

SHIRE OF KENT



(UNCONFIRMED) SPECIAL MEETING MINUTES

DATE: Thursday 2 February 2023

TIME: 12:00pm

VENUE: Council Chambers,
Richmond Street, Nyabing WA 6341

**ADAM SEILER
CHIEF EXECUTIVE OFFICER**

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The Shire of Kent advises that anyone who has any application lodged with the Shire of Kent shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Kent in respect of the application.

Adam Seiler

CHIEF EXECUTIVE OFFICER

AGENDA
2 February 2023

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The meeting was opened at 12:06pm by the Shire President.

2. RECORD OF ATTENDANCE/APOLOGIES AND APPROVED LEAVE OF ABSENCE**Members**

Cr S Crosby	Shire President
Cr K Johnston	Deputy Shire President
Cr D Gray	Member
Cr G Hobley	Member
Cr R Jury	Member (Via video link)
Cr T Borgward	Member
Cr J Germain	Member

Staff

A Seiler	Chief Executive Officer
C Smith	Manager Corporate
M Tulleken	Manager Infrastructure
N Taekema	Governance Officer

Members of the Public

Nil

Apologies

Nil

Members on Approved Leave of Absence

Nil

3. DISCLOSURES OF INTEREST

Nil

4. PUBLIC QUESTION TIME

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

6. CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING

Nil

7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil

8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

9. OFFICER REPORTS

9.1.1 SOUTH WEST NATIVE TITLE SETTLEMENT – NOONGAR LAND ESTATE

PROPOSED MEETING DATE:	2 February 2023
PROPONENT:	Department Planning, Lands and Heritage
LOCATION:	Nampup Road, Nyabing (several lots) Lot 63 & 120 Nyabing Pingrup Road
AUTHOR:	Adam Seiler – Chief Executive Officer
REPORTING OFFICER:	Adam Seiler – Chief Executive Officer
FILE NO:	GOV.264
ASSESSMENT NO:	Nil
ATTACHMENTS:	Correspondence and photographs attached
DISCLOSURE OF INTEREST:	Nil

PURPOSE

For Council to consider an application within the Shire of Kent as it involves the referral of land under consideration for inclusion in the Noongar Land Estate under the South West Native Title Settlement.

BACKGROUND

The South West Native Title Settlement (Settlement) is a landmark native title agreement reached between the State Government (State) and the six Noongar Agreement Groups. The six requisite Indigenous Land Use Agreements (ILUAs) were conclusively registered, leading to the Settlement commencing on 25 February 2021 after some years of delay. The Settlement recognises the Agreement Groups as the Traditional Owners of the south west of Western Australia, while resolving native title in exchange for a negotiated package of benefits. The area subject to the Settlement is depicted in the attached map.

Over the next five years, the Department of Planning, Lands and Heritage (Department) will progress selected land parcels through to transfer under the Settlement, subject to all necessary consultation and approvals with stakeholders. Land eligible for inclusion in the Noongar Land Estate includes:

- unallocated Crown land;
- unmanaged reserves;
- land owned or held by the Aboriginal Lands Trust / Aboriginal Affairs Planning Authority; and
- land owned or held by State agencies or Local Government Authorities, at the discretion of the State agency or Local Government Authority.

COMMENT

A key part of the process being followed by the Department involves the referral of land under consideration for inclusion in the Noongar Land Estate to relevant State agencies and Local Government Authorities. The Department would appreciate Council providing comments on the land parcels identified as Nampup Road estate (adjacent CBH on the old Golf Club site) within the Shire of Kent in relation to the following:

1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement? - **No**
2. Does the Shire have any interest in the land? - **Yes**
3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained. – **Yes (existing bore services)**
4. Is the land parcel subject to any mandatory connection to services? – **If rezoned, it would require connection to utilities (Electricity (SWIS), Scheme Water, Sewer and Fibre or Copper IT connectivity)**

5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe? – **Yes. Council has an interest in Nampup Road as the only remaining potential Industrial Land Estate which Council will consider the 2-year rezoning process and subsequent development.**
6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe? – **No.**
7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect? –**Lots 131 to 138 north of Bin Road and east of Kukerin Road in the north-western part of the Nyabing townsite are all classified 'Park & Recreation' reserve in the Shire's current Town Planning Scheme No.2 and 'Public Open Space' reserve in the Shire's new Local Planning Scheme No.3 and would require amendment to 'Industrial'.**
8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints). - **None**
9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement. – **Council would appreciate full disclosure of the proposed land transfers slated for the future.**

The Department seeks comments in respect to the above **by 26 February 2023.**

STATUTORY IMPLICATIONS

South West Native Title Settlement.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Social – Cultural and Heritage Diversity is recognised

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

1. That Council advises the Department of Planning, Lands and Heritage (DLPH) that it objects to the transfer of existing Lots adjacent to and part of Nampup Road, Nyabing referred for consideration in the Noongar Land Estate under the South West Native Title Settlement and the responses to DPLH's question as shown above in relation to the Land be endorsed by Council.
2. That Council advises the Department of Planning, Lands and Heritage (DLPH) that it does not object to the transfer of Lot 63 and Lot 120 Nyabing Pingrup Road, Nyabing, referred for consideration in the Noongar Land Estate under the South West Native Title Settlement and the responses to DPLH's question as shown above in relation to the Land be endorsed by Council.
3. That Council consider within the 2023/2024 Draft Budget to commencement of rezoning the Lots on Nampup Road from 'Public Open Space' to 'Industrial' following gazettal of Town Planning Scheme No 3.

OCM2223/092 - COUNCIL RESOLUTION**MOVED Cr SR Crosby / Cr JN Germain**

1. That Council advises the Department of Planning, Lands and Heritage (DLPH) that it objects to the transfer of existing Lots adjacent to and part of Nampup Road, Nyabing referred for consideration in the Noongar Land Estate under the South West Native Title Settlement and the responses to DPLH's question as shown above in relation to the Land be endorsed by Council.
2. That Council advises the Department of Planning, Lands and Heritage (DLPH) that it does not object to the transfer of Lot 63 and Lot 120 Nyabing Pingrup Road, Nyabing, referred for consideration in the Noongar Land Estate under the South West Native Title Settlement and the responses to DPLH's question as shown above in relation to the Land be endorsed by Council.

**CARRIED 7/0
By Simple Majority**

Reason for Alteration to the Recommendation

In relation to the report, Council sought to maintain transparency and clarity with focussing on the Objection and No Objection (Parts 1 & 2) and tabled Part 3 for possible future consideration without being obligated to a commitment through Council Resolution.

10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL
Nil

12. MATTERS BEHIND CLOSED DOORS

That the meeting be closed to the public in accordance with section 5.23 Local Government Act 1995, 5.5.23(2))

- Matters affecting employee(s)
- Personal affairs of any person(s), including financial and/or commercial Contracts
- Commercial Confidentiality
- Legal advice/matters
- Public safety/security matters where public knowledge may be prejudicial.

13. MEETING CLOSED

There being no further business the Shire President, Cr Scott Crosby, closed the meeting at 12:22pm

I certify these minutes were confirmed at the Ordinary Meeting of Council held 15 February 2023.

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Cr Scott Crosby – Shire President

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Date