



SHIRE OF  
**MERREDIN**  
INNOVATING THE WHEATBELT

# MINUTES

## Special Council Meeting

Held in Council Chambers  
Corner King & Barrack Street's, Merredin  
Tuesday, 5 October 2021  
Commencing 6:30pm



<b>Common Acronyms Used in this Document</b>	
CBP	Corporate Business Plan
CEACA	Central East Accommodation & Care Alliance Inc
CSP	Community Strategic Plan
CWVC	Central Wheatbelt Visitors Centre
DCEO	Deputy Chief Executive Officer
EA	Executive Assistant to CEO
EMCS	Executive Manager of Corporate Services
EMDS	Executive Manager of Development Services
EMES	Executive Manager of Engineering Services
GECZ	Great Eastern Country Zone
LGIS	Local Government Insurance Services
LPS	Local Planning Scheme
MCO	Media and Communications Officer
MoU	Memorandum of Understanding
MRCLC	Merredin Regional Community and Leisure Centre
SRP	Strategic Resource Plan
T/CEO	Temporary Chief Executive Officer
WALGA	Western Australian Local Government Association
WEROC	Wheatbelt East Regional Organisation of Councils



## Shire of Merredin Special Council Meeting

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## Shire of Merredin Special Council Meeting Tuesday 5 October 2021



### 1. Official Opening

The President acknowledged the Traditional Owners of the land on which we meet today and paid her respects to the Elders past, present and emerging. The President then welcomed those in attendance and declared the meeting open at 6:30pm.

### 2. Record of Attendance / Apologies and Leave of Absence

#### Councillors:

Cr JR Flockart	President
Cr RA Billing	
Cr LN Boehme	
Cr AR Butler	
Cr PR Patroni	
Cr MJ McKenzie	

#### Staff:

M Dacombe	T/CEO
G Garside	EMCS
L Mellor	EMES
P Zenni	EMDS
A Brice	EA

#### Members of the Public:

2

#### Apologies:

Cr MD Willis - Deputy President  
Cr PM Van Der Merwe  
A Prnich – DCEO

#### Approved Leave of Absence:

Cr RM Manning

### 3. Public Question Time

Nil

### 4. Disclosure of Interest

Cr Boehme declared an Impartiality Interest in Item 15.1.  
Cr Billing declared an Impartiality Interest in Item 15.1.

### 5. Applications of Leave of Absence

Nil

**6. Petitions and Presentations**

Nil

**7. Confirmation of Minutes of Previous Meetings**

Nil

**8. Announcements by the Person Presiding without Discussion**

Nil

**9. Matters for Which the Meeting may be Closed to the Public**

Nil

**10. Receipt of Minutes of Committee Meetings**

Nil

**11. Recommendations from Committee Meetings for Council Consideration**

Nil

## 12. Officers' Reports - Development Services

### 12.1 Development Application - Lot 900 Mackenzie Crescent Provision of Fire Service Water Storage Tanks and Associated Reduced Setback

<h2 style="margin: 0;">Development Services</h2> 	
<b>Responsible Officer:</b>	Peter Zenni, EMDS
<b>Author:</b>	Peter Zenni, EMDS
<b>Legislation:</b>	Shire of Merredin Local Planning Scheme No 6.
<b>File Reference:</b>	A3447
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Attachment 12.1A – Application for Development Approval

#### Purpose of Report

Executive Decision

Legislative Requirement

#### Background

On 24th of March 2021, Mr Josh Herbert lodged an application with the Shire of Merredin for development (planning) approval for “Truck Parking” on Lot 900 Mackenzie Crescent, Merredin.

Lot 900 Mackenzie Crescent, Merredin is zoned “Light Industrial” under the Shire of Merredin Local Planning Scheme No. 6 (LPS).

The Shires Executive Manager of Development Services (EMDS) issued development (planning) approval on behalf of the Shire of Merredin Council (under delegated authority – No 2101357) on 30th of March 2021 for the construction of a “Transport Depot” shed on Lot 900, Mackenzie Crescent, Merredin.

The Planning and Development (Local Planning Schemes) Regulations 2015, define a Transport Depot as follows;

**“Transport Depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including-**

- a) any ancillary maintenance or refuelling of those vehicles; and**
- b) any ancillary storage of goods brought to the premises by those vehicles; and**
- c) the transfer of goods or persons from one vehicle to another.”**

A Transport Depot is a “P” use under the LPS, thus allowing the EMDS to grant development approval under delegation from Council.

The Development approval highlighted the following;

- ***“The granting of planning approval does not constitute a building permit and that an application for a building permit must be submitted to the Shire of Merredin and be approved before any work can commence on site;***
- ***The application for a building permit must be a certified (BA 1) application and incorporate comments from the Commissioner of the Department of Fire and Emergency Services (DFES) with respect to fire safety requirements.”***

As part of the building application referral process as mandated by regulation 15A(1) of the Building Regulations 2012, the certifying Building Surveyor obtained comments from the DFES Commissioner regarding the applicable fire safety requirements for the building.

In order to address these, the applicant is required to provide onsite water storage for firefighting purposes. This will require the provision of two 2.9m high (8.7m diameter) water storage tanks, each containing 144KL of water and being located at the front of the lot thus enabling access by the fire brigade in case of a fire incident.

The water storage tanks themselves are considered as development and as such will require development approval by the Shire of Merredin. Subsequently, Mr Josh Herbert has lodged an application for development approval with the Shire of Merredin for the placement of the water storage tanks on Lot 900 Mackenzie Crescent, Merredin. As the proposed location of the tanks does not comply with the minimum setback requirements specified by the LPS for a light industrial zoned area the matter is being placed before Council for its consideration.

	Comment
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### **Strategic**

The proposed development is necessary for the construction of the Transport Depot and is consistent with the strategic direction of Council and the ongoing development of the locality.

The development has highlighted issues associated with the provision of adequate number and location of fire hydrants and water pressure supply considerations that are a potential limitation on large scale industrial development, necessitating the provision of onsite water storage facilities or booster pumps aimed at attaining the required pressure levels as mandated by BCA requirements and DFES Commissioner recommendations.

### **Statutory**

The proposed development does not comply with the minimum front setback requirements mandated by the LPS (Table two – Development Table) which requires a minimum front boundary setback of 7.5 meters to any development.

The setback requirement is designed to minimise visual impact of development on the amenity of the surrounding area, notwithstanding that this is in a light industrial zoned area.

The applicant in support of the application states as follows;

“After discussions with DFES, they stated two conditions in regards to the tanks and these are outlined below:

- The tanks are to be a certain distance from the furthest point of the building
- In the event of a fire, the Fire Brigade are not allowed to drive past the building to access the tanks

Due to these requirements, we are limited to where we can place the tanks. We have explored various scenarios, however the only feasible location for the tanks is to put them towards the eastern end of the front of the block, adjacent to the neighbouring southern fence.”

The Shire of Merredin Council does have the ability to vary the setback requirement in accordance with Clause 4.5 of the LPS – ***Variation to Site and Development Standards and Requirements, which states as follows;***

#### ***4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS***

***4.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.***

***4.5.2 In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —***

- a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the deemed provisions; and  
AMD 5 GG 04/07/17***
- b) have regard to any expressed views prior to making its determination to grant the variation.***

***4.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that –***

- a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the deemed provisions; and  
AMD 5 GG 04/07/17***
- b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.***

In this case the Residential Design Codes (R Codes) do not apply. In addition the proposed location of the water storage tanks rather than fronting Mackenzie Crescent actually adjoins the side boundary of lot 1324 Mackenzie Crescent, Merredin, immediately to the South of Lot 900 Mackenzie Crescent.

The proposed location of the water storage tanks must be considered with respect to potential impact on the occupiers and users of the adjacent lot. The Shires EMDS has previously discussed development of the Transport Depot shed with representatives of Telstra (the owners of Lot 1324 Mackenzie Crescent) who were concerned about the height of the shed structure. The height of which will be less



than the 10m (the height criteria which if exceeded would have caused interference with the Telstra telecommunications infrastructure). In this case the height of the water storage tanks will not exceed 2.9m.

It should be noted that in addition to planning requirements the relevant provisions of the National Construction Code (BCA) apply in this case as the water storage tanks are themselves considered buildings and as such must comply with minimum setback requirements relating to fire safety. As the tanks contain water, they are not considered a combustible fire feature, thus allowing for a nil setback under the BCA.

Given the need for the provision of the water storage tanks for fire safety requirements, the fact that the water tanks are not a combustible fire feature and are located adjacent to the side boundary of an adjacent lot rather than directly fronting Mackenzie Crescent, it is believed that the Shire of Merredin should utilise its discretion and approve the placement of the two water storage tanks at the proposed location incorporating a reduced front setback down to 1 meter from the front boundary of Lot 900 Mackenzie Crescent.

Furthermore, to reduce the visual impact to the surrounding amenity it is suggested that the two water storage tanks be provided with a Colourbond screen finished in a neutral colour to the satisfaction of the Shire of Merredin.

### Policy Implications

Nil

### Statutory Implications

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

### Strategic Implications

#### ➤ Strategic Community Plan

Theme:	5. Places and Spaces
Service Area Objective:	5.4. Town Planning and Building Control 5.4.2. The Shire has a current local planning scheme and associated strategy which is flexible and able to suitably guide future residential and industrial growth
Priorities and Strategies for Change:	N/A

#### ➤ Corporate Business Plan

Key Action:	4.1.1 Continue to upgrade the Integrated Planning Framework, meet statutory requirements of the Local Government Act and regulations and regulatory obligations required under other regulations
Directorate:	Development Services
Timeline:	Ongoing

### Sustainability Implications

➤ Strategic Resource Plan

N/A

➤ Workforce Plan

Directorate: N/A

Activity:

Current Staff:

Focus Area:

Strategy Code:

Strategy:

Implications:

**Risk Implications**

Nil

**Financial Implications**

The relevant development application fees have been paid.

**Voting Requirements**



Simple Majority



Absolute Majority

**Resolution**

**Moved:** Cr Boehme

**Seconded:** Cr McKenzie

**82797** That Council;

1. **Grants Development (Planning) Approval for the placement of two firefighting service 144 KL water storage tanks on Lot 900 Mackenzie Crescent, Merredin, as outlined in attachment 12.1A and incorporating a reduced front setback down to one (1) metre from the front boundary;**
2. **Advises the applicant that this approval does not constitute a building permit and that an application for a building permit for the placement of the proposed water storage tanks must be submitted to the Shire of Merredin and be approved before any building work can commence on site, and;**
3. **Advises the applicant that he is required to provide a 3m high Colourbond screen shielding the water storage tanks from view along Mackenzie Crescent and ensure that the Colourbond screen is finished in a neutral colour to the satisfaction of the Shire of Merredin.**

**CARRIED 6/o**

### **13. Officers' Reports - Engineering Services**

Nil

## 14. Officers' Reports – Corporate and Community Services

### 14.1 Statement of Financial Activity (August 2021)

<h1>Corporate Services</h1> 	
<b>Responsible Officer:</b>	Geoff Garside, EMCS
<b>Author:</b>	Geoff Garside, EMCS
<b>Legislation:</b>	<i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i>
<b>File Reference:</b>	Nil
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Attachment 14.2A – Statement of Financial Activity Attachment 14.2B – Detailed Statements Attachment 14.2C – Investment Statement Attachment 14.2D – Capital Works Progress Attachment 14.2E – Variances by Sub Program

#### Purpose of Report

Executive Decision

Legislative Requirement

#### Background

The Statement of Financial Activity and Investment Register are attached for Council's information.

#### Comment

Regulation 34 of the Local Government (Financial Management) Regulations requires the Shire to prepare a monthly statement of financial activity for consideration by Council within 2 months after the end of the month of the report.

Please note: the figures in the August 2021 financial reports as presented in the attachments are provisional. There are still year-end transactions and adjustments that need to be completed before the financial statements for the year ended 30 June 2021 can be finalised for audit. These adjustments may have an impact on the reported figures for the 2021-22 year. In addition, some functions like depreciation are unable to be run before the prior-year is finalised. The attachments for this report will be distributed separately on 03 October 2021.

## Policy Implications

Nil

## Statutory Implications

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

## Strategic Implications

### ➤ Strategic Community Plan

Theme: N/A

Service Area Objective:

Priorities and Strategies  
for Change:

### ➤ Corporate Business Plan

Key Action: Deliver long term financial planning for asset  
replacement and new capital projects

Directorate: 2

Timeline: Continue to provide prudent financial controls and  
compliance systems

## Sustainability Implications

### ➤ Strategic Resource Plan

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

### ➤ Workforce Plan

Directorate: N/A

Activity:

Current Staff:

Focus Area:

Strategy Code:

Strategy:

Implications:

## Risk Implications

The Financial Activity report is presented monthly and provides a retrospective picture of the activities at the Shire. Contained within the report is information pertaining to the financial cost and delivery of strategic initiatives and key projects.

To mitigate the risk of budget over-runs or non-delivery of projects, the Chief Executive Officer has implemented internal control measures such as regular Council and management reporting and a quarterly process to monitor financial

performance against budget estimates. Materiality reporting thresholds have been established at half the adopted Council levels, which equate to \$10,000 for operating budget line items and \$10,000 for capital items, to alert management prior to there being irreversible impacts.

It should also be noted that there is an inherent level of risk of misrepresentation of the financials through either human error or potential fraud. The establishment of control measures through a series of efficient systems, policies and procedures, which fall under the responsibility of the CEO as laid out in the Local Government (Financial Management Regulations) 1996 regulation 5, seek to mitigate the possibility of this occurring. These controls are set in place to provide daily, weekly, and monthly checks to ensure that the integrity of the data provided is reasonably assured.

### Financial Implications

The adoption on the Monthly Financial Report is retrospective. Accordingly, the financial implications associated with adopting the Monthly Financial Report are nil.

### Voting Requirements

Simple Majority

Absolute Majority

### Resolution

**Moved:** Cr Patroni

**Seconded:** Cr Billing

**82798** That in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, the Statement of Financial Activity and the Investment Report for the period ending 31 August 2021 be received.

**CARRIED 6/o**

## 14.2 CEACA Rates Exemption Application, Rates Waiver and Write-Off

<h1>Corporate Services</h1>		
<b>Responsible Officer:</b>	Geoff Garside, EMCS	
<b>Author:</b>	Geoff Garside, EMCS	
<b>Legislation:</b>	<i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i> <i>Rates and Charges (Rebates and Deferments) Act 1992</i>	
<b>File Reference:</b>	Nil	
<b>Disclosure of Interest:</b>	Nil	
<b>Attachments:</b>	Nil	

### Purpose of Report



Executive Decision



Legislative Requirement

### Background

#### Property details:

Assessment: A9900

Address: 21 Fifth Street, Merredin

Lot: 500 (165/DP229842)

Description: 27 Independent Living Units on a single parcel of land.

Owner: Central East Accommodation & Care Alliance Inc (CEACA)

Central East Accommodation & Care Alliance Inc (CEACA) was formed in 2012 by 11 wheatbelt Shires, to investigate resources and services for the aged in the wheatbelt. Support from the founding Shires and Royalties for Regions grants have enabled CEACA to construct 71 two-bedroom units across the region. 27 of these units have been constructed in Merredin on a parcel of land that CEACA acquired from the State Government.

CEACA acquired land from the old North Merredin Primary School site during the 2018-19 financial year. At this point the vacant property became rateable and was subject to a pro-rata minimum rate. Minimum rate was also levied for the 2019-20 financial year (during construction of the 27 units).

When the units were completed and ready for occupation, they became rateable at their full GRV, and Interim Rates were levied with effect from 1 January 2020. CEACA

was granted charitable status on 29 January 2020 and then applied for rates exemption for the Merredin property. Under section 6.6(2)(g) of the *Local Government Act 1995*, land is exempt from rates (i.e.: is not rateable land) if the “land is used exclusively for charitable purposes”.

The charitable purpose defined in the CEACA constitution, section 1.3 (Object and Purposes of the Association), sub-section (d) reads: “providing and managing affordable housing, accommodation and services for the aged or individuals with disabilities in the region”.

Shire staff became aware that 3 of the units in Merredin were lease to people who were not over 65 and did not have disabilities. This meant that the property was not being used exclusively for the charitable purpose and did not qualify for an exemption under the Act. When CEACA was approached about the non-conforming tenants, the Shire was informed that they were leased to defray the costs of carrying vacant units.

The following is a summary of the rates and service charges are currently owing to the Shire:

<i>Year</i>	<i>Description</i>	<i>Rates</i>	<i>Waste Collection</i>	<i>Total</i>
2018-19	Interim Minimum (Vacant)	\$289.12	\$0.00	\$289.12
2019-20	Minimum Rates (Vacant)	\$890.00	\$0.00	\$890.00
2019-20	Interim Rates Levied (01/01/20)	\$17,344.19	\$0.00	\$17,344.19
	CEACA becomes charity (29/01/20)			
2020-21	Rates Levied	\$37,519.15	\$4,382.70	\$41,901.85
2021-22	Rates Levied	\$38,205.87	\$4,382.70	\$42,588.57
	Interest on unpaid amounts			\$188.29
	<b>Total</b>	<b>\$94,248.33</b>	<b>\$8,765.40</b>	<b>\$103,202.02</b>

Any rates exemption excludes service charges, so waste collection fees would still be payable if the land was exempt from rates.

### Comment

The properties in the other 10 shires are exempt from rates.

The Shire of Merredin has received legal advice which confirms that the Merredin property is not currently eligible for a rates exemption. However, the Shire did not intend to raise rates from the CEACA property. CEACA has informed the Shire that the lease of the last of the non-conforming tenants will be terminating in November 2021. Therefore, when this lease is terminated, the property will qualify for an exemption from rates.

It is therefore recommended that the rate levied to-date are waived and the outstanding rates debt of \$94,248.33 is written-off.

### Policy Implications

Nil

### Statutory Implications



## Local Government Act 1995

### 6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (c) write off any amount of money,  
which is owed to the local government.

*\*Absolute majority required.*

### 6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.
- (2) The following land is not rateable land —
- (g) land used exclusively for charitable purposes;

### 6.47. Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive\* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

*\*Absolute majority required.*

Strategic Implications	
➤ Strategic Community Plan	
Theme:	Nil
Service Area Objective:	Nil
Priorities and Strategies for Change:	Nil
➤ Corporate Business Plan	
Key Action:	Nil
Directorate:	2
Timeline:	Continue to provide prudent financial controls and compliance systems

Sustainability Implications	
➤ Strategic Resource Plan	
Nil	
➤ Workforce Plan	
Directorate:	Nil
Activity:	Nil
Current Staff:	Nil
Focus Area:	Nil

Strategy Code: Nil  
Strategy: Nil  
Implications: Nil

#### Risk Implications

Nil

#### Financial Implications

The Shire's budget assumptions did not include raising rates from the CEACA property.

#### Voting Requirements

Simple Majority  Absolute Majority

#### Resolution

**Moved:** Cr McKenzie **Seconded:** Cr Patroni

**82799** **That Council;**

1. Waives rates levied on Assessment A9900 and the outstanding rates balance of \$94,248.33 be written-off;
2. Reduces interest accrued on the outstanding rates balances (now waived) by \$171.95; and
3. Notes that waste collection service charges of \$8,765.40 and interest on outstanding charges of \$15.99 remain owing on Assessment A9900.

**CARRIED 6/o**

### 14.3 Write-Off of Rates and Service Charges

<h2>Corporate Services</h2> 	
<b>Responsible Officer:</b>	Geoff Garside, EMCS
<b>Author:</b>	Geoff Garside, EMCS
<b>Legislation:</b>	<i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i> <i>Rates and Charges (Rebates and Deferments) Act 1992</i>
<b>File Reference:</b>	Nil
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Nil

#### Purpose of Report

- Executive Decision
  Legislative Requirement

#### Background

##### Property details:

Assessment: A6511  
 Address: Lot 155 Main Street, Nangeenan WA 6414  
 Parcel: 1968/460 on DP190934  
 Description: Nangeenan Hall.

At the Ordinary Council Meeting of September 2020, Council resolved (#82605) to sell the above property and recover from the proceeds of the sale the balance of the outstanding rates.

On 24 June 2021 the Shire took nine properties to auction for the recovery of outstanding rates. Two properties, including A6511, were sold in accordance with section 6.68 of the Local Government Act 1995. At the date of the sale \$19,335.16 in rates and service charges was owing to the Shire on the property. The Water Corporation was also owed \$4,160.00 in water rates, which the Shire is obliged to pay from the proceeds. After crediting the sale price and allowing for sale costs and the amount owing to Water Corporation, the amount of rates and charges outstanding on this property is \$9,089.32.

##### Property details:

Assessment: A682

Address: 43 Coronation Street, Merredin  
Parcel: Lot 11 1500/819 on Part Lot 52986  
Description: Noongar Hall

This property is held in the name of the MDN Aboriginal Project Inc. There have been previous attempts to recover the outstanding debt. At one stage there was an arrangement put in place but that did not endure. This is not unusual in these situations and we understand that there are other similar situations elsewhere in the Wheatbelt.

In his time with the Shire the T/CEO has worked with representatives of the Aboriginal community on the tourism opportunities at Hunts Dam, toilet development at Njaki Njaki reserve, registration of the Noongar Hall and a range of other small activities. It is the T/CEO's view that the rates are unlikely to be paid in the current circumstances. Interest and other collection costs will continue to increase unless some action is taken. There is no prospect that the Council could sell the hall. The T/CEO also considers that the unresolved debt is an impediment to the future use and development of the hall and could hold back the potential funding and development of Hunt's Dam and other economic development activities. It is also an impediment to the Shire's relationship with some of the key people in the Aboriginal community.

It is recommended that the Council write off the outstanding rates and interest/legal charges of \$12,799.35 and \$5,080.45 respectively and that the T/CEO negotiate an approach to future rates and charges with the Merredin Aboriginal Project Inc.

#### Comment

The Shire is unable to recover any further funds outstanding on Assessment A6511 and it is recommended that all rates and services charges owing (currently \$9,089.32) be written-off.

The Shire is unlikely to recover the funds in arrears on Assessment A682 and it is recommended that rates and service charges in arrears and legal fees and interest (totalling \$17,879.80) be written-off.

#### Policy Implications

Nil

#### Statutory Implications

*Local Government Act 1995*

#### **6.12. Power to defer, grant discounts, waive or write off debts**

- (1) Subject to subsection (2) and any other written law, a local government may —
  - (c) write off any amount of money,  
which is owed to the local government.

*\*Absolute majority required.*

#### **6.64. Actions to be taken**

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
  - (a) from time to time lease the land; or
  - (b) sell the land; or
  - (c) cause the land to be transferred to the Crown; or
  - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

#### **6.68. Exercise of power to sell land**

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the power of sale) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
  - (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or
  - (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.
- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

#### **Strategic Implications**

➤ Strategic Community Plan

Theme: N/A

Service Area Objective:

Priorities and Strategies  
for Change:

➤ Corporate Business Plan

Key Action: N/A

Directorate:

Timeline:

### Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: N/A

Activity:

Current Staff:

Focus Area:

Strategy Code:

Strategy:

Implications:

### Risk Implications

If these amounts are not written-off they will continue to accrue interest and changes which is not able to be recovered.

### Financial Implications

The amounts to be written-off total \$26,969.12. This is within the \$50,000 budgeted for the 2021-22 financial year.

### Voting Requirements

Simple Majority

Absolute Majority

### Resolution

**Moved:** Cr Butler

**Seconded:** Cr Boehme

**82800** That Council;

1. **Write-Off the balance of all rate and service charges owing on Assessment A6511 as at 30 June 2021 (excluding those levied in 2021-22); and**
2. **Write-Off the balance of all rate and service charges owing on Assessment A682 as at 30 June 2021 (excluding those levied in 2021-22).**

**CARRIED 6/o**

## 15. Officer’s Reports - Administration

### 15.1 Merredin Regional Community and Leisure Centre

*Cr Boehme and Cr Billing declared an Impartiality Interest in this Item 15.1.*

<h2 style="margin: 0;">Administration</h2> 	
<b>Responsible Officer:</b>	Mark Dacombe, T/CEO
<b>Author:</b>	Mark Dacombe, T/CEO
<b>Legislation:</b>	<i>Local Government Act 1995</i>
<b>File Reference:</b>	Nil
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Attachment 15.1A – MRCLC Management Plan Final 2021-2022 Attachment 15.1B – Draft MOU Sports Council Attachment 15.1B – MoU Summary for Shire of Merredin Attachment 15.1C – MoU Summary for Merredin Sports Council Attachment 15.1D – MoU Summary for Sports Clubs and Associations Attachment 15.1E – MOU Sporting Associations Attachment 15.1G – Appendix 2 - List of Individual Sports Requests

#### Purpose of Report

Executive Decision

Legislative Requirement

#### Background

The Merredin Regional Community and Leisure Centre (MRCLC) is a Council facility managed under contract by Belgravia Leisure (Belgravia). In contracting the management of the MRCLC to Belgravia the Council has the expectation that the parties will operate an effective and accountable management arrangement and that Belgravia will manage the MRCLC and provide the services of the highest standards.

Under the Contract the Council pays an agreed annual fee to Belgravia. User charges are also imposed for the use of the centre by groups and individuals. There is a group of named sports clubs identified in this report as the “Sports User Group” and this

comprises; Burracoppin Football Club, Burracoppin Hockey Club, Civic Bowling Club, Merredin and Districts Little Athletics Association, Merredin Basketball Association, Merredin District Junior Football Association, Merredin Districts Lawn Tennis Club, Merredin Golf Club, Merredin Hockey Club, Merredin Junior Cricket Club, Merredin Netball Association, Nukarni Cricket Club, Nukarni Football Club. Merredin Fire and Rescue Service is also included in this group for the purpose of setting fees.

The Merredin Sports Council Inc is not party to the contract or referred to in it, but its objects include to provide a central point of communication between the sporting groups and the Shire, and to promote cooperation between all users of the MRCLC.

The Sports User Group pays annual fees that were originally set based on fees charged by the Shire prior to the management of the MRCLC being contracted to Belgravia. These fees are paid by the clubs in the Sports User Group to Belgravia as part of the overall financial framework for the contract. The fees were adjusted downwards in 2020/21 at the request of the Sports Council and fixed for the balance of the term of the contract. The Shire has had to meet the fees shortfall created by the fee adjustment.

In adjusting the fees, it was agreed that the parties would document in the form of Memoranda of Understanding the nature of the relationships between the parties and the detail of the undertakings between the Sports Council, each Club member of the User Group and the Shire of Merredin.

#### Comment

### Key Points

The following documents are addressed in this item:

#### Management Plan

The 2021/22 MRCLC Management Plan has been prepared in the standard format submitted annually. This year the plan includes a new section setting out KPIs. These have been discussed between Shire representatives and Belgravia and amended to add “online reviews”, and also to add a column identifying the source of the data for each of the indicators. This is important to reinforce the validity and credibility of the KPIs. The Management Plan is ready to be accepted by the Council.

#### Memoranda of Understanding

Consultants, 150Square, were engaged to work with the parties to develop MOUs to document the agreed expectations and commitments between the parties. MOUs have been drafted as between the Shire and the Sports Council, and between the Shire and the Clubs and Associations. These are summarised below and the details are contained in the attachments to this item.

These have been reviewed by the T/CEO and by Belgravia. They should be adopted (as amended if required) in principle for final discussion, agreement and execution with each of the Clubs. The next steps will also include a facilitated meeting between the Shire and the Sports Council to operationalise the agreements.

#### MOU with Merredin Sports Council

#### Objectives:



1. Increase knowledge, information, and resource sharing between the parties;
2. Achieve mutually desired outcomes, including maximising use and patronage of the MRCLC;
3. Foster s supportive, respectful, and trusting working relationship between both parties; and
4. Enable joint planning for the future development of the MRCLC and sport and recreation in the Shire of Merredin.

**Terms:**

1. The MOU will be reviewed every two years;
2. Either party can terminate the MOU by giving the other 30 days' notice; and
3. The MOU is not a legally binding document.

**Responsibilities:**

The Shire of Merredin will:

1. Recognise the Sports Council as the peak advocacy body for Sport and Recreation user groups at the MRCLC;
2. Familiarise themselves with the Merredin Sports Council Asset and Renewal Plan; and
3. Consult with the Sports Council on user fees and asset maintenance, development and renewal.

The Sports Council will:

1. Conduct their activities in accordance with the Merredin Sports Council constitution; and
2. Respond to requests for information from the Shire of Merredin.

**MOU or MOUs with Sports Clubs and Associations**

**Objectives:**

1. Clarify responsibilities for the use and maintenance of the facilities;
2. Provide fair and equitable arrangements for the use of the sports facilities, at the MRCLC;
3. Maximize the use of facilities and services at the MRCLC;
4. Help to build participation, membership and engagement in sport, recreation, leisure and community life at the MRCLC; and
5. Consistency across sports with two clubs.

**Terms:**

1. Upon signing and payment of agreed fees, sports clubs/associations are entitled to use the MRCLC facilities;
2. The MoU will be reviewed every two years in line with the other MoUs;
3. Either party can terminate the MoU by giving the other 30 days' notice and it can be extended by agreement;

4. *The MOU is to be read in conjunction with the Terms of Use Guidelines and Special Terms of Agreement* (These detailed documents are included as attachments); and
5. The MoU is not a legally binding document.

### **Responsibilities:**

#### **The Shire of Merredin will:**

1. Manage the MRCLC (currently through a third-party contract) and ensure a high level of service for all users; and
2. Maintain and renew infrastructure and equipment as required.

#### **The Sports Clubs will:**

1. Abide by the Terms of Use Guidelines and take care in the use of the MRCLC facilities;
2. Promote patronage of the MRCLC;
3. Abide by Shire and MRCLC policies; and
4. Maintain membership with the Merredin Sports Council.

### **Terms in Common**

#### **Communication**

- The Shire of Merredin nominates the MRCLC Manager as its principal contact person;
- The Chair of the Sports Councils and President of each Sporting Club will be the Principal Contacts; and
- No Party shall enter into formal communication on any matter contained within the MoU with any person other than the Principal Contact Person.

#### **Joint Undertakings**

- Work together to nurture a sense of place for sport, recreation and community user groups at the MRCLC;
- Enable and promote the maximum use of the MRCLC by sport, recreation and community user groups;
- Communicate openly in all matters in a timely manner and as often as the need arises; and
- Not withhold information that is relevant to the efficient management of the MRCLC or operation of the MoU.

#### **Dispute Resolution**

The Parties agree to adhere to the terms of the MoU to the best of their ability. Should a dispute arise, the following process will be adhered to:

**Step 1:** Written or in-person communication between the MRCLC Manager and the Sports Council/Sporting Club President.

**Step 2:** Shire of Merredin Deputy CEO to act as a mediator if the dispute cannot be resolved through Step 1.

**Final Arbiter:** The Shire of Merredin will act as the final arbiter in any dispute.

### Policy Implications

The Council has in place specific policies related to the MRCLC. Alongside finalising the MOUs these policies are being reviewed to ensure consistency.

### Statutory Implications

There are no statutory provisions that impact on the proposed MOUs. These are not legally binding. The overarching objective is to document agreed expectations and provide a framework for positive relationships between the parties.

### Strategic Implications

#### ➤ Strategic Community Plan

Theme:	1. Community and Culture
Service Area Objective:	1.2. Community Sports & Infrastructure 1.2.1. Sporting clubs are thriving in membership and volunteers, with an appropriate standard of facilities and other support services
Priorities and Strategies for Change:	Development of Merredin Regional and Community Leisure Centre as the main hub for sports and recreation in Merredin

#### ➤ Corporate Business Plan

Key Action:	Provide facilities for and services for sport and recreation
Directorate:	DCEO
Timeline:	Ongoing

### Sustainability Implications

#### ➤ Strategic Resource Plan

N/A

#### ➤ Workforce Plan

Directorate:	N/A
Activity:	
Current Staff:	
Focus Area:	
Strategy Code:	
Strategy:	
Implications:	

### Risk Implications

The approach being taken is to manage the risk of relationship stress and breakdown caused by the lack of clarity of the expectations, agreements and other undertakings

pertaining to the management of the MRCLC. If successful the approach outlined in this report will place the future management of the MRCLC on a firm footing.

### Financial Implications

It is expected that there will not be significant additional cost associated with implementation of the MOU framework. Any cost changes associated with the MOU agreements will be expected to be accommodated within the existing financial arrangements.

### Voting Requirements

Simple Majority

Absolute Majority

### Resolution

**Moved:** Cr McKenzie

**Seconded:** Cr Billing

**82801**

**That Council;**

- 1. Accepts the 2021/2022 MRCLC Management Plan as attached to this item;**
- 2. Approves the proposed MOU between the Shire of Merredin and the Merredin Sports Council;**
- 3. Approves in principle the proposed MOU between the Shire of Merredin and the Sports Clubs and Associations;**
- 4. Approves in principle the detailed Terms of Use Guidelines and Special Terms of Agreement; and**
- 5. Authorises the Temporary Chief Executive Officer to finalise the agreements between the Shire and the Sports Clubs and Associations in consultation with the Merredin Sports Council Inc.**

**CARRIED 6/o**

**16. Motions of which Previous Notice has been given**

Nil

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

Nil

**18. Urgent Business Approved by the Person Presiding of by Decision**

Nil

**19. Matters Behind Closed Doors**

Nil

**20. Closure**

There being no further business, the President thanked those in attendance and declared the meeting closed at 6:48pm.

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