



AGENDA

SPECIAL MEETING OF COUNCIL

to be held on

Thursday, 28 January 2021

at 5.30pm



WESTERN AUSTRALIA'S
WILDFLOWER COUNTRY

'This meeting is being recorded on audio tape and to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of Morawa Meeting Procedures Local Law 2012 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.'

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Morawa for any act, omission, statement or intimation occurring during Council Meetings. The Shire of Morawa disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, and statement of intimation occurring during Council Meetings.

Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Council Meeting does so at their own risk. The Shire of Morawa advises that any person or legal entity should only rely on formal confirmation or notification of Council resolutions.

DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS

Local Government Act 1995 – Section 5.65, 5.70 and 5.71 Local Government (Administration) Regulation 34C

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Administration) Regulation 34C</i>			
Name of person declaring the interest			
Position			
Date of Meeting			
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing		
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality

Signature: _____ **Date:** _____

Important Note:

Should you declare a **Financial** or **Proximity** Interest, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered.

For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

“With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

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Item 1 Opening of Meeting

The President to declare the meeting open.

Item 2 Acknowledgement of Traditional Owners and Dignitaries

The President acknowledges the traditional custodians, the Yamatji people, and recognises the contribution of Yamatji elders past, present and future, in working together for the future of Morawa.

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Item 3 Recording of Attendance**3.1 Attendance****Council**

President (Presiding Member) Councillor Karen Chappel
Deputy President Councillor Dean Carslake
Councillor Jane Coaker
Councillor Debbie Collins
Councillor Yvette Harris
Councillor Shirley Katona
Councillor Ken Stokes

Staff

Chief Executive Officer

Scott Wildgoose

Members of the Public**3.2 Attendance by Telephone / Instantaneous Communications**

In accordance with section 14 of the *Local Government (Administration) Regulations 1996* “Meetings held by electronic means in public health emergency or state of emergency (Act s. 5.25(1)(ba))”, the President to declare that this Meeting may take place via instantaneous communication. All Councillors and staff are to be available either via telephone (teleconference) or in person.

3.3 Apologies**3.4 Approved Leave of Absence****3.5 Disclosure of Interests****Item 4 Applications for Leave of Absence**

Item 5 Response to Previous Questions**Item 6 Public Question Time**

Important note:

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Members of the public are also reminded that in accordance with section 6.17(4) of the Shire of Morawa Meeting Procedures Local Law 2012 mobile telephones must be switched off and not used during the meeting.’

6.1 Public Question Time**6.2 Public Statement Time****6.3 Petitions/Deputations/Presentations/Submissions****Item 7 Questions from Members without Notice****Item 8 Announcements by Presiding Member without Discussion****Item 9 Declarations of All Members to have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting**

The Elected Members to declare that they had given due consideration to all matters contained in the agenda.

Item 10 Confirmation of Minutes of Previous Meeting
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Disclaimer

Members of the public are cautioned against taking any action on Council decisions, on items in this agenda in which they may have an interest, until formal notification in writing from the Shire has been received. Decisions made at this meeting can be revoked pursuant to the Local Government Act 1995.

Item 11 Reports of Officers**11.1 Chief Executive Officer****11.1.1 Rezoning of Lots 14 and 16 Caulfield Street in Town Planning Scheme No.3**

Author: Planning Officer

Authorising Officer: Chief Executive Officer

Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That with respect to the draft Shire of Morawa Local Planning Scheme No. 3 (draft), Council:

1. Endorse the rezoning of Lots 14 and 16 Caulfield Street to Residential Zoning within Town Planning Scheme No.3 (draft) prior to advertising
2. Request the Chief Executive Officer to write to the Western Australian Planning Commission (WAPC) notifying them of the change to the zoning of the above mentioned lots in the draft Town Planning Scheme No.3
3. Request the Chief Executive Officer to follow up with the WAPC regarding Council Resolution 201007 of 15 October 2020 with the aim of expediting their decision making process with the view to the Shire appropriately amending and advertising Town Planning Scheme No.3
4. Subject to the WAPC's positive response to 2 and 3. above, progress to advertise Town Planning Scheme No.3 as addressed in Council Resolution 200907 of 17 September 2020

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

Council is requested to address the zoning of lots 14 and 16 Caulfield Street in the draft Local Planning Scheme No.3 (draft Scheme) prior to public advertising.

DETAIL

At the Ordinary Meeting of 17 September 2020, Council considered the draft Scheme and draft Local Planning Strategy and resolved as follows:

“That with respect to the Shire of Morawa Town Planning Scheme Review and Local Planning Strategy, Council:

1. Resolves to proceed to advertise the draft Shire of Morawa Local Planning Strategy in accordance with regulation 13(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 (note Attachment 1);
2. Resolves to proceed to advertise the draft Shire of Morawa Local Planning Scheme No. 3 with section 84 of the Planning and Development Act 2005 and regulation 22(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 (note Attachments 2 and 3); and
3. Authorises the Chief Executive Officer to commence public advertising of the draft Shire of Morawa Local Planning Strategy and draft Shire of Morawa Local Planning Scheme No. 3 for a period of ninety (90) days”.

Subsequent, to this decision, the Acting CEO presented an issue relating to Clause 6 of Schedule 2 of the Scheme relating to Environmental Protection. It was revealed that the clause had far reaching implications to the operation of the Scheme and capacity of the Shire to implement the provisions.

At the Ordinary Council Meeting of 15 October 2020 Council resolved:

“That with respect to the draft Shire of Morawa Local Planning Scheme No. 2, Council:

1. Requests the Chief Executive Officer to write to the Western Australia Planning Commission (WAPC) requiring Schedule 2, Clause 6 of the draft Shire of Morawa Local Planning Scheme No. 2 to be either removed or modified as outlined in this Report; and
2. Subject to the WAPC’s positive response to 1. above, progress to advertise as addressed in Council Resolution 200907 of 17 September 2020.”

The Shire is still awaiting a response from the WAPC and as such has yet to commence advertising of Town Planning Scheme No.3.

Since October 2020 a new issue has arisen that relates to the Shire’s Town Planning Scheme both current and draft.

The Lutheran Church listed its three (3) properties for sale (table below) – the real estate agent received several enquiries in relation to the listing of 14 Caulfield Street (the Church) in particular to using it as a residence. Under the current Town Planning Scheme No.2 and the proposed Town Planning Scheme No.3, lots 14 and 16 are reserved Public Purpose. The Public Purpose reserve objective is to provide for a range of essential physical and community infrastructure.

Address	Use	Zoning
12 Caulfield Street	Dwelling	Residential
14 Caulfield Street	Church	Public Purpose
16 Caulfield Street	Vacant Lot	Public Purpose

If the lots were to be sold for residential developments, they would be required to be rezoned residential to ensure the development complies with zone objectives. As such the Lutheran Church of Australia Western Australia District (LCAWA) have indicated that they wish to progress with zoning changes for lots 14 and 16 Caulfield Street under the proposed Town Planning Scheme No.3.

The Western Australian Planning Commission has advised that they can consider these lots being indicated as residential with a density code of R10/30 when the Shire advertises its Town Planning Scheme No.3 in 2021. It has been advised that the zoning change (from Public Purpose to Residential) be done prior to advertising, the reason being that if the landowner makes a submission for rezoning during the advertising period and it is supported, there is the potential that it would require re-advertising (for a period of 90 days) if the modification is seen as significant.

The only cost associated with rezoning the properties under the proposed Town Planning Scheme No.3 is the cost of map modifications \$150 + GST – this can be costed back to the property owner.

Given all properties surrounding lots 14 and 16 are currently zoned residential (see attachment) and the Church building is not currently in use and at risk of becoming derelict if left unused, it is the opinion of the author that the rezoning of these lots be approved.

LEVEL OF SIGNIFICANCE

Medium – Whilst the new Scheme plays a significant role in shaping the development of the Shire for the next 15 years, the significance of two lots within the context of the entire scheme is low.

CONSULTATION

Shire President
Chief Executive Officer
Western Australian Planning Commission

LEGISLATION AND POLICY CONSIDERATIONS

The process for the preparation, advertising, modification and approval of a local planning scheme is set out in the *Planning and Development Act 2005 (Act)* and *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*. With respect to advertising a local planning scheme, the *Act* and *Regulations* state as follows:

Local Planning Scheme

- *s.84 / r.22(1) Local government to prepare notice of scheme advertisement.*
- *r.22(2) Local government advertises draft Scheme 3 by publishing notice in a newspaper, displaying draft Scheme 3 in Shire offices, giving a copy to relevant public authorities, publishing draft Scheme 3 on Shire website and advertising in other ways considered appropriate. (Note: this is the current stage for Council in relation to the process)*
- *r.22(4) Draft Scheme 3 to be advertised for a minimum of 90 days.*
- *r.25(2) Local government to consider submissions made*
- *r.25(3) Council resolves to support or not support draft scheme with or without modification*
- *r.28 Following resolution, local government to provide documentation to WAPC*
- *s.87(1) / r.29 WAPC to consider documentation and make recommendation to Minister*
- *s.87(2) / r.31 Minister to approve with or without conditions or refuse to approve Scheme 3*
- *s.87(3) / r.32 Minister to endorse final Scheme 3 and publish in the Local Government Gazette*
- *s.87(4B) / r.33 Local government to publish notice of approval of Scheme 3 in newspaper and also notify submitters*

State Policies

- *State Planning Framework*
- *State Planning Strategy*
- *Mid-West Planning Framework*
- *Land Use Planning in Rural Areas*
- *Urban Growth and Settlement*
- *Historic Heritage Conservation*
- *Development Contributions for Infrastructure*
- *Mid-West Planning & Infrastructure Framework*
- *Planning for Bushfire Risk Management*

State Planning Manuals and Guidelines

- *Local Planning Manual*
- *Tourism Planning Guidelines*
- *Rural Planning Guidelines*
- *Planning for Bushfire Protection*

Strategic Community Plan 2018 to 2028 (desktop Review June 2020)

Outcome 1.8 Maximise business, industry and investment opportunities.

Outcome 4.3 A local government that is respected, professional and accountable.

FINANCIAL AND RESOURCES IMPLICATIONS

The Shire's budget for 2020/21 includes an amount of \$30k for the finalisation and advertising of the Scheme (not including staffing costs).

The cost of any scheme map modifications to accommodate the rezoning will be minor but will be passed onto the property owner at cost.

RISK MANAGEMENT CONSIDERATIONS

Medium - The Scheme will be subject to community comment as it progresses through the formal process following adoption. There are no standard appeal rights for the State Administration Tribunal on proposed local planning schemes.

CONCLUSION

Council is requested to consider rezoning lots 14 and 16 Caulfield Street to Residential.

ATTACHMENTS

Attachment 1 – 1.1.1 Town Planning Scheme – Map of Church

11.2 Executive Manager Corporate & Community Services

Nil

11.3 Economic Development Manager

Nil

11.4 Executive Manager Works & Assets

Nil

Item 12 Reports of Committees**Item 13 Motions of Which Previous Notice Has Been Given****Item 14 New Business of an Urgent Notice****Item 15 Matters for Which the Meeting May Be Closed (Confidential Items)****15.1 Closure of the Meeting to the Public**

Author: Chief Executive Officer

Authorising Officer: Chief Executive Officer

Disclosure of Interest: The Author/Authorising Officer declares that he does not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That Council closes the meeting to the public under section 5.23 (2)(a) of the *Local Government Act 1995* and the *Shire of Morawa Meeting Procedures Local Law 2012 s 6.2* so that it can consider the following Items:

15.2 Confidential Item – Appointment of Deputy CEO / Acting Chief Executive Officer

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

This item seeks Council's approval under s5.23 (2) of the *Local Government Act 1995* to move into camera or closed session to consider confidential matters:

DETAIL

Under s5.23 (2) of the *Local Government Act 1995*, Council must resolve to move into camera or closed session. The following Items are considered to be 'confidential matters' as addressed below:

- 15.2 Confidential Item – Appointment of Deputy CEO / Acting Chief Executive Officer

LEVEL OF SIGNIFICANCE

High – Confidential Items

CONSULTATION

Senior Management Team

LEGISLATION AND POLICY CONSIDERATIONS

Local Government Act 1995

Under section 5.23 (2) of the *Local Government Act 1995*, part of a council meeting may be closed, if the meeting deals with any of the following:

- (a) *a matter affecting an employee or employees;*
- (b) *the personal affairs of any person;*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret;*
 - (ii) *information that has a commercial value to a person;*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;*
- (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) *endanger the security of the local government's property;*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
- (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
- (h) *such other matters as may be prescribed.*

Shire of Morawa Meeting Procedures Local Law 2012

The key parts include:

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried— (a) the presiding member is to direct everyone to leave the meeting except— (i) the members; (ii) the CEO; and (iii) any officer specified by the presiding member; and (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

Strategic Community Plan 2018 to 2028 (desktop Review June 2020)

Outcome 4.3 A local government that is respected, professional and accountable.

FINANCIAL AND RESOURCES IMPLICATIONS

Any known financial implications are addressed in the respective reports.

RISK MANAGEMENT CONSIDERATIONS

There are no known risk management considerations.

CONCLUSION

That Council closes the meeting to the public under section 5.23 (2) of the *Local Government Act 1995* and the *Shire of Morawa Standing Orders Local Law 2011 s 6.2 (2)* so that it can consider the reports as addressed.

ATTACHMENT

Nil

15.2 Confidential Item – Appointment of Deputy CEO / Acting Chief Executive Officer

15.3 Reopening of the Meeting to the Public

OFFICER’S RECOMMENDATION

That Council reopens the meeting to the public.

SIMPLE MAJORITY VOTE REQUIRED

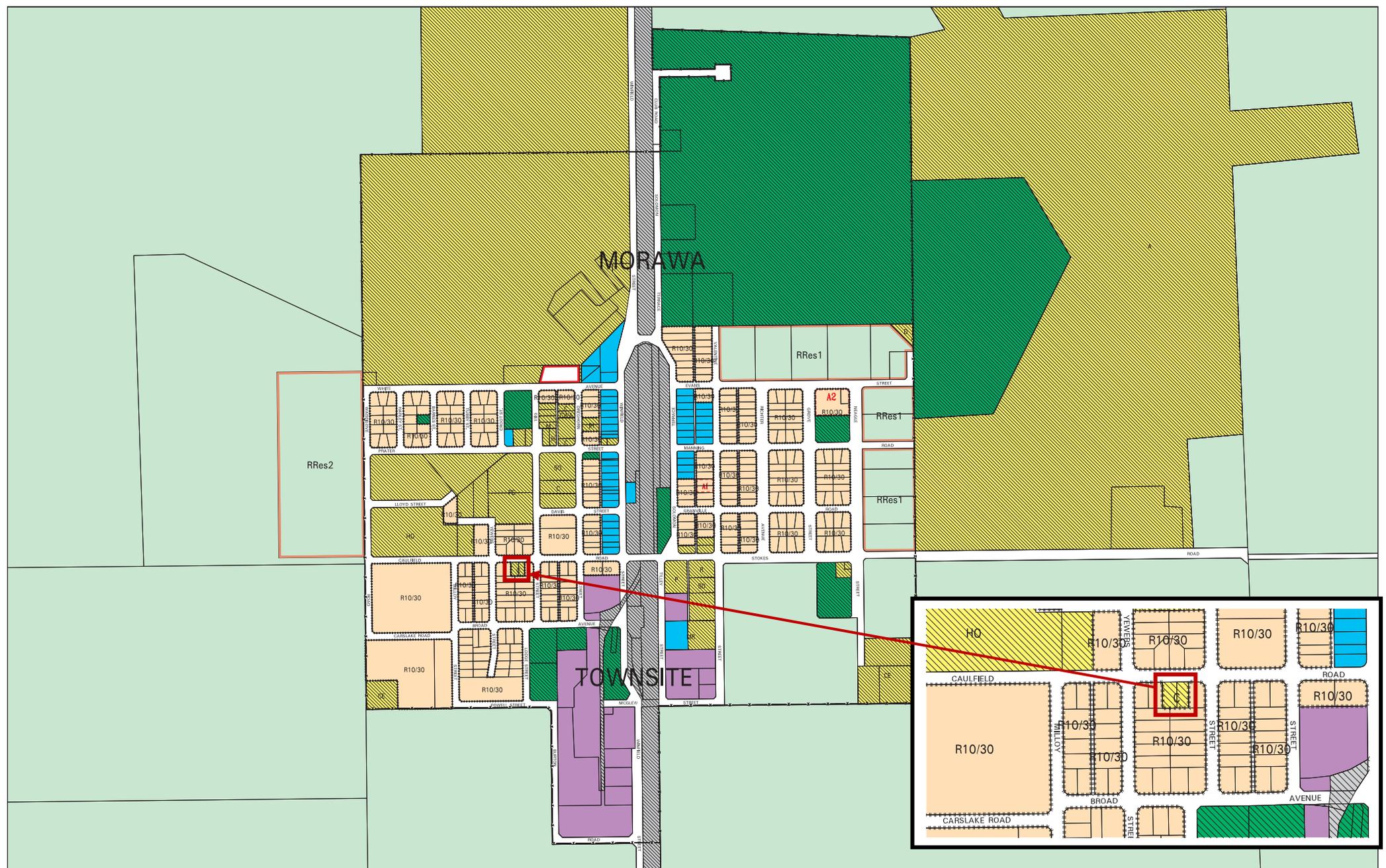
Item 16 Closure

16.1 Date of Next Meeting

The next ordinary meeting of Council will be held on Thursday, 11 February 2021 commencing at 5.30pm.

16.2 Closure

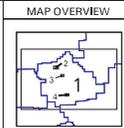
There being no further business, the President to declare the meeting closed.



Produced by Planning Information - Mapping and Spatial, Department for Planning and Infrastructure.
 Digital Cadastral Data Supplied by the Department of Land Administration, Perth Western Australia.

SHIRE OF MORAWA
TOWN PLANNING SCHEME NO 2
 (DISTRICT SCHEME)


SCALE 1:10000
 0 250 m



Authorised: Victor Chew
 Plot date: 03 Aug 2005
 G.Gazette: N/A