking the Inquiry, and welcomes its Report. The Government also acknowledges the important contributions made by the stakeholders who participated in the Inquiry, including local governments, major online accommodation platforms, industry associations, key social organisations, individual hosts, hotel and caravan park owners, and guest house and bed and breakfast owners.

In responding to the Committee's recommendations, the Western Australian Government acknowledges the complexity of the issues raised and the wide range of views on the topic across the State and within local government areas. The Government recognises the broader issues in relation to short-term rentals, including a lack of available data, perception of an 'uneven playing field', amenity issues for neighbours, and confusing regulatory requirements to name a few. In principle, the Government accepts that the existing State-level policy and guidance addressing short-term rentals are dated and inconsistent, and will look at rectifying this.

The recommendations of the Committee are outlined below:

### Recommendation 1

The Minister for Commerce request the Department of Mines, Industry Regulation and Safety develop a public education campaign in association with Real Estate Institute of Western Australia (REIWA) to make owners, real estate agents, property managers and purchasers of real estate in Western Australia aware of their obligations in regard to:

- the truthful marketing and presentation of properties as Short-Term Rental prospects;
- the importance of considering Short-Term Rental as part of the pre-purchase due diligence process; and
- other legal obligations surrounding the use of properties as Short-Term Rentals.

### Recommendation 2

That by June 2020 the Minister for Planning update the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* to amend:

- land use definitions to differentiate between hosted and unhosted Short-Term Rentals;
- land use definitions to include the size and capacity of Short-Term Rentals; and
- the definition of bed and breakfast accommodation.

### Recommendation 3

That by June 2020 the Minister for Planning direct the Western Australian Planning Commission (WAPC) to update planning guidance so that it aligns with the amended land use definitions in the *Planning and Development (Local Planning Schemes) Regulations 2015* and provides greater guidance to local governments about ways to appropriately regulate Short-Term Rentals.

**Recommendation 4**

The Minister for Planning direct the relevant government agency to work with stakeholders to develop model by-laws that assist strata companies to better manage Short-Term Rentals in their strata scheme. These model by-laws should include:

- by-laws that, if adopted by a strata company, would prevent owners from letting their lots as Short-Term Rentals; and
- by-laws that, if adopted by a strata company, would enable owners to let their lots as Short-Term Rentals.

**Recommendation 5**

The Minister for Planning direct Landgate to update their strata titles guidance to include discussion of the powers and processes open to strata companies to manage Short-Term Rentals in strata schemes.

**Recommendation 6**

The Ministers for Commerce, Local Government, Planning and Tourism establish an interdepartmental working group to coordinate whole-of-government policy responses for Short-Stay Accommodation.

**Recommendation 7**

The interdepartmental working group should:

1. Establish the baseline requirements for a state-wide registration scheme, including:
  - a. the minimum information required for both hosted and unhosted premises;
  - b. the cycle of registration;
  - c. registration costs for the State register (separate from any additional local government fees, charges or costs);
  - d. the most appropriate agency to hold the register; and
  - e. the treatment of Traditional Accommodation providers.
2. Determine the legal mechanisms through which the State Government can introduce and enforce a registration scheme, including consequences for non-compliance.
3. Determine the most appropriate mechanism to collect and manage the registration data.
4. Determine the information disclosure requirements for online platforms and appropriate enforcement mechanisms.
5. Determine information sharing mechanisms between State and local government authorities, including information gathered under existing registration and licensing regimes for Traditional Accommodation.
6. Determine what information, if any, should be made publicly available.
7. Ensure that local governments maintain the ability to require the provision of additional information and impose additional licensing or operational requirements, depending on their particular circumstances.

The interdepartmental working group's activities should incorporate appropriate consultation mechanisms with local government authorities and relevant stakeholders.

**Recommendation 8**

The relevant Minister should ensure, through appropriate legislative or regulatory mechanisms, that online platforms are required to display a valid registration number for Short-Term Rentals, issued under the registration scheme. The interdepartmental working group should consider and provide advice to the Minister on the appropriate requirements for Traditional Accommodation.

**Recommendation 9**

The relevant Minister prepare regulations requiring online platforms to provide data on all Short-Term Rental properties listed in Western Australia to the government agency with primary responsibility for the state-wide registration system, on a disclosure cycle to be recommended by the interdepartmental working group.

**Recommendation 10**

The relevant Minister introduce a state-wide registration scheme for Short-Term Rentals based on the parameters developed by the interdepartmental working group, coupled with data provision requirements for online platforms. Local government authorities should be responsible for:

- approving additional registration requirements for properties within their boundaries;
- developing additional registration criteria, suited to their particular circumstance;
- enforcing compliance with their local controls;
- managing complaints about Short-Term Rentals; and
- setting and imposing penalties for non-compliance with local requirements.

The process for information collection and disclosure should be developed by the interdepartmental working group, in consultation with local government.

The Government's specific response to each of the recommendations follow.

## Government's Response to the Recommendations

### *Recommendation 1*

The Minister for Commerce request the Department of Mines, Industry Regulation and Safety develop a public education campaign in association with REIWA to make owners, real estate agents, property managers and purchasers of real estate in Western Australia aware of their obligations in regard to:

- the truthful marketing and presentation of properties as Short-Term Rental prospects;
- the importance of considering Short-Term Rental as part of the pre-purchase due diligence process; and
- other legal obligations surrounding the use of properties as Short-Term Rentals.

### Response

The Government agrees to the recommendation.

In using a property for a short-term rental, there are a range of approvals, public health and safety, insurance, taxation and amenity issues that both the consumer and service provider need to be aware of. It is important that there is an appropriate level of education and information available to ensure awareness of these requirements, and the Western Australian Government supports the development of an education program that can be tailored to local conditions.

The *Real Estate and Business Agents and Sales Representatives Code of Conduct 2016* (the Code) provides that an agent or sales representative must exercise due care, diligence and skill. Additionally, the Code provides for the disclosure of material facts to any person materially affected. This would include the correct communication (advertising) of properties and their suitability for use as short-term rental properties.

The Department of Mines, Industry Regulation and Safety (DMIRS) will communicate with the industry, in liaison with REIWA reminding it of the Code requirements and how the Australian Consumer Law (WA) applies. DMIRS will also establish a communication strategy to the community (owners, purchasers etc) alerting them to matters that should be considered at the time of purchase and use of properties.

The Minister for Commerce notes that the Australian Consumer Law (WA) applies to the provision of all goods and services. In relation to the suppliers of short-term rentals, this includes the application of consumer guarantee provisions meaning that: services are provided with due care and skill, the accommodation is fit-for-purpose and that consumers are not misled or deceived in their transactions with suppliers. The Minister for Commerce will request DMIRS to work with other jurisdictions to propose that a national education campaign on consumer rights under the Australian Consumer Law (WA) in relation to short-term rentals be developed.

The Department of Fire and Emergency Services (DFES) proposes that it is actively consulted and engaged in the development of any education campaigns. These will be communicated to the community and appropriate related education initiatives:

- educating short-term rental owners about what safety standards and signage they need to display in their property; and

- educating travellers about the risks of the local area, what to do in a bushfire or other emergency, and how to stay informed.

## Recommendation 2

That by June 2020 the Minister for Planning update the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* to amend:

- land use definitions to differentiate between hosted and unhosted Short-Term Rentals;
- land use definitions to include the size and capacity of Short-Term Rentals; and
- the definition of bed and breakfast accommodation.

## Response

The Government endorses the intent of the recommendation; however, the timeline is considered insufficient.

It is agreed that the land use definitions in *Planning Bulletin 99 – Holiday Homes Guidelines* and the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* that relate to short-term rentals are dated, and do not accurately reflect how residential properties are currently being used for short-term letting in Western Australia.

The inclusion of land use definitions in the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* encourages the consistent treatment of short-term rentals throughout Western Australia while retaining the ability of local governments to adjust their policy responses to local contexts.

On behalf of the Minister for Planning, the Department of Planning, Lands and Heritage (DPLH) will progress the update of the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* to amend definitions. This review may or may not include those noted by the recommendation and additional definitions as deemed necessary. It is noted that there is a higher compliance burden on traditional bed and breakfasts, and any actions taken to harmonise land use definitions must be cognisant of the implications on traditional bed and breakfast businesses.

The model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* cannot be updated within the timeframe specified in the Report due to the drafting process and additional legislative steps required. A more accurate timeline would be November 2020.

As an interim measure, the proposed land use definitions will be incorporated into the draft WAPC Tourism Position Statement. It is expected that the WAPC will have a draft Tourism Position Statement for public consultation around mid-2020.

The Minister for Planning will also investigate the option of 'deeming' the definition of hosted accommodation and providing for this type of accommodation to be exempt from development approval, into all local planning schemes, in accordance with Section 257B of the *Planning and Development Act 2005*. This would ensure consistent provisions for hosted accommodation across the State.



Consistent with the findings of the Report, the designation of land use permissibility for unhosted accommodation will be determined through each local planning scheme.

## Recommendation 3

That by June 2020 the Minister for Planning direct the Western Australian Planning Commission to update planning guidance so that it aligns with the amended land use definitions in the *Planning and Development (Local Planning Schemes) Regulations 2015* and provides greater guidance to local governments about ways to appropriately regulate Short-Term Rentals.

## Response

The Government endorses the intent of the recommendation.

The WAPC will continue to draft policy (Tourism Position Statement and any other necessary guidance) that will align with any proposed amendments to land use definitions and provide greater guidance to local governments about ways to appropriately regulate short-term rentals. Additionally, the interdepartmental working group's work will be considered in the drafting of the policy position.

Once advertised, the draft Tourism Position Statement would be considered seriously entertained, as such, it would be applicable when considering planning applications. By releasing the policy ahead of amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) it provides an opportunity to test the application of definitions prior to incorporation into the Regulations.

## Recommendation 4

The Minister for Planning direct the relevant government agency to work with stakeholders to develop model by-laws that assist strata companies to better manage Short-Term Rentals in their strata scheme. These model by-laws should include:

- by-laws that, if adopted by a strata company, would prevent owners from letting their lots as Short-Term Rentals; and
- by-laws that, if adopted by a strata company, would enable owners to let their lots as Short-Term Rentals.

## Response

It should be noted that the development of model by-laws for strata is outside the scope of the Planning portfolio as it relates to the Minister for Lands. The Minister for Planning can only direct it's own agency to undertake work.

The Government does not support adopting the recommendation.

Landgate notes that strata companies have broad powers to make by-laws that best suit their individual needs. However, sufficient support will be provided to stakeholders by adopting Recommendation 5.



Providing model by-laws could lead owners and tenants to assume that the by-law is inherently valid. However, in certain circumstances, a model by-law could be found to be invalid by the State Administrative Tribunal.

A strata company does not need a legislative authority to provide for short-term rentals. However, upon proclamation of the amended *Strata Titles Act 1985*, by-laws will be established as secondary to any other legislation. As a result, by-laws will *always* have to conform to the planning legislation first and foremost.

The standard by-laws currently included in the *Strata Titles (General) Regulations 2019* (under development) enable owners to facilitate short-term rentals, unless another law prohibits or restricts them from doing so.

Support in understanding by-laws will be provided to stakeholders through updating Landgate's guidance material (consistent with Recommendation 5); an activity that is already accommodated in the Strata Reform Project plan.

*Recommendation 5*

The Minister for Planning direct Landgate to update their strata titles guidance to include discussion of the powers and processes open to strata companies to manage Short-Term Rentals in strata schemes.

*Response*

It should be noted that the Minister for Planning cannot direct Landgate, as this is the role and responsibility of the Minister for Lands.

The Government supports the recommendation.

This activity is planned to occur as part of Landgate's Strata Titles Act Reform project, due to conclude in 2020/21.

Upon proclamation of the amended *Strata Titles Act 1985*, Landgate will clarify in its guidance material that a short-term rental by-law would be a governance by-law for a scheme where the legislation allows.

If, as a result of the Committee's Report, the WAPC was to amend any planning policies that affect strata by laws, Landgate will update the strata titles guidance accordingly.

In clarifying guidance material, Landgate, as part of the Strata Titles Act Reform project, may update publications relating to the *Strata Titles Act 1985* including 'A Guide to Strata Titles' and the 'Strata Titles Practice Manual' to include discussion on Airbnb and the sharing economy, as well as how by-laws can be used by strata companies to better manage short-term rentals in their strata schemes.

*Recommendation 6*

The Ministers for Commerce, Local Government, Planning and Tourism establish an interdepartmental working group to coordinate whole-of-government policy responses for Short-Stay Accommodation.

*Response*

The Government supports the recommendation. State Government agencies have various responsibilities and interests in short-stay accommodation, including tourism sector development and destination marketing, housing affordability, planning and land use, consumer protection and safety, bushfire safety and supporting local governments to enforce their local laws, planning schemes and policies. Given the complexities of the policy responses required, the establishment of a working group to coordinate these is a logical step.

The Ministers for Commerce, Local Government, Planning and Tourism will nominate staff within their respective portfolios to be members of the interdepartmental working group.

The implementation of a register, its administration, enforcement, determination of any fee structures, collection of information and legal obligations on both booking platforms and individual property owners has potential policy and regulatory implications for the Department of Local Government, Sport and Cultural Industries (DLGSC), DMIRS, and DPLH. The working group will identify the lead government agency to have primary responsibility for the coordination of regulation for short-stay accommodation.

The interdepartmental working group may establish a small number of specific technical working groups to undertake relevant tasks associated with respective recommendations. These groups may consist of broader membership than the working group as relevant to the task (for example, it may be appropriate to seek input from the Western Australian Local Government Association (WALGA) given the impact on local government and the sector's position). Additionally, other government and non-government entities may be invited to assist with the development of certain policies as appropriate.

## Recommendation 7

The interdepartmental working group should:

1. Establish the baseline requirements for a state-wide registration scheme, including:
  - a. the minimum information required for both hosted and unhosted premises;
  - b. the cycle of registration;
  - c. registration costs for the State register (separate from any additional local government fees, charges or costs);
  - d. the most appropriate agency to hold the register; and
  - e. the treatment of Traditional Accommodation providers.
2. Determine the legal mechanisms through which the State Government can introduce and enforce a registration scheme, including consequences for non-compliance.
3. Determine the most appropriate mechanism to collect and manage the registration data.
4. Determine the information disclosure requirements for online platforms and appropriate enforcement mechanisms.
5. Determine information sharing mechanisms between State and local government authorities, including information gathered under existing registration and licensing regimes for Traditional Accommodation.
6. Determine what information, if any, should be made publicly available.
7. Ensure that local governments maintain the ability to require the provision of additional information and impose additional licensing or operational requirements, depending on their particular circumstances.

The interdepartmental working group's activities should incorporate appropriate consultation mechanisms with local government authorities and relevant stakeholders.

## Response

The Government generally supports the recommendation, including introduction of a mandatory registration process.

The dot points identified to establish the baseline requirements for the registration scheme are comprehensive and cover the key issues. The critical part of this process, is how these are to be applied. In implementing a registration scheme, this needs to be flexible and not too onerous, to encourage use by all parties. Any property registration system needs to be simple, low cost and user friendly.

Critical issues in implementing a state-wide registration scheme will be the relationship between local and State Government, what is the legal mechanism for the State, how data is collected and shared between the respective levels of government, and what is the role of online platforms.

The interdepartmental working group will work through the details of how the registration process would operate and be applied. In doing so, the interdepartmental working group will identify the costs to both State and local government, and industry, with the aim to find most cost-effective approach.

As noted in the response to Recommendation 6, other government and non-government entities may be invited to assist with the development of certain policies. In this regard, DFES will assist the interdepartmental working group to consider the development of a Short-Term Rental Accommodation Fire Safety Standard in the Western Australian context as New South Wales has done.

Working smarter and in partnership with local government is a key priority of the McGowan Government, as illustrated in the Services Priority Review and State Local Government Partnership Agreement signed in August 2017. It provides a framework for better alignment with government strategy and a forum to discuss investment, prioritisation and identification of collective opportunities to meet mutual outcomes. In addition, a State Local Government Working Group has been established to support the Partnership Group to drive a long-term agenda and culture of collaboration between State and local government. This mechanism could be considered as part of the development of this project.

### *Recommendation 8*

The relevant Minister should ensure, through appropriate legislative or regulatory mechanisms, that online platforms are required to display a valid registration number for Short-Term Rentals, issued under the registration scheme.

The interdepartmental working group should consider and provide advice to the Minister on the appropriate requirements for Traditional Accommodation.

### *Response*

The Government generally supports the recommendation, including the introduction of a mandatory registration system.

The most appropriate legislative and regulatory mechanisms will be investigated through the interdepartmental working group.

If a register is established and applied as a mandatory requirement as proposed in Recommendation 7, then it is appropriate that a valid registration number is displayed to highlight that due process has been followed, and that properties are legitimate short-term rentals.

In addition to addressing short-term rentals, the interdepartmental working group will also consider and provide advice on what is determined the most appropriate requirements for traditional accommodation providers.

The interdepartmental working group will consider existing registration processes of government and identify any existing systems or programmes, where possible, including online platforms that can be utilised for this purpose.

*Recommendation 9*

The relevant Minister prepare regulations requiring online platforms to provide data on all Short-Term Rental properties listed in Western Australia to the government agency with primary responsibility for the state-wide registration system, on a disclosure cycle to be recommended by the interdepartmental working group.

*Response*

The Government generally supports the recommendation, including the introduction of a mandatory registration system, and a mechanism for data to be collected.

It is unlikely online platforms will voluntarily include registration numbers on their listings in Western Australia. As such, the Government will investigate the potential to introduce legislation to require online booking platforms to list relevant information on their websites, and report data to the Government. It is likely that the Western Australian Government will introduce measures, similar to Tasmania in its *Short Stay Accommodation Act 2019*, to encourage compliance with short-term rental planning permit requirements.

The Government recognises that adequate privacy protections would need to be developed to enable the sharing of de-identified data.

*Recommendation 10*

The relevant Minister introduce a state-wide registration scheme for Short-Term Rentals based on the parameters developed by the interdepartmental working group, coupled with data provision requirements for online platforms. Local government authorities should be responsible for:

- approving additional registration requirements for properties within their boundaries;
- developing additional registration criteria, suited to their particular circumstance;
- enforcing compliance with their local controls;
- managing complaints about Short-Term Rentals; and
- setting and imposing penalties for non-compliance with local requirements.

The process for information collection and disclosure should be developed by the interdepartmental working group, in consultation with local government.

*Response*

The Government supports the recommendation that a state-wide registration scheme be explored and developed. There is a clear need for a whole-of-government view on the appropriate regulatory and legislative framework that will meet the needs of this rapidly changing sector.

The responsibility of local government as outlined will need to be costed and appropriate cost recovery mechanisms put in place. In Western Australia, local governments can impose fees and charges on users of specific, often incidental, services. Examples include

dog registration fees, fees for building approvals and swimming pool entrance fees. In some cases, local governments will recoup the entire cost of providing a service.

Currently, fees and charges are determined according to three methods:

1. By legislation, with an upper limit set by legislation;
2. By the local government; and
3. Fees determined by State Government legislation.

The lack of efficient indexation of fees and charges determined by State Government legislation and regulation is a long-standing issue for local government which makes service planning and delivery challenging. Supposedly cost reflective, they quickly lose relevance to their cost base if they are not periodically reviewed. This revenue leakage is recovered from rate revenue. This means all ratepayers end up subsidising the activities of some ratepayers. The State Local Government Partnership Agreement is exploring this further with the Economic Regulation Authority.

## 8.2 MANAGER FINANCIAL SERVICES:

### 8.2.1 Monthly Financial Statements – November 2020

Disclosure of Interest:	Nil
Date:	7 December 2020
Author:	D Long – Finance Consultant
Attachments:	8.2.1A Monthly Financial Statements – November 2020 (separate attachment)

#### Summary

The Monthly Financial Report for 30 November 2020 is presented for Councils consideration.

#### Background

The Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 require local governments to prepare monthly reports containing the information that is prescribed.

#### Comment

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (a) Statement of Comprehensive Income by Function/Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity;
- (d) Summary of Net Current Asset Position;
- (e) Statement of Explanation of Material Variances;
- (f) Statement of Financial Position;
- (g) Statement of Cash Flows;
- (h) Detailed Operating and Non-Operating Schedules;
- (i) Statement of Cash Back Reserves; and
- (j) Loan Borrowings Statement.

#### **MATERIAL VARIANCE COMMENTARY ON YEAR TO DATE SEPTEMBER 2020**

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income. Attached to this report is a copy of the month by month cumulative budget estimates, set out in the Statement of Financial Activity format.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than 10% and exceeds \$10,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the *Local Government (Financial Management) Regulations 1996*.

The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances. This statement categorises the variance commentary according to reporting Functions/Programs and groups the variances by Operating Revenue, Operating Expenditure, Non-Operating/Capital Revenue, and Capital Expenditure.

The Statement of Financial Activity as at 30 November shows a closing surplus of \$3,428,253.

### Statutory Environment

#### Local Government Act 1995

Section 6.4—Specifies that a local government is to prepare such other financial reports as are prescribed.

#### Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
  - (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

OFFICER'S RECOMMENDATION – 8.2.1
----------------------------------

That Council receive the monthly financial report for the period ending 30 November 2020.



## 8.2.2 List of Payments – November 2020

Disclosure of Interest: Nil  
Date: 14 December 2020  
Author: Graham Stanley, Acting Chief Executive Officer  
Attachments: 8.2.2A List of Payments end 30 November 2020 (CONFIDENTIAL)

### Summary

**The Local Government (Financial Management) Regulations 1996 require the preparation of a List of Payments made from the Council's bank accounts.**

### Background

A list of the payments made in each month is to be prepared and presented to a meeting of Council in the following month.

This list of payments is to be reviewed by Council separately from the monthly financial statements. This will ensure that the requirement of the Financial Regulations for the list of payments made in one month to be presented to the Council meeting in the following month, will be met even if the financial statements are not presented to that meeting.

Councillors have the opportunity to query or inspect invoices before the meeting to satisfy themselves before the item comes before Council.

### Comment

The List of Payments for the month of October is presented in Attachment 8.2.2A.

### Statutory Environment

Local Government (Financial Management) Regulations 1996

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.
- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –
- (a) the payee's name; and
  - (b) the amount of the payment; and
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing –
- (a) for each account which requires council authorisation in that month –
    - (i) the payee's name; and
    - (ii) the amount of the payment; and
    - (iii) sufficient information to identify the transaction; and
  - (b) the date of the meeting of the council to which the list is to be presented.

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

Policy Implications - Nil

OFFICER'S RECOMMENDATION – 8.2.2
----------------------------------

That Council adopts the list of payments for the period ending 30 November 2020 as per Attachment 8.2.2A.

### 8.3 BUILDING SURVEYOR:

Nil at this time.

### 8.4 MANAGER WORKS & SERVICES:

8.4.1      Removal of Trees
-----------------------------

Location:	Hill Street
Applicant:	
File Ref. No:	ROAD005
Disclosure of Interest:	Nil
Date:	10/12/2020
Author:	Jeff Atkins Manager Works & Services
Attachments:	Nil

#### Summary

Over several years a request has been asked of the Shire of Boddington to remove the Liquid Amber Trees on Hill Street Boddington. The footpath is badly damaged and only going to get worse. The trees have the capability of eventually damaging houses in the street as well as the road infrastructure.

Background - Nil

Comment - Nil

Strategic Implications - Nil

Statutory Environment - Nil

Policy Implications - Nil

#### Financial Implications

The trees are Shire of Boddington managed and any damage created by them may be deemed Shire of Boddington responsibility.

#### Economic Implications

Works yet to be priced, will need to also allow for re-installment of better suited trees.

#### Social Implications

New Footpaths would be a positive outcome for the town of Boddington but the loss of established trees may upset some groups.

#### Environmental Considerations

Removing established trees but replacing with a more suitable species.

### Consultation

The proposed removal and replacement of the trees needs to be advertised with a time frame allowed for response.

### Options

Nil

### Voting Requirements – Simple Majority

## OFFICER'S RECOMMENDATION – ITEM 8.4.1

That an arborist be engaged to do a report for the SOB pointing out what the Liquid Amber trees in Hill Street will be like in the future and if they will continue to cause damage. Also to report if they can be successfully removed including stopping the root structure from further growth if the tree was to be removed.

## 8.5 DIRECTOR CORPORATE & COMMUNITY SERVICES:

Nil at this time.

## 8.6 ACTING CHIEF EXECUTIVE OFFICER:

### 8.6.1 Action Sheet

Disclosure of Interest: Nil  
Date: 14 December 2020  
Author: Graham Stanley, Acting CEO

### Purpose of Report

To bring forward Councillors information the Action Report with actions taken on previous Council resolutions.

Meeting Date	Resolution Number	Responsible Officer	Subject	Date Completed	Comments Current Status
19/11/20	127/20	Consultant Town Planner	Local Planning Policy 11 – Landscaping & Revegetation	19/11/20	Complete
19/11/20	128/20	Consultant Town Planner	Development Application – Retrospective Approval Sign lot 49 No 33 Johnstone street	19/11/20	Complete
19/11/20	132/20	Acting CEO	Appointment of Proxy Delegate to South 32 Community Liaison Committee	19/11/20	Complete
19/11/20	133/20	Acting CEO	Amendment of 2020-21 Schedule of Fees & Charges	19/11/20	Complete

19/11/20	134/20	Acting CEO	Appointment of Fire Control Officer	19/11/20	Complete
19/11/20	135/20	Acting CEO	Boddington Pavilion Exclusive Tenancy Proposal	Pending	Pending public submissions
19/11/20	137/20	Acting CEO	Family Support Group Lease	1/12/20	Completed
19/11/20	138/20	Acting CEO	Provision of Cleaning Services	4/12/20	Completed
19/11/20	139/20	Acting CEO	Café Hub Tender	4/12/20	Completed

For information only.

## 8.6.2 Actions Performed Under Delegated Authority for the Month of October 2020

File Ref. No: GOVN000  
Disclosure of Interest: Nil  
Date: xx  
Author: Graham Stanley, Acting Chief Executive Officer  
Attachments: Nil

### Summary

To report back to Council actions performed under delegated authority for the month of November 2020.

### Background

There is no specific requirement to report on actions performed under delegated authority. But to increase transparency this report has been prepared for Council and includes all actions performed under delegated authority for the month of November 2020.

Affixing of Common Seal

One off delegations to the Chief Executive Officer;

Authorisation to call Tenders

Building Permits issued;

Health Approvals issued;

Development Approvals issued

Subdivision Applications

Land Administration

### Comment

The following tables outline the action performed within the organization relative to delegated authority for the month of October 2020 and are submitted to Council for information.

Common Seal	
Date Affixed	Documentation
12/11/20	Lease Shire of Boddington and Pathwest

Agreements	
Date Affixed	Documentation
17/11/20	Shire of Boddington and Boddington Mini Skips

Date	Documentation
13/11/20	Boddington Cricket Club – permission to consume alcohol various dates
16/11/20	Swearing affidavit Peter Haas
25/11/20	Waiver of fees for BCRC oval hire for Empowered Church function on 11/12/30
25/11/20	Letter of support for Shattered World

Authorisation to call Tenders - Nil	
Date	Action

Peter Haas - PEHO			
Building Applications			
Application No.	Applicant	Lot & Street	Type of Building Work
3301	South 32 Worsley Alumina Pty Ltd PO Box 344 Collie	Lot 1286 No 6329 Pinjarra Williams Road Marradong	Demolition of Dwelling
3302	South 32 Worsley Alumina Pty Ltd PO Box 344 Collie	Lot 11 No 407 Morts Road Marradong	Demolition of Dwelling & Shed
3300	South 32 Worsley Alumina Pty Ltd PO Box 344 Collie	Lot 4 No 1156 Lower Hotham Road Lower Hotham	Demolition of dwelling & shed
3299	D Hayward 745 Crossman Road Crossman	Lot 400 No 745 Crossman Road Crossman	Shed

Peter Haas - PEHO			
Building Applications			
3304	M & T Kelly 28 Brandon Way Lynwood	Lot 108 No 49 Littleton Rise Ranford	Rammed earth Dwelling , Storage shed & retaining wall
3303	K Holliday 36 Munday Way Medina	Lot 104 No 78 Hotham Avenue Boddington	Dwelling
3305	D Terblanche 20 Sandalwood Place Boddington	Lot 15 No 20 Sandalwood Place Boddington	Carport
3306	N Amps 44 Dower Street Mandurah	Lot 102 No 46 Mitchell Crescent Ranford	Retaining wall
3307	N & C Williams 47 Hotham Avenue Boddington	Lot 52 No 47 Hotham Avenue Boddington	En-suite
3309	A Horne & K Della-Vedova 45 Agincourt Drive Forrestfield	Lot 4195 No 1160 Lower Hotham Road Lower Hotham	Transportable Dwelling
3310	A Cooper 3 Illyarrie Crescent Boddington	Lot 8 No 3 Illyarrie Crescent Boddington	Patio
3308	Quindanning picnic Race club Harvey- Quindanning Road Quindanning	Res 8178 Harvey-Quindanning Road Quindanning	Second Hand Transportable Toilet block

Peter Haas – PEHO			
Health - Nil			

Steve Thompson - Town Planning Consultant			
Development Approvals			
Application No.	Applicant	Lot & Street	Type of Approval
A1191	Michael & Alana Owers	Lot 104 Mitchell Crescent	Relocation of Building Envelope
A887	Ashley Brett	Lot 7 on Plan 18628 (No. 32) Pardalote Heights, Crossman	Proposed Dwelling

Subdivision Applications Nil			
Application No.	Applicant	Lot & Street	Action

Land Administration - Nil			
Application No.	Applicant	Lot & Street	Action

Strategic Implications – Nil

Statutory Environment

Regulation 19 of the *Local Government (Administration) Regulations 1996* requires delegates to keep a record of each occasion on which they exercise the powers or discharge the duties delegated to them.

Policy Implications - Nil

Financial Implications - Nil

Economic Implications – Nil

Social Implications - Nil

Environmental Considerations – Nil

Consultation - Nil

Voting Requirements – Simple Majority

OFFICER'S RECOMMENDATION – ITEM 8.6.2
---------------------------------------

That Council accept the report outlining the actions performed under delegated authority for the month of November 2020.



### 8.6.3 LOAF Application – Boddington Progress Group

Applicant:	Boddington Progress Group
File Ref. No:	GRSU000
Disclosure of Interest:	Nil
Date:	17/12/2020
Author:	Economic and Community Development Officer, Leanne Bryant
Attachments:	Nil

#### Summary

The Boddington Progress Group is requesting the amount of \$1,500 to assist with production costs in hosting a dinner/show and matinee of the production "Albert Facey" in February 2021.

#### Background

The Boddington Progress Group was set up in 2018 to organise events to provide entertainment and cultural activities for the residents of Boddington.

#### Comment

The Production Albert Facey is being produced by Production Company Big Sky Entertainment, a professional theatre company who has been in the industry for over ten (10) years.

This is an opportunity for residents and students to learn about the life of Albert Facey but also to participate in a cultural experience of a professional theatre troupe in their own town.

#### Strategic Implications

Strategic Community Plan 2019 – 2029

Pillar 1: A vibrant and connected community.

1.12 Support opportunities for volunteering and community connection.

#### Statutory Environment - Nil

#### Policy Implications

Policy 9.8 – Local Organisation Assistance Fund (LOAF) provides funds to projects conducted by local organisations in the proportion of one third council contribution to two-thirds applicant contribution, up to a maximum of \$1,500 contributed by Council.

#### Financial Implications

All funding can be sourced from the LOAF reserve.

The total cost of the project is \$6,300  
Boddington Progress Group are providing \$2,300  
Ticket and dinner sales are estimated at \$2,500

### Economic Implications

The production will bring residents from surrounding shires to the town which will have an economic benefit to local businesses.

The production crew and performers of the production will required accommodation whilst in town which will benefit local businesses.

### Social Implications

Provides social and cultural interaction for the community.

### Environmental Considerations - Nil

### Consultation

### Options

1. Council may approve a donation of up to \$1,500; or
2. Approve a lesser amount; or
3. Council may not approve a donation.

Voting Requirements - Simple Majority

OFFICER'S RECOMMENDATION – ITEM 8.6.3
---------------------------------------

That Council contribute an amount of \$1,500 from LOAF to Boddington Progress Group to host the production of "Albert Facey" in February 2021.

## 8.6.4 LOAF Application – Boddington Community Resource Centre

Applicant:	Boddington Community Resource Centre
File Ref. No:	GRSU000
Disclosure of Interest:	Nil
Date:	17/12/2020
Author:	Economic and Community Development Officer, Leanne Bryant
Attachments:	

### Summary

The Boddington Community Resource Centre (BCRC) is requesting the amount of \$1,500 to assist with the purchase of Internal and External recordable CCTV to be installed at the Boddington Old School.

### Background

The BCRC delivers up to fifty nine (59) workshops and information sessions per year by contract agreement with DPIRD and ten (10) events for the Shire of Boddington.

The membership is growing which is evident through the increased level of interest in workshops and events.

The BCRC's premises (Boddington Old School) are leased from the Shire of Boddington.

### Comment

The BCRC currently has limited external CCTV which is not recordable, but no internal CCTV. The Shire of Boddington has CCTV monitors in the front garden area.

The installation of recordable Internal and External CCTV will benefit the community in the following ways:

- 1) Protection of property;
- 2) Identification of vandals and or intruders;
- 3) Protection and safety of staff and patrons.

Over the last eighteen (18) months the BCRC has had a number of windows broken as well as fencing along the playground has been damaged. CCTV will help to discourage this sort of vandalism as well as capture those who do offend.

### Strategic Implications

Strategic Community Plan 2019 – 2029

Pillar 1: A vibrant and connected community.

1.12 Support opportunities for volunteering and community connection

Statutory Environment - Nil

### Policy Implications

Policy 9.8 – Local Organisation Assistance Fund (LOAF) provides funds to projects conducted by local organisations in the proportion of one third council contribution to two-thirds applicant contribution, up to a maximum of \$1,500 contributed by Council.

### Financial Implications

All funding can be sourced from the LOAF reserve.

The total cost of the project is \$4,500  
BCRC are providing \$3,000.

### Economic Implications

Will act as a deterrent to potential damage of infrastructure.

### Social Implications

Will provide a safer environment while people engage in BCRC activities.

### Environmental Considerations - Nil

### Consultation

Susan Henderson – Coordinator BCRC  
Peter Haas – EHO Shire of Boddington

### Options

1. Council may approve a donation of up to \$1,500; or
2. Approve a lesser amount; or
3. Council may not approve a donation.

Voting Requirements - Simple Majority

OFFICER'S RECOMMENDATION – ITEM 8.6.4
---------------------------------------

That Council contribute an amount of \$1,500 from LOAF to Boddington Community Resource Centre for recordable internal and external CCTV.

### 8.6.5 Sculpture Competition

File Ref. No:	RCSV002
Disclosure of Interest:	Nil
Date:	17 December 2020
Author:	Economic and Community Development Officer, Leanne Bryant
Attachments:	Nil

## Summary

For Council to endorse the 2021 dates and budget for the Boddington Arts month October 2021, which includes the Sculpture Competition and Art Exhibition.

## Background

At the Ordinary meeting of Council held on the 20 February 2020 the following resolution was endorsed.

COUNCIL RESOLUTION 17/20 Moved Cr Hoffman

That Council resolve to:

1. Hold an acquisitive sculpture competition in conjunction with the Boddington Lions Rodeo 2020;
2. Provide prize funds of \$23,800 in the 2020/21 budget;
3. Authorise the CEO to vary the conditions of entry as outlined in the report should it be necessary.
4. Authorise the CEO to form a judging panel as outlined in the report.

Seconded	Cr Erasmus	Carried	6/0
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Comment

Discussion has been held with Boddington Art Council in regards to re-introducing the Boddington Art Exhibition in conjunction with the 2021 Boddington Sculpture competition. The Arts Council are supportive of the idea but raised concern of lack of volunteers to support coordinating such an exhibition and may require physical assistance in the installation of display boards etc.

Suggested dates for 2021 Sculpture Competition:

Applications open	1 March 2021
Applications close	31 March 2021
Finalist notified	12 April 2021
Installation of sculptures	17 September to 27 September 2021
Exhibition opening on	01 October 2021
Exhibition closes	30 September 2022

Art Exhibition to open 24th October 2021 until 7<sup>th</sup> November 2021.

Both the Sculpture and Art exhibition will still be on over the Rodeo weekend.

**Venue :** Works to be exhibited from corner of Bannister Road down Wuraming Avenue (including road side of town hall), leading to Johnstone Street (vacant land next to Boddington Arts Centre)

**Prize table 2021:**

Category	1 <sup>st</sup> Prize (acquisitive)	2 <sup>nd</sup> Prize (acquisitive)
Open Theme	\$12,000	\$6,000
Local Sculptor	\$5,000	\$2,500
Junior Sculptor (>18)	\$1,000	\$500
Junior Sculptor (<18)	\$500	\$250
People's Choice	\$8,000	
<b>Total</b>	<b>\$23,500</b>	<b>\$9,250</b>

Junior Sculptor over 18 have been divided into two categories, over 18 and under 18 to encourage Agricultural students and students from Boddington District High to submit works. The People's Choice has been included into the Acquisition category how the Shire of Boddington can acquire the work.

Total prize money of \$35,750.

Strategic Implications

Pillar 1: A vibrant and connected community.

An inclusive and engaged community.

1.13 Celebrate public art as a unique point of community pride.

Pillar 2: A thriving and diverse economy.

Increase tourism as an economic driver.

2.6 Support event-based tourism initiatives.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

The event and associated costs to be endorsed as part of the 2021/2022 budget.

Economic Implications

The 2019 exhibition brought many tourists to the town with the local business benefiting from their patronage. As the exhibition is planned separate to Rodeo weekend it is envisaged that this flow on economic benefit will be over both the months of October and November.

### Social Implications

The importance to our community of having a vibrant town has been raised strongly in discussions and surveys.

### Environmental Considerations

Nil

### Consultation

Acting CEO Graham Stanley  
EHO Peter Haas  
Boddington Art Council  
All Councillors – information session

### Options

Council can resolve

1. To accept the Officer's Recommendation; or
2. Not accept the Officer's Recommendations; or
3. To alter the Officer's Recommendations.

### Voting Requirements – Simple Majority

OFFICER'S RECOMMENDATION – 8.6.5
----------------------------------

That Council

1. Including in the 2021/2022 budget prize money of \$35,750 for the 2021 Sculpture competition to be held in October 2021.
2. Endorse the Sculpture competition to be held bi-annually. (2021, 2023)

## 8.6.6 2021 Council Meeting Schedule

File Ref. No:  
Disclosure of Interest: Nil  
Date: 12 December 2020  
Author: Graham Stanley, Acting CEO

### Summary

Council is to consider Ordinary Meeting dates, locations and starting time for the 2021 year.

### Background

Council is required by the Local Government Act 1995 and Local Government (Administration) Regulations 1996 to publish on the Council website, before the beginning of the year in which they are to be held, the list of Ordinary Council meetings scheduled along with details of the time and date when and the location of where the meetings will be held. The same is required for all committee meetings where the committee has delegated powers and are required to be open to the public. Council has not delegated powers to any of its committees therefore only the list of Council meetings is required to be published.

### Comment

This current meeting schedule has Council's Ordinary meetings held on a regular monthly interval. It has generally been the practice that Council holds its meetings on the third week of each month, to fit with public holidays. The day on which the meeting would be held can be altered, but the draft schedule continues with Thursday as the Ordinary Meeting day for Council.

The proposed meeting schedule is included below.

Thursday 18 February 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 18 March 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 15 April 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 20 May 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 17 June 2021	Ordinary Meeting	5:00 PM	Council Chambers
* Thursday 22 July 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 19 August 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 16 September 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 21 October 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 18 November 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 16 December 2021	Ordinary Meeting	5:00 PM	Council Chambers



\* 22<sup>nd</sup> July 2021 is the 4<sup>th</sup> Thursday. As there are 5 Thursdays in July 2021 it was considered 22<sup>nd</sup> July to be a more convenient time given end of financial year workloads.

Separate to the monthly meeting schedule, it is anticipated that Councillors will still meet on occasions to review or workshop individual matters.

### Statutory Environment

Local Government (*Administration*) Regulations 1996

#### 12. Publication of meeting details (Act s. 5.25(1)(g))

- (1) In this regulation –  
*meeting details*, for a meeting, means the date and time when, and the place where, the meeting is to be held.
- (2) The CEO must publish on the local government's official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held –
  - (a) ordinary council meetings;
  - (b) committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public.
- (3) Any change to the meeting details for a meeting referred to in subregulation (2) must be published on the local government's official website as soon as practicable after the change is made.
- (4) If a local government decides that a special meeting of the council is to be open to members of the public, the CEO must publish the meeting details for the meeting and the purpose of the meeting on the local government's official website as soon as practicable after the decision is made.

Consultation – Nil

Policy Implications – Nil

Financial Implications - Local advertising can be carried out at "nil" cost to Council

Economic Implications - Nil

Social Implications - Nil

Environmental Considerations - Nil

Strategic Implications - Nil

### Options

Council can adopt:

1. the Officer's Recommendation; or
2. the Officer's Recommendation with minor amendments to times or venues; or
3. a different schedule of meetings, giving reasons for not accepting the Officer's Recommendation.

Voting Requirement - Simple Majority

OFFICER'S RECOMMENDATION – ITEM 8.6.6
---------------------------------------

That Council adopt the following Schedule of Council Meetings for 2021 and publicises it on the Council website, Facebook page, noticeboards and in the Boddington News:

Thursday 18 February 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 18 March 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 15 April 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 20 May 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 17 June 2021	Ordinary Meeting	5:00 PM	Council Chambers
* Thursday 22 July 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 19 August 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 16 September 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 21 October 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 18 November 2021	Ordinary Meeting	5:00 PM	Council Chambers
Thursday 16 December 2021	Ordinary Meeting	5:00 PM	Council Chambers

\* 22<sup>nd</sup> July 2021 is the 4<sup>th</sup> Thursday. As there are 5 Thursdays in July 2021 it was considered 22<sup>nd</sup> July to be a more convenient time given end of financial year workloads.

## 8.6.7 Local Roads and Community Infrastructure Program

File Ref. No: GRSU015  
Disclosure of Interest: Nil  
Date: 12 December 2020  
Author: Graham Stanley – Acting Chief Executive Officer  
Attachment: Nil

### Summary

**Council is to endorse expenditure of the full grant of \$170,596 from Round 1 of the Local Roads and Community Infrastructure Program on sealing 1.1 km of Days Road.**

### Background

Council has been granted \$170,596 by the Federal Government through the Local Roads and Community Infrastructure Program. The program is a response from the Federal Government to provide stimulus to the economy and provide employment in response to the Covid-19 pandemic. Programs such as these provided to Local Governments around the country are a good way to ensure that the money is spread around the country and benefits are widespread. They also result in many important projects coming to fruition that provide long term benefits to the nation.

Projects in Round 1 must be completed by 30 June 2021 as the Government wants to ensure that the stimulus is fast acting. The funding can be spent on roads but can also be spent on community infrastructure such as:

- Closed Circuit TV (CCTV);
- bicycle and walking paths;
- painting or improvements to community facilities;
- repairing and replacing fencing;
- improved accessibility of community facilities and areas;
- landscaping improvements, such as tree planting and beautification of roundabouts;
- picnic shelters or barbeque facilities at community parks;
- playgrounds and skate parks (including all ability playgrounds);
- noise and vibration mitigation measures; and
- off-road car parks (such as those at sporting grounds or parks).

### Comment

This matter was discussed at a Councillor Information Session recently. The sealing of the approaches to the river crossing on Days Road was seen as an important project with high priority. Given the need to expend the funds prior to June 30 2020 it was agreed that there should only be one project undertaken in Round one so all of the funds should be utilised in sealing as far as the money will allow. The Manager of Works has costed the project and worked out that we should be able to seal 1.1km which will take the seal up the hill and around the bend.

### Strategic Implications

The sealing of that the section of road will have a number of benefits including improved road safety, lower maintenance costs, improvement to a school bus route and improved amenity to nearby landowners due to a reduction in dust.

Statutory Environment  
*Local Government Act 1995*

Section 2.7(2) – Provides that Council is to oversee the allocation of local government finances and resources and to determine the local government policies; and

Section 3.1 – (1) The general function of a local government is to provide for the good government of persons in its district.

(2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.

(3) A liberal approach is to be taken to the construction of the scope of the general function of a local government.

Policy Implications - Nil.

Financial Implications

The works will be fully funded by the grant. There will be an increase to our budgeted income of \$170,596 and an increase to our capital expenditure of \$170,596. It will see our infrastructure assets – roads increase in value by \$170,596.

Economic Implications – Nil

Social Implications Nil

Environmental Considerations – Nil

Consultation

Discussed by Council at the Information Session on 3 December 2020. Over the past few years the Council has received a number of public submissions calling for the sealing of Days road. Whilst this project does not cover the full extent of the area that people have been seeking to have sealed it does include the section of greatest need and benefit from sealing.

Options

Council can resolve to:

1. adopt the recommendations;
2. adopt the recommendations with further amendments; or
3. not accept the recommendation, giving reasons.

Voting Requirements

Absolute Majority Recommendation 1, Simple majority all other recommendations

That Council resolves:

To endorse the expenditure of the full \$170,596 being received through the Local Roads and Community Infrastructure Program Round 1 to seal 1.1 km of Days road covering the section from the end of the current seal on Days road to the concrete river crossing and then from the end of the crossing.

9. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:

Nil at this time.

10. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

10.1.1 Boddington Pavilion - Exclusive Tenancy Proposal
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File Ref. No:	CPRO049
Disclosure of Interest:	Nil
Date:	17 December 2020
Author:	Graham Stanley – Acting Chief Executive Officer
Attachment:	10.1.1A – Copy of 2020 Draft Lease Agreement with Natalie Griffiths

Summary

Council is to consider endorsing a lease with Natalie Griffiths Trading as Nat G PT for the premises, specifically the Pavilion, Function Area, Kitchen and Storage Shed, on Part of Reserve No 14977, Club Drive Boddington, and seeking approval from the Minister for Lands for such lease.

Background

At the November 2020 Ordinary Meeting, Council agreed to the following:

**COUNCIL RESOLUTION:** 135/20

**Moved:** Cr Schreiber

*That Council*

- 1. Agrees in Principle to lease the Boddington pavilion/function room, kitchen, and storage shed with ability to store equipment and install gym machines and equipment on an exclusive basis, to Natalie Griffiths trading as Nat G PT, subject to the consideration of public submissions following statutory advertising requirements and approval being granted by the Minister for Lands.*

2. *That the proposal be advertised in sufficient time to allow the consideration of public submissions at the December 2020 Ordinary Meeting of Council.*

**Seconded:**

**Cr Erasmus**

**Carried: 7/0**

#### Comment

Public submissions closed on Monday 14 December 2020 and no submissions were received by the closing time or subsequently. This being the case it would be logical to endorse the lease.

#### Strategic Implications

The Shire of Boddington Strategic Community Plan 2019-2029 states:

*"Pillar 1: A vibrant and connected community – Facilities & services that support lifelong wellbeing.*

*1.6 Support and diversify recreational activities for people of all ages and abilities."*

The fitness services and proposed installation of gym equipment fit very well with this goal. The service caters for people of all ages and the installation of gym equipment will give users of the service access to something that is currently not available in Boddington but is much sought after.

#### Statutory Environment

Section 3.54 of the *Local Government Act 1995* gives Council the power to lease a Reserve with the approval of the Minister for Planning therefore approval will need to be sought for a lease to be entered into.

Section 3.58 of the *Local Government Act 1995* covers the disposal of property and the leasing of property is deemed to be a disposal.

S3.58(3) allows a local government to dispose of property without going to public auction or calling tenders if before agreeing to dispose of the property:

- (a) it gives local public notice of the proposed disposition –
  - (i) describing the property concerned; and
  - (ii) giving details of the proposed disposition; and
  - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (a) **it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.**

S3.58(4) requires the following details to be included in the public notice:

- (a) the names of all other parties concerned; and
- (b) the consideration to be received by the local government for the disposition; and
- (c) the market value of the disposition –
  - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or

- (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition

Policy Implications – Nil

Financial Implications

A market valuation dated 24 September 2020 has been obtained from Mandurah based national property valuers and consultants, Acumentis. The valuation given was \$6,500 per annum inclusive of GST and Natalie's offer is for rent of \$6,600 per annum inclusive of GST.

Economic Implications - Nil

Social Implications

Natalie's business is providing an important service to the community. The installation of gym equipment and the ability for the community to have access to it will be well received by the community.

Environmental Considerations – Nil

Consultation

Discussed with the proponent and by Council at an information session in September 2020. The details of the proposed lease were advertised in accordance with the requirements Section 3.58 of the Local Government Act 1995. The advertising period closed on 14 December 2020 and no submissions were received.

Options

**Council can resolve to:**

1. adopt the recommendation/s;
2. adopt the recommendation/s with further amendments; or
3. not accept the recommendation/s, giving reasons.

Voting Requirements – Simple Majority

OFFICER'S RECOMMENDATION – ITEM 10.1.1
--

That Council

1. That Council instructs staff to seek the approval of the Planning Minister for the lease of the premises, specifically the Pavilion, Function Area, Kitchen and Storage Shed on Part of Reserve No 14977, Club Drive Boddington to Natalie Griffiths Trading as Nat G PT;
2. That Council endorses the lease with the Natalie Griffiths Trading as Nat G PT for Part of Reserve No 14977, Club Drive Boddington for period of one (1) year commencing on the 1 January 2021 and ending on the 31 December 2021, with five (5) further options of one (1) year each.
3. That Council endorses using the Shire of Boddington's common seal on the lease with the Natalie Griffiths Trading as Nat G PT for Part of Reserve No 14977, Club Drive Boddington



LEASE

SHIRE OF BODDINGTON

("Lessor")

AND

NATALIE GRIFFITHS

Trading as NAT G PT

("Lessee")

## ATTACHMENT 10.1.1 A

THIS AGREEMENT is dated this Fourth (4<sup>th</sup>) day of January 2021.

**PARTIES:** The **SHIRE OF BODDINGTON** of 39 Bannister Road, Boddington WA 6390 in the State of Western Australia ("Shire")

and

**NATALIE GRIFFITHS** Trading as Nat G PT of 84 Hotham Avenue , Boddington WA 6390 in the State of Western Australia "Lessee")

### IT IS AGREED

#### **1 USE OF PREMISES AND COMMON AREAS**

- 1.1 The Shire permits the Lessee use of the Premises (**Part of Reserve 14977, Club Drive Boddington, Boddington**) for **Personal Training, Health and Fitness Service, Group Fitness Centre**. Specifically the Pavilion, Function Area, Kitchen and Storage Shed and the Shire's Plant and Equipment on the terms and conditions set out in this Agreement.

#### **2 CONTRIBUTION**

- 2.1 In consideration for being given the permission to use the Premises, the Common Areas and the Shire's Plant and Equipment, the Lessee shall pay to the Shire the Lease amount in accordance with Annexure 1 of this Agreement.

#### **3 SCOPE OF AGREEMENT**

- 3.1 Nothing contained in this Agreement shall be construed as granting to the Lessee any interest in the Land comprising the Premises, the Common Areas or the Shire's Plant and Equipment, other than a permission to use the Premises, the Common Areas and the Shire's Plant and Equipment under the terms and conditions set out in this Lease.
- 3.2 This Lease does not confer exclusive possession of the Premises. The Shire's personnel may enter the Premises at any time for any reasonable purpose.

#### **4 TERM**

- 4.1 The term of this Agreement shall be one (1) year commencing on the fourth (4<sup>th</sup>) January 2021, subject to:
- (a) the provisions for earlier termination contained in this Agreement; and
  - (b) the option for renewal or extension of the Term (if any) specified in this Agreement.

#### **5 TERMINATION**

## ATTACHMENT 10.1.1 A

5.1 Subject to the other terms and conditions of this Lease:

- (a) the Shire may terminate this Lease by giving the Lessee one (1) months' notice in writing; and
- (b) the Lessee may terminate this Lease by giving the Shire one (1) months' notice in writing.

### **6 USE OF PREMISES AND COMMON AREAS**

- 6.1 The Lessee shall use the Premises only for the purpose of providing a personal training, health and fitness service and not for any other purpose.
- 6.2 The Lessee shall not allow any person other than its employees, local residents, community members, subcontractors or its subcontractors' employees to use the Premises without prior approval by the Shire. The Contributor shall ensure that all its employees, local residents, community members, subcontractors and subcontractors' employees comply with the terms of this Agreement at all times while using the Premises.
- 6.3 The Lessee shall not do, or allow to be done, any act or thing that may cause or permit the Common Areas to be used for any purposes other than that for which they were intended or to become damaged or otherwise deteriorate.
- 6.4 While using the Premises and the Common Areas, the Lessee shall not cause obstruction, disruption or annoyance to the Shire, users or occupiers of the other premises in the Building, other users of the Common Areas and any other persons legitimately present in the Building or the Premises.

### **7 SIGNAGE**

- 7.1 All signage both internal and external must be approved by the Shire of Boddington at design level. Signage must not be installed without the permission of the Shire of Boddington.

### **8 REPAIR, MAINTENANCE AND CLEANING OF THE PREMISES AND THE COMMON AREAS**

- 8.1 The Lessee shall:
  - (a) repair, to the satisfaction of the Shire, any damage to the Premises, the Building (including the Common Areas) or the Shire's Plant and Equipment which has been caused by an act or omission of the Lessee or its employee, licensee, contractor or invitee;
  - (b) keep the Premises in a sanitary condition and clear of rubbish or debris and keep the Shire's Plant and Equipment in clean and good condition;

## ATTACHMENT 10.1.1 A

- (c) not use the Common Areas for placing rubbish or debris of any kind, except in areas specifically provided for that purpose; and
- (d) comply in all respects with the provisions of any Act (State or Federal), including, without limitation, the Food Act 2008 and the Health (Miscellaneous Provisions) Act 1911 in force affecting the Premises or the occupier or owner of the Premises and with all regulations, requisitions, orders and notices made or given under or pursuant to any such Act,

but shall not otherwise be required to repair, maintain or clean the Common Areas.

8.2 Subject to clause 7.1 above, the Shire shall be responsible for and bear the cost of:

- (a) all repairs and maintenance of the Building and the Common Areas; and
- (b) cleaning of such parts of the Common Areas as are not required to be cleaned by the occupiers of the other premises in the Building.

### **9 OUTGOINGS**

9.1 The Lessee shall not be liable for or bear the cost of the Shire's outgoing in respect of the Land and the Building, except for the cost referred to in Annexure 1 of this Agreement.

### **10 GST**

10.1 Unless otherwise provided in this Lease, any amount of moneys payable under this Lease do not include GST and GST must be paid in addition to the amount stated. Any amount which is payable on account of GST as a consequence of any supply made under this Lease is to be paid to the party making the supply at the same time as payment is made for the relevant supply, subject to the provision of a tax invoice.

10.2 The Lessee shall pay the Shire any GST payable by the Shire for any supply made by the Shire and the Lessee hereby indemnifies the Shire in relation to the payment of GST.

### **11 INSURANCE**

11.1 The Shire shall insure the Building, for its full reinstatement value, against damage by usual insurable risks. The Shire shall also insure the Shire's Plant and Equipment for their full replacement value.

11.2 Any property owned by the Lessee and brought into the Premises, including but not limited to the Lessee's Plant and Equipment, will not be covered under the Shire's insurance and the Lessee shall provide and maintain its own insurance coverage for such property.

## ATTACHMENT 10.1.1 A

- 11.3 The Lessee shall not do or permit to be done any act or thing, which makes void existing insurance policies of the Shire in respect of the Building or the Shire's Plant and Equipment.
- 11.4 The Lessee shall effect and during the term of this Agreement maintain in the form appropriate to the Lessee's activities and acceptable to the Shire:
- (a) Public Liability Insurance for not less than ten million dollars (\$10 million) in respect of a single occurrence and for an unlimited number of claims;

### **12 RISK**

- 12.1 The Lessee shall use the Premises and the Common Areas at the Lessee's own risk and the Lessee hereby releases to the full extent permitted by law the Shire and its agents, contractors and employees from all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever resulting from any accident, damage or injury arising out of or in any way connected with the Lessee's use of the Premises, the Common Areas, the Shire's Plant and Equipment and the Lessee's Plant and Equipment, except to the extent that the accident, damage or injury is due to the act, default or omission of the Shire or its agents, contractors (other than the Lessee) and employees.

### **13 INDEMNITY**

- 13.1 The Lessee shall defend, hold harmless and indemnify and keep indemnified the Shire and the Minister for Lands against all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Shire or the Minister for Lands may suffer or incur arising out of or in any way connected with the Lessee's use of the Premises, the Common Areas, the Shire's Plant and Equipment and the Lessee's Plant and Equipment.

### **14 NO ASSIGNMENT**

- 14.1 The Lessee shall not assign this Agreement or any rights relating to this Agreement.

### **15 NOTICES**

- 15.1 A notice or other communication required or permitted to be given by one party to another must be in writing and:
- (a) delivered personally;
  - (b) sent by pre-paid mail to the address of the addressee specified in this Agreement;

## ATTACHMENT 10.1.1 A

- (c) sent by email to the email address of the addressee with a request for a "read notification" by the recipient.
- 15.2 A notice or other communication is taken to have been given (unless otherwise proved):
  - (a) if delivered personally, at the time of delivery;
  - (b) if mailed, on the second Business Day after posting; or
  - (c) if emailed, at the time of the recipient acknowledging receipt by sending a "read notification" to the sender.
- 15.3 A party may change its address for service by giving notice of that change in writing to the other parties.

### **16 GOVERNING LAW AND JURISDICTION**

- 16.1 This Agreement is governed by the laws of Western Australia.
- 16.2 Each party irrevocably submits to the exclusive jurisdiction of the courts of Western Australia.

### **17 COUNTERPARTS**

- 17.1 This Lease may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of this Lease will be the date on which it is executed by the last party.

### **18 WHOLE AGREEMENT**

- 18.1 In relation to the subject matter of this Lease, this Lease is the whole agreement between the Parties and this Lease supersedes all oral and written communications by or on behalf of any of the Parties.

### **18 19 NO RELIANCE ON WARRANTIES AND REPRESENTATIONS**

- 19.1 In entering into this Lease, the Lessee warrants that it has not relied on any oral warranty or representation (whether oral or written) in relation to the subject matter of this Lease made by any Person; and has relied entirely on its own enquiries in relation to the subject matter of this Lease.

### **20 SEVERANCE**

- 20.1 If any part of this Agreement is invalid or unenforceable, this Agreement does not include it. The remainder of this Agreement continues in full force.

**21 21 SPECIAL CONDITIONS**

21.1 Those terms appearing under the heading 'Special Conditions' in Annexure 1 shall form part of this Lease and in the event of any inconsistency between such terms and any other term of the Lease then the term in Annexure 1 shall prevail to the extent of any inconsistency.

**22 DEFINITIONS**

22.1 In this Lease, unless otherwise indicated by the context:

- (a) *Building* means the building erected on the Land delineated and marked Yellow on the Site Plan in Annexure 2 in which the Premises are situated including any modifications, extensions or alterations made after the Commencement Date and also includes plant, equipment, fixtures and fittings on the Land, car parks and Common Areas.
- (b) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Western Australia.
- (c) *Common Areas* means those parts of the Land and the Building that are set aside or designated for the use of the occupiers of the Building or their visitors, clients, employees and agents in common with each other and the Shire and include the areas delineated and marked Green on the Site Plan in Annexure 3.
- (d) *Contribution* means the amount payable by the Lessee as specified in clause 2 of this Agreement.
- (e) *Expiry Date* means the date specified in Annexure 1.
- (f) *Goods and Services Tax and GST* has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (g) *Land* means the land specified in Annexure 1.
- (h) *Premises* means that part of the Building known as Boddington Pavilion incorporating function room, kitchen and storage shed and is hatched in Red on the Floor Plan in Annexure 3.
- (i) *Shire's Plant and Equipment* means the plant and equipment listed in Annexure 4.
- (j) *Term* means the term of this Lease referred to in clause 4 and any extension or renewal thereof.
- (k) *The Lessee's Plant and Equipment* means the plant and equipment listed in Annexure 5.

**23 PERFORMANCE OF FUNCTIONS BY THE MINISTER**

- (a) All acts and things which the Minister is required or empowered to do under this Lease must be done by the Minister or the Minister's delegate appointed under section 9 of the LAA;

1.

- (b) Where pursuant to this Lease payments and rights accrue to the Minister or obligations are imposed on the Minister the same are for the benefit and burden respectively of the Lessor unless the context otherwise requires.

2.

**24 APPROVAL BY THE LESSOR OR MINISTER**

3. In any case where under this Lease the doing or executing of any act, matter or thing by the Lessee is dependent on the approval or consent of the Lessor or the Minister such approval or consent will not be effective unless it is given in writing and may be given or withheld by the Lessor or the Minister in the Lessor's reasonable discretion or the Minister's absolute discretion and may be given subject to such conditions as the Lessor or the Minister may reasonably determine unless otherwise provided in this Lease.

4.

**25 CONSENT OF WESTERN AUSTRALIAN PLANNING COMMISSION**

5. If for any reason this Lease required by law the consent of the Western Australian Planning Commission then this Lease is made expressly subject to and is conditional upon the granting of the consent of the Western Australian Planning Commission.

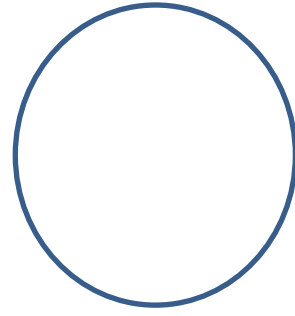


ATTACHMENT 10.1.1 A

EXECUTED AS AN AGREEMENT

Signed on behalf of the Shire of Boddington:

Dated this                      day of                      2020                      )  
The Common Seal of the                      )  
Shire of Boddington                      )  
was hereunto affixed in the                      )  
presence of:                      )



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Shire President  
Garry Ventris

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Acting CEO  
Graham Stanley

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Natalie Griffiths  
NAT G PT ABN: 65 276 143 788

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Date

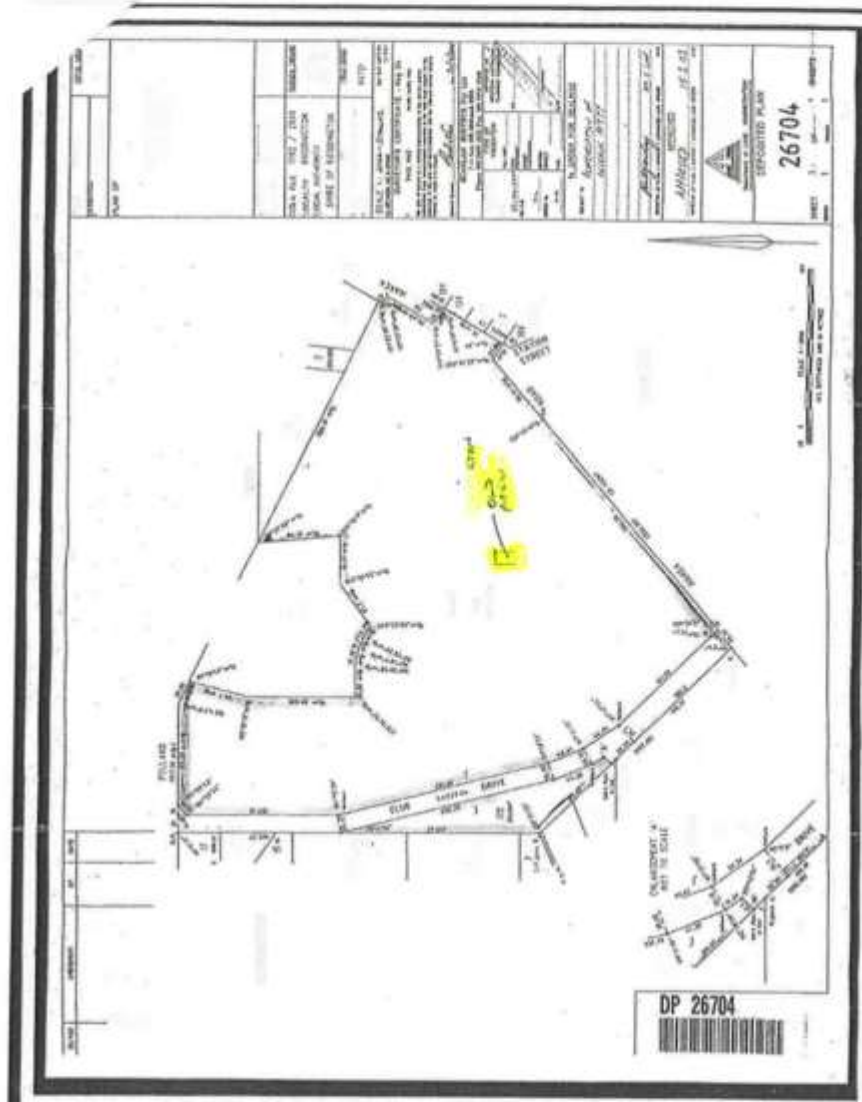
## ATTACHMENT 10.1.1 A

### ANNEXURE 1

Land:	Part of Reserve 14977, Club Drive Boddington, Boddington.
Commencement Date:	1 <sup>st</sup> January 2021
Term:	Twelve (12) months (one year)
Expiry Date:	31 <sup>st</sup> December 2021
Contribution:	A contribution of \$6,600 plus GST for 12 months' exclusive use, paid in quarterly instalments.
Permitted Use:	Personal Training, Health and Fitness Service, Group Fitness Centre.
Special Conditions:	<p>The Lessee will be responsible to clean the interior of the Pavilion during their ongoing usage;</p> <p>Permission is granted to lay removable rubber gym flooring over the top of the existing carpet and to install security system/cameras to premises at the Lessee expense.</p> <p>Shire of Boddington to pressure clean the outside/common brick areas bi-annually at a minimum.</p>
Option to Renew:	<p>Yes</p> <p>Five (5) one (1) year options.</p> <p>1<sup>st</sup> January 2022 to 31<sup>st</sup> December 2022</p> <p>1<sup>st</sup> January 2023 to 31<sup>st</sup> December 2023</p> <p>1<sup>st</sup> January 2024 to 31<sup>st</sup> December 2024</p> <p>1<sup>st</sup> January 2025 to 31<sup>st</sup> December 2025</p> <p>1<sup>st</sup> January 2026 to 31<sup>st</sup> December 2026</p>

# ATTACHMENT 10.1.1 A

## ANNEXURE 2 (Site Plan)



HI Ingoton Pavi I

Storage Shed

Function Hall

Bar Area

Store

Kitchen

Change Rooms

Toilets

Unimpire Room

Trainers Room

COD TO MBO

Legend: Grey circle, Blue circle, Green circle, Yellow circle, Red circle, White circle

## ATTACHMENT 10.1.1 A

### ANNEXURE 4

(Shire's Plant and Equipment)

1. Commercial Refrigerator (Musgroves) in Pavilion function area.
2. Timber & Glass Trophy Cabinet
3. 2 x 1.8m trestle tables
4. 1 x partition/screen
5. 1 x Fischer & Paykel domestic upright freezer in kitchen area
6. 1 x Rinnai Pie Warmer
7. 1 x unbranded domestic upright refrigerator
8. 1 x 5 burner Emilia Gas Range
9. 4 x fixed stainless steel benches (1 with sink and hand basin)
10. 1 x stainless steel topped preparation bench/storage unit
11. 1 x 2 door steel lock-up cabinet
12. 3 x large commercial pedestal fans (yet to be purchased)

## ATTACHMENT 10.1.1 A

### ANNEXURE 5

(Contributor's Plant and Equipment)

To be provided by Contributor

1. Nil

11. CONFIDENTIAL ITEM:

12. CLOSURE OF MEETING: