

## TABLE OF CONTENTS

<b>1.</b>	<b>ATTENDANCES &amp; APOLOGIES (including Leave of Absence):</b> .....	<b>2</b>
<b>2.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:</b> .....	<b>2</b>
<b>3.</b>	<b>PUBLIC QUESTION TIME:</b> .....	<b>4</b>
<b>4.</b>	<b>PUBLIC STATEMENT TIME:</b> .....	<b>7</b>
<b>5.</b>	<b>PETITIONS &amp; DEPUTATIONS:</b> .....	<b>10</b>
<b>6.</b>	<b>PRESIDENT’S REPORT:</b> .....	<b>11</b>
<b>7.</b>	<b>DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:</b> .....	<b>12</b>
<b>8.</b>	<b>RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:</b> .....	<b>12</b>
<b>9.</b>	<b>MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:</b> .....	<b>13</b>
OCM015/08/12	OUTCOME OF THE REVIEW OF SERPENTINE JARRAHDAL SHIRE LOCAL LAWS (A0090/03).....	13
OCM016/08/12	COMMUNITY FUNDING PROGRAM (SJ742).....	18
OCM017/08/12	MONTHLY FINANCIAL REPORT – JUNE 2012 (A2092) .....	20
OCM018/08/12	SERPENTINE JARRAHDAL COMMUNITY RECREATION AND SPORTS GROUP (INC) – LETTER OF IN-PRINCIPLE SUPPORT TO BUILD A MAJOR COMMUNITY RECREATION AND SPORTS PRECINCT WITHIN THE SERPENTINE JARRAHDAL SHIRE (A1996).....	22
OCM019/08/12	SERPENTINE JARRAHDAL COMMUNITY RECREATION AND SPORTS GROUP (INC) - LETTER OF IN-PRINCIPLE SUPPORT TO BUILD A MAJOR COMMUNITY RECREATION AND SPORTS PRECINCT WITHIN THE SERPENTINE JARRAHDAL SHIRE (A1996).....	26
OCM020/08/12	<b>CONFIDENTIAL ITEM</b> - FLOOD MITIGATION AND WATER MANAGEMENT PLAN - HARRIS PLACE, JARRAHDAL (A2095) ...	29
OCM021/08/12	<b>CONFIDENTIAL ITEM</b> - LEGAL AGREEMENT BETWEEN THE SHIRE OF SERPENTINE JARRAHDAL AND LWP BYFORD SYNDICATE PTY LTD FOR THE GLADES VILLAGE CENTRE LAKES MAINTENANCE – THE GLADES AT BYFORD, L21 & L22 DOLEY ROAD, BYFORD (P04488/03) .....	31
<b>10.</b>	<b>URGENT BUSINESS:</b> .....	<b>32</b>
OCM022/08/12	<b>CONFIDENTIAL ITEM</b> – URGENT BUSINESS – REPORT FROM WA WORKPLACE LAW .....	32
<b>11.</b>	<b>COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:</b> .....	<b>32</b>
<b>12.</b>	<b>CLOSURE:</b> .....	<b>32</b>

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON MONDAY, 13 AUGUST 2012. THE SHIRE PRESIDENT DECLARED THE MEETING OPEN AT 7.00PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

## 1. ATTENDANCES & APOLOGIES (including Leave of Absence):

### IN ATTENDANCE:

<b>COUNCILLORS:</b>	B Moore	..... Presiding Member
	M Harris	
	D Atwell	
	J Kirkpatrick	
	S Piipponen	
	C Randall	
	M Ricketts	
	B Urban	
	G Wilson	
<b>OFFICERS:</b>	Mr B Gleeson	..... Director Development Services
	Mr A Hart	..... Director Corporate Services
	Mrs S van Aswegen	..... Director Strategic Community Planning
	Mr C Wansbrough	Project Manager - Water Sensitive Urban Design
	Mrs D Bridson	.....Agendas and Minutes Officer
<b>APOLOGIES:</b>	Ms J Abbiss	..... Chief Executive Officer
	Mr R Gorbunow	..... Director Engineering
<b>OBSERVER:</b>	Ms P Kursar	.....PA to the Chief Executive Officer

Members of the Public - 57

Members of the Press - 1

## 2. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:

### Clayton Oud, 301 Lightbody Road, Mardella

Councillors I attended the last Council meeting and was overjoyed at the news that finally after many years some money had been allocated to sealing a section of Lightbody Road.

Once again my joy was short lived, as I soon came to the realisation that the residents of Lightbody Road were to be once again let down by the Shire and will still have to live with the choking dust that invades our homes in summer and is the cause of much of our misery.

After the meeting I spoke to the Director of Engineering and I asked if the section in front of the homes would be the section to be sealed. I was told that he did not want to do this section as he was concerned that if no funding was made available in subsequent years then he would be left with a road that had its sealed sections split by a gravel section and whilst this would be ok for a year he would not want to leave his job with the road left like that.

*Q1. My question, so that everyone is clear on why the section in front of the homes is not to be sealed, can I have confirmation that this is an accurate recount of the*

*conversation I had with the Director of Engineering after the Council meeting of the 25th of June.*

- A1. The Director Engineering did make comment that Lightbody Road was identified in the Forward Capital Works Plan to seal 1km of road in the 2012/2013 financial year followed by a further 1km of bitumen seal in the 2013/2014 financial year. The concern was that Council funding is deliberated annually and prioritised annually, Council may or may not commit the fund for the subsequent year, this would be leave a road that has sealed sections split by gravel sections, and that is bad engineering practise.

The danger of approving patch work would have a significant road safety problem due to the confusing level of speed travelled on bitumen roads versus gravel roads. Main Roads Western Australia (MRWA) "Application and Approval Guideline - Speed Zoning" under "1.2 Applicable Roads" and Standard AS 1742.4 -2008 "Manual of uniform traffic control devices Part 4: Speed Controls", Section 2.1.2 General principles (paragraph (d)), reference is made to the fact that unsealed roads are not speed zoned and bitumen roads have sign posted speed limits and MRWA approves these speed zones. The dangerous mix of irregular travel on sealed and non sealed roads creates a potential hazard where lack of vehicle stability and traction control results in failure.

- Q2. *My second question relates to the recent article in the Examiner newspaper concerning Lightbody Road and the quote from yourself Mr President that "The project will improve the standard of the road and reduce dust impacts on some residents" and "not all houses will have bitumen seal adjacent to properties as part of road works in 2013".*

*Unfortunately due to the misinformation quoted in the article many people unfamiliar with the saga are now of the opinion that I selfishly only want the section in front of my own home to be sealed. My question is do you realise that there are no homes on the section of Lightbody Road that you are proposing to seal whereas the section we have always been asking for includes 4 homes with real people living in them.*

- A2. Yes Council is aware that the proposed 1km to be sealed this financial year does not have homes on that section of Lightbody Road.

#### Sharon Gossage, Lot 247 Thatcher Road, Byford

"I have a letter dated 17<sup>th</sup> June 2011 from the Council stating that there will be a wall constructed with natural looking blocks on the dog leg bend of the water way at the back of my property. I also have a letter dated 14<sup>th</sup> July from Richard Gorbunow stating that there will be a rock gabion near the north eastern corner of the property for stabilisation of the ground.

- Q1. *My question is when will this be constructed to stop the erosion of the soil that surrounds my property, which will eventuate to erosion of my property, as there is already erosion occurring from the water running down into the water way?"*

- A1. The construction of the gabion wall at the corner of the Multi Use Corridor (MUC) will be constructed as part of a future subdivision stage of Marri Park Estate, ie Stage 5 or 6. It will include the completion of the Oaklands Link MUC from the southern property boundary where it enters Marri Park Estate from the future Peet Ltd Subdivision at L1 Abernethy Road, Byford.

The gabion wall was originally included in the MUC design drawings by Marri Park Estate's consultant engineers, Cardno Pty Ltd, to provide additional erosion protection.

The Shire's Director of Engineering is of the view that the gabion wall is a somewhat over-engineered approach for addressing possible stream flow erosion. Bank erosion

from rainfall that lands on the embankment is probably more likely to occur. Some minor retaining may be needed to prevent bank erosion caused by rainfall that lands on this embankment. Some natural earth retaining wall blocks would be sufficient at the proposed location, and the establishment of vegetation in the MUC should provide adequate bank stabilisation.

I have been advised that stream erosion is generally more of an issue on the outsides of a stream meander where water velocity is higher compared to the inside of a meander where sediments tend to accumulate. Any stream erosion would be associated with 100-year ARI flood event, which are a very infrequent occurrence. Please note that a 100-Year ARI rainfall event does not necessarily equate to a 100-Year ARI flood event. This is because rainfall is generally localised and not evenly distributed across the catchment. The Byford Townsite Drainage and Water Management Plan InfoWorks Model used to determine peak flows and flood heights also includes a safety factor to account for any potential errors within the modelling.

Based on the above information the Shire's Director of Engineering suggests there is no urgency for the installation of the rock gabions and their completion can be adequately addressed as part of the future stages of subdivision.

### **3. PUBLIC QUESTION TIME:**

*Public question time commenced at 7.01pm.*

Sylvia Whibley, 22 Cranbourne Way, Byford

Q1. Why did the Shire Council not inform Byford Glades residents of the Specified Area Rate levy, and impose it before the village and lake was completed?

Q2. Why is the maintenance based on an assumption?

I refer to the minutes of Council meeting dated 28 November 2011, page 54 and page 10 of discussions paper October 2011.

This weekend my husband Keith Whibley did a door to door survey to collect signatures for the petition. 99% said if the maintenance to the Lake and POS (Public Open Space) is going to cost \$330,000pa, we the residents, don't want it, they prefer parks and children's play equipment.

LWP will be maintaining the lake for five years and said, their contractor won't be charging \$330,000pa.

The Shire Council needs to justify this amount because the residents have lost faith in the Council to spend the money in The Glades area.

Q3. Why didn't the Council adopt the second option of funding the infrastructure as per the minutes of the Council meeting held on 28 November 2011, page 56.

Most residents in the Byford district use the POS, barbecues, markets and the play equipment now. They will use the village centre and lakes etc; they don't have to pay a cent. I would request the Council adopt the second method of funding to all Byford residents. Let common sense prevail.

The Shire President advised that a public meeting will be held at the next Council Policy Forum being held in September. Mr Phil Cuttone will be in attendance so that these issues can be discussed. The Shire President advised that these questions will be taken on notice and responded to in writing.

Mrs Lee Bond

- Q1. Is council responsible for the care and upkeep of the rainforest in Byford? If not, who is and who pays for it?
- Q2. What is Council going to do about the misleading information which has been circulating for some time, and recently increased, regarding local volunteer bush fire brigades not being permitted to fight house fires, only bushfires?

Perhaps Council should refer to section 39 paragraph (l) of the Bushfires Act 1994.

- Q3. Is this Shire recycling the contents of our recycle bins? If not, why not? If yes, where is it being recycled?

The Shire President advised that these questions will be taken on notice and responded to in writing.

Cheryl Giles, Millard Way, Byford

As a current resident of The Glades in Byford and a rate payer, I would like my concerns heard by the Council and for the Council to deal with the matter appropriately in regards to the implementation of a Special Area Rating.

This Council has always shown little respect to its ratepayers through its poor governance.

I have heard many concerns regarding the Council 'rates' and how the Council think they can get away with such ridiculous amounts imposed on new residents.

One concern stands in regards to the Special Area Rating that has been applied to an area without any consultation and applied to a lake that is not even there yet.

Over the next year, I am under the belief that the lake will be constructed and then for the next four years after that, LWP will be maintaining the lake. That is a period of five years until the SJ Shire is to put any money into the upkeep of the lake. Charging some residents now is not fair or justified.

- Q1. The Glades is not a private estate, therefore shouldn't all Byford residents be paying for the facilities that LWP is kindly building to drive people to 'want' to live in Byford?
- Q2. Why is Council charging the Glades residents 'now'? And why are adjoining areas going to be charged at a later stage? This is a form of discrimination to all Glades residents and a complete form of disrespect.

The objection I have is not to a Special Area Rating, it is at the timing, manner and the amount introduced. The Lake is not even built yet or in the process of being built.

- Q3. Is it too much to ask for some common sense being applied by this Council and to treat your ratepayers with a little respect and no discrimination?

I would like Council to consider making the following changes:

- The 'levy' not be implemented until the lake is at the very least 'constructed'; and
- As each household is entitled to the same usage of the lake and other facilities, a reasonable request per household would be a \$70 fixed levy for all Byford residents and not a calculated levy.

Q4. If it is decided that these rates will be changed, what will happen to the rates we have already paid?

The Shire President advised that if the rate is changed the ratepayers would be credited if appropriate. The Shire President also advised that these questions will be taken on notice and responded to in writing. As mentioned earlier this issue will be discussed at Policy Forum in September.

Andrew Bantick, 10 Darby Way, Byford – Infrastructure at The Glades

Q1. What are the yearly estimated maintenance costs and when do you anticipate major infrastructure costs to start?

Q2. What is the projected amount of money the Shire will receive before it takes over maintenance in five years and what does the Shire consider to be a considerable amount of money towards the upkeep? (Info note dates 23 July 2012)

I haven't seen any costing for the maintenance of The Glades, just words not figures.

Q3. Why has it taken so long for the Special Area Rate to be made public?

The Shire President advised that these questions will be taken on notice and responded to in writing.

Jackie Quelch, 6 Truman Promenade, Byford

As a resident of The Glades and ratepayer I would like to express my concern at Council regarding the imposition of a Special Area Rating for The Glades residents.

Q1. Why wasn't I notified of this by Council prior to you imposing this cost on me?

The facts are that:

- The residents were not advised of the Special Area Rating prior to its implementation; and
- The cost applied is too high. The Shire has applied a rate included in the rating calculation rather than perhaps an annual cost of \$70. Under the current rating assessment the amount being charged by Council is inflated at an approximate cost to an average of around \$140, which is what people are currently paying.

Q2. Why charge the residents when the lake has not even been constructed?

The overall rates in Serpentine Jarrahdale are already ridiculously too high and this just added to their concerns.

Q3. I ask what Council will do to re-consider how the Special Area Rating is being applied and not charging anything until the lake is completed.

Q4. Does this mean that no one else but The Glades residents can use the lake?

How about giving pensioners a fair go?

The Shire President advised that these questions will be taken on notice and responded to in writing. This issue will be discussed at Policy Forum in September. From a councils perspective we haven't sold ourselves very well and apologise for that.

Bill Bishop, 49 Chestnut Road, Jarrahdale

During heavy rains our properties are awash. We get all the run-off from the properties at our rear which are on higher ground. An easement for a 3mt drain has been draw in but never constructed.

Q1. Why the increase in the special rate for residents of the Chestnuts for the special drainage maintenance? They have gone up from \$98 to \$374 this year. This maintenance is for drainage of drains that don't even exist. So why have we been charged for maintenance when we don't receive any drainage?

The Shire President advised that we expected more than we received in special rates. In the last three years alone we have had 3, 1 in 100 year floods. There are long term issues with the Chestnuts that need to be addressed. Council plans to extend the blocks of money in the next few years. The Shire President thanked Mr Bishop for the email he sent and advised that he will respond to it personally. The Shire President advised that these questions will be taken on notice and responded to in writing.

*Public question time concluded at 7.20pm.*

**4. PUBLIC STATEMENT TIME:**

*Public statement time commenced at 7.20 pm.*

Michelle Rich, 155 Firns Road, Serpentine – Item OCM 018/08/12

All Councillors have been provided with an information booklet from the Serpentine Jarrahdale Community Recreation & Sports Group (Inc) (SJCRSG), time lining January 2010 to April 2012. May it also be noted that there has been ongoing meetings with the Shire through all of this time regarding playing field availability/space and facility conditions.

Our Shire is one of the fastest growing Shires in the country and we are not presently able to fully cater for the 21,380 adults and children who live in our Shire and who play some kind of organised sport, participate in a recreation activity or community group. Our Shire doesn't have the facilities for new sports to operate within the Shire. The situation is only going to get more difficult as development within the Shire continues and the population increases to roughly 51,000 within the next 20 years.

The SJCRSG was formed in mid 2010 by the sporting and community groups within the Shire when it was realised that as individual groups dealing with the same issues they were not being heard. This frustration came to a head early in 2010 when in a three month period; six news articles appeared in The West Australian and The Examiner reporting on vandalism and the lack of water on our ovals and the poor state of facilities.

The aim of the SJCRSG was to be pro-active and achieve something positive for our community. History was made when all the representatives from the numerous sporting clubs agreed that it was no longer acceptable to sit back and complain about what we did or did not have but to use our collective energy to build something for the community which addressed their needs now and into the future and would become an attractive asset within the Shire.

Many months were spent gathering and correlating information on the needs now and into the future of the sports already actively operating within the Shire, the needs of sports that will start and are already looking for a home in our Shire and the community needs of the different age groups that make our community what it is today and what it will become in the next thirty to forty years.

This information was put together and on 1 March 2011 SJCRSG made a combined recreation precinct endorsement presentation to the Shire Policy Forum. The presentation covered the;

#### Introduction

- Serpentine Jarrahdale Community Recreation & Sports Group Inc is a not for profit group established to represent the combined interests of the community and sporting associations within Serpentine Jarrahdale Shire.
- With the rapid increase in population there exists a need for a new recreation precinct that will accommodate this growth and provide for a wider variety of sports and community activities for our future.

#### Our Vision

- To enrich the quality of community life for the Serpentine Jarrahdale Shire residents through the provision of and access to a “Community Sporting and Leisure Precinct”.

#### Goal

- We will build a central community facility that will accommodate all sporting needs and provide valuable spaces for community members to meet in a friendly and welcoming environment.
  - 3 x full size AFL ovals with grandstand
  - Cricket pitch and nets
  - Swimming pool
  - Bowling greens
  - Tennis courts
  - Netball/basketball courts
  - Gymnasium/training facilities
  - Picnic areas & Public Open Spaces for families
  - Licensed bar/cafe/function rooms
  - Meeting rooms

#### Achieving our Goal

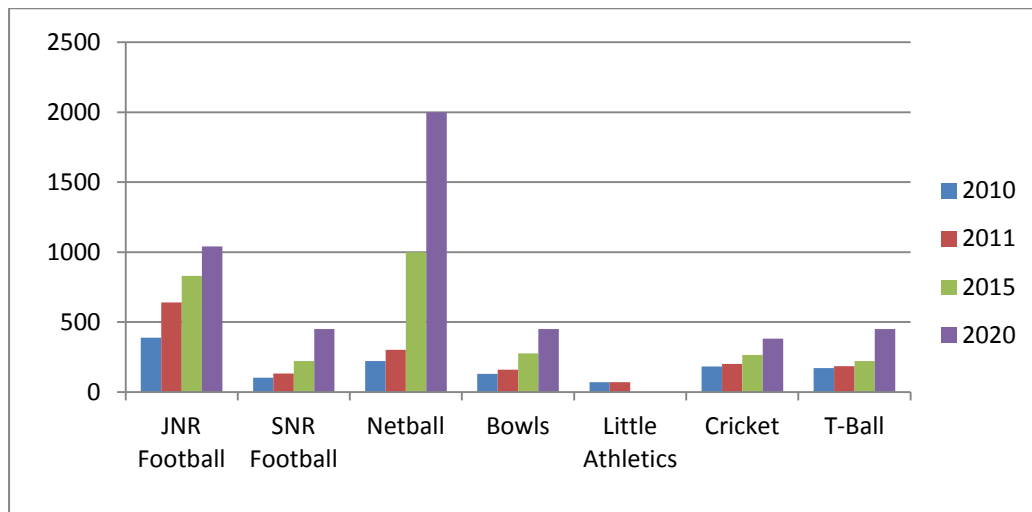
- The Serpentine Jarrahdale Community Recreation & Sports Group Inc will apply for funding via the following avenues but not limited to:
  - Byford & Districts Community Bank® Branch
  - Royalties for Regions
  - Department of Lands
  - Lotterywest
  - Department of Sport and Recreation
  - Community Water Grant
  - In kind donations from local sporting/community groups

#### Council's Role

- We require nothing from the Serpentine Jarrahdale Shire except your letter of endorsement for this project.
- Your cooperation with infrastructure approval will assist us in moving the project forward towards completing our vision in the near future.

#### Membership Numbers and Predictions for Sporting Groups





Key growth sports not represented within the shire: soccer, hockey, rugby, softball, swimming club/lessons.

#### Summary

- A multi-purpose recreation precinct should be about meeting community needs.
- It will be designed for and with the people of the Serpentine Jarrahdale Shire.
- It will facilitate community interaction and be a community hub.
- This precinct and facilities will be an asset that the Serpentine Jarrahdale Shire can be proud of.

As you have heard SJCRSG did not ask for the Shire to build this facility, SJCRSG did not ask for the Shire to pay for this facility. All SJCRSG asked for was a letter of in principle support to enable SJCRSG to built this project on behalf of the sporting groups and the wider community. SJCRSG was told by the then Shire President and the Shire Chief Executive Officer at the end of this presentation to forward a letter to the Shire, worded to say that the Shire gave in principle support to the project for the Shire to sign. This letter was sent and received but never acknowledged.

After further meetings with the Shire and no progress forward, the sporting clubs jointly funded a \$30,000 feasibly study in July 2011 as the next phase to the project.

We are here tonight to gain our letter of in principle support as promised by the then Shire President and the Shire Chief Executive Officer on 1 March 2011 so that we can progress this project by having conversations with relevant people within the community.

#### Phil Cuttone, LWP Property Group

I would like to bring to your attention that LWP does not agree with the Special Area Rating recently imposed to all residents including LWP that have land and properties in The Glades.

The issue from LWP's perspective is:

- The Special Area Rate has been introduced before the construction has actually even commenced;
- The lake management is currently in dispute and an agreed management plan not achieved;
- The level of rating applied is far too high. Previous discussions with Council officers indicated that costs would be in the order of around \$50 per house. Most people living in The Glades are paying around \$140. I believe that this is because the number used is

being rated based on GRV and multiplied by the dollar rate used by Council in its rates inflating the cost being charged;

- The rating, as recently imposed, was never communicated or discussed with LWP prior to its implementation; and
- LWP's assessment of the life cycle costing and maintenance of the lake indicate that even at a cost of \$50 per home there would be a surplus at the time Council takes over the maintenance, which is currently being negotiated at four years.

LWP would appreciate if Council can consider:

- Reversing the imposition of the Special Area Rating and look at charging a flat rate ie a levy that achieves the required level of life cycle and maintenance cost of the lake. We believe that the levy will be under \$50 per home. This is based on the life cycle costings and maintenance costs determined and scheduled by LWP consultants and was provided to Council in January 2011;
- Not to introduce any levy until the lake is at least constructed;
- If a levy is charged then the catchment area should be larger than just The Glades area so should also include surrounding developments and other areas that will also benefit from the lake. Council should also include, to a smaller percentage, the larger Byford area given that the community at large will also use the infrastructure and not just The Glades residents; and
- When charging the levy per home this should be done equally across the full catchment area not just The Glades.

### Mrs Lee Bond, Armadale

We received an infringement notice dated 16 January 2012 regarding a firebreak. We were given 28 days to pay the \$250 to avoid further action being instigated. The letter sent to us was inaccurate in its content and was nothing more than vexatious. It is now 13 August 2012 and it is time we received an apology and withdrawal of this claim, both in writing. Otherwise where is the summons?

What cost did the ratepayer have to pay for all this nonsense and how many other ratepayers had the same or similar matters handled in the same manner?

Please explain why it is permitted by the Shire for dogs to be in public areas without a leash but a ranger says they are under control as long as someone is in the vicinity?

A Bush Forever site where bandicoots are breeding and other wildlife are evident, shouldn't have to run the gauntlet of roaming dogs just because it doesn't have an A Class status. I am referring to Bush Forever Site 65.

The Shire President asked Mrs Bond to please write a letter to Council about these issues so the matter can be addressed and a response provided in writing.

*Public statement time concluded at 7.32pm.*

## **5. PETITIONS & DEPUTATIONS:**

*Petitions and deputations commenced at 7.32pm.*

- 5.1 Cr Kirkpatrick presented a petition on behalf of Mr Keith Whibley of 22 Cranbourne Way, Byford, requesting Council to explain to the community the reason for the excessive rate charges. The petition contained 596 signatures of residents located within the Byford area. The petition does comply with the Shire's Standing Orders 3.6.

**COUNCIL DECISION****Moved Cr Kirkpatrick, seconded Cr Urban****That Council receive the petition and note that it does comply with the Shire's Standing Orders Local Laws 2002.****CARRIED 9/0**

5.2 Cr Kirkpatrick presented a petition on behalf of Mr Keith Whibley of 22 Cranbourne Way, Byford, regarding the Special Area Rating for The Glades Estate. The petition contained 662 signatures of residents located within the Byford area. The petition does comply with the Shire's Standing Orders 3.6.

**COUNCIL DECISION****Moved Cr Kirkpatrick, seconded Cr Urban****That Council receive the petition and note that it does comply with the Shire's Standing Orders Local Laws 2002.****CARRIED 9/0**

Cr Kirkpatrick asked the following questions.

Q1 How much money did the Shire raise from the Special Area Rate for the Glades?

A1. The Director Corporate Services advised that the total is approximately \$53,500.00.

Q2. Why was the Special Area Rate different for each property?

A2. The Director Corporate Services advised that the Local Government Act requires that the Shire set a rate in the \$, which is to be applied to the Gross Rental Valuation of each property. So depending on the valuation, which is set by the State Government, the Specified Area Rate will be charged.

Q3. What happens to the money raised?

A3. The Director Corporate Services advised that all funds will be placed in a reserve account and will only be used to pay for the extra maintenance and replacement of the infrastructure in the Village Centre.

Q4. How does the Shire know what the Special Area Rate is?

A4. The Director Corporate Services advised that when LWP first proposed a lake and associated infrastructure several years ago, the Shire flagged that a Specified Area Rate would need to be imposed to ratepayers to fund the maintenance over and above our normal level of maintenance and also to fund the replacement cost of the infrastructure. LWP provided the Shire with Asset and Management Plans fully detailing the cost for the lake and infrastructure and from there the Shire have been able to calculate the annual cost and replacement cost for the asset. This information was used to calculate the Special Area Rate.

*Petitions and deputations concluded at 7.36pm.*

**6. PRESIDENT'S REPORT:**

Nil.



**7. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:**

Cr Atwell declared an interest in common in item OCM018/08/12 as he is President of the club.

**COUNCIL DECISION**

**Moved Cr Kirkpatrick, Second Cr Wilson  
That Cr Atwell be allowed to vote on this item.  
CARRIED 7/2**

Cr Randall declared an interest in common in item OCM016/08/12 as she is a member of Byford Envirolink. This will not affect the way she votes.

**8. RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:**

**8.1 Ordinary Council Meeting – 23 July 2012**

**Moved Cr Urban, seconded Cr Wilson  
The attached minutes of the Ordinary Council Meeting held on  
23 July 2012 be confirmed. ([E12/4943](#))  
CARRIED 9/0**

## 9. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:

OCM015/08/12	OUTCOME OF THE REVIEW OF SERPENTINE JARRAHDAL SHIRE LOCAL LAWS (A0090/03)
Author:	Tony Turner - Manager Health, Rangers & Compliance
Senior Officers:	Brad Gleeson - Director Development Services
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 Local Government Act.

### EXECUTIVE SUMMARY

Pursuant to Section 3.16 of the *Western Australian Local Government Act 1995*, a local government is required to periodically review its local laws. The following local laws were considered in this review;

- 1) *Local Government Act 1995*
  - a) Local Laws relating to Trading in Public Places;
  - b) Bee Keeping Local Law;
  - c) Extractive Industries Local Law;
  - d) Parking Facilities Local Law;
  - e) Local Law relating to Kennel and Cattery Establishments;
  - f) Local Law relating to Livestock in Public Places and Wandering at Large; and
  - g) Local Law relating to Unightly Land and Refuse, Rubbish or Disused Materials on Land.
- 2) *Dog Act 1976*
  - a) Local Law relating to the Keeping of Dogs.
- 3) *Health Act 1911*
  - a) Health Local Laws 1999.

The aim of the review is to determine whether or not the Shire considers that each local law should be retained unchanged, be repealed or be amended. In accordance with guidelines issued by the Western Australian Local Government Association (WALGA) the review process also has the following objectives:

- a) The use of plain English in all local laws so that they are easy to read and readily understandable to both the public and the members of administration;
- b) Relevance to the needs of the Serpentine Jarrahdale Shire;
- c) Compliance with the *Local Government Act 1995 (WA)* and other legislation;
- d) Deletion of legislative duplication;
- e) Avoidance of legislative inconsistency between other local laws, State and Federal legislation; and
- f) The creation of laws that are able to stand alone without the need to be cross-referenced.

Furthermore, all local laws are required to be consistent with the National Competition Policy and unless justified under the Public Benefit Test, should not contain provisions that restrict competition.

The review has identified various errors, variations and legislative changes that require modification of most of the local laws. It is recommended that various amendments and development of new draft local laws be progressed.

### RELEVANT PREVIOUS DECISIONS OF COUNCIL

At the Ordinary Council Meeting of 23 May 2011 it was resolved to advertise for public comment, Council's intention to review various local laws.

## **COMMUNITY / STAKEHOLDER CONSULTATION**

The local law review was advertised in the West Australian newspaper on 8 June 2011 and posted in the Shire Administration Centre and the Library with submissions closing on 25 July 2011. No submissions were received during the submission period. The Shire needs to resolve a position on each local law as to whether it should be retained unchanged, be amended or be repealed. As a result of legislative changes the Shire may need to make further local laws. Where the Shire resolves to make a new local law, or amend or repeal an existing local law, it must further consult with the community and outline the purpose and intent of each local law or amendment.

## **REPORT**

The following comments are a summary of the findings in relation to the review for each local law:

### Local Government Act 1995

#### Local Laws Relating to Trading in Public Places (Gazetted 1999)

This local law is based on the WALGA model local law with various minor amendments. The review of the local law has revealed a need for minor amendments due to various grammatical errors, omissions and/or legislative changes. The local laws also contain gazetted fees which can only be adjusted by local law amendment. The local law should be amended to enable the adjustment annually of fees and charges through the normal budgetary processes. It is proposed that an amendment be undertaken to the local law to correct the deficiencies in this local law.

#### Bee Keeping Local Law (Gazetted 2001)

This local law is based on the WALGA model local law with various minor amendments. A review of the local law has revealed a need for minor amendments due to various numbering errors, omissions and/or legislative changes including modified penalties. It is proposed that an amendment be commenced to the local law to correct the deficiencies in this local law.

#### Extractive Industries Local Law (Gazetted 2000)

Extractive industries within the Shire are a priority management issue and have required considerable compliance resources. By virtue of the Shire's location, the demand for extractive industry sites within the Shire, are unlikely to diminish in the short to medium term.

This local law was originally adopted by reference to the Shire of Donnybrook-Balingup Local Law and is based on the WALGA model local law with variations and minor amendments. A review of the local law has revealed a need for minor amendments due to various numbering errors, omissions and/or legislative changes. The provision of modified penalties would also assist in the ongoing management and control of extractive industries within the Shire. Officers are considering various options, with respect to better management and compliance of extractive industries, some of which may be implemented through the local law. Consequently, the Extractive Industries local law requires amendment.

#### Parking Facilities Local Law (Gazetted 2005)

This local law is not based on the current WALGA model local law and, in its current form, requires substantial amendment. Parking management and control will become a more critical compliance issue as areas such as the Byford Town Centre are developed and

utilised within a growing community. The need to advance amendments or the repeal and replacement of this local law will become more urgent over time. At this stage it is proposed that consideration be given to the eventual repeal of the existing local law and the adoption of a new local law based on the WALGA model local law.

#### Local Law Relating To Kennel and Cattery Establishments (Gazetted 2004)

The establishment of kennels and catteries throughout the Shire is commonplace and this local law has served the Shire well with respect to such establishments. The local law requires minor amendment in relation to recognising the authority of the State Administrative Tribunal and the provisions of the *Dog Act 1976*, where an application for a licence is refused.

More broadly, the Shire may wish to consider the implications of new cat legislation currently being considered by Parliament and the provision of local laws for cats and dogs separately. The implementation date for the recently adopted Cat Act is November 2013. The existing Dogs model local law promoted by WALGA includes kennel provisions and these could be established separate from cattery provisions if the Shire is adopting a new dogs local law.

It is proposed that an amendment to the local law be progressed to correct the deficiencies in this local law and incorporate legislation changes currently before Parliament.

#### Local Law Relating to Livestock in Public Places and Wandering at Large (Gazetted 2004)

This local law was adopted to address issues associated with the management of stock grazing on public lands after dark and the inherent risks associated with the same. The reasons for the local law are even more pronounced now, with increasing urbanisation and hence vehicular movements within the Shire. The local law enables the Shire to impound stock on public lands and to recover costs and issue fines in relation to the same. It is recommended that the local law be retained in its current form without modification.

#### Local Law Relating to Unsightly Land and Refuse, Rubbish or Disused Materials on Land (Gazetted 2004)

This local law reinforces provisions relating to the issuing of notices under 3.25 and Schedule 3.1 of the *Local Government Act 1995*. The local law does not require amendment. As an outcome of this local law review it is proposed that the local law be retained unchanged.

#### *Dog Act 1976*

#### Local Laws relating to the Keeping of Dogs (Gazetted 2004, Amended 2005)

This local law was made pursuant to the *Dogs Act 1976*. At the same time the Shire adopted a local law relating to kennel and cattery establishments. Many issues relating to dog control are provided for within the Dog Act and Regulations and local laws are utilised to manage impounding, the numbers of dogs kept on a property, kennel establishments, dog exercise areas and implementing enforcement provisions. The Shire's existing local law contains significant overlap with respect to regulatory provisions, whilst not providing for the establishment of dog exercise areas. Consequently, the local law is comparatively rudimentary compared to current models and consideration need to be given to repeal and replacement of the local law to provide for better management of dogs within the Shire.

It is proposed that the Shire prepare a draft Dogs local law, based on the WALGA model to better provide for the management of dogs within the Shire.

#### *Health Act 1911*

### Health Local Laws 1999

This local law will require substantial amendments due to the waste provisions now requiring adoption pursuant to the *Waste Avoidance and Resource Recovery Act* and various other legislative changes. The waste local laws contained in the Health local laws are preserved by transitional provisions, however, the need to undertake the local law review has highlighted the need for change. Hence, amendment of the Health local law and the adoption of a separate Waste local law in accordance with the requirements of the Department of Environment and Conservation will be required. The Health local laws amendment and adoption of a waste local law needs to be progressed.

It is recommended to retain some of the laws, amend some local laws and prepare some new local laws for the Shire. Any local law and/or amendments will be presented to Council to commence the adoption process.

It is expected that the work associated with progressing the review of all of these local laws will occur over the next twelve months. Some of the more complex local laws will take longer to finalise due to limited staff resources.

### **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

This proposal relates to the following Focus Areas within the Council's Plan for the Future:

#### Leadership

Throughout the organisation clear frameworks are required where elected members and staff have ownership and are accountable for decisions that are made. The Council and Leadership Team drive strategy and policy development including the establishment of local laws which set policy direction in the best interests of the community.

#### Strategy and Planning

Council seeks to develop comprehensive governance policies and strategies. Contemporary local laws improve adaptability in policy and processes to aid rigour, currency and relevance.

#### Customer and Market Focus

Consultation measures seek to use the knowledge of customers and markets, and improve the communication and sharing of information externally.

#### Process Management, Improvement and Innovation

Council's Local Laws aim to ensure that adequate compliance measures are in place without reducing the creative energy of staff and elected members.

### **STATUTORY ENVIRONMENT**

Pursuant to Section 3.16 of the *Western Australian Local Government Act 1995*, a local government is required to periodically review its local laws. If it is determined that the local law should be amended, repealed or that new local laws need to be made, Sections 3.12 and 3.13 of the *Local Government Act* apply. Section 3.12 of the *Local Government Act 1995* compels that a local government give state wide public notice and make copies of any local law or amendment available to the public. Policy HSP1 Food Vendors – Itinerant and HSP 4 – Trading in Public Places relate to some of the local laws reviewed and will need to be reviewed once any local law amendments are undertaken.

### **FINANCIAL IMPLICATIONS**



Legal costs may be incurred where specific issues relating to repeal or amendment require clarification. Direct costs will be limited to legal and advertising fees. These costs and the preparation of the draft local laws and amendments will be undertaken via budgeted expenditure.

#### **VOTING REQUIREMENTS ABSOLUTE MAJORITY**

#### **OCM015/08/12 COUNCIL DECISION/Officer Recommendation**

Moved Cr Randall, seconded Cr Urban  
That Council:

1. Review the report in relation to the Serpentine Jarrahdale Shire Local Laws conducted in accordance with Section 3.16 of the *Local Government Act 1995*.

2. Resolve to retain the following local laws:

***Local Government Act 1995***

- a) Local Law relating to Trading in Public Places (Gazetted 2 March 1999);
- b) Bee Keeping Local Law (Gazetted 6 April 2001);
- c) Extractive Industries Local Law (Gazetted 7 January 2000);
- d) Parking Facilities Local Law (Gazetted 13 February 2004);
- e) Local Law relating to Kennel and Cattery Establishments (Gazetted 13 February 2004);
- f) Local Law relating to Livestock in Public Places and Wandering at Large (Gazetted 13 February 2004); and
- g) Local Law relating to Unightly Land and Refuse, Rubbish or Disused Materials on Land (Gazetted 13 February 2004).

***Dog Act 1976***

- h) Local Law relating to the Keeping of Dogs (Gazetted 13 February 2004, subsequently amended 7 January 2005).

***Health Act 1911***

- i) Health Local Laws 1999 (Gazetted 27 August 1999).

3. Officers commence the necessary amendments for the following local laws;

***Local Government Act 1995***

- a) Local Laws relating to Trading in Public Places (Gazetted 2 March 1999);
- b) Bee Keeping Local Law (Gazetted 6 April 2001);
- c) Extractive Industries Local Law (Gazetted 7 January 2000);
- d) Parking Facilities Local Law (Gazetted 13 February 2004); and
- e) Local Law Relating to Kennel and Cattery Establishments (Gazetted 13 February 2004).

***Health Act 1911***

- f) Health Local Laws 1999 (Gazetted 27 August 1999).

4. Officers commence the preparation of draft local laws for the following;

- a) A new Waste Local Law to be made pursuant to the *Waste Avoidance and Resource Recovery Act 2007*; and
- b) A new Dogs Local Law to be made pursuant to the *Dog Act 1976*.

**CARRIED BY ABSOLUTE MAJORITY 9/0**

OCM016/08/12	COMMUNITY FUNDING PROGRAM (SJ742)
Author:	Julie Sansom - Community Development Officer
Senior Officers:	Carole McKee - Manager Community Development Suzette van Aswegen - Director Strategic Community Planning.
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 Local Government Act.

## EXECUTIVE SUMMARY

The Serpentine Jarrahdale Shire and the Byford & Districts Community Bank® Branch of Bendigo Bank's community funding partnership agreement is now in its third year for the Community Funding Program (CFP). The purpose of the partnership is to enable increased funding within the Shire for the benefit of the community.

Thirty funding applications, requesting a total of \$40,199, were received for the 2012/2013 CFP and assessed by the CFP Working Group (CFPWG) in line with Policy PC102 Financial Assistance to Community and Work Procedure PCWP4.

It is recommended that Council endorses the recommendations of the CFPWG in relation to the 2012/13 Budget allocation for the CFP. Council is also asked to acknowledge the valued partnership and contribution to the CFP from the Bendigo Bank.

## RELEVANT PREVIOUS DECISIONS OF COUNCIL

Nil.

## COMMUNITY / STAKEHOLDER CONSULTATION

All community groups were given equal opportunity to apply for the CFP 2012/2013. The community groups represent the interest of their membership community. It was a compulsory requirement that all community groups consult with a Community Development Officer prior to submitting their written application. This requirement ensured groups were not disadvantaged by submitting an application for which a grant could not be considered.

## REPORT

### Proposal

The Serpentine Jarrahdale Shire and the Byford & Districts Community Bank® Branch of Bendigo Bank's community funding partnership agreement is now in its third year for the CFP. The purpose of the partnership is to enable increased funding within the Shire for the benefit of the community.

Thirty funding applications, requesting a total of \$40,199, were received for the 2012/2013 CFP and assessed by the CFPWG in line with Policy PC102 Financial Assistance to Community and Work Procedure PCWP4. This compares to forty two funding applications, requesting a total of \$58,942 received for the 2011/2012 CFP.

Council Policy PC102 states:

*"All applications are to be assessed by the Community Funding Program Working Group which includes a representative of the Byford & Districts Community Bank® Branch of Bendigo Bank Board, and which is to make recommendations to Council as to how the total Community Funding Program budget allocation be divided between the selected groups."*

*“The nominal provision for this program is \$20,000 per annum to be maintained and matched by the Bank with \$20,000. However Council will determine the actual budget provision in the annual budget process.”*

The CFPWG met to assess the applications as per the officer’s recommendations.

The total number of applications received was less than in previous years and as their requests were consistent with the assessment guidelines and criteria, it was decided to fund all requests. One group had requested in excess of the upper limit of funding, but the Working Group recommended that they obtain two more quotes to reduce costs. This has enabled the funding program requests to have a balance of \$40,000.

The officer and Working Group recommendations are in accordance with the guidelines in Work Procedure PCWP4.

### Benefits

The benefit to the community is that the \$40,000 funding will enable approximately \$170,927 worth of projects to be accomplished across the local community. Many of the projects utilise local resources, businesses and/or attract visitors to the Shire who then spend money locally. The process has been designed to build the capacity of the community to put together funding applications for this and other programs. The Community Development team works with the groups to achieve this.

### Options and Implications

If funding is not granted through the CFP, alternative means of funding will need to be sought.

### Conclusion

It is recommended that Council endorses the recommendations of the CFPWG in relation to the 2012/13 Budget allocation for the CFP. Council is also asked to acknowledge the valued partnership and contribution to the CFP from the Bendigo Bank.

## **ATTACHMENTS**

- [OCM016.1/08/12](#) - Policy PC102 (E12/3355)
- [OCM016.2/08/12](#) - Working Group Table of Recommendations (E12/4268)

## **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

By having a community partnership with the Byford & Districts Community Bank® Branch of Bendigo Bank, this program empowers people to represent their community of interest by applying for grant funding. It also aligns with Council’s Plan for the Future by promoting a wide range of opportunities to enable optimal physical and mental health and also promotes a variety of recreation and leisure activities. Furthermore, it empowers growth and sustaining of our strong community spirit.

## **STATUTORY ENVIRONMENT**

- Council Policy PC102
- Work Procedure PCWP4

## **FINANCIAL IMPLICATIONS**

An amount of \$40,000 is allocated in each year's budget. The CFP has been co-funded in partnership with the Byford & Districts Bank® Branch of Bendigo Bank for the past three years. Council and the Bendigo Bank each contribute \$20,000 towards worthwhile community driven projects. It is expected that this agreement will continue.

#### **VOTING REQUIREMENTS**          Simple Majority

#### **OCM016/08/12 COUNCIL DECISION/Officer Recommendation**

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

- 1. Endorses the recommendations of the Community Funding Program Working Group in relation to the 2012/13 budget allocation for the Community Funding Program as listed in attachment OCM016.2/8/12.**
- 2. Acknowledges the valued partnership and contribution to the Community Funding Program from the Bendigo Bank.**

**CARRIED 9/0**

OCM017/08/12	MONTHLY FINANCIAL REPORT – JUNE 2012 (A2092)
Author:	Kelli Hayward - Acting Executive Manager Finance Services
Senior Officer:	Alan Hart - Director Corporate Services
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 Local Government Act.

#### **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

There is no previous Council decision relating to this application/issue.

#### **COMMUNITY / STAKEHOLDER CONSULTATION**

No community consultation was undertaken / required.

#### **REPORT**

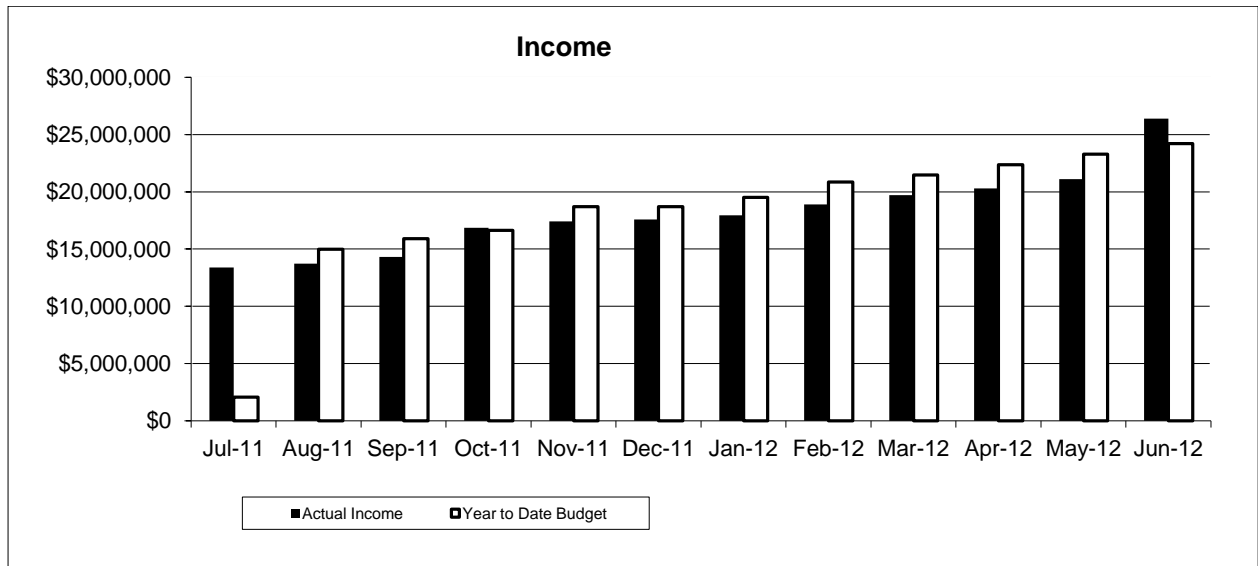
Council adopted the 2011/12 Budget Review at the Ordinary Council Meeting held on 12 March 2013. The figures provided in this report are compared to the year to date reviewed budget.

The period of review is June 2012. The municipal surplus for this period is \$3,522,547 compared to a budget position of \$109,981. This is considered a satisfactory result for the Shire, however, end of year adjustments have not been performed and this surplus is an estimate only, at 30 June 2012. The Shire also received its first instalment for 2012/2013 from the State Government for the untied financial assistance grant and untied road grant in June 2012 of \$1,272,561.

Income for the June 2012 period, year to date is \$26,385,601. The revised budget estimated \$24,261,251 would be received for the same period. The variance to budget is \$2,124,350.

This variance is made up of the Operating Income which has a variance of \$2,227,948; details of all significant variances are provided in the detailed business unit reports, and Capital Income which has a variance of (\$103,599).

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

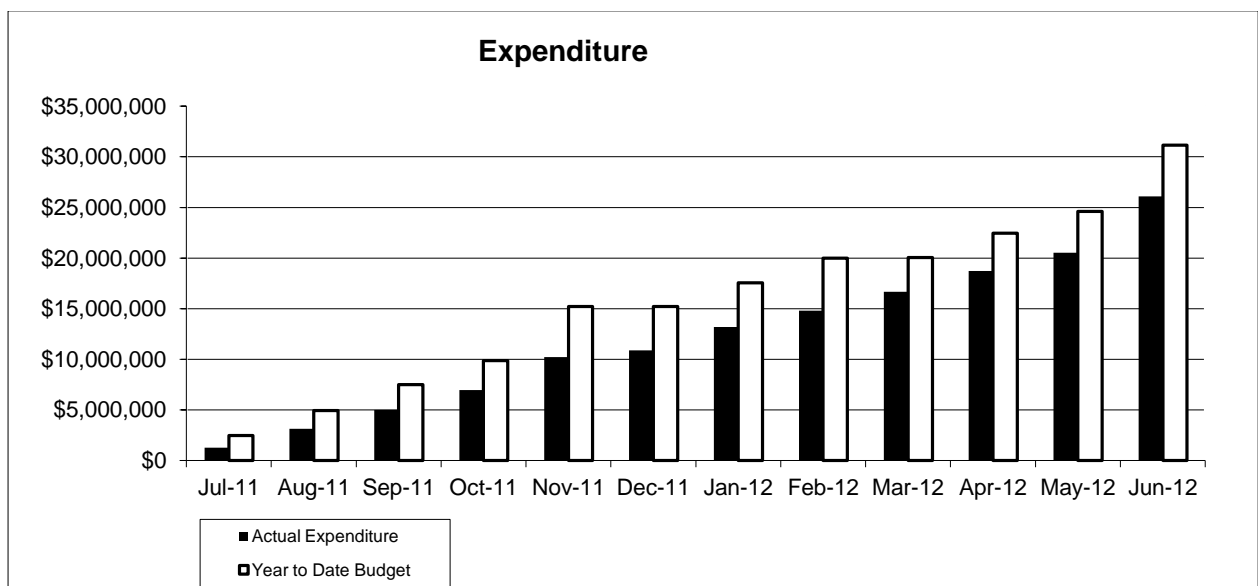


Expenditure for the June 2012 period, year to date is \$26,102,707. The budget estimated \$31,147,895 would be spent for the same period. The variance to budget is \$5,045,188.

Of this amount \$4,031,840 relates to capital expenditure not yet incurred. Fire and Emergency services were expecting to replace the light tankers for Mundijong and Oakford in 2011/2012 valued in the budget at \$205,000. These will be rolled into 2012/2013 and replaced next financial year. This is out of the Shire’s control as the program timing and funding is controlled by FESA. Another substantial part of the capital expenditure variance (\$2,084,727) is due to building projects, including the refurbishment of the Administration building not being completed in 2011/2012 as expected, these will also be rolled into next year and completed in 2012/13. Road construction projects for 2011/2012 were also under spent against budget (\$1,828,368). These projects are continuing and will be completed early in 2012/13.

Details of all other significant variances are provided in the detailed business unit reports.

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



**ATTACHMENTS**

- [OCM017.1/08/12](#) - Monthly Financial Report – June 2012 (E12/4672)

## ALIGNMENT WITH OUR PLAN FOR THE FUTURE

This report is a tool for evaluating performance against recognized standards and best practice and meets the needs of the community, elected members, management and staff. It helps the Shire to exercise responsible financial and asset management cognizant of being a hyper-growth council in line with the Plan for the Future.

## 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

### **OCM017/08/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Piipponen, seconded Cr Ricketts  
That Council receives the Monthly Financial Report for June 2012, in accordance with Section 6.4 of the *Local Government Act 1995*.  
CARRIED 9/0**

OCM018/08/12	SERPENTINE JARRAHDAL COMMUNITY RECREATION AND SPORTS GROUP (INC) – LETTER OF IN-PRINCIPLE SUPPORT TO BUILD A MAJOR COMMUNITY RECREATION AND SPORTS PRECINCT WITHIN THE SERPENTINE JARRAHDAL SHIRE (A1996)
Author:	Councillor John Kirkpatrick
Officer:	Suzette van Aswegen - Director Strategic Community Planning
Senior Officer:	Joanne Abbiss - Chief Executive Officer

## BACKGROUND

On 30 July 2012 the following motion was received from Councillor Kirkpatrick:

*“Council has granted the group some \$25,000.00 in funding towards feasibility studies but have not given them a letter of in principle support which would enable them to proceed with their feasibility.*

*The motion is:*

- 1. That the Council give the Serpentine Jarrahdale Community Recreation and Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Shire of Serpentine Jarrahdale.*

2. *That the Council honours the commitment of \$25,000.00 towards funding the feasibility of this project.”*

## **OFFICER COMMENT**

At its Ordinary Council Meeting on 13 February 2012, Council resolved the following:

### “OCM073/02/12 COUNCIL DECISION/NEW MOTION

*Moved Cr Harris, seconded Cr Wilson*

*That Council:*

1. *Receives the Serpentine Jarrahdale Sports & Community Groups Inc’s Preliminary Feasibility Study for a Proposed Community Sports & Recreational Precinct including all supporting documentation as per attached OCM073/02/12.*
2. *Acknowledges the comments made by the Shire officers.*
3. *Considers funding in the 2011/12 budget review to conduct a Revised Feasibility Study on behalf of the Serpentine Jarrahdale Sports & Community Groups Inc, including the assessment of alternative sites and taking the comments of officers into consideration.*

*CARRIED 8/0”*

In that report to Council, officers strongly alluded to the fact that there was significant risk to Council and the community in giving in principle support without fully understanding the implications associated with the proposal and that the feasibility study submitted by the Serpentine Jarrahdale Sports & Community Groups Inc fell significantly short of providing that assurance.

Council then decided to make the necessary funding available to prepare a feasibility study on behalf of the Serpentine Jarrahdale Sports & Community Groups Inc that would give Council the critical evidence it needs before making a decision to support the concept in principle.

Since that Council resolution the following steps have been taken by Council officers:

1. The funding was made available through the budget process;
2. Expressions of interest were invited from suitably qualified consultants in order to test the market in terms of availability of this specialist type consultants;
3. The Serpentine Jarrahdale Sports & Community Groups Inc was engaged and invited to actively participate in the assessment of the expressions of interests received and in the way forward towards achieving the Council resolution; and
4. A draft consultant’s brief was prepared to enable the short listed candidates, determined through the expressions of interest process, to submit a proposal for the drafting of a feasibility study and the subsequent appointment of the consultant.

In addition, Council officers wish to reiterate previous advice given to Council in that funding bodies will be reluctant to provide funding for any project without a detailed and comprehensive feasibility study. In light of that advice and the existing Council resolution, Council officers are perplexed as to the requirement to provide in principle support for the proposal in haste and on the hoof when clearly work to prepare the comprehensive feasibility study has already commenced.

## **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

OCM073/02/12 - In Principle Support For A Proposed Major Community Sports & Recreational Precinct (A1996).

## COMMUNITY / STAKEHOLDER CONSULTATION

No community consultation was required.

### Options to Council

Two options are presented for Council's consideration:

Option 1: The Officer recommended resolution, which is not to support the Councillor motion based on lack of evidence currently available to fully understand the risks associated with an in principle support and without the intelligence of a comprehensive feasibility study to inform Council of such risks; or

Option 2: The Councillor recommended resolution, which is to provide in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.

### Conclusion

Currently there is no supporting evidence to sustain a Council resolution to give in principle support to the Serpentine Jarrahdale Community Recreation & Sports Group (Inc). A comprehensive feasibility study will inform the Council of such risks and the preparation of such a feasibility study is already in progress. Council officers are strongly advising the Council against making a decision in haste without clearly understanding the risks to the organisation and the community associated by such action.

## ATTACHMENTS

- **OCM018.1/08/12** - Copy of the Council Resolution from 13 February 2012 Ordinary Council Meeting Minutes (CR12/38)

## ALIGNMENT WITH OUR PLAN FOR THE FUTURE

This proposal is not aligned with the Council's strategic documents, as it requires evidence based decisions.

## STATUTORY ENVIRONMENT

Nil.

## FINANCIAL IMPLICATIONS

The financial implications of this proposal are not clearly understood at this stage and great care should be taken not to compromise the Shire or the community by supporting a proposal without clearly understanding the financial implications associated therewith.

## VOTING REQUIREMENTS Simple Majority

### Option 1

## OFFICER RECOMMENDATION

That Council:

1. Not support Councillor Kirkpatrick's recommendation to give the Serpentine Jarrahdale Community Recreation and Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.



2. Acknowledge that in principle support cannot be provided before completion of the feasibility study without fully understanding the risks to the organisation and the Serpentine Jarrahdale community.
3. Acknowledge the commitment of \$25,000.00 towards funding the feasibility of this project has already commenced with officers having drafted a brief to enable the appointment of a consultant to prepare the feasibility study.
4. Uphold its previous resolution made at the 13 February 2012 Ordinary Council Meeting.

Option 2

COUNCILLOR RECOMMENDED RESOLUTION

That Council:

1. Give the Serpentine Jarrahdale Community Recreation and Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.
2. Honour the commitment of \$25,000.00 towards funding the feasibility of this project.

**Officer Recommendation**

**Moved Cr Randall, seconded Cr Harris**

**That Council:**

1. **Not support Councillor Kirkpatrick's recommendation to give the Serpentine Jarrahdale Community Recreation and Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.**
2. **Acknowledge that in principle support cannot be provided before completion of the feasibility study without fully understanding the risks to the organisation and the Serpentine Jarrahdale community.**
3. **Acknowledge the commitment of \$25,000.00 towards funding the feasibility of this project has already commenced with officers having drafted a brief to enable the appointment of a consultant to prepare the feasibility study.**
4. **Uphold its previous resolution made at the 13 February 2012 Ordinary Council Meeting.**

**LOST 2/7**

**Cr Kirkpatrick foreshadowed a new motion - Option 2 with alterations, if the motion under debate is defeated.**

**OCM018/08/12 COUNCIL DECISION/NEW MOTION**

**Moved Cr Kirkpatrick, seconded Cr Moore**

1. **That Council give Serpentine Jarrahdale Community Recreation and Sports Group (Inc) a letter of in principle support to develop a business plan with a view to building a major community and sports precinct within the Serpentine Jarrahdale Shire.**
2. **Honour the commitment of \$25,000.00 towards funding the feasibility of this project.**

**CARRIED 9/0**

**COUNCIL NOTE: That the officer's recommendation was altered to clarify that the intent of the letter of in principle support was for the development of a business plan.**

OCM019/08/12	SERPENTINE JARRAHDAL COMMUNITY RECREATION AND SPORTS GROUP (INC) - LETTER OF IN-PRINCIPLE SUPPORT TO BUILD A MAJOR COMMUNITY RECREATION AND SPORTS PRECINCT WITHIN THE SERPENTINE JARRAHDAL SHIRE (A1996)
Author:	Councillor Bruce Moore
Officer:	Suzette van Aswegen - Director Strategic Community Planning
Senior Officers:	Joanne Abbiss - Chief Executive Officer

## BACKGROUND

On 26 July 2012 the following motion was received from Councillor Moore:

*"Dear Fellow Councillors/CEO Jo Abbiss*

*I believe we are all in agreement that a combined sporting facility needs to be a matter of policy and to wait until the feasibility study is completed would leave a window of opportunity to be missed where both council and active sporting groups would miss out with the next state and federal elections then a further four years away.*

*The sporting groups need a decision now and not in six to twelve months!*

*All "Strategic" plans are dependent on funding both initial capital and long term ongoing costs so all we are doing is giving in "In Principal Support".*

*This can concurrently go with our shared sporting facility policy."*

## OFFICERS COMMENT

At its Ordinary Council Meeting held on 13 February 2012, Council resolved the following:

### "OCM073/02/12 COUNCIL DECISION/NEW MOTION

*Moved Cr Harris, seconded Cr Wilson*

*That Council:*

- 1. Receives the Serpentine Jarrahdale Sports & Community Groups Inc's Preliminary Feasibility Study for a Proposed Community Sports & Recreational Precinct including all supporting documentation as per attached OCM073/02/12.*
- 2. Acknowledges the comments made by the Shire officers.*
- 3. Considers funding in the 2011/12 budget review to conduct a Revised Feasibility Study on behalf of the Serpentine Jarrahdale Sports & Community Groups Inc, including the assessment of alternative sites and taking the comments of officers into consideration.*

*CARRIED 8/0"*

In that report to Council, officers strongly alluded to the fact that there was significant risk to Council and the community in giving in principle support without fully understanding the implications associated with the proposal and that the feasibility study submitted by the Serpentine Jarrahdale Sports & Community Groups Inc fell significantly short of providing that assurance.

Council then decided to make the necessary funding available to prepare a feasibility study on behalf of the Serpentine Jarrahdale Sports & Community Groups Inc that would give Council the critical evidence it needs before making a decision to support the concept in principle.

Since that Council resolution the following steps have been taken by Council officers:

1. The funding was made available through the budget process;
2. Expressions of interest were invited from suitably qualified consultants in order to test the market in terms of availability of this specialist type consultants;
3. The Serpentine Jarrahdale Sports & Community Groups Inc was engaged and invited to actively participate in the assessment of the expressions of interests received and in the way forward towards achieving the Council resolution; and
4. A draft consultant's brief was prepared to enable the short listed candidates, determined through the expressions of interest process, to submit a proposal for the drafting of a feasibility study and the subsequent appointment of the consultant.

In addition, Council officers wish to reiterate previous advice given to Council in that funding bodies will be reluctant to provide funding for any project without a detailed and comprehensive feasibility study. In light of that advice and the existing Council resolution, Council officers are perplexed as to the requirement to provide in principle support for the proposal in haste and on the hoof when clearly work to prepare the comprehensive feasibility study has already commenced.

## **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

OCM073/02/12 - In Principle Support For A Proposed Major Community Sports & Recreational Precinct (A1996)

## **COMMUNITY / STAKEHOLDER CONSULTATION**

No community consultation was required.

### Options to Council

Two options are presented for Council's consideration:

Option 1: The Officer recommended resolution, which is not to support the Councillor motion based on lack of evidence currently available to fully understand the risks associated with an in principle support and without the intelligence of a comprehensive feasibility study to inform Council of such risks; or

Option 2: The Councillor recommended resolution, which is to provide in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.

### Conclusion

Currently there is no supporting evidence to sustain a Council resolution to give in principle support to the Serpentine Jarrahdale Community Recreation & Sports Group (Inc). A comprehensive feasibility study will inform the Council of such risks and the preparation of such a feasibility study is already in progress. Council officers are strongly advising the Council against making a decision in haste without clearly understanding the risks to the organisation and the community associated with such action.

## **ATTACHMENTS**

- **OCM019.1/08/12** - Copy of the Council Resolution from 13 February 2012 Ordinary Council Meeting Minutes (CR12/38)

### **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

This proposal is not aligned with the Council's strategic documents, as it requires evidence based decisions.

### **STATUTORY ENVIRONMENT**

Nil.

### **FINANCIAL IMPLICATIONS**

The financial implications of this proposal are not clearly understood at this stage and great care should be taken not to compromise the Shire or the community by supporting a proposal without clearly understanding the financial implications associated therewith.

### **VOTING REQUIREMENTS** Simple Majority

#### Option 1

#### **COUNCIL RECOMMENDATION**

That Council:

1. Not support Councillor Moore's recommendation to give the Serpentine Jarrahdale Community Recreation & Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.
2. Acknowledge that in principle support cannot be provided before completion of the feasibility study without fully understanding the risks to the organisation and the Serpentine Jarrahdale community.
3. Acknowledge the commitment of \$25,000.00 towards funding the feasibility of this project has already commenced with officers having drafted a brief to enable the appointment of a consultant to prepare the feasibility study.
4. Uphold its previous resolution made at the 13 February 2012 Ordinary Council Meeting.

#### Option 2

#### **COUNCILLOR RECOMMENDED RESOLUTION**

That Council:

1. Give the Serpentine Jarrahdale Community Recreation & Sports Group (Inc) a letter of in principle support to build a major community recreation and sports precinct within the Serpentine Jarrahdale Shire.

### **OCM019/08/12 COUNCIL DECISION**

**Moved Cr Moore, seconded Cr Kirkpatrick  
That this item be withdrawn.  
CARRIED 9/0**



OCM020/08/12	<b>CONFIDENTIAL ITEM - FLOOD MITIGATION AND WATER MANAGEMENT PLAN - HARRIS PLACE, JARRAHDAL (A2095)</b>
Author:	Craig Wansbrough - Project Manager, Water Sensitive Urban Design
Senior Officers:	Richard Gorbunow - Director Engineering
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 Local Government Act.

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION**

Moved Cr Urban, seconded Cr Kirkpatrick

That the meeting be closed to members of the public at 8.15pm to allow Council to discuss confidential item OCM020/08/12 as per the *Local Government Act 1995* section 5.23(2)(h).

**CARRIED 9/0**

*Cr Piipponen left the room at 8.16pm and returned at 8.18pm.*

*The Director Corporate Services left the room at 8.18pm and returned at 8.19pm.*

**COUNCIL DECISION**

Moved Cr Kirkpatrick, seconded Cr Urban

That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 8.19pm.

**CARRIED 9/0**

**COUNCIL DECISION**

Moved Cr Wilson, seconded Cr Piipponen

That standing orders 9.5, 9.6, 10.7 and 10.13 be re-instated at 8.36pm.

**CARRIED 9/0**

Cr Urban declared a financial interest in item OCM020/08/12 because he lives in the estate. He will remain in the room and will not vote.

**Officer Recommendation**

Moved Cr Harris, seconded Cr Urban proforma

That Council:

1. Endorse and acknowledge the findings and recommendations outlined in the Harris Place, Jarrahdale – Flood Mitigation and Water Management Plan – July 2012 – Revision B (GHD, 2012) (the Plan) as outlined in confidential attachment OCM020.1/08/12.
2. Consider a business case in the 2013/14 financial year budget to implement the recommendations identified in the Plan, which include:
  - a) Prepare civil drawings for proposed works;
  - b) Construct a 1 metre levee at the northern edge of the disused gravel pit in the Serpentine National Park;
  - c) Construct a flow path between the bubble up pit in front of Lot 15 and the table drain in front of Lot 16. This is to be achieved by lowering the top of the bubble up pit to at least 300mm below the road level and reconstructing the cross-over

of Lot 15 with a slight depression, 300mm, to ensure water conveyance to the table drain;

- d) Widen the table drains on both sides of Harris Place;
- e) Liaise with the owners of Lot 15 Harris Place, Jarrahdale, and subject to their consent, undertake the following:
  - i) Upgrade the pipe, from a diameter of 300mm to 900mm, which extends from the flood detention area to the south of their property to the bubble-up pit on their verge in Harris Place; or
  - ii) Install a suitably sized rock lined swale drain which extends from the flood detention area to the south of their property to the bubble-up pit on their verge in Harris Place; and
  - iii) Secure a drainage easement in favour of Serpentine Jarrahdale Shire for the infrastructure associated with option i or ii above.
- f) Install a debris trap at the inlet of the 300mm pipe, or the 900mm pipe in the event it is upgraded, beneath Lot 15 Harris Place to prevent access by debris; and
- g) Undertake survey work to generate as constructed civil drawings.

- 3. Advise the property owners of Lot 9, Lot 10 and Lot 15 Harris Place Jarrahdale, of the recommendation to upgrade their crossover pipes in accordance with the Plan.
- 4. Seek permission from the Department of Environment and Conservation to construct a 1 metre levee bank at the northern edge of the disused gravel pit in the Serpentine National Park. Works shall also include the stabilisation and revegetation of the levee bank to the satisfaction of the Department of Environment and Conservation.
- 5. Write to all affected landowners in Harris Place Jarrahdale, advising them of the Plan and Council's decision and the need for funding and approvals to be sought to enable the recommendations to be implemented.

LOST 0/8

Cr Kirkpatrick foreshadowed a new motion to defer the item.

#### OCM020/08/12 COUNCIL DECISION/NEW MOTION

Moved Cr Kirkpatrick, seconded Cr Piipponen

That Council defer the item to allow officers to gain further advice, including legal advice, on this issue.

CARRIED 8/0

Cr Urban did not vote.

Moved Cr Randall, seconded Cr Piipponen

That the meeting be re-opened to members of the public at 8.40pm.

CARRIED 9/0

OCM021/08/12	<b>CONFIDENTIAL ITEM - LEGAL AGREEMENT BETWEEN THE SHIRE OF SERPENTINE JARRAHDAL AND LWP BYFORD SYNDICATE PTY LTD FOR THE GLADES VILLAGE CENTRE LAKES MAINTENANCE – THE GLADES AT BYFORD, L21 &amp; L22 DOLEY ROAD, BYFORD (P04488/03)</b>
Author:	Craig Wansbrough - Project Manager, Water Sensitive Urban Design
Senior Officers:	Richard Gorbunow - Director Engineering
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 Local Government Act.

**VOTING REQUIREMENTS**      Simple Majority**COUNCIL DECISION**

Moved Cr Randall, seconded Cr Atwell

That the meeting be closed to members of the public at 8.41pm to allow Council to discuss confidential item OCM021/08/12 as per the *Local Government Act 1995* section 5.23(2)(c).

**CARRIED 9/0**

**COUNCIL DECISION**

Moved Cr Piipponen, seconded Cr Wilson

That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 8.42pm.

**CARRIED 9/0**

**COUNCIL DECISION**

Moved Cr Wilson, seconded Cr Urban

That standing orders 9.5, 9.6, 10.7 and 10.13 be re-instated at 8.45pm.

**CARRIED 9/0**

**OCM021/08/12 COUNCIL DECISION/Officer Recommendation**

Moved Cr Urban, seconded Cr Piipponen

That Council:

1. Enter into the Deed marked as confidential attachment OCM021.1/08/12 with LWP Byford Syndicate Pty Ltd in order to satisfy the requirements of Condition 11 of the Planning Approval granted on 21 October 2011 in a manner consistent with Council's 14 May 2012 resolution.
2. Authorise the Serpentine Jarrahdale Shire Chief Executive Officer and Shire President to sign the Deed marked as confidential attachment OCM021.1/08/12, or a version of that Deed with minor amendments approved by the Council's solicitors that do not alter its substance.

**CARRIED 9/0**

Moved Cr Wilson, seconded Cr Randall

That the meeting be re-opened to members of the public at 8.46pm.

**CARRIED 9/0**

**10. URGENT BUSINESS:**

OCM022/08/12	<b>CONFIDENTIAL ITEM – URGENT BUSINESS – REPORT FROM WA WORKPLACE LAW</b>
Author:	WA Workplace Law
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 Local Government Act.

**VOTING REQUIREMENTS** Simple Majority

**COUNCIL DECISION**

**Moved Cr Piipponen, seconded Cr Urban**

That the meeting be closed to members of the public and staff excluding the Minute Taker at 8.48pm to allow Council to discuss confidential item OCM022/08/12 received by all Councillors on 13 August, 2012 at 11 am as per the *Local Government Act 1995* section 5.23(2)(a).

**CARRIED 9/0**

*The Director Corporate Services, Director Strategic Community Planning, Director Development Services, Project Manager - Water Sensitive Urban Design and the PA to the Chief Executive Officer left the meeting at 8.48pm.*

**OCM022/08/12 COUNCIL DECISION**

**Moved Cr Piipponen, seconded Cr Moore**

That the report from WA Workplace Law be adopted subject to clarification of quantum of entitlements and the Shire President take all steps to implement its contents.

**CARRIED 7/2**

**Cr Randall and Cr Harris voted against the motion.**

**Moved Cr Piipponen, seconded Cr Wilson**

That the meeting be re-opened to members of the public at 9.09pm.

**CARRIED 9/0**

**11. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:**

Nil.

**12. CLOSURE:**

There being no further business the meeting closed at 9.09pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 27 August 2012.

.....  
Presiding Member

.....  
Date