

**Shire of Moora
Ordinary Council Meeting
19th June 2019**

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Moora
will be held on **Wednesday 19th June 2019**
in the Council Chambers, 34 Padbury Street, Moora
commencing at **5.30 pm**



AJ Leeson
Chief Executive Officer

14th June 2019

The Shire of Moora Vision and Mission Statement

Vision

Our vision is:

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

Mission

Our mission is:

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

SHIRE OF MOORA**WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL**

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

Dear Sir/Madam,

Re: Written Declaration of Interest in Matter Before Council

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

Agenda Item ⁽³⁾ _____

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

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

The nature of my interest is ⁽⁵⁾

The extent of my interest is ⁽⁶⁾

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

Yours faithfully,

 Signed

 Date

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

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SHIRE OF MOORA
ORDINARY COUNCIL MEETING AGENDA
19 JUNE 2019
 COMMENCING AT 5.30PM

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- * Separate Attachments
 - 9.1.1 *List of Payments Authorised Under Delegation 1.31*
 - 9.1.2 *Statement of Financial Activity for Period Ended 31 May 2019*
 - 9.1.3 *Delegation Register*
 - 9.1.4 *Draft License*
 - 9.2.1 *Attachment 1*
 - 9.2.2 *Attachment 1 & 2*

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

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

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

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**APOLOGIES**

KM Seymour	-	President
AJ Leeson	-	Chief Executive Officer
JL Greay	-	Manager Engineering Services

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**4. PUBLIC QUESTION TIME****5. PETITIONS AND PRESENTATIONS****6. APPLICATIONS FOR LEAVE OF ABSENCE****7. ANNOUNCEMENTS BY THE PRESIDING MEMBER****8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 15 MAY 2019**

That the Minutes of the Ordinary Meeting of Council held on 15 May 2019 be confirmed as a true and correct record of the meeting.

9. REPORTS OF OFFICERS

9.1 GOVERNANCE AND CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 6 June 2019

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, Finance Creditors Officer

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

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

BACKGROUND

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

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

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

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ **Environment**

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

➤ **Economic**

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

➤ **Social**

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

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

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

<i>Municipal Fund</i>	<i>Cheques 62395 to 62403</i>	<i>\$8,295.16</i>
	<i>EFT 21368 to 21554</i>	<i>\$873,024.28</i>
	<i>Credit Card 03/04/19 to 02/05/19</i>	<i>\$6,483.23</i>
	<i>Net Pays – PPE 30/04/19</i>	<i>\$91,875.72</i>
	<i>Net Pays – PPE 14/05/19</i>	<i>\$107,631.06</i>
	<i>Net Pays – PPE 28/05/19</i>	<i>\$102,731.77</i>
	<i>Direct Debits 12655.1 to 12690.13</i>	<i>\$73,240.74</i>
<i>Trust Fund</i>	<i>Cheques 5457 to 5475</i>	<i>\$2,721.54</i>
<i>Total</i>		<i><u>\$1,266,003.50</u></i>

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 MAY 2019

REPORT DATE: 12 June 2019

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 May 2019

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 May 2019.

BACKGROUND:

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

COMMENT:

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

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

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

SUSTAINABILITY IMPLICATIONS:

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

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2018/19 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and receives the Statement of Financial Activity for the period ended 31 May 2019.

9.1.3 DELEGATIONS REGISTER REVIEW

FILE REFERENCE: PL/DELI

REPORT DATE: 11 June 2019

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Delegations Register

PURPOSE OF REPORT:

To allow Elected Members the opportunity to review as required by the Local Government Act 1995 Section 5.46(2) the various delegations made to the Chief Executive Officer.

BACKGROUND:

The Shire of Moora has delegated certain powers and duties to the Chief Executive Officer.

The Local Government Act 1995 Section 5.46 requires that a register of delegations be kept and that those delegations made must be reviewed at least once every financial year by the delegator (Council).

COMMENT:

The Register of Delegations is reviewed once annually. In effect, it covers a wide range of operational functions and activities administered by Shire Management. (Please reference separate document/file for the actual "Register of Delegations").

Sections requiring amendment are;

Section 3 Hire Fees & Charges

Function to be performed:

- Addition of Moora Health & Fitness Centre
- Rectifying the correct name of the Miling & Watheroo Pavilions
- Removal of reference to the Be Active Scheme which no longer exists

Section 10 Enforcements and Legal Proceedings

Conditions: Compliance with:
Addition of the Food Act 2008

Section 12 Proceedings Under Dog Act 1976

On delegated to:

Update reference to 10AA of the Dog Act 1976, remove reference to Local Government Act.

Section 20 Approval of Planning Applications

Delegated to: Addition of Chief Executive Officer

On delegated to: Update to N/A

Reference: Update Town Planning to Local Planning Scheme

Addition of new Sections:

Administration:	26.	Proceedings Under Cat Act 2011
Health:	27.	Food Act 2008
Engineering:	28.	Restricted Access Vehicle Network Applications

26 PROCEEDINGS UNDER CAT ACT 2011

Function to be performed: In accordance with Section 44 of the Cat Act 2011, the Chief Executive Officer is delegated authority to institute and carry on proceedings in the name of the Shire of Moora in respect to offences alleged to have been committed within the district of the Shire of Moora against the Cat Act 2011.

The CEO is delegated authority to carry out the powers and duties of the Cat Act 2011, Cat Regulations 2012 and Cat (Uniform Local Provisions) Regulations 2013.

Delegated to: Chief Executive Officer

On delegated to: *The Chief Executive Officer in exercising authority under Section 44 of the Cat Act, 2011, has delegated this power/duty to the appointed Ranger. Only the Chief Executive Officer be authorised to take enforcement proceedings under Section 44(1) of the Cat Act.*

Conditions: Nil.

Record of use: Report to Council.

Reference: Cat Act 2011 – s44, s48

27 FOOD ACT 2008

Function to be performed: In accordance with Section 118 of the Food Act 2008, the Chief Executive Officer is delegated authority to institute and carry on proceedings in the name of the Shire of Moora.

The CEO is delegated authority to carry out the powers and duties of the Food Act 2008.

Delegated to: Chief Executive Officer

On delegated to: *The Chief Executive Officer in exercising authority under Section 122 of the Food Act 2008, has delegated this power/duty to the appointed Shire of Dandaragan Principal Environmental Health Officer.*

Conditions: Nil.

Record of use: Report to Council.

Reference: Food Act 2008 – s65, s66, s67, s110, s122

28 RESTRICTED ACCESS VEHICLE NETWORK APPLICATIONS

Function to be performed: Council delegates its authority and power to the Chief Executive Officer to approve Council roads to be added to Main Roads W.A Restricted Access Vehicle Network provided that each road has been assessed by Main Roads W.A and deemed as being subjectively suitable to be added to the Restricted Access Vehicle Network.

Delegated to: Chief Executive Officer

Conditions: Low Volume Road Conditions Type A (minimum road width 5.8 metres) or Type B (minimum road width 3.5 metres) as applicable to each is liaison with Main Roads

Low Volume Conditions Type A:

The following conditions are applied to Type A low volume roads as described in the table below:

Determined by Assessment	Appropriate Speed Condition. (always applied)
CA09	Headlights must be switched on at all times. (always applied)
CA36	When travelling at night, the RAV must travel at a maximum speed of 40km/h and display an amber flashing warning light on the prime mover. (always applied)
CA11	Direct radio contact must be maintained with other RAV's to establish their position on or near the road (suggested UHF channel 40). (always applied)
CA13	Operation is not permitted while the school bus is operating on the particular road. Operators must contact the relevant schools directly and obtain school bus timetables; or where direct contact can be made with the school bus driver, operation is permitted once the school bus driver confirms all school drop-offs/pick-ups have been completed on the road. (only applied when confirmed road is a school bus route)
CA07	Current written support from the Road Asset Owner, endorsing use of the road, must be obtained, carried in the vehicle and produced upon request. (optional only at the request of the road manager)
CV7	No operation on unsealed road segment when visibly wet, without road owner's approval. (optional only at the request of the road manager)

Low Volume Conditions Type B:

The following conditions are applied to Type B low volume roads as described in the table below:

40	Maximum speed 40 km/h. (always applied)
CA09	Headlights must be switched on at all times. (always applied)
CA36	When travelling at night, the RAV must travel at a maximum speed of 40km/h and display an amber flashing warning light on the prime mover. (always applied)
CA11	Direct radio contact must be maintained with other RAV's to establish their position on or near the road (suggested UHF channel 40). (always applied)
CA12	For single lane road, the road must not to be entered until driver has established via radio contact that there is no other RAV on the road travelling in the oncoming direction. (always applied)
CA13	Operation is not permitted while the school bus is operating on the particular road. Operators must contact the relevant schools directly and obtain school bus timetables; or where direct contact can be made with the school bus driver, operation is permitted once the school bus driver confirms all school drop-offs/pick-ups have been completed on the road. (only applied when confirmed road is a school bus route)

CA07	Current written support from the Road Asset Owner, endorsing use of the road, must be obtained, carried in the vehicle and produced upon request. (optional only at the request of the road manager)
CV7	No operation on unsealed road segment when visibly wet, without road owner's approval. (optional only at the request of the road manager)

On delegated to:	Not Applicable
Record of use:	Record to be kept on appropriate file.
Reference:	Road Traffic Vehicles Act 2012 Road Traffic Vehicles Regulations 2014 Road Traffic Code 2000
Council Policy:	Not applicable

Update of Position titles to include Shire of Dandaragan Principal Environmental Health Officer and Principal Building Surveyor, reflecting the change in title to the position and removal of any reference to Manager Development Services as the position is no longer.

List of Delegations from the Shire President to the CEO, and CEO to each Manager updated accordingly.

Delegations to Committee's/Working Groups

This section will be reviewed again following the Local Government Elections scheduled for October this year.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item.

POLICY REQUIREMENTS:

Referenced in delegation where appropriate and applicable.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 Section 5.46

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:

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

VOTING REQUIREMENTS

Absolute Majority Required

RECOMMENDATION

That Council, having reviewed its Delegations as required by the Local Government Act 1995 endorse the following as having been reviewed:

- 1. Payments from trust and municipal funds***
 - 2. Investments***
 - 3. Hire Fees and Charges – Recreation Centre***
 - 4. Rate book***
 - 5. Budget implementation***
 - 6. Rent/ Leasing or Residential Property Owned By the Shire of Moora***
 - 7. Liquor – Sale and Consumption at Recreation Centre***
 - 8. Impounding goods – authorised employee***
 - 9. Onus of Proof in Vehicle Offences***
 - 10. Enforcements and Legal Proceedings***
 - 11. Delegation of Power***
 - 12. Proceedings under Dog Act***
 - 13. Purchase order authorisation***
 - 14. Budget expenditure***
 - 15. Register of Delegations to Committees***
 - 16. Donations of Works to Organisations***
 - 17. Private Works***
 - 18. Temporary Rural Road Closures***
 - 19. Powers of Entry onto Land***
 - 20. Approval of Planning Applications***
 - 21. Works unlawful***
 - 22. Building Licences***
 - 23. Private Swimming Pools – Inspections***
 - 24. Health Act – Notices and Orders***
 - 25. Treatment of Sewerage and Disposal of Liquid Waste***
 - 26. Proceedings Under Cat Act 2011***
 - 27. Food Act 2008***
 - 28. Restricted Access Vehicle Network Applications***
- And
Delegations to Committees / Working Groups***

9.1.4 LICENSE TO OCCUPY – L 1411 MOORA

FILE REFERENCE: GA/PTAI
REPORT DATE: 12 June 2019
APPLICANT/PROPONENT: Burgess Rawson on behalf of Public Transport Authority (PTA)
OFFICER DISCLOSURE OF INTEREST: Impartiality
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Alan Leeson, Chief Executive Officer
ATTACHMENTS: Draft License

PURPOSE OF REPORT:

Council formally endorse an extension to occupy the land contained in the map below. The Licensed Area, the subject of this license is located in the rail reserve in the Moora townsite.

BACKGROUND:

The subject land may only be used for Beautification - Visitor Centre and Parking. The subject land extends to near the Town Clock (Padbury Street) on the north end, to King Street on the southern end. Previously, the PTA have accepted license extensions being signed off by Council management, however their Legal team have now indicated they require a formal Council resolution to extend any License to Occupy.

COMMENT:

In a broad sense, the licensed area is utilised for visitor servicing, parks and gardens, picnic areas and car and truck parking. The licensed area is a key part of Moora tourism and visitor servicing.

The area opposite the Shire office is currently one of the few areas for trucks to park in Moora. It is an important part of catering for visitors coming through Moora as well as farmers and freight trucks.



POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

The land is the subject of a License to Occupy by the PTA.

STRATEGIC IMPLICATIONS:**Outcome 4.3: Recognition and realisation of local tourism opportunities**

Strategy 4.3.1: Support initiatives to build and strengthen local and regional tourism.

Strategy 4.3.2: Provide appropriate infrastructure and services to support tourism.

Strategy 4.3.3: Promote tourism products including heritage walks and wildflower route

Outcome 3.3: A safe and reliable transport system.

Strategy 3.3.1: Enhance the transport infrastructure in the Shire.

SUSTAINABILITY IMPLICATIONS**➤ Environment**

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

➤ Economic

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

➤ Social

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

FINANCIAL IMPLICATIONS:

This License to Occupy requires Council to pay \$1 per annum, if and when demanded by the PTA.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council authorise the Chief Executive Officer and Shire President to sign the License to Occupy document LI411 between the Shire of Moora and the Public Transport Authority for the 10-year period from 1 September 2018 for the area of land as depicted on the diagram contained within this report.

9.2 DEVELOPMENT SERVICES

9.2.1 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED NEW STORAGE SHED ON LOT 77 HALLIGAN STREET, MOORA

FILE REFERENCE: TP/PA26/1819

REPORT DATE: 11 June 2019

APPLICANT/PROPONENT: Action Outdoors Moora on behalf of Peter Johns Super Pty Ltd
(Landowner)

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Mr Joe Douglas, Town Planning Consultant

ATTACHMENTS: Attachment 1

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval for the construction and use of a new 108m² zincalume shed on Lot 77 Halligan Street, Moora including a proposed new 4,000m² building envelope area.

BACKGROUND:

The applicant is seeking Council's development approval for the construction and use of a new 108m² zincalume shed on Lot 77 Halligan Street, Moora for stock feed storage purposes to support the continued use of the land for extensive agricultural purposes (i.e. cropping and grazing). Approval is also sought for a proposed new 4,000m² building envelope area on the land to accommodate all future built form development pursuant to the specific requirements of clause 3.13.4(c) of the Shire of Moora Local Planning Scheme No.4.

Lot 77 is located in the southern part of the Moora townsite and has direct frontage and access to Halligan Street along its western boundary which is an unsealed local road under the care, control and management of the Shire of Moora.

Lot 77 comprises a total area of approximately 8.09 hectares and is generally flat throughout its entire area with the natural ground level being approximately 200 metres AHD where the new storage shed is proposed to be sited. The subject land has been extensively cleared and contains an intermittent creek line in its eastern portion which is flanked by a few small stands of native vegetation.



Location & Lot Configuration Plan (Source: Landgate 2019)

Lot 77 has previously been developed and continues to be used for extensive agricultural purposes (i.e. cropping and grazing). Aside from a driveway crossover along the land's Halligan Street frontage, open paddocks and boundary fencing, there are no other notable physical improvements on the land.

Immediately adjoining, and other nearby land uses include rural living-type development to the west and broadacre agriculture (i.e. cropping & grazing) to the north, east and south.

A full copy of the development application, including supporting documentation and plans, is provided in Attachment I.

COMMENT:

Lot 77 is classified 'Rural Residential' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4).

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

- (a) To select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats; and
- (b) To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

Under the terms of clause 3.13.4(a) of LPS4 the development and/or use of any land classified 'Rural Residential' zone requires Council's development approval. Council's development approval is also required for the following reasons:

- i) the land's location within Special Control Area I of LPS4 entitled 'Land Subject to Flooding'; and
- ii) the non-conforming status of the land's current use for extensive agricultural purposes which is listed in the Zoning Table of LPS4 as being prohibited on any land classified 'Rural Residential' zone with discretion afforded to Council under clause 6.2.1 of LPS4 to determine an application for development approval to erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use subject to public advertising.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with the Department of Water and Environmental Regulation pursuant to the specific requirements of clause 4.11.2.2 of LPS4 as it applies to all land subject to flooding in the Moora townsite, has confirmed the proposal is generally compliant or capable of compliance with the following requirements:

- Land capability and land use compatibility;
- Lot boundary setbacks;
- Building location, size, height, bulk, scale, orientation and appearance;
- Amenity of the locality including potential environmental, visual and social impacts;
- Vehicle access and parking;
- Stormwater drainage management; and
- Bushfire and flood risk mitigation.

It is significant to also note that no public submissions were received by the Shire during public advertising of the proposal which was undertaken for a period of 21 days (i.e. 7 days more than the minimum required period of 14 days).

In light of the above findings it is concluded the proposal for Lot 77 is acceptable and unlikely to have any negative impact on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. As such, it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development proceeds in accordance with the information and plans submitted in support of the proposal and the relevant standards and requirements of the Shire's local planning framework.

POLICY REQUIREMENTS:

- State Planning Policy 2.5 – Rural Planning
- Shire of Moora Policy 6.8 – Land Fill

LEGISLATIVE REQUIREMENTS:

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

STRATEGIC IMPLICATIONS:

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

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal provided it is implemented in accordance with the conditions of any development approval that may ultimately be granted.

➤ **Economic**

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

➤ **Social**

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

FINANCIAL IMPLICATIONS:

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

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council APPROVE the development application submitted by Action Outdoors Moora on behalf of Peter Johns Super Pty Ltd (Landowner) to construct and use of a new 108m² zinalume shed on Lot 77 Halligan Street, Moora for stock feed storage purposes to support the continued use of the land for extensive agricultural purposes subject to the following conditions and advice notes:

Conditions

- 1. The proposed development shall be undertaken strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.**
- 2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.**
- 3. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of Council having first being sought and obtained.**
- 4. The final finished floor level of the proposed shed shall be 200.45 metres AHD (i.e. 150mm above the March 1999 flood level of 200.3 metres AHD for Lot 77 which equates to a total minimum required build-up of 0.45 metres above the land's natural ground level of 200 metres AHD).**
- 5. All electrical installations associated with the proposed shed shall be located at a minimum level of 200.6 metres AHD and suitably insulated.**
- 6. The edges of the sand pad foundation for the proposed shed shall slope away from the outbuilding at a gradient of 1 in 6 and stabilised to avoid any dust or erosion.**
- 7. All external surfaces of the proposed shed shall be clad with new materials only.**
- 8. All stormwater drainage generated by the proposed shed shall be contained and managed on-site using a suitable capacity rainwater tank to be sited immediately adjacent to the proposed shed as shown on the site development plan submitted in support of the application.**
- 9. The proposed shed shall only be used for storage purposes directly associated with the current extensive agricultural use of the land unless otherwise approved by Council.**
- 10. The storage of any chemicals on the floor of the proposed shed is not permitted.**
- 11. The storage of any goods, machinery, plant or vehicles on any open areas of the land is not permitted unless otherwise approved by Council.**

Advice Notes

- 1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.**
- 2. This is a development approval of the Shire of Moora under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.**
- 3. The applicant/landowner is reminded of their obligation to ensure compliance with the following requirements:**

- i) Shire of Moora Annual Firebreak Notice as this applies specifically to land within the Moora townsite comprising an area of 3,000m² or more to help guard against potential bushfire risk; and*
 - ii) Shire of Moora Health Local Law 2016.*
- 4. In accordance with the Building Act 2011 and Building Regulations 2012, a building permit application must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land.**
- 5. The proposed shed is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the building permit application.**
- 6. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.**
- 7. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted to be undertaken on Sundays or Public Holidays.**
- 8. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Moora Local Planning Scheme No.4 and may result in legal action being initiated by the local government.**
- 9. If the applicant/landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.**

9.2.2 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED HOME OCCUPATION ON LOT 21 (NO.32) BEWSHER STREET, MOORA

FILE REFERENCE: TP/PA27/1819
REPORT DATE: 11 June 2019
APPLICANT/PROPONENT: Mr Dean Van der Ende (Landowner)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachments 1 & 2

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval to establish and operate a home occupation within an existing outbuilding on Lot 21 (No.32) Bewsher Street, Moora.

BACKGROUND:

The applicant is seeking Council's development approval to establish and operate a home occupation within an existing 96m² outbuilding (i.e. domestic storage shed) on Lot 21 (No.32) Bewsher Street, Moora.

Under the terms of the application the proposed home occupation will be conducted by the owner/occupant of the existing single house on the land and will involve the manufacturing of small kitchen cupboards, vanities and other types of furniture within an existing outbuilding at the rear of the property. The proposed use will operate primarily on weekends from 9am to 4pm on Saturdays, 10am to 4pm on Sundays and Public Holidays, and 8am to 5pm on weekdays if/when required. A full copy of the development application, including supporting documentation and plans, is provided in Attachment 1.

Lot 21 is located centrally in the Moora townsite in a well-established residential area and has direct frontage and access to Bewsher Street along its southern boundary and a public right-of-way to the north, both of which are under the care, control and management of the Shire of Moora.

Lot 21 comprises a total area of approximately 860m² and has been extensively developed and used for low density residential purposes over a number of years. The land contains an existing single house located in its front half, a 96m² domestic storage shed at the rear as well as areas set aside for open space/landscaping, vehicle access and parking.



Location & Lot Configuration Plan (Source: Landgate 2019)

Immediately adjoining and other nearby land uses include low density residential development (i.e. single houses) to the north, south, east and west with a small number of rural living type lots and large areas of public open space beyond.

COMMENT:

Lot 21 is classified 'Residential' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4) with a density coding of RI2.5.

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

- a) to provide for the predominant form of residential development to be single houses whilst providing for diversity with higher density close to the town centre;
- b) to provide for diversity of lifestyle choice with a range of residential densities; and
- c) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.

Under the terms of the Zoning Table in LPS4, the development and/or use of any land classified 'Residential' zone for the purposes of a home occupation is listed as a discretionary (i.e. 'D') use meaning it is not permitted unless the local government has exercised its discretion by granting development approval. Council's development approval is also required due to the land's location within Special Control Area I of LPS4 entitled 'Land Subject to Flooding'.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with the Department of Water and Environmental Regulation as required, has confirmed the proposal is not compliant with LPS4 in terms of the maximum allowable floor area for any 'home occupation' or 'home business' type use which is limited to 20m² and 50m² respectively. Under the terms of the application submitted

the proposed use will occupy an area of 96m² being the total floor area of the existing outbuilding at the rear of the property.

In addition to the above non-compliance issue, the following key points should be noted:

- i) The proposal does not strictly comply with State Planning Policy No.4.1 (SPP4.1) entitled 'State Industrial Buffer Policy' and the Environmental Protection Authority's Guidance Statement No.3 entitled 'Separation Distances between Industrial and Sensitive Land Uses'. Under the terms of SPP4.1 and EPA Guidance Statement No.3 a minimum generic separation of distance of 100 to 300 metres is recommended between a joinery / wood working premises and any sensitive land use/s to help guard against any potential noise, dust and odour emissions. The application proposes the establishment and use of a joinery / wood working premises with separation distances ranging from approximately 6 to 18 metres to the nearest sensitive uses being existing and future possible low density residential development on immediately adjoining properties which is significantly less than that recommended by SPP4.1 and EPA Guidance Statement No.3. As such it is concluded the proposal has significant scope to affect the amenity of nearby residential properties and give rise to potential land use conflicts irrespective of any future proposed management regimes to minimise any potential negative impacts;
- ii) The application was advertised for public comment for a period of 21 days (i.e. 7 days more than the minimum required period of 14 days) which included public display of the development application in its entirety at the Shire Administration Centre and on the Shire's website as well as correspondence to all landowners within approximately 120 metres of the boundaries of Lot 21. At the conclusion of public advertising a total of three (3) submissions had been received by the Shire, two (2) of which raised objections due to concerns regarding the potential impacts of the proposed use on the immediate locality and the other offering full support for the proposal (see Attachment 2 for a copy of all submissions received).

In light of the above findings and outcomes, it is concluded the proposal for Lot 21 should not be supported and approved by Council for the following key reasons:

- i) The proposed use will occupy an area greater than that permitted by the definition for a 'home occupation' or 'home business' in Schedule 1, Part 6, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and must therefore be classified as 'industry-light' which is listed in the Zoning Table of LPS4 as being a use not permitted on any land classified 'Residential' zone;
- ii) The proposal does not strictly comply with State Planning Policy No.4.1 (SPP4.1) entitled 'State Industrial Buffer Policy' and the Environmental Protection Authority's Guidance Statement No.3 entitled 'Separation Distances between Industrial and Sensitive Land Uses' as these apply to joinery / wood working premises and therefore has significant scope to detrimentally affect the amenity of nearby residential properties and give rise to potential land use conflicts;
- iii) The two (2) objections received during public advertising which raised valid concerns regarding the potential negative impacts of the proposed use on the immediate locality;
- iv) The proposal's inconsistency with the objectives of the land's current 'Residential' zoning classification in LPS4 as it applies to the establishment and operation of non-residential uses which are required to be compatible with the predominant residential use of land within this zone and not adversely affect local amenities;
- v) The proposal's inconsistency with the objectives of Council's Local Planning Policy 7.11 as it applies to Home Occupations or Home Businesses and the need to secure the amenity, health and convenience of local residential neighbourhoods; and

- vi) The preference and requirement for light industrial uses, including commercial joinery / wood working premises, to be established on land classified 'Light Industrial' zone in LPS4 which is more consistent with Council's stated objective in clause 3.10.1(c) of LPS4 of ensuring appropriate buffers are provided and maintained between light industrial uses and adjacent uses to avoid any potential land use conflicts.

As such it is recommended Council refuse the application for the various reasons cited above.

POLICY REQUIREMENTS:

- State Planning Policy 4.1 – 'State Industrial Buffer Policy'
- EPA Guidance Statement No.3 - 'Separation Distances between Industrial and Sensitive Land Uses'
- Shire of Moora Policy 7.11 – 'Home Occupations'

LEGISLATIVE REQUIREMENTS:

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

STRATEGIC IMPLICATIONS:

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

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

Due to its location in a designated residential area, the proposal has significant scope to detrimentally affect the amenity of nearby residential properties and give rise to potential land use conflicts irrespective of any future proposed management regimes to minimise any potential negative impacts.

➤ **Economic**

There are no known significant economic implications associated with this proposal. The potential economic impacts of the proposed use on other existing established joinery / wood working businesses in the Moora townsite is not a relevant planning consideration and cannot therefore be used as a basis for refusal of the development application.

➤ **Social**

Due to its location in a designated residential area the proposal has significant scope to detrimentally affect the social well-being of other nearby residents and could give rise to ongoing disputes requiring intervention and action by the Shire.

FINANCIAL IMPLICATIONS:

If approved the proposed use could give rise to serious land use conflicts that will need to be addressed by the Shire which could prove to be both time consuming and costly.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council REFUSE the development application submitted by Mr Dean Van der Ende (Landowner) to establish and operate a home occupation (i.e. a proposed joinery / wood working premises) within an existing 96m² outbuilding (i.e. domestic storage shed) on Lot 21 (No.32) Bewsher Street, Moora for the following reasons:

- 1. The proposed use will occupy an area greater than that permitted by the definition for a 'home occupation' or 'home business' in Schedule 1, Part 6, Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and must therefore be classified as 'industry-light' which is listed in the Zoning Table of LPS4 as being a use not permitted on any land classified 'Residential' zone;*
- 2. The proposal does not strictly comply with State Planning Policy No.4.1 (SPP4.1) entitled 'State Industrial Buffer Policy' and the Environmental Protection Authority's Guidance Statement No.3 entitled 'Separation Distances between Industrial and Sensitive Land Uses' as these apply to joinery / wood working premises and therefore has significant scope to detrimentally affect the amenity of nearby residential properties and give rise to potential land use conflicts;*
- 3. The two (2) objections received during public advertising which raised valid concerns regarding the potential negative impacts of the proposed use on the immediate locality;*
- 4. The proposal's inconsistency with the objectives of the land's current 'Residential' zoning classification in LPS4 as it applies to the establishment and operation of non-residential uses which are required to be compatible with the predominant residential use of land within this zone and not adversely affect local amenities;*
- 5. The proposal's inconsistency with the objectives of Council's Local Planning Policy 7.11 as it applies to Home Occupations or Home Businesses and the need to secure the amenity, health and convenience of local residential neighbourhoods; and*
- 6. The preference and requirement for light industrial uses, including commercial joinery / wood working premises, to be established on land classified 'Light Industrial' zone in LPS4 which is more consistent with Council's stated objective in clause 3.10.1(c) of LPS4 of ensuring appropriate buffers are provided and maintained between light industrial uses and adjacent uses to avoid any potential land use conflicts.*

- 10. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
- 12. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**
- 13. CLOSURE OF MEETING**