

SHIRE OF MOORA
MINUTES OF THE ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MOORA
16 DECEMBER 2020

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- 9.1.1 *List of Payments Authorised Under Delegation 1.31*
- 9.1.2 *Statement of Financial Activity for Period Ended 30 November 2020*
- 9.1.3 *Exeus Report of 1 December 2020*
- 9.2.1 *Attachment 1*

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 5.32pm and welcomed members of the public in the gallery.

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

ATTENDANCE

TL Lefroy	-	Presiding Member / President
SJ Gilbert	-	Deputy President
DV Clydesdale-Gebert	-	Councillor
El Hamilton	-	Councillor
KM Seymour	-	Councillor
JM Thomas	-	Councillor
TG Humphry	-	Councillor
PF Nixon	-	Councillor

AJ Leeson	-	Chief Executive Officer
G Robins	-	Deputy Chief Executive Officer
JL Greay	-	Manager Engineering Services
NM Beard	-	Manager Community Development & Visitor Servicing
MM Murray	-	Executive Support Officer (minute taker)

PUBLIC

Cynthia McMorran AM	-	Shire Freeman
Chris James	-	Ratepayer

APOLOGIES

MR Holliday	-	Councillor
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3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Mrs Cynthia McMorran

What is the name of the building going to be that is to be built south of the Performing Arts Centre?

Shire President Cr Tracy Lefroy advised it would be called the Moora Early Childhood Development Centre.

5. PETITIONS / DELEGATIONS / PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

The following Council associated engagements were attended;

Cr Lefroy, Shire President

1/12 CMSHS scholarship interviews

4/12 Presentation of Award, St Joseph's Primary presentation night

9/12 Chamber of Commerce, Council Christmas function

14/12 Presentation of Award, Watheroo Primary School presentation night

15/12 Australia Day awards selection

15/12 CMSHS Awards & presentation of Shire Scholarship

15/12 CAP working group meeting

16/12 Citizenship ceremony

Cr's Gilbert, Humphry and Clydesdale-Gebert

9/12 Chamber of Commerce, Council Christmas function

Cr Nixon

15/12 CMSHS Awards

Cr Hamilton

1/12 CMSHS scholarship interviews

9/12 Chamber of Commerce, Council Christmas function

15/12 CMSHS Awards & presentation of Shire Scholarship

Cr Thomas

9/12 Chamber of Commerce, Council Christmas function

10/12 Moora Primary School presentation evening

8. CONFIRMATION OF MINUTES**8.1 ORDINARY COUNCIL MEETING - 25 NOVEMBER 2020****COUNCIL RESOLUTION**

154/20 Moved Cr Gilbert, seconded Cr Thomas that the Minutes of the Ordinary Meeting of Council held on 25 November 2020 be confirmed as a true and correct record of the meeting.

CARRIED 8/0

9. REPORTS OF OFFICERS**9.1 GOVERNANCE AND CORPORATE SERVICES****9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31**

REPORT DATE: 10 December 2020

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, 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

COUNCIL RESOLUTION

155/20 Moved Cr Humphry, seconded Cr Hamilton that Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31

<i>Municipal Fund</i>	<i>Cheques 62469 to 62469</i>	<i>\$1,527.00</i>
	<i>EFT 24193 to 24371</i>	<i>\$468,260.93</i>
	<i>Direct Debits 13400.1 to 13453.10</i>	<i>\$67,009.26</i>
	<i>[DD13440.1] Credit Card 05/10/20 to 02/11/20</i>	<i><u>\$4,236.71</u></i>
		<i>\$541,033.90</i>
<i>Trust Fund</i>	<i>Cheques 5545 to 5547</i>	<i><u>\$1,036.48</u></i>
	<i>Subtotal \$</i>	<i>542,070.38</i>
<i>Net Pays</i>	<i>PPE 10/11/20</i>	<i>\$101,326.45</i>
	<i>PPE 24/11/20</i>	<i><u>\$100,414.98</u></i>
		<i>\$201,741.43</i>
	<i>Total</i>	<i><u>\$743,811.81</u></i>

CARRIED 8/0

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 30 NOVEMBER 2020

REPORT DATE: 10 December 2020

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, LG Corporate Solutions

ATTACHMENTS: Statement of Financial Activity for the Period Ended 30 November 2020

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 30 November 2020.

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 2019/20 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

156/20 Moved Cr Gilbert, seconded Cr Humphry that Council notes and receives the Statement of Financial Activity for the period ended 30 November 2020.

CARRIED 8/0

9.1.3 CHILDCARE BUILDING WALL - BUDGET AMENDMENT

FILE REFERENCE: B/MCCI

REPORT DATE: 10 December 2020

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Exeus Report of 1 December 2020

PURPOSE OF REPORT:

For Council to authorise expenditure to replace the outer leaf of the southern wall of the Moora Childcare Centre with a stud frame / cladded wall.

BACKGROUND:

A structural assessment of the Moora Childcare Centre was undertaken in March 2020 by Exeus Engineering Consultants. The inspection identified that the Southern brick wall (outer leaf) was leaning outward by a few millimetres. As a consequence, Exeus recommended the southern wall be supported by acrow props which were subsequently erected by Council staff under the supervision of Building Surveyor Len deGrussa. It should be noted that the southern wall of childcare centre (inner and outer leaf) is non load bearing.

COMMENT:

Exeus returned to Moora on the 26 November 2020 to undertake a further assessment on the basis of ensuring the acrow props were performing as required supporting the outer leaf of the southern wall, based on the recommendation of March 2020.

Management in discussion with Len deGrussa (Council's Building Surveyor) and Exeus have formed the view the best course of action is to remove the outer leaf of the southern wall and replace with a stud framed / cladded outer wall. These works are proposed to occur over the forthcoming Christmas / New Year shutdown period of the childcare centre with the anticipated completion by 16th January in readiness for the reopening of the Centre. Once completed the acrow props will be removed along with the temporary fencing,

POLICY REQUIREMENTS:

There are no known policy implications associated with this item.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 – Unbudgeted expenditure

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution*; or
- (c) is authorised in advance by the mayor or president in an emergency.

** Absolute majority required.*

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:

The cost of the described works is \$15,000 (GST Exclusive). It is recommended these works be funded from the Building Reserve.

VOTING REQUIREMENTS

Absolute Majority Required

COUNCIL RESOLUTION

157/20 Moved Cr Hamilton, seconded Cr Clydesdale-Gebert that Council amend the 2020/2021 Financial Year Municipal Budget to include \$15,000 (GST Exclusive) to undertake structural works on the southern wall (outer leaf) of the Moora Childcare Centre, further that these works be funded from the Building Reserve.

CARRIED BY ABSOLUTE MAJORITY 8/0

9.2 **DEVELOPMENT SERVICES**

9.2.1 **APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED NEW SWIMMING POOL & FRONT BOUNDARY FENCE ON LOT 20 (NO.48) LEFROY STREET, MOORA**

FILE REFERENCE: TP/DA14/2021
REPORT DATE: 10 December 2020
APPLICANT/PROPONENT: Christopher & Vicky James (Landowners)
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 to construct a new below ground domestic swimming pool and front boundary fence on Lot 20 (No.48) Lefroy Street, Moora.

BACKGROUND:

The applicants are seeking Council's development approval to construct a new below-ground swimming pool and front boundary fence on Lot 20 (No.48) Lefroy Street, Moora for the benefit of current and future occupants of the existing single detached dwelling on the property.

Under the terms of the application received the following is proposed:

- i) Installation of a new 11 metre long, 4.45 metre wide premanufactured below-ground fibreglass swimming pool in the front setback area of Lot 20 including a number of associated improvements for outdoor living purposes (i.e. paving, internal pool fencing and gates to a height of 1.2 metres and a 2.25m² shed immediately adjacent to the land's front boundary to accommodate a pool pump and other pool related equipment);
- ii) Demolition and removal of an existing low level (i.e. 7 course high) brick wall and piers along a 14.35 portion of the subject land's front boundary as well as a 7.5 metre portion of the same wall within the land's front setback area; and
- iii) Erection of a new 1.8 metre high, Basalt (i.e. dark grey) coloured Colorbond fence along an 11.88 metre portion of the subject land's front boundary and two (2) separate sections of similar fencing approximately 8 and 8.5 metres in length respectively within the land's front setback area to enclose the new swimming pool for safety and privacy reasons.

A full copy of the development application, including supporting documentation and plans, is provided in Attachment 1.

Lot 20 is located centrally in the Moora townsite in a well-established residential area and has direct frontage and access to Lefroy Street along its eastern boundary, which is the land's primary street frontage, as well as an unsealed right-of-way along its western boundary to the rear, both of which are local roads under the care, control and management of the Shire of Moora.

Lot 20 comprises a total area of approximately 2,428m². The eastern half of the property has been extensively developed and used for low density residential purposes over a number of years and contains an existing older-style single detached dwelling in good habitable condition

as well as a 17.6m² domestic storage shed / garage, landscaping and concrete driveway. The balance portion of the land to the west remains vacant / undeveloped.



Location & Lot Configuration Plan (Source: Landgate 2020)

Immediately adjoining and other nearby land uses are predominantly residential in nature comprising single houses and grouped dwellings on lots of varying size.

COMMENT:

Lot 20 is classified 'Residential' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4) with a density coding of R12.5.

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 of any land classified 'Residential' zone for the purposes of a 'single house', including any associated improvements including an outbuilding (i.e. shed), boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool, is listed as being permitted (i.e. a 'P' use) provided any given proposal complies with the relevant development standards and requirements of LPS4 including the Residential Design Codes of Western Australia (i.e. the R-Codes) which are automatically adopted and apply by reference.

Notwithstanding the general permissibility of any such development, Council's development approval is required as a first step 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, the

R-Codes and clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as well as the outcomes from the recently completed public advertising process during which no objections were received. This assessment, which included formal consultation with the Department of Water and Environmental Regulation as required, has confirmed that despite the proposal's general permissibility under LPS4 and suitability in terms of any future potential flood risk, it is not compliant with a number of standards and requirements and therefore requires Council to exercise discretion when considering and finally determining the application.

The following is a brief explanation of each non-compliant aspect of the proposal including recommendations to deal with them:

i) Use of Front Setback Areas

Clause 4.8.1 of LPS4 expressly states a person shall not use the land between a street alignment and the distance that any buildings are required to be set back from such street alignment for any purpose other than one or more of the following:

- a) a means of access;
- b) the daily parking of vehicles;
- c) the loading and unloading of vehicles; or
- d) landscaping.

As previously mentioned, the application proposes the installation of a new below-ground fibreglass swimming pool and a number of associated improvements for outdoor living and recreation purposes in the front setback area of Lot 20 which is not consistent with the requirements of the abovementioned clause.

Whilst the development and use of a 'Residential' zoned property's front setback area for the purposes of a swimming pool is uncommon, particularly in Moora, there are many properties throughout the State where such development and usage has been deemed acceptable and therefore approved by the relevant government authorities.

Having regard for the significant width of Lot 20, the existing dwelling's larger than required setback to the land's front boundary, the location of all proposed improvements and the fact no objections were raised during public advertising of the application, it is considered reasonable for Council to exercise the discretion afforded by clause 4.4.2 of LPS4 and vary the requirements of clause 4.8.1 to allow the proposed new swimming pool and associated improvements to be constructed within the land's front setback area as proposed subject to the new 2.25m² shed immediately adjacent to the land's front boundary being limited to a maximum height of 1.8 metres and screened from public view. It is contended that varying the requirements of clause 4.8.1 on these terms to accommodate the proposed development will not compromise the orderly and proper planning or preservation of the amenities of the locality and will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the immediate locality or the likely future development of the locality.

ii) Visual Permeability & Street Surveillance

Element C4 in Clause 5.2.4 of the R-Codes stipulates that any fences or walls within the primary street setback area of a residential property shall be visually permeable (i.e. 'open style' fencing) above 1.2 metres of the land's natural ground level, measured from the primary street side of the front fence or wall. The planning objectives underpinning this requirement and reflected in the Shire of Moora Fencing Local Law 2016 are as follows:

- a) To maximise the visibility of residential properties and provide opportunity for casual surveillance to / from the primary street frontage to increase a sense of community safety and deter criminal activity; and

- b) To define public and private spaces, reinforce visual connections between street users and private spaces and contribute to an enhanced streetscape by reducing unsightly and bulky solid front fences and walls which attract graffiti, vandalism and reduce property safety.

As previously mentioned, the application proposes the erection of a new 1.8 metre high, Basalt (i.e. dark grey) coloured Colorbond fence along an 11.88 metre portion of the subject land's front boundary and two (2) separate sections of similar fencing approximately 8 and 8.5 metres in length respectively within the land's front setback area to enclose the new swimming pool for safety and privacy reasons. Having regard for the design of the existing dwelling on the land, all views to / from the dwelling along its frontage to Lefroy Street will be completely obscured with no opportunity for any visual surveillance from habitable rooms within the dwelling.

The design principles in element P4 of Clause 5.2.4 of the R-Codes allow Council to vary the deemed-to-comply requirements of element C4 where any new front fence or wall is low or restricted in height to permit surveillance and enhance streetscape, particularly in the following circumstances:

- to attenuate traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and
- to provide privacy and/or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.

Given that Lefroy Street is a local access road and not a primary or district distributor or integrator arterial road, there is insufficient justification in the context of the relevant design principles to support the erection of a solid 1.8 metre high visually impermeable fence along an 11.88 metre portion of the subject land's front boundary as proposed. It is therefore contended this section of the proposed new fence is contrary to the key planning principles applicable and should not therefore be supported despite the fact no objections were raised during public advertising of the application.

Council should note that the current existence of any front boundary fencing similar to that proposed by this application on other 'Residential' zoned properties in the Moora townsite is also not sufficient justification to vary the standards and requirements of the R-Codes. In all known cases such as No.8 Padbury Street, No.114 Roberts Street, No.30 Moore Street and No.31 Stafford Street, Moora it is understood existing solid, visually impermeable fencing along front property boundaries has not been formally approved by Council under LPS4 (i.e. the fencing is unauthorised) or was erected prior to the introduction of contemporary planning controls.

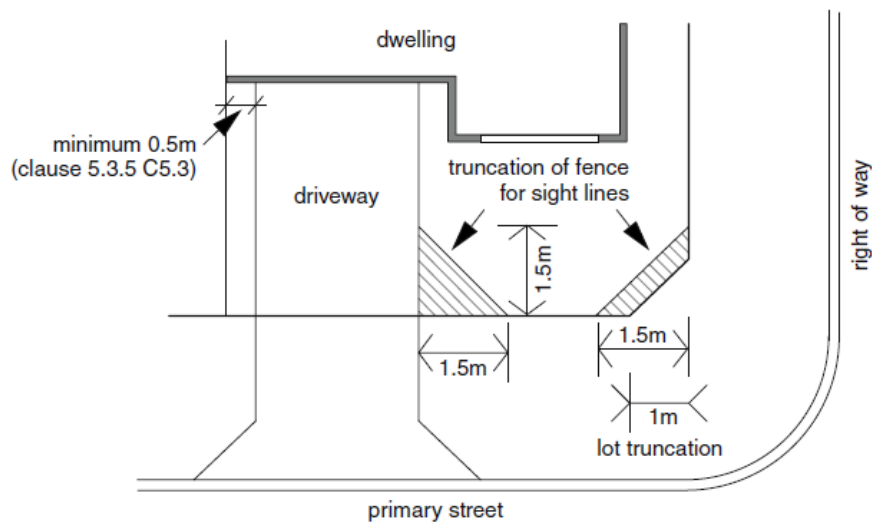
In order to resolve this matter and avoid creating an undesirable precedent for any future development of a similar nature it is recommended Council impose a condition on any approval that may ultimately be granted requiring the applicants/landowners to submit revised plans for the proposed development prior to the commencement of any works which clearly demonstrates that all new fencing to be erected along the 11.88 metre portion of the subject land's front boundary will generally comply with the deemed-to-comply requirements of element C4 of the R-Codes. Having regard for the proposed timeframe for the commencement of development, being January 2021, it is also recommended that the Shire's CEO be authorised to consider and determine the suitability of the revised plan required from the applicants/landowners when it is received by the Shire to help avoid any potential unnecessary delays.

iii) Vehicle Sight Lines

Element C5 in Clause 5.2.5 of the R-Codes stipulates that any walls, fences and other structures shall be truncated or reduced to no higher than 0.75 metres within 1.5 metres of where walls, fences and/or other structures adjoin vehicle access points where a

driveway meets a public street to ensure that vehicles can account for on-coming pedestrians and vehicles at the potential conflict point (see Figure 9a from the R-Codes below for a visual explanation of the relevant deemed-to-comply requirements).

Figure 9a – Locations of truncations or reduced fence height



Under the terms of the application received the new front boundary fence is proposed to be truncated where it meets the existing concrete driveway in accordance with the minimum required dimensions (i.e. 1.5 metres x 1.5 metres) however the fence will be 1.8 metres high and visually impermeable which is not compliant.

The design principles in element P5 of Clause 5.2.5 of the R-Codes allow Council to vary the deemed-to-comply requirements of element C5 where unobstructed sight lines are provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.

In order to resolve this matter it is recommended Council impose a condition on any approval that may ultimately be granted requiring the applicants/landowners to submit revised plans for the proposed development prior to the commencement of any works which clearly demonstrates that the new fencing to be erected where the existing concrete driveway intersects the land's front boundary (i.e. the truncation area) will be visual permeable and provide unobstructed sight lines for the benefit and safety of pedestrians and vehicles.

In light of the above findings it is concluded the proposal for Lot 20 is generally 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 to address the various issues of concern identified above and strike a workable balance between the relevant planning requirements and the applicants/landowners aims and objectives. As such it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development proceeds generally 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.

COMMUNITY CONSULTATION:

Details of the proposal, including plans, were forwarded to the owners/occupiers of fifteen (15) properties in the immediate locality (i.e. Lefroy Street) for review and comment. Those people consulted were given fourteen (14) days to provide a formal response to the Shire. At the close of the consultation period only one (1) submission had been received by the Shire which confirmed the respondents have no objections to and are supportive of the proposal

subject to all wastewater generated through any backwashing of the proposed new swimming pool is not directed to the land's street frontage.

The application was also the subject of detailed discussions with the applicant Mr Christopher James and the Shire's Chief Executive Officer.

POLICY REQUIREMENTS:

State Planning Policy 7.3 – Residential Design Codes Volume I

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4
- Shire of Moora Fencing Local Law 2016

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.

➤ **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 immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget. All costs associated with the proposed development will be met by the applicant/landowner.

It is significant to note that should the applicants/landowners be aggrieved by Council's final decision in this matter, which is considered possible given the outcomes from a recent discussion with them regarding the issues of concern, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this occur the Shire would need to respond. The cost to respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process. Council should note the applicants/landowners would also need to bear a similar cost should they decide to lodge an application to the State Administrative Tribunal appealing Council's final decision.

VOTING REQUIREMENTS:

Simple Majority Required

COUNCIL RESOLUTION

158/20 Moved Cr Hamilton, seconded Cr Humphry that Council APPROVE the development application submitted by Christopher and Vicky James to construct a new below ground domestic swimming pool and front boundary fence on Lot 20 (No.48) Lefroy Street, Moora subject to the following conditions and advice notes:

Conditions

- 1. 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 use shall not be carried out without the further approval of Council having first being sought and obtained.**
- 2. The proposed development shall be undertaken 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.**
- 3. 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.**
- 4. Prior to the commencement of any works on the land the applicants/landowners shall prepare and submit revised plans for the proposed development to the Shire of Moora for consideration and determination by the Shire's Chief Executive Officer. The revised plans required by this condition shall clearly demonstrate the following:**
 - i) All new fencing to be erected along the 11.88 metre portion of the subject land's front boundary will generally comply with the deemed-to-comply requirements of element C4 of the R-Codes (i.e. visually permeable, 'open style' fencing above 1.2 metres of the land's natural ground level, measured from the primary street side of the front fence;**
 - ii) The proposed new 2.25m² shed immediately adjacent to the land's front boundary will be limited to a maximum height of 1.8 metres and screened from public view; and**
 - iii) The new fencing to be erected where the existing concrete driveway intersects the land's front boundary (i.e. that portion of fence immediately abutting the 1.5 metre x 1.5 metre truncation area) will be visual permeable and provide unobstructed sight lines for the benefit and safety of pedestrians and vehicles.**
- 5. The proposed fencing shall be constructed using new materials only.**
- 6. All wastewater generated through any backwashing of the proposed new swimming pool shall be contained and disposed of on-site with no wastewater permitted to be disposed of via Lefroy Street or the right-of-way at the rear of the land.**
- 7. All building waste generated by the proposed demolition and construction works shall be recycled and/or disposed of at an approved landfill facility immediately upon completion of the proposed works. The stockpiling of any building waste on the land is not permitted unless that waste is to be recycled and is stored at the rear of the land out of public view.**

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 any relevant standards and requirements of the Shire of Moora Fencing Local Law 2016 unless varied by the terms of this development approval.**
- 4. In accordance with the Building Act 2011 and Building Regulations 2012, demolition and building permit applications must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any demolition, construction or earthworks on the land.**
- 5. The proposed new swimming pool and safety barriers are required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements are required to be submitted with the building permit application.**
- 6. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted on Sundays or Public Holidays.**
- 7. The noise generated by any activities on the land shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.**
- 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.**

CARRIED 8/0

10. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

Nil

12. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

13. CLOSURE OF MEETING

There being no further business, the President thanked the members of the public for their attendance and declared the meeting closed at 5.46pm.

CONFIRMED

PRESIDING MEMBER