



MINUTES

Ordinary Council Meeting

17 August 2023

**SHIRE OF BROOMEHILL-TAMBELLUP
NOTICE OF MEETING**

**An Ordinary Meeting of the Council of the Shire of Broomehill-Tambellup was held
in the Tambellup Council Chambers 46-48 Norrish Street, Tambellup
on 17 August 2023 commencing at 4.30pm.**



**Anthony Middleton
Chief Executive Officer**

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Strategic Community Plan 2023-2033

‘People Power’



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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Presiding Member, Cr White declared the meeting open at 4.30pm.

2. ATTENDANCE

Councillors

Cr ME White	President
Cr DT Barritt	Deputy President
Cr CJ Letter	
Cr MC Paganoni	
Cr JL Wills	
Cr SH Penny	

Staff

AP Middleton	Chief Executive Officer
KP O'Neill	Manager of Finance & Administration
PA Hull	Strategic Support & Projects Officer
TO Korthuis	Governance & Executive Assitant
P Vlahov	Manager of Works

Leave of Absence

Cr CM Dewar

Apologies

Members of the public

Aaron Loham – Co-operative Bulk Handling
David Deany – Co-operative Bulk Handling
Kobus Van Rooyen - Martinus

3. DISCLOSURE OF INTEREST

Councillors White, Barritt, Paganoni and Letter declared a financial interest in Item 11.2 & 11.3 as a Shareholder of Co-operative Bulk Handling. In order to maintain a quorum and allow a decision to be made on this item, Ministerial approval was sought for the Councillors to participate in the meeting and vote on the recommendation.

Approval was granted on 17 August 2023 for Cr White and Cr Paganoni to 'fully participate in the discussion and decision making' for these items.

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. PRESENTATIONS/PETITIONS/DEPUTATIONS

Aaron Lohman from Co-operative Bulk Handling (CBH) addressed the Council regarding their application in items 11.2 & 11.3 of this agenda. Mr Lohman outlined the reasons for the request to undertake construction work on Sundays.

Cr Paganoni questioned what the primary source of noise would be, construction of the rapid rail upgrade facility or operation once completed? Mr Deany responded that the earthworks currently in process is the primary source of noise. Mr Deany stated that their noise monitoring processes would remain in place throughout the period of construction.

Cr White questioned whether certain (quieter) tasks could be performed on a Sunday? The delegation responded that this was not possible.

7. APPLICATION FOR LEAVE OF ABSENCE

Nil

8. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

9. CONFIRMATION OF MINUTES

9.1 ORDINARY COUNCIL MEETING 27 JULY 2023

Recommendation:

Moved Cr Penny, seconded Cr Letter that the minutes of the Ordinary Meeting of Council held on 27 July 2023 be confirmed as a true and accurate record of proceedings.

CARRIED 6/0
Motion No 74/23

10. KEY PILLAR 1: BROOMEHILL-TAMBELLUP POINT OF DIFFERENCE

10.1 TAMBELLUP GOLF CLUB – RATE CONCESSION

ATTACHMENT(S)	Nil
FILE NO	A447
APPLICANT	Tambellup Golf Club
AUTHOR	Kay O'Neill – Manager Finance & Administration
DATE	9 August 2023
DISCLOSURE OF INTEREST	Cr White declared interest as a member of the Golf Club

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Actions
Key Pillar: BT Point of Difference	
3. An Appreciated Culture 3.5 BT recreation This is a community and Shire recreation program that stimulates community spirit and maximises interaction (such as orienteering, fund run, wildflower walks, bike rides, Indigenous tours and Gordon River swims.	3.5.3 Support existing groups to develop and deliver alternative activities.

SUMMARY

For the Council to consider a request for a rate concession for the 2023/2024 financial year.

BACKGROUND

The Tambellup Golf Club (the Club) has written requesting the Council consider granting a concession on rates levied on their property at 235 Rourke Street, Tambellup for the 2023/2024 year.

COMMENT

The Club is a privately owned facility, with around 20-30 financial members, that manages and maintains its land and buildings from its own financial resources and volunteer members.

They provide a facility that is available year round to all members of the community, and is used regularly throughout the year by both club members and non-members. The Club is the only sporting facility in the Shire that has Shire rates levied against it.

The Club has been granted a rate concession since the 2000/2001 financial year. Should the Council agree to the rate concession, the Club is still responsible for payment of rubbish and recycling charges, and the Emergency Services Levy.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

s6.47 *Concessions*

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

** Absolute majority required*

FINANCIAL IMPLICATIONS

Provision of \$9,000 has been included in the 2023/2024 budget against general ledger account 03111.70 – Rates Written Off in anticipation of such requests.

The rates levied for the Tambellup Golf Club are \$661.27 for the 2023/2024 year.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

There are no Risk Implications for the Shire.

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Barritt, seconded Cr Penny that the Tambellup Golf Club be granted a concession of \$661.27 on the rates levied for the 2023/2024 financial year.

CARRIED BY AN ABSOLUTE MAJORITY 6/0

Motion 75/23

10.2 MUNICIPAL INVENTORY REVIEW

ATTACHMENT(S)	10.2.1 – Draft Local Heritage Survey 10.2.2 – Draft Local Heritage List 10.2.3 - Draft Local Planning Policy – Heritage List Places
FILE NO	ADM0645
APPLICANT	n/a
AUTHOR	Pam Hull - Strategic Support & Projects Officer
DATE	7 August 2023
DISCLOSURE OF INTEREST	Nil

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Initiative
Key Pillar: Broomehill-Tambellup Point of Difference	
3. An Appreciated Culture 3.2 BT History Appreciation This is community and Shire working with partners to complete the Municipal Inventory Review program and subsequent storytelling, and actioning specific heritage works in the future.	3.2.1 Review Municipal Heritage Inventories from Shires (pre-amalgamation) into one unified Shire BT Heritage List.

SUMMARY

The purpose of this report is for the Council to consider the draft Local Heritage Survey and draft Local Heritage List prepared by heritage consultant Heritage Intelligence (WA).

BACKGROUND

The *Heritage Act 2018* requires all local government authorities in Western Australia to prepare a survey of places in its district that are, or may become, of cultural heritage significance. A heritage survey was formerly referred to as a Municipal Heritage Inventory under the *Heritage of Western Australia Act 1990*, which preceded the *Heritage Act 2018*.

A Local Heritage Survey should:

- identify and record places that are, or may become, of cultural heritage significance in its district;
- assist the local government in making and implementing decisions that are in harmony with cultural heritage values;
- provide a cultural and historical record of its district;
- provide an accessible public record of places of cultural heritage significance to its district; and
- assist the local government in preparing a heritage list or list of heritage areas under a local planning scheme.

Local governments are also required to establish a Heritage List under the *Planning and Development (Local Planning Schemes) Regulations 2015*. When the Heritage List is adopted, local governments are required to give due regard to the heritage significance of the listed place when determining development applications, but does not limit or restrict how a local government is to determine an application.

The Shire currently has two (2) Municipal Heritage Inventories, for each of the former Shires of Broomehill and Tambellup. The documents were prepared in 1996 and 1999 respectively, and have not been reviewed since that time.

During 2022, the Shire received funding from the Department of Planning, Lands and Heritage ‘Local Government Heritage Consultancy Grants Program’ which aims to support efficient planning process and encourage the protection of local heritage places under a local planning scheme. The funding enabled a review of the Municipal Inventories to be undertaken by a qualified heritage consultant, and the preparation of a Local Heritage Survey, Local Heritage List and new Local Planning Policy for Heritage List Places.

The review has been completed, and the draft documents are presented for the Councils consideration.

COMMENT

Laura Gray, from Heritage Intelligence (WA) was engaged to complete the review of the Municipal Inventories. The project outcomes included the following:

- Review the 1996 and 1998 Municipal Inventories of Heritage Places
- Prepare a Local Heritage Survey merging the two inventories
- Prepare a Local Planning Policy
- Develop Heritage List recommendations
- Consult with the community
- Digitise the Local Heritage Survey records for Shire’s future in-house upgrades

The draft Local Heritage Survey and draft Local Heritage List are attached for the Council’s consideration for endorsement to advertise. Places and sites contained in the draft Local Heritage Survey have been classified according to their level of significance, as follows:

LEVEL OF SIGNIFICANCE TO THE LOCAL AREA	CLASSIFICATION	DESCRIPTION
Exceptional	Category 1	Essential to the heritage of the locality. Rare or outstanding example.
Considerable	Category 2	Very important to the heritage of the locality.
Some/moderate	Category 3	Contributes to the heritage of the locality.
Little	Category 4	Has elements or values worth noting for community interest but otherwise makes little contribution.

Places and sites classified as Category 1 or 2 have been recommended for inclusion in the draft Local Heritage List.

Prior to the Council’s adoption of these documents, they are to be advertised for public comment. It is suggested that the comment period be undertaken through August and September, and following any amendments required, that they be brought back to the Council for adoption at the October 2023 Ordinary Meeting.

The draft Local Planning Policy for Heritage List Places has been prepared and will be referred to the Shire’s Town Planner for review. This will be presented to a future Council

meeting for consideration, before being advertised for public comment and subsequent adoption by the Council.

CONSULTATION

Laura Gray [Heritage Intelligence (WA)]

STATUTORY ENVIRONMENT

Heritage Act 2018 - Part 8

Planning and Development (Local Planning Schemes) Regulations 2015 - s2 p3 cl.9

FINANCIAL IMPLICATIONS

This project has been carried over from 2022/2023. The 2023/2024 budget includes allocation of \$15,000 to complete the review.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

This item has been evaluated against the Shire's Risk Matrix. The perceived level of risk is considered to be "Low" risk, can be managed by routine procedure and is unlikely to need specific application of resources.

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Wills, seconded Cr Letter that the Council endorses the draft Local Heritage Survey and draft Local Heritage List as presented, advertise for public comment until 29 September 2023, and consider public comments and adoption at the October 2023 Ordinary Council Meeting.

CARRIED 6/0
Motion No 76/23

MOTION TO AMEND STANDING ORDERS

Moved Cr Paganoni, seconded Cr Wills that items 11.2 & 11.3 be considered before item 11.1 as members of CBH (applicant) were present.

CARRIED 6/0
Motion 77/23

Item 11.2 and 11.3 were considered now but have been recorded in the order of the agenda.

11. KEY PILLAR 2: BROOMEHILL-TAMBELLUP ECONOMY

11.1 FLAT ROCKS WIND FARM – FIRE MANAGEMENT PLAN

ATTACHMENT(S)	11.1.1 – Adopted Fire Management Plan (dated September 2022) 11.1.2 – Proposed Amended Fire Management Plan 11.1.3 - Clean Energy Council (Auswind) Fire Management Guidelines
FILE NO	ADM0283
APPLICANT	Enel Green Power Australia Pty Ltd
AUTHOR	Anthony Middleton – Chief Executive Officer
DATE	7 August 2023
DISCLOSURE OF INTEREST	Nil

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Initiative
Key Pillar: BT Economy	
6. Attracted New Businesses 6.4 BT New business This is the Shire making it easy for any new business to be attracted to the area such as a supportive Town Planning Scheme, commercial or industrial land development and encouraging value-adding to current business and industry.	6.4.1 Support existing businesses through innovative methods for Shire support to ensure their continuation and the basic provision of service for both visitors and local residents.

SUMMARY

The purpose of the report is to consider a request from Enel Green Power to amend the Bushfire Management Plan for the Flat Rocks Wind Farm (FRWF) Stage 1 development.

BACKGROUND

The FRWF received development approval from the Southern Joint Development Assessment Panel on 7 March 2017, with modifications made to this approval by the Joint Development Assessment Panel on 6 December 2021 and 6 December 2022. This development approval includes thirty-six (36) conditions and twelve (12) advice notes.

Condition 19 of this approval is as follows:

- ‘19. Prior to commencing any works, the Applicant is to lodge a Fire Management Plan for approval by the local government. The Fire Management Plan shall be prepared by a suitably qualified consultant and in the context of the construction and operational phases of the development address the following matters -*
- Identification and clear mapping of firebreaks, emergency ingress and egress points, water points, turnaround areas for fire trucks, water sources, on site fire-fighting equipment;*
 - Identification of on-site tracks for access by emergency fire vehicles, and the requirement for these tracks to be maintained to a trafficable standard at all times;*
 - Emergency procedures and personnel contacts;*

- d. *Consideration of activities on fire ban days;*
- e. *Notification for other agencies.'*

Condition 30 of this approval is as follows:

- '30. The Applicant is to implement the following approved plans, as they relate to the operational phase of the development, during the life of this development approval-*
- a. the **Fire Management Plan**, required by condition 19;*
 - b. the Traffic Management Plan, required by condition 20;*
 - c. the Noise Impact Mitigation Plan, required by condition 21; and*
 - d. the Landscape Management Plan, required by condition 22.'*

Advice Note (c) of this approval is as follows:

- 'c. The applicant should have regard to the fire management guidelines contained in the 'Auswind Best Practice Guidelines for implementation of wind energy projects in Australian (2006)'. Fire management should address both the construction and operation phases of the wind farm.'*

At its meeting held on 18 August 2022, the Council resolved as follows:

'That:

- 1. The Flat Rocks Wind Farm Stage 1 Bushfire Management Plan dated July 2022 as attached be approved by the Shire of Broomehill-Tambellup subject to the following changes;*

- The seventh page of the document being changed from:*

A 1 000 litre fire appliance (slip on unit) will accompany each working area during the construction phase and a 1 000 litre fire appliance (slip on unit) will be retained at the operations building and maintenance compound to attend maintenance site works during operation.

to:

A 3 000 litre fire appliance (slip on unit) and high capacity output pump will accompany each working area during the construction phase and a 3 000 litre fire appliance (slip on unit) will be retained at the operations building and maintenance compound to attend maintenance site works during operation

- This change to 3 000 litres flowing through to the rest of the document where relevant.*

and

- 2. Subject to the inclusion of point 1 above, Condition 19 of the Flat Rocks Wind Farm development approval (application reference DP/12/01359) relating to the provision of a Fire Management Plan is considered to be satisfied.'*

This Council resolution finalised the Fire Management Plan requirement from a development approval perspective.

At its meeting held on 18 May 2023, the Council adopted its 2023/2024 Fire Break Notice. This notice included the following requirement:

‘Wind Turbine Firebreaks

The fire break requirements for all wind turbines in the Shire of Broomehill-Tambellup is in accordance with the individual Bush Fire Management Plan, as approved at the time of development approval, unless expressly amended by the Council.’

COMMENT

The request from the applicant is as follows:

‘Please find attached the revised Bush Fire management plan for your review and approval. Please note all these changes have been discussed and agreed with the local firefighting team (ZULUS).

This was the approved version.

The following Asset Protection Zones apply

- Around the site camp (construction compound) a 30 m wide area of grass maintained at less than 100 mm and no grass within the compound.
- Around the turbine construction compound a 30 m wide area of grass maintained at less than 100 mm and no grass within the compound.
- Around the base of the turbine (operational) a 20 m diameter area of compacted limestone or equivalent, and a 40 m diameter area of grass maintained at less than 100 mm.
- Around the substation a 30 m wide area of grass maintained at less than 100 mm and no grass within the substation area
- Around the operations building and maintenance compound a 21 m wide area of grass maintained at less than 100 mm and no grass within the maintenance compound. The operational building is to be constructed and maintained to the BAL 29 standard.
- Access route easements are 20 m wide.

Access

The access roads will be constructed to 21 tonnes with a 20 m reserve to be maintained as low threat. The construction standard is determined by the heavy vehicles that will be used for construction and service of the turbines.

A 3 000 litre fire appliance (slip on unit) and high capacity output pump will accompany each working area during the construction phase.

A 50 000 L water tank will be provided and maintained at the Maintenance Compound and a 3000 L firefighting appliance (slip on unit) will be stationed at the Maintenance Compound to attend maintenance site works during operation and be available for use by trained personnel and turbine host landowners in a bushfire event.

This is the updated version:

The following Asset Protection Zones apply

- Around the site camp (construction compound) a 9 m wide area of grass, set from grassland, maintained at less than 100 mm and no grass within the compound.
- Around the turbine construction compound a 9 m wide area of grass, set from grassland, maintained at less than 100 mm and no grass within the compound.
- Around the base of the turbine (operational) a 9 m diameter area of compacted limestone or equivalent.
- Around the substation a 9m wide area of grass, set from grassland, maintained at less than 100 mm and no grass within the substation area
- Around the operations building and maintenance compound a 9 m wide area of grass, set from grassland, maintained at less than 100 mm and no grass within the maintenance compound. The operational building is to be constructed and maintained to the BAL 29 standard.

A 1000 L fire appliance (slip on unit) and high capacity output pump will accompany each working area during the construction phase.

A 50 000 L water tank will be provided and maintained at the Maintenance Compound and three 1000 L firefighting appliances (slip on unit) will be stationed at the Maintenance Compound to attend maintenance site works during operation and be available for use by trained personnel and turbine host landowners in a bushfire event.

The APZ's were reduced to be BAL-29 compliant, as it was widely agreed with the local fire teams (ZULUS) that the overly large areas to be maintained as <100m grass would, in itself, become a larger fire hazard than the turbines pose.

Vegetation classification	Effective slope (degrees)	Separation Distance (AS 3959:2018 Table 2.5)	BAL
Grassland	0-5	< 7 m	BAL-FZ
		7 - < 9 m	BAL-40
		9 - < 14 m	BAL-29
		14 - < 20 m	BAL-19
		20 - < 50 m	BAL-12.5
		> 50 m	BAL-LOW

The firefighting units were dropped from 3000L to 1000L as, logistically, it is very difficult to legally tow a 3000L fire trailer (4000kg total weight) on the public roads.'

A proposed revision of the Fire Management Plan was received by the Shire on 2 August 2023. A copy of this proposed plan is attached as attachment 11.1.2, along with the adopted Fire Management Plan (11.1.1) and the Clean Energy Council's (Auswind) Fire Management Guidelines (11.1.3).

The adopted Fire Management Plan with regards to firebreak requirements around wind turbines was in accordance with the applicant's submitted plan. The wind turbines are currently under construction and, as such, they have not yet operated through a fire season. It is considered premature to change the requirements agreed to by the Council in order to gain construction approval, prior to their use.

The requirement for 3,000L of water rather than 1,000L was a specific requirement added by the Council during the approval process. The applicant has stated that 'logistically, it is very difficult to legally tow a 3000L fire trailer (4000kg total weight) on the public roads'.

Nowhere in the approval given by the Council does it state that the water shall be on a trailer. A 3,000L fire truck would logistically and legally drive on public roads without a problem.

For the two reasons listed above, the request to amend the Fire Management Plan is not supported.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Bush Fires Act 1954.

Planning and Development Act 2005.

FINANCIAL IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

RISK MANAGEMENT IMPLICATIONS

Ensuring that adequate management tools, such as a Fire Management Plan, are implemented reduces the risks to the public in an area surrounding a development.

The Council, by ensuring that development approvals have met the conditions of approval in a systematic process reduces the risk of a failed development or other unforeseen issues impacting on the Shire in a negative way.

Changing said approvals without their detail being tested and/or for no justified reason following the granting of construction approval dilutes the risk management tools mentioned above.

ASSET MANAGEMENT IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Letter, seconded Cr Letter that Enel Green Power Pty Ltd be advised that the Council does not support the proposed amendments to the Flat Rocks Wind Farm Stage 1 Fire Management Plan dated September 2022, previously approved to satisfy Condition 19 of the Flat Rocks Wind Farm development approval (application reference DP/12/01359).

CARRIED 6/0
Motion No 80/23

11.2 APPLICATION TO MODIFY PLANNING CONDITION TO ALLOW CONSTRUCTION ON SUNDAYS – DAP APPROVAL FOR RAIL LOADING INFRASTRUCTURE AND RAIL SIDING WITHIN RAILWAY CORRIDOR, BROOMEHILL

ATTACHMENT(S)	11.2.1 – 2022 DAP Approval 11.2.2 – Noise Management Plan 11.2.3 – DWER Fact Sheet on Construction Noise 11.2.4 – Plan showing objectors' properties from 2021 consultation
FILE NO	ADM0582
APPLICANT	Co-Operative Bulk Handling (CBH)
AUTHOR	Liz Bushby – Town Planning Innovations
DATE	4 August 2023
DISCLOSURE OF INTEREST	NIL

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Initiative
Key Pillar: BT Economy	
6. Attracted New Businesses 6.4 BT New business This is the Shire making it easy for any new business to be attracted to the area such as a supportive Town Planning Scheme, commercial or industrial land development and encouraging value-adding to current business and industry.	6.4.1 Support existing businesses through innovative methods for Shire support to ensure their continuation and the basic provision of service for both visitors and local residents.

SUMMARY

The purpose of the report is to consider a request from CBH to allow construction on Sundays

BACKGROUND

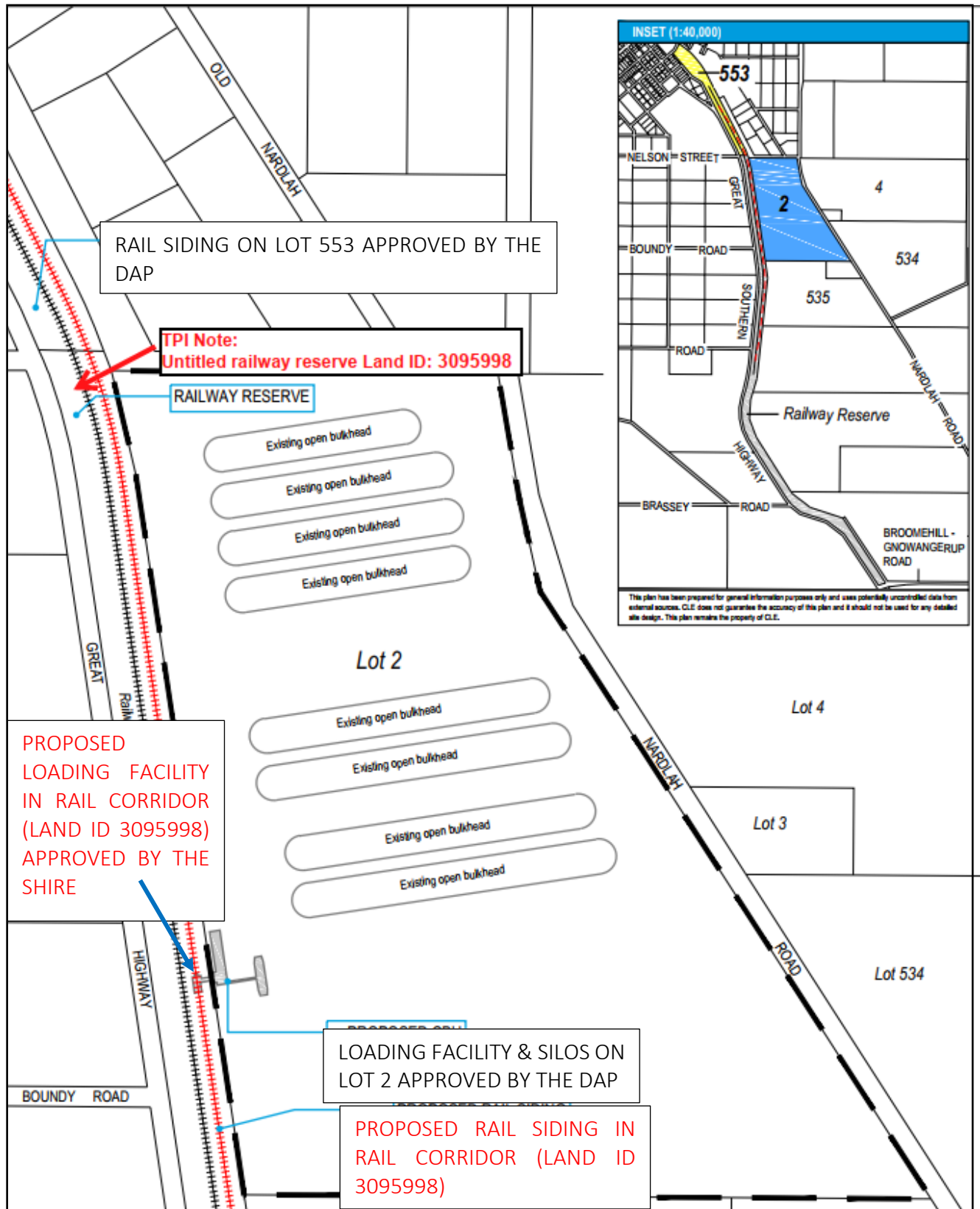
In 2021, CBH lodged an application seeking planning approval for a Rural Industry and new rail loadout facility on Lots 2 and 535 Nardlah Road in Broomehill. A rail siding was also proposed on Lot 553 which forms part of existing railway reserve. The application was determined by a Development Assessment Panel (DAP), and conditional approval was issued on the 21 January 2022 – Attachment 11.2.1. Condition 9 of the DAP approval limited construction noise to 7am and 7pm Monday to Saturday (excluding public holidays).

CBH have lodged an application proposing to modify Condition 9 of the DAP approval, to allow construction works on Sundays, between 8.00am and 5.00pm. In support of the application, a Noise Management Plan has been prepared by Martinus. Martinus is the contractor responsible for construction of the rail siding.

The Noise Management Plan is included as Attachment 11.2.2

There is also a separate application to modify a condition applicable to a Shire approval for development within the adjacent railway corridor which was issued on the 16 May 2023 (refer to separate Item No 11.3 in this agenda).

This report only relates to the approval issued by the Development Assessment Panel. Approved development is reflected in the plan below.



Note: The proposed railway siding extends further south than shown on this site plan extract. It has an approximate length of 1.6 kilometres.

COMMENT

Description of Application

CBH has lodged an application seeking modification to Condition 9 of the DAP approval which currently states:

9. The operator (CBH) shall ensure at all times that construction noise is limited to between 7am and 7pm Monday to Saturday (excluding public holidays) and that the works are carried out in accordance with Australian Standard 2436:2010.

CBH has requested that a modified Condition 9 be worded as follows:

9. The operator (CBH) shall:
 - (a) Ensure that construction noise is:
 - (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
 - (ii) Limited to between 8am and 5pm on Sundays and is undertaken in compliance with a Noise Management Plan approved by the local government; and
 - (b) The works are carried out in accordance with Australian Standard 2436:2010.

Noise Management Plan (NMP)

CBH has lodged a Noise Management Plan (NMP) outlining matters such as relevant legislation, location of sensitive receivers (dwellings), construction noise criteria, hours, predicted noise emissions, compliance, monitoring and complaint management – Attachment 11.2.2.

TPI has expertise in town planning and has assessed a number of Noise Impact Assessments as part of the planning application process, usually with technical advice provided by the Department of Water, Environment and Regulation (DWER).

It is important for the Council to note that TPI is not an expert on noise emissions or the Environmental Protection (Noise) Regulations 1997 (*'Noise Regulations'*). Notwithstanding the above, TPI offers the following general advice on the Noise Management Plan;

1. Summary of Noise Regulations

Compliance with Condition 9 of the DAP approval ensures compliance with the prescribed assigned noise levels under Clause 8 of the Noise Regulations.

Construction work must be carried out between 7am and 7pm on any day which is not a Sunday or public holiday. Any construction noise outside of these days and times is 'out of hours'.

Notwithstanding the above, Clause 13 of the Noise Regulations applies to 'construction noise'. Assigned noise levels do not apply to construction noise that occurs 'out of hours', as long as certain requirements are met. One of those

requirements is that any ‘out of hours’ construction noise needs to be justified, and be in accordance with an approved Noise Management Plan.

The Department of Water and Environmental Regulation (DWER) has delegated authority to ‘*any person holding or acting as a CEO under the Local Government Act 1995*’ to approve a Noise Management Plan.

Essentially this means that construction noise can occur on a Sunday, if the applicant demonstrates that working ‘out of hours’ is justifiable, and a Noise Management Plan is approved by the Shire Chief Executive Officer.

2. DWER Fact Sheet

DWER has a Fact Sheet that provides information on construction noise – Attachment 11.2.3.

The Fact Sheet states that Noise Management Plans must detail;

- i. need and reasons for the construction work to be done, types and durations of activity likely to result in noise emissions above assigned noise levels
- ii. predictions of noise emissions
- iii. control measures for noise emissions, including vibration
- iv. monitoring of noise emissions, including vibration
- v. complaint response procedure.

3. Noise Regulation Requirements and the Noise Management Plan (NMP)

The Noise Management Plan (NMP) lists the requirements that need to be addressed under the Noise Regulations, and references the section which covers that issue (refer Table 2 under Point 2 of the NMP in Attachment 11.2.2).

TPI has summarised the main Noise Regulations requirements (based on the DWER Fact Sheet), and included officer comments in the Table below.

Noise Regulation Requirements for a Noise Management Plan	NMP Reference	Officer Comment
Need and reasons for the construction work to be done, types and durations of activity likely to result in noise emissions above assigned noise levels	4.1.1	<p>There are 2 section 4.1.1’s in the NMP (which contains incorrect heading numbering). The first Section 4.1.1 on page 9 discusses workers exposure to noise.</p> <p>The second Section 4.1.1 on page 10 refers to the need for increased construction hours.</p> <p>Section 4.1.1 on page 10 discusses:</p> <ul style="list-style-type: none"> - Optimising the efficiency of the workforce; - A rolling roster where employees work on a 2 week on, 1 week off roster;

		<ul style="list-style-type: none"> - The need for 'out of hours' work on Sundays to support the work roster, and to enable successful delivery of the project. <p>TPI liaised with DWER on the 3 August 2023. DWER advised that the local government needs to be satisfied that the proposal to work 'out of hours' is fully justifiable.</p> <p>It should be noted that where enquiries were made direct to the Shire or TPI, potential contractors were advised that no work was permitted on Sundays.</p> <p>Table 4 on page 10 of NMP outlines expected construction activities that have potential to emit noise, including rail siding earthworks, turnout installation and track/rail placement.</p> <p>Construction is predicted to be completed by the 18th August 2023.</p> <p>If the construction schedule is accurate, then the need for a NMP will become superfluous by the time this item is considered by Council.</p>
Predictions of noise emissions	4.1 – incorrect reference	<p>Section 4.1 is incorrectly referenced as it relates to construction activities (page 10).</p> <p>Section 4.2 discussed predicted noise emissions.</p> <p>Table 8 on page 11 of the NMP includes predicted noise levels, with the maximum being 65 decibels. According to Figure 4 in the NMP that level of noise is 'moderate'.</p> <p>The NMP does not explain the basis of the 'predicted noise levels'. TPI liaised with CBH who advise it is based on noise levels measures at 2 locations near the development site.</p> <p>TPI liaised with DWER on the 3 August 2023. Following that discussion TPI is of the understanding that;</p> <ul style="list-style-type: none"> (i) the local government needs to be satisfied that the proponent has provided information on the equipment to be used, and (ii) that they also demonstrate that the equipment will be as quiet as possible. <p>The NMP broadly describes construction activities, and includes a list of plant equipment in Appendix B.</p>

Control measures for noise emissions, including vibration	5	Section 5 is broad and discusses ‘management and mitigation’ measures such as staff training; substitution, modification, siting and maintenance of equipment; scheduling noisier works at less sensitive times; amalgamating loads where possible etc
Monitoring of noise emissions, including vibration	7.1	<p>Section 7.1 states that noise monitoring will occur to measure the effectiveness of environmental controls and to validate impacts predicted during out of work hours, or in response to a noise complaint.</p> <p>It isn’t clear whether noise measuring equipment will be on site at all times, whether suitably qualified noise personnel will be used to undertake noise monitoring, and how often it will occur.</p> <p>The NMP doesn’t include a requirement to report any non-conforming result to the Shire CEO.</p>
Complaint response procedure.	8.3	<p>A ‘complaints management’ section is included under 8.3 on page 19 of the NMP.</p> <p>It is not particularly comprehensive and there is concern about it’s adequacy in the event that a justifiable unresolved complaint about noise is lodged.</p> <p>There is no requirement for the contractor to report any breaches of the Noise Regulations to the Shire.</p> <p>It doesn’t include any requirement to report any unresolved complaints to the Shire.</p>

At an officer level, there are concerns over the Noise Management Plan lodged including and not limited to;

- a) It has been prepared by a contractor, Martinus. Noise is an expert field and there is no evidence of substantial input into the Management Plan by a suitably qualified noise consultant or noise expert.
- b) There are typographical errors throughout the document such as ‘Figure XX’ on page 9, and incorrect section numbering, which doesn’t present well.
- c) It states that the works are to be ‘*in accordance with a NMP approved by the CEO of the Department of Water and Environmental Regulation*’. When TPI questioned this, CBH confirmed the statement was incorrect as the NMP requires the Shire CEO approval. If the NMP cannot identify the correct approval authority it reduces confidence in the document.
- d) Some of the issues are addressed superficially, and the section on ‘complaints’ isn’t rigorous or robust. It doesn’t include any requirements to report unresolved complaints to the Shire.
- e) It states that typical plant sound power levels in Appendix A are based on ‘*in field sampling on similar projects delivered by Martinus*’. It provides no details of the

noise readings, and it is not clear that the contractors other projects are comparative to the new CBH rail siding.

- f) There is no clear explanation of the methodology for predicted noise emissions to dwellings for 'out of hours' work.
- g) The document is fairly broad and doesn't offer the Shire a high level of protection in the event of noise issues or unresolved complaints (for work on Sundays).
- h) It relies on the contractor to monitor their own activities in terms of noise. There is no explanation that Martinus has employees with sufficient noise expertise to undertake noise monitoring, or deliver positive outcomes in the event of a justifiable noise complaint.

If a person lodges a noise complaint direct to the Shire, the Noise Management Plan doesn't offer the Chief Executive Officer significant avenues to address any substantial ongoing complaint.

Ultimately it is the Shire Chief Executive Officer (and not Council) who has delegated authority from DWER to approve a Noise Management Plan.

TPI has liaised with the Shire CEO who does not support the Noise Management Plan.

Options available to Council for the application to modify Condition 9 of the DAP approval

There are two decisions involved in this matter;

- A. Council is to consider whether to approve the application to modify Condition 9 ; and
- B The Shire CEO has to decide whether to approve the Noise Management Plan lodged in support of the application.

OPTION 1 – APPROVE THE APPLICATION FOR A MODIFIED CONDITION 9

Council needs to decide whether to approve a modified Condition No 9 to allow work to occur on Sundays, between 8.00am and 5.00pm, in accordance with an approved Noise Management Plan.

Approval of a revised Condition 9 would provide flexibility for 'out of hours' construction to occur when, and if, the Shire CEO approves a Noise Management Plan. CBH cannot comply with any revised condition unless they produce a Noise Management Plan to the satisfaction of the Shire CEO.

A modified Condition 9 will likely create an expectation that the Shire CEO is willing to consider approval of a Noise Management Plan (in some form), and accepts that a Noise Management Plan is justified.

If Council supports the planning application it can resolve as follows:

'That Council:

- A. Accept that the application lodged by CBH to revise condition 9 of the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) as detailed on the

application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- B. Approve the application lodged by CBH to amend the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) in accordance with Clause 77 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and with the provisions of the Shire of Broomehill Town Planning Scheme No 1, for the proposed minor amendment to the approved rural industry and associated rail infrastructure on Lot 2, Lot 533 and Lot 535 (No 333) Nardlah Road, Broomehill subject to the following modified condition and new footnote:

9. The operator (CBH) shall:
- (a) Ensure that construction noise is:
 - (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
 - (ii) Limited to between 8am and 5pm on Sundays and is undertaken in compliance with a Noise Management Plan approved by the local government; and
 - (b) The works are carried out in accordance with Australian Standard 2436:2010.9.

Footnote:

This approval is not an approval of the Noise Management Plan dated the 13 March 2023. The Shire recommends that the document be modified to better address the minimum requirements of the *Environmental Protection (Noise) Regulations 1997* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan as lodged with the application. The Shire CEO may refer any revised NMP to the Department of Water, and Environmental Regulation for external expert advice. ‘

OPTION 2 – REFUSE THE APPLICATION FOR A MODIFIED CONDITION 9

It stands to reason that Council may not support a modified condition if it is not satisfied that there is adequate justification and / or agrees that the Noise Management Plan lodged in support of the application is insufficient.

Council may not accept that any ‘out of hours’ construction noise is justified simply based on the contractor’s aspirations to increase work hours. Council may also have concerns over whether potential noise impact on Sundays is in the interest of the local Broomehill community.

It is noted that there are 4 dwellings within 240 metres of the CBH site, and another 7 dwellings within 720 metres of the site.

These residents may experience noise associated with existing construction, and the Shire may wish to retain a prohibition of construction noise on Sundays to provide residents with a reprieve from construction noise.

If Council does not support the planning application it can resolve as follows:

‘That Council:

- A. Accept that the application lodged by CBH to revise condition 9 of the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Refuse the application lodged by CBH to amend the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) applicable to a rural industry and associated rail infrastructure on Lot 2, Lot 533 and Lot 535 (No 333) Nardlah Road, Broomehill for the following reasons:
 - 1. There is no significant justification for the proposal to allow for ‘out of work’ construction noise on Sundays, the reasoning for a Noise Management Plan is not accepted, and the proposal is not in the interest of the broader Broomehill local community.
 - 2. Based on the estimated construction timeframes, the need to modify Condition 9 and for any Noise Management Plan is not substantiated.
- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan lodged with the application.

OPTION 3 – ADVERTISE THE APPLICATION FOR A MODIFIED CONDITION 9

Council can defer determination of the application and resolve to advertise it for public comment to nearby residents, and refer the Noise Management Plan to the Department of Water, Environment and Regulation (DWER) for technical noise advice. DWER would need to be provided with 42 days to comment.

TPI liaised with DWER on the 3 August 2023. DWER advised that the Shire can refer the matter to their organisation for expert advice. DWER also indicated that it is important for the Shire to consider the local community.

TPI does not recommend Option 3 unless Council is prepared to consider modifying Condition 9. The need for a Noise Management Plan may become redundant by the time the planning application has gone through an advertising period.

If Council supports Option 3 it can resolve as follows:

‘That Council:

- A. Accept that the application lodged by CBH to revise condition 9 of the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Resolve to advertise the application for public comment to nearby Broomehill residents for 28 days, and to the Department of Water, Environment and Regulation for 42 days, to gain wider community input and expert technical noise advice. ‘

CONSULTATION

Extensive consultation was undertaken in 2021 for the original DAP application. Shire Administration wrote to nearby landowners, and there were 3 objections from local landowners at the time, relating to dust, noise, and construction impacts.

A map showing the objectors lot locations (from 2021) is included as Attachment 11.2.4 for reference.

Option 3 in this report outlines potential for Council to advertise the planning application.

STATUTORY ENVIRONMENT

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Regulations* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Broomehill Town Planning Scheme No 1.

Clause 66 – requires consultation with other authorities to be for a minimum of 42 days.

Clause 67 outlines application considerations including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the compatibility of the development with its setting including to development on adjoining land, the objectives of a reserve, the likely effect on the natural environment, amenity, loading, access, traffic and any submissions received on a proposal.

Clause 77 – Allows a local government to determine an application to modify a condition of approval.

Planning and Development (Development Assessment Panels) Regulations 2011 –

Clause 17(1)(b) allows an owner to apply to amend any condition of a development approval that has been issued by a Development Assessment Panel.

Clause 17A(1) allows a local government to determine an application to modify a condition of an approval. issued by a Development Assessment Panel where the landowner has elected the local government to determine the application.

- ***Shire of Broomehill Town Planning Scheme No 1 (the Scheme)*** – The lots are zoned Rural.
- ***Environmental Protection (Noise) Regulations 1997*** – Discussed in the body of this report.

FINANCIAL IMPLICATIONS

The Shire pays consultancy fees to Town Planning Innovations for planning advice.

POLICY IMPLICATIONS

There are no Local Planning Policy Implications.

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

Cr White, Cr Barritt, Cr Letter and Cr Paganoni declared a Financial Interest in Item 11.2.

In order to maintain a quorum the declarations were forwarded to the Department of Local Government, Sport and Cultural Industries for Ministerial approval to allow these Councillors to participate in discussion and decision making. Approval was given for Cr White and Cr Paganoni to fully participate in the discussion and decision making.

Conditions of the approval are as follows:

- 1. The approval is only valid for the 17 August 2023 Ordinary Council Meeting when agenda item 11.2 is considered;*
- 2. The above-mentioned councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. The Chief Executive Officer (CEO) is to provide a copy of the Department of Local Government, Sport and Cultural Industries letter of approval to the abovementioned councillors;*
- 4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
- 5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to DLGSC, to allow DLGSC to verify compliance with the conditions of this approval; and*
- 6. The approval granted is based solely on the interests disclosed by the abovementioned councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

Cr Barritt and Cr Letter left the meeting at 4.48pm.

Item 11.2 was considered before item 11.1 but has been recorded in the order of the agenda.

OFFICER RECOMMENDATION

That the Council note that three options have been outlined in the body of this agenda item, and resolve as follows:

- A. Accept that the application lodged by CBH to revise condition 9 of the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Refuse the application lodged by CBH to amend the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) applicable to a rural industry and associated rail infrastructure on Lot 2, Lot 533 and Lot 535 (No 333) Nardlah Road, Broomehill for the following reasons:
 - 1. There is no significant justification for the proposal to allow for 'out of work' construction noise on Sundays, the reasoning for a Noise Management Plan is not accepted, and the proposal is not in the interest of the broader Broomehill local community.
 - 2. Based on the estimated construction timeframes, the need to modify Condition 9 and for any Noise Management Plan is not substantiated.
- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan lodged with the application.

COUNCIL DECISION

Moved Cr Paganoni, Seconded Cr Penny that,

- A. Accept that the application lodged by CBH to revise condition 9 of the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Approve the application lodged by CBH to amend the existing DAP approval dated the 21 January 2022 (Reference DP/21/02104) in accordance with Clause 77 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and with the provisions of the Shire of Broomehill Town Planning Scheme No 1, for the proposed minor amendment to the approved rural industry and associated rail infrastructure on Lot 2, Lot 533 and Lot 535 (No 333) Nardlah Road, Broomehill subject to the following modified condition and new footnote:
 - 9. The operator (CBH) shall:
 - (a) Ensure that construction noise is:
 - (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
 - (ii) Limited to between 8am and 5pm on Sundays until 30 November 2023 and is undertaken in compliance with a

Noise Management Plan approved by the local government;
and

- (b) The works are carried out in accordance with Australian Standard 2436:2010.9.

Footnote:

This approval is not an approval of the Noise Management Plan dated the 13 March 2023. The Shire recommends that the document be modified to better address the minimum requirements of the *Environmental Protection (Noise) Regulations 1997* and Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan as lodged with the application. The Shire CEO may refer any revised NMP to the Department of Water, and Environmental Regulation for external expert advice.

CARRIED 4/0
Motion No 78/23

Reason for Change

To allow CBH to get back on track with their works program and monitoring of the noise impacts on Sundays.

11.3 APPLICATION TO MODIFY PLANNING CONDITION TO ALLOW CONSTRUCTION ON SUNDAYS – SHIRE APPROVAL FOR RAIL SIDING AND LOADING INFRASTRUCTURE WITHIN RAIL RESERVE (LAND ID: 3095998), BROOMEHILL

ATTACHMENT(S)	11.3.1 – 2023 Shire Approval 11.3.2 – Noise Management Plan 11.3.3 – DWER Fact Sheet on Construction Noise
FILE NO	ADM0582
APPLICANT	Co-Operative Bulk Handling (CBH)
AUTHOR	Liz Bushby – Town Planning Innovations
DATE	4 August 2023
DISCLOSURE OF INTEREST	NIL

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Initiative
Key Pillar: BT Economy	
6. Attracted New Businesses 6.4 BT New business This is the Shire making it easy for any new business to be attracted to the area such as a supportive Town Planning Scheme, commercial or industrial land development and encouraging value-adding to current business and industry.	6.4.1 Support existing businesses through innovative methods for Shire support to ensure their continuation and the basic provision of service for both visitors and local residents.

SUMMARY

The purpose of the report is to consider a request from CBH to allow construction on Sundays

BACKGROUND

In 2021, CBH lodged an application seeking planning approval for a Rural Industry and new rail loadout facility on Lots 2 and 535 Nardlah Road in Broomehill. A rail siding was also proposed on Lot 553 which forms part of existing railway reserve. The application was determined by a Development Assessment Panel (DAP), and conditional approval was issued on the 21 January 2022.

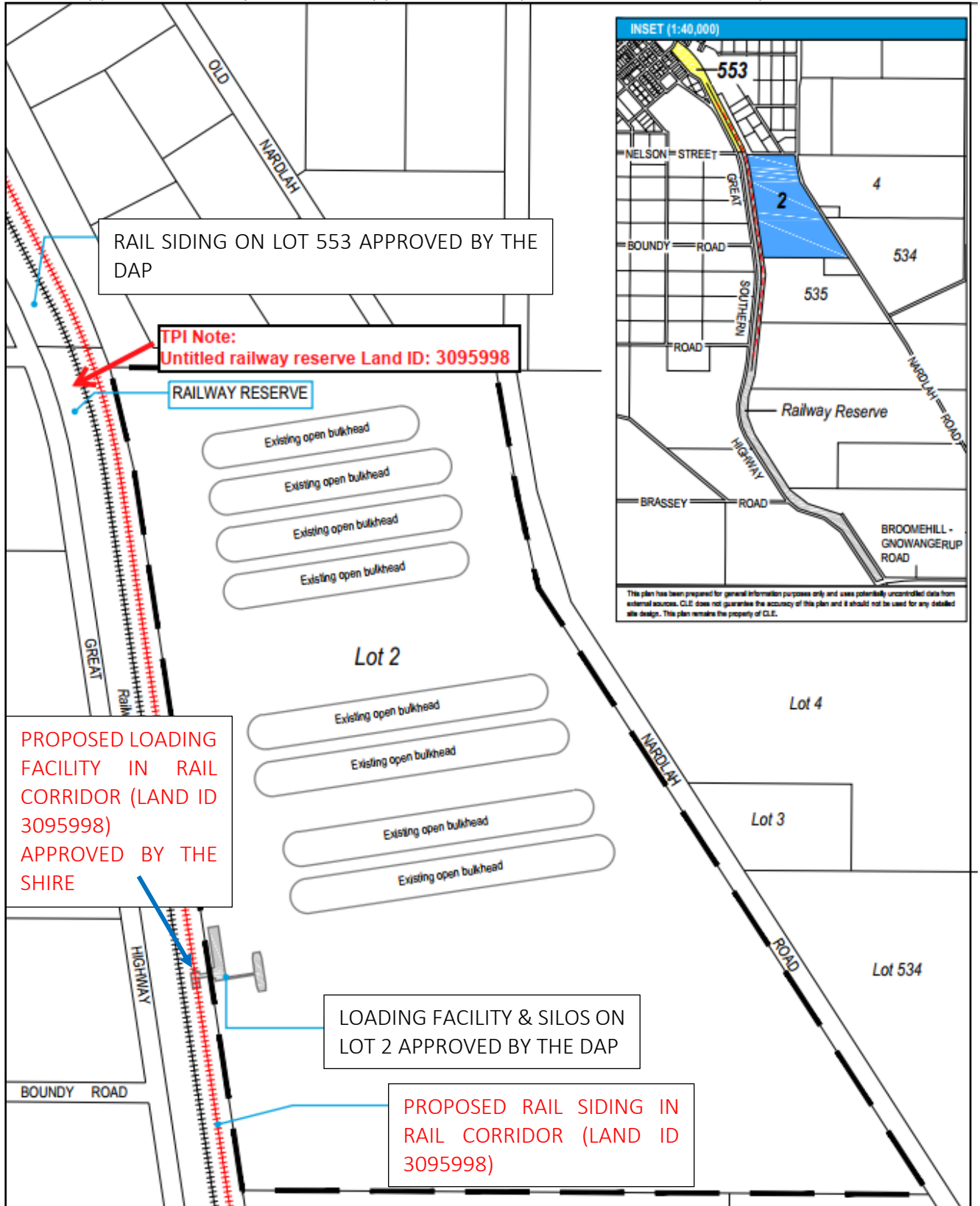
At the time, CBH did not include the railway reserve (ID 3095998) on the DAP application form, or provide any owners consent. Consequently, the railway corridor development did not form part of the 2021 DAP application or the DAP approval. This was an issue as CBH proposed a rail siding and loading infrastructure within the railway reserve (ID 3095998), which is located to the west of Lot 2.

CBH subsequently lodged an application for development within the railway corridor (ID 3095998), which was approved at a Special Council Meeting held on the 2 March 2023. Formal planning approval was issued on the 16 May 2023 – Attachment 11.3.1.

Condition 8 of the Shire approval limited construction noise to 7am and 7pm Monday to Saturday (excluding public holidays). CBH have lodged an application proposing to modify

Condition 8 of the Shire approval, to allow construction works on Sundays, between 8.00am and 5.00pm. In support of the application, a Noise Management Plan has been prepared by Martinus. Martinus is the contractor responsible for construction of the rail siding. The Noise Management Plan is included as Attachment 11.3.2.

There is also a separate application to modify a similar condition for the related DAP approval (refer to separate Item No 11.2 in this agenda). This report only relates to the approval issued by the Shire. Approved development is reflected in the plan below.



Note: The proposed railway siding extends further south than shown on this site plan extract. It has an approximate length of 1.6 kilometres.

COMMENT

Description of Application

CBH has lodged an application seeking modification to Condition 8 of the Shire approval which currently states:

8. The operator (CBH) shall ensure at all times that construction noise is limited to between 7am and 7pm Monday to Saturday (excluding public holidays) and that the works are carried out in accordance with Australian Standard 2436:2010.

CBH has requested that a modified Condition 8 be worded as follows:

8. The operator (CBH) shall:
 - (a) Ensure that construction noise is:
 - (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
 - (ii) Limited to between 8am and 5pm on Sundays and is undertaken in compliance with a Noise Management Plan approved by the local government; and
 - (b) The works are carried out in accordance with Australian Standard 2436:2010.

Noise Management Plan (NMP)

CBH has lodged a Noise Management Plan (NMP) outlining matters such as relevant legislation, location of sensitive receivers (dwellings), construction noise criteria, hours, predicted noise emissions, compliance, monitoring and complaint management – Attachment 11.3.2.

TPI has expertise in town planning and has assessed a number of Noise Impact Assessments as part of the planning application process, usually with technical advice provided by the Department of Water, Environment and Regulation (DWER).

It is important for the Council to note that TPI is not an expert on noise emissions or the Environmental Protection (Noise) Regulations 1997 ('Noise Regulations'). Notwithstanding the above, TPI offers the following general advice on the Noise Management Plan;

1. Summary of Noise Regulations

Compliance with Condition 8 of the Shire approval ensures compliance with the prescribed assigned noise levels under Clause 8 of the Noise Regulations.

Construction work must be carried out between 7am and 7pm on any day which is not a Sunday or public holiday. Any construction noise outside of these days and times is 'out of hours'.

Notwithstanding the above, Clause 13 of the Noise Regulations applies to 'construction noise'. Assigned noise levels do not apply to construction noise that

occurs ‘out of hours’, as long as certain requirements are met. One of those requirements is that any ‘out of hours’ construction noise needs to be justified, and be in accordance with an approved Noise Management Plan.

The Department of Water and Environmental Regulation (DWER) has delegated authority to *‘any person holding or acting as a CEO under the Local Government Act 1995’* to approve a Noise Management Plan.

Essentially this means that construction noise can occur on a Sunday, if the applicant demonstrates that working ‘out of hours’ is justifiable, and a Noise Management Plan is approved by the Shire Chief Executive Officer.

2. DWER Fact Sheet

DWER has a Fact Sheet that provides information on construction noise – Attachment 11.3.3.

The Fact Sheet states that Noise Management Plans must detail;

- vi. need and reasons for the construction work to be done, types and durations of activity likely to result in noise emissions above assigned noise levels
- vii. predictions of noise emissions
- viii. control measures for noise emissions, including vibration
- ix. monitoring of noise emissions, including vibration
- x. complaint response procedure.

3. Noise Regulation Requirements and the Noise Management Plan (NMP)

The Noise Management Plan (NMP) lists the requirements that need to be addressed under the Noise Regulations, and references the section which covers that issue (refer Table 2 under Point 2 of the NMP).

TPI has summarised the main Noise Regulations requirements (based on the DWER Fact Sheet), and included officer comments in the Table below.

Noise Regulation Requirements for a Noise Management Plan	NMP Reference	Officer Comment
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		<ul style="list-style-type: none"> - The need for 'out of hours' work on Sundays to support the work roster, and to enable successful delivery of the project. <p>TPI liaised with DWER on the 3 August 2023. DWER advised that the local government needs to be satisfied that the proposal to work 'out of hours' is fully justifiable.</p> <p>It should be noted that where enquiries were made direct to the Shire or TPI, potential contractors were advised that no work was permitted on Sundays.</p> <p>Table 4 on page 10 of NMP outlines expected construction activities that have potential to emit noise, including rail siding earthworks, turnout installation and track/rail placement.</p> <p>Construction is predicted to be completed by the 18th August 2023.</p> <p>If the construction schedule is accurate, then it seems the need for a NMP will become superfluous by the time this item is considered by Council.</p>
Predictions of noise emissions	4.1 – incorrect reference	<p>Section 4.1 is incorrectly referenced as it relates to construction activities (page 10).</p> <p>Section 4.2 discussed predicted noise emissions.</p> <p>Table 8 on page 11 of the NMP includes predicted noise levels, with the maximum being 65 decibels. According to Figure 4 in the NMP that level of noise is 'moderate'.</p> <p>The NMP does not explain the basis of the 'predicted noise levels'. TPI liaised with CBH who advise it is based on noise levels measures at 2 locations near the development site.</p> <p>TPI liaised with DWER on the 3 August 2023. Following that discussion TPI is of the understanding that;</p> <ul style="list-style-type: none"> (i) the local government needs to be satisfied that the proponent has provided information on the equipment to be used, and (ii) that they also demonstrate that the equipment will be as quiet as possible. <p>The NMP broadly describes construction activities, and includes a list of plant equipment in Appendix B.</p>

Control measures for noise emissions, including vibration	5	Section 5 is broad and discusses ‘management and mitigation’ measures such as staff training; substitution, modification, siting and maintenance of equipment; scheduling noisier works at less sensitive times; amalgamating loads where possible etc
Monitoring of noise emissions, including vibration	7.1	<p>Section 7.1 states that noise monitoring will occur to measure the effectiveness of environmental controls and to validate impacts predicted during out of work hours, or in response to a noise complaint.</p> <p>It isn’t clear whether noise measuring equipment will be on site at all times, whether suitably qualified noise personnel will be used to undertake noise monitoring, and how often it will occur.</p> <p>The NMP doesn’t include a requirement to report any non-conforming result to the Shire CEO.</p>
Complaint response procedure.	8.3	<p>A ‘complaints management’ section is included under 8.3 on page 19 of the NMP. It is not particularly comprehensive and there is concern about it’s adequacy in the event that a justifiable unresolved complaint about noise is lodged.</p> <p>There is no requirement for the contractor to report any breaches of the Noise Regulations or any unresolved complaints to the Shire.</p>

At an officer level, there are concerns over the Noise Management Plan lodged including and not limited to;

- i) It has been prepared by a contractor, Martinus. Noise is an expert field and there is no evidence of substantial input into the Management Plan by a suitably qualified noise consultant or noise expert.
- j) There are typographical errors throughout the document such as ‘Figure XX’ on page 9, and incorrect section numbering, which doesn’t present well.
- k) It states that the works are to be ‘*in accordance with a NMP approved by the CEO of the Department of Water and Environmental Regulation*’. When TPI questioned this, CBH confirmed the statement was incorrect as the NMP requires the Shire CEO approval. If the NMP cannot identify the correct approval authority it reduces confidence in the document.
- l) Some of the issues are addressed superficially, and the section on ‘complaints’ isn’t rigorous or robust. It doesn’t include any requirements to report unresolved complaints to the Shire.
- m) It states that typical plant sound power levels in Appendix A are based on ‘*in field sampling on similar projects delivered by Martinus*’. It provides no details of the noise readings, and it is not clear that the contractors other projects are comparative to the new CBH rail siding.

- n) There is no clear explanation of the methodology for predicted noise emissions to dwellings for 'out of hours' work.
- o) The document is fairly broad and doesn't offer the Shire a high level of protection in the event of noise issues or unresolved complaints (for work on Sundays).
- p) It relies on the contractor to monitor their own activities in terms of noise. There is no explanation that Martinus has employees with sufficient noise expertise to undertake noise monitoring, or deliver positive outcomes in the event of a justifiable noise complaint.

If a person lodges a noise complaint direct to the Shire, the Noise Management Plan doesn't offer the Chief Executive Officer significant avenues to address any substantial ongoing complaint.

Ultimately it is the Shire Chief Executive Officer (and not Council) who has delegated authority from DWER to approve a Noise Management Plan.

TPI has liaised with the Shire CEO who does not support the Noise Management Plan.

Options available to Council for the application to modify Condition 8 of the Shire approval

There are two decisions involved in this matter;

- A. Council is to consider whether to approve the application to modify Condition 8; and
- B The Shire CEO has to decide whether to approve the Noise Management Plan lodged in support of the application.

OPTION 1 – APPROVE THE APPLICATION FOR A MODIFIED CONDITION 8

Council needs to decide whether to approve a modified Condition No 8 to allow work to occur on Sundays, between 8.00am and 5.00pm, in accordance with an approved Noise Management Plan.

Approval of a revised Condition 8 would provide flexibility for 'out of hours' construction to occur when, and if, the Shire CEO approves a Noise Management Plan. CBH cannot comply with any revised condition unless they produce a Noise Management Plan to the satisfaction of the Shire CEO.

A modified Condition 8 will likely create an expectation that the Shire CEO is willing to consider approval of a Noise Management Plan (in some form), and accepts that a Noise Management Plan is justified.

If Council supports the planning application it can resolve as follows:

'That Council:

- A. Accept that the application lodged by CBH to revise condition 8 of the existing Shire approval dated the 16 May 2023 (Reference OPA23511574) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance

with Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- B. Approve the application lodged by CBH to amend the existing planning approval issued by the Shire on the 16 May 2023 in accordance with Clause 77 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and with the provisions of the Shire of Broomehill Town Planning Scheme No 1, for the proposed minor amendment to the approved rail siding and loading infrastructure on railway reserve (Land ID: 3095998) subject to the following modified condition and new footnote:

8. The operator (CBH) shall:
- (a) Ensure that construction noise is:
 - (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
 - (ii) Limited to between 8am and 5pm on Sundays and is undertaken in compliance with a Noise Management Plan approved by the local government; and
 - (b) The works are carried out in accordance with Australian Standard 2436:2010.9.

Footnote:

This approval is not an approval of the Noise Management Plan dated the 13 March 2023. The Shire recommends that the document be modified to better address the minimum requirements of the *Environmental Protection (Noise) Regulations 1997*.

- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan as lodged with the application. The Shire CEO may refer any revised NMP to the Department of Water, and Environmental Regulation for external expert advice. ‘

OPTION 2 – REFUSE THE APPLICATION FOR A MODIFIED CONDITION 8

It stands to reason that Council may not support a modified condition if it is not satisfied that there is adequate justification and / or agrees that the Noise Management Plan lodged in support of the application is insufficient.

Council may not accept that any ‘out of hours’ construction noise is justified simply based on the contractor’s aspirations to increase work hours. Council may also have concerns over whether potential noise impact on Sundays is in the interest of the local Broomehill community.

It is noted that there are 4 dwellings within 240 metres of the CBH site, and another 7 dwellings within 720 metres of the site.

These residents likely experience noise associated with existing construction, and the Shire may wish to retain a prohibition of construction noise on Sundays to provide residents with a reprieve from construction noise.

If Council does not support the planning application to modify condition 8 it can resolve as follows:

‘That Council:

- A. Accept that the application lodged by CBH to revise condition 8 of the existing Shire approval dated the 16 May 2023 (Reference OPA23511574) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Refuse the application lodged by CBH to amend the existing planning approval issued by the Shire on the 16 May 2023 for a rail siding and loading infrastructure within railway reserve (ID: 3095998), Broomehill for the following reasons:
 - 1. There is no significant justification for the proposal to allow for ‘out of work’ construction noise on Sundays, the reasoning for a Noise Management Plan is not accepted, and the proposal is not in the interest of the broader Broomehill local community.
 - 2. Based on the estimated construction timeframes, the need to modify Condition 8 and for any Noise Management Plan is not substantiated.
- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan lodged with the application. ‘

OPTION 3 – ADVERTISE THE APPLICATION FOR A MODIFIED CONDITION 8

Council can defer determination of the application and resolve to advertise it for public comment to nearby residents, and refer the Noise Management Plan to the Department of Water, Environment and Regulation (DWER) for technical noise advice. DWER would need to be provided with 42 days to comment.

TPI liaised with DWER on the 3 August 2023. DWER advised that the Shire can refer the matter to their organisation for expert advice. DWER also indicated that it is important for the Shire to consider the local community.

TPI does not recommend Option 3 unless Council is prepared to consider modifying Condition 8. The need for a Noise Management Plan may become redundant by the time the planning application has gone through an advertising period.

If Council supports Option 3 it can resolve as follows:

‘That Council:

- A. Accept that the application lodged by CBH to revise condition 8 of the existing Shire approval dated the 16 May 2023 (Reference OPA23511574) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- B. Resolve to advertise the application for public comment to nearby Broomehill residents for 28 days, and to the Department of Water, Environment and Regulation for 42 days, to gain wider community input and expert technical noise advice. ‘

CONSULTATION

Option 3 in this report outlines potential for Council to advertise the planning application.

STATUTORY ENVIRONMENT

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Regulations* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Broomehill Town Planning Scheme No 1.

Clause 66 – requires consultation with other authorities to be for a minimum of 42 days.

Clause 67 outlines application considerations including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the compatibility of the development with its setting including to development on adjoining land, the objectives of a reserve, the likely effect on the natural environment, amenity, loading, access, traffic and any submissions received on a proposal.

Clause 77 – Allows a local government to determine an application to modify a condition of approval.

Shire of Broomehill Town Planning Scheme No 1 (the Scheme) – The lots are zoned Rural.

Environmental Protection (Noise) Regulations 1997 – Discussed in the body of this report.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

There are no Local Planning Policy Implications.

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

Cr White, Cr Barritt, Cr Letter & Cr Paganoni declared a Financial Interest in Item 11.2 & 11.3.

In order to maintain a quorum the declarations were forwarded to the Department of Local Government, Sport and Cultural Industries for Ministerial approval to participate in discussion and decision making. Approval was given for Cr White and Cr Paganoni to fully participate in the discussion and decision making.

Conditions of the approval are as follows:

- 1. The approval is only valid for the 17 August 2023 Ordinary Council Meeting when agenda item 11.3 is considered;*
- 2. The above-mentioned councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. The Chief Executive Officer (CEO) is to provide a copy of the Department of Local Government, Sport and Cultural Industries letter of approval to the abovementioned councillors;*
- 4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
- 5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to DLGSC, to allow DLGSC to verify compliance with the conditions of this approval; and*
- 6. The approval granted is based solely on the interests disclosed by the abovementioned councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

Item 11.3 was considered before item 11.1 but has been recorded in the order of the agenda.

OFFICER RECOMMENDATION

That council note that three options have been outlined in the body of this agenda item, and resolve as follows:

- A. Accept that the application lodged by CBH to revise condition 8 of the existing Shire approval dated the 16 May 2023 (Reference OPA23511574) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Refuse the application lodged by CBH to amend the existing planning approval issued by the Shire on the 16 May 2023 for a rail siding and loading infrastructure within railway reserve (ID: 3095998), Broomehill for the following reasons:
 1. There is no significant justification for the proposal to allow for 'out of work' construction noise on Sundays, the reasoning for a Noise Management Plan is not accepted, and the proposal is not in the interest of the broader Broomehill local community.
 2. Based on the estimated construction timeframes, the need to modify Condition 8 and for any Noise Management Plan is not substantiated.

- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan lodged with the application.

COUNCIL DECISION

Moved Cr Penny Seconded Cr Wills that:

- A. Accept that the application lodged by CBH to revise condition 8 of the existing Shire approval dated the 16 May 2023 (Reference OPA23511574) as detailed on the application form dated 16 June 2023 is appropriate for consideration in accordance with Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B. Approve the application lodged by CBH to amend the existing planning approval issued by the Shire on the 16 May 2023 in accordance with Clause 77 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and with the provisions of the Shire of Broomehill Town Planning Scheme No 1, for the proposed minor amendment to the approved rail siding and loading infrastructure on railway reserve (Land ID: 3095998) subject to the following modified condition and new footnote:
8. The operator (CBH) shall:
- (a) Ensure that construction noise is:
- (i) Limited to between 7am and 7pm Monday to Saturday (excluding Public Holidays) and
- (ii) Limited to between 8am and 5pm on Sundays until 30 November 2023 and is undertaken in compliance with a Noise Management Plan approved by the local government; and
- (b) The works are carried out in accordance with Australian Standard 2436:2010.9.

Footnote:

This approval is not an approval of the Noise Management Plan dated the 13 March 2023. The Shire recommends that the document be modified to better address the minimum requirements of the *Environmental Protection (Noise) Regulations 1997*.

- C. Note that the Shire Chief Executive Officer does not support the Noise Management Plan as lodged with the application. The Shire CEO may refer any revised NMP to the Department of Water, and Environmental Regulation for external expert advice.

CARRIED 4/0
Motion No 79/23

Reason for Change

To allow CBH to get on track with their works program and monitoring of the noise impacts on Sundays

Cr Barritt and Cr Letter re-entered the meeting at 5.08pm and were advised of the Council's decision in relation to item 11.2 & 11.3.

12. KEY PILLAR 3: BROOMEHILL-TAMBELLUP LIFESTYLE

Nil.

13. KEY PILLAR 4: BROOMEHILL-TAMBELLUP SHIRE SUPPORT

13.1 FINANCIAL STATEMENTS – JULY 2023

ATTACHMENT(S)	13.1.1 Financial Statements July 2023
FILE NO	ADM0619
APPLICANT	n/a
AUTHOR	Kay O'Neill - Manager Finance & Administration
DATE	8 August 2023
DISCLOSURE OF INTEREST	Nil

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Actions
Key Pillar: SoBT Shire Support	
11. Delivered Shire Trust and Performance 11.2 SoBT financial sharing This is the Shire workforce releasing financial trends and results quarterly, transparently indicating where funds come from for each piece of work. The Shire is working well with the community to develop new revenue options to achieve community driven pieces of work.	11.2.1 Undertaking specific initiatives to improve meaning and understanding of the Shire's monthly financial reports.

SUMMARY

The Council to consider the monthly financial statements for July 2023.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* require a statement of financial activity to be prepared each month and prescribe the contents of that report and accompanying documents. The report is to be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the report relates.

COMMENT

Each financial year, the Council is required to adopt a percentage or value to be used in the statement of financial activity for reporting material variances. As part of the 2023/24 budget process, the Council adopted 10% or \$10,000 (whichever is the greater) as the material variance for reporting purposes for the year.

The statement of financial activity identifies material variances, which is a requirement of the *Local Government (Financial Management) Regulations 1996*.

Councillors should note that final allocations are being made for the year ending 30 June 2023 which may affect the opening position for the current year. Depreciation for 2023/24 cannot be processed until the audit for the previous year is finalised, this will affect the variances reported in the statement of financial activity.

CONSULTATION

Chief Executive Officer

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for the previous month (the **relevant month**) in the following detail –*
- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) budget estimates to the end of the month to which the statement relates; and*
 - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; and*
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) the net current assets at the end of the relevant month and a note containing a summary explaining the composition of the net current assets.*
- (2) *Each statement of financial activity is to be accompanied by documents containing –*
- (a) [deleted].*
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity must be shown according to nature classification.*

FINANCIAL IMPLICATIONS

The report represents the financial position of the Shire at the end of the reporting period.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

This item has been evaluated against the Shire's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Paganoni, Seconded Cr Penny that the monthly financial statements for the period ending 31 July 2023 be received.

CARRIED 6/0
Motion No 81/23

13.2 MONTHLY LIST OF PAYMENTS – JULY 2023

ATTACHMENT(S)	13.2.1 Monthly Payments Listing July 2023
FILE NO	ADM0619
APPLICANT	N/A
AUTHOR	Kay O'Neill - Manager Finance & Administration
DATE	8 August 2023
DISCLOSURE OF INTEREST	Nil

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Actions
Key Pillar: SoBT Shire Support	
11. Delivered Shire Trust and Performance 11.2 SoBT financials Sharing This is the Shire workforce releasing financial trends and results quarterly, transparently indicating where funds come from for each piece of work. The Shire is working well with the community to develop new revenue options to achieve community driven pieces of work.	11.2.1 Undertaking specific initiatives to improve meaning and understanding of the Shire's monthly financial reports.

SUMMARY

The Council to consider the list of payments made from the Municipal and Trust Funds during July 2023.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* prescribe that a list of accounts paid under delegated authority by the CEO is to be prepared each month, providing sufficient information to identify the transactions.

The list is to be presented to the Council at the next ordinary meeting after the list is prepared and recorded in the minutes of that meeting.

COMMENT

Summary of payments made for the month –

	\$
Municipal Fund	575,569.51
Trust Fund	0.00
Credit Cards	1,351.56
TOTAL	576,921.07

Any comments or queries regarding the list of payments is to be directed to the Manager of Finance and Administration prior to the meeting.

CONSULTATION

Chief Executive Officer

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

r13. Lists of accounts

(1) If the local government has delegated authority to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared–

(a) the payee's name;

(b) the amount of the payment;

(c) the date of the payment; and

(d) sufficient information to identify the transaction.

FINANCIAL IMPLICATIONS

Reports the payments made for the previous month from the Municipal and Trust Funds, and purchases made on corporate credit cards held by the CEO and Manager of Finance and Administration.

POLICY IMPLICATIONS

Council Policy '3.1 Purchasing Policy' provides guidance and restrictions relative to purchasing commitments.

RISK MANAGEMENT IMPLICATIONS

This item has been evaluated against the Shire's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Letter, Seconded Cr Penny that, in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, the list of payments paid under delegated authority be noted for July 2023; comprising –

- Municipal Fund cheque, electronic funds transfer (EFT) and direct debit payments totalling \$575,569.51; and
- Credit Card payments totalling \$1,351.56.

CARRIED 6/0
Motion No 82/23

13.3 EQUAL EMPLOYMENT OPPORTUNITY MANAGEMENT PLAN 2023-2025

ATTACHMENT(S)	13.3.1 Equal Employment Opportunity Management Plan 2023-2025 13.3.2 Equal Employment Opportunity Management Plan 2023-2025 – Implementation Plan
FILE NO	ADM0209
APPLICANT	n/a
AUTHOR	Pam Hull - Strategic Support & Projects Officer
DATE	7 August 2023
DISCLOSURE OF INTEREST	Nil

STRATEGIC IMPLICATIONS	
Strategic Community Plan 2023-2033	Corporate Business Plan 2023 -2027
Community Outcomes	Corporate Initiative
Key Pillar: BT Shire Support	
11. Delivered Shire Trust and Performance 11.3 SoBT workforce satisfaction This is the Shire advancing workforce satisfaction through reconciliation progress, celebrating milestone achievements, developing a sense of pride and confidence, and the workforce contributing to pieces of 'People Power' at any time.	No applicable Corporate Initiative – statutory process

SUMMARY

The purpose of this report is for the Council to consider the Equal Employment Management Plan 2023-2025.

BACKGROUND

Under Section 145(2) of the *Equal Opportunity Act 1984* (EO Act) all government entities are required to develop equal employment opportunity (EEO) management plans and integrate them into their broader workforce planning process.

The plans are designed to eliminate and ensure the absence of discrimination in employment and promote equal employment opportunity for everyone, including job seekers.

The plan is focused on four outcome areas:

- Outcome 1: The organisation values EEO and diversity and the work environment is free from sexual and racial harassment;
- Outcome 2: Workplaces are free from employment practices that are biased or discriminate unlawfully against employees or potential employees;
- Outcome 3: Employment programs and practices recognise and include strategies for EEO groups to achieve workforce diversity;
- Outcome 4: Maintain a relevant and achievable EEO Management Plan through communication, review/amendment and evaluation.

An endorsed copy of the Council's EEO Management Plan is required to be submitted to the Public Sector Commission.

COMMENT

The previous EEO Management Plan expired in February 2022 and its review was inadvertently overlooked. The attached draft EEO Management Plan 2023-2025 confirms that no significant changes are required.

An Implementation Plan has been developed (attached) which outlines actions that will assist in achieving the outcomes of the EEO Management Plan. These actions have been taken from existing sources including the EEO Annual Report 2023, Corporate Business Plan, Disability Access and Inclusion Plan, Risk Register 2023, Senior Management Team meeting discussions and human resource management processes.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Equal Opportunity Act 1984

145. Preparation and implementation of management plans

(1) Each authority shall prepare and implement an equal opportunity management plan in order to achieve the objects of this Part.

(2) The management plan of an authority shall include provisions relating to —

- (a) the devising of policies and programmes by which the objects of this Part are to be achieved; and*
- (b) the communication of those policies and programmes to persons within the authority; and*
- (c) the collection and recording of appropriate information; and*
- (d) the review of personnel practices within the authority (including recruitment techniques, selection criteria, training and staff development programmes, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices; and*
- (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the management plan in achieving the objects of this Part may be assessed; and*
- (f) the means, other than those referred to in paragraph (e), of evaluating the policies and programmes referred to in paragraph (a); and*
- (g) the revision and amendment of the management plan; and*
- (h) the appointment of persons within the authority to implement the provisions referred to in paragraphs (a) to (g).*

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy 2.1 – Equal Opportunity states in part:

'The Council is dedicated to providing a harmonious and safe working environment and encourages good working relationships between all employees. All recruitment, selection

and employment decisions will be based on the individual merit of applicants and employees’.

RISK MANAGEMENT IMPLICATIONS

This report deals with statutory processes and has been evaluated against the Shire’s Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be “Low” and can be managed by routine procedures and with current resources.

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Will, seconded Cr Letter that the Equal Employment Opportunity Management Plan 2023-2025, as presented, be endorsed.

CARRIED 6/0
Motion No 83/23

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

15. ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

16. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

17. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

18. CLOSURE

There being no further business to discuss, the Presiding Member, Cr White, declared the meeting closed at 5.36pm.