



Shire of Dardanup

Infrastructure

Directorate

APPENDICES

Item 12.3.1 – 12.3.4

ORDINARY COUNCIL MEETING

To Be Held

Wednesday, 22nd May 2024

Commencing at 5.00pm

At

Shire of Dardanup
ADMINISTRATION CENTRE EATON
1 Council Drive - EATON

This document is available in alternative formats such as:
~ Large Print
~ Electronic Format [disk or emailed]
Upon request.

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Yabberup Road gate licence renewal request

RISK THEME PROFILE:

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

RISK ASSESSMENT CONTEXT: Operational

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	Livestock on roads can cause damage to public roads.	Minor (2)	Unlikely (2)	Low (1 - 4)	Reject proposal to operate gates and remove them or stipulate condition that the Shire reserves the right to recoup costs due to damage.	Minor (2)	Unlikely (2)	Low (1 - 4)
LEGAL AND COMPLIANCE	Gates across public thoroughfares introduce risk to the general public including for emergency access and creating a hazard to road users.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Reject proposal to operate gates and remove them or stipulate conditions including that the gates must not be locked at any time and limiting closure time periods.	Moderate (3)	Rare (1)	Low (1 - 4)
REPUTATIONAL	Precedence has been set by Council that allowed one Shire landowner a gate licence (subject to a trial period).	Insignificant (1)	Possible (3)	Low (1 - 4)	Either reject the proposal if not suitable or provide permission to operate gates.	Insignificant (1)	Unlikely (2)	Low (1 - 4)
ENVIRONMENT	Livestock allowed for an extended period within the road reserve, there is the possibility of "incidental grazing", which could adversely impact natural vegetation alongside the road	Minor (2)	Possible (3)	Moderate (5 - 11)	Reject proposal to operate gates for livestock transfer or limit time period that livestock are permitted to remain within the road reserve.	Minor (2)	Unlikely (2)	Low (1 - 4)

Appendix ORD: 12.3.1A)

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
PROPERTY	No risk event identified.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

After trying the conditions forced on me as a farmer, and trying to operate a viable business on Yabberup Road Wellington Forrest, I have written down some thoughts.

Given that I have 4 operations herds in different sections on 520 acres on Yabberup Road, throughout the 12 month trial I have only been able to arrange help to move cattle on 6 occasions and also have tried different methods of moving cattle over the road up to the yards by myself, I have found it very difficult, taking well over 90 minutes to move them one way to the yards. These herds have over 50 cattle in each herd.

Moving them by myself, I have had my wife standing at the gate ready to shut it if in case the cattle got on the road and onto the main road.

I have tried this method many times and it is very exhausting, trying to get them to the yards by myself, let alone work on the cattle.

The occasional problem will arise (sic), for example if I have a sick cow, or with wire around their leg or feet, I have to bring the whole herd into the yards to be able to work on that one cow or calf. With the 4 herds over the 12 month period I have only been able to drench treat calves & cows with N4S Tags and ear marks, during that period.

The old system that my uncles and Sue Pass thought that a good idea was to put hay bales on the road, close gates, move them slowly up the road at their pace. In the last 2 years Sue Pass changed her mind unfortunately.

When my son is available to help me, we use the motorbike which makes the cattle agitated so they jump through the fences. We do it this way to try and fit into the 90 minute time space, but it ends up being longer to try and herd agitated cattle.

I am just asking for some flexibility (sic), not every day is the same.

A timed approach does not fit every movement of stock, also a time factor of approx. 3 hours in the yards then moving them back to their paddocks is not long enough.

Sometimes it will take all day to move cows to yards and work on them, then put them back.

This could happen anytime day or night depending on emergencies.

I have not let Sue Pass know because they are very seldom at their Yabberup property. If they are at the property then I will let them know.

We have never had any complaints from anyone over the last 35 years that we have lived here, except for the complaint that Sue Pass put in. Whenever the gates were closed, people using Yabberup Rd would go through then shut them behind themselves.

Gates are necessary as part of our farming operations.

There has never been padlocks on any of the gates, and all our gates are easy to open and shut.

Kind Regards

[signed]

Tony Pitts

12/2/24

12/2/2024

Yabbenup Road (Appendix ORD: 12.3.1B) Gates

After trying the conditions forced on me as a farmer, and trying to operate a viable business on Yabbenup Road Wellington Forrest, I have written down some thoughts.

Given that I have 4 operational herds in different sections on 520 acres on Yabbenup Road, throughout the 12 month trial I have only been able to arrange help to move cattle on 6 occasions and also have tried different methods of moving cattle over the road up to the yards. By myself, I have found it very difficult, taking well over 90 minutes to move them one way to the yards.

These herds have over 50 cattle in each herd.

Moving them by myself, I have had my wife standing at the gate ready to shut it if in case the cattle got on the road and onto the main road.

I have tried this method many times and it is very exhausting, trying to get them to the yards by myself, let alone work on the cattle.

The occasional problem will arise, for example if I have a sick cow, or with wire around their leg or feet, I have to bring the whole herd into the yards to be able to work on that one cow or calf. With the 4 herds over the 12 month period I have only been able to drench

12/12/24

YABBERUP ROADS (Appendix ORD: 12.3.1B)

treat calves & cows with NLS tags and ear marks, during that period.

The old system that my uncles and Sue Pass thought that a good idea was to put hay bales on the road, close gates, move them slowly up the road at their pace. In the last 2 years Sue Pass changed her mind unfortunately.

When my son is available to help me, we use the motorbike which makes the cattle agitated so they jump through the fences. We do it this way to try and fit into the 90 minute time space, but it ends up being longer to dry and herd agitated cattle.

I am just asking for some flexibility, not every day is the same.

A timed approach does not fit every movement of stock, also a time factor of approx 3 hours in the yards then moving them back to their paddocks is not long enough.

Some times it will take all day to move cows to yards and work on them, then put them back.

This could happen any time, day or night depending on emergencies.

I have not let Sue Pass know because they are very seldom at their Yabberup property. If they are at the property then I will let them know.

We have never had any complaints from anyone over the last 35 years that we have

12/2/24

Yabbemp Road Closure of Gates

(Appendix ORD: 12.3.1B)

lived here, except for the complaint that Sue Pass put in. Whenever the gates were closed, people using Yabbemp Rd would go through then shut them behind themselves.

Gates are necessary as part of our farming operations.

There has never been padlocks on any of the gates, and all our gates are easy to open and shut.

Kind Regards



Tony Pitts
12/2/24

Nathan Ryder

From: Tanya McLean <Tanya.McLean@dplh.wa.gov.au>
Sent: Thursday, 7 March 2024 3:25 PM
To: Records
Cc: Saul Healy
Subject: Comments - Shire Ref CRO-R1519902 Yabberup Road - Gate Licence Renewal Request
Attachments: 20240306150752632.pdf

You don't often get email from tanya.mclean@dplh.wa.gov.au. [Learn why this is important](#)

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OFFICIAL

Hi Nathan

Thank you for the opportunity to comment on 'Yabberup Road – Gate Licence Renewal Request', Shire Ref CRO-R1519902 (attached).

DPLH Land Use Management Division provides no objection to the gate licence renewal request. It is noted that Yabberup Road leads to Wellington National Park (Class A Reserve 46213) and the Shire should ensure consultation with the National Park responsible agency occurs, being Department of Biodiversity, Conservation and Attractions (DBCA).

Additionally, regarding the 14 December 2022 Council Minutes that are referenced in your letter, specifically page 14 'Officer Recommended Resolution & Council Resolution "B" (point 3)', Land Use Management would not support a land swap for any future decision by Council regarding moving the location of Yabberup Road. Instead, the landowner would need to cede the portion of their freehold land which will become road, free of charge, to the State and purchase the portion of existing road to be closed for amalgamation with their freehold lot.

Kind regards
Tanya

Tanya McLean
A/Project Officer | Land Management South
Department of Planning, Lands and Heritage
Level 6, Bunbury Tower, 61 Victoria Street, Bunbury WA 6230
wa.gov.au/dplh | 9791 0597



The Department is responsible for planning and managing land and heritage for all Western Australians – now and into the future

The Department acknowledges the Aboriginal people of Western Australia as the traditional custodians of this land, and we pay our respects to their Elders, past and present.

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(Appendix ORD: 12.3.1B)

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Our Ref: CRO-R1519902
AS:pn
☎: 9724 0000
records@dardanup.wa.gov.au

27th of February 2024

Department of Planning, Lands and Heritage
Bunbury Tower
61 Victoria Street
BUNBURY WA 6230

Email: bunbury.planning@dplh.wa.gov.au

Dear Sir/Madam

RE: YABBERUP ROAD – GATE LICENCE RENEWAL REQUEST

As a land manager of land that has access from Yabberup Road (Wellington Forest), and in accordance with Council Resolution 318-22 from the Ordinary Council Meeting held on the 14th of December 2022, the Shire seeks your feedback on a request from another landowner for renewal of a gate licence on Yabberup Road.

A copy of the Public Notice that has been advertised is attached.

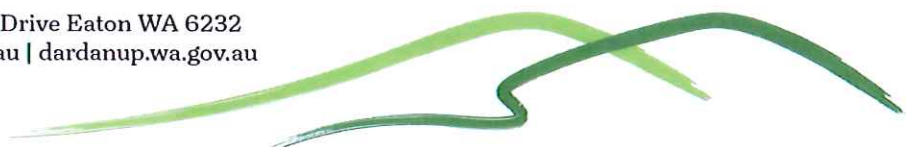
Further information can be obtained in the Council Minutes from the Ordinary Council Meeting held on the 14th of December 2022 on the Shire's website: www.dardanup.wa.gov.au

Please forward your submissions or enquiries to the Shire of Dardanup by calling 9724 0000 or emailing records@dardanup.wa.gov.au before the 16th of April 2024.

Should you have any questions on the request, please feel free to contact Nathan Ryder, Manager Infrastructure Planning & Design, on 9724 0393 or nathan.ryder@dardanup.wa.gov.au.

Yours sincerely

MR NATHAN RYDER
Manager Infrastructure Planning & Design



PUBLIC NOTICE

YABBERUP ROAD - PROPOSED GATE LICENCE

Section 9 of Local Government (Uniform Local Provisions) Regulations 1996

In accordance with Council Resolution 318-22 from the Ordinary Council Meeting held on the 14th of December 2022, the Shire hereby advertises the proposal on behalf of a landowner who requests the renewal of a gate licence for two gates across Yabberup Road. The purpose of the gates is for the landowner to transfer livestock from one area to another from time to time.

The locations of the two gates are indicated below in the sketch.



The Shire provided temporary permission to the landowner to operate the gates over a 12-month trial period, subject to conditions (refer Council Resolution 318-22), which has now ended. The Shire is requesting input from the community and welcome feedback regarding the proposal to renew the gate licence. Submissions will be accepted up until Tuesday 16th April 2024.

Please forward your submissions or enquiries to the Shire of Dardanup by calling **9724 0000** or emailing records@dardanup.wa.gov.au.

ANDRÉ SCHÖNFELDT
Chief Executive Officer

Removal Date 17 April 2024

Nathan Ryder

From: Frances Teather <Frances.Teather@dplh.wa.gov.au>
Sent: Thursday, 7 March 2024 1:37 PM
To: Nathan Ryder
Subject: RE: Yabberup Road - Gate Licence Renewal Request - Public Notice

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UNOFFICIAL

Dear Nathan,

Thank you for providing the opportunity to comment on this matter.

The Department of Planning, Lands and Heritage has no comment or objection to the proposal.

Kind Regard,

Frances Teather

Planning Officer | Land Use Planning

Department of Planning, Lands and Heritage

140 William Street, Perth WA 6000

wa.gov.au/dplh | 6551 9380 | |



The Department is responsible for planning and managing land and heritage for all Western Australians – now and into the future

The Department acknowledges the Aboriginal people of Western Australia as the traditional custodians of this land, and we pay our respects to their Elders, past and present.

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From: Nathan Ryder <Nathan.Ryder@dardanup.wa.gov.au>
Sent: Tuesday, 27 February 2024 2:27 PM
To: Bunbury Planning <bunbury.planning@dplh.wa.gov.au>
Subject: Yabberup Road - Gate Licence Renewal Request - Public Notice

You don't often get email from nathan.ryder@dardanup.wa.gov.au. [Learn why this is important](#)

Good afternoon,

Please find attached correspondence in relation to the above matter.

Should you have any questions please do not hesitate to contact the undersigned.

Regards,

Nathan Ryder

Manager Infrastructure Planning & Design



A: 1 Council Drive | PO Box 7016 | Eaton WA 6232

T: 08 9724 0393 | **M:** 0447 781 021 | **E:** nathan.ryder@dardanup.wa.gov.au

W: www.dardanup.wa.gov.au



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Nathan Ryder

From: BUNB-427-SWLanduseplanning <swlanduseplanning@dbca.wa.gov.au>
Sent: Friday, 1 March 2024 2:49 PM
To: Nathan Ryder
Subject: RE: Yabberup Road - Gate Licence Renewal Request - Public Notice 2023-003135
Attachments: DBCA Yabberup Road Wellington.pdf

You don't often get email from swlanduseplanning@dbca.wa.gov.au. [Learn why this is important](#)

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Hello Nathan
Please find attached the Department of Biodiversity, Conservation and Attractions response to the above gate licence renewal request.

Regards

Tracy Teede

Planning Officer (Land Use)

South West Region (Bunbury) – 9725 4300

Parks and Wildlife Service

Department of Biodiversity, Conservation and Attractions



Department of **Biodiversity,
Conservation and Attractions**



From: Nathan Ryder <Nathan.Ryder@dardanup.wa.gov.au>
Sent: Tuesday, February 27, 2024 2:27 PM
To: BUNB-427-SWLanduseplanning <swlanduseplanning@dbca.wa.gov.au>
Subject: Yabberup Road - Gate Licence Renewal Request - Public Notice 2023-003135

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.

Good afternoon,

Please find attached correspondence in relation to the above matter.

Should you have any questions please do not hesitate to contact the undersigned.

Regards,

Nathan Ryder

Manager Infrastructure Planning & Design



A: 1 Council Drive | PO Box 7016 | Eaton WA 6232

T: 08 9724 0393 | **M:** 0447 781 021 | **E:** nathan.ryder@dardanup.wa.gov.au

W: www.dardanup.wa.gov.au



(Appendix ORD: 12.3.1B)

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Your ref: CRO-R1519906
Our ref: PRS 51930 2023-003135
Enquiries: Tracy Teede
Phone: 08 9725 4300
Email: swlanduseplanning@dbca.wa.gov.au

Chief Executive Officer
Shire of Dardanup
PO Box 7016
DARDANUP WA 6232

ATTENTION: Nathan Ryder

LOT 1 YABBERUP ROAD WELLINGTON – GATE LICENCE RENEWAL REQUEST –

I refer to your letter dated 27 February 2024 seeking the Department of Biodiversity, Conservation and Attractions' (DBCA) comments in relation to an application for a Lot 1 Yabberup Road gate licence.

The following comments are provided pursuant to DBCA's responsibilities under the *Conservation and Land Management Act 1984*.

Advice to Shire

The Lot 1 western boundary is adjacent to the DBCA-managed Wellington State forest. DBCA uses Yabberup Road to access the small portion of the Wellington National Park adjacent to Mungalup Road, in addition to the adjacent Wellington State forest.

DBCA has no objections to the renewal of the gate licence for gates 1 and 2 along Yabberup Road, as indicated on the attached plan, for the purpose of the Lot 1 landowner transferring livestock between the two portions of his property. DBCA requests that the gates remain unlocked.

DBCA notes the Shire of Dardanup (Shire) ordinary Council Meeting minutes dated 14 December 2022 included Resolution 3 that refers to the Shire investigating the permanent closure of the Yabberup Road road reserve within Lot 1. DBCA does not support the closure of this portion of Yabberup Road within Lot 1 as the road is required for DBCA's access to the Wellington National Park and State forest for management purposes, including for fire management.

Thank you for the opportunity to comment on this application. Please contact Tracy Teede at the DBCA South West Region office on 9725 4300 if you have any queries regarding this advice.

Yours sincerely

Aminya Ennis
Regional Manager

1 March 2024

Nathan Ryder

From: Susan Pass <[REDACTED]>
Sent: Sunday, 14 April 2024 2:10 PM
To: Nathan Ryder; Theo Naudé; Records
Cc: Tyrrell Gardiner; Ellen Lilly; Luke Davies; Stacey Gillespie; Mark Hutchinson; Tony Jenour; Annette Webster; Taneta Bell; Jack Manoni; [REDACTED]
Subject: Yabberup Rd temporary gates licence: Resolution 318-22
Attachments: Pitts Email.pdf; Yabberup Road - Gate Licence Renewal Request - Public Notice; Yabberup Rd 7 May 2023 N gate closed, no resolution signs on either gate, no cattle on road, no notification of closure; Yabberup Rd 4 Feb 2024 still no signs on N gate or gate at boundary of our property at 775 Yabberup Rd

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Dear Theo, and Nathan,

We refer to Theo's email below dated 30 March 2023 regarding the Yabberup Rd temporary gates licence, and his attached email to the Pitts. We also refer to Nathan's emails to us dated 13 March and 27 February 2024, in particular the attached copy of Council's resolution 318-22 and it's conditions.

We comment on the resolution as follows (by reference to its numbered clauses):

As to 1 (c) – this condition requiring relocation of the visitor bio security sign from on the gate to a side fence appears to be one condition complied with.

However:

As to 1 (d) – signs with a copy of the resolution have never been attached to the gates; we have dated photographic evidence of this from time to time if required – see examples dated 7 May 2023 and 4 February 2024 attached;

As to 1 (f) – no email or text or any message regarding closure of the gates has been received by us during the trial period or since - 20 December 2022 to Sunday 14 April 2024); we have found the (north) gate closed - with no cattle on the road or in the vicinity – see attached; on our visits we have occasionally seen a few cattle on the road, with no person apparently nearby managing them; additional gates from both paddock to paddock, and from paddock onto the road verge seem to have been installed - enabling stock transfer from paddock to paddock / directly across the road without needing to close the gates.

The above is evidence that the Pitts;

- have not followed the conditions attached to the trial period licence;
- have failed to alert other road users to the trial period licence by failing to attach the Resolution with conditions to the two gates;
- do not require the benefit of Council Resolution 318-22.

Please note we exchanged mobile numbers with both Tony and Lyn Pitts some years before this issue arose and had communicated with them on a number of occasions.

(Appendix ORD: 12.3.1B)

In these circumstances we submit there should be no further extension or renewal of the temporary licence, and the two gates and fencing in the road verge which is associated with them should be removed as soon as practicable.

We refer also to paragraph 2 of resolution 318-22 (about public notices and the matter being brought back to Council for consideration of whether to renew), and as presently being the only other landowner directly affected due to Yabberup Road being the street address for our property, we request that we be provided with:

1. copies of notices direct by email;
2. copies of submissions from the Pitts and other parties responding; and
3. notice and details of any Council meeting where Resolution 318-22 is to be considered; in sufficient time for us to consider, and respond including with more photographic evidence if requested, and attend the meeting.

Regards
Sue and Brian Pass:

Copy email to: Shire of Dardanup Councillors

From: Theo Naudé <Theo.Naude@dardanup.wa.gov.au>
Sent: Thursday, March 30, 2023 4:26 PM
To: [REDACTED]
Cc: Stacey Patterson <Stacey.Patterson@dardanup.wa.gov.au>; Nathan Ryder <Nathan.Ryder@dardanup.wa.gov.au>
Subject: Yabberup Rd Gates

Dear Sue and Brian

I want to extend my sincere apologies for the lateness of previous correspondence in reply to your letter of 21 January 2023.

I am sending you this email further to your recent discussion with the Shire's CEO, Andre Schonfeldt, to provide you with information about correspondence sent to Mr Pitts re the outcome of Council decision at its meeting on 14 December 2022. As you are aware, Council didn't approve a gate licence or permit, but rather resolved that the 2 gates are temporarily permitted to remain and to be operated under specific conditions for a 12 month trial period.

Following the Council meeting, on 20 December 2022 Mr Pitts was sent correspondence by email (see attached) to confirm Council's decision, which would allow the gates to be operated subject to the conditions that were included in the Council resolution. The Council resolution that includes all the conditions was included in the email.

Further correspondence (see attached) was sent to Mr Pitts on 27 March 2023, reminding him of his obligations to comply with Council Resolution as well as confirming that the trial period commenced on 20 December 2022, which was when he was informed of Council decision in writing.

I hope this information clarifies the gate licence matter as well as when the trial period commenced.

Please don't hesitate to contact me if you have any queries that I can assist with re Yabberup Road or associated issues.

Regards
theo

Theo Naudé FIEAust EngExec NER

Director Infrastructure



A: | PO Box 7016 | Eaton WA 6232

T: 08 9724 0367 | **E:** Theo.Naude@dardanup.wa.gov.au

W: www.dardanup.wa.gov.au



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(Appendix ORD: 12.3.1B)

From: Nathan Ryder
Sent: Monday, 27 March 2023 4:09 PM
To: Lynette Pitts
Cc: Stacey Patterson; Theo Naudé
Subject: RE: Yabberup Road Gate Licence Request

Hi Tony,

It was nice to talk to you last Monday. Great to see you had relocated the biosecurity signs. Thanks for that.

Regarding the 12-month trial period:

- The trial period commenced on 20 December 2022;
- During this trial period, and in order to operate the gates in compliance with Council Resolution 318-22, you are required to display a copy of the Council Resolution on the gates and provide Mr/Mrs Pass with 48 hours' prior notice. This can be via email or text message.

Should you have any questions in relation to this matter, please do not hesitate to contact me.

Kind regards,

Nathan Ryder

Manager Infrastructure Planning & Design



A: 1 Council Drive | PO Box 7016 | Eaton WA 6232
T: 08 9724 0393 | **M:** 0447 781 021 | **E:** nathan.ryder@dardanup.wa.gov.au
W: www.dardanup.wa.gov.au



From: Nathan Ryder
Sent: Tuesday, 20 December 2022 3:40 PM
To: Lynette Pitts [REDACTED]
Cc: Stacey Patterson <Stacey.Patterson@dardanup.wa.gov.au>
Subject: RE: Yabberup Road Gate Licence Request

Hi Tony and Lyn,

I'm just following up on the recent Council Resolution 318-22 and I provide you with a copy in this email as well as a link to the Minutes on the Shire's website.

<https://www.dardanup.wa.gov.au/council-meetings/ordinary-council-meeting/ordinary-council-meeting-14-december-2022/226>

THAT Council

- 1. Advises Mr Anthony William Pitts of 874 Yabberup Road, Wellington Forest, that the two existing gates across Yabberup Road (located at SLK 0.27 and SLK 1.14) are temporarily permitted to remain and that Council allows Mr Pitts to operate the gates subject the following conditions:**
 - a) The gates may only be closed for the express purpose of supervised transferring livestock across and along Yabberup Road from property to property. Otherwise, the gates must remain fully open;**
 - b) The gates shall not be locked at any time and must be able to be opened easily by anyone wishing to pass the gates;**
 - c) Mr Pitts shall relocate to the boundary fence the signs "Visitors please respect farm biosecurity..." that are located within the road reserve;**
 - d) Signs to be installed on the gates with a copy of this council resolution to inform the general public;**
 - e) The gates are maintained in a safe and serviceable condition at all times and to the satisfaction of the Shire of Dardanup;**
 - f) Forty Eight (48) Hour notice by way of email or text messaging is to be given to the neighbours Susan and Brian Pass of 775 Yabberup Road before the gates are closed;**
 - g) The Shire of Dardanup reserves the right to recoup the cost of repairs of any damage caused to the road directly attributable to stock along Yabberup Road;**
 - h) The Shire of Dardanup will consider cancelling the permission if any of the conditions of this resolution are breached;**
 - i) The Shire of Dardanup may consider renewing permission at the expiration of a 12-month trial period.**
- 2. At the expiration of a 12-month trial period, requests that the Chief Executive Officer advertises the proposal of renewing permission for the two gates, via a public notice for a period of not less than four weeks, and also seeks direct feedback from the other landowner on Yabberup Road as well as the other relevant land managers (Department of Planning, Lands and Heritage and Department of Biodiversity, Conservation and Attractions). Once feedback is received, that the matter be brought back to Council for consideration of renewing permission;**
- 3. That the Chief Executive Officer investigates permanent closure of the Yabberup Road reservation and creation of a new road on the western boundary, inside the property at 874 Yabberup Road to service the existing properties, which currently gain access off Yabberup Road by way of a potential land swap agreement.**

Feel free to let me know if I can be of any assistance.

Regards,

Nathan Ryder

Manager Infrastructure Planning & Design



A: 1 Council Drive | PO Box 7016 | Eaton WA 6232

T: 08 9724 0393 | **M:** 0447 781 021 | **E:** nathan.ryder@dardanup.wa.gov.au

W: www.dardanup.wa.gov.au



Nathan Ryder

From: Nathan Ryder <Nathan.Ryder@dardanup.wa.gov.au>
Sent: Tuesday, 27 February 2024 2:26 PM
To: Susan Pass
Subject: Yabberup Road - Gate Licence Renewal Request - Public Notice
Attachments: Yabberup Road Gate Licence - Direct Letter - Ms Susan Pass - February 2024.pdf

Good afternoon Susan,

Please find attached correspondence in relation to the above matter.

Should you have any questions please do not hesitate to contact the undersigned.

Regards,

Nathan Ryder

Manager Infrastructure Planning & Design



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Our Ref: CRO-R1519904
AS:pn
☎: 9724 0000
records@dardanup.wa.gov.au

27th of February 2024

Ms Susan Pass



Email: 

Dear Susan,

RE: YABBERUP ROAD – GATE LICENCE RENEWAL REQUEST

As a land manager of land that has access from Yabberup Road (Wellington Forest), and in accordance with Council Resolution 318-22 from the Ordinary Council Meeting held on the 14th of December 2022, the Shire seeks your feedback on a request from another landowner for renewal of a gate licence on Yabberup Road.

A copy of the Public Notice that has been advertised is attached.

Further information can be obtained in the Council Minutes from the Ordinary Council Meeting held on the 14th of December 2022 on the Shire's website: www.dardanup.wa.gov.au

Please forward your submissions or enquiries to the Shire of Dardanup by calling **9724 0000** or emailing records@dardanup.wa.gov.au before the **16th of April 2024**.

Should you have any questions on the request, please feel free to contact Nathan Ryder, Manager Infrastructure Planning & Design, on 9724 0393 or nathan.ryder@dardanup.wa.gov.au.

Yours sincerely

MR NATHAN RYDER
Manager Infrastructure Planning & Design



PUBLIC NOTICE

YABBERUP ROAD - PROPOSED GATE LICENCE

Section 9 of Local Government (Uniform Local Provisions) Regulations 1996

In accordance with Council Resolution 318-22 from the Ordinary Council Meeting held on the 14th of December 2022, the Shire hereby advertises the proposal on behalf of a landowner who requests the renewal of a gate licence for two gates across Yabberup Road. The purpose of the gates is for the landowner to transfer livestock from one area to another from time to time.

The locations of the two gates are indicated below in the sketch.



The Shire provided temporary permission to the landowner to operate the gates over a 12-month trial period, subject to conditions (refer Council Resolution 318-22), which has now ended. The Shire is requesting input from the community and welcome feedback regarding the proposal to renew the gate licence. Submissions will be accepted up until Tuesday 16th April 2024.

Please forward your submissions or enquiries to the Shire of Dardanup by calling **9724 0000** or emailing records@dardanup.wa.gov.au.

ANDRÉ SCHÖNFELDT
Chief Executive Officer

Removal Date 17 April 2024

(Appendix ORD: 12.3.1B)









The Shire of Dardanup accepts the invitation from WALGA to register as a RoadWise Council and commits to:

Vision Statement

- Work towards best practice road safety with available resources.

Statements of Intention

- The Shire of Dardanup acknowledges that individuals should not be endangered with the possibility of death or severe injury while using the local road network.
- The Shire of Dardanup recognises that it has the opportunity to influence road safety outcomes on the local road network through our role in building, maintaining and managing roads.
- The Shire of Dardanup will demonstrate action in road safety by identifying opportunities and implementing measures, within its capacity and resourcing, to improve road safety outcomes on the local road network.

Signed on behalf of the Shire of Dardanup

Cr. Tyrrell Gardiner

SHIRE PRESIDENT

Date: 24/4/2024

André Schönfeldt

CHIEF EXECUTIVE OFFICER

Date: 24/4/2024



RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Adoption of Roadwise Council

RISK THEME PROFILE:

1 - Asset Sustainability Practices

RISK ASSESSMENT CONTEXT: Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Registration as a Roadwise Council is likely to be seen in a positive light by the Community	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Failure to carry through on the Statements made in the Vision Statement may have a negative impact on the Shire's Reputation	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
PROPERTY	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

Appendix ORD: 12.3.2B

Appendix ORD: 12.3.3A

Attachments forming part of the
Shire of Dardanup Coastal Hazard Risk
Management and Adaptation Plan can be
found electronically and Under E-
Separate Cover

Tardis Link: [OCM-R1575072](#)

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Final Shire of Dardanup CHRMAP

RISK THEME PROFILE:

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

7 - Environment Management

RISK ASSESSMENT CONTEXT: Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Failure to plan, manage and mitigate coastal risks may result in claims against the Shire, particularly should residential property be impacted.	Major (4)	Possible (3)	High (12 - 19)	Continue with the planning to mitigate coastal hazards as per the recommendations in the CHRMAP.	Major (4)	Unlikely (2)	Moderate (5 - 11)
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Failure to comply with WAPC State Planning Policy No.2.6 State Coastal Planning Policy 2013, which requires LGAs to plan for management of coastal hazards.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Continue with the planning to mitigate coastal hazards as per the recommendations in the CHRMAP.	Moderate (3)	Rare (1)	Low (1 - 4)
REPUTATIONAL	As a coastal manager, the Community expects the Shire to put in place appropriate planning and implement measures to protect homes and community infrastructure.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Continue with the planning to mitigate coastal hazards as per the recommendations in the CHRMAP.	Moderate (3)	Possible (3)	Moderate (5 - 11)

Appendix ORD: 12.3.3B)

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
ENVIRONMENT	Failure to protect foreshore vegetation and wildlife due to long term coastal hazards.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Continue with the planning to mitigate coastal hazards as per the recommendations in the CHRMAP.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)
PROPERTY	Future long term property impacts due to rising sea levels and intensifying storm activity.	Major (4)	Likely (4)	High (12 - 19)	Continue with the planning to mitigate coastal hazards as per the recommendations in the CHRMAP.	Major (4)	Unlikely (2)	Moderate (5 - 11)

MINUTES



Shire of Harvey
&
Shire of Dardanup



Joint Town Planning Scheme No. 1
Committee Meeting

Held

9:00 am

Monday 18th December 2023

At

Shire of Harvey
Australind Council Chambers
7 Mulgara Street, Australind

SHIRE OF DARDANUP & SHIRE OF HARVEY

JOINT TOWN PLANNING SCHEME NO. 1

Minutes of The Joint Town Planning Scheme No. 1 Meeting of The Shire of Harvey and Shire of Dardanup, held in The Shire of Harvey Australind Council Chamber, Mulgara Street, Australind on Monday, 18 December 2023, Commencing at 09.05am.

ATTENDANCE

MEMBERS:

Shire of Dardanup

Elected Member – Shire of Dardanup (Shire President)
Elected Member – Shire of Dardanup

Cr. Tyrell Gardiner
Cr. Stacey Gillespie

Shire of Harvey

Elected Member – Shire of Harvey (Shire President)
Elected Member – Shire of Harvey

Cr. Michelle Campbell
Cr. Craig Carbone

STAFF:

Shire of Harvey – Chief Executive Officer
Shire of Harvey – Director Sustainable Development
Shire of Dardanup – Chief Executive Officer
Shire of Dardanup – Director Infrastructure
Shire of Dardanup – Development Engineer

Ms. Annie Riordan
Mr. Simon Hall
Mr. Andre Schonfeldt
Mr. Theo Naude
Mr. Andrew Coulson

GALLERY:

Mr. Travis Taylor
Mr. Kerry Powell
Mr. Daniel Skerratt
Mr. Paul McQueen
Ms. Isabella Mosole

Mr. Len Kosova (via
zoom)

MINUTES

1. OPENING & WELCOME

Clause 3 of Schedule 2.3 of the Local Government Act 1995, provides that the Chief Executive Officer is to preside at the meeting until the office of Presiding Member is filled.

The Shire of Harvey Chief Executive Officer opened the meeting at 9:05am and welcomed those present.

2. ELECTION OF CHAIRPERSON

As this is the first meeting of the Joint Town Planning Scheme No. 1 Committee following the 2023 Local Government Election it is necessary to elect a Presiding Member and Deputy Presiding Member in accordance with Section 5.12 of the *Local Government Act 1995*.

The Shire of Harvey Chief Executive Officer called for nominations for the position of Presiding Member of the Committee

Cr. Carbone nominated Harvey Shire President Michelle Campbell for the position of Presiding Member. Harvey Shire President Michelle Campbell accepted the nomination and given that there were no further nominations, Harvey Shire President Michelle Campbell was declared elected unopposed as the Presiding Member of the Committee until the next Local Government Election in 2026.

Harvey Shire President Michelle Campbell assumed the Chair as Presiding Member.

Harvey Shire President Michelle Campbell called for nominations for the position of Deputy Presiding Member. Cr. Carbone nominated Dardanup Shire President Tyrell Gardiner who accepted the nomination. As there were no further nominations, Dardanup Shire President Tyrell Gardiner was declared elected unopposed as Deputy Presiding Member of the Committee until the next Local Government Election in 2026.

3. PUBLIC QUESTION TIME

Nil

4. APOLOGIES

Nil

5. DECLARATION OF MEMBERS' AND OFFICERS' PERSONAL INTEREST

Nil

6. PETITIONS/DEPUTATIONS

Mr Paul McQueen (Lavan Legal) presented to the Committee in relation to Item 8.1 and specifically in regard to recommendation 9, that sought the REFUSE his firms request on behalf of the owners of Lot 565 Paris Road.

Mr McQueen sought removal of that recommendation from the Officers Recommendation with a view to further discussing the matters raised within the report and relevant attachments with Shire Officers, McLeods and Mr Len Kosova as the information had only recently been received and he did not consider sufficient time had been allowed to consider the matters raised.

7. CONFIRMATION OF PREVIOUS MINUTES

The Minutes of the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 Committee Meeting held on Monday, 5 September 2022, are attached hereto.

Recommendation

Moved: Cr Carbone Seconded: Dardnaup Shire President Tyrell Gardiner
That the Minutes of the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 Committee meeting held on the Monday, 5 September 2022, as attached be confirmed as a true and correct record.

Carried 4-0 TPS1 – 23/001

8. REPORTS

8.1 Adoption of Modified Scheme Model, Contribution Rates and Refund Methodology; Consideration of Offset Arrangement; Ascot Capital Request – Kingston Drive.

Item No.	8.1
Subject:	Adoption of Modified Scheme Model, Contribution Rates and Refund Methodology; Consideration of Offset Arrangement; Ascot Capital Request – Kingston Drive.
Proponent:	Shires of Harvey and Dardanup
Location:	Shires of Harvey and Dardanup
Reporting Officer:	Simon Hall – Director Sustainable Development

Summary

The purpose of this item is for the Committee to consider recommending that the Shire of Harvey and the Shire of Dardanup Councils, concerning the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 (JTPS 1), resolve to:

1. ADOPT the following modified contribution rates with effect from 18 December 2023;

Contribution Rate Category	Current 2022-23 Contribution Rate (per ha)	Proposed 2023-24 Contribution Rate (per ha)
Shire of Harvey without weighting factor	\$54,486.31	\$56,092.86
Shire of Harvey with weighting factor	\$65,053.09	\$66,456.29
Shire of Dardanup	\$31,637.87	\$31,672.96

2. APPROVE a reimbursement of \$45,212.72 (in equal thirds) to Australian Vanguard, Treendale Nominees and Ardross Estates for pre-funding LK Advisory's review of the Scheme for further expenditure incurred from 1 July 2022 until 30 September 2022. \$14,551.21 of which is to be paid from the Shire of Dardanup Joint Scheme Account with the balance, \$30,661.51, being paid from the Shire of Harvey Joint Scheme Account;
3. APPROVE a disbursement of \$600,000 from Joint Town Planning Scheme No. 1 funds to landowners that have overpaid to date, distributed according to the refund methodology described in this report and *Table 4*;
4. CONSIDER engaging the services of an external Consultant to independently administer the Scheme in real-time, including calculating invoices upon request, updating the scheme model and maps, and undertaking each annual review up until 2026.
5. ACCEPT that, at the Scheme administrator's ultimate discretion, developers with a substantial balance of overpayments may request to offset future contributions against the balance of a future refund, thereby reducing the developer's ultimate disbursement by an amount that is equal to the liability subject to the offset request;
6. APPROVE a transfer of \$44,701.45 from the Shire of Dardanup Joint Scheme Account to the Shire of Harvey Joint Scheme Account to account for its share of the \$138,893.39 that was reimbursed to Australian Vanguard, Treendale Nominees and Ardross Estates for prefunding LK Advisory's review of the scheme in 2021 and 2022.
7. NOTE that further adjustments in funds held between the Shires of Harvey and Dardanup will be required to facilitate equitable redistribution of excess funds and interest.
8. ADVISE in writing, all remaining contributing landowners in the Joint Town Planning Scheme No. 1 area:
 - a. That on 17 March 2026, pursuant to clause 17.5 of the Scheme, the Shires may serve written notice requiring payment of the owner's proportion of the Shared Costs within ninety (90) days of the service of such notice; and
 - b. Their remaining liability under the Scheme, calculated at the Proposed Contribution Rate, as summarised in *Table 5*.
9. REFUSE the request from Mr Paul McQueen of Lavan Legal and Mr Tony Paduano of Element WA, on behalf of the owners of Lot 565 Paris Road, Australind to:

- Increase the JTPS 1 cost to deliver Kingston Drive (The Promenade) to accommodate the additional 'extra cost' for the owner to construct a new intersection between Road 01 on SPN/2248 and The Promenade; and
- JTPS 1 reimbursing 70% of the Owner's additional "extra over" costs to construct this intersection, with the remaining 30% to be reimbursed to the Owner using the Shore of Harvey's municipal funds.

for the following reasons:

- a. The subdivision alone generates the need and nexus for the intersection, and it is not otherwise required by JTPS 1 and is only needed to facilitate the subdivision of Lot 565.
- b. JTPS 1's obligation to deliver Kingston Drive (The Promenade) has been fully discharged, and there is no basis to retrospectively increase the cost of that item.
- c. Increasing the cost of Kingston Drive (The Promenade) with less than 20% NSA remaining could create an undesirable precedent where landowners at any time may lodge a claim for reimbursement of ordinary subdivision costs on the assertion that those cost should have been included as infrastructure items funded by JTPS 1.

Scheme Summary and Status Update

The JTPS 1 collects income from developers within a defined area of the Shires of Harvey and Dardanup to fund the delivery of the following Infrastructure items:

1. Kingston Drive
2. Ditchingham Place
3. Eaton Drive (1st Carriageway)
4. Eaton Drive (2nd Carriageway)
5. Land Acquisition
6. Collie River Bridge
7. Administration expenses

The Scheme's obligations concerning all infrastructure items are now fully discharged. The only remaining expenditure liability is for Administration, a shared cost between the Shires of Harvey and Dardanup scheme contributors.

The sole purpose of the scheme from this point onward is to collect income from remaining contributors and disseminate overpayments and accrued interest to past contributing landowners as and when funds become available.

All infrastructure items were able to be delivered before collecting income from the remaining ~20% of NSA because the scheme collected excess contributions over an extended period and because it accrued over \$5 million in interest. This additional income does not obviate the obligations of the remaining ~20% of NSA to pay their fair share to deliver scheme infrastructure.

The 2022/23 annual review included additional auditing of Shire financial data and Net Subdividable Area (NSA) audit, updates to scheme income, expenditure, NSA delivered, and NSA remaining throughout the scheme area. The annual review incorporates additional scheme costs for Kingston Drive to account for the delivery of The Promenade, that was completed in early 2023 and cost \$392,978 more than previously budgeted.

The annual review also accounts for a recently approved Local Structure Plan in the Shire of Harvey and an associated request by one of the developers within the scheme area to increase the estimated expenditure for Kingston Drive to include an intersection that provides access to their estate. This matter is covered in detail within a specific section of this report.

This annual review also deals with a request by three of the largest developers, of whom have been collectively overcharged a total of \$3,621,255.92 to establish an arrangement to offset future contributions against the balance of their overpayments.

The annual review does not include an audit of Shire's reported infrastructure costs and relies on the costs provided by both Shires in the lead-up to the September 2022 committee meeting, and actual expenditure from 1 July 2022 until 30 June 2023.

Between the two Shires, 143.137 hectares of NSA remains liable to contribute towards the Scheme, yielding an additional \$7,064,693.09 in contributions if charged at the recommended contribution rates. This includes \$5,759,690.66 in the Shire of Harvey and \$1,305,002.43 in the Shire of Dardanup.

Accordingly, the JTPS 1 is on track to collect a total of \$8,617,819.21 in surplus funds at the closure of the scheme, \$1,000,000 has already been approved for payment to past contributing owners that were overcharged. A total of \$942,240.73 has already been refunded, with one \$57,759.27 refund remaining outstanding.

Pursuant to clause 18.5 of the Scheme, any surplus funding should be fairly and proportionately redistributed back to landowners that paid excess contributions since the Scheme was gazetted.

If, after six years, the Shires cannot trace an owner entitled to a refund, clauses 18.5 and 19.4 enable that excess funding to be expended for the benefit of the scheme area.

A total of \$600,000 is available to refund to past contributing owners. This includes \$400,000 from the Shire of Dardanup reserves and \$200,000 from the Shire of Harvey reserve.

The breakdown of the recommended refund is provided in Table 4 and is calculated on a per Shire basis, rather than the scheme overall. The apportionment is based on the percentage that each landowner that was overcharged contributed to the total value of overcontributions for each Shire.

Background

The administration of JTPS 1 is complex and has a long history of issues including a significant shortfall of funding before the scheme was gazette, significant overcollection of income after the scheme was gazetted and highly variable contribution rates.

For a comprehensive background, refer to the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 (JTPS 1) Committee meeting report dated 5 September 2022.

This annual report accounts for scheme activity from 1 July 2022 until 30 June 2023.

Detail

A breakdown of the updated scheme liabilities (provided in Table 1), that reflect the actual expenditure during the review period for Kingston Drive and Eaton Drive (Carriageway 2).

Table 1 - Total Scheme Cost Schedule

Responsible Local Government	Shared Scheme works	Total Scheme Liability
Shire of Harvey	Kingston Drive	\$9,153,667.77
	Ditchingham Place	\$3,177,550.97
Shire of Dardanup	Eaton Drive (1st carriageway)	\$1,084,415.01
	Eaton Drive (2nd carriageway)	\$2,004,848.12
Shire of Harvey	Related Acquisition	\$2,043,594.58
Both Shires	Collie River Bridge	\$4,842,880.58
Both Shires	Administration Expenses	\$722,938.04
Total		\$23,029,895.07¹

The contribution rate is calculated as per the methodology within JTPS 1, and is set out within Table 2 below, along with the associated future income at the recommended rates. The updated contribution rates reflect the final costs for Kingston Drive and minor adjustments to NSA that arose having undertaken an NSA audit.

Table 2 - Recommended Contribution Rates

Local Government	Recommended Contribution Rate (per/ha)	Remaining NSA	Remaining Income at the Recommended Rate
Shire of Harvey (not weighted)	\$56,092.86	96.980	\$5,439,907.58
Shire of Harvey (weighted)	\$66,456.29	4.886	\$325,145.16
Shire of Dardanup	\$31,672.96	41.271	\$1,307,174.86
Total			\$7,072,227.60

NSA Audit

A comprehensive audit of NSA, remaining and delivered, has been undertaken, to account for the recently approved Local Structure Plan for Lot 565 on Plan 425644, as shown within Figure 1 below and to account for recently discharged scheme liabilities.

The NSA for Lot 565 was based on the zoning of the land at the time, that contemplated only light industrial development and recreation reserve. Now that Amendment No. 130 has been gazette (6 June 2023) and a LSP approved (21 September 2022), an NSA audit is necessary to account for any changes in land use distribution, road layout and provision of public open space or drainage to ensure the projected NSA for the landholding reflects the requirements of the JTPS No 1.

On 9 May 2023, the Applicant's client paid a scheme contribution of \$286,423.63 to create Lot 104 on Plan 425644 Sweny Drive, that comprises 5.2572ha.

Accordingly, the remaining NSA would have been 40.2048ha. However, an audit of the NSA in accordance with the approved LSP confirms there is now 39.490ha of NSA remaining to

¹ Note this includes deductions against the Collie River Bridge to write off historical underpayments that occurred before the scheme was gazetted. Refer to the JTPS 1 Committee report dated 5 September 2022 for additional detail and discussion.

be delivered, as shown in *Appendix 1*. That said, minor departures from the SPN/2248 are likely to occur through the subdivision process, therefore, regular annual reviews are critical to audit the actual and remaining NSA over time.

The reduction in NSA is largely a result of a new 1.70ha strip of Public Open Space (POS) (shown within a broken red line in *Figure 1*) that will separate future residential zoned land from light industry. Additional land is also now proposed to be urbanised, which compensates in part for the increase in POS.

This minor change will result in a higher contribution rate to reflect a lower NSA, that also reflected the unexpected increase in the actual costs to deliver the final stage of Kingston Drive (The Promenade) due to subsidence issues and various minor adjustments to NSA delivered and remaining throughout the scheme area.



Figure 1 - Lot 565 Local Structure Plan

Remaining NSA

Approximately 20% of the NSA remains liable to pay its fair share towards the Scheme infrastructure. At the recommended rates, the Shire of Harvey will collect \$5,765,052.74 from 101.866 hectares of NSA, and the Shire of Dardanup will collect \$ \$1,307,174.86 from 41.271 hectares of NSA.

Table 3 - Remaining NSA

Local Government	Original Landholding	NSA remaining	Remaining Income at the Recommended Rates
Shire of Harvey	Australian Vanguard Ltd	20.822	\$1,167,965.44
	J & G Sawyer	0	
	R I E Partridge	0	\$-
	J & M Piggott	0	\$-
	Ascot	39.49	\$2,215,106.87
	RP & MFW Gartrell	0	\$-
	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike	8.4764	\$475,465.48
	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike (Weighted)	4.886	\$325,145.16
	Riverland Management P/L	28.192	\$1,581,369.79
Shire of Dardanup	Ardross Estates S A P/L	15.864	\$502,459.89
	Parkridge Group P/L	24.098	\$763,255.07
	NTC P/L	0	
	Luca Investment P/L & Newstyle Construction P/L	1.309	\$41,459.91
	Churches of Christ Homes & Community Services P/L	20.822	
Total		143.1374	\$7,072,227.60

Accordingly, the Scheme is still on track to collect \$7,072,227.60 in contributions, ensuring that each landowner pays their fair share toward the scheme infrastructure.

If any landowners do not subdivide and pay their contributions before 17 March 2026, clauses 17.5, 17.6 and 17.7 provide a mechanism to obtain the funding upon request. Failing that, the Scheme empowers the Shires to obtain that funding as a simple contract debt in a court of civil jurisdiction competent to deal with the amount of the claim. The costs for pursuing the funding in this manner are recoverable from the landowner pursuant to clause 17.7 of the Scheme.

Unallocated Income

Notwithstanding an exhaustive review of the Shires' financial information, some income could not be allocated or linked to a specific landholding. Accordingly, there is \$34,436.96 of unallocated income for the Shire of Harvey and \$47,785.37 for the Shire of Dardanup.

Unallocated income should remain in the scheme accounts until the Scheme closes and remaining surplus funds are redistributed among contributing landowners, as the source of that income may become traceable in the interim.

As mentioned earlier in this report, if the Shires cannot trace a landowner owner entitled to receive a refund after six years, excess funding may be expended for the benefit of the scheme area. In addition, as the Scheme is silent on unallocated income if its source also cannot be traced, it would be appropriate to spend it (along with any accrued interest) for the benefit of the scheme area.

Funds Held

A thorough analysis of the Shire's financial information use in the model has been undertaken, including the rationalization of three years of audited financial statements from the Shire of Dardanup.

The record of funds held in the model closely aligns with the actual funds held in the reserve accounts as of 30 June 2023, as follows:

1. Shire of Harvey = \$365,644.55
2. Shire of Dardanup = \$576,398.96

Offset Arrangement

Three of the largest developers within the JTPS 1 Scheme area, each with significant surplus funds owed as a refund to them have requested that the Shires permit future contributions, upon request, to be offset against their ultimate disbursement (refer **Attachments 1 and 2**)

In this circumstance, when issued an invoice to create lots for a portion of the remaining NSA, the developer may request to offset the amount of the invoice against the balance of their overpayments to date, effectively, it would amount to an immediate refund from the balance of funds owed to them.

This can easily be incorporated into the model by recording the offset as a payment into the scheme and as a refund at the same time. The model has already been modified to incorporate this functionality and any offsets entered the model will appropriately reduce the balance of the ultimate disbursement owed to the developer.

Note that Pursuant to clause 16.1(g), credits under this arrangement may only be set off against historical overpayments, not entitlement to interest funds. Therefore, offset arrangements should be subject to the Shires' discretion only, having regard to whether the current balance of overpayments is equal to or higher than the requested offset, or approved offsets in aggregate.

Refund Methodology

The refund methodology applies to the Scheme as a whole and is based on the difference between the amount each landowner has paid and the amount they are liable for based on

their attributable NSA and the recommended contribution rates.

This calculation yields either an overpayment or a shortfall payment.

The shortfall payments are written off using interest accrued. The remaining overpayments, plus a share of the remaining interest are then split between the landowners based on their contribution to the balance of surplus funds.

Table 4 - Refund Methodology

(Appendix ORD: 12.3.4A)

MINUTES OF THE SHIRE OF HARVEY & SHIRE OF DARDANUP JOINT TOWN PLANNING SCHEME NO. 1 MEETING HELD 18 DECEMBER

LGA	Original Landholding	Total 'True' Liability	Total Contributions to date plus remaining liabilities	Total overpayment	Total remaining disbursement (less paid and recommended refunds)²	Recommended refund
Shire of Harvey	Australian Vanguard Ltd	\$5,364,738.37	\$6,854,409.90	\$1,489,671.53	\$2,719,558.43	\$103,049.71
	J & G Sawyer	\$301,386.91	\$196,532.00			\$-
	R I E Partridge	\$-	\$-	\$-	\$-	\$-
	J & M Piggott	\$627,217.00	\$862,132.93	\$234,915.93	\$428,667.86	\$16,250.57
	Ascot	\$2,510,033.01	\$2,501,530.50			\$-
	RP & MFW Gartrell	\$158,574.50	\$173,842.80	\$15,268.30	\$27,084.50	\$1,056.20
	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike	\$6,947,321.22	\$6,904,905.98	-\$42,415.24		\$-
Shire of Dardanup	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike (Weighted)	\$775,796.62	\$1,927,111.64	\$1,151,315.02	\$2,109,988.82	\$79,643.52
	Riverland Management P/L	\$2,631,091.49	\$2,372,635.90			\$-
	Ardross Estates S A P/L	\$3,616,755.55	\$4,639,440.16	\$1,022,684.61	\$1,563,419.24	\$372,643.39
	Parkridge Group P/L	\$1,807,159.17	\$1,396,703.82			\$-
Shire of Dardanup	NTC P/L	\$20,850.26	\$-			\$-
	Luca Investment P/L & Newstyle Construction P/L	\$172,700.31	\$218,570.51	\$45,870.19	\$70,932.57	\$16,714.07
	Churches of Christ Homes & Community Services P/L	\$361,264.57	\$390,472.00	\$29,207.43	\$45,102.32	\$10,642.53
Total	\$25,294,888.99	\$28,375,572.55	\$28,438,288.13	\$6,964,753.74	\$600,000.00	

² Note this include apportionment of interest.

The scheme model provides an automated method to calculate, apportion and record refunds for each year to 2026.

Because of the current imbalance of funds available between the Shires of Harvey and Dardanup reserve accounts, a secondary methodology to disseminate funds on a per-shire basis has been implemented for 2023. This will enable a specific release of funds for each Shire, based on the balance of the corresponding reserve, less any remaining administration budget and outgoing payments.

In this case, it is recommended that the Shire of Harvey releases \$200,000 and the Shire of Dardanup releases \$400,000 to past contribution landowners, as shown in *Table 4* above.

Contribution rate

Table 5 set outs the proposed contribution rate, relative to the current contribution rate.

Table 5 - Recommended Change to the Contribution Rates

Contribution Rate Category	Current 2022-23 Contribution Rate (per ha)	Proposed 2023-24 Contribution Rate (per ha)
Shire of Harvey without weighting factor	\$54,486.31	\$56,092.86
Shire of Harvey with weighting factor	\$65,053.09	\$66,546.29
Shire of Dardanup	\$31,637.87	\$31,672.96

Table 6 sets out the breakdown of the contribution rates. The rates have all varied slightly to account for the NSA review and additional costs associated with Kingston Drive.

Table 6 – Breakdown of Contribution Rates

Shared Scheme Works	Total Costs for which Scheme is liable	True Contribution Rate - Harvey	True Contribution Rate - Dardanup
Schedule 2 - Distributor Roads			
Kingston Drive	\$9,153,667.77	\$28,420.00	N/A
Ditchingham Place	\$3,177,550.97	\$9,865.55	N/A
Eaton Drive (1st carriageway)	\$1,084,415.01	N/A	\$7,094.45
Eaton Drive (2nd carriageway)	\$2,004,848.12	N/A	\$13,116.10
Related Acquisition	\$2,043,594.58	\$6,344.88	N/A
Schedule 4 - Bridge	<i>\$7,107,828.50</i>		
Collie River Bridge (adjusted for pre-2006 income)	\$4,842,880.58³	\$9,940.25	\$9,940.25
Weighted		\$20,393.68	
Scheme Administration			
Administration Expenses	\$722,938.04	\$1,522.17	\$1,522.17

³ There is a small reduction to the bridge liability because of a minor change to the Dardanup financial information to correct an incorrectly recorded transaction.

Total:	\$23,029,895.07	\$56,092.86	\$31,672.96
Weighted		\$66,546.29	

Liability Call-in

Pursuant to clauses 17.5 – 17.7 of the Scheme, on 17 March 2026, it will be 20 years since the Scheme came into force. At that time, the Scheme empowers the Shires to seek payment of any outstanding liabilities toward the Scheme. Accordingly, the Shires should take steps to ensure all future landholdings are aware of their outstanding liability (calculated at the True Rate) and the incoming deadline to settle that liability, either by subdividing their land or upon receipt of a notice issued per clause 17.5 of the Scheme. Accordingly, it is recommended that the Shires write to each landowner after the annual review and advise their outstanding liability and the number of years that remain to settle that liability. This approach ensures complete transparency about each landholding's obligation to contribute their fair share toward the Scheme. Furthermore, it mitigates the risk of this coming as 'a surprise' if the Shires decide to act on these powers in 2026, rather than simply extending the life of the Scheme.

Ascot Capital Request – Kingston Drive

On 17 August 2023, Mr Paul McQueen of Lavan Legal and Mr Tony Paduano of Element WA, on behalf of the owners of Lot 565 Paris Road requested the JTPS Committee to give consideration to (refer **Attachments 3** and **4**):

- Increase the JTPS 1 cost to deliver Kingston Drive (The Promenade) to accommodate the additional 'extra cost' for the owner to construct a new intersection between Road 01 on SPN/2248 and The Promenade (refer Subdivision Plan **Attachment 4**).
- JTPS 1 reimbursing 70% of the Owner's additional "extra over" costs to construct this intersection, with the remaining 30% to be reimbursed to the Owner using the Shore of Harvey's municipal funds.

This request has come about via a review by the State Administrative Tribunal (SAT) of Condition 20 imposed under Western Australian Planning Commission 162478 requiring the construction of this intersection at their cost. Specifically condition 20 reads:

"Engineering drawings and specifications are to be submitted, approved and subdivisional works undertaken for the construction of the intersection of Road 01 and the Promenade, to the full movement standard, to the full cost of the subdivider (Local Government)"

The Approval also contained an Advice Note relevant to Condition 20 that reads:

"In regard to Condition 20, it is the Western Australian Planning Commission's expectation that a full movement intersection is provided for the subdivisional Road 01 and the Promenade Drive (Kingston Drive Extension), inclusive of a north bound right-hand turn slip lane, a southbound left hand slip lane, any required modifications to established footpaths, landscaping and drainage infrastructure".

To assist with the consideration of this request, it was agreed between all parties that independent advice was to be sought as to the capacity of JTPS 1 to accommodate their request. Included within **Confidential Attachments 1** and **2**, is the independent advice that provides both a comprehensive analysis of JTPS 1's ability to consider the request. A legal opinion on the appropriateness of the condition presently being review by SAT is also

included.

This advice is confidential to the general public and landowners within the scheme area as it contains matters of a legal nature and relates to a SAT matter that is currently subject to mediation. Notwithstanding, this confidential advice has been provided to the Applicant as part of the disclosure provisions of the SAT.

As evidence by that advice, Officers recommend that this request be refused for the reasons contained within the Recommendation above and the supporting advice.

Statutory/Policy Environment

Clause 18.2 of the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No 1 (the Scheme) provides for the adoption of the Schedule of Shared Costs on an annual basis.

Officer's Recommendation

That the Shire of Harvey and the Shire of Dardanup Joint Town Planning Scheme No. 1 Committee recommends that the Councils of the Shires of Harvey and Dardanup:

1. ADOPT the following modified contribution rates with effect from 18 December 2023;

Contribution Rate Category	Current 2022-23 Contribution Rate (per ha)	Proposed 2023-24 Contribution Rate (per ha)
Shire of Harvey without weighting factor	\$54,486.31	\$56,092.86
Shire of Harvey with weighting factor	\$65,053.09	\$66,456.29
Shire of Dardanup	\$31,637.87	\$31,672.96

2. APPROVE a reimbursement of \$45,212.72 (in equal thirds) to Australian Vanguard, Treendale Nominees and Ardross Estates for pre-funding LK Advisory's review of the Scheme for further expenditure incurred from 1 July 2022 until 30 September 2022. \$14,551.21 of which is to be paid from the Shire of Dardanup Joint Scheme Account with the balance, \$30,661.51, being paid from the Shire of Harvey Joint Scheme Account;
3. APPROVE a disbursement of \$600,000 from Joint Town Planning Scheme No. 1 funds to landowners that have overpaid to date, distributed according to the refund methodology described in this report and *Table 4*;
4. CONSIDER engaging the services of an external Consultant to independently administer the Scheme in real-time, including calculating invoices upon request, updating the scheme model and maps, and undertaking each annual review up until 2026.
5. ACCEPT that, at the Scheme administrator's ultimate discretion, developers with a substantial balance of overpayments may request to offset contributions against the balance of a future refund, thereby reducing the developer's ultimate disbursement by an amount that is equal to the liability subject to the offset request;
6. APPROVE a transfer of \$44,701.45 from the Shire of Dardanup Joint Scheme

Account to the Shire of Harvey Joint Scheme Account to account for its share of the \$138,893.39 that was reimbursed to Australian Vanguard, Treendale Nominees and Ardross Estates for prefunding LK Advisory's review of the scheme in 2021 and 2022.

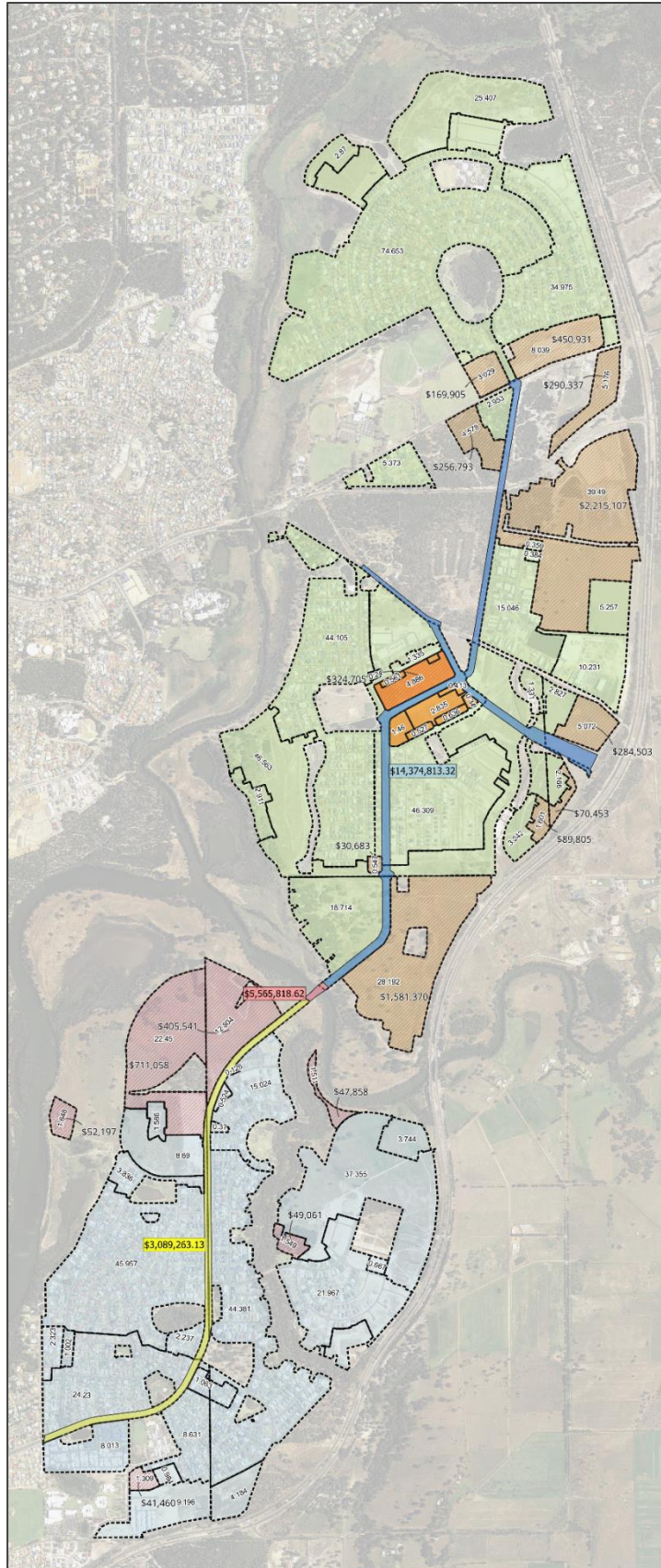
7. NOTE that further adjustments in funds held between the Shires of Harvey and Dardanup will be required to facilitate equitable redistribution of excess funds and interest.
8. ADVISE in writing, all remaining contributing landowners in the Joint Town Planning Scheme No. 1 area:
 - a. That on 17 March 2026, pursuant to clause 17.5 of the Scheme, the Shires may serve written notice requiring payment of the owner's proportion of the Shared Costs within ninety (90) days of the service of such notice; and
 - b. Their remaining liability under the Scheme, calculated at the True Rate, as summarised in *Table 5*.
9. REFUSE the request from Mr Paul McQueen of Lavan Legal and Mr Tony Paduano of Element WA, on behalf of the owners of Lot 565 Paris Road, Australind to:
 - Increase the JTPS 1 cost to deliver Kingston Drive (The Promenade) to accommodate the additional 'extra cost' for the owner to construct a new intersection between Road 01 on SPN/2248 and The Promenade; and
 - JTPS 1 reimbursing 70% of the Owner's additional "extra over" costs to construct this intersection, with the remaining 30% to be reimbursed to the Owner using the Shire of Harvey's municipal funds.

for the following reasons:

- a. The subdivision alone generates the need and nexus for the intersection, and it is not otherwise required by JTPS 1 and is only needed to facilitate the subdivision of Lot 565.
- b. JTPS 1's obligation to deliver Kingston Drive (The Promenade) has been fully discharged, and there is no basis to retrospectively increase the cost of that item.
- c. Increasing the cost of Kingston Drive (The Promenade) with less than 20% NSA remaining could create an undesirable precedent where landowners at any time may lodge a claim for reimbursement of ordinary subdivision costs on the assertion that those cost should have been included as infrastructure items funded by JTPS 1.

Appendix 1

(Appendix ORD: 12.3.4A)



Shire of Harvey / Dardanup Joint Town Planning Scheme No. 1 Net Subdividable Area Analysis

Unique	LGA	NSA	Status	Weighting	Landowner
0	Shire of Harvey	28,192	Remaining	Not Weighted	Riverland Management P/L
1	Shire of Harvey	5,072	Remaining	Not Weighted	B. Bevan, J & E Bracey, K, T A
2	Shire of Harvey	8,039	Remaining	Not Weighted	Australian Vanguard Ltd
3	Shire of Harvey	1,331	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
4	Shire of Harvey	3,242	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
5	Shire of Harvey	2,870	Delivered	Not Weighted	Australian Vanguard Ltd
6	Shire of Harvey	1,256	Remaining	Not Weighted	B. Bevan, J & E Bracey, K, T A
7	Shire of Harvey	0,527	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
8	Shire of Harvey	0,836	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
9	Shire of Harvey	18,714	Delivered	Not Weighted	Riverland Management P/L
10	Shire of Harvey	25,407	Delivered	Not Weighted	Australian Vanguard Ltd
11	Shire of Harvey	5,373	Delivered	Not Weighted	G & J Sawyer
12	Shire of Harvey	10,231	Delivered	Not Weighted	J & M Piggott
13	Shire of Harvey	0,358	Delivered	Not Weighted	J & M Piggott
14	Shire of Harvey	44,105	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
15	Shire of Harvey	74,653	Delivered	Not Weighted	Australian Vanguard Ltd
16	Shire of Harvey	15,046	Delivered	Not Weighted	J & M Piggott
17	Shire of Dardanup	1,549	Remaining	Not Weighted	Andross Estates S A P/L
18	Shire of Dardanup	1,511	Remaining	Not Weighted	Andross Estates S A P/L
19	Shire of Dardanup	0,667	Delivered	Not Weighted	Andross Estates S A P/L
20	Shire of Dardanup	1,309	Remaining	Not Weighted	Luca Investments P/L & Newstyl
21	Shire of Dardanup	12,804	Remaining	Not Weighted	Andross Estates S A P/L
22	Shire of Dardanup	1,586	Delivered	Not Weighted	Parkridge Group P/L
23	Shire of Dardanup	0,524	Delivered	Not Weighted	Andross Estates S A P/L
24	Shire of Dardanup	0,37	Delivered	Not Weighted	Andross Estates S A P/L
25	Shire of Dardanup	37,355	Delivered	Not Weighted	Andross Estates S A P/L
26	Shire of Dardanup	0,126	Delivered	Not Weighted	Andross Estates S A P/L
27	Shire of Dardanup	0,884	Delivered	Not Weighted	Luca Investments P/L & Newstyl
28	Shire of Dardanup	8,650	Delivered	Not Weighted	Parkridge Group P/L
29	Shire of Dardanup	4,184	Delivered	Not Weighted	Andross Estates S A P/L
30	Shire of Dardanup	2,237	Delivered	Not Weighted	Parkridge Group P/L
31	Shire of Dardanup	15,024	Delivered	Not Weighted	Andross Estates S A P/L
32	Shire of Dardanup	1,063	Delivered	Not Weighted	Luca Investments P/L & Newstyl
33	Shire of Dardanup	3,836	Delivered	Not Weighted	Parkridge Group P/L
34	Shire of Dardanup	21,967	Delivered	Not Weighted	Andross Estates S A P/L
35	Shire of Dardanup	44,381	Delivered	Not Weighted	Andross Estates S A P/L
36	Shire of Dardanup	24,230	Delivered	Not Weighted	Parkridge Group P/L
37	Shire of Dardanup	8,631	Delivered	Not Weighted	Luca Investments P/L & Newstyl
38	Shire of Dardanup	2,323	Delivered	Not Weighted	NTC P/L
39	Shire of Dardanup	45,957	Delivered	Not Weighted	Parkridge Group P/L
40	Shire of Dardanup	1,002	Delivered	Not Weighted	Parkridge Group P/L
41	Shire of Dardanup	8,013	Delivered	Not Weighted	Churches of Christ Homes & Com
42	Shire of Dardanup	9,196	Delivered	Not Weighted	Churches of Christ Homes & Com
43	Shire of Harvey	5,257	Delivered	Not Weighted	Ascot
44	Shire of Harvey	5,176	Remaining	Not Weighted	Australian Vanguard Ltd
45	Shire of Dardanup	1,848	Remaining	Not Weighted	Parkridge Group P/L
46	Shire of Harvey	3,029	Remaining	Not Weighted	Australian Vanguard Ltd
47	Shire of Harvey	34,975	Delivered	Not Weighted	Australian Vanguard Ltd
48	Shire of Harvey	1,460	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
49	Shire of Harvey	0,34	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
50	Shire of Harvey	0,413	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
51	Shire of Harvey	0,24	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
52	Shire of Harvey	1,335	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
53	Shire of Harvey	2,827	Delivered	Not Weighted	RP & MFW Gartrell
54	Shire of Harvey	0,384	Delivered	Not Weighted	J & M Piggott
55	Shire of Harvey	46,309	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
56	Shire of Harvey	2,835	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
57	Shire of Harvey	46,563	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
58	Shire of Harvey	0,547	Remaining	Not Weighted	B. Bevan, J & E Bracey, K, T A
59	Shire of Harvey	2,911	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
60	Shire of Harvey	2,166	Delivered	Not Weighted	B. Bevan, J & E Bracey, K, T A
61	Shire of Harvey	39,490	Remaining	Not Weighted	Ascot
62	Shire of Harvey	2,953	Delivered	Not Weighted	Australian Vanguard Ltd
63	Shire of Harvey	4,578	Remaining	Not Weighted	Australian Vanguard Ltd
64	Shire of Harvey	1,601	Remaining	Not Weighted	B. Bevan, J & E Bracey, K, T A
65	Shire of Dardanup	22,450	Remaining	Not Weighted	Parkridge Group P/L
66	Shire of Harvey	4,886	Remaining	Weighted	B. Bevan, J & E Bracey, K, T A
67	Shire of Harvey	0,561	Delivered	Weighted	B. Bevan, J & E Bracey, K, T A
68	Shire of Dardanup	3,744	Delivered	Not Weighted	Andross Estates S A P/L

Legend

- Actual NSA
- Shire of Dardanup
- Shire of Harvey
- Weighting Factor
- Remaining NSA
- Harvey Costs
- Bridge & Admin
- Dardanup Costs

LK ADVISORY®

0 500 1,000 m

Project: CRS - GDA 2020 - POG2020 Coordinate System: EPSG:8231
 Note: All areas are calculated planimetrically.
 Date: December 2023

Moved: Cr Carbone Seconded: Dardanup Shire President Tyrell Gardiner

That the Shire of Harvey and the Shire of Dardanup Joint Town Planning Scheme No. 1 Committee recommends that the Councils of the Shires of Harvey and Dardanup:

1. **ADOPT** the following modified contribution rates with effect from 18 December 2023;

Contribution Rate Category	Current 2022-23 Contribution Rate (per ha)	Proposed 2023-24 Contribution Rate (per ha)
Shire of Harvey without weighting factor	\$54,486.31	\$56,092.86
Shire of Harvey with weighting factor	\$65,053.09	\$66,456.29
Shire of Dardanup	\$31,637.87	\$31,672.96

2. **APPROVE** a reimbursement of \$45,212.72 (in equal thirds) to Australian Vanguard, Treendale Nominees and Ardross Estates for pre-funding LK Advisory's review of the Scheme for further expenditure incurred from 1 July 2022 until 30 September 2022. \$14,551.21 of which is to be paid from the Shire of Dardanup Joint Scheme Account with the balance, \$30,661.51, being paid from the Shire of Harvey Joint Scheme Account;
3. **APPROVE** a disbursement of \$600,000 from Joint Town Planning Scheme No. 1 funds to landowners that have overpaid to date, distributed according to the refund methodology described in this report and Table 4;
4. **CONSIDER** engaging the services of an external Consultant to independently administer the Scheme in real-time, including calculating invoices upon request, updating the scheme model and maps, and undertaking each annual review up until 2026.
5. **ACCEPT** that, at the Scheme administrator's ultimate discretion, developers with a substantial balance of overpayments may request to offset contributions against the balance of a future refund, thereby reducing the developer's ultimate disbursement by an amount that is equal to the liability subject to the offset request;
6. **APPROVE** a transfer of \$44,701.45 from the Shire of Dardanup Joint Scheme Account to the Shire of Harvey Joint Scheme Account to account for its share of the \$138,893.39 that was reimbursed to Australian Vanguard, Treendale Nominees and Ardross Estates for prefunding LK Advisory's review of the scheme in 2021 and 2022.
7. **NOTE** that further adjustments in funds held between the Shires of Harvey and Dardanup will be required to facilitate equitable redistribution of excess funds and interest.
8. **ADVISE** in writing, all remaining contributing landowners in the Joint Town Planning Scheme No. 1 area:
 - a. That on 17 March 2026, pursuant to clause 17.5 of the Scheme, the Shires may serve written notice requiring payment of the owner's

proportion of the Shared Costs within ninety (90) days of the service of such notice; and

b. Their remaining liability under the Scheme, calculated at the True Rate, as summarised in Table 5.

9. REFUSE the request from Mr Paul McQueen of Lavan Legal and Mr Tony Paduano of Element WA, on behalf of the owners of Lot 565 Paris Road, Australind to:

- Increase the JTPS 1 cost to deliver Kingston Drive (The Promenade) to accommodate the additional 'extra cost' for the owner to construct a new intersection between Road 01 on SPN/2248 and The Promenade; and
- JTPS 1 reimbursing 70% of the Owner's additional "extra over" costs to construct this intersection, with the remaining 30% to be reimbursed to the Owner using the Shore of Harvey's municipal funds.

for the following reasons:

- d. The subdivision alone generates the need and nexus for the intersection, and it is not otherwise required by JTPS 1 and is only needed to facilitate the subdivision of Lot 565.
- e. JTPS 1's obligation to deliver Kingston Drive (The Promenade) has been fully discharged, and there is no basis to retrospectively increase the cost of that item.
- f. Increasing the cost of Kingston Drive (The Promenade) with less than 20% NSA remaining could create an undesirable precedent where landowners at any time may lodge a claim for reimbursement of ordinary subdivision costs on the assertion that those cost should have been included as infrastructure items funded by JTPS 1.

Carried 4-0 TPS1 – 23/002

9. **MATTERS BEHIND CLOSED DOORS (under Section 5.23 (2) of the Local Government Act, 1995)**

Nil

10. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Nil

11. **NEXT MEETING**

The next meeting of the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 Committee is to be confirmed, the purpose of which will be to review the income and expenditure and approve the disbursement of a further refund of

surplus funds.

12. CLOSURE

There being no further business to discuss the Presiding Member closed the meeting at 9:35am

(Appendix ORD: 12.3.4B)

Table 4 - Refund Methodology

LGA	Original Landholding	Total 'True' Liability	Total Contributions to date plus remaining liabilities	Total overpayment	Total remaining disbursement (less paid and recommended refunds) ¹	Recommended refund
	Australian Vanguard Ltd	\$5,364,738.37	\$6,854,409.90	\$1,489,671.53	\$2,719,558.43	\$103,049.71
	J & G Sawyer	\$301,386.91	\$196,532.00			\$-
	R I E Partridge	\$-	\$-	\$-	\$-	\$-
	J & M Piggott	\$627,217.00	\$862,132.93	\$234,915.93	\$428,667.86	\$16,250.57
	Ascot	\$2,510,033.01	\$2,501,530.50			\$-
	RP & MFW Gartrell	\$158,574.50	\$173,842.80	\$15,268.30	\$27,084.50	\$1,056.20
Shire of Harvey	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike	\$6,947,321.22	\$6,904,905.98	-\$42,415.24		\$-
	B Bevan, J & E Bracey, K, T & G Coote, P Price, F Pike (Weighted)	\$775,796.62	\$1,927,111.64	\$1,151,315.02	\$2,109,988.82	\$79,643.52
	Riverland Management P/L	\$2,631,091.49	\$2,372,635.90			\$-
Shire of Dardanup	Ardross Estates S A P/L	\$3,616,755.55	\$4,639,440.16	\$1,022,684.61	\$1,563,419.24	\$372,643.39
	Parkridge Group P/L	\$1,807,159.17	\$1,396,703.82			\$-
	NTC P/L	\$20,850.26	\$-			\$-
	Luca Investment P/L & Newstyle Construction P/L	\$172,700.31	\$218,570.51	\$45,870.19	\$70,932.57	\$16,714.07
	Churches of Christ Homes & Community Services P/L	\$361,264.57	\$390,472.00	\$29,207.43	\$45,102.32	\$10,642.53
Total		\$25,294,888.99	\$28,375,572.55	\$28,438,288.13	\$6,964,753.74	\$600,000.00

The scheme model provides an automated method to calculate, apportion and record

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: *Joint Town Planning Scheme No.1 Committee Meeting Minutes*

RISK THEME PROFILE:

4 - Document Management Processes

RISK ASSESSMENT CONTEXT: Project

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Failure to manage Developers contributions could result in litigation with financial penalties.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Failing to refund monies owed under the scheme in a timely manner could result in litigation	Moderate (3)	Possible (3)	Moderate (5 - 11)	Act quickly on decisions made by scheme committee	Moderate (3)	Rare (1)	Low (1 - 4)
REPUTATIONAL	Failing to act on scheme committee decisions could force developers to make public complaint	Moderate (3)	Possible (3)	Moderate (5 - 11)	Act quickly on decisions made by scheme committee	Moderate (3)	Rare (1)	Low (1 - 4)
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
PROPERTY	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

Appendix ORD: 12.3.4C)