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Minutes of the Ordinary Council Meeting held in the Council Chambers, 6 Paterson Street, Mundijong on Monday, 9 December 2013. The Shire President declared the meeting open at 7.00pm and welcomed Councillors, staff and members of the gallery.

1. Attendances and Apologies (including Leave of Absence):

In Attendance:

Councillors: K Ellis Presiding Member
 S Piipponen
 J Erren
 S Hawkins
 J Kirkpatrick
 B Moore
 J Rossiter
 B Urban
 G Wilson

Officers: Mr R Gorbunow Chief Executive Officer
 Mr B Gleeson..... Director Planning
 Mr G Allan Director Engineering
 Ms L Jones Executive Assistant to Chief Executive Officer

Apologies: Mr A Hart Director Corporate and Community
 Mrs D Baldwin Executive Support Officer

Observers: Nil

Members of the Public - 23
 Members of the Press - 1

2. Response to previous public questions taken on notice:

Lee Bond, PO Box 44, Armadale

1. Before the last Council Elections in October 2013, who was the person claiming to be a Councillor who attended a meeting with Byford and District Country Club (BDCC) along with Tony Simpson and informed BDCC they will get the Old Rifle Range for their new development?

Response:

Council has no knowledge of who was allegedly claiming to be a Councillor at this meeting and is therefore unable to respond to this question.

2. Has BDCC already lodged their application for funding to Sport and Recreation? If so what date and have they included a number of other groups in this application? If so do these groups know they have been listed on BDCC's application?

Response:

Yes. The application for funding was lodged with the Department of Sport and Recreation was lodged following the Ordinary Council Meeting on 23 September 2013, at which time Council resolved to endorse the submission of the grant application as its 2nd priority.

Letters of support were included from a number of other groups, ie: Bowls WA, Smiley Soccer After School Program, SJ Wellness Inc, Member for Darling Range Tony Simpson, Football West, Member for Canning Don Randall, Byford Keep Fit Club, Armadale Soccer Club, Byford Tennis Club, Armadale Home Help, Southern Districts Support Association Inc, Byford Weight Watchers Group and Byford Secondary College.

Co-partners Armadale Home Help Services, Southside Care Team, People Who Care, Directions Family Support Association, Southern Districts Support Association, Community Garden, Men's Shed and RSL have been included in separate applications for funding to Lotterywest and HACC. These groups are aware that they have been listed as co-partners on the applications for funding.

3. Why has the BDCC matter been listed as urgent business and who asked for this to be placed on the agenda at late notice?

Response:

This matter was listed under Item 12 – Councillor questions of which notice has been given at the request of Cr John Erren, in accordance with Standing Orders Local Law 2002, section 3.11 (1).

A formal response has been forwarded to Mrs Bond.

Stanley Lodge JP, 17 Orana Place, Byford

1. Since the last public meeting at Byford regarding Local Planning Policy No 74 (LPP 74) – Stanley Road Precinct, my wife and I had a meeting with the Manager Statutory Planning and questioned her as to the status and plans for the reserve/public open space that runs between Walter Road and Orana Place and is adjacent to our property, Lot 17 Orana Place. The question arose because Mr Dwayne Ballast stated in our home, *“The Council has given us permission or tacit approval to develop this reserve and you will eventually be pushed out anyway because we can develop right up to your fence line”*.

The Manager Statutory Planning advised us that she knew of no such arrangement but would further investigate it. Subsequently she advised us by phone that no such arrangement had ever been entered into and as far as she was concerned the reserve was to stay as Public Open Space. I therefore seek Council endorsement of this position.

2. I have noticed that development that seems inconsistent with the proposal for LPP 74 Stanley Road Precinct, is progressing on Lot 14. This lot is being extensively altered and gives the impression of a light industrial development, with a shed/sheds plus a fence which appears to be 1.9 metres high. The area involved is clearly much larger than the 480 – 500sqm blocks that we have all been told are the requirement on this development if and when it does go ahead. The main concern with this development on Lot 14 is that, at the last public meeting, it was inferred that individual piecemeal developments would not be sanctioned, yet this one is already quite advanced.

Response:

The Byford Detailed Area Plan (DAP) identified Reserve 34356 between Orana Place and Walters Road as being retained as an area of public open space. Council currently has no plans to sell or development of this reserve.

The conceptual road layout plan in the DAP report, indicated a future possible road linking Orana Place and Walters Road. If this road was constructed, it would only impact on a small portion of this reserve.

Approval has been granted for the construction of an outbuilding on Lot 14 Linton Street.

A formal response has been forwarded to Mr Lodge.

Michelle Rich, 155 Firms Road, Serpentine

Is our Council going to fight the announcement of amalgamation made by Tony Simpson? We have heard nothing from our Council since this announcement.

Response:

The Shire President advised that the Minister for Local Government met with Councillors at 5.00pm today (25 November 2013) to brief them on Local Government Reform. Following the briefing, Council is now in a position to develop a plan to save the Shire and bring community members on board to make a joint statement to the Local Government Advisory Board that this Shire will fight all the way against any amalgamation or boundary change.

A formal response has been forwarded to Mrs Rich.

Margaret Cala, 49 Phillips Road, Karrakup

Given that Council renewed its commitment to anti-amalgamation, are they going to engage in actions to further community understanding regarding the implications of the Government's preferred amalgamations, which will see Serpentine Jarrahdale disappear? The Shire (Road Board) commenced in 1897 and is part of the history of WA – how sad to think its days are numbered.

Other Council areas seem to do better than we do with public support. Leadership and the quality of independent information regarding so-called Local Government Reform in local newspapers differs dramatically and relates closely to community understanding and engagement.

How did Vincent, Victoria Park, Cockburn and others get people to their rallies? Answer: their people knew and understood the issues. Looking at last week's issue of the Subiaco Post there were no less than seven articles and three letters relating to the Government's enacting of its amalgamation of Councils and proposed changes to the *Local Government Act*. These well written, objective and analytical articles serve to give residents information lacking from either the West Australian or TV news and some other local newspapers. Isn't it up to our Council to see that our community is well informed on this matter?

Page 7 of the West on 20 November 2013, "*Minister fires back at Councils*" was, to me, revealing. Cockburn's banner, 'Help Save Cockburn' towed behind a hired plane and the City of Stirling's \$59,000 'Stay in Stirling' campaign demonstrate what some other Councils are doing.

We should have posters, banners and handouts all over the Shire with information on the impact of amalgamation. There should be signs at shops and community facilities. The previous Shire President had T-shirts and bumper stickers made but we need so much more than this if our residents are to understand how amalgamation will affect them. Council needs to be seen to be defending our Shire and we need to raise the level of community interest and knowledge.

Cockburn's website advertises a bus for people going to Parliament House to protest the changes to the *Local Government Act* this week. If this legislation is passed, it will be the effective end of Local Government as we know it in WA – not just for Cockburn. The Dadour Group based in the Western Suburbs is supporting Cockburn and we should be supporting them too and assisting in a show of strength.

Personally, I would be happy for the Shire to spend some of my rate money in a campaign to stop the Government's drive to force amalgamations and change the *Local Government Act* and save Serpentine Jarrahdale. I'm sure there are many others who would support this too.

Councillors are elected to represent our community and work for the best interests of the community. Our Council should reflect the feelings, aims and philosophy of the community. We have groups of concerned people within this Shire – some of whom have worked long and hard to put together a community submission to the Local Government Advisory Board and others who have lobbied various politicians and keep in touch with other community groups; others with a wealth of local knowledge and history – but in all of this, our Council and the imminent destruction of our Shire aren't out there in the public eye.

My questions to this Council are:

1. Does Council expect to engage the community in the dissemination of accurate information regarding the ramifications of amalgamation – and please don't legitimise the use of the term 'boundary changes'?
2. Is the Council prepared to use the many resources available in the community to fight the destruction of our Shire?

Response:

The Shire President advised that the Minister for Local Government met with Councillors at 5.00pm today (25 November 2013) to brief them on Local Government Reform. Following the briefing, Council is now in a position to develop a plan to save the Shire and bring community members on board to make a joint statement to the Local Government Advisory Board that this Shire will fight all the way against any amalgamation or boundary change.

A formal response has been forwarded to Ms Cala.

Jackie Dines, 34 Jarrahlén Rise, Jarrahdale

Would it be possible for the Shire of Serpentine Jarrahdale to fund these suggestions or at least some in order to bring to the attention of every SJ person the issues that forced amalgamation will bring to the ratepayers and residents of this Shire?

1. Provide a web page where people can register their preference (not their opinions but what they want yea or nay). This may help to give Council some idea of the viability of holding a referendum later – this could be done using one of the online survey people.
2. Advertisements in the local papers telling people that they can register their view on the new web page or at the local shops, where tickets could be setup with a ballot box.
3. Flyers sent out in the mail – giving all of the pros and cons, or just cons!
4. Posters to be put in shops/businesses – provide a ballot box at each place or as many as possible with tear off tickets that people can use to register their view. This could be done using two colours, for instance the nays could be black and the yays could be pink! Our team would be happy to help count them.
5. Banners to be erected at major events occurring around the Shire, may require two or three banners to be made up.

The team of people that we have gathered together will quite happily devote time and effort to help look after this sort of campaign, there would be no need for Shire staff to have to do it all.

I am sure that there could other ideas floated to help create a bit more interest in what is happening. As a normal course of events it seems to be that nobody cares until it is done then it is too late!

Response:

The Shire President advised that the Minister for Local Government met with Councillors at 5.00pm today (25 November 2013) to brief them on Local Government Reform. Following the briefing, Council is now in a position to develop a plan to save the Shire and bring community members on board to make a joint statement to the Local Government Advisory Board that this Shire will fight all the way against any amalgamation or boundary change.

A formal response has been forwarded to Ms Dines.

Jean Waterman, 67 Linton Street, North, Byford

With respect to the Stanley Road Precinct, if our blocks are gazetted for redevelopment, will we be rated out of our homes? Many long-time residents are of non-working age so have little ability to pay extra rates. As so many residents are against this redevelopment plan, why waste money on a plan few people want?

Response:

Properties in this area have been zoned for residential purposes for many years and are currently rated on Unimproved Values. Council has reviewed all public submissions when it considered a report on whether to finally adopt the Local Planning Policy for this area.

A formal response has been forwarded to Mrs Waterman.

Dirk de Boer, 77 Linton Street North, Byford

Our submission, which I sent to Council a few days after the initial Byford meeting on the subject of the Stanley Road, was accompanied by a rather detailed subdivision proposal. That proposal probably showed block sizes somewhat larger than Council has in mind. All I wish to add to our original submission is that it may not necessarily be a bad thing to have a mix of living sites in the area.

Does Council have a subdivision plan for that area at the moment? Council should have some idea what the subdivision plan is going to look like?

Response:

The area is identified in the Byford Structure Plan for residential development at a density of R20, with lots sizes generally around 450-500m². When local structure plans are prepared, consideration can be given to those areas that have landscape sensitivity to have some larger lots. This would allow for a mix of lot sizes in this area.

The adopted Byford Detailed Area Plan, has a conceptual plan showing possible new roads and areas of public open space. This plan is included in the DAP report (Plan N and O) and is available for viewing by the public.

There have been no detailed subdivision plans prepared for this area by Council.

A formal response has been forwarded to Mr de Boer.

Don Granwell, 62/64 Walter Road, Byford

The following question was received from Mr Granwell electronically on 20 November 2013:

Why, if the vast majority of people in the area affected by this proposal are against the proposal, ie subdivision, is the Council forging ahead as though public opinion doesn't matter? Why are they bowing to pressure from IQ Solutions (who have no financial backing) and forcing through this proposal, noting IQ Solutions (previously known as 'Stroba Group') previous track record in the area?

Response:

Council sought public comment on the draft Local Planning Policy in accordance with the requirement of Town Planning Scheme No 2. A public meeting was also held to talk to landowners and local residents about the draft Policy. Public submissions have been received and all matters raised have been carefully considered by staff and in the finalisation of the Policy.

Land in this area was rezoned from Rural to Urban in the Metropolitan Region Scheme, by the State Government many years ago. The land was then rezoned to Urban Development in Council's TPS 2 to ensure it is consistent with the State Government plans for Byford. Land in this area will eventually be subdivided into residential lots but this may be many years or even decades away. Development will only occur if a landowner or group of landowners seek to subdivide their land.

The Local Planning Policy was prepared in order to ensure the orderly and proper planning of this area in Byford that is zoned Urban, but also contains a large number of landowners. Council has previously adopted a similar policy in the Doley Road/Warrington Road area of Byford. Council's TPS 2 requires that Local Structure Plans (LSP) are prepared, prior to the subdivision of land. This Policy provides a further level of detailed planning that must occur before the land can be subdivided. Further public consultation will occur with all landowners in the area at the time an LSP is lodged for an area.

A formal response has been forwarded to Mr Granwell.

Valda Ross, 59 Linton Street North, Byford

Re Stanley Road Precinct – if the Council has already had permission to build the road, why were residents not informed? If SJ is a green Shire why is the Council hell bent on turning our area into suburbia?

Response:

The Director Planning has advised that he is not aware of any road being approved. The Byford Detailed Area Plan prepared by Council, identifies the location of future roads in this area. These are conceptual plans and may change once a local structure plan is prepared and is considered by Council.

Land in this area is zoned Urban in the Metropolitan Region Scheme and was identified by the State Government for residential development many years ago. The land is zoned for residential development, consistent with the MRS.

A formal response has been forwarded to Mrs Ross.

3. Public question time:

Public Question/Statement Time commenced at 7.01pm.

Lee Bond, PO Box 44, Armadale

1. Is Byford Land Development Company WA a registered company?
2. Why have properties in the Stanley Road Precinct been purchased by different people but are being developed by the same company?
3. Why are both the President and Deputy President going on leave at the same time?
4. Is Council aware of Government housing in the Redgum Estate in Byford?

Response:

The President and Deputy President advised that they have separate private commitments over the Christmas/New Year period and are entitled to take leave. Questions 1, 2 and 4 have been taken on notice and a response will be provided in due course.

Michelle Rich, 155 Firms Road, Serpentine

1. Is Council happy with the reporting by The Examiner regarding Local Government Amalgamation?
2. Has Council been in contact to express its concern over the lack of reporting of factual information for the community?
3. When is Council going to be in contact with the Examiner?

Response:

The President advised that he is seldom happy with what is reported in any of the newspapers. He hasn't personally been in contact with The Examiner, he will be but is not sure how soon.

Brian Phillips, 6 Cook Close, Jarrahdale

As the Serpentine Jarrahdale Men's Shed Inc is in the process of getting their Business Plan and Strategic Plan underway it is important that the committee is aware of how much money the Shire has invested in this project to date including officer time, feasibility study, land use documents/change of land status, boundary definitions and lease documents. It is a requirement of the funding partners to be aware of any in-kind and other expenditure to support any future grant funding. Could the Council please provide this information in dollar figures?

Response:

The President advised that this question has been taken on notice and a response provided in due course.

Stanley Lodge JP, 17 Orana Place, Byford

Re Stanley Road Precinct – Local Planning Policy 74
What is the proposed block size in the above precinct?

Referring to correspondence received in 2010 by myself and other ratepayers from Mr Dwayne Ballast representing 'Stroba', he stated that their expectations of the

structure plan overhaul would potentially include a rezoning change and lots could be subdivided to a minimum size of 500 square metre blocks. Up to this date we have been told nothing to the contrary but we have heard that certain residents have been told recently that plans have been passed to build many units on their land. The majority of ratepayers in this area are of mature age and this has caused great distress and uncertainty.

What is the Shire doing about this developer who is approaching landowners with what appears to be fabrications to get them out of their properties? This was proved by Council's reply to my question of 25 November 2013.

Response:

The Director Planning advised that the adopted Byford District Structure Plan identified the area as 'Urban'. The broad density in this area is R20, generally lot sizes of 500sqm but can go smaller. No plans have been lodged or approved by the Shire.

4. Public statement time:

Sylvia Whibley, 22 Cranbourne Way, Byford - on behalf of Byford Glades Residents Association Inc

We would like to thank the Shire for getting the sprinklers operating regularly, especially on the verges of Mead Street. The streetscape planters have continued to beautify that area, with plants propagated in the Whibley's backyard.

We have drafted a letter to LWP in conjunction with the Shire to hopefully establish a community garden in the strip of land facing Mead Street. LWP is to be commended on beautifying of Stage 6.10 in the Glades, also the lake section. Well done, keep it up.

Lee Bond, PO Box 44, Armadale

Once again Councillor Ellis is behaving with an arrogant careless attitude. It is a pity that this Council has not fought hard to use the natural state of the roo paddock in Byford to attract tourism. I have seen tourist buses along with ordinary residents stop to view and take photos; however Councillor Ellis and the like don't care what they destroy and with him at the helm of this Shire we will see a decline in our natural beauty. His desire to fill every inch of Byford and surrounds will have us looking like Armadale. I just can't wait for the concrete jungle and the decline in living standards. This week alone I have been told by too many people that Byford is not for them anymore. They moved here for the beauty not to view the greed of a few.

Again we have people with trucks wanting retrospective approval. What gives people the right to destroy other peoples' amenities and what gives Councils the right to allow this behaviour and then reward the offenders. These trucks use diesel fuel and that substance contains cancer causing particles. Most of us move for the freedom of clean air and natural noises. Please imagine if twenty properties all wanted a big truck, what kind of hell is that for the residents. Retrospective approval means do as you like then ask for permission. This has to stop now.

Council must take an interest in the dreadful bullying behaviour of the developers henchmen towards our senior citizens in the Stanley Road Precinct. Telling each the other is selling just to get them to sell and that they will be built up to their back doors if they don't sell is appalling. Who is responsible from within Council for this disgrace? Someone has to be.

Why would anyone even think of putting a commercial development on the corner of Kargotich and Thomas Road? Are there any Councillors who want to declare an interest in this?

Brian Phillips, 6 Cook Close, Jarrahdale

The Serpentine Jarrahdale Men's Shed Inc would like to express to the Shire of Serpentine Jarrahdale their gratitude for the significant amount of officer time invested in making sure this item comes to Council tonight. After three-four years since the Serpentine Jarrahdale Men's Shed concept was born we finally have a lease to build this much needed facility for the community and its residents. This Men's Shed will enable the intellectually impaired youth at Grassroots Holiday Haven in Jarrahdale to be engaged and to learn new skills under careful supervision. It will provide retired men with a safe environment that addresses the issues of men's mental, physical and emotional health and wellbeing in the community.

In closing, I hope that the Councillors will give their full support to this well researched project with many existing partners of which the Shire is one, as evidenced by the money and time invested.

Yvonne Lovegrove, 21 Orana Place, Byford

The President read aloud the following statement in the absence of Mrs Lovegrove:

At the last Council meeting Dwayne Ballast made a public statement, while I was not able to hear what he was saying, I have now been able to read what he said and I quote verbatim part of his statement:

"I work for IQ Construction which is the managing company of the Byford Land Development Company WA. The company was set up by landowners in the Stanley Road Precinct to facilitate landowner initiated development."

Who are all of these 'landowners' who initiated this development? One man we know of who wants to develop in this area owns four properties – is he the majority of the 'landowners'? I haven't done a door to door survey of people in the area concerned, but when I ask around in general nobody I know wants to be in on the Stanley Road Precinct development. If I was one of these interested 'landowners' I would probably turn up to the Council meetings to see why my interests were not being carried out. I only see people turn up who don't want to see this development happen.

As part of a response from the Shire to a question put forward by Mr Don Granwell at the November meeting, the Shire stated and I quote, *"Development will only occur if a landowner or group of landowners seek to subdivide their land"*.

Can we get Dwayne Ballast to show his hand about who these people are? He thought my husband and I were interested and before we knew it he came round with a contract for us to sign which, when we refused, he insisted we said we wanted to be in it. Our only interest we assured him was that we wanted to know what was going on. We still have that unsigned contract.

In some of the letters he has written, and I quote from one, *"Properties that refuse to have any form of involvement will be negatively affected in terms of value etc"*. Does this sound like blackmail and scare tactics or am I reading it wrong?

It is good that the Shire have made improvements to LPP 74 but I do hope they think very carefully before giving permission to develop this area to IQ Constructions, whose representative is less than honourable.

Public Question/Statement Time concluded at 7.14pm.

5. Petitions and deputations:

Petitions and Deputations commenced at 7.15pm.

5.1 Mr Brenton Laubsch, 64 Swamp Gum Road, Oakford

Mr Laubsch made a presentation to Council with respect to Items OCM095/12/13 and OCM096/12/13 - Retrospective Applications for Commercial Vehicle Parking, as follows:

This deputation has been prepared to highlight to Council the growing community concern, resentment and opposition to the proliferation of overnight truck parking in our Special Rural zoned suburbs, particularly those that are being allowed to operate as home based transport businesses that either resemble or are actually operating as Transport Depots, all under the guise of overnight commercial vehicle parking.

The timing of this deputation is such that Council can also consider the community view when considering the two agenda items that are on the agenda tonight.

We, as a Special Rural community, respectfully request that the Council maintains the integrity and intent of Special Rural zoned precincts within the Shire, specifically as detailed in the Shire of Serpentine Jarrahdale Town Planning Scheme No 2 (TPS 2), by restricting the use of Special Rural zoned land to hobby farms, horses and rural retreats.

Furthermore, and as an extension of the above, we ask that Council consider what the proliferation of trucks and trucking businesses within Special Rural zones are doing to our once beautiful suburbs.

Tonight, the applications in question are currently operating as home-based transport businesses that either resemble, or are indeed operating as transport depots, and have requested retrospective approval to continue to do so, under the guise of overnight commercial vehicle parking.

Item OCM095/12/13

The owner of Lot 22 Spears Drive has applied for retrospective overnight parking approval for two 12-tonne water trucks so that he can continue to operate his water cartage business from home. Please note that this is in addition to the pool fencing business that is also run from the same property. He has noted on his application that the vehicles will only each drive out and return once a day; however that is inconsistent with what happens at the property. The vehicles go in and out of the property sometimes multiple times during a single day and that is clearly evident by the mud during winter and dust and dirt during summer that is tracked out onto the road.

The previous application was rejected due to the Shire deeming the operation as a transport depot; however now they are recommending approval for overnight parking. I believe that the original assessment as a transport depot was correct as the property does indeed appear to be operating as, and looks like a transport depot.

Where it can be argued that an application can fit within two defining criteria of TPS 2, being either transport depot or overnight commercial parking, I suggest that Council then consider, what is the true intent of the applicant? Is this simply overnight parking of a vehicle whose operations are fundamentally located off site, or is this the Transport Depot or operations hub of their transport business?

The definition of Transport Depot in TPS 2 is as follows:

*Transport Depot – means any land or buildings designed or used for **one or more** of the following purposes:*

- (a) *the parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods or persons;*
- (b) *the transfer of goods (including livestock) or passengers from one vehicle to another vehicle;*
- (c) *the maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.*

Part (a) of the purposes outlined above being, “*The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods or persons*” does indeed apply. And when you consider that the applicant’s property is being used as a home depot, or business hub of their operations, with multiple trucks coming and going through the day, then I think the intent of the application is quite clear.

Therefore I respectfully request that Council apply the term ‘Transport Depot’, as originally defined by the Shire, to the application and vote against the application.

Item OCM096/12/13

The owner of Lot 40 Spears Drive has applied for overnight parking approval for one truck and trailer; however that is inconsistent with his previous and current actions. At times there have been up to four transport vehicles parked at the premises, along with excavators, bobcats and other ancillary equipment. This has continued to occur even during the time taken by the Shire to consider his application for one vehicle.

It would also appear that the vehicles are being maintained on site as they are often seen at different states of repair.

The owner of the property has also recently made changes to the property to accommodate the vehicles that include installing a large hardstand area, all without approval. This property is clearly not about simple overnight parking of one truck and trailer, but rather the running of his earthworks and transport business operations that must fit the definition of Transport Depot. If you consider that the applicant frequently has multiple heavy vehicles parked at the premises, installation of hard stand to support the heavy vehicle traffic, installation of second driveway and crossover so the applicant can get his vehicles in and out of the property, then again I think that the intention of the applicant is quite clear.

This applicant is not simply about overnight parking of a vehicle whose operations are fundamentally located off site, it is about the property being used as a trucking depot or operations hub for their earthworks / transport business.

Therefore I respectfully request that Council apply the term ‘Transport Depot’ to this application and vote against the application.

The Shire Consultation Process

I have concern and issue with the consultation process that the Shire has used to gauge opinion on the applications in question. As we now have many properties that have trucks parked or operating from their homes, I believe the consultation process is compromised and flawed at best.

As an example, the two applicants in question live opposite each other. I do not know, however I strongly suspect that each would have provided no opposition to each other’s application. Equally, if the neighbour at the rear of Lot 40, who also has trucks parked at his property was asked to comment, I also suspect that he too would not have objected. Likewise with another property owner who lives just down the road from the applicants who also parks his semi-trailer overnight. And just further around the bend

on Spears Drive we have a property owner who runs a tree lopping business who has multiple commercial vehicles and equipment to support his home based tree lopping business. Or maybe it was the property on Swamp Gum Road who infrequently, but now becoming more frequent, also parks his truck and bobcat at his home.

In the space of approximately 900 metres that includes the applicants, we can have up to 10 or 12 trucks parked at any one time. More and more we are resembling a Commercial area, rather than Special Rural.

Impact on Roads

Our roads are simply not coping with the daily movement of trucks in and out of our suburb. Road shoulders are being damaged as trucks turn in and out of properties and the road sub-base is failing in many places.

Less than 200 metres from the applicant's address the Shire has had to resurface the road due to the sub-base failing. I do not know but I suspect that this is caused by all the extra heavy traffic that the roads were simply not designed for. The ongoing cost to the Shire and therefore the ratepayers will only increase as the roads deteriorate further.

Outside of one of the truck parking properties on Spears Drive which has a semi-trailer, the road shoulder and verge on the opposite side of the road has been modified with crushed fill and small concrete culvert installed to allow the turn in and out of the property that actually extends and blocks part of the roadside drain. I suspect that the installed culvert is significantly undersized and likely installed without Shire approval. Plus the road damage at this turn in is extensive. This is symptomatic of the issues surrounding trucks that are parked on properties where the roads are unable to support the repeated heavy traffic.

Compliance

Should the Council vote to grant approval, whether conditional or not, to these applicants and quite possibly the many other applications that will likely soon be registered with the Shire, I believe that the Shire will have a huge compliance issue and the associated costs of compliance will be ongoing, even with the possible appointment of a full-time Compliance Officer that the Shire currently does not have.

In addition, do the applicants have approval to run their home based businesses from home? And in the case of one of the applicants discussed in this deputation, do they have multiple approvals to run multiple businesses on the one property? Do these home based businesses that must be measured to include their home office, heavy vehicle parking areas and maintenance facilities, fit within the limitation of 50sqm?

I suggest that the transport businesses in question cannot comply with the limitations of a home based business and there will potentially be multiple issues with ongoing compliance should these applications be approved.

Safety

The last issue that I wish to raise, and arguably the most important one, is the question of 'safety'. We can no longer safely let our children ride their bikes or walk the dog around our suburb. You never know when a heavy vehicle or truck will come barrelling along the road and it is now becoming more and more frequent.

Some of our neighbours used to ride horses around the suburb but no longer feel they are able to do so, as they also consider it unsafe.

Children or horses and heavy vehicles simply do not mix.

But aren't families, children and horses what Special Rural zoning is all about? Isn't that really the reason why many of us have built our homes or moved their families into the Special Rural zone?

Conclusion

I think that the points and issues raised above directly conflicts with the intent of Special Rural zoning and why families have either moved into, or built their homes in Special Rural zones. Ironically, as some families have moved out of the suburb because they have "had enough of the trucks" some of the new owners themselves now have trucks and the problem is escalating. I think that is because prospective owners drive around the suburb, see many other trucks parked and therefore assume that parking of trucks is OK, only the having to apply for retrospective approvals when they are told that it is not OK.

The trucking problem is escalating and people who are now applying for approval to run their home based transport businesses from home, that either resemble or are indeed operating as Transport Depots, are doing so under the guise of overnight commercial vehicle parking.

Road maintenance, ongoing compliance, environmental impacts and safety are real concerns that Council should consider carefully.

In regard to Items OCM095/12/13 and OCM096/12/13 that are on the agenda tonight, I believe that Council has scope to regard these businesses as Transport Depots and that is quite clearly demonstrated by their current operations and their intent and that the applications should be refused.

On behalf of the many concerned families in our suburb I respectfully ask that you consider these applications carefully, along with the wider impact of the many applications that are currently, or will soon be sought from Council, and the impact to the other residents and their families within the suburb.

This deputation is supported by an accompanying petition on the same subject.

Photographs attached to this deputation that demonstrate concerns have been provided for Councillors' information.

Petition

Mr Laubsch tabled a petition in opposition to overnight parking of commercial vehicles with a manufacturer's rating of load carrying capacity greater than 3-tonnes in areas zoned 'Special Rural', as follows:

"We, the undersigned, propose that Council maintains the integrity and intent of Special Rural zoned precincts within the Shire, as detailed in the Shire of Serpentine Jarrahdale Town Planning Scheme No 2, by restricting the use of the land to Hobby Farms, Horses and Rural Retreats.

Furthermore, and as an extension of the above, we oppose the proliferation of trucks and trucking businesses within Special Rural zones, and that properties are being allowed to operate as home based transport businesses that either resemble, or are operating as Transport Depots, under the guise of overnight commercial vehicle parking."

The petition containing 21 signatures was served on behalf of the listed signatories.

COUNCIL DECISION:**Moved Cr Moore, seconded Cr Rossiter**

That the petition on behalf of ratepayers and residents of Serpentine Jarrahdale, in opposition to overnight parking of commercial vehicles with a manufacturer's rating of load carrying capacity greater than 3-tonnes in areas zoned 'Special Rural' be received.

CARRIED 9/0**5.2 Mr Henry Dykstra, Dykstra Planning**

Mr Dykstra made a presentation to Council with respect to Item OCM100/12/13 - Proposed Rural Travel Stop at Lot 801 Thomas Road, Oakford, as follows:

I am here tonight on behalf of Mr Vince Borrello, owner and applicant for the Rural Travel Stop proposal at the corner of Kargotich Road and Thomas Road which is on tonight's agenda. Mr Borrello's proposal was submitted in February this year, and included a truck stop style service station and convenience store; a wine and cheese tasting tourist outlet; a rural produce store; a veterinary; and a rural stockfeeds.

In response to concerns raised during the public advertising of this proposal, and some concerns expressed by Council Planners, the application has since been modified to delete the wine and cheese tourist outlet and the rural produce store, and thereby scale back the intensity of the commercial type uses in favour of a more rural based development. The application has also been modified to delete any traffic access points to and from Thomas Road and limit these to Kargotich Road only.

Approximately three months after Mr Borrello lodged his application, an almost identical application was lodged for the Oakford Traders site along Thomas Road, several kilometres further to the west. Despite this other proposal fronting Thomas Road with full access and occurring within the Rural zoning, Council Planners recommended approval and did not classify the proposal as being of regional significance. This other nearby application has since been granted approval by the Development Assessment Panel.

Mr Borrello's proposal has been determined by Council Planners as being inappropriate in the Rural zone in this location, and hence the recommendation on tonight's agenda is that the application be rejected. Council Planners have also determined, under their own authority, that the application represents a development of regional significance, and hence they have referred the application to the West Australian Planning Commission for determination. Effectively this action has taken the decision out of Council's hands, unless Council wants to refuse the application. I am still at a loss as to how Council Planners can make this decision under their own authority, without first of all referring the application to Council for consideration.

Councillors, my request and appeal to you tonight is that you make two decisions in relation to Mr Borrello's application, namely:

Recommended Motion:

- 1. Determine that the application, in its scaled back form, no longer represents a development of regional significance and hence no longer needs to be referred to the Western Australian Planning Commission (and therefore the original referral is to be withdrawn); and**

2. That the application, in its scaled back form, is considered appropriate for this location, and therefore be granted planning approval subject to appropriate and standard conditions as determined by Council's Director Planning.

Councillors, this application has been carefully planned from the outset and was supported by a Traffic Study and other supporting planning rationale when it was lodged. This application has been significantly revised to respond to community and Planning staff concerns, particularly in terms of reducing its commercial intensity and removing any crossover to Thomas Road. Please also note that the convenience store within the development represents 205m² of retain floor space, and not 400m², as reported in the Council Planner's agenda item.

Councillors, on behalf of Mr Borrello I ask for your support for this application tonight. Thank you for your time and for your consideration.

5.3 Mr Ross Underwood, Planning Solutions

Mr Underwood made a presentation to Council with respect to Item OCM097/12/13 - Proposed Modification to Redgum North Local Structure Plan, as follows:

I am representing the proponent, North Byford Holdings Pty Ltd. As you are aware, Woolworths is seeking to establish its presence in the area, and is pursuing our site in Redgum North Estate. I, along with Woolworths, consider this site has more opportunities and fewer constraints than any other site in the area, and can be built on in the short term to cater for the growing local population.

We have read the officer's report, and consider it suitably portrays the planning and economic justification for our proposal. The officer's report notes our proposal increases the distance to the Byford Town Centre, thereby allowing the Town Centre to reach its critical mass sooner.

We support the Officer Recommendation to support the modified structure plan for advertising, and look forward to Council's endorsement of this proposal. We are happy to answer any questions Councillors may have.

5.4 Mr George Hajigabriel, Rowe Group

Mr Hajigabriel made a presentation to Council with respect to Item OCM097/12/13 - Proposed Modification to Redgum North Local Structure Plan, as follows:

I represent the owners of Lot 9500 Briggs Road which directly joins the eastern boundary of the Redgum Brook Estate North. I have with me today Mr Joe Gangemi and Mr David Woo who are my clients and are available to answer questions.

Importantly my client's land contains the eastern half of the future Malarkey Road neighbourhood centre that is proposed to service the community in this locality. The Malarkey Road Neighbourhood Centre is identified in the adopted 2005 Byford District Structure Plan as being shared between the Redgum Brook Estate and my client's land on Lot 9500 corner Thomas and Malarkey Roads. The Byford DSP identified two neighbourhood centres proposed to service Byford's future growing population. One neighbourhood centre is located in the northern precinct of the unconstructed Malarkey Road and the deviation of Thomas Road (ie San Simeon Boulevard). This location is highly accessible from all areas within the northern section of the structure plan between Thomas Road and Abernethy Road. This is reflected in the current Redgum Brook Estate Structure Plan which was adopted in November 2011 and is reflected in the Shire's Activities Centres Strategy.

The second neighbourhood centre is proposed within the southern portion of the structure plan on Doley Road centrally between Abernethy Road and Cardup Brook.

This is located on LWP's 'The Glades Estate'. Again, this is highly accessible from all areas within the southern portion of the structure plan.

You may recall that my client's local structure plan was considered by Council at its last meeting of 11 November, 2013 where consent to advertise the structure plan was granted. The actual advertising of my client's structure plan has been delayed as a result of the Redgum Brook Estate local structure plan amendment that is the subject of tonight's agenda item.

We strongly oppose the Redgum Brook Estate structure plan amendment that is being presented tonight as it proposes splitting the neighbourhood centre over two geographically separated sites that are approximately 650 metres apart rather than creating one consolidated neighbourhood centre. In addition the amendment proposes increasing the retail floor space allocation attributed to the Redgum Brook Estate.

We are of the view that relocating half of the neighbourhood centre is of no benefit to the community and represents a poor planning outcome. The proposed amendment is, in reality, an attempt to undermine the commercial viability of retail development on my client's land by preventing the establishment of a cohesive and consolidated neighbourhood centre. The attempt to undermine the efficient functioning of the consolidated neighbourhood centre is further amplified by the request to increase retail floor space allocation to the Redgum Brook Estate. This undermines the retail hierarchy that has been established through the adopted District Structure Plan and the Shire's Activities Centres Strategy. This has serious adverse investment implications that will put the progress of the future development of Byford at risk because investors will have little confidence in the planning framework that has been established through the Byford Structure Plan. The proposed amendment represents an attempt to undermine the commercial centre and contradicts the orderly and proper planning framework that has been established for the future development of the locality.

The current agreed planning framework supports the establishment of a consolidated neighbourhood centre with floor space that is shared between the two land owners and most importantly that is located so as to provide services that are convenient to most residents. Further the consolidated neighbourhood centre has been strategically located at the intersection of an important district road on San Simeon Boulevard providing a community focal point creating a localised and pedestrian friendly local centre. The planning framework has been established with the intention of coordinating the development pattern. Detailed development considerations are to be undertaken through the local structure planning process; however a fundamental and significant alteration to the agreed planning framework should not occur through a local structure plan amendment process. This contradicts the purpose and intent of establishing a District Structure Plan.

Landowners have a reasonable expectation that the agreed established planning framework will generally be followed. Commercial decisions are made on this basis with considerable expense incurred based on the agreed high level development pattern. The notion that one land owner can use subsequent planning processes to undermine the investment decisions of another landowner is not acceptable and should not be entertained by the Shire.

There may be a perception that the Redgum North LSP amendment will result in a shopping centre being constructed in the Byford north-west within the immediate future and that this could be a motivation for Council supporting such a radical amendment proposal. The Officer's Report states that a full line supermarket will be an anchor tenant. There is at least one other Development Application approved for a shopping centre that proposes a full line supermarket in Byford. This centre, however, has not been built for commercial reasons and one would question whether the same applies in this situation.

As an experienced shopping centre owner and operator our client makes the commitment that if it receives the approval for its current Local Structure Plan it will construct a shopping centre within 18 months of that approval. Further our client also has commitment from major anchor tenants for its proposed commercial land.

The integrity of existing Structure Plans is embedded in the Shire's planning documents. The Shire's Town Planning Scheme states in Appendix 15, D.A.3 for Byford, that *"each detailed Structure Plan shall comply with the relevant provisions of the Byford Structure Plan."*

The Shire's Local Planning Policy No 70 on Activity Centres states that one of the objectives of the Activity Centre Hierarchy is to *"discourage ad hoc activity centre development that is inconsistent with the Activity Centre Strategy"*.

Perhaps most importantly it is relevant to refer to the Shire's Planning Policy No 61 - Local Structure Plans, which states in Clause 7.4 that:

"A structure plan will be deemed not satisfactory for advertising, pursuant to sub-clause 5.18.3.2 c) of the Scheme, if in Council's opinion it does not and cannot reasonably comply with:

- *Serpentine Jarrahdale Town Planning Scheme No 2;*
- *Any relevant higher order Agreed Structure Plan; and/or*
- *Applicable local and state planning policies and strategies."*

The proposed amendment should not be supported at all by the Shire because the relocation of half of the neighbourhood centre is inconsistent with existing higher order agreed structure plans, namely the adopted Byford District Structure Plan and the adopted Redgum Brook Estate Structure Plan. The applicant should be required to alter the structure plan so that it reflects the agreed commercial floor space allocation and so that it positions the retail activity in a manner whereby a cohesive neighbourhood centre can be established and such that it is consistent with the existing higher order agreed structure plans as stated.

We therefore request that Council resolves the proposed amended LSP for the Redgum Brook Estate North is not consistent with the agreed planning framework and is not acceptable for advertising. Additionally we request that Council staff are directed to implement the resolution of Council from the meeting of 11 November, 2013 and proceed to advertise the Local Structure Plan for Lot 9500 Briggs Road immediately as there is no planning or other issue preventing the Council staff from doing so and further delay would be grossly unreasonable and prejudicial to my client.

6. President's report:

Amalgamation Fight

The Councillors, with the aid of the community, will launch their anti-Amalgamation fight at the Christmas Carnival on Saturday 14 December from 12 noon until 9.30pm and we invite all residents to attend. Full details will be in this week's Comment News. With the help of the SJ Ratepayers and Residents Association we will be seeking submissions from all of our community groups to put together a joint submission to the Local Government Advisory Board (LGAB). This matter is extremely urgent and we will be working through Christmas as time is of the essence.

The process is that the LGAB will advertise probably over the Christmas Break asking for submissions and a date when the submissions will have to be in by and we think that will be the end of March.

The CEO and I have met with the City of Cockburn and in fact they made a presentation before this Council meeting which was very impressive. The CEO and I will also be meeting with the City of Subiaco and the Shire of Murray soon, to ensure we have a united front to fight amalgamation.

Seniors

The Shire President opened Seniors Day at the Clem Kentish Oval on 28 November which was a great day with lots of activities for the Seniors and a live band. A good time was had by all.

Kangaroo Park

There has been a lot of concern about the safety of the kangaroos at Kangaroo Park and the Shire President has met with concerned residents and has assured them that Cedar Woods are doing all they can to help the kangaroos migrate back up into the Hills.

In the meantime food and water should be provided in the paddock in the East area. When the fences are in place all kangaroos should be removed in to the eastern and Southern paddocks

Life Cycle for CanTeen

The Life Cycle for CanTeen Committee praised the Shire of Serpentine Jarrahdale for their great support in the charity cycle ride on the Munda Biddi Trail and the equipment that the Shire provided was essential to the health and comfort at the campsites. At this stage CanTeen have approximately \$18,000 to donate to the Australian Organisation for young people living with cancer.

Fires

The Shire's Volunteer Bush Fire Brigades from Oakford and Byford have been busy with a fire off Spears Drive and a fire on a property in Serpentine. It was the quick action by the Shires emergency services teams that minimised the effects of the fire and all structures were saved. Controlled burning by the Shire will finish on 12 December and I can't stress enough how careful we must all be.

7. Declaration of Councillors and officers interest:

Cr Piiipponen has declared a financial interest in Item OCM095/12/13 – Retrospective Application for Commercial Vehicle Parking – Lot 22 (No 142) Spears Drive, Oakford in that the applicant supplies water to his premises.

Cr Wilson has declared a financial interest in Item OCM100/12/13 – Proposed Rural Travel Stop – Lot 801 Thomas Road, Oakford, in that the applicants are his son's in-laws.

Cr Urban has declared an interest by close association in Item OCM102/12/13 – Proposed Lease – Serpentine Jarrahdale Men's Shed (Inc) and Shire of Serpentine Jarrahdale, in that he has accepted a position on the board of the Serpentine Jarrahdale Men's Shed (Inc).

Cr Hawkins has declared an interest in Confidential Item OCM109/12/13 – Sale of Lot 196 (No 40) Atkins Street, Jarrahdale by Public Sale, in that she has a close association with the owner/manager of Byford Professionals.

8. Receipt of minutes or reports and consideration for recommendations:

8.1 Ordinary Council Meeting – 25 November 2013

COUNCIL DECISION:

Moved Cr Erren, seconded Cr Wilson

That the minutes of the Ordinary Council Meeting held on 25 November 2013 be confirmed (E13/4786).

CARRIED 9/0

9. Motions of which notice has been given:

OCM094/12/13	Final Approval of Byford Traditional Infrastructure Development Contribution Plan No 1 (SJ612-03)
Author:	John Ellis - Consultant
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	30 October 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

To consider and respond to the schedule of submissions and give final approval to the Byford Traditional Infrastructure Development Contribution Plan Report (DCP).

Background:

Council adopted the Byford District Structure Plan (BSP) in August 2005. This BSP provided the means whereby development of around 11,000 residential lots could proceed. The development process firstly requires the approval of Local Structure Plans (LSP) that provide greater land use detail and allow individual landowners to prepare subdivisional plans.

To date, over 2,000 lots have been subdivided within the Byford BSP area. To allow such subdivision to occur in the absence of the operable DCP, developers have been required to enter into Interim Development Deeds with the Shire. These deeds ensure DCP cost contributions can be sought when the DCP becomes operable. Local Planning Policy 75 deals with the process to acquit the Deeds following approval of the DCP Report No 1.

The DCP required to facilitate subdivision through the provision of district level infrastructure will become operable on gazettal of Amendment 168. Amendment 167, gazetted on 5 November 2013, amended Town Planning Scheme No 2 (TPS 2) by introducing the appropriate statutory powers to support the DCP. Amendment 168, anticipated to be gazetted in December 2013, sets out the scope of the DCP and incorporates it into Appendix 16A of TPS 2.

Upon gazettal of Amendment 168 to TPS 2 and Council's final approval of the Byford Traditional Infrastructure DCP Report No 1, the Byford DCP formally comes into operation. Once this occurs there will no longer be a need for developers to enter into Interim Development Deeds with the Shire.

It should be noted the cost base underpinning DCP Report No 1 is formulated on there being no existing development under the DCP. Thus all costs are seen as future costs. This is necessary, as outlined in LPP 75, to allow all Interim Development Deeds to be acquitted. Upon acquittal of the Interim Development Deeds, DCP Report No 1 will be revised to account for the past development in the Byford Development Contribution Area (DCA1). The revision will be undertaken as soon as practicable rather than the allowable period of one year.

Relevant Previous Decisions of Council:

- OCM021/08/13 – Approval to Advertise – Byford Traditional Infrastructure DCP Report
- OCM020/08/13 – Final Approval – Local Planning Policy No 75 – Interim Development Deeds – Byford Traditional Infrastructure DCP

Community/Stakeholder Consultation:

The DCP was advertised for comment on the Shire's website and provides a copy to the Byford Industry Reference Group members, Interim Development Deed holders and all major landowners in the Byford DCA where there are large lots that have subdivision potential, for a 21 day comment period. The advertising period commenced on 12 September and concluded on 4 October 2013. Two submissions were received.

Comment:

Proposal

For Council to:

- Note the Schedule of Submissions and endorse the officer comments; and
- Give final approval to the Byford Traditional Infrastructure DCP.

Response to Submissions

The Schedule of Submissions provides the following recommendations:

- 1.3 – San Simeon Boulevard
Amend Figure 3 to show roundabout on intersection of Larsen Road and San Simeon Boulevard;
- 1.4 – Byford Central District Open Space (DOS)
 - a) Additional claim (\$403,613) for bulk earthworks, not originally linked to the Byford Central DOS, accepted;
 - b) Additional claim for turf maintenance for DOS of \$115,000 accepted;
- 1.5 – West Byford Primary School / Kalimna DOS
Remove cost of concrete edging from Kalimna DOS, as this is a cost for community infrastructure;
- 1.6 – Glades Primary School DOS
 - a) Remove cost of concrete edging from The Glades DOS as this is a cost for community infrastructure;
 - b) Remove cost for under road boring as this does not relate to The Glades DOS.

DCP Report Amendments

As a consequence of the submissions, cost variations were necessary for the three DOS sites, namely:

- Byford Central DOS costs increase from \$514,169 to \$1,119,284;
- Kalimna DOS reduces from \$999,263 to \$982,485; and
- The Glades DOS reduces from \$999,263 to \$934,161.

Adjusting these cost changes through to the contribution cost per lot in the DCP, provides the following outcome:

- Precinct A increases to \$13,480 from \$13,429;
- Precincts B and D increase to \$9,319 from \$9,268; and,
- Precinct C increases to \$3,973 from \$3,922.

The Total Cost for the DCP increases by 0.41% to \$136,653,216.

Conclusion

This DCP Report represents the first report for an operable traditional infrastructure DCP for Byford. This report and incorporated cost estimates will allow the Interim Development Deed obligations to be resolved and provide a high level of cost certainty for developers.

The DCP Report displays the benefits of four public advertising periods and detailed consideration by all stakeholders. It is now a robust document that achieves, as best it can, equity and transparency for all developers tackling the task of bringing residential land to market in Byford.

Adoption of this DCP Report ensures the Shire meets the requirement of State Planning Policy 3.6 (SPP 3.6), that states *“Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.”*

Attachments:

- [OCM094.1/12/13](#) - Byford Traditional Infrastructure DCP Report No 1 – October 2013 (E13/4575)
- [OCM094.2/12/13](#) - Schedule of Submissions – Byford Traditional Infrastructure DCP Report (E13/4113)
- [OCM094.3/12/13](#) – Approval to Advertise – Byford Traditional Infrastructure DCP Report (E13/3297)

Alignment with our Strategic Community Plan:

Objective 2.3	Financial Diversity
Key Action 2.3.1	Prioritise and pursue new income streams that are financially sound and equitable, such as establishing business enterprises or asset acquisition.
Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area’s distinct rural character, create village environments and provide facilities that serve the community’s needs and encourage social interaction.

Statutory Environment:

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- SPP 3.6 – Development Contributions for Infrastructure
- TPS 2
- Amendment 167 - revise DCP text in TPS 2
- Amendment 168 – introduce Appendix 16A into TPS 2
- LPP 75 – Interim Development Deeds

Financial Implications:

The operation of the DCP has been integrated into the Shire’s Forward Capital Works and other financial plans and will have implications for the short and medium term financial capacity of the Shire. Failure to initiate the DCP will result in the Shire redirecting funds from other projects to enable ‘DCP’ infrastructure to be developed that will have implications Shire-wide over the longer term.

There are also financial and legal implications associated with the finalisation of interim development legal agreements if development contribution plans are not in place and guided by an appropriate statutory framework.

The Shire will also be eligible to recoup the \$1,448,000 million prefunding cost of establishing the DCP. Future administration recurrent costs will be recoupable when expended.

Voting Requirements: Simple Majority

OCM094/12/13 COUNCIL DECISION / Officer Recommendation:

**Moved Cr Moore, seconded Cr Kirkpatrick
That Council:**

- 1. Note the Schedule of Submissions and endorse the officer comments contained in attachment OCM094.2/12/13.**
- 2. Adopt the Byford Traditional Infrastructure Development Contribution Plan Report No 1 contained in OCM094.1/12/13.**
- 3. Note that, following gazettal of Amendment 168 to Town Planning Scheme No 2, the adoption of the Development Contribution Plan Report No 1 formally brings into operation the Byford Traditional Infrastructure Development Contribution Plan.**

CARRIED 9/0

Cr Piipponen has declared a financial interest in Item OCM095/12/13 – Retrospective Application for Commercial Vehicle Parking – Lot 22 (No 142) Spears Drive, Oakford in that the applicant supplies water to his premises. Cr Piipponen withdrew from the meeting at 7.57pm.

OCM095/12/13	Retrospective Application for Commercial Vehicle Parking – Lot 22 (No 142) Spears Drive, Oakford (P00847/06)
Author:	Tom Hockley – Senior Planner
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	29 October 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Mr Daniel Reckers
 Owner: As above
 Date of Receipt: 13 June 2013
 Lot Area: 2.06ha
 Town Planning Scheme No 2 Zoning: Special Rural
 Metropolitan Region Scheme Zoning: Rural

Introduction

To consider a retrospective application for development approval for the parking of two commercial vehicles at Lot 22 (No 142) Spears Drive, Oakford (the subject site). The vehicles are used as part of the landowner's business which involves the delivery of domestic water to the local area.

The application was advertised in accordance with the relevant provisions of Local Planning Policy 27 - Stakeholder Engagement (LPP 27). A number of submissions have been received from neighbouring landowners. The report has been presented to Council as there has been concern raised by residents in relation to this application which require consideration. It is recommended that the application be approved with conditions.

Background:

This matter was first raised in 2012 as a result of a complaint received about truck parking at this property. A development application was lodged with the Shire in November 2012 and was subsequently refused as it was determined that the proposal would fall under the definition of 'Transport Depot' which is not permitted in the Special Rural zone.

Following further investigation and discussions with the applicant, the Shire found scope to consider a revised application for 'Commercial Vehicle Parking' with additional supporting documentation to be provided by the applicant.

The current application is for the parking of two commercial vehicles only. At a site visit conducted on 6 June 2013, Shire officers observed that in addition to the two water carting vehicles (the subject of this application) other vehicles were being parked or stored on site which may also fall within the definition of commercial vehicle under the Shire's Town Planning Scheme No. 2 (TPS 2). The applicant has provided documentation to demonstrate that two of the additional vehicles identified on site are not commercial vehicles and has also confirmed that another tilt-tray truck would be removed from site immediately.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this application.

Community / Stakeholder Consultation:

In accordance with Clause 6.3 of TPS 2 and LPP 27, the application was advertised to six surrounding land owners. One letter of no objection was received and no letters of objection were received during the notification period which concluded on 15 July 2013.

During this period, Shire officers were informed that a number of surrounding residents who were notified of the previous proposal were not notified of the current proposal. On 24 July 2013 an extended advertising period was therefore initiated to the remaining neighbours to offer an opportunity to respond to the proposal with comments due by 7 August 2013. As a result of this extended consultation, two letters of objection were received as well as one additional letter of no objection.

Comment:Proposal

The proposal involves the parking of two commercial vehicles in a designated location to the south of the existing shed. The vehicle parking area will be appropriately screened from neighbouring properties and public roads.

The vehicles are proposed to be parked on the property on Monday to Friday between the hours of 5:00pm to 7:00am and on Saturdays, Sundays and Public Holidays between the hours of 3:00pm to 9:00am.

Vehicle 1 has a load capacity of 12 tonnes, a height of 3.1m and a length of 7m. Vehicle 2 has a load capacity 12 tonnes, a height of 3.2m and a length of 7m.

Statutory FrameworkTPS 2

'Commercial Vehicle Parking' is an 'SA' use within the Special Rural zone meaning that Council has discretion to approve the use after notice has been given in accordance with clause 6.3 of TPS 2.

Commercial Vehicle Parking is defined in TPS 2 as follows:

Commercial Vehicle Parking – means

- (a) *The parking of one or more commercial vehicles on any land within the Scheme Area. A vehicle shall be parked for the purpose of this definition if it is present on the subject land for more than two hours and is not in that time being used to load or unload anything, or in connection with building or development work carried on with all necessary Council approvals.*
- (b) *If a trailer or the like having no independent means of propulsion is attached to a prime mover or other motorised vehicle, the two in combination shall be regarded as one commercial vehicle for the purpose of this Scheme.*
- (c) *However where a trailer or the like is not presently attached to a prime mover or other motorised vehicle, it shall, subject to paragraph (3) be regarded as a separate commercial vehicle for the purpose of this Scheme.*
- (d) *Where there is one prime mover and one trailer on a lot, and even though not attached they are ordinarily used in combination, the two shall be regarded as one commercial vehicle for the purpose of this Scheme.*

In addition a Commercial Vehicle is defined as:

Commercial Vehicle - means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession, and without limiting the generality of the foregoing includes any van, truck, trailer, tractor and any attachment to any of them or any article designed to be an attachment to any of them, and any bus or any other passenger vehicle, or any earth moving machine whether self-propelled or not, but the term shall not include a vehicle designed for use as a passenger car or a trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or a light truck which is rated by the manufacturer as being suitable to carry loads of not more than three (3) tonnes.

The two vehicles the subject of this application would fit within this definition as they will be parked at the site for more than two hours at a time and they are capable of carrying loads of more than three tonnes. It is noted also that the vehicles do not load or unload anything on site. At the beginning of a shift, the trucks are taken to collect water from a source nearby, the water load is then distributed to customers within the local area. The trucks are then brought back to site and parked at the end of the shift.

Shire officers also observed two other delivery trucks on site. Investigation into whether the two delivery trucks would fit within the definition of Commercial Vehicle was subsequently undertaken. The Shire has formed the view that the parking of more than two 'Commercial Vehicles' at this site could not be supported on the grounds that it had potential to alter and adversely impact the residential amenity of the locality. The applicant has provided information to confirm that the two other vehicles are not Commercial Vehicles for the purpose of the TPS 2 definition as they are only capable of carrying loads of 1330kg (1.3 tonnes). The applicant has advised that these trucks are used as part of his second occupation being pool fencing. On this basis, the parking of these two pool fencing trucks is considered to be acceptable.

Clause 5.5.4 of TPS 2 contains additional provisions for commercial vehicle parking. While Clause 5.5.4 is contained within the "Residential" zone provisions of TPS 2, the wording of the Clause suggests that the provisions were designed as generic guidance rather than being specific to the Residential zone. The relevant provisions are as follows, with comments provided:

5.5.4 Parking of Commercial Vehicles AMD 67 GG 22/3/96

No commercial vehicle shall be parked on any land in the Scheme area otherwise than in accordance with the provisions of Table 1 - Zoning Table and the provisions of this Scheme for planning consent.

Commercial Vehicle Parking is an "SA" use in the Special Rural zone. The definition of Commercial Vehicle Parking does not dictate a minimum or maximum number of commercial vehicles.

5.5.5 Notwithstanding the generality of the preceding sub clause, the Council shall not grant its approval for parking of a commercial vehicle on a lot used for residential purposes, or on a lot where any adjoining lot is used for residential purposes unless:

- (a) provision is made for the vehicle to be housed in a garage, or parked behind the building line;*

The vehicles will be parked behind the building line and screened. Screening treatment will be required as a condition of approval.

- (b) *the vehicle together with its load does not exceed the following dimensions and mass:*
width 2.5m
height 4.3m
length 12.5m rigid truck or trailer
19.0m articulated vehicle
maximum mass including load 42.5 tones

Both trucks meet the provisions as outlined in Clause 5.5.5(b).

- (c) *in the Council's opinion the parking of the vehicle will not prejudicially affect the amenity of the neighbourhood due to emission of light, noise, vibration, smell, fumes, smoke or dust.*

It is considered that the actual "parking" of the vehicles can be done so without impacting on the amenity of the area. This can be achieved by locating the parking area behind the shed and developing appropriate screening treatments. It is considered that the truck movements will have most impact to this locality. The conditions of approval must be considered in relation to:

- Number of daily vehicle movements (There is an expectation that each truck will come and go once in a day. This will need to be effectively conditioned);
- Time of daily vehicle movements (The timing of daily movements has usually only considered the impact of vehicle noise on surrounding neighbours. Truck movements should also consider peak school periods where there is a higher number of vehicles and pedestrian traffic on the roads); and
- Impact on street network (A requirement of approval will be for engineering drawings indicating how the crossovers will be upgraded to ensure that they will withstand the weight of commercial vehicles. A dust management plan will also be required).

- (d) *the vehicle is predominantly used by a person who is an occupier of a dwelling on the lot where the vehicle is parked, as an essential part of the lawful occupation or business of that person. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of a dwelling on the lot, within 14 days of the Council making a request, supplies to the Council full information as to the name and occupation of the person said to be using the vehicle. The request for that information may be made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling on the lot, addressed in a general way to the occupier.*

This will be a requirement of approval.

Consideration has been given as to whether the proposed use constitutes a transport depot, which is defined in TPS 2 as:

Transport Depot – means any land or buildings designed or used for one or more of the following purposes:

- (a) The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods or persons;*
- (b) The transfer of goods (including livestock) or passengers from one vehicle to another vehicle;*
- (c) The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.*

The above uses (a) to (c) inclusive, singularly or collectively may, with Council's planning consent, include as an incidental use overnight accommodation of patrons of the facilities.

The proposed use is arguably consistent with part (a) above, but the proposal does not include activities associated with either part (b) or (c). 'Transport depot' is not a permitted use in the Special Rural zone and therefore if Council is of the opinion that the use is more consistent with the provisions 'transport depot' than 'commercial vehicle parking' it will have no option than to refuse the application accordingly.

Special Rural Zone:

The subject site is located within the 'Special Rural' zone. The purpose and intent is defined as follows:

5.9.1 The purpose and intent of the Special Rural Zone is to depict places within the rural area wherein closer subdivision will be permitted to provide for such uses as hobby farm, horse training and breeding, rural residential retreats and intensive horticulture, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of the selected areas.

5.9.4 A description of the land included in the Special Rural Zone together with any special provisions relating to the land are set out in Appendix 4.

The proposal is considered to be in accordance with the purpose and intent of the Special Rural zone and the provisions as outlined in TPS 2 on the following basis:

- The proposal will not adversely impact the rural landscape and amenity of the area as it is considered that the proposal is low intensity.
- The use of visual screening will also ensure that the rural character of the area is not impacted upon.
- The setbacks outlined in the zone (20m front and 15m side and rear) are achieved. The parking area is located 67m from the front (north) boundary, 100m secondary front (west) boundary, 30m from the side (south) boundary, and 78m from the rear (east) side boundary.
- Access to the site for fire-fighting purposes will not be impeded.
- No vegetation will be removed as part of the land use and the screening required as part of the approval will have the potential to contribute to the existing vegetation on site.
- The land use does not involve excessive nutrient application or clearing of the land.
- The proposal does not involve construction of any structure and stormwater run-off will therefore not be affected.

Submissions

The key concerns highlighted in the submissions are considered below:

Hours of Operation:

The Commercial Vehicle Details Form submitted as part of the application outlines the approximate times when the vehicles will be parked on the property:

Monday - Friday	5pm to 7am
Saturday	3pm to 9am
Sunday	3pm to 9am
Public Holiday	3pm to 9am

The applicant in their submission has confirmed that they would be willing to '*work with Council and neighbours to identify and make adjustments to either property or business operations that mitigate the loss of amenity within the locality*'. This includes limitations for

times that vehicles can leave or enter the property. In order to address this, it is intended that a condition be imposed requiring that vehicle parking shall be in accordance with the times outlined in the application on the Commercial Vehicle Details Form.

The Shire notes that the applicant has also indicated that in 'off-peak' winter periods, only one truck would be operating. It is considered that the use of one truck and parking of the other on site during the winter months would result in less impact on the amenity of the locality.

It is important to note that as seasonal rainfall varies from year to year it is difficult to accurately determine the months for which only one truck would be required for water delivery. The applicant has also noted that both trucks have different characteristics, with one truck suitable for steeper terrain and the other suitable for difficult access. For maintenance purposes it has been argued that is preferable not to have a truck standing idle for long periods of time. Therefore, during the winter months both trucks would be operating, but less frequently than in other months. So while there may be some days where one truck is parked on the property for the entire day, the applicant would still be required to adhere to the hours of operation conditions stipulating that the vehicles could only leave from and return to the property once a day and could not be started or leave the property outside the hours stated on the "Commercial Vehicle Details Form".

Vehicle movements:

Concern has been raised in relation to the vehicle movements in and out of the site during the day. The applicant has indicated that there is only one vehicle movement outwards and one vehicle movement inwards for each truck on a normal business day. This is a matter that could be appropriately addressed by conditions. However residents have observed vehicles making multiple inward and outward trips during the day. It is noted that the recommended conditions provide for vehicle parking times and other operational restrictions which will function to assist the control of vehicles movements as part of this operation.

It is recognised that the nature of the concerns raised in submissions by neighbouring landowners related to compliance matters under TPS 2. The Council must consider the implications of the enforcing conditions to ensure that the operation is conducted in the manner approved by the Shire.

Options and Implications

There are essentially two options available to Council in considering the development application:

1. Approve the application, subject to conditions.
2. Refuse to grant development approval.

Option 1 is recommended.

Conclusion

It is considered that the proposal for the parking of two Commercial Vehicles is capable of Council approval. Appropriate conditions for the regulation of the land use have been recommended and it is considered that this will ensure that the compliant use of the site in the future. It is therefore recommended that the planning application be approved as the provisions of TPS 2 have been met.

Attachments:

- [OCM095.1/12/13](#) – Location Plan and Aerial Photograph (E13/4414)
- [OCM095.2/12/13](#) – Site Plan (E13/4415)
- [OCM095.3/12/13](#) – Schedule of Submissions (E13/4408)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction.
Objective 4.1	Sustainable Industries
Key Action 4.1.1.	Target and engage sustainable, environmentally and socially responsible industries and businesses.

Statutory Environment:

- *Planning and Development Act 2005*
- TPS 2

Financial Implications:

There are no financial implications associated with this proposal.

Voting Requirements: Simple Majority

Officer Recommendation:

That Council grants retrospective development approval for the parking of two commercial vehicles at Lot 22 (No 142) Spears Drive, Oakford with the following conditions:

1. Approval is for the parking of two commercial vehicles only, as detailed on the 'Commercial Vehicles Details Form' attached to and forming part of this approval.
2. Within 30 days of the date of this approval all other commercial vehicles falling within the definition of a commercial vehicle under the Shire of Serpentine Jarrahdale Town Planning Scheme No 2, and not being approved for commercial vehicle parking under this approval, must be removed from the land.
3. Approval is specific to the applicant only and does not run with the land.
4. The owner and operator of each commercial vehicle must reside on the property.
5. Each commercial vehicle is not to be started or leave the property outside the hours stated on the "Commercial Vehicle Details Form" attached to and forming part of this approval.
6. Each commercial vehicle shall only leave from and return to the property once a day.
7. The two commercial vehicles are to be parked in the location shown on the approved site plan only and are not permitted to be parked on the adjacent road or verge at any time.
8. Within 30 days of the date of this approval, a plan outlining landscaping or screening treatments for the parking area to surrounding properties and public roads shall be submitted and approved to the satisfaction of the Director Planning, and thereafter be implemented.

9. Within 30 days of the date of this approval, engineering drawings for the upgrade of the crossover shall be submitted and approved to the satisfaction of the Director Engineering, and thereafter be implemented.
11. Panel repairs, painting, mechanical servicing, wash-down or degreasing of the commercial vehicle, in part or whole, shall not occur on site.

Advice Note:

1. All existing native vegetation on the subject site is to be retained and protected from damage as a result of commercial vehicle parking on the site unless approval is granted in writing for the removal of vegetation or the vegetation falls within that classified as exempt under clause 7.13.4 of Town Planning Scheme No 2.

OCM095/12/13 COUNCIL DECISION:

Moved Cr Kirkpatrick, seconded Cr Moore

That Council grants retrospective development approval for the parking of two commercial vehicles at Lot 22 (No 142) Spears Drive, Oakford with the following conditions:

1. **Approval is for the parking of two commercial vehicles (potable water tankers) only, as detailed on the 'Commercial Vehicles Details Form' attached to and forming part of this approval.**
2. **Within 30 days of the date of this approval all other commercial vehicles falling within the definition of a commercial vehicle under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and not being approved for commercial vehicle parking under this approval, must be removed from the land.**
3. **Approval is specific to the applicant only and does not run with the land.**
4. **The owner and operator of each commercial vehicle must reside on the property.**
5. **Each commercial vehicle is not to be started or leave the property outside the hours stated on the "Commercial Vehicle Details Form" attached to and forming part of this approval, unless the commercial vehicle is being used for emergencies and/or firefighting purposes.**
6. **Each commercial vehicle shall only leave from and return to the property once a day.**
7. **The two commercial vehicles are to be parked in the location shown on the approved site plan only and are not permitted to be parked on the adjacent road or verge at any time.**
8. **Within 30 days of the date of this approval, a plan outlining landscaping or screening treatments for the parking area to surrounding properties and public roads shall be submitted and approved to the satisfaction of the Director Planning, and thereafter be implemented.**
9. **Within 30 days of the date of this approval, engineering drawings for the upgrade of the crossover shall be submitted and approved to the satisfaction of the Director Engineering, and thereafter be implemented.**
11. **Panel repairs, painting, mechanical servicing, wash-down or degreasing of the commercial vehicle, in part or whole, shall not occur on site.**

CARRIED 5/3

Advice Note:

- 1. All existing native vegetation on the subject site is to be retained and protected from damage as a result of commercial vehicle parking on the site unless approval is granted in writing for the removal of vegetation or the vegetation falls within that classified as exempt under clause 7.13.4 of Town Planning Scheme No 2.**

Council Note: Council changed the Officer Recommendation in Item OCM095/12/13 in point 9 by including the words *“potable water tanks”* and in point 5 by including the words *“unless the commercial vehicle is being used for emergencies and/or firefighting purposes”*.

Cr S Piiipponen rejoined the meeting at 8.04pm, immediately following debate and voting on Item OCM095/12/13.

OCM096/12/13	Retrospective Development Application for Commercial Vehicle Parking – Lot 40 (135) Spears Drive, Oakford (P00910/03)
Author:	Gillian Leopold – Planning Assistant
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	28 October 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Mark McKay
 Owner: As Above
 Date of Receipt: 26 October 2012
 Lot Area: 5.7 acres (23,302m²)
 Town Planning Scheme No 2 Zoning: Special Rural
 Metropolitan Region Scheme Zoning: Rural

Introduction

To consider a retrospective application for commercial vehicle parking at Lot 40 (135) Spears Drive, Oakford. The application proposes one truck and one trailer that are used for cartage of sand and gravel that will be parked on the eastern lot boundary adjacent to a shed.

This application was lodged as a result of a complaint in 2012. During the advertising period concerns were raised in relation to the long term effect of multiple commercial vehicle applications being granted within the area which in turn may well result in deterioration of the neighbourhood and therefore produce a negative effect on property prices. It is therefore considered that this application should be determined by Council.

Background:

The application was received by the Shire in October 2012 as a result of complaints from neighbours to the Compliance Officer. Once received, the application was advertised in accordance with 6.2.1(a) of Town Planning Scheme No. 2 (TPS 2) which states:

*“That council shall give public notice of the following matters in accordance with Clause 6.3:
 (a) An application for planning consent for an “SA” use as determined by Clause 3.2.1;”*

As a result of advertising four submissions were received, two of which had no objections to the proposal.

As the proposal represents one of a number of recent applications for commercial vehicle parking received by the Shire in this locality it was decided that a comprehensive planning review be undertaken on all current applications in this area. This has resulted in the matter being delayed and is now presented to Council concurrently with the second application for a similar use on a nearby site.

Due to the concerns raised by residents this report has been presented to Council for determination.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this application.

Community / Stakeholder Consultation:

The application was referred to all landowners within a 300m radius, the rationale being that as the truck leaves the estate, properties may be affected by noise.

Comment	Officer Response
The application is contrary to the intent of Special Rural Zoning being hobby farm, horse training / breeding and rural residential retreats.	Parking of commercial vehicles is an SA use within the Special Rural Zone.
The delineation of special rural living and commercial business activities be maintained to protect the safety and lifestyle of the residents within special rural living zones.	As above
All commercial enterprises should be restricted only to properties zoned commercial and that are zoned accordingly for the intended purpose.	As above
Safety of the residents is being compromised by the increasingly frequent movements of non-essential heavy vehicles within the area. An example being that we can no longer let our children ride their bikes within the suburb due to the frequency of non-essential heavy vehicles on the residential roads within our area. This contradicts the intent of special rural living being a special and safe place to raise families.	Spears Drive is a public road and is available for use by all vehicles whether intended for private or commercial use.
The frequent movements of heavy vehicles within the area has become dangerous for horse riders, many who believe that they can no longer safely ride their horses within the suburb.	Noted
The combined impact of potentially multiple applications for commercial heavy vehicles within our area has an aggregate effect that is not being considered.	Noted
The proposed commercial vehicles are visible from the road that impacts visually on the special rural living area. The property now resembles a commercial property with heavy vehicle hard stand material now installed (unapproved), additional cross-over installed (unapproved) and has just recently chopped down a large cluster of approximately 15 year old trees (unapproved) to make room for truck parking.	These concerns were considered in the assessment of the application. Landowners are able to apply for additional crossovers to Council.
Additional earthworks machinery are now and have been parked at the premises for some time that are not included on the application.	None sighted on site visits by Planning Officers but had been present previously when the applicant was having works carried out on the land.
<p>The applicants have a demonstrated history of running a commercial earth moving business from the property being:</p> <ul style="list-style-type: none"> • Multiple commercial and heavy vehicles including additional trucks, trailers, excavators, bobcat and heavy vehicle support / maintenance vehicles being parked at the property. 	Not sighted on recent site visits but was investigated at the time of the complaint. Mechanical repairs and maintenance of trucks is a valid consideration for Council.

<ul style="list-style-type: none"> • Non-resident employees parking at the premises at the commencement of work days and leaving at the days end. • Heavy and commercial vehicle maintenance being carried out on the property. 	
The current business activities exceed the specified twenty square metres for special rural zoning and employs non-residents in the business.	Application is not for a home business.
The applicant's parking times of between 12.00pm and 12.00am is not consistent with current practices at the site.	Conditions re times can be imposed on a planning approval.
The notice of application does not restrict the applicant to vehicle movements on week days only and not weekends.	Conditions on approval regarding Sundays and Public Holidays can be imposed.
Environmental impact in regards to the heavy vehicle maintenance being performed at the property that appears to be without adequate facilities for hydro-carbon storage, waste management and oily water containment and separation.	Not applicable to this application. Application is for the parking of commercial vehicles not home business. Condition can be imposed that no maintenance shall be undertaken on site.
The open front heavy vehicle maintenance workshop visible from road looks like a commercial workshop.	Applicant applied for and was granted approval for the shed.
The road shoulder opposite the applicant's property has become damaged from trucks turning into the property.	Engineering staff are investigating this matter.
The degradation of Spears Drive appears to be accelerating with the frequent movements of heavy vehicles from properties within the area. This includes the apparent failure of the bottom course and subgrade at the Eastern end of Spears drive. Should the movements of heavy vehicles continue then major upgrades of Spears drive will be required as the road structure is becoming hazardous, causing vehicles to diverge their line.	Application is for the parking of one commercial vehicle and trailer.
The required upgrades at the Eastern end of Spears drive will cost the Shire and ratepayers a considerable amount of funds that would be better spend in other areas. The applicant should contribute to the cost of the upgrades as a condition of application approval.	As above
The Shire should carry out a community and social impact study that includes the aggregate effect of multiple commercial vehicle applications being granted within an area. With the number of trucks now being parked in the area we suspect that as existing residents begin to move out of the changing suburb, potential new residents will now see the suburb as an opportunity to buy property and also park their heavy vehicles rather than storing them at commercial premises away from the suburb.	Application is an SA use for the zoning.

Furthermore, the owners of lot 142 Spear Drive (Property Opposite) not be considered for comment in regards to the application as they are currently running a Water Cartage Business from their own premise, and their response will likely be biased to allow commercial enterprise within the area.	Noted
When we purchased our block of land to build a home on 17 years ago, we were given strict guidelines on certain restrictions relating to land uses cited in the planning scheme, deemed as 'Special Rural' and were required to sign a document indicating that we understood that these restrictions were to be observed if we wished to continue with our plans to reside within this area. We were happy to comply with these rules as we primarily wanted to live in a rural area where we could raise our children and enjoy our interest in horses without the danger that accompanies large haulage vehicles. We also feel that if this development application is granted, it would set a precedent that industrial activity within the area is accepted which in turn may well result in deterioration of the neighbourhood and therefore produce a negative effect on property prices.	Developer covenants are not a valid planning consideration.

Proposal

The proposal involves the parking of one commercial vehicle and one trailer in a designated location to the east of the existing shed. The vehicle parking area is partly screened from neighbouring properties.

The vehicle is proposed to be parked on the property on Monday to Friday between the hours of 5:00pm to 7:00am and on Saturdays, Sundays and Public Holidays between the hours of 3:00pm to 9:00am.

The vehicle has a load capacity of 11.5 tonnes, a height of 3.5m and an overall length of 16.5m, which includes the trailer. The trailer has a load capacity of 19.5 tonnes.

Statutory Framework

TPS 2

'Commercial Vehicle Parking' is an 'SA' within the Special Rural zone meaning that Council has discretion to approve the use after notice has been given in accordance with clause 6.3 of TPS 2.

Commercial Vehicle Parking is defined in TPS 2 as follows:

Commercial Vehicle Parking – means

- (a) *The parking of one or more commercial vehicles on any land within the Scheme Area. A vehicle shall be parked for the purpose of this definition if it is present on the subject land for more than two hours and is not in that time being used to load or unload anything, or in connection with building or development work carried on with all necessary Council approvals.*
- (b) *If a trailer or the like having no independent means of propulsion is attached to a prime mover or other motorised vehicle, the two in combination shall be regarded as one commercial vehicle for the purpose of this Scheme.*

- (c) *However where a trailer or the like is not presently attached to a prime mover or other motorised vehicle, it shall, subject to paragraph (3) be regarded as a separate commercial vehicle for the purpose of this Scheme.*
- (d) *Where there is one prime mover and one trailer on a lot, and even though not attached they are ordinarily used in combination, the two shall be regarded as one commercial vehicle for the purpose of this Scheme.*

In addition a Commercial Vehicle is defined as:

Commercial Vehicle - *means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession, and without limiting the generality of the foregoing includes any van, truck, trailer, tractor and any attachment to any of them or any article designed to be an attachment to any of them, and any bus or any other passenger vehicle, or any earth moving machine whether self-propelled or not, but the term shall not include a vehicle designed for use as a passenger car or a trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or a light truck which is rated by the manufacturer as being suitable to carry loads of not more than three (3) tonnes.*

Commercial Vehicle Parking is an “SA” use in the Special Rural zone. The definition of Commercial Vehicle Parking does not indicate a minimum or maximum number of commercial vehicles.

5.5.5 Notwithstanding the generality of the preceding sub clause, the Council shall not grant its approval for parking of a commercial vehicle on a lot used for residential purposes, or on a lot where any adjoining lot is used for residential purposes unless:

- (a) *provision is made for the vehicle to be housed in a garage, or parked behind the building line;*
- (b) *the vehicle together with its load does not exceed the following dimensions and mass:*
 - width 2.5m*
 - height 4.3m*
 - length 12.5m rigid truck or trailer*
 - 19.0m articulated vehicle*
 - maximum mass including load 42.5 tones*
- (c) *in the Council’s opinion the parking of the vehicle will not prejudicially affect the amenity of the neighbourhood due to emission of light, noise, vibration, smell, fumes, smoke or dust.*
- (d) *the vehicle is predominantly used by a person who is an occupier of a dwelling on the lot where the vehicle is parked, as an essential part of the lawful occupation or business of that person. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of a dwelling on the lot, within 14 days of the Council making a request, supplies to the Council full information as to the name and occupation of the person said to be using the vehicle. The request for that information may be made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling on the lot, addressed in a general way to the occupier.*

Transport depot

Consideration has been given as to whether the proposed use constitutes a transport depot, which is defined in TPS 2 as:

Transport Depot – means any land or buildings designed or used for one or more of the following purposes:

- (d) The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods or persons;
- (e) The transfer of goods (including livestock) or passengers from one vehicle to another vehicle;
- (f) The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.

The above uses (a) to (c) inclusive, singularly or collectively may, with Council's planning consent, include as an incidental use overnight accommodation of patrons of the facilities.

The proposed use is arguably consistent with part (a) above, but the proposal does not include activities associated with either part (b) or (c). 'Transport depot' is not a permitted use in the Special Rural zone and therefore if Council is of the opinion that the use is more consistent with the provisions 'transport depot' than 'commercial vehicle parking' it will have no option than to refuse the application accordingly.

Comment:

The vehicle meets the provisions as outlined in Clause 5.5.5.

- (a) The vehicle is parked behind the building line and if Council requires, then additional screening may be applied as a condition of approval.
- (b) The vehicle does not exceed the requirements of 5.5.5(b).
- (c) The amenity of the neighbourhood can be protected by the requirement of the truck being parked behind the building setback, the restriction of the vehicles movements and if required, additional screening.
- (d) The use of the vehicle can be appropriately conditioned.

Special Rural Zone:

The subject site is located within the 'Special Rural' zone. The purpose and intent is defined as follows:

5.9.1 The purpose and intent of the Special Rural Zone is to depict places within the rural area wherein closer subdivision will be permitted to provide for such uses as hobby farm, horse training and breeding, rural residential retreats and intensive horticulture, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of the selected areas.

In addition:

5.9.4 A description of the land included in the Special Rural Zone together with any special provisions relating to the land are set out in Appendix 4.

The proposal is considered to be in accordance with the purpose and intent of the Special Rural zone and the provisions of this estate, as outlined in Appendix 4 of TPS 2 on the following basis:

- The proposal will not adversely impact the rural landscape and amenity of the area as it is considered that the proposal is low intensity.
- The use of visual screening will also ensure that the rural character of the area is not impacted upon.
- The setbacks outlined in SR16 (20m front and 10m side & rear) are achieved. The parking area is located 26m from the front (south) boundary, 15m from the side (east) boundary, and 76m from the rear (north) side boundary.
- Access to the site for firefighting purposes will not be impeded.

- No vegetation will be removed as part of the land use and the screening required as part of the approval will have the potential to contribute to the existing vegetation on site.
- The land use does not involve excessive nutrient application or clearing of the land.
- The proposal does not involve construction of any structure and stormwater run-off will therefore not be affected.

Options and Implications

There are two options available to Council in considering the development application:

1. Approve the application, subject to conditions.
2. Refuse to grant development approval.

Option 1 is recommended.

Conclusion

It is considered that the proposal for the parking of a Commercial Vehicle and trailer is capable of Council approval. Appropriate conditions for the regulation of the land use have been recommended and it is considered that this will ensure that the compliant use of the site in the future. It is therefore recommended that the planning application be approved as the provisions of TPS 2 have been met.

Attachments:

- [OCM096.1/12/13](#) – Site Plan (E13/4396)
- [OCM096.2/12/13](#) – Locality Plan (E13/4397)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area’s distinct rural character, create village environments and provide facilities that serve the community’s needs and encourage social interaction
Objective 4.1	Sustainable Industries
Key Action 4.1.1.	Target and engage sustainable, environmentally and socially responsible industries and businesses

Statutory Environment:

- *Planning and Development Act 2005*
- TPS 2

Financial Implications:

There are no financial implications associated with this application.

Voting Requirements: Simple Majority

OCM096/12/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Moore, seconded Cr Wilson

That Council grant retrospective approval for the parking of a commercial vehicle and trailer at Lot 40 Spears Drive, Oakford, subject to the following conditions:

- 1. Approval is for the parking of one (1) commercial vehicle and one (1) trailer only, as detailed on the 'Commercial Vehicles Details Form' attached to and forming part of this approval.**
- 2. Within 30 days of the date of this approval all other commercial vehicles falling within the definition of a commercial vehicle under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and not being approved for commercial vehicle parking under this approval, must be removed from the land.**
- 3. Approval is specific to the applicant only and does not run with the land.**
- 4. The owner of the commercial vehicle must reside on the property.**
- 5. The commercial vehicle is not to be started or leave the property before 6:30am or return to the property after 6:30pm Monday to Friday.**
- 6. The commercial vehicle is not to be started or moved from the property on any Saturday, Sunday or public holiday.**
- 7. Each commercial vehicle shall only leave from and return to the property once a day.**
- 8. The vehicle is to be parked in the location shown on the approved site plan only and is not permitted to be parked on the adjacent road or verge at any time.**
- 9. Within 30 days of the date of this approval, a plan outlining landscaping or screening treatments for the parking area to surrounding properties and public roads shall be submitted and approved to the satisfaction of the Director Planning, and thereafter be implemented.**
- 10. Within 30 days of the date of this approval, engineering drawings for the upgrade of the crossover shall be submitted and approved to the satisfaction of the Director Engineering, and thereafter be implemented.**
- 11. Panel repairs, painting, mechanical servicing, wash-down or degreasing of the commercial vehicle, in part or whole, shall not occur on site.**

LOST 2/7

Advice Note:

- 1. All existing native vegetation on the subject site is to be retained and protected from damage as a result of commercial vehicle parking on the site unless approval is granted in writing for the removal of vegetation or the vegetation falls within that classified as exempt under clause 7.13.4 of Town Planning Scheme No 2.**

Cr Moore requested his vote in favour of the Officer Recommendation be recorded.

OCM097/12/13	Proposed Modification to Redgum North Local Structure Plan (SJ1434)
Author:	Chris Donnelly – Contract Planner
Senior Officer:	Brad Gleeson – Director Planner
Date of Report:	30 October 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Gray and Lewis Land Use Planners
 Owner: Thomas Road Developments Ltd
 Date of Receipt: 27 September 2013
 Town Planning Scheme No 2 Zoning: Urban Development
 Metropolitan Region Scheme Zoning: Urban

Introduction:

Council is requested to consider a modification to the Redgum North Local Structure Plan (LSP). The modification seeks to remove a neighbourhood centre site at the intersection of Thomas Road and Malarkey Road, and proposes a new and larger neighbourhood centre site at the intersection of Thomas Road and Kardan Boulevard, to the west.

Under the adopted LSP, the neighbourhood centre is currently located on a triangular parcel of land in the north eastern corner of the subject site. Its relocation would potentially result in a consolidated neighbourhood centre which would increase the distance of the centre from the Byford Town Centre. The modification will also result in a number of requisite changes to the LSP, including the merging of the public open space and drainage forming part of the multiple use corridor (MUC) to the north east of the site, and requiring the redesign of immediately surrounding residential land.

The proposed modification is considered to alter the intent of the LSP by increasing the floor area of the neighbourhood centre, thereby increasing the overall provision of retail floor space. It is therefore recommended that the proposed LSP modification be determined as satisfactory for advertising in accordance with clause 5.18.3.2 of the Shire's Town Planning Scheme No 2 (TPS 2).

Shire staff consider it vitally important that this proposed modification to the Redgum North LSP and the adjoining LSP for Lot 9500 Briggs Road (deemed satisfactory for advertising by Council at its meeting of 11 November 2013) be progressed concurrently. This matter is discussed further in subsequent sections of this report.

Background:

As part of the LSP amendment report provided as part of this application, an overview was provided which details the background of the current location of the neighbourhood centre:

The Byford District Structure Plan (BDSP) finally adopted in 2005 depicts a neighbourhood shopping centre primarily within Redgum Brook Estate adjacent to Malarkey Road but approximately 200 metres south of Thomas Road.

The Byford DSP identifies a portion of the neighbourhood centre as falling within the neighbouring Lot 9500 Briggs Road. This has presented an on-going challenge in progressing planning as each landowner has sought to include commercial land within their proposals. The achievement of a coordinated and integrated neighbourhood centre

development outcome in the context of the neighbourhood centre being split over two landholdings has been a challenge).

A Local Structure Plan for Redgum Brook (south of the creekline) was adopted in 2006 showing the location of this neighbourhood shopping centre generally in accordance with the BDSP.

During the preparation of the Local Structure Plan for Redgum Brook (north of the creekline), it was decided to relocate the neighbourhood centre shopping centre further to the north with direct frontage to Thomas Road to maximise the sites exposure to passing trade.

The adopted Redgum North Local Structure Plan (LSP) showed the relocated neighbourhood shopping centre comprising a site area of approximately 1.2 hectares on the western side of the intersection of Malarkey Road and Thomas Road. The potential to expand the centre east of Malarkey Road onto Lot 9500 was also noted.

After advertising, Council resolved to approve the LSP subject to a modification requiring the preparation of a detailed area plan for the neighbourhood centre. The purpose of this detailed area plan was to ensure that a coordinated development outcome for the neighbourhood centre was achieved, given that it was to be split between two landholdings).

Subdivision approval was granted by the Western Australian Planning Commission (WAPC) on the 15 November 2011 (WAPC Reference: 143077) to create Stage 8 (including the 1.2 hectare neighbourhood shopping centre site). A condition was imposed requiring the preparation of a holistic Detailed Area Plan (DAP) for the neighbourhood shopping centre including the possible expansion east of Malarkey Road. An extensive list of planning, traffic, environmental and engineering issues were required to be addressed in the preparation of such holistic DAP.

No Structure Plan has been finalised for Lot 9500 east of Malarkey Road and therefore in the absence of such planning it is not possible to prepare a DAP and progress with the creation of the lot for the neighbourhood shopping centre as approved under WAPC 143077.

With regard to the final paragraph above, it should be noted that Council has recently determined that a LSP for Lot 9500 Briggs Road was satisfactory for advertising, showing a neighbourhood centre designation at the intersection of Thomas Road and Malarkey Road.

The LSP for Lot 9500 Briggs Road and the proposed modification to the Redgum North LSP (subject of this report) need to be considered and progressed concurrently due to both proposals seeking alternative outcomes for the neighbourhood centre in terms of size, form, function and location. The final location of the proposed neighbourhood centre will have consequences for both LSPs. It is therefore the intention of the Shire to progress both proposals in parallel through the statutory consideration and approvals process.

Relevant Previous Decisions of Council:

- SD063/11/11 – Council resolved to finally adopt the Redgum Brook North LSP
- OCM123/01/13 – Council resolved to adopt the proposed modification to the Redgum Brook North LSP to increase the Residential Density Code of portions of stages nine and 10 from R20 to R25
- OCM076/11/13 - Proposed Local Structure Plan – Lot 9500 Briggs Road, Byford (SJ1045)

Community / Stakeholder Consultation:

No community consultation has taken place at this stage of the assessment process; however if supported, the proposed LSP modification will be advertised for a period of 28 days by way of:

- Letters to all landholders within a 500 metre radius of the LSP boundary and extending south to include all lots in the Byford Trotting Complex up to Abernethy Road;
- Referral to relevant government agencies and local community groups;
- Advertisements in the local newspaper;
- Publication on the Shire's website; and
- Copies made available at the Shire Administration Building and Library.

Should Council determine that the proposed modification to the LSP for Redgum North is satisfactory for advertising, Shire staff propose to advertise the modified LSP concurrently with the adjoining and related LSP for Lot 9500 Briggs Road. This will ensure that all stakeholders can review and provide comment on both LSP's. The Department of Planning have provided feedback supporting this approach to advertising.

Comment:

Proposal

This report provides Council with the opportunity to consider a modification to the adopted Redgum Brook North LSP. The proposed modification seeks to relocate the neighbourhood centre to the eastern side of the Thomas Road and Kardan Boulevard intersection. The key elements of the proposed LSP modification are outlined below.

Neighbourhood Centre

The neighbourhood centre is currently identified at the intersection of Thomas Road and Malarkey Road and contained within the Redgum Brook Estate – North LSP and the draft Lot 9500 Briggs Road LSP. The centre extends over both sides of Malarkey Road, comprising 1.14ha of land to the west and 1.5ha on the eastern side, totalling 2.64ha of land area. The size of the neighbourhood centre as proposed by the existing approved Redgum North LSP and the draft Lot 9500 Briggs Road LSP is generally consistent with the Byford DSP and the Shire's Activity Centres Strategy.

The location of the existing neighbourhood centre site is also generally consistent with the DSP. The DSP states that this location was selected as it was highly accessible from all areas within the northern section of the Byford DSP between Thomas Road and Abernethy Road. The proposed amendment to the Redgum Brook Estate – North LSP involves the portion of the neighbourhood centre on the western side of Malarkey Road being relocated approximately 650 metres to the eastern corner of Thomas Road and Kardan Boulevard.

The applicant has provided the following justification for the proposed modification:

- *“Will directly front a fully constructed high volume neighbourhood connector with direct linkage to Abernethy Road and beyond to the Byford Town Centre;*
- *Achieving a regular shaped readily developable lot with high commercial exposure to maximise use of passing trade;*
- *Ensuring existing and future residents will be provided with adequate retail, service and employment opportunities in the shorter to medium term without reliance on planning and development of neighbouring lots which has not substantially progressed;*
- *Maximising opportunities to achieve a good urban design outcome, better land use integration and providing a focal entry statement on the intersection of Kardan Boulevard and Thomas Road into Redgum Brook Estate;*

- *Increasing security and passive surveillance of the relocated neighbourhood centre;*
- *Increasingly the number of dwellings within a walkable catchment of the relocated neighbourhood centre and reducing reliance on car dependency for future local residents;*
- *Increasing the distance between the Neighbourhood Centre and Byford Town Centre whilst maximising accessibility to Tonkin Highway;*
- *Improving the distribution and functionality of planned open space with increased allowance for vegetation retention.”*

Public Open Space and Drainage

The proposed relocation of the neighbourhood centre has resulted in no change to the overall public open space calculations. With the removal of the neighbourhood centre from the western corner of Malarkey Road and Thomas Road, the drainage function of the MUC in this location can be enhanced and developed. It is recognised that this location forms a linkage point for both the Thomas Road drain and the future MUC which will extend from Lot 9500 Briggs Road to the east.

In the centre of the LSP, the small areas of public open space abutting the residential lots have been modified to accommodate the redesigned lot layout. The public open space in this location will continue to function to buffer and extend the northern side of the MUC.

The public open space to the west of the LSP has been reduced in size to accommodate three additional Composite Residential / Light Industrial lots. The reduction in public open space in this location is considered acceptable given the established connection to the MUC to the south which has not been altered. This loss in public open space is compensated by the former neighbourhood centre site to the east. This relocation of public open space is supported as it will also enable the retention of a larger number of trees.

Grouped Housing Site

The existing R60 grouped housing site in the north west of the LSP has been retained and extended to compensate for the loss of residential density as a result of the increased neighbourhood centre land area. The extension of the land area of this grouped housing site is supported in this location as it will present opportunities for a coordinated residential design outcome in a prominent position on Thomas Road in proximity to the neighbourhood centre.

The modified LSP requires the preparation of a detailed area plan to guide the development of the proposed R60 site. The requirement for a detailed area plan will provide an opportunity to address key matters such as the interfaces with Thomas Road and the adjacent multiple-use corridor.

Residential Density and Lot Layout

The residential lots adjacent to the proposed neighbourhood centre have been amended from a mixture of R20 and R30 lots to a uniform R30 density. The modified LSP also includes a R40 grouped housing site in the south west corner of the modification area adjacent to Kardan Boulevard.

The proposed modification increases the number of residential lots which directly abut the public open space and MUC to the south of the amendment area. In order to achieve improved outcomes for the retention of trees as well as mitigating fire risk, a hard edge in the form of a road would be the preferred interface to public open space. It is noted that the amended LSP includes the requirement for Detailed Area Plans (DAPs) to be prepared for these residential lots. Therefore, this may enable suitable design outcomes to ensure dwellings are buffered with other forms of hard edge treatments such as pathways or hard landscaping.

Road Layout

The modified road layout includes a network of local roads and laneways which will result in predominately rear loaded housing stock. In the context of the neighbourhood centre, this design outcome would result in additional on-street parking opportunities and pedestrian safety with a reduction in driveways.

Composite Residential / Light Industrial Zone

As a result of the reduction of the public open space to the west of the LSP, three additional Composite Residential / Light Industrial lots have been provided. This is considered to be the most appropriate design outcome in this instance as it will provide for an orderly continuation of the street block and zoning.

Activity Centres Strategy

Location of Neighbourhood Centre

The Shire's Activity Centres Strategy identifies two neighbourhood centres to be located in Byford, including one at north west Byford. The proposed relocation would result in the separation of the neighbourhood centre with 2.4ha of land for the centre proposed at the intersection of Kardan Boulevard and Thomas Road and 1.5ha remaining east of Malarkey Road. The Activity Centres Strategy provides the framework for a hierarchical network of centres in the Shire where retail / commercial and employment activities are to be distributed. The separation of the north west Byford neighbourhood centre does not conform to the hierarchy of centres and would result in dispersed development which is discouraged. Concurrent advertising of the modified Redgum North LSP and Lot 9500 Briggs Road LSP will allow for this matter to be investigated by various stakeholders, ensuring that an informed decision is made with regard to the eventual location, size, form and function of the neighbourhood centre.

The proposed site for the neighbourhood centre is located further away from the Byford Town Centre (district centre) and The Glades (neighbourhood centre) than the current site. The Activities Centres Strategy emphasises the importance of neighbourhood centres being distributed at appropriate distances to support district nodes. Given that a full line supermarket is proposed for the neighbourhood centre, an increase in distance from the Byford Town Centre (district centre) from 3.6km to 4.1km may be advantageous, to minimise catchment overlap and competition.

It is also stated in the Activity Centres Strategy that centres should be located to assist with retail exposure and accessibility. The proposed location of the neighbourhood centre would maximise retail exposure being in close proximity to the future Tonkin Highway and having frontage to Thomas Road.

Retail Floor Space

The Activity Centres Strategy states that the north west Byford neighbourhood centre has a retail floor space allocation of 5000m² of net lettable area. Based on the standard ratio of 1:5 of floor space to land area, a 5000m² neighbourhood centre would require a 2.5ha site. The current site which extends on both sides of Malarkey Road comprises an area of 2.64ha, and is generally consistent with the floor space to land area requirement. The proposed LSP modification involves an increase to the site area of the relocated western portion of the neighbourhood centre from 1.14ha to 2.4ha. The amendment would result in the total neighbourhood centre site area equalling 3.9ha, including the 1.5ha east of Malarkey Road. If the floor space to land area ratio of 1:5 was applied to this scenario, the centre would have a retail floor space of 7800m² of net lettable area. A supermarket and liquor store have already been proposed to locate at the new neighbourhood centre site, which will together cover an area of 4000m². This increase significantly varies the allocated 5000m² of floor space over the two separate sites and would not be appropriate for the role of a neighbourhood centre.

The application states that the increase in retail floor space resulting from the LSP modification will contribute to the significant undersupply of commercial and employment activities in the Byford DSP, given the area is to accommodate a population of 30,000. However, the Shire's Activity Centres Strategy has determined retail floor space allocations for the Byford DSP area based on the population capacity of 30,000 people. It was determined there is a demand for approximately 27,900m² net lettable area of retail floor space in the Byford DSP area, with as previously stated, 5000m² to be located at north west Byford. The Activity Centres Strategy identifies the floor space range as an important statutory control to ensure the role of the neighbourhood and convenience centres can be effectively managed.

State Planning Policy No 4.2 – Activity Centres for Perth and Peel

State Planning Policy No. 4.2 – Activity Centres for Perth and Peel (SPP 4.2) guides the establishment of a hierarchy of centres throughout the Perth Metropolitan and Peel regions. The hierarchy is implemented at various stages in the planning process, including through the preparation of local government activity centre strategies, district structure plans and local structure plans.

The Department of Planning (DOP) has a key interest and role in implementing the SPP 4.2, and does this through the review and assessment of various planning frameworks, including local structure plans proposing centre development.

Initial discussions have been had between Shire and DOP with regard to the proposed modification to the Redgum Brook North LSP and adjoining draft LSP for Lot 9500 Briggs Road in the context of the neighbourhood centre. DOP has identified several matters which will need to be considered as part of the consultation process for the proposals, including:

- The manner in which the LSP's will impact on the broader hierarchy of centres in the Byford DSP area.
- The manner in which the LSP's may impact on the Byford Town Centre.
- The need for a retail sustainability assessment.

Consideration of these matters will require a detailed review of the information provided in support of the application including the Neighbourhood Centre Assessment and Retail Catchment Report. SPP 4.2, the Shire's Activity Centres Strategy and the Byford DSP will provide a basis to consider the proposal and its supporting documentation. It should be noted that a suitably qualified consultant may be engaged to undertake an independent review of the information provided.

Byford Town Centre

The Shire has invested significant resources into progressing planning for the Byford Town Centre. A key matter in considering the proposed LSP modification will be whether there will be any resulting impact on development of the Byford Town Centre, both in terms of timing and long-term potential. In this context, the Shire's Activity Centre Strategy states that:

'Given the distance to larger centres it will be important to retain jobs and retail expenditure. This will be achieved through the delivery of district centres that can reach critical mass thresholds that attract customers, workers and residents and function as microcosms of activity.'

This matter will be further considered during the consultation process by all parties.

Structure Plan Guidelines

A key consideration for Council is whether the modification proposed to the LSP is deemed to be minor or major in nature. The WAPC's 'Structure Plan Preparation Guidelines' (the guidelines) provides guidance in this matter.

In terms of what constitutes a minor or major modification, the guidelines state:

- *“A ‘minor’ modification to a structure plan is a change or departure that does not materially alter the intent of the structure plan.*
- *A major modification to a structure plan is any change or departure not defined as a minor modification.”*

The guidelines provide a number of examples which may constitute a ‘minor’ modification. This includes the following example:

- *“modifications to the size and location of activity centres, high schools, primary schools, public and community purpose sites that do not alter the overall distribution of, or accessibility to, these land uses (note - consultation must be undertaken with the Department of Education if any modification is proposed to high schools or primary schools)”*

In the opinion of Shire officers, the proposed LSP modification alters the distribution of land associated with the northwest Byford neighbourhood centre. On this basis, the LSP modification is deemed to be a ‘major’ modification. The following provisions of TPS 2 will apply.

Town Planning Scheme No 2

The power for Council to adopt a modification to a LSP is conferred in clause 5.18.4.1 of TPS 2 as follows:

“The local government may adopt a minor change to or departure from a Structure Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Structure Plan”.

Based on the guidance provided by the Structure Plan Guidelines, it is considered that the modification to the LSP does materially alter the intent of the Structure Plan. Clause 5.18.4.3 is then applied:

“Any change to or departure from a Structure Plan that is not within clause 5.18.4.1 is to follow the procedures set out in clause 5.18.3”.

The proposed LSP modification is therefore considered to be satisfactory for advertising in accordance with clause 5.18.3.5 of TPS 2.

Options

There are three options available to Council with respect to the proposed LSP modification, as outlined below:

1. Pursuant to Clause 5.18.3.2 (a) of TPS 2, determine that the proposed LSP modification is satisfactory for advertising.
2. Pursuant to Clause 5.18.3.2 (b) of TPS 2, determine that the proposed LSP modification is not to be advertised until further modifications are undertaken.

3. Pursuant to Clause 5.18.3.2 (c) of TPS 2, determine that the proposed LSP modification is not satisfactory for advertising and give reasons for this to the proponent.

Option 1 is recommended.

Conclusion

Shire staff recommend that the proposed modification to the Redgum North LSP be deemed satisfactory for advertising. It is important that the proposed modification to the LSP and the draft LSP for Lot 9500 Briggs Road be advertised concurrently. This method of advertising is prudent to ensure that both proposals can be thoroughly scrutinised and that input can be received from various stakeholders including the proponents and landowners, surrounding landowners, State Government agencies (the DOP in particular) and the community. Feedback and analysis of both proposals is needed to ensure that an appropriate and informed decision can be made with regard to the eventual location, size, form and function of the neighbourhood centre.

Attachments:

- [OCM097.1/12/13](#) – Proposed Modification to LSP (E13/4432)
- [OCM097.2/12/13](#) – Explanatory Plan (E13/4433)
- [OCM097.3/12/13](#) – Structure Plan Amendment Report (IN13/17538)
- [OCM097.4/12/13](#) – LSP – Lot 9500 Briggs Road, Byford (IN13/15334)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.2	Provide appropriate amenities and accommodation for the Shire's growing population of youth and seniors.
Objective 5.2	Excellence in Environmental Management
Key Action 5.2.1	Protect, restore and manage our landscapes and biodiversity.

Statutory Environment:

- TPS 2
- *Planning and Development Act 2005*

Financial Implications:

There are no direct financial implications associated with the progression of the proposed modification to the LSP.

Voting Requirements: Simple Majority

OCM097/12/13 COUNCIL DECISION / Officer Recommendation:

**Moved Cr Moore, seconded Cr Rossiter
That Council:**

1. Pursuant to Clause 5.18.3.2 (a) of Town Planning Scheme No 2 determine that the proposed modification to the Redgum North Local Structure Plan is satisfactory for advertising.

- 2. Invite comment on the proposed modified Local Structure Plan for a period of 28 days by way of:**
 - a) Letters being sent to all landholders within a 500 metre radius of the LSP boundary and extending south to include all lots in the Byford Trotting Complex up to Abernethy Road;**
 - b) Referral to relevant government agencies and local community groups;**
 - c) Advertisements in the local newspaper;**
 - d) Signs on site;**
 - e) Publication on the Shire’s website; and**
 - f) Copies made available at the Shire Administration Building and Library.**
- 3. Advertise the proposed modification to the Redgum Brook North LSP concurrently with the draft LSP for Lot 9500 Briggs Road, previously determined satisfactory for advertising by Council at its meeting of 11 November 2013.**
- 4. Require the Manager Statutory Planning and Director Planning to meet with the Department of Planning and present the proposed modification to the Redgum Brook North LSP and draft LSP for Lot 9500 Briggs Road, seeking a detailed review and submission on the proposals.**

CARRIED 5/4

OCM098/12/13	Proposed Modification No 7 to Byford Main Precinct Local Structure Plan (SJ1561)
Author:	Tom Hockley – Senior Planner
Senior Officer:	Brad Gleeson – Director Planner
Date of Report:	30 October 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Taylor Burrell Barnett
 Owner: LWP Property Group
 Date of Receipt: 9 October 2013
 Town Planning Scheme No 2 Zoning: Urban Development
 Metropolitan Region Scheme Zoning: Urban

Introduction:

Council is requested to consider a modification to the Byford Main Precinct Local Structure Plan (LSP). The modification is sought update the subdivision and land use layout for the Orton Road North precinct. Residential density codings and Public Open Space (POS) areas are modified but generally remain in locations consistent with the adopted LSP.

In the opinion of officers, the proposed modification is considered to not alter the material intent of the LSP. Accordingly, it is recommended that Council adopt the proposed modification and advise both the applicant and the Western Australian Planning Commission (WAPC).

Background:

The proposed modification has been lodged in conjunction with an application to subdivide portion of Lots 8, 9, 11 and 184 Orton Road, Byford. The Shire has recommended to the WAPC that subdivision application 148604 be deferred until the current proposed modification to the LSP is finalised. This was intended to provide the Shire with an opportunity to address any design issues with the amendment which were identified through review by Shire officers.

Relevant Previous Decisions of Council:

- OCM144/02/13 – consideration and adoption of a minor modification to the LSP.

Community / Stakeholder Consultation:

The Byford Main Precinct LSP was advertised extensively during its original progression, prior to adoption by Council and approval by the WAPC. No community consultation has been progressed for the current proposal. It is open to Council to determine that the proposed modification 'alters the material intent' of the LSP and therefore requires the modification to be progressed as a 'major modification', including a requirement for public advertising, adoption by Council and approval by the WAPC. Advertising is not recommended for this proposal.

Comment:Proposal

This report provides Council with the opportunity to consider a modification to the adopted Byford Main Precinct LSP. The proposed modification seeks to modify the subdivision and land use layout for the Orton Road North precinct. Residential density codings and POS areas are modified but generally remain in locations consistent with the adopted LSP.

The following is a detailed description and justification of the proposed minor modifications:

1. Re-distribution of medium density areas –
 - a. Medium density areas are modified as a result of a modification to the road layout and re-distribution of POS.
 - b. Medium density areas are located to generally overlook areas of high amenity such as POS. These are generally consistent with the adopted LSP.
 - c. Additional medium density areas have also been located at the ends of street blocks to provide greater diversity of housing product. New lot shapes, in the form of ‘quattro’ or ‘squat’ lots have been developed.
 - d. The base Residential R20 density coding is retained in accordance with the adopted LSP.
2. Re-distribution of POS –
 - a. POS is re-distributed throughout the precinct as a result of a review of drainage; to create more usable areas of POS.
 - b. The key difference from the adopted LSP is the exclusion of a linear park Multiple Use Corridor (MUC) intended to be used for drainage through the middle of the precinct.
 - c. Deletion of the MUC will allow for the creation of additional POS parcels dispersed through residential areas. Nine parcels of POS are proposed with the following sizes:
 - 6.723ha
 - 3.264ha
 - 3.046ha
 - 1.767ha
 - 1.548ha
 - 1.446ha
 - 0.7658ha
 - 0.5428ha
 - 0.1838ha

Seven of these parcels are large enough to cater for passive and informal-active recreation, as well as providing a dual-drainage function. The shape and size of each parcel will improve the usability of the POS and their distribution will improve accessibility.

In addition, the proposed design modification will provide an improved outcome by ensuring the playing field to the north of the precinct is edged by a road rather than large medium density development sites and a cul-de-sac.

Two smaller sites of local POS are proposed to cater for the demands of immediately surrounding residents and will be overlooked by adjoining residential development; creating more intimate passive recreation spaces.

This proposed provision of POS is generally consistent with Liveable Neighbourhoods which seeks a balance of local, neighbourhood and district sized POS parcels to serve residential areas.

- d. A key element of the revised POS network is the retention of vegetation as the extent of fill required for construction is not suitable for the retention of vegetation within road reserves.
 - e. These parks will be connected by pedestrian paths linking the southern areas of the precinct with the MUC in the northern portion of the precinct. This will result in an interconnected system of tree-lined streets and useable areas of POS, promoting a healthy lifestyle for residents by encouraging walking and outdoors activity through highly aesthetic public areas.
3. Rationalisation of drainage –
- a. A key aspect in providing the successful re-distribution of POS is the rationalisation of drainage. Drainage areas are located generally over the marginal land located on the western side of the precinct, near the Tonkin Highway reserve.
 - b. The linear drainage system shown on the approved LSP near the centre of the precinct has been removed and will be replaced with larger areas of POS. These larger areas of POS will incorporate water sensitive urban design bio-retention treatment systems and stormwater detention areas (i.e. up to the 100-Year Average Recurrence Interval Storm Event). The existing piped stormwater system in the road network will interconnect the detention storages within each park. This design approach will provide larger areas of useable POS for residents whilst still achieving water quality improvement and stormwater detention requirements.
 - c. Whilst there are some minor variations to the drainage layout the proposed LSP will still accommodate drainage being undertaken in accordance with the approved Local Water Management Strategy (LWMS). The applicant's project hydrologist (JDA) has met with Shire technical officers, who have indicated their support for the proposed changes.

JDA has reviewed the proposed amendments to the LSP and advises the approved LWMS does not need to be updated as a result of the changes. This matter has been discussed with the Shire's technical officers who have agreed that drainage will not be affected as a result of the proposed design modifications.

With respect to the water management strategy the amendments proposed will, primarily:

- Relocate stormwater detention storages further to the east, outside of the proposed Water Corporation easement abutting the eastern boundary of the future Tonkin Highway.
- Relocate stormwater detention storages internally within the cell.
- Result in some amendments to catchment boundaries.

Most importantly these changes are confined to within The Glades LSP area and will not affect conveyance of local or district drainage through the area. The design will still comply with the strategy for stormwater and groundwater management, as approved in the LWMS.

In summary, the changes do not prompt any significant departure from the approved LWMS and can be adequately addressed by the relevant UWMP as a condition of subdivision approval.

3. Drainage Infrastructure

- a. To facilitate drainage under the proposed modification to the LSP, standard roadside stormwater pipe infrastructure is proposed.
- b. The redistribution of POS proposed by the modifications to the LSP will result in a reduction of pipe distances as the stormwater detention areas are now more evenly distributed. In total, less piping will be required for stormwater to reach detention/storage areas.
- c. The increase in pipe infrastructure resulting from the proposed deletion of the lineal open space corridor (and hence the deletion of the open drain) will be offset by the decrease in piping identified in point b above.

4. Road layout –

- a. The road layout is generally consistent with the adopted LSP, based generally on a modified grid layout, with a strong north-south alignment. This arrangement will:
 - i. accommodate efficient construction given the east to west, gently sloping topography;
 - ii. provide strong connections to the north via an extension of connector roads to the subdivision area in the future;
 - iii. provide east and west facing lots; and
 - iv. provide a future connection to a local centre and mixed use area to the south of the precinct and important link (Orton Road) to the future Tonkin Highway.
- b. Widened intersections have been provided on the majority of the north-south roads where they meet the two key east-west roads. This will allow additional planting and landscaping to provide greater aesthetics and to improve the experiences of residents and visitors.

5. Water Corporation Service Corridor –

- a. The future Water Corporation Service Corridor at a width of 60m has been depicted on the LSP along the Tonkin Highway reserve.
- b. Lots and drainage / POS areas are relocated outside of the corridor.

Lot/Dwelling Yield

The applicant has advised that the number of dwellings/lots that will be created through the modified version of the LSP will be 700 to 750. This is comparable to the amount which could be achieved through the current approved LSP for the Glades. This is considered to be a reasonable outcome on the basis of there being a lower net developable area due to the Water Corporation service corridor (i.e. 60m along the western edge of the subdivision area). The proposed modified plan still provides a number of medium density sites to assist with providing a reasonable lot yield for the Estate.

Rationale for changes

The proponent has provided the following justification in support of the proposed minor modification.

'A design review was undertaken by the project team, on behalf for LWP, for the precinct. The review addressed the following matters:

- *Proposed Water Corporation Service Corridor (60m).*
- *Rationalisation of drainage.*

- *Rationalisation of POS including re-distribution to provide better access to all residents within the precinct.*
- *Lot product mix and diversification.*
- *Removing Grouped Housing sites.*

The resultant layout depicts an urban environment focussed on promoting liveability and walkability through a series of path networks linking areas of useable open space. Key objectives are based on providing areas of open space within close walking distances to all residents within the precinct.

The road layout maintains a strong grid arrangement based on key north to south links which are based on the approved LSP. In this regard, access to the precinct will be predominately taken from a main north-south connector on the eastern side that will extend from The Glades subdivision to the north. A second north-south connector will connect to the north via a future extension from Byford West estate.'

TPS 2

The power for Council to adopt a minor modification to a LSP is conferred in clause 5.18.4.1 of TPS 2 as follows:

"The local government may adopt a minor change to or departure from a Structure Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Structure Plan".

A key consideration for Council is whether the modifications proposed to the LSP are deemed to be minor or major in nature. The WAPC's 'Structure Plan Preparation Guidelines' (the guidelines) provide guidance in this matter.

Structure Plan Guidelines

The guidelines state the following for what constitutes a minor or major modification:

"A 'minor' modification to a structure plan is a change or departure that does not materially alter the intent of the structure plan.

A major modification to a structure plan is any change or departure not defined as a minor modification. A modification designated 'major' or 'minor' depends on:

- 1. Whether there is an existing community and/or adjoining residential area(s) or development; and*
- 2. Whether the proposed modification impacts upon the existing community and/or adjoining residential area(s) or development".*

The guidelines provide examples as to what may be considered to be a minor modification. Two examples are provided as follows:

"An increase in residential density that retains residential banding, ie 'low', 'medium' or 'high' density."

"Realignment of neighbourhood connector roads (or below in the road hierarchy) that do not negatively affect the connectivity of the movement network or accessibility to activity areas."

In the opinion of officers, the proposed modification does not alter the material intent of the adopted LSP. Accordingly, adoption of the proposed modification is recommended. The WAPC may subsequently determine that the modification does materially alter the intent of the LSP and require the modification to be advertised, however, this is considered unlikely.

LPP 57 – Housing Diversity

The Shire adopted LPP 57 – Housing Diversity in late 2011, as part of its policy development program. Of particular relevance to the current proposed modification, are the following objectives:

- *Promote and facilitate increased housing diversity and choice to meet the changing housing needs of the Shire community;*
- *Provide a diverse range of housing types to meet the needs of residents which vary based on income, family types and stages of life, to support the growth of sustainable communities; and*
- *Provide equitable access and lifestyle opportunities for residents.*

The proposed lot sizes will provide for a greater diversity of lot types across The Glades estate and, consequently, provide for a broader range of housing products generating more choice for future residents of the Byford community. The re-distribution of useable areas of POS will also provide better access and efficiency of use by residents. Accordingly, it is considered the proposed modification is consistent with the objectives set out in LPP 57.

Options and Implications

There are two primary options available to Council, as follows:

1. Resolve to adopt the proposed modification as a ‘minor modification’.
2. Resolve that the proposed modification alters the material intent of the LSP and require the proposed modification to be progressed as a ‘major modification’ including formal advertising, adoption by Council and approval by the WAPC.

Option 1 is recommended.

Conclusion

The proposed modification to the LSP will provide for additional and improved areas of POS for this portion of Byford, whilst concurrently addressing water quality and quantity matters. The proposed modification is considered to not alter the material intent of the LSP. It is recommended that Council adopt the proposed modification and advise both the applicant and the WAPC accordingly.

Attachments:

- [OCM098.1/12/13](#) – Proposed modification to LSP (E13/4548)
- [OCM098.2/12/13](#) – Proposed Revised Plan of Subdivision (E13/4549)
- [OCM098.3/12/13](#) - Public Open Space Size Estimates (E13/4803)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area’s distinct rural character, create village environments and provide facilities that serve the community’s needs and encourage social interaction.

Statutory Environment:

- TPS 2
- LPP 4 – Detailed Area Plans
- *Planning and Development Act 2005*

Financial Implications:

There are no direct financial implications associated with the progression of the proposed modification to the LSP.

Voting Requirements: Simple Majority

OCM098/12/13 COUNCIL DECISION / Officer Recommendation:

**Moved Cr Wilson, seconded Cr Moore
That Council:**

- 1. Adopt the proposed modification to the Byford Main Precinct Local Structure Plan as shown on attachment OCM098.1/12/13, pursuant to Clause 5.18.4.1 of the Serpentine Jarrahdale Shire Town Planning Scheme No 2.**
- 2. Forward the proposed modification to the Western Australian Planning Commission for consideration in accordance with clause 5.18.4.2 of the Serpentine Jarrahdale Shire Town Planning Scheme No 2.**

CARRIED 5/4

Note: Cr Hawkins, Cr Kirkpatrick and Cr Rossiter requested their vote against the motion be recorded.

OCM099/12/13	Initiation of Scheme Amendment 189 – Rezoning of Lot 304 Hardey Road, Serpentine from ‘Rural’ to ‘Rural Living A’ (SJ1559)
Author:	Louise Hughes – Manager Statutory Planning
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	1 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Cardno
 Owner: The Estate of the Late Strelley Hubert Peters Hardey
 Date of Receipt: 7 October 2013
 Lot Area: 2.98ha
 Town Planning Scheme No 2 Zoning: Rural
 Metropolitan Region Scheme Zoning: Rural

Introduction:

To consider a proposed scheme amendment for initiation to rezone Lot 304 Hardey Road, Serpentine from ‘Rural’ to ‘Rural Living A’ under Town Planning Scheme No 2 (TPS 2). The rezoning has been submitted in accordance with the recommendations of the Shire’s Rural Strategy and will enable future subdivision of the site into lots of approximately 4,000m². A subdivision guide plan has been submitted as part of the scheme amendment.

Background:

Section 75 of the *Planning and Development Act 2005* provides for local governments to amend a Town Planning Scheme as set out in the *Town Planning Regulations 1967*. Under Regulation 13 of the *Town Planning Regulations 1976* Council can either resolve to proceed with the scheme amendment and adopt the proposed Scheme Amendment in accordance with the Act, or resolve not to proceed with the scheme amendment and notify the Western Australian Planning Commission (WAPC) in writing of that resolution.

In undertaking its initial assessment, the Shire has determined that the proposed scheme amendment has been submitted with sufficient information. This report has therefore been prepared to Council in support of the proposed scheme amendment. While the neighbouring land to the east, west and south of the subject site has been previously rezoned from ‘Rural’ to ‘Rural Living A’, this is the first scheme amendment application for this site.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this application.

Community / Stakeholder Consultation:

Should Council resolve to proceed with the proposed TPS 2 amendment, public comment will need to be invited for a period of not less than 42 days in accordance with the requirements set out in the *Town Planning Regulations 1967*.

Local Planning Policy No 27 (LPP 27 – Stakeholder Engagement in Land Use Planning provides further guidance for the advertising of TPS 2 amendments. Requirements will include, but will not be limited to:

- Signage being placed on-site.
- A newspaper advertisement.
- Public display at the Shire's administration centre.
- Letters being sent to all landowners within a 300 metre distance from the site.
- Letters being sent to community groups.
- Publishing of relevant information on the Shire's internet webpage.

Following the close of the advertising period, a report would need to be presented to Council to formally consider the submissions received and resolve whether to proceed with the finalisation of the amendment, including forwarding the matter through to the WAPC and the Minister for Planning.

Comment:

Proposal

The proposal to amend the Shire's TPS 2 has been submitted as follows:

1. Rezoning Lot 304 Hardey Road, Serpentine from 'Rural' to 'Rural Living A' and amending the Scheme Map accordingly.
2. Amending the Scheme Text – 'Appendix 4A – Rural Living A Zone' to include special provisions relating to Lot 304 Hardey Road, Serpentine.

The 'Rural Living A' zone permits the subdivision of land into lots of between 4000m² and 1.0 hectare in area. The subdivision guide plan (SGP) depicts the creation of seven 'Rural Living A' lots of approximately 4000m² and is intended to demonstrate how the land may be developed in the future and provide a planning context for the proposed amendment. The SGP will ultimately form part of the amendment documentation. In addition to the 'Rural Living A' zoning provisions outlined in clause 5.12 of TPS 2, specific zoning provisions and land use permissibility will be included within Appendix 4A of TPS 2 as part of the rezoning proposal.

Statutory Framework

Lot 304 Hardey Road, Serpentine is currently zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Rural' under the provisions of TPS 2. The Shire's TPS 2 includes a range of general provisions guiding the development of 'Rural Living A' zoned land. The key provisions are as follows:

- The 'Rural Living A' zone is intended to cater for rural residential development on a range of lots between 4000m² to 1ha in accordance with the objectives and guidelines of the Rural Strategy;
- The provision of a reticulated water supply is required;
- The rezoning to be accompanied by a SGP that will include building envelopes;
- Building envelopes are not to have an area greater than 1000m² with a setback of 20m from primary street and 10m from all other boundaries;
- Subdivision to be in accordance with the endorsed SGP;
- Stormwater drainage is required to be designed to the satisfaction and specification of the Shire; and
- All land designated as public open space or public accessway on the SGP shall be given up to the Crown, free of cost.

Rural Strategy (1994)

The Shire's Rural Strategy (as amended) includes the subject site within the 'Rural Living A' policy area, which serves as a transitional zone between the urban and rural areas.

The Rural Strategy stipulates that the intention of the 'Rural Living' policy area is to "allow for future development approvals in the lot size range of 0.4 to 1 hectare, as Rural Living A, in close proximity to towns of Byford, Mundijong and Serpentine".

On 9 September 2013, Council adopted the draft Rural Strategy Review 2013 for the purposes of requesting consent to advertise from the WAPC and DOP. Since the adoption of the draft Review, the DOP has provided the Shire with support to advertise subject to a number of modifications. The subject site is retained in the Rural Living A Policy Area under the draft Review.

With regard to subdivision, the Rural Strategy supports a variety of lot sizes between 4000m² and 1.0 hectare, suggesting that subdivision can be determined based on the surrounding lot layout, size and character. In this regard, the SGP which has been submitted with the scheme amendment complies with the minimum lot size of the Rural Living A area and is consistent with the surrounding Rural Living A lot sizes which are predominately around 4,000m² in area.

Statement of Planning Policy 2.1 - Peel-Harvey Coastal Plain Catchment

The subject lot is situated within the Peel-Harvey Catchment and as such the Statement of Planning Policy 2.1 (SPP 2.1) requires that when rural residential lots of over 4000m² are created, areas utilizing on-site effluent disposal systems will require approval from Water Corporation and Department of Health. In order to address the requirement of SPP 2.1, the proposed amendment to the Scheme Text includes special provisions for the use and development of the land.

Comment

Site Characteristics

Lot 304 Hardey Road, Serpentine has an area of 2.98 hectares and is located approximately 800m south of the centre of the Serpentine town site. The site has frontages to both Hardey Road and Tran by Avenue. Both Hardey Road and Tran by Avenue provide linkages to the Serpentine town site and surrounding areas via an established local road network. Beyond Hardey Road to the west is a railway reserve which separates the subject land from the Serpentine Green Estate to the west.

The site contains existing vegetation which has been assessed as part of the application to determine its significance. The flora and fauna survey revealed a total of eight native tree species comprising of seven tree species and one shrub species. Included as part of the survey was a 'significant tree survey' undertaken to identify specimens known as being foraging, breeding or roosting trees for Black Cockatoos. The survey identified 298 trees within the site, 95 of which were determined as having values for foraging and 17 identified as potential roosting and breeding habitats. The proposed SGP plan has been designed with the intention of retaining as many Marri and Jarrah species as possible as these trees provide for breeding and roosting habitat for the Black Cockatoo.

The land to the north is zoned Residential R5 and has been subdivided to a minimum of 2000m² lots, while the surrounding land on the east, west and south of the subject site is zoned Rural Living A. The land to the west comprises the Serpentine Green Estate which contains a range of lot sizes between 4000m² to 1.0 hectare lots. The land to the east is known as the Serpentine Downs Estate and comprises of predominantly 4000m² lots.

Lot Layout

There is no provision in TPS 2 specifying minimum requirements for lot widths in the 'Rural Living A' zone. All lots as shown in the indicative SGP have lot widths of a minimum of 40m. The three proposed southern lots are irregular in shape in order to allow for the retention of significant tree species. The extent of building envelopes shown on the SGP is generally consistent with the requirements in TPS 2 requiring 20m setbacks from the primary road and

10m setbacks from all other boundaries. There are also two lots which include a battle-axe access leg arrangement due to the street network arrangement. This is considered to be an acceptable access arrangement in this rural-residential context.

The Rural Living A zone allows for the creation of lots between 4000m² and 1.0 hectare. Although both TPS 2 and the Rural Strategy make reference to a variety of lot sizes within the Rural Living An area, in this location the proposed lot sizes, which range between 4000m² and 4895m², are considered acceptable.

The building envelopes have been designed to reflect the findings of the 'significant vegetation survey'. The building envelopes will result in the potential loss of two Marri trees as a result of clearing of native vegetation within building envelopes as permitted by TPS 2. All existing Jarrah trees on site have been located outside the building envelope and can therefore be retained.

On this basis it is considered that the proposed SGP is acceptable for inclusion as part of the scheme amendment documentation.

Drainage

Drainage has been designed to enable the western lots to drain towards Hardey Road to an existing drain on Hall Road, while the eastern lots will drain towards Tran by Avenue. Onsite 1 in 1 year storm event drainage is expected to be contained within the lots through pits and/or swales. Further investigation will be required to determine whether the surrounding drainage system will be functionally capable of accommodating a 1 in 100 year storm event as a result of the proposed development.

Effluent Disposal

SPP 2.1 states that the onus of proof rests with the subdivider to justify that on-site effluent disposal and/or any associated site modifications would be acceptable to remove any adverse effects on public health, water resources or the environment while not detrimentally impacting on the character of the area.

The applicant in this case has proposed alternative waste water systems including aerobic treatment units (ATUs). The applicant has recommended ATUs due to their phosphorus retention capacity. The Shire is required to individually assess and approve waste water disposal on each lot as per the *Health Act 1911*.

The proponent has stated that the site lies upon the Bassendean Sands Complex, with a likelihood of Sandy Clay to Clayey sands of the Guildford formation. Soils are expected to be white/pale grey sands, becoming yellow at depth, fine to medium grained with moderately sorted sub angular to sub rounded heavy soils. The site is determined to be capable of on-site effluent disposal, subject to only alternative effluent disposal systems being installed, and necessary clearances from groundwater to disposal areas being achieved. This is consistent with the other rural living blocks within the Serpentine Downs Estate.

Landscape and Vegetation

A Vegetation Master Plan has been provided as part of the application documents and includes detail of proposed revegetation along the rear boundaries of the proposed lots. The proposed revegetation is to comprise of She-Oak, Marri and Jarrah species to reflect the predominant species which exist on the site. The planting of these species will also ensure that the visual appearance of the locality is maintained and will assist in the regeneration of the Black Cockatoo habitat.

Site Access

Direct access to the three western lots will be via Hardey Road to the west. The two eastern lots will have direct frontage to Tran by Avenue which will enable direct vehicular access.

The two centrally located lots will gain access via a battle-axe leg arrangement. Due to the size and shape of the subject lot, the proposed battle-axe arrangement is considered acceptable in order to achieve a functional lot layout.

Fire and Emergency Management

As indicated in the Vegetation Master Plan, the proposed subdivision layout and vegetation includes a 6m strategic firebreak and emergency access route through the centre of the site. This will provide emergency access between Hardey Road to the west and Tran by Avenue to the east. The applicant has been in consultation with the Shire's Emergency Services Department in order to amend the existing Fire Management Plan for the Serpentine Downs Estate to include the proposed subdivision.

Scheme Provisions

It is considered appropriate to include new provisions over the subject land.

Options and Implications

There are three options available to Council with respect to the proposed scheme amendment, as outlined below:

1. Resolve to initiate the amendment, without modification.
2. Resolve to initiate the amendment, with modification/s.
3. Resolve not to initiate the amendment.

Option 1 is recommended.

Conclusion

The rezoning of Lot 304 Hardey Road, Serpentine from 'Rural' to 'Rural Living A' is in keeping with the intention and direction of the Rural Strategy. The SGP outlines the creation of seven rural living lots, each a minimum of approximately 4000m² in area. The proposed SGP has been designed with building envelopes to address the removal of significant trees as a result of development. It is recommended that the Council initiate an amendment to TPS 2 to change the zoning of Lot 304 Hardey Road, Serpentine from 'Rural' to 'Rural Living A'.

Attachments:

- [OCM099.1/12/13](#) – Aerial Photograph (E13/4516)
- [OCM099.2/12/13](#) – Proposed Scheme Amendment Plan (E13/4517)
- [OCM099.3/12/13](#) – Subdivision Guide Plan (E13/4518)
- [OCM099.4/12/13](#) – Significant Tree Survey (E13/4519)
- [OCM099.5/12/13](#) – Vegetation Master Plan (E13/4520)
- [OCM099.6/12/13](#) – Scheme Amendment Application Documents (IN13/17805)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction.
Objective 3.2	Appropriate Connecting Infrastructure
Key Action 3.2.3	Enhance streetscapes and public places with vegetation that is natural to the area, sustainable (water wise) and cost effective.

Statutory Environment:

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- TPS 2
- Rural Strategy (1994)
- LPP 23 – Serpentine Town site Planning Framework
- State Planning Policy (SPP) 2.1 - Peel-Harvey Coastal Plain Catchment

Financial Implications:

There are no direct financial implications associated with this Scheme Amendment.

Voting Requirements: Simple Majority

OCM099/12/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Urban
That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005* amends the Shire of Serpentine Jarrahdale Town Planning Scheme No 2 by:
 - a) Rezoning Lot 304 Hardey Road, Serpentine from ‘Rural’ to ‘Rural Living A’ as depicted on the Scheme Amendment map;
 - b) Amending the Scheme Map by delineating Lot 304 Hardey Road, Serpentine within the Rural Living A Zone and identifying it as RLA 29; and
 - c) Including Lot 304 Hardey Road, Serpentine in Appendix 4A – Rural Living A Zone and including the appropriate details in Appendix 4A of the Scheme as follows:

	No.	Specified area of locality	Special provisions to refer to (a)
RLA29	29	Lot 304 Hardey Road, Serpentine.	1. Within the Rural Living A zone the following land uses are permitted, or are permitted at the discretion of the Council: <i>Use classes permitted (P)</i> Single House Public Utility <i>Discretionary Uses (AA)</i> Ancillary Accommodation Home Occupation Home Business All other uses are prohibited.

			<ol style="list-style-type: none"> 2. No dwelling shall be approved by the Council unless it is connected to an alternative effluent disposal system as approved by the Department of Health with an adequate phosphorus retention capacity, as determined by the Department of Environment Regulation. 3. No indigenous vegetation and trees shall be destroyed or cleared except, but subject to the subdivider or landowner obtaining the prior written consent of the Council, where such vegetation is identified as structurally unsounded by an accredited arboriculturalist or where the clearing is required for the purpose of a firebreak, dwelling, outbuilding, fence, drainage systems and/or driveways or to accommodate an approved use. 4. Prior to the clearance of the subdivision, the subdivider shall prepare a Building Envelope and Effluent Disposal Envelope Plan to the satisfaction of the Council, with the location of the envelopes being determined based on geotechnical investigations undertaken by the subdivider. The effluent disposal envelopes are to be separate from the building envelopes and are to be 300m² in size. All buildings and effluent disposal systems to be located within the respective building envelopes and effluent disposal envelopes defined on the approved Building Envelope and Effluent Disposal Envelope Plan unless otherwise approved in writing by the Council. 5. The subdivider shall prepare and implement a Vegetation Master Plan for the amendment area, including the planting of indigenous trees and shrubs of a species and at a density and distribution to the satisfaction of the Council, prior to the transfer of a lot(s) to a new owner. 6. The subdivider shall either maintain the trees and shrubs planted in accordance with the approved Vegetation Master Plan until the land is sold or shall plant sufficient numbers of trees and shrubs to allow for natural loss. Thereafter, the owners of the subdivided lots shall be responsible for the maintenance and replacement (if and where necessary) of these trees and shrubs planted by the subdivider to the satisfaction of the Council.
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			<p>7. The subdivider shall prepare and implement a Fire Management Plan, including construction of a strategic firebreak and emergency access route, water supplies and equipment and other fire management requirements deemed necessary, to the specification and satisfaction of Council and the Department of Fire and Emergency Services.</p> <p>8. At the time of the building application for each lot, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Council which shall show site contours, proposed pad levels, approved revegetation areas, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting and maintenance.</p> <p>9. The Council shall not support any application for subdivision of the land into Rural Living A lot sizes unless the subdivision is consistent with a Subdivision Guide Plan endorsed by Council and the Western Australian Planning Commission for whole or part of the area.</p> <p>10. A Subdivision Guide Plan for the subdivision of land into Rural Living A lot sizes, shall have regard to the objectives set out in this Scheme for the zone or zones affected by it and the requirements of clause 5.9.3.</p> <p>11. The subdivider is to place a notification on the title of each lot advising potential purchasers that their property may be subject to periodic inundation in storm and flood events. In addition, purchasers are to be advised that direct stormwater connection into the Shire’s roadside drainage system is not permitted.</p> <p>12. The subdivider is to place a notification on the title of each lot advising potential purchasers of the minimum pad height requirements for future dwellings and effluent disposal systems to ensure that an adequate separation distance to groundwater is maintained. The minimum pad heights are to be determined through geotechnical investigations undertaken by the subdivider.</p>
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2. **Forward Amendment No 189 to Town Planning Scheme No 2 to the Environmental Protection Authority for comment, pursuant to Section 81 of the *Planning and Development Act (2005)* and the Western Australian Planning Commission for information and, subject to no objections being received from the Environmental Protection Authority and acknowledgement being received from the Western Australian Planning Commission, the amendment be advertised for public comment pursuant to Regulation 25(2) of the *Town Planning Regulations (1967)* for a period of 42 days, to the satisfaction of the Director Planning.**

CARRIED 9/0

Cr Wilson has declared a financial interest in Item OCM100/12/13 – Proposed Rural Travel Stop – Lot 801 Thomas Road, Oakford, in that the applicants are his son's in-laws. Cr Wilson withdrew from the meeting at 8.32pm.

OCM100/12/13	Proposed Rural Travel Stop – Lot 801 Thomas Road, Oakford (P08235/01)
Author:	Tom Hockley – Senior Planner
Senior Officer/s:	Brad Gleeson – Director Planning
Date of Report:	20 September 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Dykstra Planning
 Owner: Vincenzo and Terrisa Diana Borello
 Date of Receipt: 22 April 2013
 Lot Area: 15.54 hectares
 Town Planning Scheme No 2 Zoning: Rural
 Metropolitan Region Scheme Zoning: Rural

Introduction

To consider the development application for a 'Rural Travel Stop' containing a service station, stockfeeds outlet and veterinary establishment. The proposed development is located in the north-east corner of Lot 801 Thomas Road, Oakford (subject land) adjacent to the intersection of Kargotich Road and Thomas Road. Access to the site is proposed from Kargotich Road. The proposal is intended to maintain and promote the rural character of the area through the inclusion of rural-based outlets to buffer the retail aspect of the service station.

The application was advertised in accordance with the relevant provisions of the Shire's Town Planning Scheme No. 2 (TPS 2) and Local Planning Policy 27 - Stakeholder Engagement (LPP 27). A number of submissions have been received.

The Shire has formed the view that the proposal is of regional significance due to the increased level of traffic utilising the Thomas Road and Kargotich Road intersection. In addition, the Shire is of the view that the proposal is not consistent with the Rural zone and represents a commercial development which is located outside of a designated activity centre. The Shire has therefore referred the application to the Western Australian Planning Commission (WAPC) for consideration pursuant to Resolution made under clause 32 of the Metropolitan Region Scheme (MRS).

On this basis it is recommended that the application be refused by Council.

Background:

The original application was received on 22 April 2013 and included a petrol station, rural stock feeds outlet, veterinary, local produce store and a wine and cheese tasting outlet. The following key issues were identified in relation to the original proposal:

- In relation to the proposed retail components, the location of the subject site has not been identified for future retail land uses;
- There was no indication that there had been any investigation into potential tenants for the proposed rural based outlets;

- Direct access to the site from Thomas Road was not supported by Main Roads Western Australia (MRWA) on the basis that the integrity of the regional freight route may be compromised by the proposal;
- Direct access to the site from Thomas Road would result in traffic conflict and safety issues.

The Shire's concerns in relation to the original proposal were conveyed to the applicant resulting in the submission of an updated plan which removed the access from Thomas Road and removed the retail components of the proposal including the local produce store and a wine and cheese tasting outlet. It is noted that the retail component of the service station has been retained within the updated plan.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to the application.

Community / Stakeholder Consultation:

The application has been advertised in accordance with the requirements of Clause 6.2.1 of TPS 2 and LPP 27 - Stakeholder Engagement. At the end of the advertising period a total of 10 submissions had been received. The key issues which were identified are as follows:

- Direct vehicular access to the site from Thomas Road;
- Increase in local traffic;
- Traffic safety impacts;
- The proposed use in relation to the Rural zoning of the land;
- The visual impact of the proposal;
- Increase in noise; and
- Amenity impacts.

Comment:

Proposal

On 17 September 2013, the Shire received an updated site plan outlining the revised site layout following discussions with Shire officers and government authorities. The relevant features of the proposal are explained below.

Service Station

Caltex is seeking to develop a standard service station design at the site which includes eight regular motor vehicle fuel bays and a single truck stop fuel pump which can service two trucks. The fuel pumps will be covered by a freestanding canopy. The proposal also involves the construction of a Caltex Starmart with a retail floor area of approximately 400m². The Starmart will be located approximately 49m from the front (north) boundary.

The applicant has stated that the Starmart and fuel canopies *"will have a basic structure that accords with the fuel company's requirements, however, the use of corrugated iron material and verandas will provide a rural character and impression for the development"*.

The service station is flanked to the east by landscaping, outdoor seating areas and children's play equipment.

Rural Outlets

Two rural outlets are proposed as part of the application and are located to the south of the gazebo and play equipment area. The two outlets will be housed in one building and contain

a rural stockfeeds outlet and a veterinary practice, both with floor areas of approximately 350m². The built form will comprise of a simple barn style construction in keeping with the surrounding rural character. The building is bordered to the south by a landscaped grassed area.

Signage

The application documentation did not contain details of proposed signage. Any signage will be subject to a separate development application and in accordance with Local Planning Policy 5 *Advertising Signs* (LPP 5).

Access and Vehicular Movement

Access to the site will be via Kargotich Road only and will be limited to one full movement entry to the south of the development area. A new median strip and slip lane is proposed in order to manage traffic turning into the site from Kargotich Road.

In addition to the full movement access point to the south of the development area, an exit only lane is also provided onto Kargotich Road from the site. The exit only lane will be left turn only and direct traffic to Thomas Road to the north.

Internal vehicle movement throughout the site will be achieved through the design of the centrally located 'island' development allowing for circulation and access to all sides of the development. During periods of heavy use, the western side of the site area may have restricted vehicle access as a result of truck refuelling and parking. It will need to be demonstrated that internal vehicle movements can occur to ensure the safe movement into and out of the fuelling area.

Parking

A total of 109 parking spaces have been provided. Parking is to be located around the north and east perimeter of the trafficable area and around the edge of the central island.

Parking has been calculated in accordance with Table 5 of TPS 2 as follows:

Use Class	Requirement	Spaces Required
Service Station	1.5 spaces per service bay plus 1 space per employee	$1.5 \times 13 + 3 = 23$
Veterinary	6 spaces per practitioner	$6 \times 2 = 12$
Rural Stockfeeds (Shop)	1 space per 15 square metres gross leasable area	$350 / 15 = 24$
		59 Spaces Required

It is noted that parking spaces have been provided in excess of the requirements. The proposal also includes 5 truck parking bays in the south-west corner of the site.

Landscaping

The site plan indicates that landscaping planting is proposed around the perimeter of the site to assist with visual screening. There are also opportunities within the central island for planting and landscaping.

Servicing

The applicant has undertaken investigation into the services available to the site. It is proposed that a reticulated water supply be connected to the site via an extension to the existing supply approximately 1.1km to the east which currently terminates at Holstein Court. The connection to this water supply will be at the cost of the developer.

The site is not currently connected to reticulated sewerage and as a result, the proposal includes the provision of an onsite effluent disposal system or alternative treatment unit systems. The Shire's preference in this instance would be for the installation of an alternative treatment unit.

It is proposed that drainage from the building and hardstand areas will be captured by way of soak wells and swales within the landscaped area. It is noted also that stormwater drainage from fuelling areas will be required to be treated in order to capture pollutants. A requirement of any development approval would be that all stormwater drainage is captured and treated on-site and that prior to the commencement of development a drainage management plan would be required to be submitted for approval.

Statutory Framework

TPS 2

The subject site is zoned 'Rural' under the Shire's TPS 2. Within the use classes defined within TPS 2, the proposal includes a 'Service Station', 'Veterinary Establishment' and 'Produce Store'. Appendix 1 of TPS 2 provides the interpretations for terms used throughout the Scheme. The following table outlines the land use definition and permissibility of the proposed uses within the Rural zone:

Land Use	Definition	Permissibility
Service Station	Means land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use; but does not include transport depot, panel beating, spray painting, major repairs or wrecking.	SA
Veterinary Establishment	Means land and buildings used for, or in connection with, the treatment of sick animals and includes the accommodation of sick animals.	AA
Produce Store	Means land and buildings wherein fodders, fertilisers and grain are displayed and offered for sale.	AA

Each component of the proposed development is considered capable of fitting within the use definitions. For all three uses Council may, at its discretion, permit each use. However consideration should also be given to the proposal in the context of the 'Rural' zone.

Clause 5.10.1 of the TPS 2 outlines the objectives for the Rural Zone, as follows:

"The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area."

It is clear that the objective the Rural zone is to provide for a wide variety of land uses. It is also considered that the land uses anticipated within the Rural zone may potentially result in greater amenity impacts when compared to land within Rural Living and Special Rural zones. However, the commercial nature of the operations in this locality may not be in keeping with the orderly and proper planning of the locality with regard to the strategic planning of commercial and activity centres. This point is reiterated in the discussion of the Rural Strategy below.

Rural Strategy

The subject site is identified as being part of the Rural Policy Area under the Rural Strategy (1994), which provides the following key objectives of the Rural Policy Area:

- R1. To retain and maintain the productive capability of land and agricultural enterprise in close proximity to Perth and its markets.*
- R2. To encourage, provide opportunities for, and control over a mosaic of agricultural land uses.*

Considering the purpose and intent of the Rural zone and the objectives of the Rural Policy Area, the focus is not on guiding the development of discretionary or conditional development, but on maintaining agricultural and rural opportunities. This suggests that the Rural zone relies on other planning instruments to direct 'non-rural' land uses to appropriate locations. Therefore, while a Service Station can be considered in this instance as a discretionary land use, this land use should only be considered when strategically located with existing development or in locations where future activity is planned. The grouping of the Veterinary Establishment and Produce Store (rural stockfeeds) with the Service Station is also considered to be an intensification of activity that may be unreasonable within the Rural zone. The three combined land uses will generate a considerably higher amount of vehicle movements than what would usually be anticipated for a rural based development. The appearance and presentation of the development would also not be in keeping with the rural theme of the surrounding land use.

In the absence of strategic guidance or existing commercial development, the proposed development at Lot 801 Thomas Road, Oakford is considered not to be consistent with the Rural zone or the objectives of the Rural Strategy.

Statement of Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations

Thomas Road is identified as a 'primary freight route (MRWA jurisdiction)' under Schedule 1 of Statement of Planning Policy 5.4 *Road and Rail Transport Noise and Freight Considerations in Land Use Planning* (SPP 5.4). Thomas Road functions as a freight route link between Kwinana and Tonkin Highway and is therefore a vital component of the region's transport network. Development along Thomas Road should be planned with regard to the function of this road with consideration as to the impact that new development will have on the road network.

The proposed development is located on a 90km/hr road at an intersection which contains no traffic control devices. Given the function of Thomas Road as a primary freight route, as well as the volume and speed of traffic using this section of road, it is considered that the development has the potential to result in traffic conflict at this intersection.

In addition MRWA, in its correspondence to the Shire dated 31 July 2013, noted that Thomas Road was proclaimed as a "Highway" in May 2008. It was also noted that the Metropolitan Region Scheme (MRS) amendment to the road reservation from "Other Regional Road" (Blue Road) to "Primary Regional Road" (Red Road) was still outstanding at that time. The elevated status of this section of Thomas Road between the Kwinana Freeway and Tonkin Highway further emphasises the regional significance of this vital transport link.

Activity Centres Planning and Policy Framework

The subject site is not identified for future development within the Shire's Activity Centres Strategy and Local Planning Policy No. 70 - Activity Centres (LPP 70). Oakford has been designated to accommodate a neighbourhood activity centre which will support retail and commercial uses with a floor space allocation of up to 4,500 square metres. The Activity

Centres Strategy specifies that this neighbourhood centre is to be situated at the intersection of Thomas Road and Nicholson Road, expanding on the existing development at this location. The proposed development at the intersection of Thomas Road and Kargotich Road is therefore considered to be out of centre development. The Activity Centres Strategy stipulates that retail developments in out of centre locations are to be avoided.

Clause 7.10 of LPP 70 and clause 5.6 of Statement of Planning Policy No. 4.2 - *Activity Centres for Perth and Peel* (SPP 4.2) state that developments which are likely to generate significant numbers of employees, users or vehicle trips should be located within or adjacent to an activity centre. Furthermore, it is specified that such development should be restricted from occurring in a dispersed manner. The proposed development would be a dispersed development as it is not located within or adjacent to an activity centre and it is not within an established Mixed Business zone or in proximity to high quality public transport.

Comment

The Shire has formed the view that the proposal is of regional significance due to the increased level of traffic utilising the Thomas Road and Kargotich Road intersection. The Shire is also of the view that the proposal is not consistent with the Rural zone.

Pursuant to Resolution made under clause 32 of the MRS, the Local Government has the ability to refer an application to the WAPC for determination where the Local Government is of the opinion that the proposal is of State or regional significance, or in the public interest. The Shire is of the opinion that the proposal is of regional significance and is in the public interest. Accordingly, the Shire has referred the development application to the WAPC for determination under the MRS. The purpose of this report is to provide Council with the opportunity to consider and determine the application under the provisions of the Shire's TPS 2.

Consideration of Submissions

A response to the key issues identified as a result of the public consultation process are considered in the following section.

Direct vehicular access to the site from Thomas Road

A key concern of the original proposal was the provision of a point of access to the site from Thomas Road. The applicant has agreed to update the proposal to remove all direct access to the site from Thomas Road. The current proposal includes one full movement access point from Kargotich Road as well as an exit only point onto Kargotich Road.

Increase in local traffic

It is expected that while there may be increases in local traffic as a result of the proposal, the majority of the traffic travelling to the site will be passing trade from Thomas Road.

Traffic safety impacts

Despite the removal of direct access to the site from Thomas Road, the proposal has the potential to result in traffic safety impacts at the intersection of Kargotich Road and Thomas Road. The existing intersection is currently controlled by way of a stop sign and median on Kargotich Road. It is considered that in light of the function and speed of this section of Thomas Road, any intensification to the land use at this location would require consideration of the suitability of the intersection treatment.

The proposed use in relation to the Rural zoning of the land

It is considered that the proposal collectively represents a discretionary development in TPS 2. the commercial aspect of the proposal does not accord with local and state planning framework for activity centres.

The visual impact of the proposal

It is noted that the proposed development will appear as a commercial development in a rural context and may be out of character with its surroundings. While no details of the proposed signage have been provided with the application, it is considered that signage would function to exacerbate the visual impact of the development.

Increase in noise

The Shire considers that the increase in noise audible from surrounding properties will be negligible. The function of Thomas Road as a primary freight route indicates that any noise associated with the proposed development would be reasonable in the context of the heavy traffic movements along Thomas Road.

Amenity impacts

Other amenity impacts including smell, lights and vibration would be limited. The key consideration with regard to amenity impacts is the interface with the existing rural living properties to the north of the development. However it is considered that sufficient separation distance exists in order to ensure amenity impacts are managed.

Options and Implications

There are two options available to Council with respect to this application as follows:

1. Recommend to the WAPC that the application be approved, subject to conditions.
2. Recommended to the WAPC that the application be refused, providing reasons.

Option 2 is recommended.

Council when determining the application should have due regards but not limited to the following:

- Whether the development would be in conflict with the objectives of the Rural Zone;
- Whether a service station, veterinary establishment and produce store would be contrary to the principles of orderly and proper planning; and
- Whether the proposed development would result in traffic safety impacts at the intersection of Kargotich Road and Thomas Road.

Conclusion

The proposal involves the development of a rural travel stop consisting of a service station, veterinary practice and rural stockfeeds outlet. The proposal has been assessed in accordance with the provisions of the Rural zone, the Shire's Rural Strategy and the activity centres planning framework and has been found to be inconsistent with the objectives and intent of these provisions.

Attachments:

- [OCM100.1/12/13](#) – Location plan and aerial photograph (E13/3887)
- [OCM100.2/12/13](#) – Revised site plan (E13/3886)
- [OCM100.3/12/13](#) – Floor plans and elevations (E13/3888)
- [OCM100.4/12/13](#) – Application documents (IN13/6614)
- [OCM100.5/12/13](#) – Schedule of submissions (E13/3891)

Alignment with our Strategic Community Plan:

The proposal is in conflict with the specific objectives outlined in the Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction.
Objective 4.1	Sustainable Industries
Key Action 4.1.1	Target and engage sustainable, environmentally and socially responsible industries and businesses.

Statutory Environment:

- *Planning and Development Act 2005*
- MRS
- Statement of Planning Policy 4.2
- Statement of Planning Policy 5.4
- TPS 2
- Rural Strategy
- Activity Centres Strategy
- Local Planning Policy No 70

Financial Implications:

In the event that the WAPC resolve to refuse the development application the applicant may have the right to seek a review before the State Administrative Tribunal and there may be costs associated with assisting the WAPC in defending this decision.

Voting Requirements: Simple Majority

Officer Recommendation:

That Council:

1. Determine that the application for a Service Station, Veterinary Establishment and Produce Store at Lot 801 Thomas Road, Oakford be refused for the following reasons:
 - a) The proposed development does not comply with the purpose and intent of the Rural zone as provided for by Clause 5.10.1 of the Shire of Serpentine Jarrahdale Town Planning Scheme No 2 as follows:

The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities in the Scheme Area.
 - b) The grouping of uses as proposed is considered to be an intensification of activity that is inconsistent with the purpose and intent of the Rural zone.
 - c) The proposed development is considered to be out of centre development as the subject land is not identified for future development within the Shire's Activity Centres Strategy and Local Planning Policy No 70 - Activity Centres.
 - d) The proposed development will negatively impact on the function of Thomas Road as a primary freight route as identified within Statement of Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.
 - e) The approval of the development would be contrary to the principles of orderly and proper planning.
2. Advise the Western Australian Planning Commission of Council's decision under the Shire of Serpentine Jarrahdale's Town Planning Scheme No 2.

OCM100/12/13 COUNCIL DECISION / New Motion:

Moved Cr Moore, seconded Cr Piipponen
That Council:

1. Determine that the application for a Service Station, Veterinary Establishment and Produce Store at Lot 801 Thomas Road, Oakford be approved under the Town Planning Scheme No 2, subject to conditions as determined by the Director Planning.
2. Advise the Western Australian Planning Commission of Council's decision under Town Planning Scheme No 2 and confirm that, due to the scaled down nature of the revised proposal, no referral to the Western Australian Planning Commission is required.

Council Note: Council changed the Officer Recommendation to approve the development under Town Planning Scheme No 2 for the following reasons:

- a) The proposed development complies with the purpose and intent of the Rural zone as provided for by Clause 5.10.1 of the Shire of Serpentine Jarrahdale Town Planning Scheme No 2 as follows:

The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities in the Scheme Area.

- b) Council under Town Planning Scheme No. 2, may at its discretion, permit the proposed uses and also may at its discretion, permit the proposed uses after notice of the application has been given in accordance with Clause 6.3 of Town Planning Scheme No 2.
- c) The proposal has been advertised for public comment and all submissions have been carefully considered and assessed. Conditions can be imposed on the development to ensure a high quality development and to reduce the impact on the amenity of the area.
- d) The proposed development provides goods and services to the residents of the surrounding rural areas of the Shire. It is not considered that this development would have an adverse impact on planned commercial centres in the urban area of Byford or the planned future urban area in Oakford.
- e) The proposed development would not impact on the function of Thomas Road as a primary freight route as all access would be from Kargotich Road. The applicant would be required to upgrade Kargotich Road adjacent to the development. Upgrading of the intersection of Kargotich and Thomas Road may also be required by the applicant to the satisfaction of the Department of Planning and Main Roads WA and the Shire of Serpentine Jarrahdale.

CARRIED 6/2

Cr Wilson rejoined the meeting at 8.39pm, immediately following debate and voting on Item OCM100/12/13.

OCM101/12/13	Development Application and Extractive Industry Licence - Sand Excavation – Lot 1304 (No 124) Coyle Road, Oldbury (P03215/12)
Author:	Helen Maruta - Senior Planner
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	7 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: NLG Sand Supplies
 Owner: Vincent Nominees Pty Ltd
 Date of Receipt: 1 August 2013
 Lot Area: 16.6ha
 Town Planning Scheme No. 2 Zoning: Rural
 Metropolitan Region Scheme Zoning: Rural

Introduction:

To consider a development application and renewal of extractive industry licence for continuation of sand extraction operations from Lot 1304 Coyle Road, Oldbury. The proponent is seeking planning consent and renewal of the extractive industry licence for a minimum term of twenty years. The proponent anticipates completion of resource mining at the end of twenty years. It is recommended the application be approved for ten years.

Background:

The subject land has been used as a sand quarry since 1978. The excavation area comprises of eight stages and is already cleared of vegetation, subject to clearing permits issued under the *Soil and Land Conservation Act* in 2002. Sand from the operation has been used for the supply of sand pads in the Shire and the surrounding local authorities.

The original application was referred to the Environmental Protection Authority (EPA) for an environment impact assessment given the potential environmental impacts associated with an extractive industry operation. On 12 August 2002, the EPA determined not to assess the proposal, on the basis that the impacts were not so severe as to warrant formal environmental assessment.

After consideration of the relevant matters, it is recommended that Council recommend approval to the Western Australian Planning Commission (WAPC) to continue sand extraction operations for a period of ten years. Development approval for a period of ten years and an extractive industry licence for a period of ten years is also supported.

Relevant Previous Decisions of Council:

Planning

On 16 July 2003 planning approval was issued by the Shire under Town Planning Scheme No 2 (TPS 2) for a period of five years. Through appeal to the State Administrative Tribunal (SAT) the five year term was extended to ten years. As such planning approval expired on 16 July 2013.

Licence

On 21 December 2005 the Shire through by consent orders from SAT extended the extractive industry licence period from 1 January 2005 to 31 December 2010.

Community / Stakeholder Consultation:

Government Agency Referrals

The application was referred to relevant government agencies for comment. As a result of the advertising, five submissions were received.

Community Consultation

The application was also referred to surrounding landowners, including residents within City of Kwinana, as well as relevant community groups for comment in accordance with clause 6.3 of the TPS 2. As a result of the advertising, seven submissions were received.

Major concerns raised by submitters are listed below:

- Noise
- Dust
- Road Safety
- Lifestyle Social quality of life
- Underground Water Management
- Conservation and Wildlife

Proposal

NLG Holdings are seeking an extractive industry licence and planning approval to continue sand extraction on Lot 1304 Coyle Road for a minimum period of twenty (20) years. The subject land is an existing sand excavation site with operations dating as far back as 1976. The proposal is considered to be a temporary land use which valuable basic raw materials are extracted and the land will be developed at a later stage. The existing low volume sand quarry extracts an average of 20 000 tonnes of sand per annum.

The proponent provides that there are sufficient reserves of sand on site for many years of extraction for NLG Holdings who use the sand for construction of sand pads on housing lots within their contracts. The sand lies on the southern flank of a ridge in the south western corner of the lot. The sand is described as deep grey over white sand grading yellow at depth. The operation which has eight stages of excavation is currently extracting from the stages 1-3 which are centrally located on the lot. The proponent envisages the current low level of operation to continue and anticipates to complete extraction of the resource for stages 4 to 8 in twenty years.

Excavation Program

The proposal has a total of eight stages of excavation Current extraction is on stages 1-3 and the excavation program is expected to continue northwards over a period of time even though stage four is located to the south of the existing operations. The proponent anticipates to complete mining the resource with twenty years for stages 4-8 as there are no proposed changes to the intensify sand excavation. The applicant provided information the following information with regards to staging and timing:

- *There are no proposed changes to the intensity of the sand excavation.*
- *This is a small sand pit that is used intermittently. When sand is transported from the site, in the order of 10 trucks per day could leave the site daily. There may be occasional times when 20 laden trucks leave within one day. On many other days no sand is extracted from the site.*
- *The sand is used for sand pads and other smaller construction activities within the Shire of Serpentine - Jarrahdale and nearby local areas. As such although the rate of excavation is relatively slow the resource is vital to the development of the local area.*
- *It is expected that excavation will continue to average up to 20 000 tonnes depending on contracts won.*

- *The quarry is expected to have a life of over 10 years with stages nominated on the Existing Contour Plan. Stage 7 the last stage is planned to be excavated at the end to maintain good visual buffering to the excavation through the life of most of the pit. When Stage 7 is commenced, much of the pit will have already been rehabilitated.*
- *During Stage 7 the road buffer will be made consistent with the elevation of Coyle Road. This will form a consistent final land surface as shown on the Concept Final Contour Plan. Without excavating the buffer a mound of up to five metres high would be retained within the road buffer.*
- *During the life of the excavation it is anticipated that progressive rehabilitation will be used, reducing the amount of ground open at any one time.*
- *It is expected that between 1.5 and 2 hectares of active floor sand excavations will continue to be open at any one time. This area is required to provide sufficient floor area for excavation, plant and truck turning facilities. The batter slopes will be larger to ensure their stability.*
- *During the life of the excavation it is anticipated that progressive rehabilitation will be used, reducing the amount of ground open at any one time.*

Traffic Movements

Access/egress to the site is directly from Coyle Road. The applicant provided information that there are no proposed changes to the current loading and transport movements. Transport in the form of NLG or contractor trucks with a variety of load capacities will transverse the site. General load capabilities will be between 10 -20 tonnes per laden truck movement. The site removes 20 000 tonnes of sand per annum and on some days there may be up to 20 trucks leaving the site laden and none on other days

Excavation Procedure

The method of extraction is described as follows:

1. The site is cleared of topsoil ahead of excavation.
2. Topsoil will be removed separately and transferred directly to an area being rehabilitated, such as the batter slopes. This reduces stockpiles and maintains the viability of the micro-organisms and seed stores in the soil, and assists the rehabilitation program.
3. Where top soil cannot be spread directly, small stockpiles of topsoil to heights of 500 mm, have to be created to store the materials for later use.
4. There has to be sufficient area of land stripped of topsoil and roots from ahead of the active face to ensure that the sand does not hang on vegetation, and can slump at the natural angle of repose.
5. Excavation will continue to use a front end loader operating on the floor of the pit, loading directly onto road trucks.
6. Excavation will be carried out in accordance with the requirements of the Department of Mines and Petroleum.
7. At the completion of excavation, no final soil slope will be greater than 1:4 vertical to horizontal. The batters will be graded to ensure the final slopes form an interim stable land surface in compliance with the *Mines Safety and Inspection Act (1994) and Regulations (1995)*.
8. Rehabilitation will continue to progressively follow mining, with completed areas of the excavation being revegetated as soon as practicable.

It is expected that the site is operated in conformity with the necessary and relevant legislations that ensures that environmental issues are sufficiently addressed.

Statutory Context

Metropolitan Region Scheme (MRS)

The proposal requires development approval by the WAPC in accordance with the MRS. As such it a requirement that Council provides a recommendation to the WAPC for an informed

determination to be made. Therefore a determination on the application is also required by the WAPC under the provisions of the MRS.

TPS 2

The subject land, Lot 1304 Coyle Road is currently zoned 'Rural' under TPS 2. The purpose of the 'Rural' zone is as follows:

“The purpose intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area”.

In accordance with the Table 1 (Zoning Table) of the scheme an 'extractive industry' is identified as an 'AA' use in the 'Rural Zone' which means that the use can be permitted at Council's discretion. Any application for an AA use should be considered in its individual planning merit in consideration of the objectives of the rural zone and whether the form, scale and function of a proposal can be accommodated within the rural zone with regards to safeguarding the amenity, health, safety and convenience of the residents in the locality.

Statement of Planning Policy 2.4 - Basic Raw Materials (SPP 2.4)

The WAPC's SPP 2.4 sets out the matters which are to be taken into account and given effect to by the WAPC and local governments in considering zoning, subdivision and development applications for extractive industries (for the extraction of basic raw materials) and zoning, subdivision and development applications in the vicinity of identified basic raw material resource areas.

Basic raw materials mean sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone) and gravel and other construction and road building materials. These materials are produced relatively cheaply, with the major cost being the transport to the construction site. A ready supply of basic raw materials close to established and developing parts of the metropolitan region is, therefore, essential in keeping down the costs of land development and contributing to affordable housing.

Under this policy, the subject site is identified as being within a 'Key Extraction Area' which is specified as being "areas of recognised regional resources providing for the long term supply of basic raw materials". The policy also states that these key extraction areas should be protected in relevant town planning schemes. It is considered that the proposal is compatible with the objectives of SPP 2.4.

Rural Strategy

The proposed extraction area is identified within the 'Raw Materials Extraction' policy area under the Shire's Rural Strategy. The policy area seeks to encourage, and provide opportunity for continued use and development of existing sites for the extraction of raw materials. The objectives of the policy area are as follows:

- *To encourage and provide for continued use of existing raw material extraction sites;*
- *To allow for the development of Priority Resource Area (Raw Materials Policy) for extractive purposes compatible with sound land use planning and maintenance of conservation, landscape, and lifestyle values in the Shire;*
- *To ensure that raw material extraction activities cause no exposure of the community to unacceptable risk or safety;*
- *To ensure that raw material extraction activities cause no unacceptable social or environmental impacts*

Consistent with these objectives, the Rural Strategy lists a range of desirable, conditional, and undesirable land uses that may be considered within the policy area. An extractive industry can be considered as conditional land use within the policy area on the basis that sufficient information has been provided to demonstrate proper management of potential

impacts on amenity, the potential for land use conflict and the potential to threaten the viability of agricultural pursuits on adjacent and nearby properties.

It is considered that the applicant has provided sufficient information within the application to demonstrate that social, economic, or environmental benefits constraints will be sufficiently addressed through implementation of the management plans that have been provided. The report includes information to demonstrate the proposal will not adversely impact on a number of relevant matters defined by the policy, particularly:

- Groundwater levels
- Noise Management
- Dust Management
- Visual impact
- Health impacts
- Amenity and social impacts
- Dieback and weed Management
- Rehabilitation or Mine closure

Local Laws

The application for renewal of the current extractive industry license is prescribed within the Shire's Extractive Industries Local Laws (the local law).

Part 4.3 (4) of the local law states the following:

Upon receipt of an application for the renewal of a licence, the local government may-

- (a) refuse the application; or*
- (b) approve the application on such terms and conditions, if any, as it sees fit.*

It would be reasonable to determine that the application can be approved subject to appropriate conditions. The operation has a history and the application present low level extraction with simple extraction and loading activities.

Key Issues

Noise Management

The future stages of extraction adjoin rural lots to the north eastern portion of the land and are likely to increase the potential for noise impacts. In addition during the consultation period concerns were raised regarding noise from truck movements particularly reversing beepers. The applicant has advised that the proposal is for continuation of a low level of extraction which operates intermittently without heavy machinery. A noise management report has been included with the application. The noise management measures set out in the ERMP are follows:

- *The type of sand excavation is no different to that of other sand pits or the operations since site commencement. Screening or washing is not used or proposed.*
- *All static and processing equipment continues to be located on the quarry floor below natural ground level, to provide maximum shielding.*
- *Normal sand extraction is a relatively quiet operation screened by the walls of the pit. Land clearing and restoration is to be completed by the loader.*
- *Effectively, from a noise perspective, the loader is equivalent to a large farm tractor, although it will operate on more days per year.*
- *Two dwellings lie close to the proposed excavation at a distance of 75 metres from the north eastern corner and east of the boundary buffer.*
- *Excavation will work towards these two dwellings from the west behind the face of the quarry which will provide noise screening. Vegetation within the boundary buffer will*

assist visual screening. In addition the noise emanating from a loader is little different to that of a farm tractor, and the site is worked intermittently.

- *Currently the face of the quarry is about 200 metres from the closest dwelling and this will reduce as excavation continues. The progress of the face has been approximately 130 metres in the past 12 years.*

The proponent also included with the application results of a noise study and levels that were measured on 23 January 1996 when a sound engineer conducted noise level measurements at the quarry. The Shire technical officers have also considered that the site is a low level operation and the noise levels produced by this operation have not significantly impacted on local residents. The application will be required to comply with the *Environmental Protection (Noise) Regulations (1997)*.

It is considered that to ensure the impacts of the proposal are minimised, the current operating hours should be maintained.

Dust Management

Sand extraction has the potential to cause dust impacts that affect the workers and the general locality. The proposal is accompanied by a dust management plan (DMP) that has been reviewed by officers. Given that the greatest risk of dust generation is during land clearing and top soil reinstatement, the proponent has advised that the excavation methods are not likely to result in significant adverse effects on the amenity of the locality. The DMP includes a number of management practices for managing the impacts from dust. Officers have also considered that the application does not involve screening process, the operation is low level and there have been no complaints regarding dust pollution.

It is therefore recommended that suitable conditions requiring compliance with and implementation of the dust management plan should be imposed should the application be approved.

Underground Water Management

The applicant has provided the following information in regards to water quality and ground water protection:

- *Lot 1304 lies within the Jandakot Land Use and Water Management Area but is outside the Jandakot UWPCA.*
- *No changes are proposed to the methods of excavation or the scale and size of excavation.*
- *The area has no surface drainage because of the permeable and porous nature of the sand.*
- *A soil auger hole on 4 October 2001, at the end of a relatively dry winter, determined the water table at 3 550 mm below the level of the surveyed datum, which is located on the excavated floor of the pit; ie. at an elevation of 18.06 metres AHD, (datum 21.61 m AHD).*
- *Department of Water Data for the highest water table suggests 20 metres AHD which appears to be close to the true maximum elevation of the water table in wet years. Lot 1304 lies within the Jandakot Land Use and Water Management Area but is outside the Jandakot UWPCA.*
- *The minimum final land surface will be 21 metres AHD, which was 3.6 metres above the water table in October 2001.*

Ground and surface water will be protected by the following:

The extraction and processing of sand is a chemically free operation with the only liquids used being lubricants and fuel for machinery.

Excavation of the current floor is 3.6 metres above the known groundwater elevation. No potential chemical pollutants, fuel or oils are stored on site. Minor servicing will be conducted onsite by mobile service vehicles and all lubricant wastes transferred by vacuum pumps to a storage tank on the service vehicle and recycled at the NLG facilities.

The access road and resource area are installed with locked gates and fences when the site is unmanned to prevent illegal dumping of rubbish.

Rubbish generated is recycled wherever possible and periodically disposed of at an approved landfill site. Any illegally dumped materials are removed promptly to an approved landfill or other suitable site, depending on the nature of the material.

The Department of Environment and Conservation, Department of Water and the Shire of Serpentine Jarrahdale will be notified of any fuel or oil spill greater than 5 litres. There have been no incidents since operations commenced.

The same procedures will be used in the event of any fuel or hydrocarbon spill, including those in excess of 5 litres. Any spills will be contained by the excavation. Soil and resource will quickly be placed around the spill to contain it in as small an area as possible. When contained, the contaminated sand will be scooped up and removed to an approved landfill or other approved site.

The proposal referred was sought from the Department of Water (DOW) during the assessment of this application. The proposal by way of condition should have regard to groundwater, water quality protection storm water management. The issues raised are included table of submissions forming part of the application.

Amenity and Lifestyle impacts

Submissions were raised regarding to the intrusion of the peaceful and quiet rural lifestyle by extractive industry. These issues were adequately addressed by the applicant in the planning report. It is considered that the proposal is consistent with TPS 2 and the current Rural Strategy.

Conservation and Wildlife

Concerns have been raised regarding the impact of clearing vegetation on the natural habitat for wildlife. The proposal does not include clearing of further vegetation as the land was previously cleared and as such it is anticipated that continuation of the sand extraction is not likely to adversely affect wildlife.

Road safety

Concerns have been raised regarding increase of trucks on local roads becomes a major safety issue and danger to local residents who use local roads for walks. In addition there was concern with the potential deterioration of the roads due to increase of the trucks on the road and the associated noise emissions. Officers have considered that Coyle Road has been designed to carry the type of the haulage trucks being proposed. The proponent has also provided that the proposal is not anticipated to vary from the existing operation which is considered to be a low impact. On days of operation a total of ten laden trucks movements and occasionally up to twenty trucks, this only happens a few times in a year.

Dieback Management Plan

The proposal also includes a dieback and weed management plan. The Dieback management program includes the following practices:

1. *The site is maintained to minimise the spread or introduction of Dieback Diseases according to the above points. See CALM Dieback Hygiene Manual 1992.*

2. *Excavation of the site has been designed to comply with CALM Best Practice Guidelines for the Management of Phytophthora cinamomi, draft 2004 and Dieback Working Group 2005, Management of Phytophthora Dieback in Extractive Industries.*
3. *The rehabilitated surface will be free draining and not contain wet or waterlogged conditions.*
4. *The site is secured from unwanted access by locked gates, barricades and fences.*
5. *Excavation vehicles are restricted to the excavation area and access road.*
6. *Road transport vehicles are restricted to the excavation and access areas.*
7. *A hygienic site is maintained by not bringing any soil or plant material onto the site except for rehabilitation purposes. A dedicated wash down bay is not required for an operation such as this.*
8. *Prompt removal of any rubbish or dumped materials is practised.*
9. *Some clean hard materials are brought to site to enable construction of the access road. These are limestone and other inert materials. At the end of excavation these will either be buried or removed from site.*
10. *All quarrying, excavation and transport vehicles are required to be cleaned when coming from a dieback affected area, prior to leaving their source.*

Weed Management Plan

The subject land is located adjacent to banksia nature reserve, a conservation area that forms part of Bush Forever Site No. 353 *Banksia Road Nature Reserve, Peel Estate* and Jandakot Regional Park. The applicant provided information that weed management was an ongoing process that will be integrated with normal farm weed management. The thrust of the grass management will be to minimise the risk of spreading into adjoining remnant vegetation. A 20metre boundary buffer is provided to ensure that the adjacent banksia Nature Reserve is not to be adversely impacted by weed invasion.

The applicant has provided the following measures in the management plan:

- *Do not bring any plant, soil or fill material to the site.*
- *Secure the site to prevent illegal dumping of rubbish.*
- *Remove all rubbish promptly.*
- *Minimise incursions into remnant vegetation in better condition, such as the Banksia Woodland to the east and north. This is normally only entered during perimeter firebreak maintenance.*
- *Treat any weeds promptly no matter how few there are. Several weeds pulled out by hand and destroyed, may save many dollars in spraying at a later stage.*
- *Work from the least weed affected areas to the most weed affected, which therefore gives a smaller area to treat with spray or earthworks weeds at least annually and as required every six months.*
- *Does not use weed affected soils for rehabilitation, but bury them at least 500mm below the surface.*
- *Regularly monitor the site for the introduction of declared weeds and those that have the potential to become a local pest.*
- *In rehabilitation areas, pasture species may be sprayed with a grass specific spray such as Fusillade or a broad spectrum spray such as Glyphosate to reduce the competition of other species.*
- *If Declared or Environmental Weeds do gain access to the site they will be treated as below.*
- *Large weeds will be buried, burned or removed off site.*
- *Follow up spraying by a licensed contractor will be undertaken and repeated as necessary.*
- *Small weeds will be sprayed by a licensed contractor and repeated as necessary.*

Revegetation and Rehabilitation

The applicant has submitted a management and rehabilitation plan that addresses the following issues:

- *Dieback disease;*
- *Weed management;*
- *Fire protection;*
- *Topsoil and overburden removal;*
- *Landform restricting and contouring;*
- *Pre-planting / seeding weed control;*
- *Revegetation;*
- *Erosion control; and*
- *Continual monitoring.*

The management plan outlines the process of revegetation and biodiversity management that is to be continued over the site to ensure that it is rehabilitated over time to achieve final and full rehabilitation once the extraction on the site has ceased. In addition to addressing the above rehabilitation of the proposal area is planned to include rehabilitation to the existing pasture land use and batter slopes rehabilitated, with an area of revegetation to local native species along the buffers and in strategic locations.

Period of Operation

The applicant has requested a minimum of twenty (20) year planning approval and licence to expand the extractive industry operations. There are a number of matters that Council needs to consider in determining the potential length of any approval, including but not limited to:

- The duration of any impacts stemming from a proposal;
- The potential for planning frameworks to change over time;
- What is considered to be a reasonable period of time for the land use to operate; and
- Consistency with other extractive industries.

A further matter that Council needs to consider in determining the length of any fixed-term approval, is the ability for Council to extend the length of the approval in the future, upon request from the applicant. Clause 6.10 of TPS 2 reads as follows:

"Where the Council grants approval, the Council may impose conditions limiting the period of time for which the approval is granted."

Accordingly, there is the ability for Council to limit the period of any approval. Clause 6.9.2. of TPS 2 reads as follows:

"A written request may be made to the Council for an extension of the term of planning approval at any time prior to the expiry of the approval period in sub-clause 6.9.1 (a)."

Accordingly, there is generally the ability for Council to consider requests for an extension of time. With respect to this specific proposal, Council need to have regard to previous planning approval history on the site and compliance of the proposal with the Shire's TPS 2 and Rural Strategy including the state planning policies.

On balance and having regard to the matters outlined above, in the instance that Council resolves to grant development approval and an extractive industry licence, it is recommended that the development approval and the extractive industry licence be limited for a period of ten (10) years, expiring 31 December 2023.

Options

With regard to the determination of the application for planning consent under TPS 2, Council has two options:

1. To grant consent subject to such conditions as deemed fit.
2. To refuse consent.

Option 1, subject to conditions, is recommended.

With regard to the determination of the application for an extractive industries licence, Council has two options:

1. To approve the application over the whole or part of the land, and subject to such conditions, if any, as it sees fit.
2. To refuse the application.

Option 1 is recommended.

Conclusion

This application is for the continued extraction of a basic raw material identified under SPP 2.4 Basic Raw Materials. The site has been in operation since 1978 providing a resource that is increasingly required locally and throughout the state for development. The local area is growing rapidly and the increased urban development within the south eastern corridor requires sand fill due to the topography characterised by low lying areas prone to flooding. Subject to the annual monitoring of the site and auditing of the conditions of approval by the Shire, an approval for a longer period is supported. A period of ten years is also consistent with decisions made by the State Administrative Tribunal in relation to other extractive industries within the Shire. As such it is recommended that the proponent be issued with a ten (10) year development approval and a ten (10) year licence.

Attachments:

- [OCM101.1/12/13](#) - Location plan (E13/4592)
- [OCM101.2/12/13](#) - Aerial photograph (E13/4593)
- [OCM101.3/12/13](#) - Schedule of submissions (E13/3273)
- [OCM101.4/12/13](#) - Proposed development and staging plans (E13/4594) and Figure 2
- [OCM101.5/12/13](#) - Concept Final Contours and Rehabilitation (E13/4595)
- [OCM101.6/12/13](#) - Rehabilitation Plan page 44 -48 of (E13/4618)
- [OCM101.7/12/13](#) - Location Plan Figure I of (IN13/13227)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction
Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.2	Provide appropriate amenities and accommodation for the Shire's growing population of youth and seniors.
Objective 5.2	Excellence in Environmental Management
Key Action 5.2.1	Protect, restore and manage our landscapes and biodiversity.

Statutory Environment:

- *Local Government Act 1995*
- *Planning and Development Act 2005*
- Extractive Industries Local Law 1995
- TPS 2
- SPP 2.4 - Basic Raw Materials

Financial Implications:

Within budget

Voting Requirements: Simple Majority

Officer Recommendation:

That Council:

1. Grant development approval for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following conditions:

General

1. This approval is valid for a period of ten years (10) from the date of approval being granted.
2. All development and activity is to be carried out in accordance with the Excavation Rehabilitation Management Plan dated June 2013.
3. Operating hours are restricted to 7am to 5pm Monday to Saturday and are not permitted to occur on Sundays and Public Holidays.

Compliance

4. The landowner shall submit an annual report to the Director Planning by 31 March each year. The annual report shall include an internal compliance audit of all the development and licence approval conditions and management plans. The annual report shall also provide details relating to complaints and complaint responses.
5. The landowner shall within 90 days of this approval prepare a Compliance Assessment Plan and Audit Table utilising the frameworks detailed in the Environmental Protection Authority document Guidelines for Proponents: Preparing a Compliance Assessment Plan. This plan is to be submitted for approval by the Director Planning.

Dust

6. The landowner shall implement the provisions of and comply with the Dust Management section of the Excavation Rehabilitation Management Plan (June 2013) at all times and where appropriate apply the Department of Environment and Conservation's A Guideline for Managing the Impacts of Dust and Associated Contaminates from Land Development Sites, Contaminated Sites Remediation and Other Related Activities document dated March 2011 (DEC Guide).

Noise

7. The landowner shall comply with the Noise Management provisions of the Excavation Rehabilitation Management Plan (June 2013) in its entirety.

Water Resources

8. The landowner shall implement and comply with the Water Management provisions of the Excavation Rehabilitation Management Plan (June 2013) at all times.
9. All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is prohibited.

Earthworks and Construction

10. No earthworks, including batters, shall intrude into any buffer areas in accordance with the approved plan, unless otherwise approved by the Director Planning.
11. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.

Traffic

12. Where damage is caused to the road pavement and/or bitumen seal adjacent to the access as a result of heavy haulage operations from the subject site, such damage shall be rectified at the applicant's expense and to the satisfaction of the Director Engineering.
13. A maximum speed limit of 20 kilometres per hour shall be applied to all internal roads, driveways and vehicle access ways and signs in this regard shall be displayed at the entrances to the site.
14. The movement of any oversize vehicle, as per the interpretation contained in the *Road Traffic Act 1974*, to/from the subject site will require the separate approval of the Shire.
15. No onsite fuel storage and major servicing of equipment shall take place on site.
16. The landowner shall implement measures to minimise the risk of spills or leaks of chemicals including fuel, oil or other hydrocarbons in accordance with the Fuel Spill Management Plan section of the Excavation Rehabilitation Management Plan (June 2013) and shall ensure that no chemicals or potential liquid contaminants are disposed of on-site.
17. The landowner shall keep a register of the extent, location, environmental implications and remedial actions taken for any accidental contamination of soil or water resources in a logbook to be kept onsite and available for immediate inspection by the Serpentine Jarrahdale Shire.

Biodiversity, Landscape and Visual Impact Management

18. The landowner shall comply with the Environmental Impacts and Management provisions of the Excavation Rehabilitation Management Plan (June 2013).

19. Where extractive industry activities, including stockpiling and haulage, are occurring within close proximity (30 metres) to remnant vegetation or rehabilitated areas, the applicant shall utilise post and wire fencing flagged with brightly coloured survey tape or flags or some other means approved in writing by the Director Engineering, to prevent encroachment by machinery.
2. The extractive industry licence be granted for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following conditions:
 1. The Extractive Industry License is issued for a period of ten years (10) from the date of approval being granted.
 2. The licensee shall comply with all the provisions of the Serpentine Jarrahdale Extractive Industry Local Law.
 3. The Licensee shall pay an annual Extractive Industries License fee.
3. Recommend to the Western Australian Planning Commission that development approval be granted under the Metropolitan Region Scheme for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following condition:
 1. The approval is for a limited period only, ending 31 December 2023.

OCM101/12/13 COUNCIL DECISION:

**Moved Cr Kirkpatrick, seconded Cr Moore
That Council:**

- 1. Grant development approval for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following conditions:**

General

- 1. This approval is valid for a period of ten years (10) from the date of approval being granted.**
- 2. All development and activity is to be carried out in accordance with the Excavation Rehabilitation Management Plan dated June 2013.**
- 3. Operating hours are restricted to 7am to 5pm Monday to Saturday and are not permitted to occur on Sundays and Public Holidays.**

Compliance

- 4. The landowner shall submit an annual report to the Director Planning by 31 March each year. The annual report shall include an internal compliance audit of all the development and licence approval conditions and management plans. The annual report shall also provide details relating to complaints and complaint responses.**
- 5. The landowner shall within 90 days of this approval prepare a Compliance Assessment Plan and Audit Table utilising the frameworks detailed in the Environmental Protection Authority document Guidelines for Proponents: Preparing a Compliance Assessment Plan. This plan is to be submitted for approval by the Director Planning.**

Dust

6. The landowner shall implement the provisions of and comply with the Dust Management section of the Excavation Rehabilitation Management Plan (June 2013) at all times and where appropriate apply the Department of Environment and Conservation's A Guideline for Managing the Impacts of Dust and Associated Contaminates from Land Development Sites, Contaminated Sites Remediation and Other Related Activities document dated March 2011 (DEC Guide).

Noise

7. The landowner shall comply with the Noise Management provisions of the Excavation Rehabilitation Management Plan (June 2013) in its entirety.

Water Resources

8. The landowner shall implement and comply with the Water Management provisions of the Excavation Rehabilitation Management Plan (June 2013) at all times.
9. All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is prohibited.

Earthworks and Construction

10. No earthworks, including batters, shall intrude into any buffer areas in accordance with the approved plan, unless otherwise approved by the Director Planning.
11. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.

Traffic

12. Where damage is caused to the road pavement and/or bitumen seal adjacent to the access as a result of heavy haulage operations from the subject site, such damage shall be rectified at the applicant's expense and to the satisfaction of the Director Engineering.

Hazardous Chemicals

13. No onsite fuel storage and major servicing of equipment shall take place on site.
14. The landowner shall implement measures to minimise the risk of spills or leaks of chemicals including fuel, oil or other hydrocarbons in accordance with the Fuel Spill Management Plan section of the Excavation Rehabilitation Management Plan (June 2013) and shall ensure that no chemicals or potential liquid contaminants are disposed of on-site.
15. The landowner shall keep a register of the extent, location, environmental implications and remedial actions taken for any accidental contamination of soil or water resources in a logbook to be kept onsite and available for immediate inspection by the Serpentine Jarrahdale Shire.

Biodiversity, Landscape and Visual Impact Management

16. The landowner shall comply with the Environmental Impacts and Management provisions of the Excavation Rehabilitation Management Plan (June 2013).
 17. Where extractive industry activities, including stockpiling and haulage, are occurring within close proximity (30 metres) to remnant vegetation or rehabilitated areas, the applicant shall utilise post and wire fencing flagged with brightly coloured survey tape or flags or some other means approved in writing by the Director Engineering, to prevent encroachment by machinery.
2. The extractive industry licence be granted for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following conditions:
 1. The Extractive Industry License is issued for a period of ten years (10) from the date of approval being granted.
 2. The licensee shall comply with all the provisions of the Serpentine Jarrahdale Extractive Industry Local Law.
 3. The Licensee shall pay an annual Extractive Industries License fee.
 3. Recommend to the Western Australian Planning Commission that development approval be granted under the Metropolitan Region Scheme for sand extraction at Lot 1304 Coyle Road, Oldbury subject to the following condition:
 1. The approval is for a limited period only, ending 31 December 2023.

CARRIED 9/0

Council Note: Council changed the Officer Recommendation in Item OCM101/12/13 by deleting original Traffic conditions 13 and 14 as these conditions are unnecessary.

Cr Urban has declared an interest by close association in Item OCM102/12/13 – Proposed Lease – Serpentine Jarrahdale Men’s Shed (Inc) and Shire of Serpentine Jarrahdale, in that he has accepted a position on the board of the Serpentine Jarrahdale Men’s Shed (Inc). Cr Urban withdrew from the meeting at 8.44pm.

OCM102/12/13	Proposed Lease – The Serpentine Jarrahdale Men’s Shed (Incorporated) and the Shire of Serpentine Jarrahdale (SJ975)
Author:	Kristen Cooper – Leasing and Property Officer
Senior Officer:	Alan Hart - Director Corporate and Community
Date:	29 October 2013
Disclosure of Officers Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

The Serpentine Jarrahdale Men's Shed Association has approached the Shire with a proposal to build a community shed that provides support to those people experiencing issues associated with retirement, health, social isolation, aging and significant life changes. The Hugh Manning Tractor and Machinery Museum Incorporated has also been investigating the possibility of expanding the current building in Wellard Street. Lot 815 Staff Street Jarrahdale is owned by the Shire in freehold. Shire Officers believe that this site would complement the adjoining developing Jarrahdale Heritage Park and National Trust land.

Background:

Men’s Sheds are a recent phenomenon in Australia. Research confirms the value of men’s sheds in a community setting to retired or older men’s wellbeing, particularly to their health, social enjoyment, ongoing learning capacity and ability to contribute to the community

The Serpentine Jarrahdale Men’s Shed Association envisages a long and productive existence in the support of Men and the greater community and seek a long lease on land that a Men’s Shed would be built. The Serpentine Jarrahdale Men’s Shed Association will seek grants to cover the full cost of establishing the Men’s Shed from the State and Federal Governments.

In accordance with the Shire’s Lease and Licence Policy a standard lease with a rental term of ten years and an option to renew for a further ten years will be offered to the Men’s Shed Association. A \$1.00 peppercorn rental is payable yearly on this lease consistent with the Shire’s Lease and Licence Policy.

Relevant Previous Decisions of Council:

- OCM220/06/13 - recommended that Council consider alternative sites within Lot 815 including the ‘Red Shed’ for use by the Men’s Shed Association

Community/ Stakeholder Consultation:

Consultation has occurred with members from the Men’s Shed, Shire Officers and Councillors, Mr Don Randall MLA, Minister for Local Government Mr Tony Simpson, Jarrahdale Community Association, Serpentine Jarrahdale Community Resource Centre, owner of the Jarrahdale Sawmill, Tractor Museum members and many residents.

Attachments:

- [OCM102.1/12/13](#) - Proposed lease (IN13/20145)
- [OCM102.2/12/13](#) - Aerial photograph of proposed lease area (E13/4349)

Alignment with our Strategic Community Plan:

Objective 6.2	Active and Connected People
Key Action 6.2.2	Use community facilities to provide social interactions for all age groups through appropriate activities and events

Statutory Environment:

In accordance with the Shire's Community Group Rating Policy, Policy number SEG02, Council can provide a general rate concession to community groups that would normally be subject to being charged general rates under the *Local Government Act (1995)* where the Shire enters into Lease Agreements with the Community Group.

Financial Implications:

As this is a 'no cost to the Shire' standard lease, a \$1.00 peppercorn rental only will be payable. All costs in relation to the preparation of the lease will be paid by the Lessee. The club funds all maintenance, payment of outgoings, utilities and government rates and charges of the lease area. It was agreed by all parties that land rates will not become payable on the land until occupancy of the Men's shed occurs.

Voting Requirements: Simple Majority

OCM102/12/13 COUNCIL DECISION / Officer Recommendation:**Moved Cr Kirkpatrick, seconded Cr Moore**

That Council authorise the Chief Executive Officer and Shire President to sign the lease with the Serpentine Jarrahdale Men's Shed (Inc) for a period of ten years with an option to renew for a further ten years, as per Attachment OCM102.2/12/13.

CARRIED 8/0

Cr Urban rejoined the meeting at 8.45pm, immediately following debate and voting on Item OCM102/12/13.

Cr Erren withdrew from the meeting at 8.45pm and rejoined the meeting at 8.46pm.

OCM103/12/13	Locality Funding Program – Revision of Policy for Townscape Projects (SJ1460)
Author:	Carole McKee – Manager Community Services
Senior Officer:	Alan Hart – Director Corporate and Community
Date of Report:	26 September 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

Council is requested to endorse the revised G914 Locality Funding Policy for Townscape Projects.

Background:

The Locality Funding Program (LFP) benefits the six localities of Oakford, Byford, Mundijong, Jarrahdale, Serpentine and Keysbrook with funding for townscape projects. Currently, Policy G914, allocates funds to the respective localities based on the locality's classification and size, and an accumulation limit applies.

The Policy, originally developed in 2009 has had minor reviews in 2010 and 2012. This more substantial review provides a shorter more succinct policy, which includes the removal of the accumulation limit and the introduction of two funding rounds throughout the year as well as other improvements. Council will determine the actual budget provisions in the annual budget process.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this issue.

Community / Stakeholder Consultation:

The changes that have been made are based on learnings, experiences and feedback from technical officers, elected members, and members of community groups.

Comment:

The LFP is now in its fourth year and works through a capacity building model that encourages partnerships and use of local and regional resources, including volunteer labour. The LFP is only available to local groups and all proposed projects will mostly use local resources both human and material and may include renewable or recycled resources to achieve project outcomes. Each project aims to minimise resource use.

Contributions of cash or in-kind are also encouraged to increase the chances of drawing more funds to this community. Demonstrating that funds will be used to leverage external funding, or the need to provide evidence that this approach has been tried and exhausted, have greater emphasis in the revised policy.

Conclusion

It is recommended that Council endorses the revised G914 Locality Funding Policy for Townscape Projects. Revised Guidelines and application forms were attached to demonstrate how the changes in policy will be experienced by applicants.

Attachments:

- [OCM103.1/21/13](#) - Current Policy G914 (E13/3646)
- [OCM103.2/12/13](#) – Draft Revised Policy G914 (E13/4009)

Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction.

Statutory Environment:

- Council Policy G914

Financial Implications:

Council has traditionally allocated \$120,000 per year to the LFP. Council will determine the actual budget provisions in the annual budget process.

Voting Requirements: Absolute Majority

OCM103/12/13 COUNCIL DECISION / Officer Recommendation:

**Moved Cr Wilson, seconded Cr Moore
That Council endorse the revised G914 Locality Funding Policy for Townscape
Projects as per attachment OCM103.2/12/13.**

CARRIED 9/0

OCM104/12/13	Item AC001/11/13 - 2012/2013 Financial Statements and Audit
Author:	Megan Hodgson – Financial Accountant
Senior Officer:	Casey Mihovilovich – Manager Finance and Customer Services
Date of Report:	26 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

Council's Auditor, UHY Haines Norton, has provided Council with the Audit Report and Management Report for the financial year ended 30 June 2013.

Background:

Pursuant to Sections 7.2, 7.3 and 7.9 of the *Local Government Act 1995*, local governments are required each year to have the accounts and annual financial report of the Council audited by an auditor appointed by the local government.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this matter.

Community / Stakeholder Consultation:

No community consultation was undertaken / required.

Comment:

At the completion of the audit, UHY Haines Norton advised that there were no non-compliance issues.

UHY Haines Norton has advised that there was one management issue in their Management Report for the financial year ended 30 June 2013. The point brought to Council's attention is below:

1. Debt Service Cover Ratio

The debt service cover ratio for the 2012/13 financial year is 3.24; however if the debt service cover ratio did not include the effect of the initial recognition of Land under the Shire's control as required by the *Local Government (Financial Management) Regulations 1996*, the debt service cover ratio would be 2.56, a deterioration from 2012 and below the industry benchmark of 5. In addition, it should be noted the full effect of the new loans drawn down during the 2012/13 financial year is not reflected in the debt service ratio for 2012/13 as the first principal and interest repayments on these loans are due in the 2013/14 financial year.

Comment: Council intends to repay the loans that were taken out from Developer Contribution projects in previous years when the Developer Contribution Plan is approved by the Minister and funds are reimbursed for administration costs in previous years. This will increase the Council's debt service ratio close to the industry benchmark. Shire officers are aware of the borrowing capacity of the Shire and will recommend to Council to limit borrowings in future years, to be in line with industry benchmarks.

The financial performance of the Shire has improved from previous years. Below is a table of the 2012/2013 and previous financial years for comparisons. As detailed below the net result, reserve balance, and cash and cash equivalents are improving in performance and there is a positive trend. Rates raised, operating and capital expenditure, operating and non-operating (capital) income, and loan borrowing balance are also increasing and this is a result of growth in the Shire.

	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013
Rates Raised	5,673,220	6,605,973	7,836,850	8,946,043	10,220,714	11,527,614	12,976,751
Operating Expenditure	13,086,686	15,664,215	16,934,642	17,490,523	19,064,617	21,524,499	22,460,557
Operating Revenue	11,237,024	12,817,460	15,119,671	17,220,430	18,593,130	21,498,379	23,529,257
Non-Operating Revenue	1,483,723	2,746,383	4,394,758	3,246,791	3,501,419	4,893,664	3,967,341
Actual Net Result	(369,127)	(100,372)	2,579,787	2,976,698	3,009,932	4,867,544	5,036,041
Capital Expenditure	2,107,597	4,159,367	2,661,691	6,123,534	3,289,577	5,098,768	9,119,851
Loan Borrowing Balance	3,465,745	3,363,064	4,599,606	5,704,816	4,411,103	4,486,292	5,787,337
Reserve Balance	1,341,566	1,214,305	1,250,596	1,661,942	1,949,015	2,101,206	2,617,973
Cash & Cash Equivalents Balance (excluding restricted & reserve cash)	684,390	(78,368)	557,428	748,225	713,018	2,841,460	3,010,059

Attachments:

- [OCM104.1/11/13](#) - Independent Audit Report (E13/4769)
- [OCM104.2/11/13](#) - Independent Concise Audit Report (E13/4770)
- [OCM104.3/11/13](#) - Management Audit Report (E13/4771)
- [OCM104.4/11/13](#) - 2012/2013 Annual Financial Report (E13/4760)
- [OCM104.5/11/13](#) - 2012/2013 Annual Concise Financial Report (E13/4759)

Alignment with our Strategic Community Plan:

Objective 2.1	Responsible Management
Key Action 2.1.1	This report is a tool for evaluating performance against service delivery to ensure efficiency, effectiveness and meets the needs of the community, elected members, management and staff.

Statutory Environment:

Section 7.2 of the *Local Government Act 1995* states that, “the accounts and financial statements of a local government for each financial year are to be audited by an auditor appointed by the local government.”

Section 7.3 of the *Local Government Act 1995* states, “A local government is to, from time to time whenever such an appointment is necessary or expedient, appoint a person, on the recommendation of the Audit Committee, to be its auditor”.

Section 7.9 (1) of the *Local Government Act 1995* states, “An auditor is required to examine the accounts and annual financial report submitted for audit and, by 31 December next following the financial year to which the accounts and report relate or such later date as may be prescribed, to prepare a report thereon and forward a copy of the report to:

- The Mayor or President;
- The Chief Executive Officer of the local government; and
- The Minister.”

Financial Implications:

A budget provision has been included in the 2013/2014 budget to accommodate the expenses associated with carrying out an audit.

Voting Requirements: Absolute Majority**Audit Committee / Officer Recommended Resolution:**

That Council:

1. Adopt the Independent Audit Report and the Concise Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2013.
2. Receive the Management Report.
3. Receive the Audited Financial Report and the Concise Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2013.
4. Adopt that the Annual Report will include the Concise Financial Report and that the full Financial Report will be available to the public, in person, or via the website.
5. Take all reasonable actions to return its loan ratio to the industry standard of a loan ratio of 5.0 and any further loans of a significant nature be reassessed to ensure our debt commitment is reduced.

OCM104/12/13 COUNCIL DECISION / New Motion:

Moved Cr Wilson, seconded Cr Erren

That Council:

1. **Adopt the Independent Audit Report and the Concise Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2013.**
2. **Receive the Management Report.**
3. **Receive the Audited Financial Report and the Concise Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2013.**
4. **Adopt that the Annual Report will include the Concise Financial Report and that the full Financial Report will be available to the public, in person, or via the website.**
5. **Take all reasonable actions to return its loan ratio to the industry standard of a loan ratio of 5.0 and any further loans of a significant nature be reassessed to ensure our debt commitment is reduced.**

CARRIED 9/0

Council Note: Council changed the Officer Recommendation in Item OCM104/12/13 by adding point 5 - to maintain our services to the community and keep rates as low as possible, we need to keep our loan ratio at or above 5.0 the industry standard.

OCM105/12/13 Annual Report 2012/2013 (SJ1014)	
Author:	Tammy Wayne-Elliot - Manager Communications and Executive Services
Senior Officer:	Richard Gorbunow - Chief Executive Officer
Date of Report:	29 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

The *Local Government Act 1995* (the Act) requires the Annual Report to be adopted by Council no later than 31 December after that financial year or no later than two months after the auditor's report becomes available. The purpose of this report is to progress adoption of the Annual Report 2012-2013, with a draft of the published version to be tabled at the meeting.

Background:

The Annual Report has been prepared in-house based on the achievements of the year 2012-2013.

Community / Stakeholder Consultation:

Section 5.55 of the *Local Government Act 1995* states that:

"the CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government."

Comment:

The *Local Government Act 1995* requires the Annual Report to be adopted by Council no later than 31 December after that financial year or no later than two months after the auditor's report becomes available.

Local governments are to prepare an annual report for each financial year. This annual report is to contain:

1. A report from the Mayor or President;
2. A report from the Chief Executive Officer;
3. An overview of the Strategic Community Plan of the district including major initiatives that are proposed to commence or to continue in the next financial year;
4. The financial report for the financial year;
5. Such information as may be prescribed in relation to payments made to employees;
6. The auditor's report for the financial year; and
7. A matter on which a report must be made under section 29(2) of the Disability Services Act 1993.

The Audit Committee meeting was held on 28 November 2013 to consider the signed audit report and financial statements. The Audit Partner from UHY Haines Norton was present at this meeting to answer any Audit Committee questions in relation to the audit. The Audit Committee Meeting resolution was:

AC001/11/13 AUDIT COMMITTEE / Officer Recommendation:

Moved Cr Urban, seconded Cr Erren

That the Audit Committee:

1. Adopt the Independent Audit Report and the Concise Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2013.
2. Receive the Management Report.
3. Receive the Audited Financial Report and the Concise Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2013.
4. Adopt that the Annual Report will include the Concise Financial Report and that the full Financial Report will be available to the public, in person, or via the website.

CARRIED 5/0

The concise audit report and concise financial statements are included in the Annual Report.

In order to meet the requirements of the *Local Government Act 1995*, the Annual Electors' Meeting must be held within 56 days of the adoption of the annual report. Should the annual report be accepted by Council at the Ordinary Council Meeting on 9 December 2013 the Annual Electors Meeting would need to be held before 3 February 2014.

It is anticipated that the Annual Electors Meeting will be held in the Council Chambers at 6 Paterson Street, Mundijong on Monday 20 January 2014 commencing at 6.00pm, with the planned order of business being as follows:

1. Receiving of the annual report
2. Receiving of the annual financial statements
3. Reading of the auditors' report
4. General business

The Annual Elector's Meeting will be advertised to the community in local newspapers as well as through community notice boards in the New Year. The public will be asked to provide questions in writing at least 48 hours before the meeting to enable questions to be answered fully and without delay.

Copies of the annual report including the concise financial statement for the period ending 30 June 2012 will be able to be obtained from the Shire's Administration Centre in Mundijong or by telephoning 9526 1111.

Attachment:

- [OCM105.1/12/13](#) – Draft Annual Report 2012 / 2013 (E13/4808)
- [OCM105.2/12/13](#) – Concise Annual Financial Statements (E13/4759)

Alignment with our Strategic Community Plan:

Objective 1.2	Progressive Organisation
Key Action 1.2.4	Provide robust reporting that is relevant, transparent and easily accessible by staff and the community.
Key Action 1.2.6	Comply with all legislative and statutory requirements.

Statutory Environment:

Section 5.53 of the *Local Government Act 1995* requires local governments to prepare an annual report for each financial year and stipulates the format of the report. Section 5.54 states that this report is to be accepted by the local government no later than 31 December each year unless the auditor's report is not available.

Section 7.2 of the *Local Government Act 1995* states that:

“the accounts and financial statements of a local government for each financial year are to be audited by an auditor appointed by the local government.”

Section 7.9 (1) of the Act states:

“An auditor is required to examine the accounts and annual financial report submitted for audit and, by the 31 December next following the financial year to which the accounts and report relate or such later date as may be prescribed, to prepare a report thereon and forward a copy of the report to –

- a) *The Mayor or President,*
- b) *The CEO of the local government, and*
- c) *The Minister.”*

Financial Implications:

A budget provision has been made in the 2012/2013 budget to accommodate the costs associated with the annual report costs.

Voting Requirements: Absolute Majority

OCM105/12/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Rossiter

That Council accept the 2012-2013 Annual Report for the Shire of Serpentine Jarrahdale as per attachment OCM105.1/12/13.

CARRIED 9/0

10. Information reports:

OCM106/12/13	Monthly Financial Report – November 2013 (SJ801)
Author:	Megan Hodgson – Financial Accountant
Senior Officer:	Alan Hart – Director Corporate and Community
Date of Report:	22 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction

The monthly financial report includes rating, investment, reserve, debtor, and general financial information and is required to be presented to Council under the *Local Government Act 1995*.

Background:

The *Local Government Act* and *Financial Management Regulations* require that the Shire prepare a Statement of Financial Activity each month. The *Local Government Act* further states that this statement can be reported either by Nature and Type, Statutory Program or by Business Unit. The Shire has resolved to report by Business Unit and to assess the performance of each business unit by comparing the year-to-date budget and actual results. This gives an indication of how each business unit (and collectively the Shire) is performing against expectations for this point in time and any variance over or under 10% is reported.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this issue.

Community / Stakeholder Consultation:

No community consultation was undertaken / required.

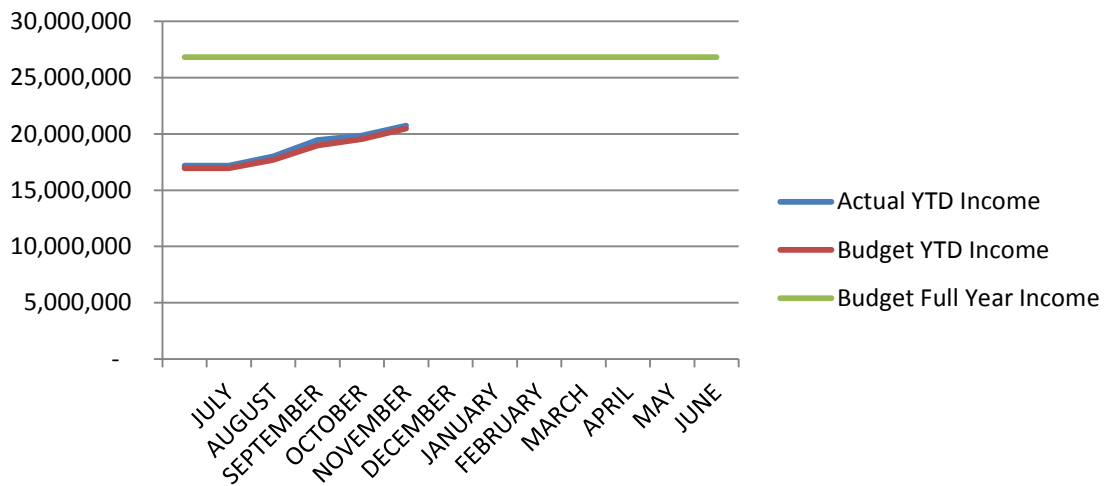
Comment:

The period of review is November 2013. The municipal surplus for this period is \$13,246,645 compared to a budget position of \$11,319,336. This is considered a satisfactory result for the Shire for this time of the year.

Income for the November 2013 period, year-to-date is \$20,745,362. The budget estimated \$20,486,180 would be received for the same period. The variance to budget is \$259,182.

The following graph illustrates actual income to-date compared to the year-to-date budget.

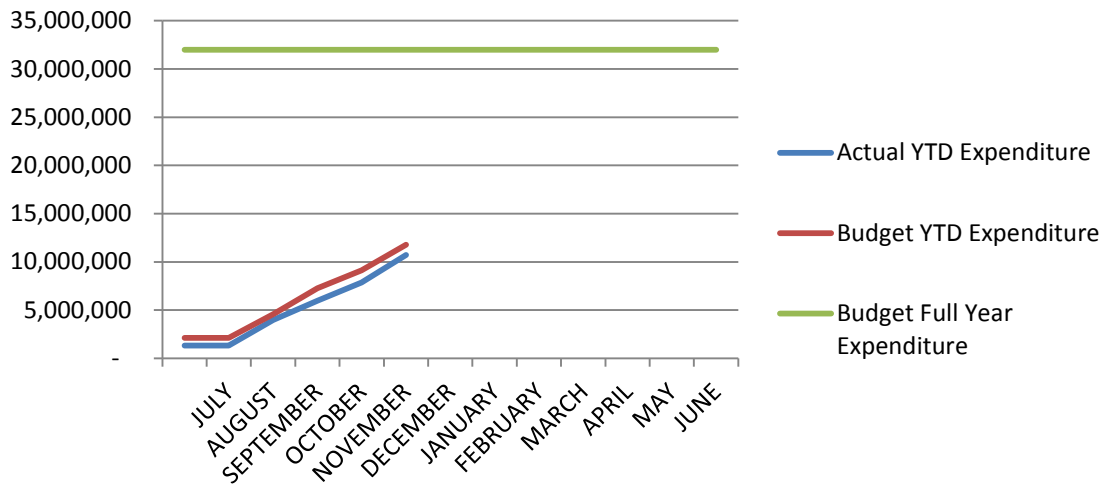
Total Income



Expenditure for the November 2013 period, year-to-date is \$10,723,197. The budget estimated \$11,793,579 would be spent for the same period. The variance to budget is \$1,070,382. Details of all significant variances are provided in the notes to the Statement of Financial Activity by Directorate.

The following graph illustrates actual expenditure to-date compared to the year-to-date budget.

Total Expenditure



Attachment:

- [OCM106.1/12/13](#) - November Monthly Financial Report (E13/4754)

Alignment with our Strategic Community Plan:

Objective 2.1	Responsible Management
Key Action 2.1.1	This report is a tool for evaluating performance against service delivery to ensure efficiency, effectiveness and meets the needs of the community, elected members, management and staff.

Statutory Environment:

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial statement for the preceding year and other financial reports as are prescribed.

Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996*, as amended, requires the local government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

Financial Implications:

There are no financial implications relating to the preparation of the report. Any material variances that have an impact on the outcome of the annual budget are detailed in this report.

Voting Requirements: Simple Majority

OCM106/12/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Moore

That Council receives the Monthly Financial Report for November 2013, in accordance with Section 6.4 of the *Local Government Act 1995*.

CARRIED 9/0

OCM107/12/13 Confirmation of Payment of Creditors (SJ514)	
Author:	Erin Macek - Finance Officer
Senior Officer:	Alan Hart - Director Corporate and Community
Date of Report:	21 November 2013
Disclosure of Officers Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

The *Local Government (Financial Management) Regulations 1996* requires the local government to prepare a list of accounts paid by the Chief Executive Officer each month.

Relevant Previous Decisions of Council:

There is no previous Council decision relating to this issue.

Community / Stakeholder Consultation

No community consultation was required.

Comment

In accordance with the *Local Government (Financial Management) Regulations 1996* 13(1), schedules of all payments made through the Council's bank accounts are presented to Council for inspection. The list includes details for each account paid incorporating:

- a) Payee's name;
- b) Amount of payment;
- c) Date of payment; and
- d) Sufficient information to identify the transaction.

Invoices supporting all payments are available for the inspection of Council. All invoices and vouchers presented to Council have been certified as to the receipt of goods, rendition of services, prices, computations and costing and that amounts shown were due for payment.

It is recommended that Council receives the payments authorised under delegated authority and detailed in the list of invoices for the period 21 October to 20 November 2013, as per the attachment.

Attachment:

- [OCM107.1/12/13](#) - Creditors List of Accounts 21 October to 20 November 2013 (E13/4722)

Alignment with our Strategic Community Plan:

Objective 2.1	Responsible Management
Key Action 2.1.1	This report is a tool for evaluating performance against service delivery to ensure efficiency, effectiveness and meets the needs of the community, elected members, management and staff.

Statutory Environment

Section 5.42 and 5.45(2) of the *Local Government Act 1995* states that the local government may delegate some of its powers to the Chief Executive Officer. Council has granted the Chief Executive Officer Delegated Authority CG07 - Payments from Municipal and Trust Fund.

Financial Implications

All payments that have been made are in accordance with the purchasing policy and within the approved budget and, where applicable, budget amendments that have been adopted by Council.

Voting Requirements: Simple Majority

OCM107/12/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Moore, seconded Cr Erren

That Council receive the payments authorised under delegated authority and detailed in the Creditor List of Accounts 21 October to 20 November 2013, as per attachment OCM107.1/12/13, including Creditors that have been paid in accordance with the *Local Government (Financial Management) Regulations 1996*.

CARRIED 9/0

OCM108/12/13	Corporate and Community Information Report (SJ514-03)
Author:	Gillian Carr – Personal Assistant to Director Corporate and Community
Senior Officer:	Alan Hart - Director Corporate and Community
Date of Report:	22 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information.

Attachments:

- [OCM108.1/12/13](#) – Delegated Authority Financial Services (E13/4729)

Voting Requirements Simple Majority

OCM108/11/13 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Rossiter

That Council accept the Corporate and Community Services Information Report for November 2013.

CARRIED 9/0

OCM111/12/13	Late Item - Appointment of a Councillor to perform the function of Shire President (SJ672)
Author:	Richard Gorbunow – Chief Executive Officer
Date of Report:	4 December 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Introduction:

The Shire President and the Deputy President are away on leave for the following dates:

Shire President 15 January – 26 January 2014 (inclusive)
Deputy President 21 January – 2 February 2014 (inclusive)

Council is required to appoint another Member of Council to perform the function of Shire President in accordance with section 5.35 of the *Local Government Act 1995* during this period.

Community / Stakeholder Consultation:

No community consultation required.

Comment:

The *Local Government Act* is specific about who acts if the Office of President or Deputy is vacant, or not available to perform the functions of President or Deputy. Also, if a person has not been appointed under subsection (1) the Chief Executive Officer (CEO), after consultation with and obtaining the agreement of two Councillors selected by the CEO, may perform the functions of President, as the case requires.

Alignment with our Strategic Community Plan:

Objective 1.2	Progressive Organisation
Key Action 1.2.6	Comply with all legislative and statutory requirements.

Statutory Environment:

Local Government Act 1995 as amended

Financial Implications:

There are no financial implications related to this matter.

Voting Requirements: Simple Majority

OCM111/12/13 COUNCIL DECISION / Officer Recommendation:

**Moved Cr Wilson, seconded Cr Piiipponen
That Council appoint Councillor Moore to perform the function of Shire President from 21 January - 26 January 2014.**

CARRIED 9/0

COUNCIL DECISION**Moved Cr Moore, seconded Cr Wilson****That the meeting be closed to members of the public at 8.53pm to allow Council to discuss Item OCM109/12/13 as per section 5.23(2)(3) of the *Local Government Act 1995*.****CARRIED 9/0**

Cr Hawkins has declared an interest in Confidential Item OCM109/12/13 – Sale of Lot 196 (No 40) Atkins Street, Jarrahdale by Public Sale, in that she has a close association with the owner/manager of Byford Professionals. Cr Hawkins remained in the meeting and took part in voting on this item.

OCM109/12/13	Confidential Item – Sale of Lot 196 (No 40) Atkins Street, Jarrahdale by Public Sale (SJ1388)
Author:	Gillian Carr – Personal Assistant to Director Corporate and Community
Senior Officer:	Alan Hart – Director Corporate and Community
Date of Report:	14 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

A report on Confidential Item OCM109/12/13 has been provided to Councillors under separate cover.

OCM110/12/13	Confidential Item – Chief Executive Officer Performance Review (H0245)
Author:	John Phillips – Western Australian Local Government Association
Date of Report:	28 November 2013
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

A report on Confidential Item OCM110/12/13 has been provided to Councillors under separate cover.

11. Urgent business:

Nil

12. Councillor questions of which notice has been given:

12.1 Standing Orders Local Law 2002, section 3.11 (1) – Questions by Members of which due notice has been given

Cr Kirkpatrick has given notice of his intention to raise the following questions, in accordance with Shire of Serpentine Jarrahdale Standing Orders Local Law 2002, section 3.11 (1) – Questions by Members of which due notice has been given:

1. Has the Council endorsed other than 'in principle' the relocation of the Byford and District Country Club to the site known as the Old Rifle Range site?

Response:

The Director Corporate and Community has advised that Council has not endorsed the relocation of the Byford and Districts Country Club.

2. Has the Council endorsed a location or area of land to be allocated to this project within this reserve?

Response:

No.

3. Has the Council approved the plans in total for this proposed development, including buildings, car parks, sporting facilities and entry into the site and any future expansion?

Response:

The Director Planning has advised that nothing has been approved by Council. A development application has been lodged for the 1st stage consisting of club facilities, bowling greens and 5-a-side soccer ground.

4. When was the lease agreement with the Byford and Districts Country Club signed for this portion of the reserve, and by whom?

Response:

The Director Corporate and Community has advised that no lease agreement has been entered into. Council has only resolved to seek the Minister's approval to enter into a lease for 40 years.

5. Who is the current registered landowner of the land on which the Byford and District Country Club now stands?

Response:

The Crown is the landowner.

With respect to Item P071/03/04:

1. Where are the balance of the 62 parking bays to be provided for this project when only 48 have been provided?

2. In reply to previous question it was stated that the officers had decided that 48 parking bays were required. Did the officers have the power to override the Council decision?
3. Did the proponent give an accurate description of the usage of the development? It is described as 5 shops, 6 offices and a showroom when in fact it is 10 shops and 3 offices.
4. Is what is on the ground what was indicated to Council in the drawings provided?
5. Would the variation have made a difference in the number of parking bays required?
6. To what extent would this have been?
7. When is the Council going to fix this failure to comply with the Council resolution?

COUNCIL DECISION:

Moved Cr Piipponen, seconded Cr Wilson

That Council note that staff are currently researching the history of this development. Due to the time needed to undertake this research and other urgent planning priorities, a briefing on this matter will be provided to Council in late March 2014

CARRIED 9/0

13. Closure:

There being no further business the Presiding Member declared the meeting closed at 9.00pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 10 February 2014.

.....
Presiding Member

.....
Date