City of Kalgoorlie Boulder

AGENDA

Notice is hereby given

for the SPECIAL Meeting of Council

commencing at 6:00 PM

on

20 DECEMBER, 2021

at the

Kalgoorlie Town Hall

17 December 2021

NOTICE OF MEETING

A Special Council meeting of the City of Kalgoorlie-Boulder will be held in the **Kalgoorlie Town Hall** on **Monday, 20 December 2021** commencing at **6:00 PM**.

Regards

DAVID TREVASKIS
Acting Chief Executive Officer

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1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2 DISCLAIMER READING

THE MAYOR WILL READ THE DISCLAIMER TO THOSE PRESENT.

PLEASE NOTE THIS MEETING IS BEING RECORDED AND STREAMED LIVE ON THE COUNCIL'S WEBSITE IN ACCORDANCE WITH COUNCIL'S RECORDING AND STREAMING OF COUNCIL MEETINGS POLICY, WHICH CAN BE VIEWED ON COUNCIL'S WEBSITE.

ALL REASONABLE CARE IS TAKEN TO MAINTAIN YOUR PRIVACY; HOWEVER, AS A VISITOR IN THE PUBLIC GALLERY, YOUR PRESENCE MAY BE RECORDED. BY REMAINING IN THE PUBLIC GALLERY, IT IS ASSUMED YOUR CONSENT IS GIVEN IF YOUR IMAGE IS BROADCAST.

THE RECOMMENDATIONS CONTAINED IN THIS AGENDA ARE OFFICER'S RECOMMENDATIONS ONLY AND SHOULD NOT BE ACTED UPON UNTIL COUNCIL HAS RESOLVED TO ADOPT THOSE RECOMMENDATIONS.

THE RESOLUTIONS OF COUNCIL SHOULD BE CONFIRMED BY PERUSING THE MINUTES OF THE COUNCIL MEETING AT WHICH THESE RECOMMENDATIONS WERE CONSIDERED.

MEMBERS OF THE PUBLIC SHOULD ALSO NOTE THAT THEY ACT AT THEIR OWN RISK IF THEY ENACT ANY RESOLUTION PRIOR TO RECEIVING OFFICIAL WRITTEN NOTIFICATION OF COUNCIL'S DECISION.

3 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

IN ATTENDANCE:

MEMBERS OF STAFF:

VISITORS:

PRESS:

APOLOGIES – ELECTED MEMBERS:

APOLOGIES – MEMBERS OF STAFF:

LEAVE OF ABSENCE:

Cr Mandy Reidy

4 PUBLIC ACCESS AND PUBLIC QUESTION TIME

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

6 NOTATIONS OF INTEREST

6.1 INTEREST AFFECTING IMPARTIALITY CITY OF KALGOORLIE–BOULDER CODE OF CONDUCT

6.2 FINANCIAL INTEREST LOCAL GOVERNMENT ACT SECTION 5.60A

6.3 PROXIMITY INTEREST LOCAL GOVERNMENT ACT SECTION 5.60B

7 APPLICATIONS FOR LEAVE OF ABSENCE

8 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

9 REPORTS OF OFFICERS

9.1 CHIEF EXECUTIVE OFFICER

9.1.1 RFT007 21-22 SEST PRESERVATION TREATMENTS

Responsible Officer:	**David Trevaskis** **Acting Chief Executive Officer**
Author:	**Chris Barnes** **Airport Manager**
Disclosure of Interest:	**Nil**

VOTING REQUIREMENTS

Simple

OFFICER RECOMMENDATION

That Council accept Fulton Hogan as the preferred tenderer and authorise the Acting CEO or his nominated delegate to enter into contract agreement for the provision of Airport Surface Enrichment Sprayed Treatment works per the scope of RFT007 21-22 for the City.

EXECUTIVE SUMMARY

A recent audit of the existing pavement surfaces at Kalgoorlie-Boulder Airport highlighted a number of issues. The airport now wishes to conduct maintenance through Surface Enrichment Sprayed Treatment (SEST) of its aged runway pavement(s) and the associated taxiways and aprons.

Kalgoorlie - Boulder Airport is a major regional jet port located in Western Australia's Goldfields Region it services daily a range of aircraft, predominantly fixed wing, up to and including Boeing 737-800 and Airbus A320 aircraft. Aircraft numbers and proportion of larger size aircraft have increased in frequency in the past 12 months compared to levels of use in recent years.

The airport has two operating runways, the main runway 11/29 servicing the larger aircraft and the shorter cross runway 18/36 used by light aircraft from the GA area of the airfield. There is an older parallel Taxiway system for the cross runway and a single main Taxiway from the RPT apron to the runway. A large RPT apron located to the south of the terminal and then a series of GA aprons and parking areas to the north of the airfield.

Before the City can enter into a contract works arrangement, a tender process must be completed as per the City's purchasing policy and Local Government statutory requirements. RFT007 21-22 Surface Enrichment Treatment was released on 26 November and closed on 13 December 2021. A total of two (2) submissions were received.

Following completion of the tender evaluation process, Fulton Hogan was identified as the highest scoring respondent and is considered to offer the best value for money for the required works.

COMMUNITY STRATEGIC PLAN LINKS

This report links to the Strategic Community Plan through the following Guiding Theme/s:

- SAFE: We have safe, reliable and efficient public transport and road networks.

BUDGET IMPLICATIONS

The City has allocated $3,700,000.00 as part of the 2020/2021 FY Capital Works Program to the provision of runway renewal works with funding being sourced from the Airport Reserve.

A budget amount of $2,000,000.00 has been budgeted for Airport SEST Enrichment Treatments.

REPORT

Project Overview

Runway 11/23
Due to binder age, consideration be given to applying a penetrating binder rejuvenator to the surface.

Runway 18/36
Consider the application of a penetrating binder enrichment product to improve the retention of stone in the spray sealed sections and rejuvenate the binder in the asphalt section.
The works will also consist of the following:

- SEST Treatments to the RPT and Charter Apron
- SEST Treatments to Taxiways in the Table 1
- Approx. 9,000m of crack patching
- Reinstatement of all Line Markings to the 2020 MOS 139 Standards

Table 1 – Works Areas (Approx.) Facility	Approx. SQM	Notes
Runway 11-29	122,000m2	Including Turning Nodes and Shoulders
Runway 18-36	30,000m2	Including Shoulders
Taxiway Bravo	4,200m2	Including Shoulders
Taxiway Charlie	25,000m2	Including Passing Bay and Shoulders
Taxiway Echo	5,000m2	Including Shoulders
RPT Apron	23,000m2	Including Shoulders
Charter Apron	12,000m2	Including GSE
Total Area	**221,200m2**	**Approx.**

Assessment
The tendering period for RFT007 21-22 SEST Preservation Treatment was from 26 November to 13 December 2021. In this period, two (2) submissions for the tender were received from the below suppliers:

- Fulton Hogan
- Downer

All submissions meet the scope of the requirements, however there were a number of assessment items not included across the submissions. The evaluation panel consisted of two senior staff and two external consultant.

Each tender submission was assessed against the following weighted qualitative criteria:
- Relevant Experience (30%)
- Key Personnel Skills and Experience (15%)
- Demonstrated Understanding (15%)
- Price (30%)
- Risk Assessment (15%)

Of the two (2) submissions, none were based in Kalgoorlie-Boulder and therefore were not eligible to be assessed as regional suppliers. All submissions proceeded to panel assessment.

Panel Assessment Recommendation
Tendered prices from the two respondents were significantly different, tender A price was at the upper limits of budgets with no ability to include tender variation or contingencies. It was felt by the panel that both tenders meet the scope of the tender design including friction coefficient requirements, relevant experience and Key personnel.

Key personnel proposed by each tenderer differed considerably in Tender A proposal was heavily outsourced with sub-contractors based in Eastern states providing a high proportion of the work force requirements. Tender B proposal was complete utilising existing employed work force based in Western Australia, a contributing factor of their weighted score was the delivery of SEST and line marking in house with solid technical backing abilities.

Relevant experience was judged the same across the respondents with both tenders having considerable regional experience within the Aviation and Regional Airport project environments. Both tenders have adequate recent or relevant experience in airfield pavement enrichment treatments both providing detailed descriptions in their response.

Tender A proposal submission has several deviations from the scope of works. A secondary meeting with Tender A was held to clarify the exclusion of no friction testing, no rubber removal, no line marking removal, no quarantine for COVID workers based on east coast. Tender B did not deviate from the contract proposal

Tenderers		A	B
Relevant Experience	30%	18%	18%
Key Personnel Skills and Experience	15%	7%	9%
Demonstrated Understanding	15%	7.9%	10.9%
Pricing	30%	14%	24%
Risk Assessment	15%	9%	9%
TOTAL weighted score	100%	55.9%	70.9%

The determining factor of the tender process was price. Given that Tender A and B had similar experience, understanding, personnel and risk assessments with both parties demonstrating their ability and competence to conduct works, section D was the primary item of difference between the tenders with a 10% discrepancy in tender weighting between the applicants. The costing variance accounted for approximately 35% of the proposed budget, this saving would allow for significant engagement of quality control experts and contingency funding.

STATUTORY IMPLICATIONS

Tenders were called in accordance with section 3.57 of the Local Government Act 1995 and Local Government (Function and General) Regulations 1996 Part 4, Division 2, Regulation 11(a) which requires tenders to be publically invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, worth more than $250,000 unless sub-regulation (2) states otherwise.

POLICY IMPLICATIONS

The tender process ensures Policy CORP-AP-001 relating to purchasing is satisfied.

COMMUNITY ENGAGEMENT CONSULTATION

No community consultation was considered necessary in relation to the recommendations of the report.

9.1.2 AIRPORT ADVERTISING UPGRADE

Responsible Officer:	**David Trevaskis** **Acting Chief Executive Officer**
Author:	**Chris Barnes** **Airport Manager**
Disclosure of Interest:	**Nil**

VOTING REQUIREMENTS

Absolute

OFFICER RECOMMENDATION

That Council:

1. **Approve the purchase of Samsung IER 3X3 LED Wall Screen, Samsung IER 3x5 LED Wall, and the associated costs necessary for installation.**

2. **Approve amendment to the 2021/22 annual budget to include $99,500 (GST excl) capital expenditure for purchase of 2 x LCD Wall Screens for the purposes of advertising at the Kalgoorlie-Boulder Airport, to be funded from the Airport Reserve Account.**

EXECUTIVE SUMMARY

The Airport is viewed as the 'Gateway to the Goldfields' and creates the first impression of Kalgoorlie-Boulder for travellers as they disembark their aircraft. It is important the airport creates a welcoming and modern atmosphere for all patrons. As the airport continues to experience a high level of passenger demand with an average monthly passenger numbers of 24,500, it is on track for a 310,000 total yearly passengers. These numbers are further expected to increase with the announcement of the WA border reopening in early 2022. To prepare for an increase of passengers and flights the Kalgoorlie-Boulder Airport is proposing the implementation of upgrading the existing static advertising formats and replacing with large commercial digital screens.

The current 41 possible static advertising positions in the terminal space has created a visual clutter and caused the opposite effect on patrons as they are less likely to focus on an advertisement with too much sensory stimulation. By replacing the existing static positions (lightboxes, magnetic panels, shade sails) with digital screens, we are able to reduce the physical advertising positions and offer multiple advertisements on each screen.

COMMUNITY STRATEGIC PLAN LINKS

This report links to the Strategic Community Plan through the following Guiding Theme/s: FUTURISTIC: We plan for the future proofing of our City by being a thinking and innovative society.

BUDGET IMPLICATIONS

The cost break down for the purchase of both screens is as follows:

Item Description	Qty	Unit Total	Extended Total
Site Deployment and Shared Costs	1	$11,838.25	$11,838.25
Samsung IER 3x3 LED Wall (P2.5)	1	$35,427.75	$35,427.75
Samsung IER 3x5 LED Wall (P2.5)	1	$52,234.00	$52,234.00
		Total Ex GST	$99,500.00
		GST	$9,950.00
		Total Inc GST	**$109,450.00**

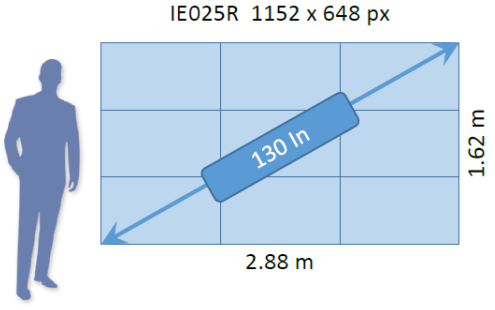
The expenditure is to be funded from the Airport Reserve account so will not reduce the City's forecast closing budgeted surplus. It is forecast that the screens will generate $8,000 - $14,000 additional unbudgeted revenue per month once installed.

REPORT

Kalgoorlie-Boulder Airport is proposing to capture the truly dynamic impact digital advertising can have on target audience reach. As such Kalgoorlie-Boulder is pleased to announce two models of Samsung LED products that is proposed for installation.

Screen one is a Samsung IER P2.5 130" indoor video wall comprising of 3x3 0.96m x 0.54m units, collectively creating a 2.88m x 1.62m digital display, or 130.09 inch diagonally. We envisage this particular screen to be installed in the terminal kiosk area which attracts the vast majority of passengers, most utilising the space until the final call for screening.

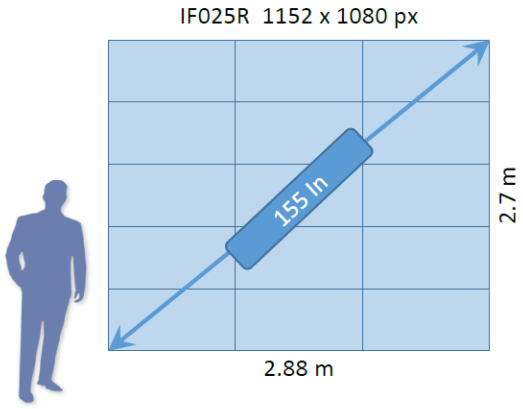
Model	IER P2.5 130"
Pixel Pitch	2.5 mm
Brightness (Peak/Max)	1,200 nit / 600 nit
Screen Configuration (W X H)	3 X 3
No. of Cabinets	9
No. of Spare Cabinets	1
Total number of cabinets	10
Cabinet Size (W X H)	0.96m X 0.54m
Display Dimension (W x H)	2.88m x 1.62m
Display Area	4.666 m2
Diagonal	130.09 inch



The second screen is a Samsung IER P2.5 155" comprising of 3 x 5 0.96m X 0.54m units creating a digital display size of 2.88m x 2.7m, or 155.42 inch diagonally. This

larger screen is proposed to hang over the arrivals doorway replacing the current 3 shade-sails locations. This is a hotspot for foot traffic as it is closely located to the baggage carousels and car hire booths.

Model	IER P2.5 155"
Pixel Pitch	2.5 mm
Brightness (Peak/Max)	1,200 nit / 600 nit
Screen Configuration (W X H)	3 X 5
No. of Cabinets	15
No. of Spare Cabinets	2
Total number of cabinets	17
Cabinet Size (W X H)	0.96m X 0.54m
Display Dimension (W x H)	2.88m x 2.7m
Display Area	7.776 m2
Diagonal	155.42 inch



Current Issues

Currently the airport offers 41 positions which consists of lightboxes, magnetic panels, shade sails, screening trays, and luggage trolleys. All formats are static, physically still images. They are all extremely outdated methods of advertising which reflects poorly on the airport's appearance and professionalism and does not compliment the airport's and city's vision of the Gateway to the Goldfields.

The majority of positions are occupied all year round on on-going rolling contracts, which has caused a visual clutter of old advertising and lack of room for any innovative advertising concepts. By having continuous rolling advertisements on LED screens (static or video format), terminal occupants are more likely to acknowledge the screen movement and visual content. It also allows the advertisers to update their ad content regularly without the necessary cost of sign printing.

Kalgoorlie-Boulder is Australia's largest outback city with a population of more than 30,000 people, and welcomes over 300,000 travellers through the airport each year. Unfortunately due to the saturation of outdated advertising positions, there is little to no room available for CKB tourism information which is a key component for welcoming new travellers to our region. The furthering of tourism and city messaging are seen as a key component of airport advertising initiatives. With the implementation of the digital screens which can display multiple ad campaigns, this in turn allows for the existing advertising space to be alleviated and serve as a source of information to passengers entering the terminal.

Profits and fees

The terminal collectively draws in an average of $18,000 in revenue per month in advertising fees, with the majority of 41 positions occupied all year round. This occupation drive is conducted all in house with no external advertising recruitment from third parties or CKB department support. Most positions have a wait list, and with an average of 2 advertising queries per week the terminal advertising is in constant demand by local and Perth businesses.

For this upgrade to be successful the Kalgoorlie-Boulder Airport recognize that our interests must align with our resident advertisers. Each screen can utilise up to 5 advertisers, each having a 30 second time slot for their content. Content can be moving video image similar to a TV ad, or static content similar to a digital banner. Content will continuously roll over to ensure advertising content is receiving maximum engagement. With that in mind, existing advertising clients will be offered the following advertising proposition.

- IER P2.5 130" **$2100.00 p/m**
- IER P2.5 155" **$2200.00 p/m**
- Both screens **$4000.00 p/m**
- One screen (annual contract) **5% discount off nominated screen**

Conclusion

In conclusion the Kalgoorlie-Boulder Airport terminal is highly profitable despite offering outdated formats of advertising. With the introduction of commercial grade digital LED screens the airport will modernise its appearance whilst encourage a new level of advertiser and advertising content. With the WA borders opening in early 2022 to the rest of the world, the Kalgoorlie-Boulder will continue to grow in PAX and flight routes. It is important that the terminal continues to move forward and create an innovative and welcoming environment for all travellers arriving and departing our beautiful goldfields region.

STATUTORY IMPLICATIONS

In accordance with s6.8 of the Local Government Act 1995 the City can approve expenditure not included in the annual budget if authorised in advance by resolution (absolute majority required).

POLICY IMPLICATIONS

The City's Purchasing Policy CORP-AP-001 requires officers to seek three written quotations for purchases between $50,000 and $250,000 and for the decision to be based on value for money and qualitative considerations.

In addition to the selected quote, a quote was sourced from (Supplier B) pricing a single screen similarly sized to Samsung IER 3x5 LED Wall at $86,609.60. This price for one screen covers over 80% of the entire project cost for 2 Samsung screens and installation.

A further quote was sourced from (Supplier C) pricing a single screen similarly sized to Samsung IER 3x3 LED Wall at $46,599.00. This costing comes in close to $10,000 more expensive than the Samsung LED wall screen.

COMMUNITY ENGAGEMENT CONSULTATION

No community consultation was considered necessary in relation to the recommendations of the report.

9.2 GENERAL MANAGER – INFRASTRUCTURE AND ENVIRONMENT

9.2.1 APPLICATION FOR PLANNING APPROVAL - PROPOSED COMMUNITY PURPOSE - RESERVE 22000, LOT 336 (NO. 104) KITCHENER ROAD, MULLINGAR (P115/21)

Responsible Officer:	**Ric Halse** **Manager Planning, Development & Regulatory Services**
Author:	**Kaitlin Redmond-Ball** **Senior Planning Officer**
Disclosure of Interest:	**Nil**
Assessment Number:	**A34961**
Owners Name:	**State of Western Australia**
Application Number:	**P115/21**
Applicants Name:	**LMS Ministries Ltd**
Development Value:	**$1000**

VOTING REQUIREMENTS

Absolute

OFFICER RECOMMENDATION

That Council approves Planning Application (P115/21) for a Use Not Listed (Community Purpose) located at Lot 336 (104) Kitchener Road, Mullingar, subject to the following conditions:

1. **This development must substantially commence within two years from the date of this decision letter, unless an extension of the approval is received from the City, prior to this approval expiring.**
2. **This development taking place in accordance with the approved plans.**
3. **Within 60 days of the date of this approval, the applicant is to submit a Bushfire Hazard Level assessment to the City of Kalgoorlie-Boulder.**
4. **Where the Bushfire Hazard Level assessment identifies the premises to be subject to a Bushfire Attack Level above "Low-Risk" the approved development is to comply with the Australia Standard AS3595.**
5. **Where the Bushfire Hazard Level assessment identifies the premises to be subject to a Bushfire Attack Level above "Low-Risk" the applicant is to submit an Emergency Evacuation Plan or the approved 'Community Purpose' use to the satisfaction of the City of Kalgoorlie-Boulder on advice from the Department of Fire and Emergency Services.**
6. **Prior to use, this development shall be connected to an approved effluent disposal system to the specifications of the City and/or Department of Health.**

7. **The stormwater shall be discharged and maintained in a manner so that there is no discharge onto the adjoining properties and is to be to the satisfaction of the City.**
8. **External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.**

EXECUTIVE SUMMARY

Council is to determine a development application for a 'Community Purpose' at Lot 336 (No. 104) Kitchener Road, Mullingar to be operated by Shalom House. The Centre is to utilise existing buildings on the property to provide rehabilitation services for persons affected by life controlling issues, inclusive of drug addiction.

The proposal is considered to be a 'Community Purpose' as defined by Local Planning Scheme No. 1, which is consistent with previous decisions of the State Administrative Tribunal and Supreme Court for applications proposed by Shalom House in Perth. Although 'Community Purpose' is listed in the definitions of Scheme No. 1, it is not a use listed within the 'Zoning Table' and therefore must be assessed as a 'Use Not Listed' in the Scheme.

The application was advertised to a 300m radius (38 properties) for a period of 21 days. A total of 35 submissions were received, comprising 26 non-objections, 8 objections and 1 which did not explicitly express an opinion. The objections raised concern with regard to the perceived safety risk, potential anti-social behaviour, the inconsistency of the use within the zone and the devaluation of properties in proximity.

Noting that there is limited physical development proposed under this application, City staff are satisfied that the proposed use will not generate noise, traffic or anti-social behaviour that would adversely affect the character or amenity of the area. Whilst the proposed development does not align with the objectives of the rural zone, on a balanced assessment the rehabilitation activities are considered to outweigh the conflict with the Scheme objectives. Accordingly, conditional approval is recommended.

COMMUNITY STRATEGIC PLAN LINKS

This report links to the Strategic Community Plan through the following Guiding Theme:

SUSTAINABLE: We advocate for the provision of land use.

BUDGET IMPLICATIONS

There are no financial implications resulting from the recommendations of this report.

REPORT

LMS Ministries Ltd on behalf of West Australian Shalom Group Inc. (Shalom House) has submitted an application for planning approval to establish a Community Purpose Centre at Lot 336 (No. 104) Kitchener Road, Mullingar. Shalom House seeks to rehabilitate people with life controlling issues, inclusive of drug addiction. The existing buildings on site are proposed to be utilised as a "live-in" facility for up to 20 participants of the Shalom House programme.

BACKGROUND

At the All Purpose Committee meeting held on 19 March 2018, LMS Ministries and Shalom House made a presentation to Council with regard to establishing a drug rehabilitation service in Kalgoorlie-Boulder. Council resolved to provide in-principle support to LMS Ministries in their endeavours to bring Shalom House drug rehabilitation facility to Kalgoorlie-Boulder, and authorise the CEO to prepare a letter stating as such. A copy of the aforementioned letter is attached for reference.

SITE CONTEXT

Lot 336 (No. 104) Kitchener Road is located between Goldfields Highway and the Leonora railway reserve. The development site has a total site area of 13,361m² and is generally regular in shape. The site comprises three existing buildings historically used by the Royal Flying Doctor Service (RFDS) base of operation (Place 156 on the City of Kalgoorlie-Boulder Local Government Heritage Inventory). Given this application relates to the use only, the heritage significance of the buildings is considered to remain intact. The site is sparsely vegetated and vehicle access is obtained via St Albans Road. The immediate surrounding land is zoned Rural and is generally void of development. Further North and South West comprises residential properties while the Old Kalgoorlie Golf Course is located directly to the west.

The lot is owned by the State of Western Australia and reserved (Reserve Number 22000) for the purposes of 'Short Term Emergency Accommodation, Rehabilitation Centre, Community and Telecommunication'. The State have vested a Management Order to LMS Ministries Ltd which allows the property to be sub-leased for the designated purposes of the Reserve.

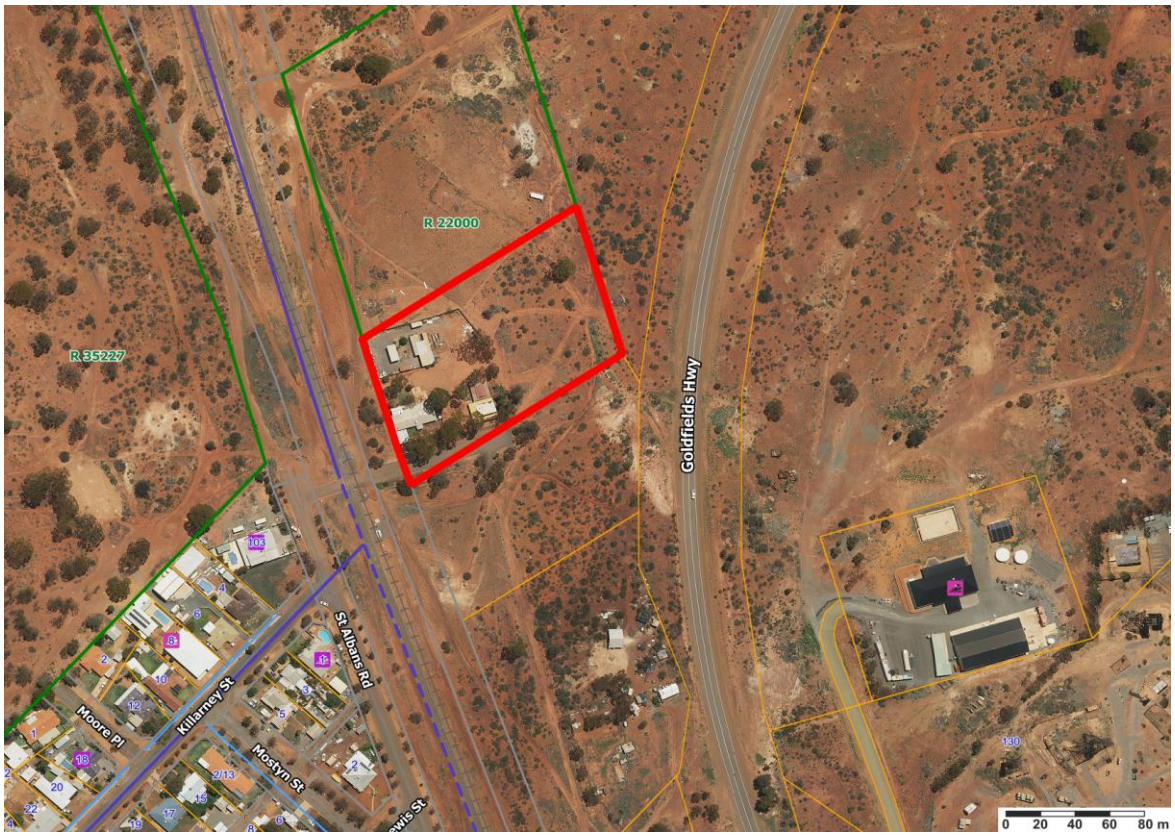


Figure 1 - Lot 336 (104) Kitchener Road, Mullingar

LOCAL PLANNING SCHEME NO. 1

Land Use

The subject land is zoned 'Rural' under Local Planning Scheme No. 1 (LPS1). The proposal is considered to be 'Community Purpose', defined in Local Planning Scheme No. 1 as follows:

> **"Community Purpose"** means *the use of land or buildings designed or adapted primarily for the provision of educational, social and recreational facilities and services by organisations involved in activities for community benefit.*

Other land uses considered by City staff are as follows:

Land Use	Definition	Comment
Residential Building	*A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:* • *Temporarily by two or more persons; or*	Each of these land uses only refer to the boarding or lodging of persons temporarily or a building used permanently for the purpose of human habitation. City staff consider this to only form one aspect of the proposed use of the land

	• *Permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.*	and therefore were not considered the most appropriate land uses.
Boarding House	*A building in which provision is made for lodging or boarding more than four persons, exclusive of the family of the keeper.*	
Lodging House	*Any building or structure, permanent or otherwise and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of family or the keeper thereof for hire or reward.*	

Although 'Community Purpose' is defined in Local Planning Scheme No. 1, the use is not specifically mentioned in the Zoning Table.

The question pertaining to the appropriate land use for 'Shalom House' has been explored extensively through the West Australian State Administrative Tribunal and the Supreme Court.

West Australian Shalom Group Inc. and City of Swan [2018] WASAT 36 found that the use is not properly classified as a 'Residential Building' because "*having regard to all the activities undertaken at Shalom House, the residing that takes place is a necessary, and not independent, component of the men's restoration programme taking place [at the site].*" Further, it was determined that the residential component *"is merely an incidental, ancillary or subordinate activity to the use of the site as a rehabilitation centre, or an 'incidental use'."*

[2018] WASAT 36 found that the site was properly classified as 'Community Purpose' as defined in the City of Swan's Local Planning Scheme No. 17 because:

- *"the premises at the site are 'adapted' primarily for the use of the site as a rehabilitation centre, the use of the site as a rehabilitation centre is or involves the provision of 'educational services' and 'social services' and*
- *The educational services and social services are provided by an organisation involved in activities for 'community benefit'."*

City staff note the definition of 'Community Purpose' as defined in the City of Swan's Local Planning Scheme No. 17 is generally consistent with the definition of 'Community Purpose' defined LPS1.

Zone Objectives

Clause 3.6 of LPS1 states:

If the use of the land for a particular purpose is not specifically mentioned in the Zoning Table the Council may:

(a) Determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted;
(b) Determine, by absolute majority, that the proposed use may be consistent with the objectives and purposes of the zone and require the procedures set out in clause 6.6 to be complied with before considering an application for planning approval; or
(c) Determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

The application has been assessed against the objectives of the zone and having due regard to the matters set out in Clause 67 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* inclusive of submissions from the public and government agencies.

The objectives of the 'Rural' zone in LPS1 are to:

a) Provide for the development of rural activity as appropriate.
b) Provide for the development of mining activity as appropriate.
c) Protect land from urban uses that may jeopardise the future use of that land for priority mining and rural uses.
d) Accommodate the development of isolated communities including Aboriginal and railway settlements.

The application, in changing the use of the premises from short term accommodation to "Community Purpose" is not considered to align with the first two objectives of the rural zone which seek to provide for rural and mining activities as appropriate.

City staff acknowledge that the community who benefit from the use is both the local (Kalgoorlie-Boulder) and greater (West Australian and Australian) communities. His Honour Judge Parry made these findings in paragraphs 129, 132, 133, 135, 136, 138 – 140 (inclusive) in ***West Australian Shalom Group Inc. and City of Swan [2018] WASAT 36;*** attached for reference.

It is considered that the community benefit associated with the proposed development is a matter of significance that ought to be weighed judiciously against its non-compliance with the first two zoning objectives. City staff accept the benefits that successful drug rehabilitation bring to the wider community outweighs the fact that the use is not rural or mining in nature.

Further, it is noted that historically the site was used as the Royal Flying Doctors Service base and later reserved to allow for short term emergency accommodation, community and telecommunications purposes. These uses are also not considered to be rural or mining in nature.

Objective c) seeks to protect land from urban uses that may jeopardise the future use of the land for mining or rural uses. Given the application relates to the use of the existing buildings for a community purpose centre and does not propose any

new development, it is considered that the proposed use of the land does not compromise the future use of the land for priority mining or rural uses.

Clause 2.3 of LPS1 states that *where an application for planning approval is made with respect to land within a reserve, the Council shall have regard to the purpose intended for the reserve*. Reserve 22000 is reserved for the purposes of 'Short Term Emergency Accommodation, Rehabilitation Centre, Community and Telecommunication'. The proposed use of the land is considered to be consistent with the purpose.

DRAFT LOCAL PLANNING SCHEME NO. 2

Draft Local Planning Scheme No. 2 proposes to reserve the subject site for 'Civic and Community' purposes. The objectives of the reserve are to:

a) Provide land for a range of community facilities which are compatible with surrounding development;
b) Provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.

City staff are satisfied that the proposed use of the land is consistent with the objectives of the 'Civic and Community' reserve. This positioned is supported by precedent established in the findings of the State Administrative Tribunal { }.

DEVELOPMENT STANDARDS

Local Planning Scheme No. 1 specifies standards and requirements for various uses permitted within the Scheme area. Local Planning Policy 02 (LPP02) Supplementary Development Standards and Use Classes acknowledge that not all uses defined in the Scheme are contained within the development standards table (Table 2). Clause 2 of LPP02 recommends that the development standards for an 'Office' apply when considering an application for a 'Community Purpose'.

Given the application relates only to the use of the land and does not propose any additional buildings, the only relevant standard is considered to be parking. Table 2 of Local Planning Scheme No. 1 recommends 1 bay for every 30m² of net lettable area. The net lettable area of the site is 527m² amounting to a total requirement of 18 parking bays.

Notwithstanding, the applicant has confirmed that only two cars, to be used by management will be present on site. Two cars are capable of being parked under the existing double carport accessible via St Albans Road. Access to and from the premises is closely regulated by the operators, arranged as a group through the use of a bus, with participants prohibited from free and private movements to and from the premises. The existing road network is considered to be more than capable of accommodating the traffic movements generated by the development.

BUSHFIRE

The subject site is located within the designated Bushfire Prone Area and therefore will require a Bushfire Hazard Level assessment to be undertaken by a bushfire planning practitioner. This is recommended as a condition of any planning approval within such an area. This assessment will determine the Bushfire Attack Level that the building is subject to. If that assessment determines the level of risk to be greater than 'Low Risk' an Emergency Evacuation Plan will be required to be prepared. This stems from the consideration that the operation as a 'Community Purpose' may be considered a vulnerable land use, as outlined in the WAPC document "Guidelines for Planning in Bushfire Prone Areas". This is to be prepared to the satisfaction of the City on advice from the Department of Fire and Emergency Services.

RAIL NOISE

State Planning Policy 5.4 – Road and Rail Noise seeks to minimise adverse impacts of road and rail noise on noise-sensitive land uses within the specified trigger distance. The policy only applies in the case of brand new developments or additions/alterations to existing development. Given this proposal relates to the use only and does not propose any modifications to the existing buildings, the provisions of the policy do not apply.

COMMUNITY CONSULTATION

Safety

It has been heavily documented through the court system proceedings that the operations of WA Shalom Inc. are highly self-regulated and disciplined; in effect affording no tolerance of any form of anti-social behaviour by programme participants. City staff accepts the concern raised in public submissions, most particularly by residents of Killarney Street, that a proximate premises containing individuals with drug addiction issues may present a safety risk to themselves and their families.

Looking objectively at this concern, there is no evidence available to the City that, in the operation of the existing facilities, there have been instances of anti-social or alleged criminal behaviour against programme participants. City staff have every reason to believe that the highly disciplined regime provided by WA Shalom Inc. works to prevent this.

Devaluation of land

Nine (9) of the submissions received raise concern that the proposed use of the premises will cause a reduction in property values. Clause 67 (2) Part 9, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* set out matters to be considered by the local government. A reduction in property values, perceived or otherwise, is not listed as a planning matter to be considered by the local government.

Location

Several of the submissions suggest that an alternate location should be proposed by the City that is not located within a residential area or within proximity to the train line. City staff note that the Council is required to consider the application before them and is not required to recommend alternate locations. Furthermore, the proposal is not located in a residential area and is zoned 'Rural' under Local Planning Scheme No. 1.

STATUTORY IMPLICATIONS

If the applicant and/or owner wish to appeal the decision or the development conditions, a review must be lodged with the State Administrative Tribunal within 28 days of the decision being made by the City. An advice note to this effect will be included in the decision notice.

POLICY IMPLICATIONS

There are no policy implications resulting from the recommendations of this report.

COMMUNITY ENGAGEMENT CONSULTATION

Public consultation was undertaken in accordance with Clause 3.6 (b) of LPS1 as the use is not permitted unless the local government has given notice of the application to nearby owners and occupiers who in the opinion of Council are likely to have a direct interest.

Public consultation was carried out in the following manner:

Duration: 22 Days between 9th August 2021 and 31 August 2021

Method: A letter to all land owners and occupiers within a 300m radius (38 properties). Those who received a letter were also invited to attend an information session run by Shalom House on 20 August 2021. The information session was well attended by members of the public.

Submissions Received: Of those properties that received letters, seven (7) submissions of objection were received. A further twenty eight (28) submissions; twenty six (26) submissions of support, one (1) submission of objection and one (1) which expressed a neutral opinion were received. It is important to note that the submissions of support and which was neutral in opinion were received by LMS Ministries Pty and forwarded to the City for consideration.

The key issues raised have been addressed in the body of the report. A copy of the submissions received have been attached for Council's consideration.

ATTACHMENTS

Development Plans

Redacted Submissions

Letter of In-Principle Support

Extract from [2018] WASAT 36

10 CONFIDENTIAL ITEMS

11 CLOSURE