



SHIRE OF MENZIES

Supplementary Agenda

**FOR THE ORDINARY MEETING OF COUNCIL
TO BE HELD ON**

27 OCTOBER 2022

Commencing at 1.00 pm

**At the Council Chambers
124 Shenton Street, Menzies**

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Menzies for any act or omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

FINANCIAL INTEREST

A financial interest occurs where a Councillor, or person with whom the Councillor is closely associated, has direct or indirect financial interest in the matter. That is, the person stands to make a financial gain or loss from the decision, either now or at some time in the future.

An indirect financial interest includes a reference to a financial relationship between that person and another person who requires a Local Government decision in relation to the matter.

Councillors should declare an interest:

- a) In a written notice given to the Chief Executive Officer (CEO) before the meeting;
or
- b) At the meeting, immediately before the matter is discussed.

A member who has declared an interest must not:

- Preside at the part of the meeting relating to the matter; or
- Participate in or be present during the discussion of decision-making procedure relating to the matter unless the member is allowed to do so under Section 5.68 or 5.69 of the *Local Government Act 1995*.

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15 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

15.1	Government Regional Office Housing (GROH)
LOCATION	Menzies Townsite
APPLICANT	GROH
DOCUMENT REF	NAM978
DATE OF REPORT	23 October 2022
AUTHOR	Pascoe Durtanovich – Acting Chief Executive Officer
RESPONSIBLE OFFICER	Pascoe Durtanovich – Acting Chief Executive Officer
DISCLOSURE OF INTEREST	Nil
ATTACHMENT	1. Location Plan [15.1.1 - 1 page]

SUMMARY:

Council is requested to confirm its commitment to building housing in Menzies for leasing back to State Government via GROH.

BACKGROUND:

The Acting CEO met with GROH on 19 October, 2022 to seek their commitment to provide Education Department staff accommodation in Menzies. GROH is keen to provide suitable accommodation and has committed to entering into an agreement with the Shire of Menzies for the construction of one 3x2 dwelling and one 2x1.

COMMENT:

Council's commitment would be to provide the land, facilitate and fund the construction of the accommodation. GROH will then enter into a 10-year lease arrangement. It is proposed that subject to Health Department approval of an effluent disposal system, both dwellings be located on the one 1000sqm block. The Shire of Menzies has freehold title to Lots 96, 98 & 100 Mercer Street, one of these can be used for the purpose proposed (see attached plan).

Funding of the project can be by loan (current interest rate is 4.93%) or from accumulated Reserve Funds. As an example on a project cost of \$850,000 GROH will pay an annual rent of approximately \$88,000 for 10 years.

If Council agrees to proceed, once tender have been received and the total cost is known, a decision can be made as to how the project is to be funded.

CONSULTATION:

Not applicable

STATUTORY AUTHORITY:

Local Government Act, 1995
Local Government (Financial Management) Regulations

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Building Reserve Funds available - \$1.26M.

Other funding options are loan funds and/or additional allocation in the 2023/2024 budget, as it is not expected that the project would be completed before July 2023.

RISK ASSESSMENT:

Risk Statement	Level of Risk	Risk Mitigation Strategy
Lack of suitable teacher housing may impact on Menzies School viability.	Low	Work with the Department of Housing (GROH) to provide housing.

STRATEGIC IMPLICATIONS:

- 4.1 A strategically focused Council, leading our community.
- 4.1.2 Effectively represent, promote and advocate for the community and district.

VOTING REQUIREMENTS:

Simple Majority

OFFICER RECOMMENDATION:

That:

- 1. Council agree to construct one 3x2 and one 2x1 dwellings for lease by GROH, subject to Council and GROH conditions being met.
- 2. Shire of Menzies freehold Lots 100 corner Brown and Mercer Street and or Lot 99 Mercer Street be set aside for the construction of the proposed dwellings.

COUNCIL DECISION:

Council Resolution Number	
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Moved		Seconded	
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Carried	
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15.2	Communication Mast
LOCATION	92 & 94 (Lots 564 & 565) Suiter Street, Menzies
APPLICANT	Digital Radio Systems Pty Ltd
DOCUMENT REF	NAM979
DATE OF REPORT	25 October 2022
AUTHOR	Simon Lancaster, Planning Advisor
RESPONSIBLE OFFICER	Pascoe Durtanovich – Acting Chief Executive Officer
DISCLOSURE OF INTEREST	Council officers contributing to the preparation and approval of this report have no conflicts of interest to declare.
ATTACHMENT	Nil

SUMMARY:

Council resolved at its 29 September 2022 meeting to support the siting of a communications mast at 2 potential locations in the Menzies townsite.

The applicants (Digital Radio Systems) are now seeking to instead site the proposed 55m high communications mast at a new location of 92-94 Suiter Street, Menzies as they require a greater site area to accommodate the guy wires for the mast.

This report recommends that Council advise the applicant that it is supportive of the new site, subject to the same conditions as per its 29 September 2022 resolution, and issue delegated authority to the Shire CEO to approve a planning/building application in the event that the applicant obtains the necessary landowner tenure/consents and submits the necessary technical/structural information to make assessment.

BACKGROUND:

92 & 94 (Lots 564 & 565) Suiter Street are vacant rectangular 20.12m x 50.29m lots, each with an area of 1,012m² on the eastern edge of the Menzies townsite.

Figure 3 – View of 92 & 94 (Lots 564 & 565) Suiter Street, Menzies looking south



Council previously resolved at its 29 September 2022 meeting:

“That Council support the siting of a communications mast upon either 100 (Lot 561) Suiter Street, Menzies or 15 (Lot 3001) Ballard Street, Menzies and issue delegated authority to the Shire CEO to approve the necessary planning and building approvals subject to the following conditions:

- 1. The applicant must obtain all necessary consent/tenure agreement of the landowner relevant to the site and the access to the site*
- 2. The applicant must submit all necessary information to enable the assessment of the planning and building permit applications.*
- 3. That the structure complies with civil aviation requirements in respect to the Menzies airstrip.*

Advice Notes:

- a) In regard to condition 1 the Western Australian Planning Commission have prepared State Planning Policy 5.2 ‘Telecommunications Infrastructure’ and Section 6.3.1 outlines the information to be submitted when lodging a development application.*
- b) Separate approvals to undertake certain activities may be required from other government agencies under separate legislation of which it is the applicant’s responsibility to investigate and address.*
- c) All operations must be carried out in accordance with any separate requirements from other government agencies under separate legislation which may include the Australian Communications and Media Authority, and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.*
- d) In the event that the Shire CEO is not satisfied with the level of information provided by the applicant this matter is to be returned to a meeting of Council for further consideration.”*

COMMENT:

The applicant previously advised the following in support of their proposal:

“History:

DRS Approached the Zenith group last year to enter into an agreement to use the MT Menzies Hill Site to install a 12 mtr tower unfortunately after four months of being told yes we have recently been told no with no explanation. This approval will be the last option we have to bring Not only the internet to the Mining companies but to the Menzies community itself. It is to be clear DRS is selling a service not the Network DRS owns and maintains the Network privately.

Use:

Digital Radio Systems provides high speed internet to Mining companies this tower will assist in the chain of towers to provide internet to Mining companies in the Menzies area, while still being available for the local community. and Local shire.

Towers in Menzies

Menzies currently has a Telstra tower, DRS has approached Telstra for a co siting agreement, unfortunately Testras Backbone capacity is full, while the tower being in the incorrect location to provide LOS (Line of sight) to our tower at Goongarrie, the Telstra tower is 44mtrs height and we propose 55 mtrs out of the residential area zone.

Network

Four towers are proposed in this chain of towers with Menzies being the last to be approved, the network starts at DRS tower on MT Charlotte water tank Kalgoorlie - Bardoc tower -Goongarrie tower-Menzies tower. The network is currently backhauled By Fiber internet on the NBN network as such DRS has a wholesale and carriage agreement.”

The applicant's submitted preliminary technical information was provided as **Attachment 1** with the September Council Agenda.

CONSULTATION:

Council is not required to advertise the application for comment but may reserve the right to do so should it consider that consultation be undertaken.

STATUTORY AUTHORITY:

92 & 94 (Lots 564 & 565) Suiter Street are zoned 'Rural' under both the current Shire of Menzies Local Planning Scheme No.1 and draft Scheme No.2.

The objectives for the 'Rural' zone are defined under Scheme No.1 as being:

- *“To provide for a range of rural pursuits which are compatible with the capability of the land and retain the rural character and amenity of the locality.*
- *To protect land from urban uses and mining activities that may jeopardise the future use of that land for other planned purposes that are compatible with the zoning.*
- *To protect the land from closer development which could detract from the rural character and amenity of the area.*
- *To prevent any development which may affect the viability of a holding.”*

'Radio & TV Installation' is listed as a land use that is not permitted unless the local government has exercised its discretion by granting planning approval in the 'Rural' zone under Scheme No.1.

The objectives for the 'Rural' zone are defined under draft Scheme No.2 as being:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.”*

The superseding land use definition of 'Telecommunications Infrastructure' is also listed as a land use that is not permitted unless the local government has exercised its discretion by granting planning approval in the 'Rural' zone under draft Scheme No.2.

The Commonwealth *Telecommunications Act 1997* exempts telecommunications equipment from environmental and planning legislation except where the facility does not meet the definition of a 'low impact' facility, in this case requiring the lodgement of a planning application and assessment by the Shire of this matter.

In addition to the requirements of the *Telecommunications Act 1997* and the *Planning and Development Act 2005* the applicant is also bound by the *Telecommunications Code of Practice 1997*, and the Australian Communications and Media Authority's *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003* and the *Industry Code-Mobile Phone Base Station Deployment*.

POLICY IMPLICATIONS

The Western Australian Planning Commission have prepared State Planning Policy 5.2 'Telecommunications Infrastructure' (2015) for applications for above and below ground telecommunications infrastructure other than those facilities exempted under the *Telecommunications Act 1997*. The policy has the following objectives:

- facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;
- manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;
- ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,
- promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.

The policy identifies visual impact as a key issue in assessing applications of this nature noting that:

5.1 Visual impacts

For telecommunications infrastructure to be effective, structures are generally located prominently, at high points in the landscape or on top of buildings, where they are more likely to be visible to the public.

The planning authority may exercise discretion in addressing the visual impacts of telecommunications infrastructure. Visual impacts of an infrastructure development proposal should be assessed by applying the following set of policy measures to guide the location, siting and design of the structure.

5.1.1 The benefit of improved telecommunications services should be balanced with the visual impact on the surrounding area.

- Assessment of the visual impact of development proposals for telecommunications infrastructure should be made on a case by case basis;*
- Telecommunications infrastructure should be sited and designed to minimise visual impact and whenever possible:*
 - be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;*
 - be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land;*
 - not be located on sites where environmental, cultural heritage, social and visual landscape values maybe compromised and*
 - display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;*
- In addition to the existing exemptions under the Telecommunication Act, local governments should consider exempting telecommunications infrastructure from the requirement for development approval where:*
 - The infrastructure has a maximum height of 30 metres from finished ground level;*

- b) *The proposal complies with the policy measures outlined in this policy; and*
- c) *The proponent has undertaken notification of the proposal in a similar manner to ‘low impact facilities’ as defined and set out in the Mobile Phone Base Station Deployment Industry Code (C564:2011);*
- iv) *Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improved telecommunications services to the community; &*
- v) *Telecommunications infrastructure should be colocated and whenever possible:*
 - a) *Cables and lines should be located within an existing underground Conduit or duct; and*
 - b) *Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings.”*

WAPC State Planning Policy can be viewed at the following link:

https://www.wa.gov.au/system/files/2021-06/SPP-5_2_Telecommunications_Infrastructure.pdf

FINANCIAL IMPLICATIONS:

The application for a communications mast would be subject to standard planning and building fees.

RISK ASSESSMENT:

Risk Statement	Level of Risk	Risk Mitigation Strategy
The applicant will be required to operate under the State and Federal Regulatory Framework and this may include (but not be limited to) the Telecommunications Act 1997, Telecommunication Low Impact Facilities Determination 2019, Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 along with a number of other industry controls including compliance with the maximum electromagnetic energy level set by the Australian Radiation Protection and Nuclear Safety Agency public exposure limits.	Medium	Applicant must comply with regulatory framework.

STRATEGIC IMPLICATIONS

The delivery of improved communications can be considered as assisting in meeting the following objective of the Strategic Community Plan 2021-2031:

- Outcome 2.1: An innovative, diverse and prosperous economy*
- Strategy 2.1.3 - Advocate for reliable essential utility services to the district*

VOTING REQUIREMENTS:

Simple majority

OFFICER RECOMMENDATION:

That Council advise the applicant that it supports the siting of a communications mast upon 92 & 94 (Lots 564 & 565) Suiter Street, Menzies and issue delegated authority to the Shire CEO to approve the necessary planning and building approvals subject to the following conditions:

- 1 The applicant must obtain all necessary consent/tenure agreement of the landowner relevant to the site and the access to the site.
- 2 The applicant must submit all necessary information to enable the assessment of the planning and building permit applications.
- 3 That the structure complies with civil aviation requirements in respect to the Menzies airstrip.

Advice Notes:

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- (d) In the event that the Shire CEO is not satisfied with the level of information provided by the applicant this matter is to be returned to a meeting of Council for further consideration.

COUNCIL DECISION:

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Moved		Seconded	
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