



Shire of Pingelly

Attachments

Ordinary Council Meeting
18 April 2018

Attachment 1

15.1 Monthly Statement of Financial Activity

Monthly Statements of Financial Activity for the period 1 July 2017 to 31 March 2018

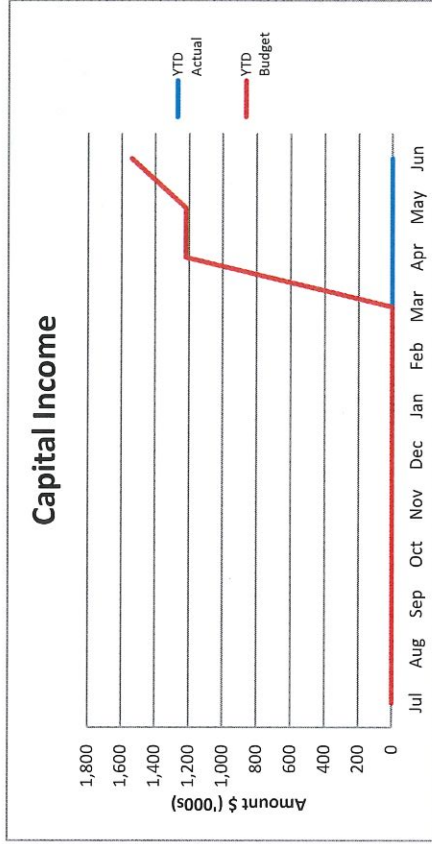
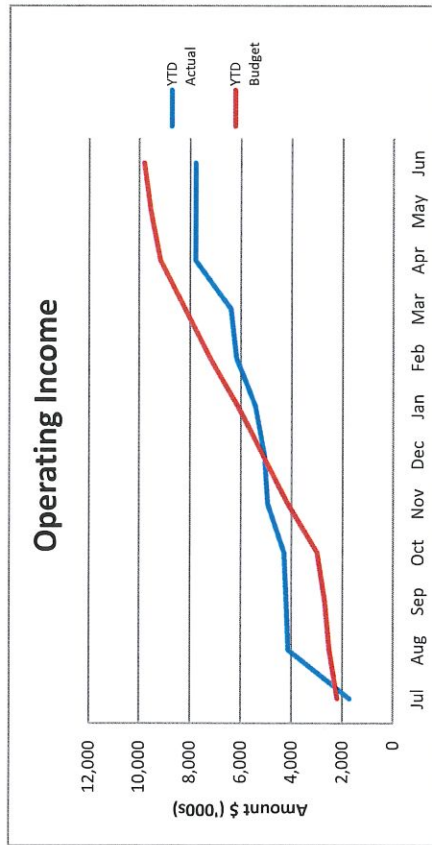
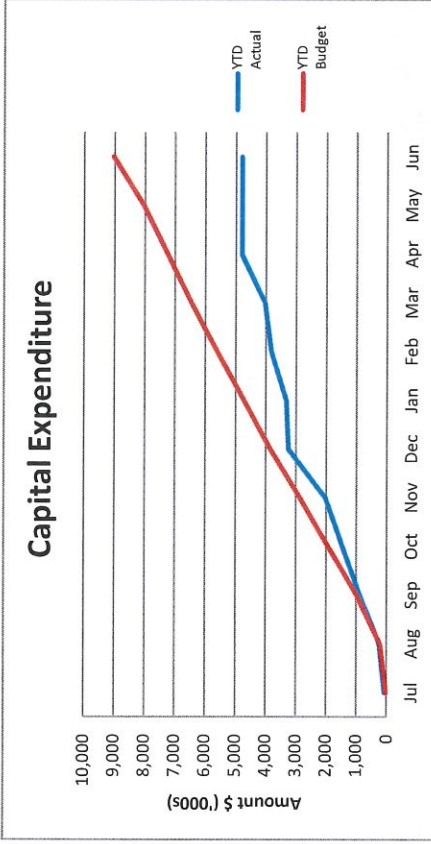
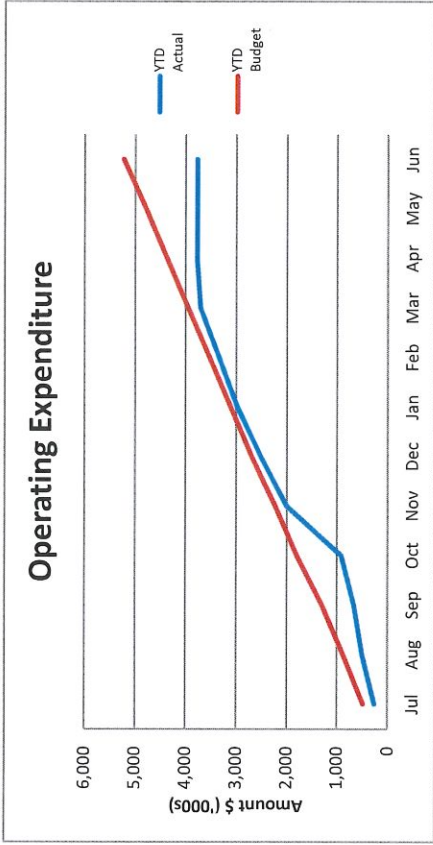


SHIRE OF PINGELLY
MONTHLY STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

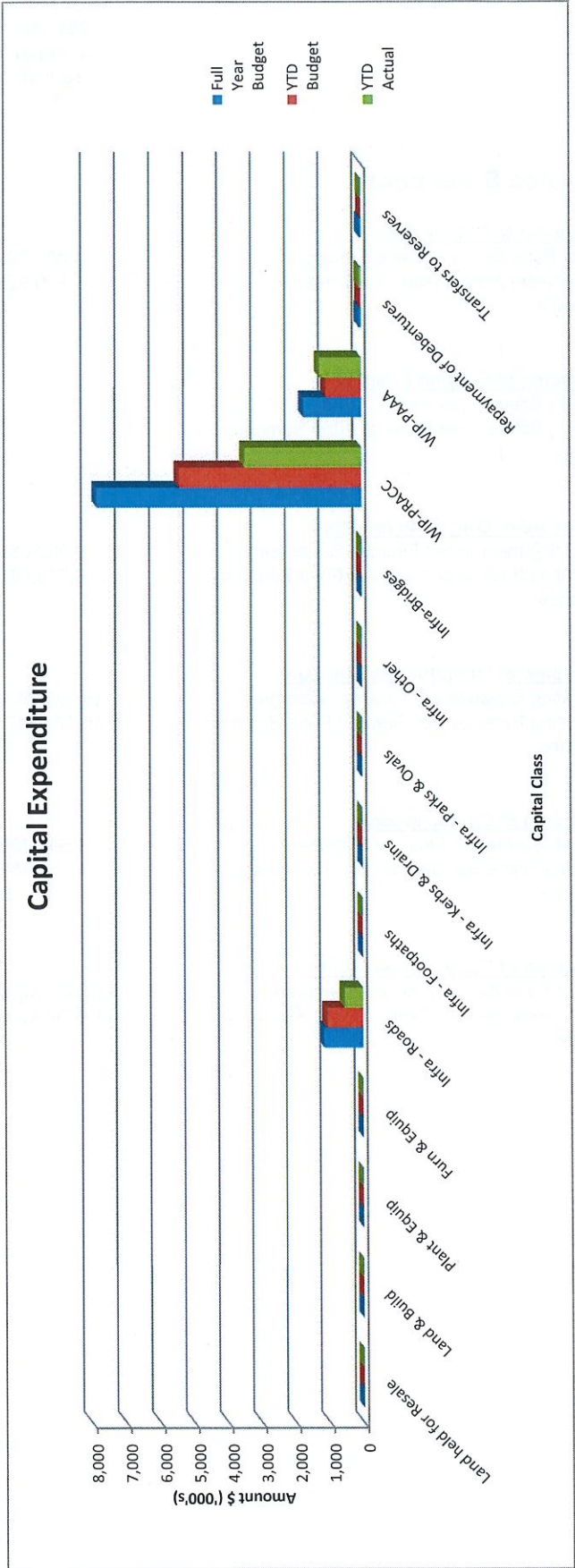
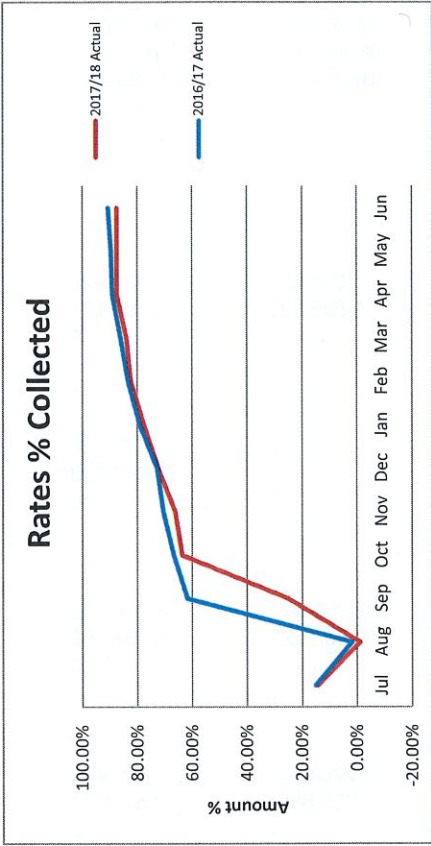
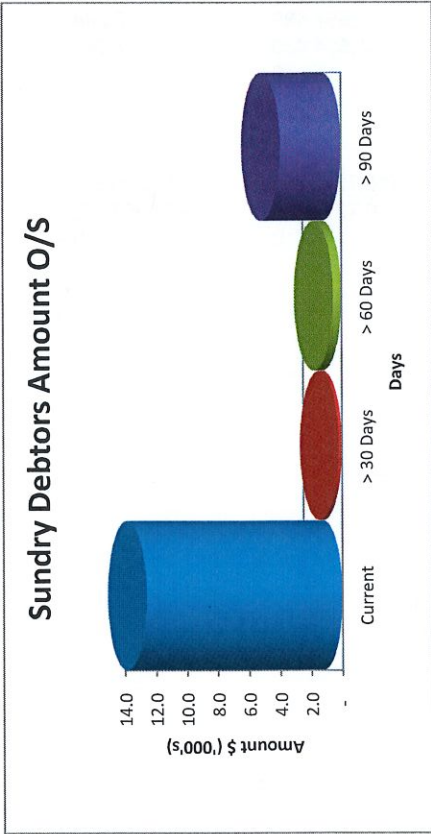
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Income and Expenditure Graphs to 31 March 2018



Other Graphs to 31 March 2018



SHIRE OF PINGELLY

Summary of Balancing Contained Within The Monthly Reports

	2017/18 Adopted Budget \$	2017/18 Revised Budget \$	March 2018 Y-T-D Budget \$	March 2018 Actual \$
Finance Statement				
<u>Balancing to Rating Note</u>				
Rates Balance per Finance Statement	1,890,925	1,890,925	1,890,925	1,893,188
Balance per Note 6 (Rating Information)	1,890,925	1,890,925	1,890,925	1,893,188
Variance	0	0	0	0
<u>Balancing of Closing Position</u>				
Closing Balance per Finance Statement	0	0	957,658	1,602,030
Closing Balance per General Fund Summary	0	0	957,658	1,602,031
Variance	0	0	0	(1)
<u>Balancing of Operating Income</u>				
Operating Income per Finance Statement	9,933,667	9,808,922	8,194,189	6,377,492
Operating Income per General Fund Summary	9,933,667	9,808,922	8,194,189	6,377,492
Variance	0	0	0	(0)
<u>Balancing of Operating Expenditure</u>				
Operating Expense per Finance Statement	(5,126,247)	(5,228,682)	(3,952,305)	(3,702,729)
Operating Expense per General Fund Summary	(5,126,247)	(5,228,682)	(3,952,305)	(3,702,731)
Variance	0	0	0	2
<u>Balancing of Capital Income</u>				
Capital Income per Finance Statement	1,554,489	1,554,489	7,244	7,129
Capital Income per General Fund Summary	1,554,489	1,554,489	7,244	7,129
Variance	0	0	0	0
<u>Balancing of Capital Expenditure</u>				
Capital Expense per Finance Statement	(10,984,429)	(10,727,215)	(7,500,933)	(5,270,111)
Capital Expense per General Fund Summary	(10,984,429)	(10,727,215)	(7,500,933)	(5,270,111)
Variance	0	0	0	(0)

SHIRE OF PINGELLY

STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

	NOTE	2017/18 Adopted Budget \$	2017/18 Revised Budget \$	March 2018 Y-T-D Budget \$	March 2018 Actual \$	Variances Actuals to Budget \$	Variances Actual Budget to Y-T-D %
Operating							
Revenues/Sources							
Governance		65,370	65,370	49,071	45,157	(3,914)	(7.98%)
General Purpose Funding		668,714	670,084	506,771	460,607	(46,164)	(9.11%)
Law, Order, Public Safety		111,624	114,602	71,423	70,307	(1,116)	(1.56%)
Health		11,908	11,908	8,928	7,943	(985)	(11.03%)
Education and Welfare		631,390	636,755	429,752	618,220	188,468	43.86%
Community Amenities		163,170	169,103	164,912	169,282	4,370	2.65%
Recreation and Culture		4,535,396	4,461,399	3,711,837	2,130,584	(1,581,253)	(42.60%)
Transport		1,746,020	1,662,618	1,265,989	873,567	(392,422)	(31.00%)
Economic Services		50,150	48,150	36,099	34,191	(1,908)	(5.29%)
Other Property and Services		59,000	78,008	58,482	74,446	15,964	27.30%
		<u>8,042,742</u>	<u>7,917,997</u>	<u>6,303,264</u>	<u>4,484,304</u>	<u>(1,818,960)</u>	<u>(28.86%)</u>
(Expenses)/(Applications)							
Governance		(589,754)	(585,840)	(438,769)	(411,723)	27,046	6.16%
General Purpose Funding		(167,704)	(167,704)	(123,363)	(128,101)	(4,738)	(3.84%)
Law, Order, Public Safety		(252,396)	(252,396)	(194,853)	(140,603)	54,250	27.84%
Health		(112,480)	(112,480)	(84,594)	(79,974)	4,620	5.46%
Education and Welfare		(48,243)	(48,243)	(33,617)	(28,520)	5,097	15.16%
Community Amenities		(391,955)	(391,955)	(286,594)	(246,937)	39,657	13.84%
Recreation & Culture		(998,815)	(928,700)	(702,789)	(656,068)	46,721	6.65%
Transport		(2,254,150)	(2,408,522)	(1,814,071)	(1,666,444)	147,627	8.14%
Economic Services		(285,114)	(282,114)	(214,608)	(157,573)	57,035	26.58%
Other Property and Services		(25,636)	(50,728)	(59,047)	(186,786)	(127,739)	(216%)
		<u>(5,126,247)</u>	<u>(5,228,682)</u>	<u>(3,952,305)</u>	<u>(3,702,729)</u>	<u>249,576</u>	<u>(6.31%)</u>
Net Operating Result Excluding Rates		2,916,495	2,689,315	2,350,959	781,575	(1,569,384)	(66.76%)
Adjustments for Non-Cash							
(Revenue) and Expenditure							
(Profit)/Loss on Asset Disposals	2	12,000	12,000	12,000	0	(12,000)	100.00%
Movement in Deferred Pensioner Rates/ESL		0	0	0	0	0	0.00%
Movement in Employee Benefit Provisions		0	0	0	0	0	0.00%
Adjustments in Fixed Assets		0	0	0	0	0	0.00%
Rounding		0	0	0	(1)	(1)	0.00%
Depreciation on Assets		1,532,000	1,532,000	1,148,976	1,143,088	(5,888)	0.51%
Capital Revenue and (Expenditure)							
Purchase Land Held for Resale	1	0	0	0	0	0	0.00%
Purchase of Land and Buildings	1	0	0	0	0	0	0.00%
Purchase of Furniture & Equipment	1	0	0	0	0	0	0.00%
Purchase of Plant & Equipment	1	0	0	0	0	0	0.00%
Purchase of WIP - PP & E	1	0	0	0	0	0	0.00%
Purchase of Infrastructure Assets - Roads	1	(1,135,460)	(1,135,460)	(1,048,507)	(534,839)	513,668	48.99%
Purchase of Infrastructure Assets - Footpaths	1	0	0	0	0	0	0.00%
Purchase of Infrastructure Assets - Kerbs & Drains	1	0	0	0	0	0	0.00%
Purchase of Infrastructure Assets - Parks & Ovals	1	0	0	0	0	0	0.00%
Purchase of Infrastructure Assets - Bridges	1	(252,000)	0	0	0	0	0.00%
Purchase of Infrastructure Assets - Other	1	0	0	0	0	0	0.00%
Purchase of WIP Recreation and Culture	1	(7,781,145)	(7,796,145)	(5,387,449)	(3,444,029)	1,943,420	36.07%
Purchase of WIP Aged Accommodation	1	(1,698,348)	(1,698,348)	(1,035,748)	(1,229,772)	(194,024)	(18.73%)
Proceeds from Disposal of Assets	2	20,000	20,000	0	0	0	0.00%
Repayment of Debentures	3	(78,674)	(58,460)	(29,229)	(51,100)	(21,871)	(74.83%)
Proceeds from New Debentures	3	1,200,000	1,200,000	0	0	0	0.00%
Advances to Community Groups		0	0	0	0	0	0.00%
Self-Supporting Loan Principal Income		14,489	14,489	7,244	7,129	(115)	(1.59%)
Transfer from Restricted Asset - Unspent Loans		1,903,210	1,903,210	1,903,210	1,701,885	(201,325)	(10.58%)
Transfers to Restricted Assets (Reserves)	4	(38,802)	(38,802)	0	(10,371)	(10,371)	0.00%
Transfers from Restricted Asset (Reserves)	4	320,000	320,000	0	0	0	0.00%
Transfers to Restricted Assets (Other)		0	0	0	0	0	0.00%
Transfers from Restricted Asset (Other)		(200,000)	(200,000)	(200,000)	0	200,000	(100.00%)
ADD Net Current Assets July 1 B/Fwd	5	1,375,310	1,345,276	1,345,277	1,345,277	(30,033)	0.00%
Net Current Assets - Unspent Grants		0	0	0	0	0	
LESS Net Current Assets Year to Date	5	0	0	957,658	1,602,030	644,372	(67.29%)
Amount Raised from Rates	6	(1,890,925)	(1,890,925)	(1,890,925)	(1,893,188)	(2,263)	0.12%

This statement is to be read in conjunction with the accompanying notes.

Material Variances Symbol

Above Budget Expectations

Greater than 10% and \$5,000

▲

Below Budget Expectations

Less than 10% and \$5,000

▼

SHIRE OF PINGELLY
FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018
Report on Significant variances Greater than 10% and \$5,000

Purpose

The purpose of the Monthly Variance Report is to highlight circumstances where there is a major variance from the YTD Monthly Budget and YTD Actual figures. These variances can occur because of a change in timing of the activity, circumstances change (e.g. a grants were budgeted for but was not received) or changes to the original budget projections. The Report is designed to highlight these issues and explain the reason for the variance.

REPORTABLE OPERATING REVENUE VARIATIONS

Education and Welfare - Variance below budget expectations		188,468
Wheatbelt Development Commission - Community Chest Funding Sensory Garden YTD Budget less than YTD Actuals- first \$20,000 received second payment of \$10,00 not yet received (Timing Difference)	(2,500)	
PAAA Grant from WA Country Health Service YTD Actual more than YTD Budget (Timing Difference)	195,184	
Recreation and Culture - variance above budget expectations		(1,581,253)
PRACC Grants YTD Actual less than YTD Budget - NSRF (Timing Difference) claim 2 Raised in July 2017 \$1,466,579, claim 3 raised April \$1,291,008.00	(1,125,816)	
PRACC Grants YTD Actual more than YTD Budget - Lottery West claim 2 (Timing Difference)	(249,431)	
PRACC Grants YTD Actual less than YTD Budget - Dept of Sport & Rec (Timing Difference)	(218,750)	
Transport - variance above budget expectations		(392,422)
Regional Road Group funding Actual YTD received more than budget YTD (Timing Difference)	(186,535)	
Main Roads Grants funding Actual YTD less than YTD Budget (Timing Difference)	44,550	
Roads to Recovery funding Actual YTD received more than budget YTD (Timing Difference)	98,796	
Road Projects Other Grants Actual YTD less than Budget YTD (Timing Difference)	(53,455)	
Other Property and Services - variance below budget expectations		15,964
Workers Compensation - Reimbursements for WorkCare YTD Actual More than YTD Budget	24,586	
Private Works - more than anticipated - Income based on previous year (Timing Difference)	12,460	
Fuel Tax Credits Actual YTD less than Budget YTD	(2,887)	

REPORTABLE OPERATING EXPENSE VARIATIONS

Law,Order, Public Safety - variance below budget expectations		54,250
Fire Fighting Expenditure - Less than anticipated (Timing Difference)	14,992	
Building Maintenance YTD Actual less than YTD Budget (Timing Difference)	20,952	
Depreciation not run until Audit signoff on revaluation of Assets (Timing Difference)	537	
SES Expenses Actual YTD less than Budget YTD (Timing Difference)	9,102	
Depreciation LOPS YTD less than Budget YTD (Timing Difference)	537	
Education and Welfare - variances below budget expectations		5,097
Education - Depreciation YTD less than Budget YTD (Timing Difference)	1,901	
Community Amenities - variance below budget expectations		39,657
Domestic Refuse collection charges YTD less than YTD Budget (Timing difference)	6,197	
Recycle Domestic Refuse collection charges YTD less than YTD Budget (Timing difference)	7,601	
Refuse site maintenance YTD Actual more than YTD Budget (Timing difference)	18,822	
Economic Services - variance below budget expectations		57,035
Tourism and Area Promotion - YTD Actual more than YTD Budget (Timing Difference)	11,087	
OES - Community Grants Program YTD Actual less than YTD Budget (Timing Difference)	24,162	
OES Depreciation YTD Actuals less than YTD Budget (Timing Difference)	5,386	
Other Property and Services - variance below budget expectations		(127,739)
Private Works - YTD Actual higher than YTD Budget (Timing Difference)	(11,290)	
Public Works O/heads - Allocated to Works & Svcs - YTD Actuals less than YTD Budget under allocated YTD (Timing Difference) Manual allocation required.	(46,162)	
Plant Op Costs - Allocated to Works & Services - YTD Actual less than YTD Budget under allocated (Timing Difference) Manual Allocation required.	(85,467)	
Plant Op Costs - Fuel and Oil YTD Actuals less than YTD Budget (Timing Difference)	4,762	
Plant Op Costs - Parts and Repairs YTD Actual more than YTD Budget-Grader Major repair early in year	(14,946)	
Plant Op Costs - Depreciation YTD Actual more than YTD Budget (Timing difference)	(12,526)	
Salaries & Wages - Gross Salaries and Wages - YTD Actual less than YTD Budget (Timing Difference)	47,574	

REPORTABLE NON-CASH VARIATIONS

(Profit)/Loss on Asset Disposals		
Webb St Block not sold/disposed YTD (Timing Difference)	-	(12,000)

REPORTABLE CAPITAL EXPENDITURE VARIATIONS

Purchase of Road Infrastructure Assets		513,668
Road Infrastructure YTD Actuals less than YTD Budget (Timing Difference)		
R2R01 Wickepin Pingelly/Chopping Road Failure-project not commenced (Timing Difference)	21,474	
CC118 Review Street And Great Southern Highway works completed - (Timing Difference)	(2,503)	
RRG08 Capex - 156 Wickepin Pingelly Rd - Regional Road Group (Timing Difference)	182,157	
RRG09 Yenellin Road Upgrade Rrg (Timing Difference)	173,930	
RRG10 North Bannister Road-project deferred to 18/19 as budget review (Permenant Difference)	-	
CC156 Pingelly- Wickepin Road - Council Constr-project not commenced (Timing Difference)	6,750	
Capex - 10 Shaddick Rd Realine & Regravel Slk 14.0-17.5 - Crsf Funding Project YTD Actuals higher than YTD Budget (Timing Difference)	(5)	
CRSF3 10 Shaddick Rd Realine & Regravel - Commodity Route Supp Funding 2017 2018 (Timing Difference)	139,171	
CT7 Capex - Quadrant St Construction - Job completed - over budget \$758 (Permenant Difference)	(758)	
Purchase of Works in Progress Assets - PAAA		
PAAA Project Expenditure YTD Actual more than YTD Budget - (Timing Difference) Project ahead of Budget expectations-PAAA units due for completion in April 2018. Sensory garden works remaining		(194,024)
Repayment of Debentures - Variance below budget expectations.		
YTD Actual less than YTD Original Budget (Timing Difference) Budget Review removed loan repayments in 2017/18 Budget for Loan 123 \$10,107 and 124 \$10,107.(Permenant Difference)		(21,871)

REPORTABLE CAPITAL REVENUE VARIATIONS

Proceeds from Disposal of Assets		
Proceeds from Disposal of assets YTD Actuals less than YTD Budget (Timing Difference) Webb St block not sold yet		0
Proceeds from New Loans		
New Loans for PRACC programmed to be raised in March 2018. (Timing Difference) expected to be raised in April 2018 (Timing Difference)	-	0

SHIRE OF PINGELLY
NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

1. ACQUISITION OF ASSETS	2017/18 Adopted Budget \$	2017/18 Revised Budget \$	2017/18 YTD Budget \$	March 2018 YTD Actual \$
The following assets have been acquired during the period under review:				
<u>By Program</u>				
Education & Welfare				
<i><u>Other Aged & Disabled Services</u></i>				
Capex - Paaa Development	0	0	0	0.00
Capex - Paaa Project Manager	0	0	0	1,169.17
Capex - Paaa Architects & Consultants	23,800	42,656	31,995	32,785.66
Capex - Paaa Building Construction	1,550,548	1,494,763	886,024	1,166,582.22
Capex - Paaa Quantity Surveyor	0	0	0	0.00
Capex - Paaa Demolition	0	0	0	0.00
Capex - Paaa Utility Services	24,000	36,252	29,052	4,386.45
Capex - Paaa Earth Works	0	18,677	18,677	18,601.06
Capex - Paaa Carpark & Drainage	0	0	0	0.00
Capex - Paaa Landscaping Soft & Hard	0	6,000	0	50.72
Capex - Paaa Playground	0	0	0	0.00
Capex - Paaa Opening & Promotion	0	0	0	0.00
Capex - Paaa Fit Out Furniture	0	0	0	0.00
Capex - Paaa Site Works	0	0	0	0.00
Capex - Paaa Landscaping Sensory	100,000	100,000	70,000	6,196.97
Recreation and Culture				
<i><u>Works in Progress - Recreation Centre</u></i>				
Capex - Pracc Development	4,500	4,500	3,375	6,070.10
Capex - Pracc Project Manager	105,093	105,093	73,673	109,086.10
Capex - Pracc Architects & Consultants	88,000	158,176	131,776	86,728.03
Capex - Praacc Building Construction	7,179,052	7,267,311	5,113,594	3,161,236.86
Capex - Pracc Quantity Surveyor	0	0	0	0.00
Capex - Pracc Demolition	0	0	0	0.00
Capex - Pracc Utility Services	101,500	10,000	7,497	52.25
Capex - Pracc Earth Works	0	0	0	0.00
Capex - Pracc Carpark And Drainage	95,000	88,000	53,133	41,670.37
Capex - Pracc Landscaping Soft & Hard	78,000	54,500	0	31,967.46
Capex - Pracc Playground	26,000	35,000	4,401	0.00
Capex - Pracc Opening & Promotion	2,000	2,000	0	0.00
Capex - Pracc Fit Out Furniture	102,000	71,565	0	7,217.36
Capex - Pracc Bowling Green	0	0	0	0.00
Capex - Pracc Gym Equipment	0	0	0	0.00

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

1. ACQUISITION OF ASSETS (Continued)	2017/18 Adopted Budget \$	2017/18 Revised Budget \$	2017/18 YTD Budget \$	March 2018 Actual \$
Transport				
<i>Construction - Roads, Bridges, Depots</i>				
Bridges Purchase - Schedule 12				
Capex - Bridge - Replace Box Culverts	252,000	0	0	0.00
Roads Construction				
North Wandering Road	0	0	0	1,540.00
Bullaring-Pingelly - Rrg	0	34,657	34,657	39,665.72
Capex - 156 Wickepin Pingelly Rd -	251,952	251,952	251,949	69,791.53
Yenellin Road Upgrade Rrg	260,197	260,197	260,193	86,262.86
North Bannister Road	34,657	0	0	0.00
Wickepin Pingelly/Chopping Road Failure	28,654	28,654	21,474	0.00
Capex - 10 Shaddick Rd Realine &	235,000	235,000	234,996	235,000.83
10 Shaddick Rd Realine & Regravel - Crsf	300,000	300,000	224,991	85,820.36
Review Street And Great Southern	10,000	10,000	7,497	10,000.00
Capex - Quadrant St Construction	6,000	6,000	6,000	6,757.69
Pingelly- Wickepin Road - Council Constr	9,000	9,000	6,750	0.00
	<u>10,866,953</u>	<u>10,629,953</u>	<u>7,471,704</u>	<u>5,208,639.77</u>
By Class				
Land	0	0	0	0.00
Buildings	0	0	0	0.00
Furniture & Equipment	0	0	0	0.00
Plant & Equipment	0	0	0	0.00
Work in Progress - PPE	0	0	0	0.00
Infrastructure - Roads	1,135,460	1,135,460	1,048,507	534,838.99
Infrastructure - Footpaths	0	0	0	0.00
Infrastructure - Kerbs & Drains	0	0	0	0.00
Infrastructure - Parks & Ovals	0	0	0	0.00
Infrastructure - Bridges	252,000	0	0	0.00
Infrastructure - Other	0	0	0	0.00
Works in Progress - Recreation Centre	7,781,145	7,796,145	5,387,449	3,444,028.53
Works in Progress - Aged Care Accommodation	1,698,348	1,698,348	1,035,748	1,229,772.25
	<u>10,866,953</u>	<u>10,629,953</u>	<u>7,471,704</u>	<u>5,208,639.77</u>

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

2. DISPOSALS OF ASSETS

The following assets have been disposed of during the period under review:

Asset No	<u>By Program</u>	Written Down Value		Sale Proceeds		Profit(Loss)	
		2017/18 Budget	March 2018 Actual	2017/18 Budget	March 2018 Actual	2017/18 Budget	March 2018 Actual
		\$	\$	\$	\$	\$	\$
1037	Governance 5 Webb St (Land)	32,000	0.00	20,000	0.00	(12,000)	0.00
		32,000	0.00	20,000	0.00	(12,000)	0.00

Asset No	<u>By Class of Asset</u>	Written Down Value		Sale Proceeds		Profit(Loss)	
		2017/18 Budget	March 2018 Actual	2017/18 Budget	March 2018 Actual	2017/18 Budget	March 2018 Actual
		\$	\$	\$	\$	\$	\$
1037	Land & Buildings 5 Webb St (Land)	32,000	0.00	20,000	0.00	(12,000)	0.00
		32,000	0.00	20,000	0.00	(12,000)	0.00

<u>Summary</u>		2017/18 Adopted Budget	March 2018 Actual
		\$	\$
Profit on Asset Disposals		0	0.00
Loss on Asset Disposals		(12,000)	0.00
		<u>(12,000)</u>	<u>0.00</u>

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

3. INFORMATION ON BORROWINGS

(a) Debenture Repayments

Particulars	Principal 1-Jul-17	New Loans		Principal Repayments		Principal Outstanding		Interest Repayments	
		2017/18 Budget \$	2017/18 Actual \$	2017/18 Budget \$	2017/18 Actual \$	2017/18 Budget \$	2017/18 Actual \$	2017/18 Budget \$	2017/18 Actual \$
Education & Welfare									
Loan 120 - SSL Pingelly Cottage Homes	196,207	0	0	14,489	7,129	181,718	189,078	12,464	6,278
Recreation & Culture									
Loan 123 - Recreation and Cultural Centre	2,332,996	0	0	43,971	43,971	2,289,025	2,289,025	49,110	48,843
Loan 124 - Recreation and Cultural Centre	0	600,000	0	10,107	0	589,893	0	11,520	0
Loan 125 - Recreation and Cultural Centre	0	600,000	0	10,107	0	589,893	0	11,520	0
	2,529,203	1,200,000	0	78,674	51,100	3,650,529	2,478,103	84,614	55,121

(*) Self supporting loan financed by payments from third parties.

All other loan repayments were financed by general purpose revenue.

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

	2017/18 Adopted Budget \$	March 2018 Actual \$
4. RESERVES		
Cash Backed Reserves		
(a) Leave Reserve		
Opening Balance	169,097	169,097
Amount Set Aside / Transfer to Reserve	3,456	2,120
Amount Used / Transfer from Reserve	(60,000)	0
	<u>112,553</u>	<u>171,217</u>
(b) Plant Reserve		
Opening Balance	240,391	240,391
Amount Set Aside / Transfer to Reserve	4,913	3,013
Amount Used / Transfer from Reserve	0	0
	<u>245,304</u>	<u>243,404</u>
(c) Building and Recreation Reserve		
Opening Balance	284,266	284,266
Amount Set Aside / Transfer to Reserve	29,767	3,563
Amount Used / Transfer from Reserve	(260,000)	0
	<u>54,033</u>	<u>287,829</u>
(d) Electronic Equipment Reserve		
Opening Balance	6,130	6,130
Amount Set Aside / Transfer to Reserve	5	77
Amount Used / Transfer from Reserve	0	0
	<u>6,135</u>	<u>6,207</u>
(e) Community Bus Reserve		
Opening Balance	11,147	11,147
Amount Set Aside / Transfer to Reserve	15	140
Amount Used / Transfer from Reserve	0	0
	<u>11,162</u>	<u>11,287</u>
(f) Swimming Pool Reserve		
Opening Balance	49,878	49,878
Amount Set Aside / Transfer to Reserve	300	625
Amount Used / Transfer from Reserve	0	0
	<u>50,178</u>	<u>50,503</u>
(g) Joint Venture Housing Reserve		
Opening Balance	51,293	51,293
Amount Set Aside / Transfer to Reserve	318	643
Amount Used / Transfer from Reserve	0	0
	<u>51,611</u>	<u>51,936</u>
Refuse Site Rehab/Closure Reserve		
Opening Balance	15,186	15,186
Amount Set Aside / Transfer to Reserve	28	190
Amount Used / Transfer from Reserve	0	0
	<u>15,214</u>	<u>15,376</u>
Total Cash Backed Reserves	<u><u>546,190</u></u>	<u><u>837,759</u></u>

All of the above reserve accounts are to be supported by money held in financial institutions.

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

	2017/18 Adopted Budget \$	March 2018 Actual \$
4. RESERVES (Continued)		
Cash Backed Reserves (Continued)		
Summary of Transfers To Cash Backed Reserves		
Transfers to Reserves		
Leave Reserve	3,456	2,120
Plant Reserve	4,913	3,013
Building and Recreation Reserve	29,767	3,563
Electronic Equipment Reserve	5	77
Community Bus Reserve	15	140
Swimming Pool Reserve	300	625
Joint Venture Housing Reserve	318	643
Refuse Site Rehab/Closure Reserve	28	190
	<u>38,802</u>	<u>10,371</u>
Transfers from Reserves		
Leave Reserve	(60,000)	0
Plant Reserve	0	0
Building Reserve	(260,000)	0
Electronic Equipment Reserve	0	0
Community Bus Reserve	0	0
Swimming Pool Reserve	0	0
Joint Venture Housing Reserve	0	0
Refuse Site Rehab/Closure Reserve	0	0
	<u>(320,000)</u>	<u>0</u>
Total Transfer to/(from) Reserves	<u>(281,198)</u>	<u>10,371</u>

In accordance with council resolutions in relation to each reserve account, the purpose for which the reserves are set aside are as follows:

Leave Reserve

- to be used to fund annual and long service leave requirements.

Plant Reserve

- to be used for the purchase of major plant.

Building and Recreation Reserve

- to be used to fund the renovation/purchase of Shire of Pingelly buildings and Recreation Infrastructure.

Electronic Equipment Reserve

- to be used to fund the purchase of administration computer system equipment.

Community Bus Reserve

- to be used to fund the change-over of the community bus.

Swimming Pool Reserve

- to be used to fund the upgrading of the swimming pool complex

Joint Venture Housing Reserve

- to be used for the future maintenance of the Joint Venture units

Refuse Site Rehab/Closure Reserve

- to be used to facilitate the rehabilitation/closure of the town refuse site.

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

	2016/17 B/Fwd Per 2017/18 Budget \$	2016/17 B/Fwd Per Financial Report \$	March 2018 Actual \$
5. NET CURRENT ASSETS			
Composition of Estimated Net Current Asset Position			
CURRENT ASSETS			
Cash - Unrestricted	(76,096)	(225,748)	460,846
Cash - Restricted Unspent Grants	926,934	926,934	751,194
Cash - Restricted Unspent Loans	1,903,210	1,903,210	201,325
Cash - Restricted Reserves	827,388	827,388	837,758
Receivables (Budget Purposes Only)	0	0	0
Rates Outstanding	153,986	153,986	316,723
Sundry Debtors	601,751	601,751	87,319
Provision for Doubtful Debts	(9,508)	(9,508)	(9,508)
Gst Receivable	100,879	100,879	25,702
Loans - clubs/institutions	0	83,747	0
Accrued Income/Payments In Advance	1,778	1,778	0
Investments	0	0	0
Inventories	2,474	2,474	8,619
	<u>4,432,796</u>	<u>4,366,891</u>	<u>2,679,978</u>
LESS: CURRENT LIABILITIES			
Payables and Provisions (Budget Purposes Only)	0	0	0
Sundry Creditors	(168,302)	(18,650)	2
Accrued Interest On Loans	(336)	(336)	0
Accrued Salaries & Wages	(35,071)	(35,071)	0
Income In Advance	0	0	0
Gst Payable	(58,547)	(58,547)	(1,646)
Payroll Creditors	0	0	0
Accrued Expenses	(26,477)	(56,508)	0
PAYG Liability	(34,643)	(34,643)	(33,836)
Other Payables	(3,514)	(3,514)	(3,385)
Current Employee Benefits Provision	(259,672)	(250,326)	(250,326)
Current Loan Liability	(58,460)	(58,460)	(7,360)
	<u>(645,022)</u>	<u>(516,055)</u>	<u>(296,551)</u>
NET CURRENT ASSET POSITION	3,787,774	3,850,836	2,383,427
Less: Cash - Reserves - Restricted	(827,388)	(827,388)	(837,758)
Less: Cash - Unspent Grants/Loans - Fully Restricted	(1,903,210)	(1,903,210)	(201,325)
Less: Current Loans - Clubs / Institutions	0	(83,747)	0
Less: Investments	0	0	0
Add Back : Component of Leave Liability not Required to be Funded	259,672	250,326	250,326
Add Back : Current Loan Liability	58,460	58,460	7,360
Adjustment for Trust Transactions Within Muni	0	0	0
ESTIMATED SURPLUS/(DEFICIENCY) C/FWD	<u>1,375,310</u>	<u>1,345,277</u>	<u>1,602,030</u>

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

6. RATING INFORMATION

RATE TYPE	Rate in \$	Number of Properties	Rateable Value \$	2017/18 Rate Revenue \$	2017/18 Interim Rates \$	2017/18 Back Rates \$	2017/18 Total Revenue \$	2017/18 Budget \$
General Rate								
GRV - Residential	0.122533	315	3,087,332	378,300	0	0	378,300	378,300
GRV - Rural Residential	0.122533	68	712,052	87,250	0	0	87,250	87,250
GRV - Commercial/Industrial	0.122533	31	448,114	54,909	0	0	54,909	54,909
GRV - Townsites	0.122533	12	128,439	15,738	0	0	15,738	15,738
UV - Broadacre Rural	0.010704	250	114,659,500	1,227,315	(534)	0	1,226,781	1,224,318
Sub-Totals		676	119,035,437	1,763,512	(534)	0	1,762,978	1,760,515
Minimum Rates	Minimum \$							
GRV - Residential	898	63	144,961	56,574	0	0	56,574	56,574
GRV - Rural Residential	898	21	76,672	18,858	0	0	18,858	18,858
GRV - Commercial/Industrial	898	10	43,695	8,980	0	0	8,980	8,980
GRV - Townsites	898	7	20,271	6,286	0	0	6,286	6,286
UV - Broadacre Rural	898	44	2,493,240	39,512	0	0	39,512	39,512
Sub-Totals		145	2,778,839	130,210	0	0	130,210	130,210
Ex Gratia Rates								
Movement in Excess Rates							1,893,188	1,890,725
Total Amount of General Rates Specified Area Rates							219	200
							(24,370)	0
Total Rates							1,869,037	1,890,925
							0	0
							1,869,037	1,890,925

All land except exempt land in the Shire of Pingelly is rated according to its Gross Rental Value (GRV) in townsites or Unimproved Value (UV) in the remainder of the Shire.

The general rates detailed above for the 2015/16 financial year have been determined by Council on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the budget and the estimated revenue to be received from all sources other than rates and also bearing considering the extent of any increase in rating over the level adopted in the previous year.

The minimum rates have been determined by Council on the basis that all ratepayers must make a reasonable contribution to the cost of the Local Government services/facilities.

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

7. TRUST FUNDS

Funds held at balance date over which the Municipality has no control and which are not included in this statement are as follows:

Detail	Balance 01-Jul-17 \$	Amounts Received \$	Amounts Paid (\$)	Balance \$
Transport Licensing	0	310,088	(310,088)	0
BCITF Levy	0	0	0	0
Rates	0	0	0	0
Funds Held on Behalf of Groups	40	0	0	40
Unclaimed Monies	100	0	0	100
Builders Registration Board	0	0	0	0
Social Club	0	0	0	0
Nomination Deposits	0	400	(400)	0
Bond Monies (Including Key Deposits)	3,920	8,950	(9,080)	3,790
	<u>4,060</u>	<u>319,438</u>	<u>(319,568)</u>	<u>3,930</u>

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

8. OPERATING STATEMENT

	March 2018 Actual \$	2017/18 Adopted Budget \$	2016/17 Actual \$
OPERATING REVENUES			
Governance	45,157	65,370	73,207
General Purpose Funding	2,353,795	2,559,639	3,742,376
Law, Order, Public Safety	70,307	111,624	103,107
Health	7,943	11,908	11,983
Education and Welfare	618,220	631,390	794,058
Housing	0	0	0
Community Amenities	169,282	163,170	162,643
Recreation and Culture	2,130,584	4,535,396	1,031,664
Transport	873,567	1,746,020	1,548,147
Economic Services	34,191	50,150	35,980
Other Property and Services	74,446	59,000	62,574
TOTAL OPERATING REVENUE	6,377,492	9,933,667	7,565,741
OPERATING EXPENSES			
Governance	411,723	589,754	594,713
General Purpose Funding	128,101	167,704	188,660
Law, Order, Public Safety	140,603	252,396	249,555
Health	79,974	112,480	137,690
Education and Welfare	28,520	48,243	49,969
Housing	0	0	0
Community Amenities	246,937	391,955	457,121
Recreation & Culture	656,068	998,815	1,580,337
Transport	1,666,444	2,254,150	2,028,955
Economic Services	157,573	285,114	475,991
Other Property and Services	186,786	25,636	65,766
TOTAL OPERATING EXPENSE	3,702,729	5,126,247	5,828,758
CHANGE IN NET ASSETS RESULTING FROM OPERATIONS	<u>2,674,763</u>	<u>4,807,420</u>	<u>1,736,983</u>

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

9. STATEMENT OF FINANCIAL POSITION

	March 2018 Actual \$	2016/17 Actual \$
CURRENT ASSETS		
Cash and Cash Equivalents	2,251,123	3,431,783
Investments	5,000	5,000
Trade and Other Receivables	427,596	863,376
Inventories	8,619	2,474
Trust at Bank	3,930	4,060
TOTAL CURRENT ASSETS	2,696,268	4,306,693
NON-CURRENT ASSETS		
Other Receivables	233,102	233,102
Inventories	0	0
Property, Plant and Equipment	14,422,244	10,013,560
Infrastructure	71,584,365	71,927,498
TOTAL NON-CURRENT ASSETS	86,239,711	82,174,160
TOTAL ASSETS	88,935,979	86,480,853
CURRENT LIABILITIES		
Trade and Other Payables	38,865	207,269
Long Term Borrowings	7,360	58,460
Provisions	250,326	250,326
Trust Liability	3,930	4,060
TOTAL CURRENT LIABILITIES	300,481	520,115
NON-CURRENT LIABILITIES		
Trade and Other Payables	0	0
Long Term Borrowings	2,470,742	2,470,742
Provisions	65,225	65,225
TOTAL NON-CURRENT LIABILITIES	2,535,967	2,535,967
TOTAL LIABILITIES	2,836,448	3,056,082
NET ASSETS	86,099,531	83,424,771
EQUITY		
Retained Surplus	29,876,274	27,211,884
Reserves - Cash Backed	837,758	827,388
Revaluation Surplus	55,385,499	55,385,499
TOTAL EQUITY	86,099,531	83,424,771

SHIRE OF PINGELLY

NOTES TO AND FORMING PART OF THE STATEMENT OF FINANCIAL ACTIVITY

FOR THE PERIOD 1 JULY 2017 TO 31 MARCH 2018

10. FINANCIAL RATIOS

	2018 YTD	2017	2016	2015
Current Ratio	18.06	3.04	1.05	3.89
Operating Surplus Ratio	(0.36)	(0.62)	(0.72)	(0.47)

The above ratios are calculated as follows:

Current Ratio
$$\frac{(\text{Current Assets MINUS Restricted Assets})}{(\text{Current Liabilities MINUS Liabilities Associated with Restricted Assets})}$$

Purpose:

This is a modified commercial ratio designed to focus on the liquidity position of a local government that has arisen from past year's transactions.

Standards:

The standard is not met if the ratio is lower than 1:1 (less than 100%)

Below Std

The standard is met if the ratio is greater than 1:1 (100% or greater)

Std met

A ratio less than 1:1 means that a local government does not have sufficient assets that can be quickly converted into cash to meet its immediate cash commitments.

This may arise from a budget deficit from the past year, a Council decision to operate an overdraft or a decision to fund leave entitlements from next year's revenues.

Operating Surplus Ratio
$$\frac{(\text{Operating Revenue MINUS Operating Expense})}{(\text{Own Source Operating Revenue})}$$

Purpose:

This ratio is a measure of a local government's ability to cover its operational costs and have revenues available for capital funding or other purposes.

Standards:

Basic Standard is not met less than < 1% (< 0.01)

Below Std

Basic Standard between 1% and 15% (0.01 and 0.15)

Basic Std

Advanced Standard greater than > 15% (>0.15).

Adv Std

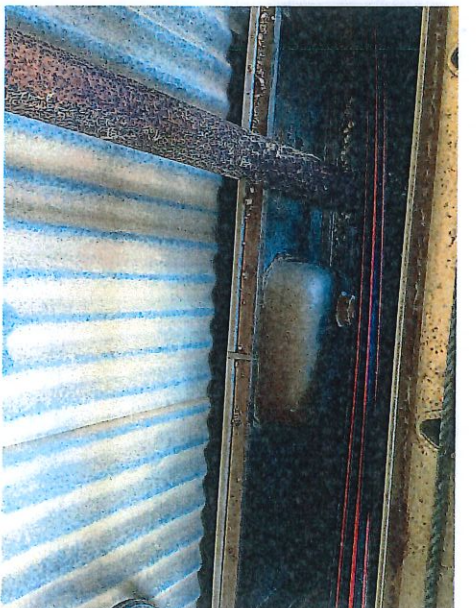
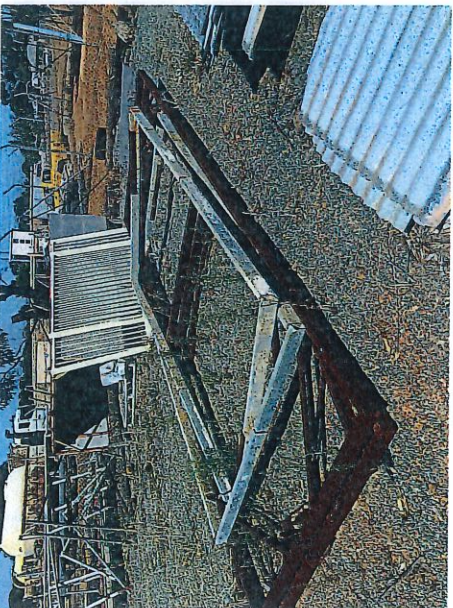
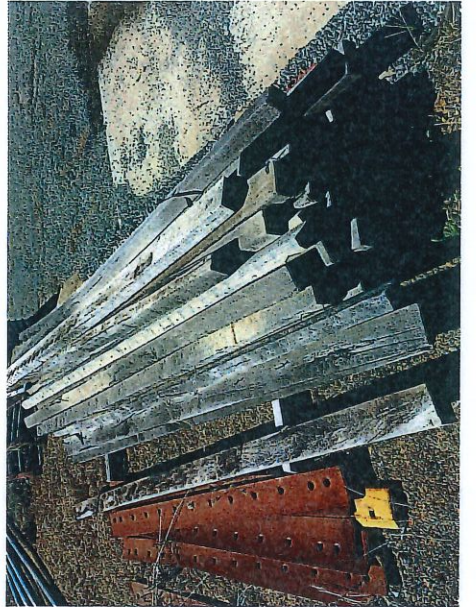
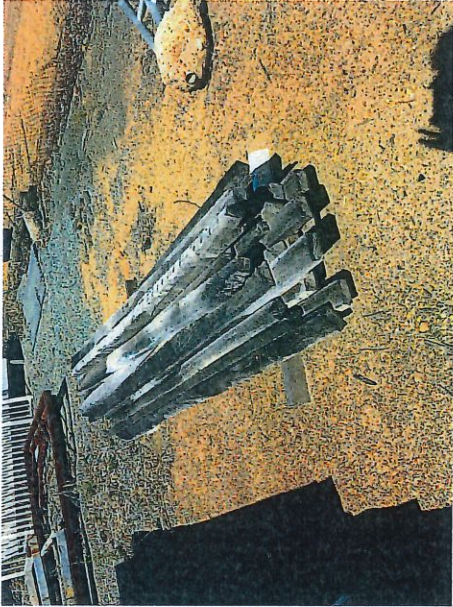
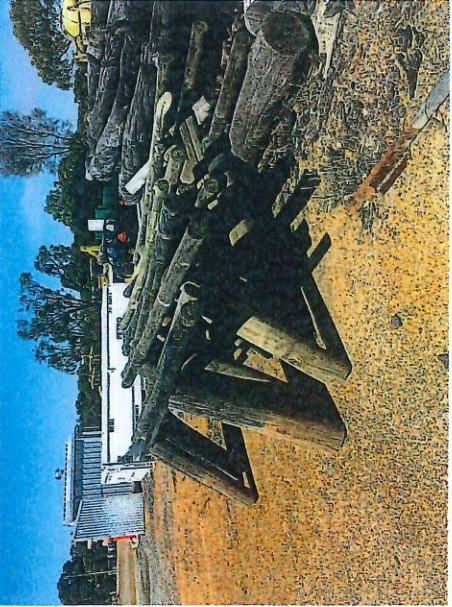
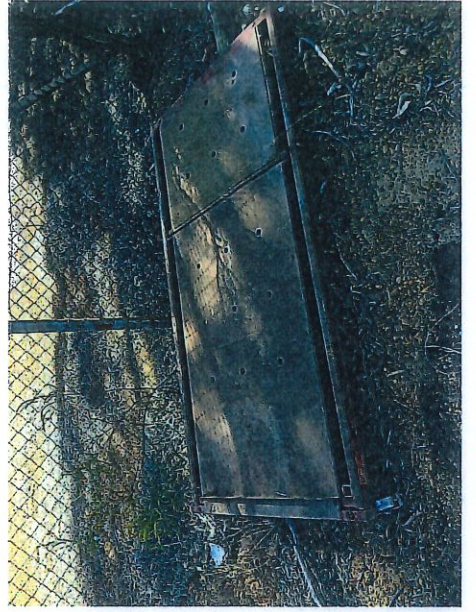
SHIRE OF PINGELLY
RESTRICTED CASH RECONCILIATION
31 March 2018

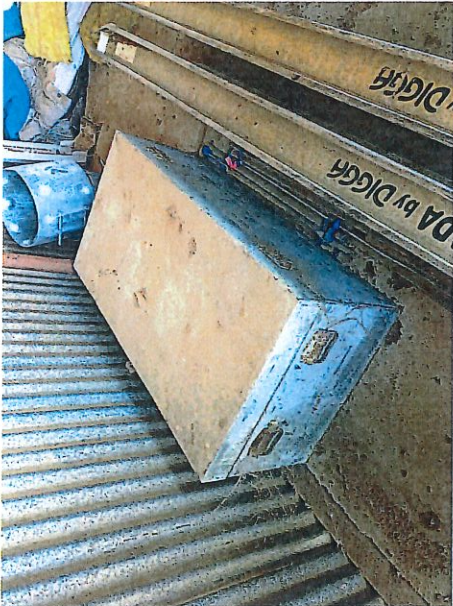
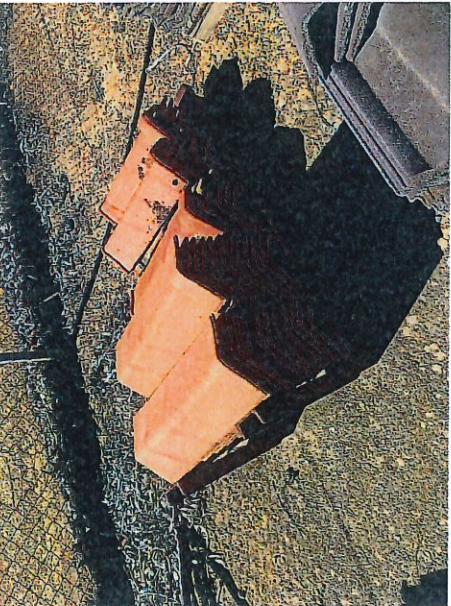
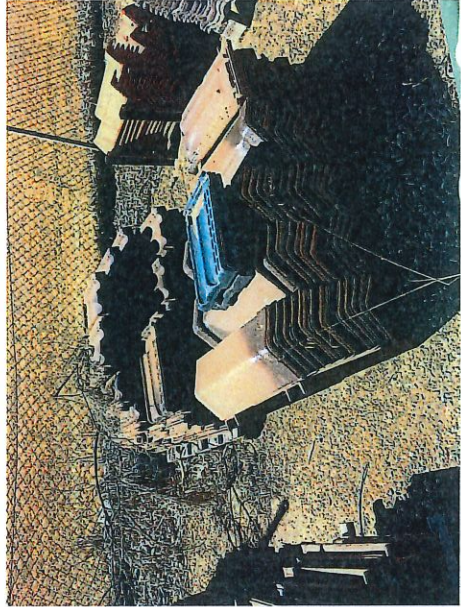
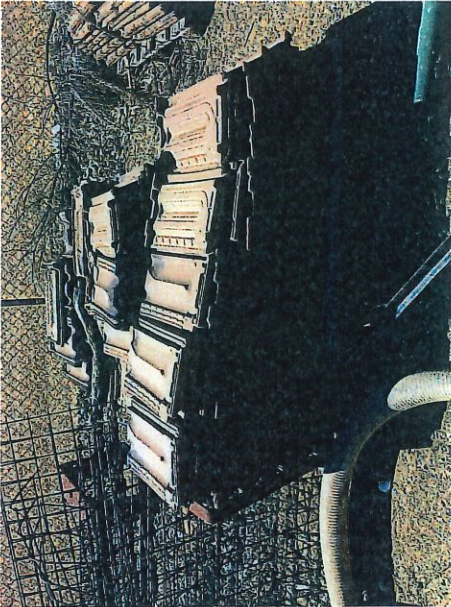
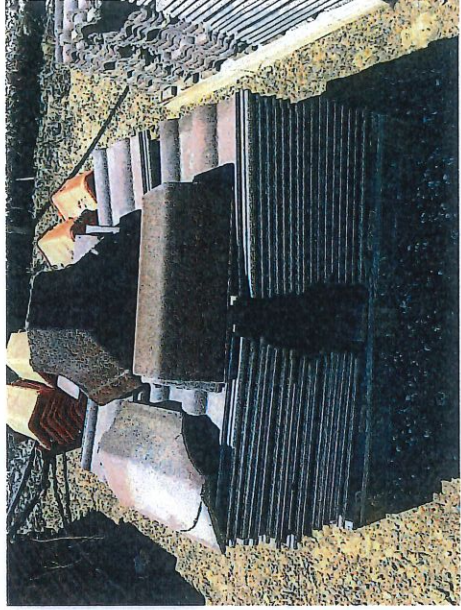
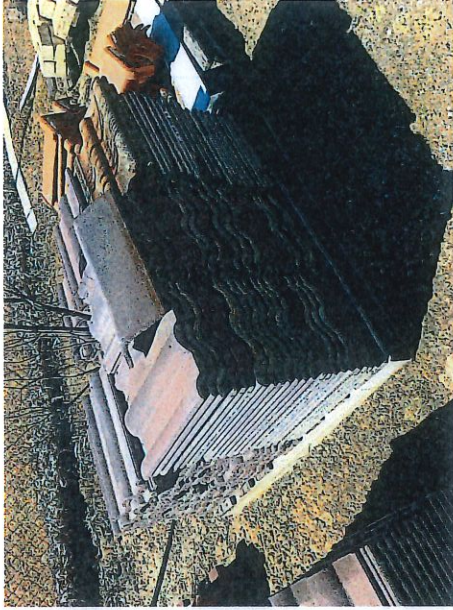
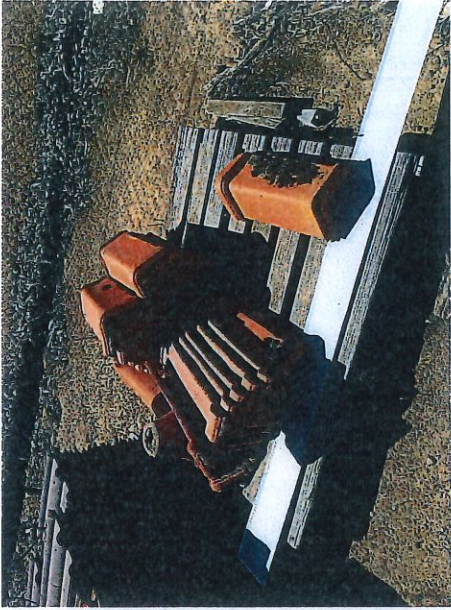
Restricted Grants/Funds Received	Projects	GL/Job Account	Total Restricted Funds	Actual Expenditure previous year 2015/16	Actual Expenditure previous year 2016/17	Actual Expenditure 2017/18	Restricted Funds Remaining
Health Department (WACHS)-claim 1	Aged Approp Accom Units	0860	272,727.27	5,456.91	197,609.67	69,660.69	0.00
Health Department (WACHS)-claim 2	Aged Approp Accom Units	PAA01	181,818.18	0.00	0.00	181,818.18	0.00
Health Department (WACHS)-claim 3	Aged Approp Accom Units	PAA01	272,727.27	0.00	0.00	272,727.27	0.00
Health Department (WACHS)-claim 4	Aged Approp Accom Units	PAA01	272,727.27	0.00	0.00	272,727.27	0.00
Health Department (WACHS)-claim 5	Aged Approp Accom Units	PAA01	272,727.27	0.00	0.00	272,727.27	0.00
Health Department (WACHS)-final claim 6	Aged Approp Accom Units	PAA01	318,181.82	0.00	0.00	160,111.57	158,070.25
WDC Community Chest Funding-Sensory Garden	Aged Approp Accom Units	0861	20,000.00	0.00	0.00	6,196.97	13,803.03
Lotterywest Grant-Aged Sensory Space	Aged Approp Accom Units	PAA02	50,000.00	0.00	0.00	0.00	50,000.00
National Stronger Regions Funds claim 1	Recreation & Cultural Centre	11PR/PR01	777,719.00	0.00	777,719.00	0.00	0.00
National Stronger Regions Funds claim 2+Interest	Recreation & Cultural Centre	11PR/PR01	1,472,140.88	0.00	0.00	1,472,140.88	(0.00)
Lotterywest Grant \$1,000,000 claim 1	Recreation & Cultural Centre	11PR/PR02	70,111.00	0.00	0.00	70,111.00	0.00
Lotterywest Grant \$1,000,000 claim 2	Recreation & Cultural Centre	11PR/PR02	513,788.11	0.00	0.00	117,013.20	396,774.91
Dept of Sport & Rec \$350,000 claim 1	Recreation & Cultural Centre	11PR/PR03	87,500.00	0.00	87,500.00	0.00	0.00
Bendigo Bank-Pingelly Community Financial Services	Recreation & Cultural Centre	11PR/PR04	50,000.00	0.00	0.00	50,000.00	0.00
Contributions Other	Recreation & Cultural Centre	11PR/PR10	1,408.63	0.00	1,408.63	0.00	0.00
CBH Contribution Grass Roots Fund -playground	Recreation & Cultural Centre	11PR/PR11	10,000.00	0.00	0.00	0.00	10,000.00
Forestry Products Commission	Recreation & Cultural Centre	11PR/PR12	20,000.00	0.00	0.00	20,000.00	0.00
Unspent Loan 123 - TD01	Recreation & Cultural Centre	1703	1,008,446.32	0.00	0.00	1,008,446.32	0.00
Unspent Loan 123 - TD01 Funds in Muni Funds	Recreation & Cultural Centre	1703	500,000.00	0.00	161,980.70	136,694.03	201,325.27
Unspent Loan 123 - interest TD01 in Muni	Recreation & Cultural Centre	1703	110,359.46	0.00	45,169.26	65,190.20	0.00
Unspent Loan 123 in Muni Fund -TD02	Recreation & Cultural Centre	1703	500,000.00	0.00	500,000.00	0.00	0.00
Unspent Loan 123 in Muni Fund interest TD02	Recreation & Cultural Centre	1703	20,509.36	0.00	20,509.36	0.00	0.00
Unspent Loan 123 - TD03	Recreation & Cultural Centre	1703	504,432.90	0.00	0.00	504,432.90	0.00
Main Roads Bridge Funding 18/19 carry fwd	Transport	1250	114,545.46	0.00	0.00	0.00	114,545.46
DLGC PRACC Comm Dev Grant	Economic Services	1333/1398	18,000.00	0.00	0.00	10,000.00	8,000.00
Sub Total					1,840,970.62	4,689,997.75	952,518.92
Total Restricted Grant Funds							952,518.92
Available Cash							Balance
Municipal Bank	Muni Fund Bank	0111	Variable	Ongoing	N.A.		1,412,615.14
Municipal Bank	Till Float SES	0112					50.00
Municipal Bank	Till Float	0113					200.00
Municipal Bank	Petty Cash on hand	0114					500.00
Total Cash							1,413,365.14
Less Restricted Cash							(952,518.92)
Total Unrestricted Cash							460,846.22

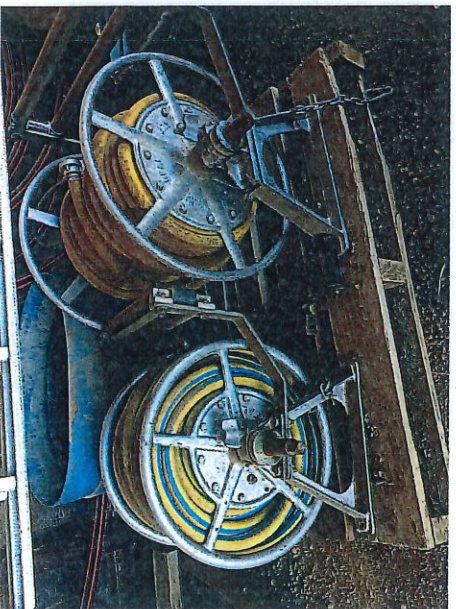
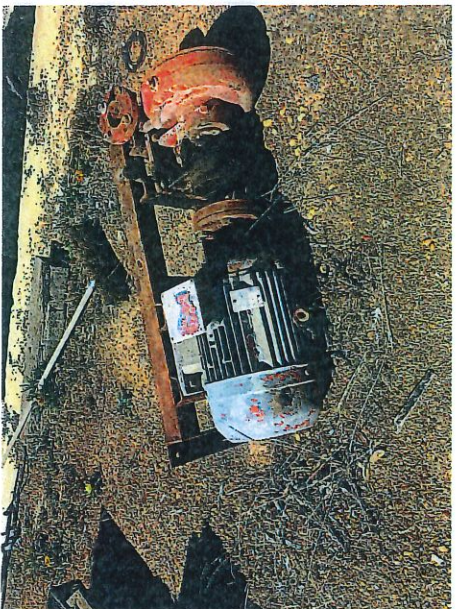
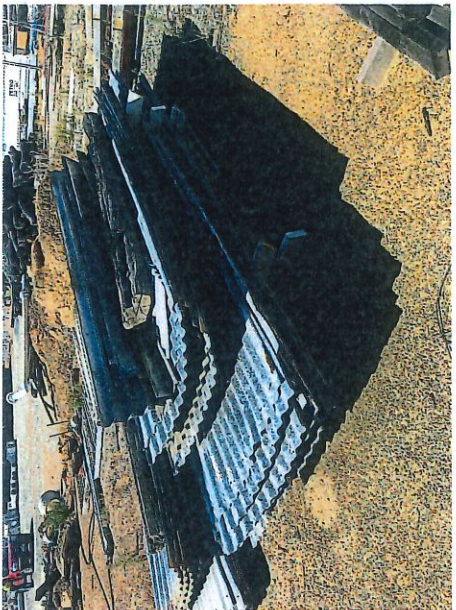
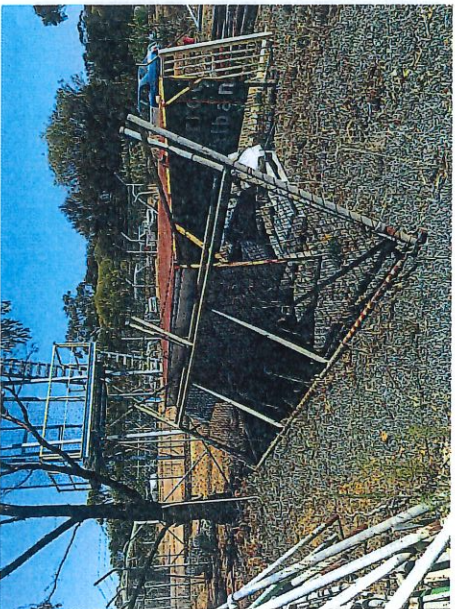
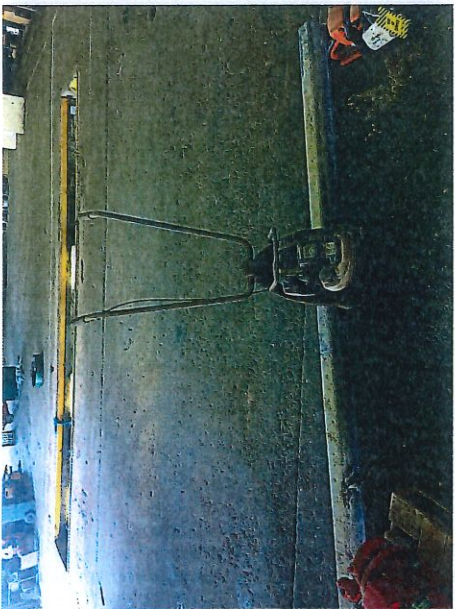
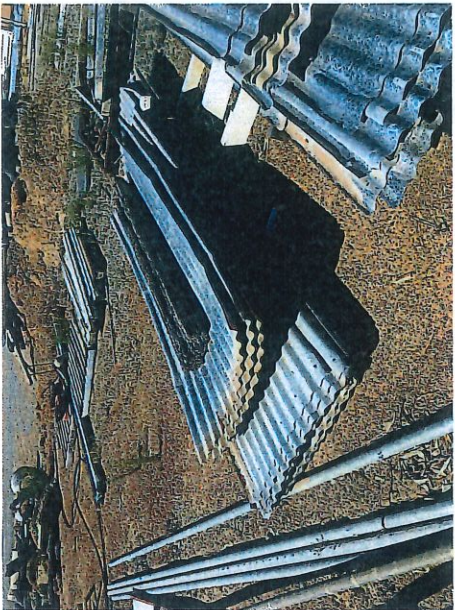
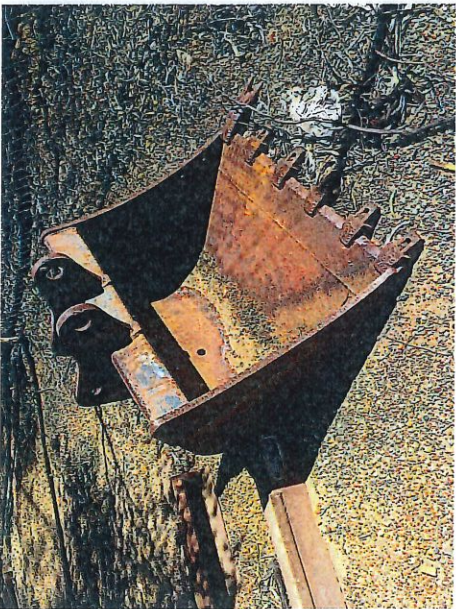
Attachment 3

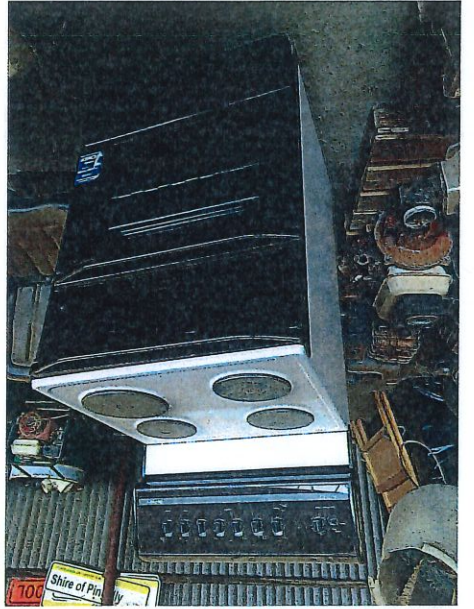
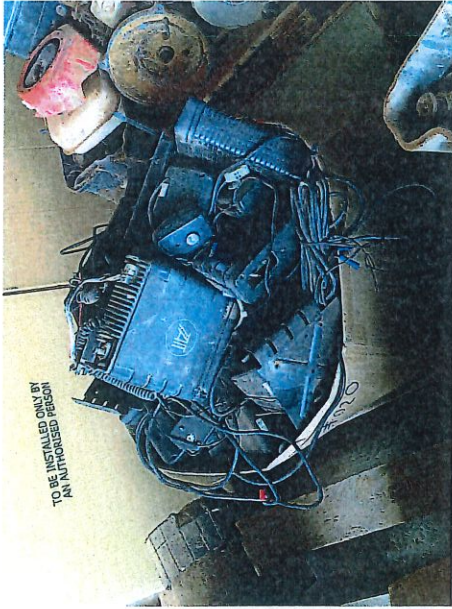
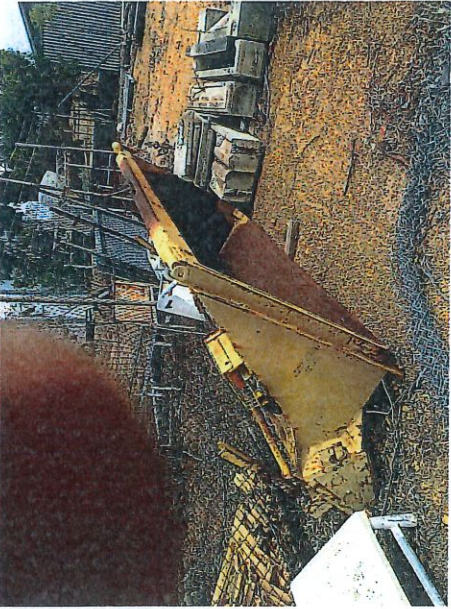
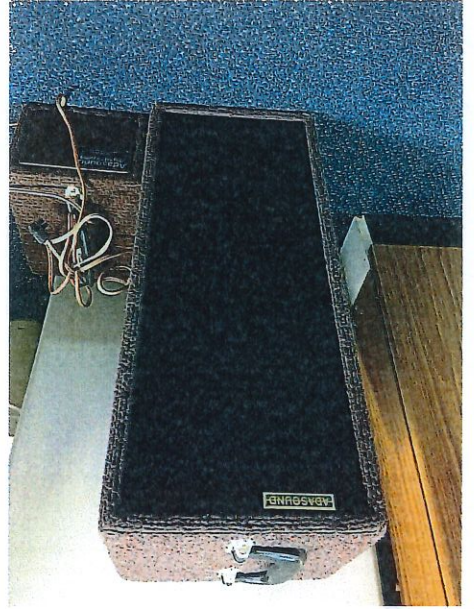
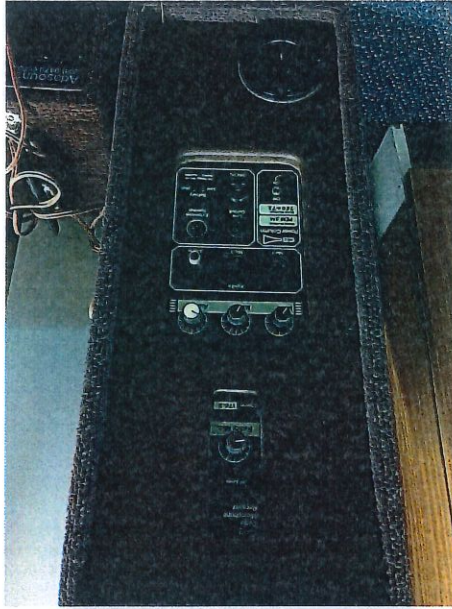
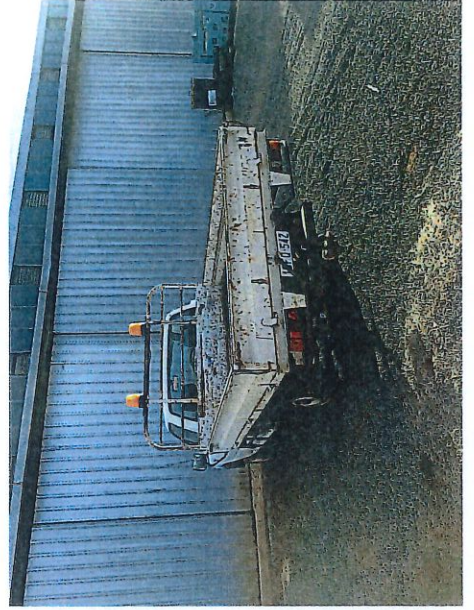
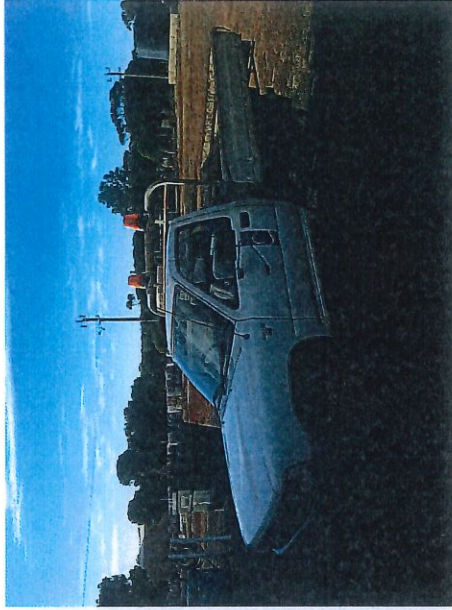
16.2 Sale by Tender of Surplus Plant and Equipment

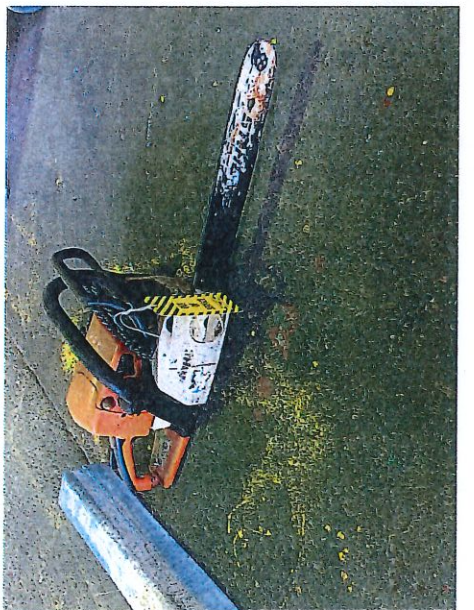
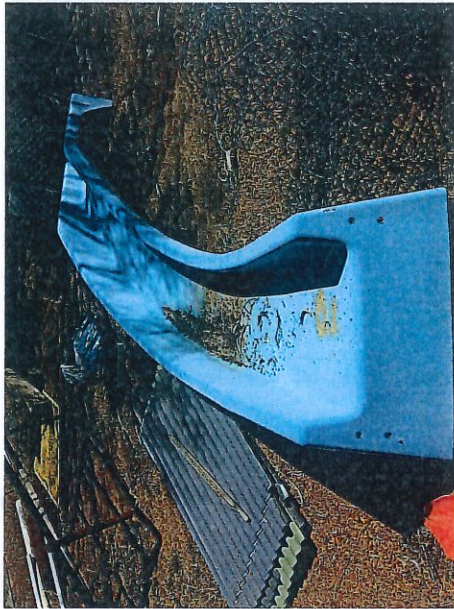
Photographs of Items











Attachment 4

16.3 Motorbike Track

LGIS Motorbike Preliminary Risk Assessment



Shire of Pingelly

November 2017

Motorbike Track Preliminary Risk Assessment

Table of Contents

1	Executive Summary	3
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1 Executive Summary

At the request of the Shire of Pingelly a preliminary risk management inspection was undertaken at the off road motorbike track in order to assess potential Shire exposure to risk and public liability issues. The following report describes the observations made during this process, including potential hazards and possible risk control options.

Existing risk control options appear limited to administrative risk controls in the form of signage which does not fully cover all potential issues associated with usage of the track.

There are several unknown variables associated with the track that have not yet been able to be determined, but would be of benefit to the Shire to ascertain, including:

- Number and demographic of users, including peak periods and times of use
- The presence of any motorcycle club involvement and any formal arrangement that may exist to set out roles and responsibilities of stakeholders

It is recommended that the Shire identify all stakeholders and develop a track management plan which considers the risk elements contained in this, and preceding reports, so as to clearly document various roles, responsibilities and risk control options that are to be implemented.

LGIS has developed an "Off Road Vehicle Area Guidance Note", (attached), which may be of use in identification of elements that should be considered for inclusion in a track management plan, and is also able to provide a formal proposal for provision of assistance in further risk assessment and control options including development of a draft track management plan if required. The scope of this further work to be completed by a senior LGIS liability risk consultant would be considered as fee for service.

1.1 Location

The off road motorbike track is located approximately 2 km South of the Pingelly town centre at Lot Number 9593 which is bounded by the Rifle Range, Shire Refuse Site and Water Authority tank facility.

Main access to the is gained via Paragon St, which also services the Refuse Site and Water Authority tank facility, then a side track is taken to the South which leads into the off road track parking area.

There are no dwellings in the immediate vicinity of the off road motor bike track, the closest being those at the Southern edge of the Pingelly Townsite and within the farm located approximately 2 km to the North West.

It is unlikely that neighbouring dwellings would be adversely affected by noise or dust issues, although this perception would have to be quantified through survey or monitoring if required.



Image showing general location of motorbike track proximity to Townsite and nearest farm [Image Googlemaps]

1.2 Construction / Maintenance / Layout

The off road motor bike track is constructed from natural ground materials, incorporating ground contours and is laid out in a winding fashion inclusive of loops, jumps and banked turns. The track runs through bushland and has trees of varying sizes as well as bush debris, rocks, tyres and some signage located in immediate proximity to the track.

The track was constructed by community members and it is unknown if any industry standards were referred to during the design and construction stage or if the persons constructing the track had any experience or qualifications in this regard.

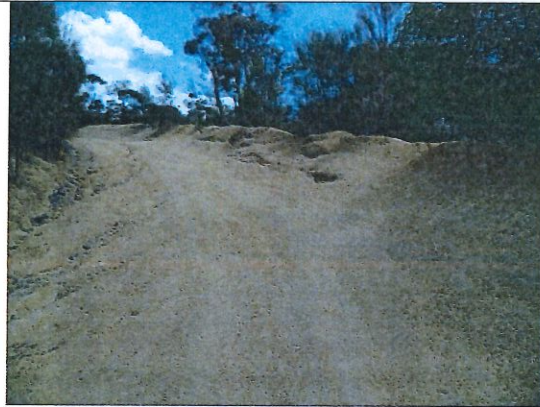
The Shire of Pingelly does not conduct any regular documented safety inspections of the track and similarly does not perform any maintenance activities on the track. In parts, the track has water rutted areas present which are in the vicinity of up to 30cm in depth / width over a number of metres.



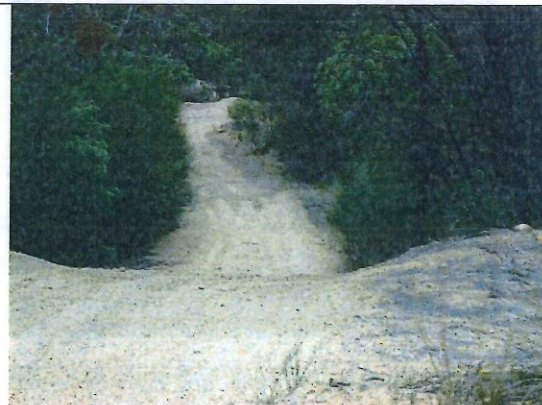
Image showing layout of track and boundaries of Rifle Range to North West, Refuse site to North East.
[Image – Nearmap]



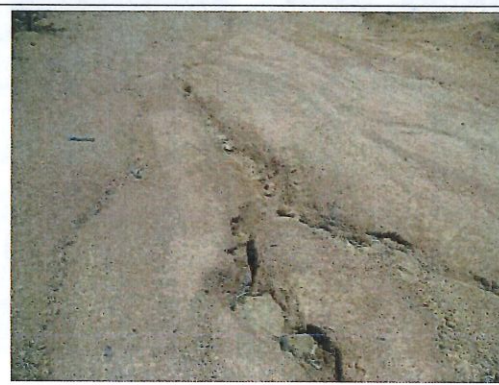
Images looking towards (LHS) and back from (RHS) the first turn in the track. The presence of converging track elements increase potential for collision to occur.



Images showing banked turn with uneven surfaces, vegetation in close proximity to track and evidence of tyre marks on higher aspects of turn. The close proximity of vegetation increases potential for impact to occur.



Images showing banked turn and downhill section leading out of the turn with encroaching vegetation evident at both.



Images showing erosion wash outs on downhill section of the track which could increase potential for loss of control to occur.



Image showing aspect of track where opposite directions of travel occur, increasing risk of collision should a rider cross over to the other track element especially as ground contours partially obscure vision.



Images showing various rocks and tyres laying around the track, including (on left) between two adjacent sections of track, which could be also used as a 'shortcut' increasing risk of collision between users.



Image showing vegetation apparently impacted by motorbike



Image showing vegetation in vicinity of impact damaged vegetation either deliberately broken or also impact damaged.

1.3 Signage

Signage has been placed at various locations leading into, around and within the track precinct, including:

- Off road vehicle proclamation sign at start of entry access track off Paragon St
- Welcome and general warning sign at (main) track entry point
- Track directional signage
- Rifle range demarcation warning signage
- Refuse site "no littering" signage



Images showing the location and content of the signage at entry access track

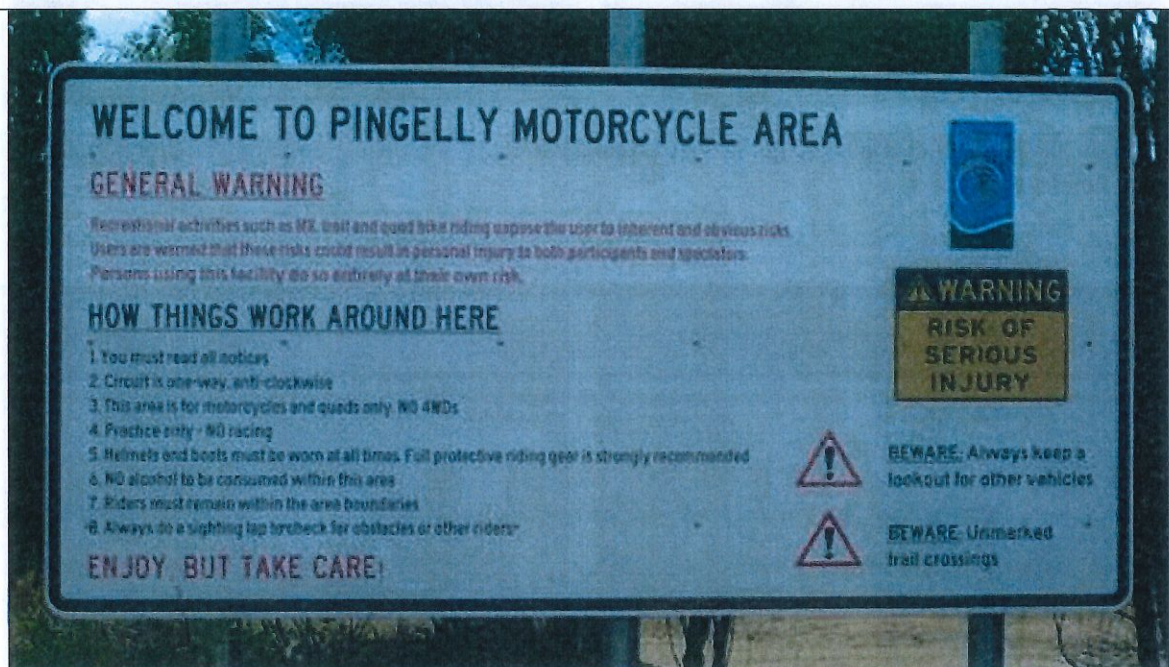
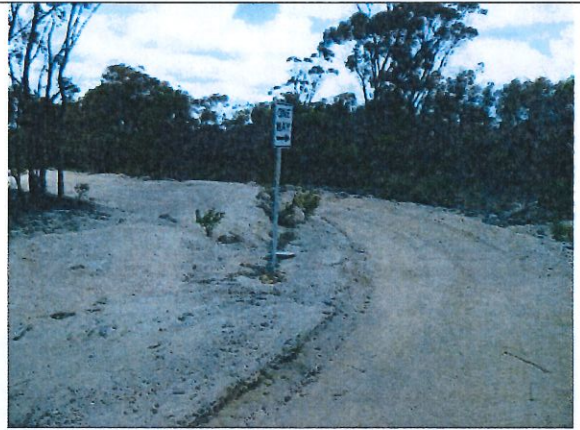


Image showing welcome / warning signage at main track entry point / parking area



Images showing welcome warning signage and adjacent directional sign (with graffiti damage)



Images showing directional signage in close proximity to track, increasing potential for user impact with metal support post.



Images showing rifle range demarcation and no littering signage

1.4 User Groups

The Shire of Pingelly has stated that it believes the motorbike track is utilised by both local and potentially wider user groups. It is unknown if motorcycle clubs use the venue or if there are any formal agreements in place.

Arranged events are not known, (by the Shire), to be held at the facility.

It would be useful to conduct evaluation and quantification of user numbers including determination of seasonal usage, weekly usage and times of use. It would also be useful to survey users to determine demographic and skill level of users.

1.5 Potential Hazards Identified

As depicted in the images above, several hazards associated with the off road motorbike track were identified, including:

- Potential for riders to impact with other motorised traffic, travelling in the opposite or same direction, as tracks converge or opportunity exists to cross over into another section of the track.
- Potential for riders, especially if inexperienced, to lose control when hitting rough sections of track or erosion washouts.
- Potential for riders to impact trees, vegetation, rocks, tyres or signage support elements whilst negotiating track
- Potential for riders to impact pedestrians or pets (dogs)
- Potential for interaction with horse riders or bushwalkers
- Use of area during vehicle movement bans or total fire bans (potential for fire during refuelling or as a result of accidental loss of control)
- Minimum age of users is not defined
- Lack of toilet and waste disposal facilities at the venue

1.6 Risk Mitigation Considerations

The implementation of the following considerations would assist to mitigate the risk exposure associated with the off road motorbike track area:

- Determine and quantify numbers and demographic of users, including seasonal, day of week and hours of use.
- Consider obtaining risk management input from a body such as Trail Bike Management Australia (TBMA). [Note: TBMA has apparently previously conducted such an assessment for the Shire during September 2009]
- Develop a documented management policy or plan which could include:
 - Objectives of motorbike track facility
 - Rules and regulations
 - Days and hours of operation
 - Identification of key stakeholders
 - Stakeholder responsibilities
 - Regulatory enforcement considerations
 - Inspection and maintenance considerations and frequencies
 - Equipment required
 - Financial considerations

- Implement a means for reporting of hazards and issues
- Document outcomes of regular inspections and track any identified issues through to closure
- Implement a maintenance regime with consideration of frequency of usage and events that may cause track deterioration
- Consider using TBMA to determine a 'track rating', indicating what level of competence would be deemed sufficient in order to safely negotiate the track or elements thereof (such as advanced, intermediate or beginners)
- Consider indicating minimum user age requirements on signage
- Undertake steps to prevent users being able to 'cross over' into other elements of the track
- Remove vegetation and objects that encroach upon the track or likely 'run off' areas immediately adjacent to the track
- Include signage element prohibiting pedestrian access to track or bringing pets onto the facility
- Include advice regarding restrictions on use during vehicle movement bans or fire prohibition periods
- Ensure boundary signage is erected at all potential entry points so as to warn other users, such as horse riders or bushwalkers, of the area use
- Consider, dependant on usage figures, provision of waste management strategies such as toilet facilities and bins
- Ensure that means exist for allowing emergency services to access all areas of the facility to assist in provision of emergency response if required

2 References:

- Control of Vehicles (Off-road Areas) Act 1978 (WA)
- Civil Liability Act 2002 (WA)
- Land Administration Act 1997 (WA)
- Occupiers Liability Act 1985 (WA)
- Local Government Act 1995 (WA)
- LGIS "Off Road Vehicle Area Guidance Note"
- Shire of Pingelly - Agenda for Ordinary Meeting of Council 16 June 2010

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Pingelly Off Road Vehicle Area

Preliminary Risk Mitigation Recommendations

Version: 1.0

September 2009

INTRODUCTION

The Shire of Pingelly provides a small Off Road Vehicle Area located off Quadrant Street, Pingelly. This area takes the form of a 1.2km motocross practice track surrounded by approximately 30Ha of bushland and has been in operation for some years.

The Shire Executive has recognised the risks involved in merely 'tolerating' the use of this site, and now wishes to evaluate whether the site can be managed, or needs to be closed.

The site clearly serves a public purpose, by providing a place where motocross and trail riders can enjoy their recreation in a setting that is away from public roads and residential areas.

As Unallocated Crown Land vested in the Shire, the Shire has the right as occupier of the land to grant permission, either explicitly or implicitly (as is currently the case) for use by vehicles that are not road registered and by riders who do not have driver's licences.



Such permission, however, exposes the Shire to a duty of care under the Occupiers' Liability Act and this constitutes both a financial risk and a reputation risk for the Shire. The extent to which this risk can be managed will greatly influence the Shire's decision in respect of the future of the area.

All trail and quad bike riding involves some risk. Most risk is within the control of the rider – ie the rider's responsibility to know the capabilities and limitations of the vehicle and to ride within his or her limits of strength, experience and skill. The landowner's duty of care is limited in this regard, as the participant is assumed to understand the risks of the activity and to be making his or her free choice to engage in it. In the case of minors, the decision – and responsibility – is deemed to be that of the parents or guardians.

The Civil Liability Amendment Act 2002 clarifies this personal responsibility, with specific reference to limiting liability in respect of recreational activities that have an 'obvious and inherent risk'.

There are other risks that are not inherent to the activity, but which derive from the nature of the environment. These are the risks of greatest concern to the landowner, for it can be said that these are risks that are – or should be – known to the landowner but which cannot be expected to be known intuitively by the rider and are therefore not 'obvious' risks.

The observations and recommendations contained within this report have been made to identify and address these risks at the Pingelly Off Road Vehicle Area.

If the findings of this report are implemented it is the view of the consultants that the area poses no greater risk to the Shire than other facilities typically provided such as skate parks, BMX circuits or bridle trails.

OBJECTIVES

There are three key objectives in these recommendations:

1. Reduce the risk of injury to participants and spectators.
2. Manage the Shire of Pingelly's liability under the Occupiers' Liability Act.
3. Consider development opportunities for the facility and associated benefits for the shire.

THIS DOCUMENT

This document forms part of the Risk Mitigation project and is the outcome of a site inspection conducted on Thursday 13th August. The site was audited, mapped and risks were recorded and this report documents those risks along with mitigation recommendations.

Appendices to this report are provided for a Signage plan, Parking and facilities plan, Maintenance plan and a Draft Code of Conduct.

SUMMARY OF FINDINGS

The Pingelly off-road vehicle area was found to be a well maintained motocross track with many of the obvious risks already managed. Most of the jumps had alternative “B lines¹”, the majority of the track was well cleared and most of the jumps had good landing zones.

However:


- the area needs signage, both as a disclaimer of Shire responsibility and to inform riders about behavioural expectations
- there should be better delineation and a physical barrier between the car park and the circuit,
- the circuit requires obvious entry and exit points with clear directional markers,
- there are a few places where riders can short-circuit the track, potentially creating a collision risk
- there is a 4 way intersection, potentially creating a collision risk
- the ‘double jumps’ are considered hazardous
- some improvements could be made to water drainage
- the area surrounding the circuit itself could pose some risks if not managed.

The following pages provide the full detail of each documented risk, its location, photos and mitigation recommendation.


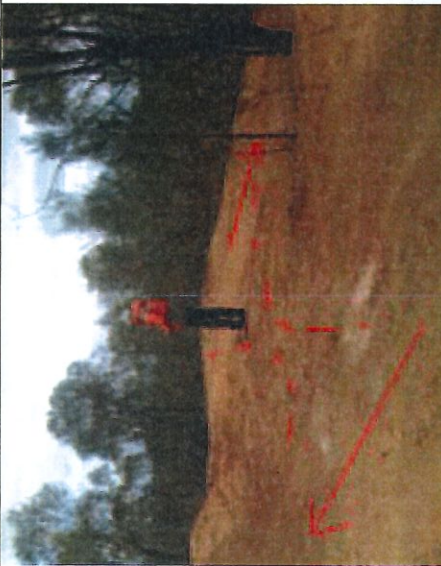
¹ Easier circuit alternative around larger jumps for less experienced riders.




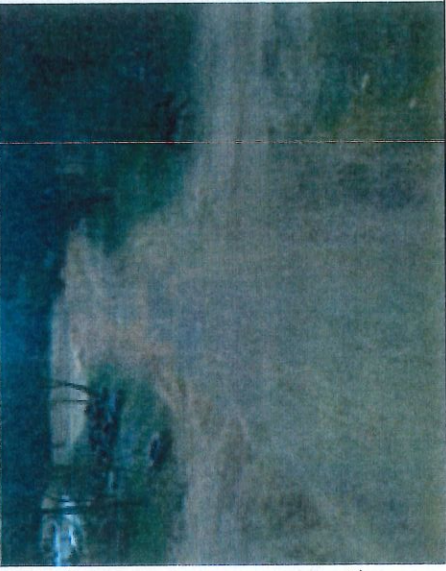
DETAILED RISK ASSESSMENT

Map Ref	Coordinates	Observation	Risk	Recommendation	Image
003	32 33.144S 117 04.953E	Car park and track entry	Collision between vehicles on / entering track. Collision between motorcycles and cars. Collision between vehicles and people.	Create a physical barrier to separate the car park from the circuit, with a clearly marked entry point to the circuit so that people know where the car park and entry road finishes and the circuit starts. See Entry and Car Park plan for layout and Signage recommendations.	
004	32 33.130S 117 04.947E	Jump 1	Collision between riders taking 'B Line' and those entering circuit from car park.	a) Create a new 'B Line' to the left of Jump 1 (would require clearing of trees) or b) Relocate circuit entry to avoid conflict with Jump 1 'B Line'	

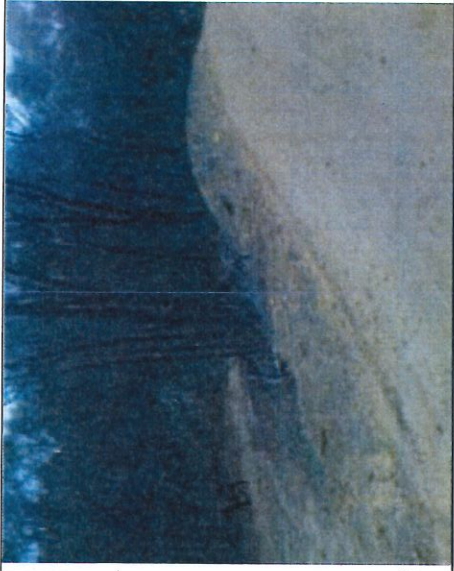


Map Ref	Coordinates	Observation	Risk	Recommendation	Image
005	32 33.105S 117 04.944E	Corner 1 – exposed tree root facing oncoming riders	Injury risk	Remove	
006	32 33.110S 117 04.917E	Short-cut between two adjacent sections of track	Potential collision with rider approaching up hill on Straight 3. Potential for rider to travel in wrong direction down Straight 3 or towards Corner 1	Physical barrier – eg tyres to prevent riders short-cutting circuit	


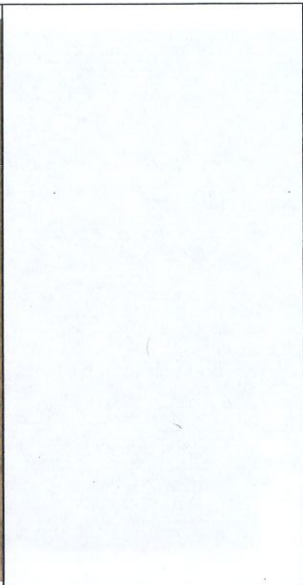
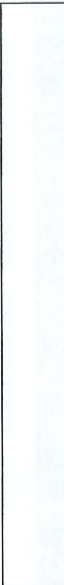


Map Ref	Coordinates	Observation	Risk	Recommendation	Image
007	32 33.1125 117 04.919E	Jump 2 – landing area is on steep rutted downhill	Intimidating for less experienced riders, could lead to loss of control. Landing area quite narrow, so in the event of a fall a following riders could end up in trees.	Remove LH portion of jump to give alternative line for riders not wanting air before the downhill. Widen the fall zone by clearing some trees from left and right side of track.	
008	32 33 137S 117 04.929E	Four way intersection –	Collision risk from cross traffic. Potential for entry to circuit in wrong direction.	a) prevent access to circuit by physical barrier eg tyres that can be removed to provide emergency vehicle access. Or b) Stop sign and circuit direction sign	
009	32 33.141S 117 04.920E	Jump 3	No issues	None required	
010	32 33.114S 117 04.916E	Jump 4 – uphill ramp with flat landing at top of hill	Riders travelling uphill have no visibility of	See recommendations at 006.	





Map Ref	Coordinates	Observation	Risk	Recommendation	Image
011	32 33.0845 117 04.886E	Jump 5 – has a 'B Line' to the left.	riders using the shortcut at 006 until departure from Jump 4 – which is approx 3 metres from 006. Little room to avoid fallen rider	Clear trees to increase width of landing zone on LH side	
012	32 33.1055 117 04.882E	Jump 6 - small jump that leads into the braking area of corner four	No issues	None required	




Map Ref	Coordinates	Observation	Risk	Recommendation	Image
013	32 33.130S 117 04.877E	Outside of corner four. Tree on outside of corner, but 75% through corner and behind steep berm	No issues	None required	
014	32 33.131S 117 04.849E	Base of jump 7. Approximately six feet high tabletop jump. Approximately sixteen meters to the start of the down ramp. There is a 'B line' to the left of this jump.	No issues	None required	
015	32 33.129S 117 04.836E	Start of Jump 7 down ramp	No issues	None required	





Map Ref	Coordinates	Observation	Risk	Recommendation	Image
016	32 33.128S 117 04.800E	Outside of Corner 5 - a trail heading off into the bush.	Risk of vehicles entering MX circuit in wrong direction. Risk of non-MX vehicles (eg juniors) entering circuit	Physical barrier to circuit – eg tyres, perhaps with safe entry point and clear direction of travel signage.	
016	32 33.128S 117 04.800E	Deep rut mid corner – erosion causing rutting all the way down the next straight to the following corner.	Loss of control, further erosion	Repair and create drainage channel for improved water runoff	





Map Ref	Coordinates	Observation	Risk	Recommendation	Image
017	32 33.146S 117 04.853E	Jump 8 – Double jump. 'B line' on RH side. Intersecting short-cut on RH side of 'B Line'.	Landing short on a double jump creates significant injury risk. Double jump limits options for a following rider in the event of a fall.	Fill in middle section to create table-top jump. NB: Motorcycling Australia national specifications for MX venues do not permit multiple jumps. Block off short-cut.	
018	32 33.142S 117 04.879E	Jump 9 - sharp little kicker jump at about three feet in height to a semi tabletop with a slightly rutted down slope	No issues	None required	
019	32 33.141S 117 04.890E	Jump 10 - two to two and a half feet double jump, mild gap in the middle	No issues	None required	
020	32 33.139S 117 04.897E	Tree on the RH edge of track in direct line if a rider were to travel straight.	If a rider were to get out of shape on the previous jump and hasn't regained control by this point they could end up in this tree.	Create tyre buffer on tree to 2m height	
021	32 33.141S 117 04.911E	Continuation of intersecting trail referred to in 008		Ref 008	

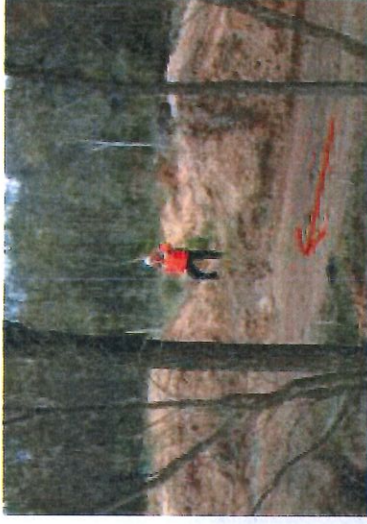



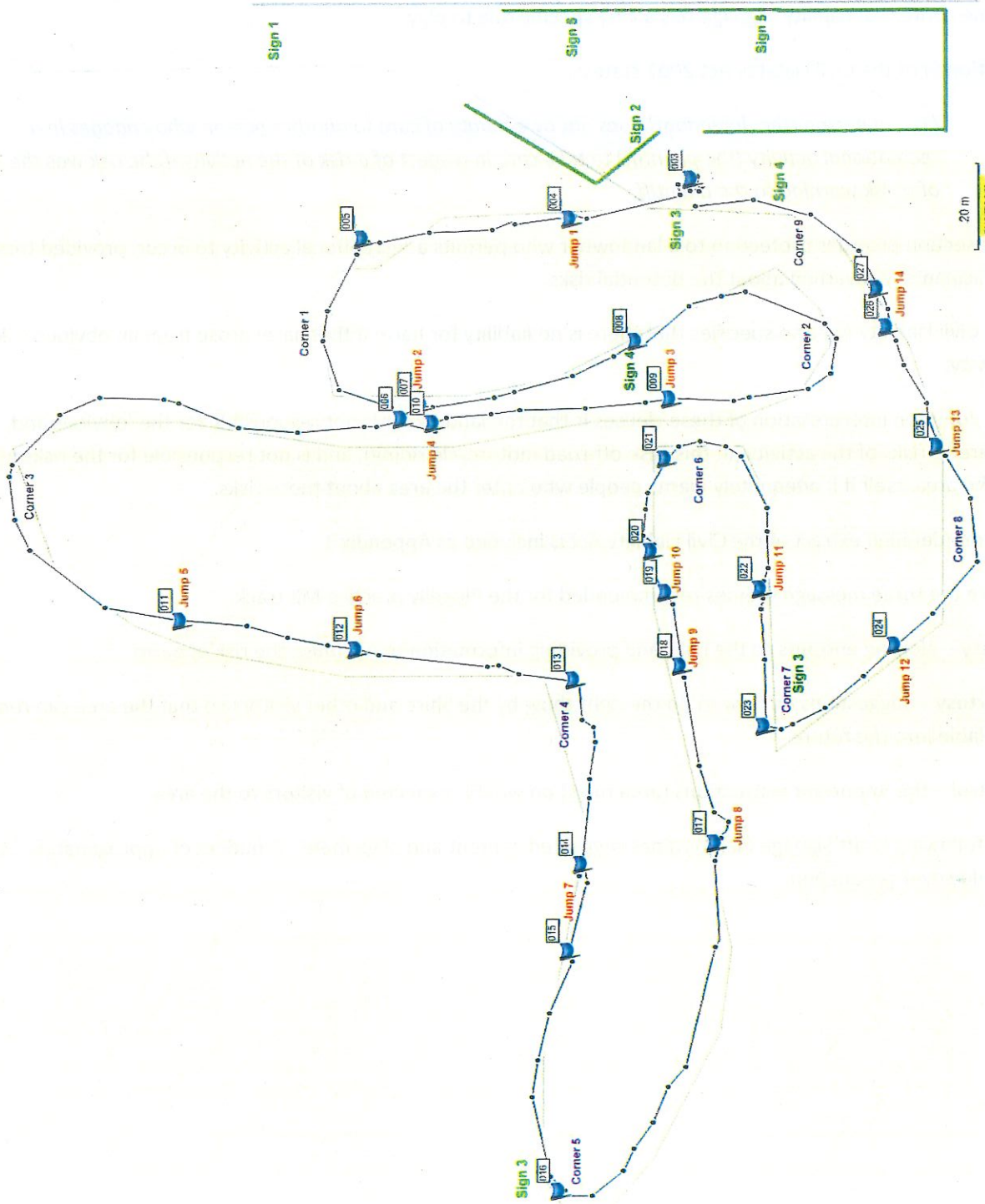
Map Ref	Coordinates	Observation	Risk	Recommendation	Image
022	32 33.152S 117 04.891E	Jump 11 - steep four foot kicker jump to a tabletop. The top of the tabletop is quite soft loose sand. A 'B' line to the left goes around this one.	Soft tabletop surface could be a problem if landing short.	Compact tabletop surface.	
023	32 33.152S 117 04.870E	Continuation of cross-trail referred to in 008.	Entry to circuit in wrong direction	Create physical barrier between trail and circuit, from Jump 11 to corner.	



Map Ref	Coordinates	Observation	Risk	Recommendation	Image
024	32 33.167S 117 04.882E	Jump 12 - another kicker jump, tabletop like. Approx 800mm kicker at the front and then a tabletop of approx 10m to the start of the down slope. This jump has a 'B' line to the right and looks to have been recently constructed.	No issues	None recommended	
025	32 33.172S 117 04.913E	Jump 13 - tabletop jump, not a particularly steep upslope and approximately 8m to start of the down slope. This one has a 'B' line to the right.	No issues	None recommended	



Map Ref	Coordinates	Observation	Risk	Recommendation	Image
026	32 33.166S 117 04.931E	Jump 14 - double jump with the middle removed. 'B' line to the left.	Refer double-jump comments at 017. This one has an additional problem in that the 'B' line of Jump 13, which was to the right, crosses to the left around Jump 14. Slower riders would therefore be crossing in front of faster riders	Fill in double to create a safer tabletop jump. Consideration should be given to creating two 'B' lines around this particular jump, one to the right-hand side being a continuation of the 'B' line from the previous jump and the other on the left-hand side being a 'B' line for those who were confident enough to take the Jump 13, but who want to avoid Jump 14.	
027	32 33.165S 117 04.936E	Jump 14 - top of the second of this double jump set	Ref 026		
028	32 33.142S 117 04.938E	Freestyle ramp	Serious Injury from inexperienced riders attempting freestyle ramp	While this user-constructed feature is probably popular with the locals, such a feature at an unattended facility poses a significant risk. Recommendation is to consult with local riders to advise them of the issue and to remove this feature.	
--	--	Surrounding bushland area has several trails suitable for use by junior / novice riders. Intersecting trails, no clear sense of direction.	Collision risk from users of different experience levels using surrounding trails.	Consider designating and signing a network of one-way trails. Encourage use as low speed, "family-friendly" novice / junior trails.	



SIGNAGE PLAN

In any unsupervised facility, effective signage is the most practical way of communicating important safety, courtesy and control messages.

In the context of liability, signage has a very specific role to play.

Section 51 of the Civil Liability Act 2002 states:

(1) ... a person (the defendant) does not owe a duty of care to another person who engages in a recreational activity (the plaintiff) to take care in respect of a risk of the activity if the risk was the subject of a risk warning to the plaintiff.

This section provides protection to a landowner who permits a recreational activity to occur, provided that participants are warned about the potential risks.

The Civil Liability Act also specifies that there is no liability for harm if that harm arose from an obvious risk of the activity.

The common interpretation of these clauses is that the landowner is not responsible for the 'obvious and inherent' risks of the activity (in this case off-road motorcycle riding), and is not responsible for the risks inherent to the area itself if it adequately warns people who enter the area about those risks.

A more detailed extract of the Civil Liability Act is included as Appendix 1.

There are three message themes recommended for the Pingelly practice MX track:

Safety – alerting entrants to the risks and providing information to minimise the risk of harm

Courtesy – suggestions on how to do the right thing by the Shire and other visitors so that the area can remain available into the future

Control – the important instructions (area rules) on what is expected of visitors to the area.

The following Draft Signage Plan outlines suggested content and placement. A budget of approximately \$1,500 should cover production.



Interim Concept Signage Plan

Pingelly Motorcycle Area

September 2009

Objective

- To alert users of the ORV Area to the specific risks of the area
- To articulate boundaries of acceptable conduct
- To provide protection under CLA2003

Suggested Messages

- Area Rules
 - Safety equipment
 - No racing – practice only
 - No alcohol
 - No cars or 4WDs beyond car park
 - Stay within boundaries
 - No littering or dumping of rubbish
- General ORV warning – Enter at Own Risk
- Specific Hazards
 - Blind corners, trail crossings
 - Other vehicles

Sign 1: Off Road Area

Quantity: 1 Size: 900 x 1200

Position: 32 33.091S 117 04.974E Prominently at main entrance

Off Road Vehicle Area Motorcycles Only



IT IS A CONDITION OF ENTRY
THAT ALL VISITORS MUST
READ THE MAIN NOTICE
BOARD AND WARNINGS
BEFORE PROCEEDING TO THE
RIDING AREA

Your safety is our concern but your responsibility

Sign 2: General Warning / Main Information

Quantity: 1

Size: 900 x 1800

Position: 32 33.141S 117 04.957E Prominently in car park near entrance to circuit.

WELCOME TO PINGELLY MOTORCYCLE AREA

GENERAL WARNING

Recreational activities such as MX, trail and quad bike riding expose the user to inherent and obvious risks.

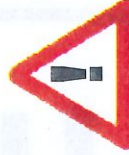
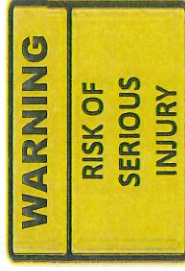
Users are warned that these risks could result in personal injury to both participants and spectators.

Persons using this facility do so entirely at their own risk.

HOW THINGS WORK AROUND HERE

1. You must read all notices
2. Circuit is one-way, anti-clockwise
3. This area is for motorcycles and quads only. No 4WDs
4. Practice only – no racing
5. Helmets and boots must be worn at all times. Full protective riding gear is strongly recommended.
6. No alcohol to be consumed within this area
7. Riders must remain within the area boundaries
8. Always do a 'sighting lap' to check for obstacles or other riders

ENJOY, BUT TAKE CARE!



BEWARE: Always keep a lookout for other vehicles.



BEWARE: Unmarked trail crossings.

Emergencies: 1111 111 111

Sign 3: One Way (Right)

Quantity: 3 Size: A3

Positioned: 32 33.145S 117 04.944E Prominent when entering circuit area
32 33.128S 117 04.800E 32 33.157S 117 4.872E



P013

Sign 4: Do Not Enter

Quantity: 2 Size: A3

Positioned: 32 33.137S 117 04.929E 32 33.154S 117 4.944E Prominent when entering circuit area



Sign 5: Don't Litter

Quantity: 2

Size: A2

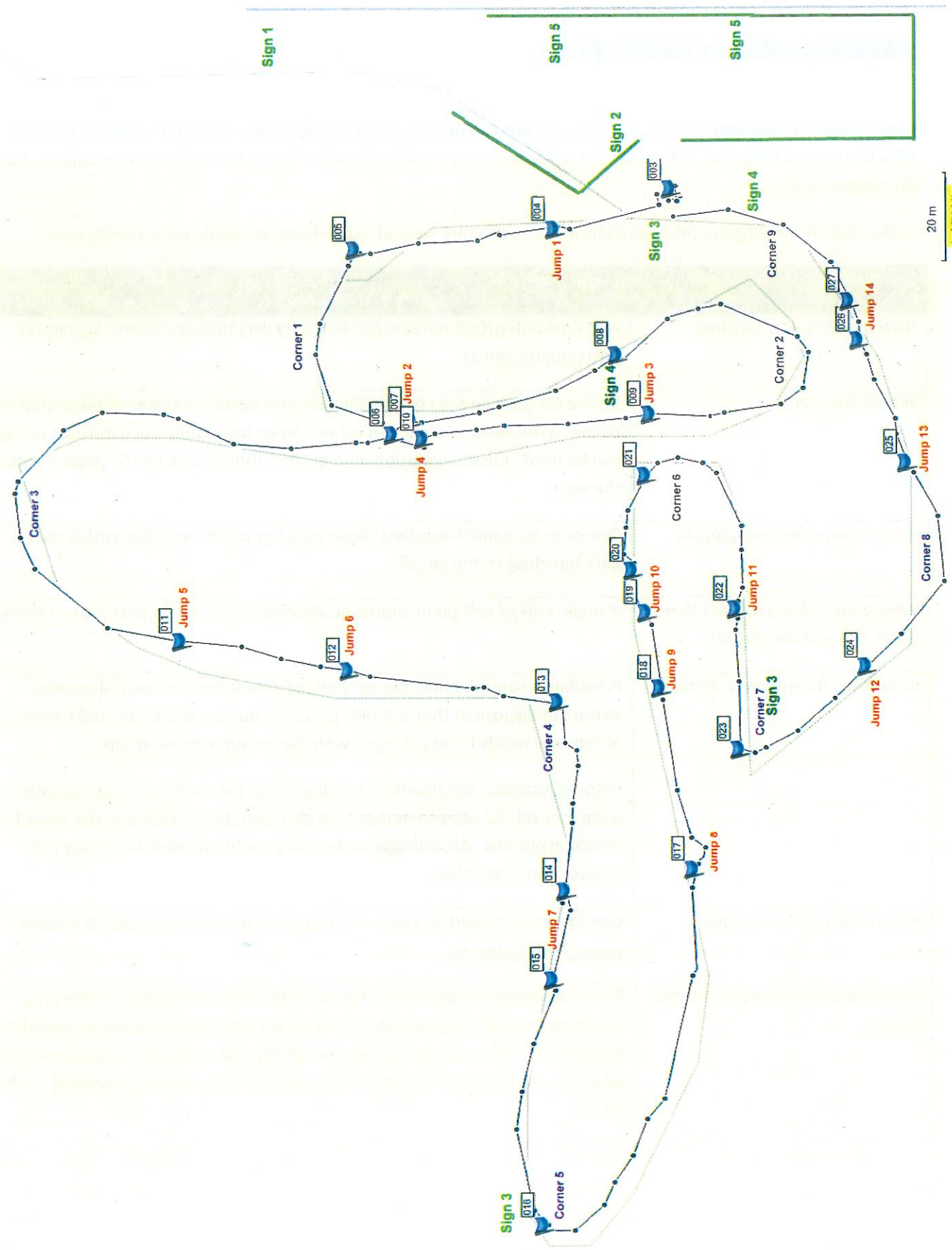
Position: Prominent in car park

**Please take your
rubbish home**



**REPORT ILLEGAL DUMPING
HOTLINE: 6467 5129**





PARKING AND FACILITIES PLAN

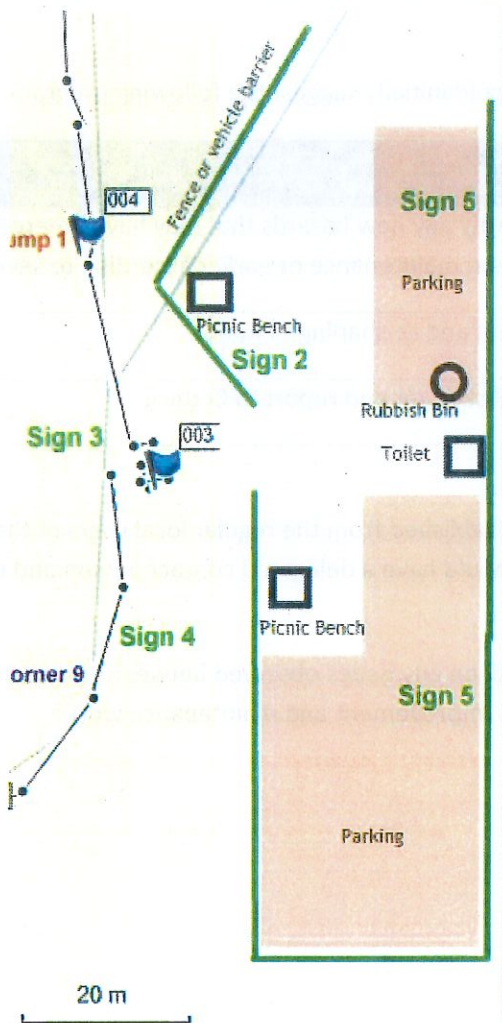
Moving from a 'tolerated' area to a 'managed' area involves shaping the behaviour of visitors. One of the most effective ways of communicating desired behaviour is by creating facilities that make it clear where visitors should do certain things.

In the case of the Pingelly Off Road Vehicle Area there are several behaviours we would want to influence:

Behaviour	Facility
How people enter the area	Maintain entry road suitable for access by cars towing trailers. Signage at entry point (Sign 1)
Where they park	Define car parking area by erecting physical barrier between parking area and circuit. Wire fence is ideal, but other barrier techniques such as rocks or logs can be used. Clear vegetation among trees (but leave trees for shade) within the area.
Where non-riders congregate	One or more vandal-resistant picnic benches can be installed within the car park but close to the circuit.
Where they ride (and how they enter and exit the circuit)	A single entry / exit point should be allowed for in the car park fence / barrier.
What they do with their rubbish	<p>Providing a rubbish bin in the car parking area is the best way of guiding visitors to dispose of their rubbish properly, but the size of bin and frequency of removal needs to be balanced with the resource implications.</p> <p>In some locations the provision of a large skip bin seems to be an invitation to dump household rubbish, however in this case the proximity to the Shire Tip should avoid this. Accordingly, a skip bin is recommended to reduce the frequency of collection.</p>
Where they go to the toilet	Consideration should be given to a waterless toilet system such as Rotaloo www.rotaloo.com.au
A general level of respect for the facility.	The combination of the above suggested facilities tells visitors to the area that they are within a planned recreation precinct that has been provided for their benefit. The more attractive the facility, the more pride local users will take in it and the easier it will be to encourage volunteer management of the facility.

CONCEPT FACILITIES PLAN

The following diagram is for indicative purposes only. It is assumed that Shire Facilities Planners, in conjunction with local users will develop specific on-the-ground plans based on the principles outlined here.



MAINTENANCE PLAN

A program of inspection and maintenance is an important element in Duty of Care. This does not suggest that the circuit and facilities need to be maintained in pristine condition at all times as it is typical for club motocross tracks, for example, to be graded only before major meetings and can become very rough and rutted between times.

The level of maintenance required will depend on the amount of use the facility attracts and will also vary by season.

From observation of the track surface we would initially suggest the following program:

Frequency	Activity
Monthly	Risk inspection to identify any new hazards that may have emerged. Rectification to be either scheduled for next maintenance or earlier according to severity.
Quarterly	Bobcat grading of circuit and re-shaping of jumps
Semi-Annual	Formal, independent Risk Audit and report to Council

A volunteer 'Friends of...' group should be established from the regular local users of the facility. This need not be a formally incorporated association, but it should have a delegated contact person and corresponding Council contact.

The 'Friends of...' group can provide feedback on any issues observed between formal inspections and can be encouraged to provide volunteers for minor improvement and maintenance work.

CODE OF CONDUCT (“How things work around here”)

It is important to clearly state the expectations of behaviour from visitors to the area.

These need not be onerous or overly restrictive, and should be communicated in a tone of “How things work around here” rather than being seen as Authoritarian Rules.

Distribution can be via prominent on-site signage, via the Shire web site and via a simple printed leaflet which can be made available through the Shire Office and relevant local businesses.

Suggested messages are:

- All notices must be read. This places the onus on the visitor to inform him/herself of all instructions, restrictions and warnings.
- All visitors – riders *and* spectators – must acknowledge the risks of remaining in the area and are responsible for their own safety.
- Circuit is one-way, anti-clockwise.
- The circuit is for motorcycles and quad bikes only – no buggies or 4WDs.
- Unless road-registered and ridden by a licenced rider, all vehicles must be trailered to the facility.
- The circuit is for practice only. It has not been designed for head to head racing.
- Helmets and boots are mandatory at all times – full protective gear is strongly recommended.
- No alcohol to be consumed within the area.
- Riders must remain within the area boundaries.
- Riders should always make the first lap (each session) a ‘sighting’ lap to check for obstacles and other riders on the circuit.
- Riders should be courteous to other riders on the circuit and take special care when there are younger riders or novices on the track.
- All visitors should deposit any rubbish in bins (if provided) or take their rubbish away with them.
- Any hazards should be reported to the Shire or the ‘Friends of...’ group.

Appendix 1: Surrounding Bushland

SURROUNDING BUSHLAND

Although not within the scope of this project, the consultants observed that the bushland surrounding the circuit itself has a series of firebreak style trails that are suitable for junior or novice riders. The overall area (including the circuit) is approximately 40Ha and it is estimated that several kilometres of trails would be possible within this area.

There is considered a strong likelihood that visitors to the circuit may also ride within this extended area, giving rise to the question of how this should be managed.

Management options include:

- Prohibit riding outside of the MX circuit. Would be difficult to enforce, would deprive junior riders and novices of an opportunity for more suitable riding terrain and would require that riders of all abilities use the main MX circuit.
- Tolerate but not promote or encourage riding outside of the MX circuit. Creates an ambiguity about whether permission has or has not been granted, would require definition of enforceable no-go areas such as the vicinity of the rifle range and the public roadway to the tip site. Would require active management to prevent proliferation of user-created trails. Duty of Care would remain, but at lower level.
- Develop this extended area as a “family trails” zone with signed, one-way trails and a risk management regime similar to that used for the MX circuit. Would extend the utility of the facility, encourage separation of novice and experience riders and provide a more family-oriented facility. However would increase the Duty of Care obligations and require definition (preferably by fencing) of enforceable no-go areas such as the vicinity of the rifle range and the public roadway to the tip site. Would require active management to prevent proliferation of user-created trails.



Appendix 2: Civil Liability Amendment Act 2002

- (4) For the purpose of determining the scope of liability, the court is to consider (amongst other relevant things) whether and why responsibility for the harm should, or should not, be imposed on the tortfeasor.

[Section 5C inserted by No. 58 of 2003 s. 8.]

5D. Onus of proof

In determining liability for damages for harm caused by the fault of a person, the plaintiff always bears the onus of proving, on the balance of probabilities, any fact relevant to the issue of causation.

[Section 5D inserted by No. 58 of 2003 s. 8.]

Division 4 — Recreational activities

[Heading inserted by No. 58 of 2003 s. 8.]

5E. Terms used in this Division

In this Division —

dangerous recreational activity means a recreational activity that involves a significant risk of harm;

inherent risk means a risk of something occurring that cannot be avoided by the exercise of reasonable skill and care;

obvious risk has the meaning given by section 5F;

recreational activity includes —

- (a) any sport (whether or not the sport is an organised activity);
- (b) any pursuit or activity engaged in for enjoyment, relaxation or leisure; and
- (c) any pursuit or activity engaged in for enjoyment, relaxation or leisure at a place (such as a beach, park or other public open space) where people ordinarily engage in sport or in any pursuit or activity for enjoyment, relaxation or leisure.

[Section 5E inserted by No. 58 of 2003 s. 8.]

5F. Meaning of obvious risk

- (1) For the purposes of this Division, an obvious risk to a person who suffers harm is a risk that, in the circumstances, would have been obvious to a reasonable person in the position of that person.
- (2) Obvious risks include risks that are patent or a matter of common knowledge.
- (3) A risk of something occurring can be an obvious risk even though it has a low probability of occurring.
- (4) A risk can be an obvious risk even if the risk (or a condition or circumstance that gives rise to the risk) is not prominent, conspicuous or physically observable.

[Section 5F inserted by No. 58 of 2003 s. 8.]

5G. Application of Division

- (1) This Division applies only in respect of liability for harm resulting from a recreational activity.
- (2) This Division does not limit the operation of Division 6 in respect of a recreational activity.

[Section 5G inserted by No. 58 of 2003 s. 8.]

5H. No liability for harm from obvious risks of dangerous recreational activities

- (1) A person (the *defendant*) is not liable for harm caused by the defendant's fault suffered by another person (the *plaintiff*) while the plaintiff engaged in a dangerous recreational activity if the harm is the result of the occurrence of something that is an obvious risk of that activity.
- (2) This section applies whether or not the plaintiff was aware of the risk.

- (3) This section does not apply if —
- (a) the plaintiff has requested advice or information about the risk from the defendant; or
 - (b) the defendant is required by a written law to warn the plaintiff of the risk.
- (4) Subsection (3) does not give rise to a presumption of a duty to warn of a risk in the circumstances referred to in that subsection.

[Section 5H inserted by No. 58 of 2003 s. 8.]

5I. No liability for recreational activity where risk warning

- (1) Subject to this section, a person (the *defendant*) does not owe a duty of care to another person who engages in a recreational activity (the *plaintiff*) to take care in respect of a risk of the activity if the risk was the subject of a risk warning to the plaintiff.
- (2) If a child suffers harm, the defendant may rely on a risk warning to a parent of the child if the parent is not an incompetent person —
- (a) whether or not the child was accompanied by the parent; and
 - (b) whether or not the child was under the control of the parent.
- (3) If a child suffers harm, the defendant may rely on a risk warning to another person who is not a parent of the child if —
- (a) the other person is not an incompetent person; and
 - (b) either —
 - (i) the child was accompanied by that other person; or
 - (ii) the child was under the control of that other person.
- (4) For the purpose of subsections (1), (2) and (3), a risk warning to a person in relation to a recreational activity is a warning that is

given in a manner that is reasonably likely to result in people being warned of the risk before engaging in the recreational activity.

- (5) The defendant is not required to establish that the person received or understood the warning or was capable of receiving or understanding the warning.
- (6) A risk warning can be given orally or in writing (including by means of a sign or otherwise).
- (7) A risk warning need not be specific to the particular risk and can be a general warning of risks that include the particular risk concerned (so long as the risk warning warns of the general nature of the particular risk).
- (8) A defendant is not entitled to rely on a risk warning unless it is given by or on behalf of the defendant or by or on behalf of the occupier of the place where the recreational activity is engaged in.
- (9) A defendant is not entitled to rely on a risk warning if it is established (on the balance of probabilities) that the harm concerned resulted from a contravention of a written law, or a law of the Commonwealth, that establishes specific practices or procedures for the protection of personal safety.
- (10) A defendant is not entitled to rely on a risk warning to a person to the extent that the warning was contradicted by any representation as to risk made by or on behalf of the defendant to the person.
- (11) A defendant is not entitled to rely on a risk warning if the plaintiff was required to engage in the recreational activity by the defendant.
- (12) A defendant is not entitled to rely on a risk warning if it is established (on the balance of probabilities) that the harm concerned resulted from an act done or omission made with

reckless disregard, with or without consciousness, for the consequences of the act or omission.

- (13) A defendant is not entitled to rely on a risk warning to an incompetent person.
- (14) The fact that a risk is the subject of a risk warning does not of itself mean —
- (a) that the risk is not an obvious risk or inherent risk of an activity; or
 - (b) that a person who gives the risk warning owes a duty of care to a person who engages in an activity to take precautions to avoid the risk of harm from that activity.
- (15) This section does not limit or otherwise affect the effect of a risk warning in respect of a risk of an activity that is not a recreational activity.
- (16) In this section —
- child* means a person who has reached 16 years but is under 18 years of age;
- incompetent person* means a person who is under 18 years of age or who, because of a physical or mental disability, lacks the capacity to understand the risk warning.

[Section 5I inserted by No. 58 of 2003 s. 8.]

5J. Waiver of contractual duty of care for recreational activities

- (1) Despite any written law or other law of the State, a term of a contract for the supply of recreational services may exclude, restrict or modify any liability to which this Division applies that results from breach of an express or implied warranty that the services will be rendered with reasonable care and skill.
- (2) No written law renders such a term of a contract void or unenforceable or authorises any court to refuse to enforce the term, to declare the term void or to vary the term.

- (3) A term of a contract for the supply of recreational services that is to the effect that a person to whom recreational services are supplied under the contract engages in any recreational activity concerned at his or her own risk operates to exclude any liability to which this Division applies that results from breach of an express or implied warranty that the services will be rendered with reasonable care and skill.
- (4) This section applies in respect of a contract for the supply of services entered into before or after the commencement of this section but does not apply in respect of a breach of warranty that occurred before that commencement.
- (5) This section does not apply if it is established (on the balance of probabilities) that the harm concerned resulted from a contravention of a written law, or a law of the Commonwealth, that establishes specific practices or procedures for the protection of personal safety.
- (6) This section does not apply if it is established (on the balance of probabilities) that the harm concerned resulted from an act done or omission made with reckless disregard, with or without consciousness, for the consequences of the act or omission.
- (7) In this section —
recreational services means services supplied to a person for the purposes of, in connection with or incidental to the pursuit by the person of a recreational activity.

[Section 5J inserted by No. 58 of 2003 s. 8.]

Division 5 — Contributory negligence

[Heading inserted by No. 58 of 2003 s. 8.]

5K. Standard of contributory negligence

- (1) The principles that are applicable in determining whether a person is liable for harm caused by the fault of the person also apply in determining whether the person who suffered harm has

been contributorily negligent in failing to take precautions against the risk of that harm.

- (2) For that purpose —
- (a) the standard of care required of the person who suffered harm is that of a reasonable person in the position of that person; and
 - (b) the matter is to be determined on the basis of what that person knew or ought to have known at the time.

[Section 5K inserted by No. 58 of 2003 s. 8.]

5L. Presumption if person who suffers harm is intoxicated

- (1) This section applies when it is established that the person whose harm is the subject of proceedings for the recovery of damages for that harm was intoxicated at the time of the act or omission that caused the harm.
- (2) This section does not apply in a case where the court is satisfied that the intoxication was not self-induced.
- (3) If this section applies, it is to be presumed that the person was contributorily negligent unless the plaintiff establishes, on the balance of probabilities, that the person's intoxication did not contribute in any way to the cause of the harm.
- (4) In this section —
- intoxicated* means affected by alcohol or a drug or other substance capable of intoxicating a person to such an extent that the person's capacity to exercise reasonable care and skill is impaired.

[Section 5L inserted by No. 58 of 2003 s. 8.]

Part 1A Liability for harm caused by the fault of a person

Division 6 Assumption of risk

s. 5M

Division 6 — Assumption of risk

[Heading inserted by No. 58 of 2003 s. 8.]

5M. Term used in this Division

In this Division —

obvious risk has the meaning given by section 5E.

[Section 5M inserted by No. 58 of 2003 s. 8.]

5N. Injured person presumed to be aware of obvious risk

- (1) In determining liability for damages for harm caused by the fault of a person, the person who suffers harm is presumed to have been aware of the risk of harm if it was an obvious risk, unless the person proves on the balance of probabilities that he or she was not aware of the risk.
- (2) For the purpose of this section, a person is aware of a risk if the person is aware of the type or kind of risk, even if the person is not aware of the precise nature, extent or manner of occurrence of the risk.

[Section 5N inserted by No. 58 of 2003 s. 8.]

5O. No duty to warn of obvious risk

- (1) A person (the *defendant*) does not owe a duty of care to another person (the *plaintiff*) to warn of an obvious risk to the plaintiff.
- (2) This section does not apply if —
 - (a) the plaintiff has requested advice or information about the risk from the defendant;
 - (b) the defendant is required by a written law to warn the plaintiff of the risk; or
 - (c) the defendant is a professional and the risk is a risk of harm to the plaintiff from the provision of a professional service by the defendant.

- (3) Subsection (2) does not give rise to a presumption of a duty to warn of a risk in the circumstances referred to in that subsection.

[Section 5O inserted by No. 58 of 2003 s. 8.]

5P. No liability for harm from inherent risk

- (1) A person (the *defendant*) is not liable for harm caused by the fault of that person suffered by another person if the harm is the result of the occurrence of something that cannot be avoided by the exercise of reasonable skill and care by the defendant.
- (2) This section does not operate to exclude liability in connection with a duty to warn of a risk.

[Section 5P inserted by No. 58 of 2003 s. 8.]

Division 7 — Professional negligence

[Heading inserted by No. 43 of 2004 s. 5.]

5PA. Term used in this Division

In this Division —

health professional means any of the following —

- (a) a chiropractor as defined in the *Chiropractors Act 2005* section 3;
- (b) a dentist, dental therapist or dental hygienist, as those terms are defined in the *Dental Act 1939* section 4;
- (c) a dental prosthetist as defined in the *Dental Prosthetists Act 1985* section 3(1);
- (d) a medical practitioner as defined in the *Medical Practitioners Act 2008* section 4;
- (da) a medical radiation technologist as defined in the *Medical Radiation Technologists Act 2006* section 3;
- (e) a midwife or nurse as defined in the *Nurses and Midwives Act 2006* section 3;

