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Minutes of the Ordinary Council Meeting held in the Council Chambers, 6 Paterson Street, Mundijong on Monday 13 October 2014. 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
S Hawkins
J Kirkpatrick
B Moore
B Urban
J Rossiter
G Wilson

Officers: Mr R Gorbunow Chief Executive Officer
Mr B Gleeson..... Director Planning
Mr G Allan Director Engineering
Ms C McKee.....Acting Director Corporate and Community
Ms K Peddie Executive Assistant to the CEO

Apologies: Mr A Hart Director Corporate and Community
J Erren

Observers: Nil

Members of the Public – 12

Members of the Press – 0

Leave of Absence: Nil

2. Response to previous public questions taken on notice:

Ms Jan Star AM, President of the Jarrahdale Heritage Society

Question 1

What action does the Council intend to take to protect the town and the environment from the threats already posed by this operation, namely a large fuel tank near the brook, and a very noisy piece of machinery?

Response:

The Shire has written to the occupier of the land and advised them to cease the use of the property as no planning approval has been granted for the development. Investigations are underway in accordance with Council's Policy and procedures relating to the Compliance. The fuel tank will also be investigated.

Mr Harry McLean, 234 Soldiers Road, Cardup, WA, 6122

Questions relating to Cardup Business Park

Question 1

Have Permapole, Permacrete and Kings met all the requirements for all water treatment's prior to discharge?

Response:

Water treatment measures are a licencing requirement. Department of Environment and Regulation (DER) is responsible for ensuring licencing conditions are met with regard to water discharge.

- Permapole's water discharge is the subject of a licence from the Department Environment Regulation(DER).*
- We can find no evidence of a DER licence covering the Permacrete Industry. The Permacast concrete casting activity has occurred without Shire approval and a retrospective Planning Approval process is in progress.*
- We can find no evidence of an application or approval for any development of Kings*

Question 2

The residence on Kings Property has people in it. Why are they allowed to be there? What is the buffer distance for a residence on a working industrial site?

Response:

The Environmental Protection Authority's Guidance Statement for Separation Distances between Industrial and Sensitive Land Uses provides advice and a generic process for assessing separation distances. Where existing dwellings are within generic buffers, a scientific study based on site- and industry-specific information will be a requirement of the developer, to demonstrate that a lesser distance will not result in unacceptable impacts.

Questions in relation to Byford on the Scarp

Question 1

Who was in charge of the Planning Department in July 2005? Who was in charge of the Engineering Department in July 2005?

Response:

The Director Asset Services in 2005 was Mr M Beaverstock and the Acting Director Sustainable Development in July 2005 was Ms C Eldridge.

Question 2

Why are large volumes of water being discharged off the site of Byford on the Scarp into storm water drains?

Response:

Water is discharged from the Byford by the Scarp development as it is physically impossible to retain all water on site. There is a certain amount of natural flow and stormwater that enters the stormwater drains as these are the designed to take such flows from the development.

Question 3

Are the pipes taking water from the bore at the corner of Soldiers Road and Cardup Siding Road to the scarp legal? Note the bore is legal but the pipes to the scarp are not.

Response:

The pipe infrastructure taking water from the bore at the eastern corner of Soldier Road and Cardup Siding Road to the Scarp was installed by LWP Property Group Pty Ltd within the road reserves. Irrigation infrastructure is commonly installed within road reserves to service public open space. It is anticipated such infrastructure will eventually become a Local Government asset. The bore and pipe infrastructure is currently under the care and control of LWP Pty Ltd. The bore and irrigation pipe system was accepted by Council in 2005 as the means for supplying irrigation water to the Byford by the Scarp and Byford by the Brook developments.

Mr Grant Richardson, 230 Soldiers Road, Cardup

In the minutes of Ordinary Council Meeting 8 September 2014 Question 3 at Ordinary Council Meeting 11 August the question has Wormal been ordered to remove the training building from Lot 41 was asked. The response was that the CEO advised that orders for the removal are about to be issued and that the notice will be served shortly. Has Wormal been ordered to remove the training building from Lot 41? The response was not, however the Shire has commenced legal action against the unauthorised land use.

The CEO advised at the Ordinary Council Meeting 11 August that orders for the removal of the training building on Lot 41 of the Cardup Business Park were about to be issued and that the notice would be served shortly. At the Ordinary Council Meeting on 8 September the response to my question, has Wormal been ordered to remove the training building, was no.

Question 1

Has Wormal been ordered to remove the training building?

Response:

No

Question 2

Why Not?

Response:

Council has commenced prosecution action against the landowner for commencing development on the land which includes the placement of the building on the property, without approval. Council will now await the outcome of the prosecution action in Court. This is the correct process to follow in accordance with Council's Policy relating to Compliance.

Question 3

Has Wormal be fined for non-compliance?

Response:

Yes. Infringement notices have been issued.

Ms Lee Bond, PO Box 44, Armadale, WA, 6112

Question 1

Why has Serpentine Jarrahdale Shire Council refused to give planning approval for Bio-Organics to operate?

Response:

Council considered the application at its meeting on 23 June 2014 and resolved:

That Council advise the State Administrative Tribunal that it refuses to grant planning approval pursuant to the provisions of Town Planning Scheme No 2 for the composting facility on Lot 36 Abernethy Road, Oakford for the following reasons:

- 1. The application does not provide sufficient information to allow the assertions made by the applicant about the environmental acceptability of the proposal to be tested, and therefore the Council cannot be satisfied that the proposed development is environmentally acceptable.*

2. *The information available suggests that the development may be the cause of existing groundwater contamination, and there is insufficient information to allow the Council to be satisfied the development will not cause groundwater contamination.*
3. *The application seeks planning approval for waste streams not permitted under the operative Department of Environmental Regulation licence, and it is not appropriate to grant approval for an operation that cannot presently be carried out.*
4. *The application does not provide sufficient information to demonstrate that the proposal will not adversely affect the amenity of the locality because of potential noise, odour and dust emissions, traffic impacts, after hours activities and bio-security risks associated with dust emissions.*
5. *The proposed development is inconsistent with the strategic planning for the locality and may prejudice the future urban development of adjacent land.*
6. *The site has been classified as potentially contaminated site (investigation required) and the Department of Environmental Regulation has not to date provided advice as to the suitability of the proposed development pursuant to section 58(6) of the Contaminated Sites Act 2003.*

Question 2

Explain in detail why the CEO replied to me in writing date 12 September 2014 accusing me of providing a statement with adverse reaction, offensive and causing a disturbance to the public? It is required of you to leave nothing out of your accusation.

Response:

The Chief Executive Officers correspondence dated 12 September 2014 clearly pointed out that public questions and statements have to conform with Council's Standing Orders. Ms Bond has failed in her inappropriate behaviours which includes, but is not limited to

- *Stating name and address.*
- *Constant interjections, particularly when Presiding Member to the meeting is speaking.*
- *Use of offensive, abusive and/or inflammatory language when addressing Council with a question or making a statement.*
- *Aggressive/threatening behaviour toward Elected Member, Council employees.*
- *Contemptuous laughter or derisive comments at decision or during debate.*
- *Refusal to give up the floor and demanding to ask question in contradiction of a request by the Presiding Member*
- *Refuses to accede to Presiding Members instructions, particularly when asked to desist from disruptive behaviour, and unnecessarily repetitive questions.*

Question 3

Question 3 which I asked at the Ordinary Council Meeting 8 September 2014 regarding the unsuitable mulch used for the Byford Beautification project costing the ratepayer \$8236.31 was answered with it is not clear to which area this question refers and more clarity is required before an answer can be provided. Will you explain why you have no apparent knowledge of this matter, in particular the expenditure of \$8236.31 of the ratepayer's money and why you are refusing to answer the question put forward?

Response:

The Shire Parks & Gardens team have not been requested to use, nor have sought, any product from Custom Compost or C-Wise. The Shire is also unaware of any unsuitable mulch being used on the Byford Beautification project. The costs associated with the mulch were covered by grant funding with no cost to the Shire.

Ms Jan Star, 230 Jarrahdale Road, Jarrahdale, WA, 6124

Question 1

As the site shown in the agenda is completely unsuitable, requiring the removal, or subsequent death from dieback or compaction, of some large jarrahs, as big as any in the Park, and as there is a suitable site not far from this, behind the Staff St houses, is a change of the recommendation proposed?

Response:

Yes. Council resolved that the location is to be on land to the east of Staff Street and behind the existing houses.

Ms Lorraine Hutchins, 34 Kentucky Drive, Darling Downs, WA, 6122

Question 1

In relation to Thomas Road from Wungong South Road to the Railway Line will the Road Development Plan result in the removal of tree line?

Response:

The current design for Thomas Road endeavours to utilise the existing northern alignment with land acquisition and proposed construction works being situated south of the existing carriage way. Based on the best information currently available it appears that there is minimal to no impact on the existing vegetation from Wungong South Road to the Railway Line.

3. Public question time:

Public Question and Statement time commenced at 7.01pm

Mr Harry MacLean, 234 Soldiers Road, Cardup

Question 1

Why have Permacrete and King's not had legal action taken against them (in relation to the no approvals)?

Question 2

In relation to Byford on the Scarp, Why do they need a Bore?

Question 3

In relation to the Byford on the Scarp, if the CEO knew there was water there, why did he not inform the meeting on 22 September 2014?

Question 4

In relation to Council Pipes for Byford on the Scarp, which statement is correct, the 8 September 2014 or the 22 September 2014?

Response:

The Shire President advised the questions will be taken on notice and a formal response will be provided in writing.

Ms Lee Bond, PO Box 44, Armadale, WA, 6112

Question 1

At the Ordinary Council Meeting 14 July 2014 my question was: What date and who gave approval for a trucking depot to operate on Abernethy Road, Oakford and a question about aviation fuel and a helicopter on 127 King Road, Oakford. An important part of the response to those questions signed by Richard Gorbunow was that records and previous enquiries detail that three trucking / construction businesses and a non-commercial airfield were in operation prior to 1986 at which time the area was under the Town of Armadale and were considered non-conforming land use, which runs with the

land until there is a change of land ownership. Will you explain why this conflicts with the truth that in 1977 the Shire of Serpentine Jarrahdale acquired the area from the Town of Armadale and I know that at least one property operating a trucking depot changed hands.

Question 2

A response by Richard Gorbunow to a question I asked at the Ordinary Council Meeting 22 September 2014 was defamatory and will now be libellous. Can you, Mr Gorbunow, provide evidence of what you have accused me of?

Question 3

In another repetitive question I asked at the Ordinary Council Meeting 22 September 2014 regarding unsuitable mulch being used for the Byford Beautification Project, Richard Gorbunow responded to the question claiming no knowledge of the unsuitable mulch being used for the Byford Beautification Project. Will you explain why it is clearly written in the creditors payments as unsuitable mulch and why haven't you addressed the original questions I asked on this matter?

Response:

The CEO advised that all questions have been previously answered.

Ms Anne Hansson, 230 Soldiers Road, Cardup, WA, 6122

Question 1

Have the Parking Bylaws been amended after 1997 as stated at the Ordinary Council Meeting 22 September 2014. State Law has documents stating that the laws were amended and gazetted in February 2004. Am I to refer to the 1997 or 2004 laws? The compliance officer told me that I was wrong and could be prosecuted under the 1997 by laws.

Response:

The Shire President advised the questions will be taken on notice and a formal response will be provided in writing.

4. Public statement time:

Mr Harry MacLean, 234 Soldiers Road, Cardup, WA, 6122

In view of misleading me, I ask that the CEO stands down so a full government enquiry can be taken into these and other matters as he has lied to a rate payer asking questions.

In relation to the possible asbestos on Byford on the Scrap, at 10.30am this morning I was told there were people dressed in protective clothes picking up bits which looked like asbestos and putting them into black plastic bags. I inspected the site and saw the same as above.

Ms Lee Bond, PO Box 44, Armadale, WA, 6112

On 13 October 2014 I have written advice to Richard Gorbunow about the disgraceful response he provided me dated 25 September 2014 regarding a question I asked at the Ordinary Council Meeting on 22 September 2014. I requested he resign his position with the Shire of Serpentine Jarrahdale as it is not appropriate to continue to answer my questions with lies, vague references and not to answer some questions at all.

When the media covering these Council meetings chooses to embellish, lie and avoid telling the full truth so as to injure a persons reputation it does have consequences. At no time did I state I was angered because offensive statements claimed by the reporter to have been made by me and were not included in minutes. I have not made any

offensive statements, just honest ones. The reporter made a point of claiming my name wasn't mentioned in Mr O'Neil's statement, had she reported that Mr O'Neil stated at the Ordinary Council Meeting 22 September 2014 very proudly to the gallery that he wrote that statement, there may have been an ounce of truth in any of what she wrote. Councillor Urban did not confirm with Richard Gorbunow he was referring to any matter involving me or anyone else. This was a Councillor question on notice and I believe he was very surprised by Richard Gorbunow's behaviour.

Using the words locked horns, arguments, unable to subdue, stormed out are all inflammatory words designed to promote something which was not entirely true. Why didn't this person report another walk out by Councillors at an Ordinary Council Meeting previously and one I was not responsible for. The pen is mightier than the sword but only when used truthfully.

Ms Michelle Rich, Firns Road, Serpentine, WA, 6125

I would like to thank the Director Engineering, Gordon Allan, for the swift attention given to the intersection of Scrivener Road and Firns Road in Serpentine. Once his department was made aware of the dangerous condition of the road surface due to water damage, the work was undertaken by Shire staff to rectify the problems and rains that have fallen since the work has been carried out have flowed where it should, in the drains. Thank you Gordon Allan.

Public Question and Statement time concluded at 7.16pm

5. Petitions and deputations:

Nil

6. President's report:

Webb Reserve

Today I had the honour to unveil Webb Reserve. A large crowd of over 50 people turned up with four generations of the Webb family in attendance. Eric Webb and his family came from Adelaide. Mrs Webb, Ron and Eric as well as their oldest son spoke with emotion. This was followed by morning tea. It all started when Ron Webb wrote to the Shire in 2011 concerned why the road name had been changed to Lampiter Drive. All portions of Webb road were unnamed and it is the dedication of Mr Webb that resulted in the 50 hectare reserve on Lampiter drive being named Webb reserve to honour Mr Webb's parents, grandparents and great grandparents. William and Ethel Webb were Poultry Farmers in Mundijong in 1929 and their sons Ron and Eric went on to dairy farm until 1964 and Ron continued farming until 1974. The reserve known as Race Course Reserve was leased by the Webb family from the State in 1958 which was ploughed, seeded and harvested for cattle feed. We were delighted to name the reserve Webb Reserve

Reporting of Dogs

In recent times there have been serious dog attack problems. The Shire urges all residents to report dog attacks to the Shire before a young child gets bitten. The Ranger has the power to remove dangerous dogs and to prosecute owners

Acting Director Corporate and Community left the meeting at 7.18pm

Acting Director Corporate and Community returned to the meeting at 7.19pm

7. Declaration of Councillors and officers interest:

Nil

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

8.1 Ordinary Council Meeting – 22 September 2014

COUNCIL DECISION

Moved Cr Hawkins, seconded Cr Urban

That the minutes of the Ordinary Council Meeting held on 22 September 2014 be confirmed (E14/4647).

CARRIED 7/1

9. Motions of which notice has been given:

OCM066/10/14	Lot 210 (#31) Aquanita Rise, Darling Downs – Outbuilding (Retrospective) (P06909/04)
Author:	Rob Casella – Statutory Planner
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	7 September 2014
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>

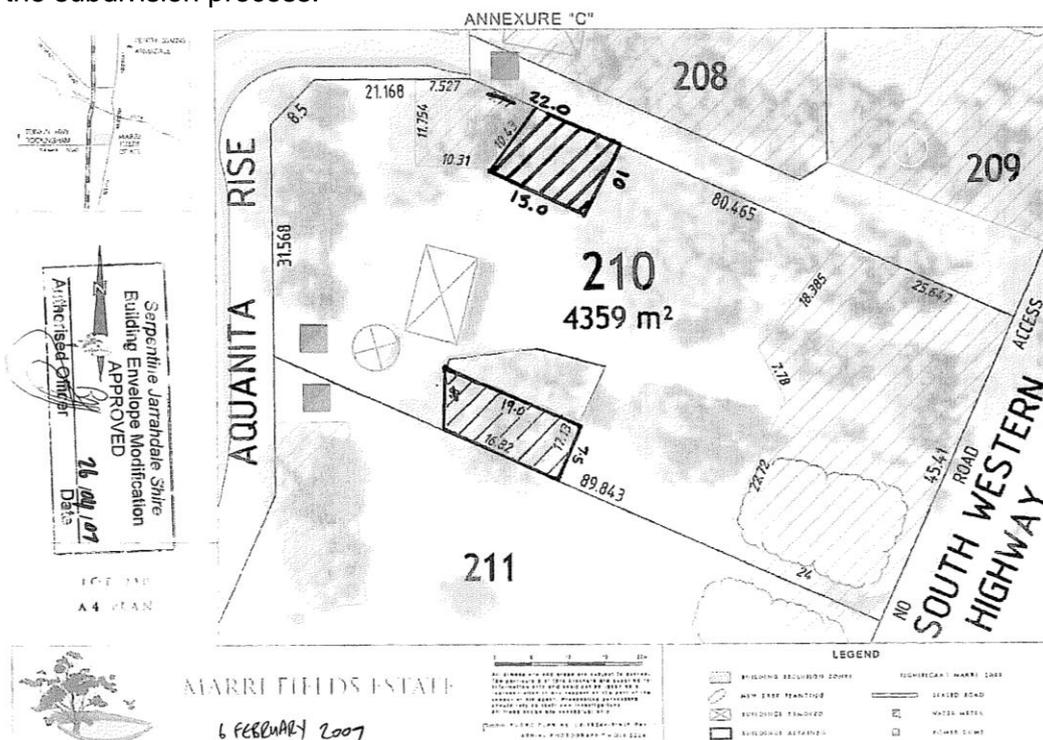
Proponent: Ross Cullen
 Owner: As Above
 Date of Receipt: 7 March 2014
 Lot Area: 4360m²
 Town Planning Scheme No 2 Zoning: Rural Living A
 Metropolitan Region Scheme Zoning: Rural

Introduction

To reconsider an application for an oversized shed at Lot 210 Aquanita Rise, Darling Downs. The applicant proposes a 180m² outbuilding with a 72m² lean-to, setback 17m from the rear boundary. The proposed outbuilding exceeds the combined floor area for outbuildings permitted by the Shire of Serpentine Jarrahdale’s (the Shire) Local Planning Policy No.17 (LPP 17) and Draft Local Planning Policy No.36 (LPP 36), therefore requiring a determination of the application by Council.

Background:

Council at its meeting held on 14 July 2014 considered the matter and the motion was lost. At subdivision stage, building exclusion zones were established for the development. The purpose of the exclusion zones was to protect significant vegetation and to provide a re-vegetated strip to compensate for the loss of vegetation elsewhere which was cleared as part of the subdivision process.



Building Exclusion Zones

Prior to submission of the application significant clearing had been undertaken to facilitate the proposed outbuilding. The clearing is within the designated building restriction zone as shown below:



Aerial Image

Relevant Previous Decisions of Council:

OCM004/07/14 – Not Determined

Community / Stakeholder Consultation:

The application was referred to three adjoining landowners, as well as Main Roads WA (MRWA), given that the property backs onto a designated main road, South Western Highway. No submissions were received from adjoining property owners, MRWA also had no objections to the proposal.

Comment:

Proposal

The proposed gable roofed outbuilding and lean-to (retrospective) features the following:

- Outbuilding Measures 20m x 9m (180m²) with a wall height of 4.2m and overall height of 5m;
- Lean-to (southern elevation) measures 8m x 9m (72m²) with a wall height of 4.2m and overall height of 5m
- Setback from:
 - Dwelling (west) - 25m
 - Rear boundary (east) - 17m
 - Side boundary (north) - 7.5m
 - Side boundary (south) - 10m
- Constructed out of colourbond steel in a woodland grey finish
- Built on a 1m raised surface from that of the level of the dwelling.

Planning Assessment

Town Planning Scheme No.2 (TPS 2)

The objectives of Rural Living A zone do not exclude the Shire from considering an outbuilding which proposes a variation to the floor area exceeding the permitted 180m². The proposal is not likely to cause any detrimental impact on the amenity of the rural character of the subject lot and surrounding properties.

Appendix 4A – Rural Living A Zone (RLA 21)

The following provisions are specific to the subject lot and is considered to be of significance in relation to this application:

- RLA21 (2). *No indigenous vegetation or trees shall be destroyed or cleared except, but subject to the developer of the estate or landowner obtaining the prior consent of the Council in writing, where such vegetation is dead, diseased or where the clearing is required for the purpose of a firebreak, dwelling, outbuilding, fence, drainage systems, driveways and/or to accommodate the permitted or discretionary uses identified under special provision 1.*
- RLA21 (3). *Notwithstanding special provision 2, vegetation within the areas designated as 'Strategic Revegetation' and/or 'Building Exclusion' on the endorsed Subdivision Guide Plan are not permitted to be removed. This strictly includes the 13 Marri (Eucalyptus calophylla) trees identified across the subject land as significant feeding cycle of the Red-Tail, Black and Baudin Cockatoos (Calyptorhynchus Funereus Latirotris). Lots which contain these trees, or any areas of 'Strategic Revegetation' and/or 'Building Exclusion' are to have a suitable notification placed on the certificate of title (prior to creation) advising of this requirement to the satisfaction of the Council.*

None of the 13 significant Marri trees identified in the site area have been removed or damaged as part of this application.

Local Planning Policy No.36 (Draft) – Non Urban Outbuildings

LPP 36 has been utilised to guide development within the Shire's non-urban zones for the development of outbuildings within the Shire's municipal area. As the proposed development consists of a lean-to, section 9 of LPP 36 is considered relevant in determining the application, which states:

- 9.1 *The maximum size of an ancillary 'lean-to' shall be 30% of the roof cover of the existing or proposed outbuilding.*
- 9.2 *Where the existing approved outbuilding falls within the unacceptable development floor area, the maximum size of the lean-to shall be 30% of the performance based floor area.*
- 9.3 *For the purposes of calculating total floor area of an outbuilding(s), a lean-to is deemed to form part of the overall floor area when it is attached to an outbuilding and enclosed on two (2) or more sides.*

The proposed lean-to has a floor area of 72m² of which 27m² is to be calculated as part of the overall floor area of the outbuilding, taking the total floor area to 207m².

TABLE 1 – Design Assessment

Zoning/Area	Floor Area			Setback (Minimum Distance)		Maximum Height* (Measured from Natural Ground Level)	
	Acceptable Development	Performance Based	Unacceptable Development	Side (metres)	Rear (metres)	Wall (metres)	Roof Ridge** (metres)
Rural Living A (4000m ² – 1ha)	≤ 120m ²	≤ 150m ²	>150m ²	7.5	7.5	4.2	5
Proposed	207m ²			7.5m / 10m	17.5m	4.2m	5m

The proposed outbuilding complies with the setback and height provisions, however proposes 57m² above the Performance Based maximum size of 150m² and thus requiring a Council determination.

A significant level of clearing has commenced prior to assessment. Primarily, the removal of trees within the building exclusion area's, impacting on approximately a 20m wide amenity and screen planting area adjacent to South Western Highway. Negotiations with the applicant has resulted in a revegetation plan being prepared and approved 50 trees to be replanted.

Options and Implications

It is considered there are two options as follows:

1. That Council grants planning approval subject to conditions; or
2. That Council refuses the application for non-compliance with the Shire's planning framework.

Option 1 is recommended.

Conclusion

That Council grant planning approval for the 207m² outbuilding with an attached lean-to, as it is considered to have little detrimental impact to the amenity of the local area. The implementation of a re-vegetation management plan as a condition will ensure the land can be restored to a suitable standard.

Attachments:

- [OCM066.1/10/14](#) – Development Application (E14/4465)
- [OCM066.2/10/14](#) – Significant Marri Tree Location (E14/2114)
- [OCM066.3/10/14](#) – Revegetation Plan (IN14/9791)

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:

Planning and Development Act 2005

TPS 2
LPP 36

Financial Implications:

There is no financial implication relevant to this item.

Voting Requirements: Simple Majority

OCM066/10/14 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Moore

That Council grant Planning Approval for an Outbuilding in accordance with the attached plans for Lot 210 (#31) Aquanita Rise, Darling Downs subject to the following conditions:

- 1. The shed is not to be used for any commercial or industrial purpose (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock unless the written approval of the Shire has first been obtained.**
- 2. All storm water to be disposed of on-site.**
- 3. All existing native trees on the subject lot and adjacent road verge shall be retained and shall be protected from damage prior to and during construction unless subject to an exemption provided within Town Planning Scheme 2 or the specific written approval of the Shire has been obtained for tree removal either through this planning approval or separately.**
- 4. The site must be re-vegetated in accordance with the approved Revegetation Management Plan dated 20 May 2014, within 60 days of the date of approval.**

Advice Note:

- 1. A planning consent is not an approval to commence any works. A building permit must be obtained for all works.**
- 2. If the development, the subject of this approval is not substantially commenced within two years of the date of this approval, the approval will be deemed to have expired. Where an approval has expired, development must not be commenced or continued unless a fresh approval has been obtained from the Shire.**

CARRIED 5/3

Cr Kirkpatrick and Cr Rossiter voted against the motion

OCM067/10/14 Proposed Modification to Adopted Local Structure Plan-Lots 1 ,2 and 63 Larsen and Thomas Roads, Byford (SJ1656)	
Author:	Helen Maruta – Senior Planner
Senior Officer:	Brad Gleeson – Director Planning
Date of Report:	22 September 2014
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: Valma Gwendoline Hicks
 Date of Receipt: 9 September 2014
 Lot Area: 2.024ha
 Town Planning Scheme No 2 Zoning: Urban Development
 Metropolitan Region Scheme Zoning: Urban

Introduction

Council is requested to consider a minor modification to the Byford Central Local Structure Plan (LSP). The modification seeks to increase the Residential Density Code from R20 to R25.

Background:

The subject land is within the 'Urban Development' zone of Byford, and is subject to the district planning framework established under the Byford Structure Plan. The subject land has a residential density code of R20 under the LSP for Lots 1, 2 and 63 (now Lot 9002) Larsen and Thomas Roads, Byford. The applicant is seeking Council's support to modify the LSP for Lot 9002 from R20 to R25 due changing demands for smaller lots driven by affordability.

Officers have considered the modification not to alter the intent of the LSP and being consistent with the Shire's adopted Local Planning Policy No. 57 (LPP 57) – Housing Diversity. It is recommended that Council adopt the proposed modification and advise the Western Australian Planning Commission (WAPC).

Relevant Previous Decisions of Council:

SD036/09/05 – Council resolved to adopt a modification for Local Structure Plan for Lots 1, 2 and 63 Larsen and Thomas Roads, Byford

Community / Stakeholder Consultation:

The Byford Central 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 as officers have determined the modification is not changing the intent of the LSP. Advertising is therefore not recommended for this proposal.

Comment:



Locality Plan



Aerial Photo

Proposal

The report provides Council with the opportunity to consider a modification to the adopted LSP. The proposed modification seeks to increase the Residential Density Code of Lot 9002 from R20 to R25. The applicant provided information that the current road structure will remain unchanged. The justification for the proposed modification has been provided as follows:

1. *It will provide for a greater range in lot sizes and housing diversity in Byford. At present, nearly all of the lots within Byford Central have been developed at R20 density. The average lot size over the earlier stages within Byford Central is closer to R17.5, with lots up to 600m² in area;*
2. *Proximity to higher amenity areas and community facilities, which is a key requirement under Liveable Neighbourhoods. Such higher amenity and community facilities include the Marri Park Primary School, a child care facility located on the corner of PlaiStowe Boulevard and Larsen Road, and the extensive area of public open space/multiple use corridor; and*

3. *Proximity to an Integrator B Road (San Simeon Boulevard). This road will become the new Thomas Road Bypass road and will be a major public transport route (bus service). Again, proximity to public transport is a key consideration in relation to the location of higher density housing.*

In December 2013, subdivision approval for Lot 9002 was granted by WAPC creating 29 lots based on the R20 coding. The applicant provided information that the proposed modification will increase potential lot yield by additional six lots.

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' provides guidance in this matter. In terms of what constitutes a minor or major modification, the guideline states the following:

- *"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:

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

In the opinion of officers, the proposed modification does not alter the material intent of the original LSP and is deemed to be a 'minor' modification. The following provisions of TPS 2 will apply.

Town Planning Scheme No.2 (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".

The WAPC may subsequently determine that the modification does materially alter the intent of the LSP and require the modification to be advertised.

LPP 57

The Shire adopted LPP 57 and 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; and*
- *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.*

The proposed lot sizes will provide for a greater diversity of lot types in Byford Central and consequently, provide for a broader range of housing products generating more choice for future residents of the Byford community. 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:

Option 1: Resolve to adopt the proposed modification as a 'minor modification'; or

Option 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 is considered to not alter the material intent of the LSP and be consistent with the Shire's adopted LPP 57. It is recommended that Council adopt the proposed modification.

Attachments:

- [OCM067.1/10/14](#) – Byford Central LSP (E14/4641)
- [OCM067.2/10/14](#) – LSP Modification (E14/4639)

Alignment with our Strategic Community Plan:

The achievement of a vibrant urban environment, incorporating a diversity of housing opportunities, is considered critical for the community not only today but also in planning well into the future

Statutory Environment:

- TPS 2
- LPP 57
- *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

OCM067/10/14 COUNCIL DECISION / Officer Recommendation:

Moved Cr Kirkpatrick, seconded Cr Wilson

That Council:

- 1. Adopt the proposed modification to the Byford Central Local Structure Plan as per attachment OCM067.2/10/14 pursuant to Clause 5.18.4.1 of the 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 Town Planning Scheme No.2**

CARRIED 8/0

OCM068/10/14 Application To Keep More Than Two Dogs (SJ899-02)	
Author:	Sarah Hutchins – Ranger
Senior Officer/s:	Brad Gleeson – Director Planning
Date of Report:	18 September 2014
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 has received two applications to keep more than two dogs at a number of properties in the Shire under Shires Local Law Relating to the Keeping of Dogs. It is recommended that the applications be approved.

Relevant Previous Decisions of Council:

There are no previous Council decisions relating to this application.

Community / Stakeholder Consultation:

Not required.

Comment:

There are currently no delegations for officers to approve applications under Section 26 of the Dog Act 1976 or the local law.

Section 26(3) of the Dog Act 1976 states:

“Where by local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption –

- (a) may be made subject to conditions, including a condition that it applies only to the dogs specified there in;*
- (b) shall not operate to authorise the keeping of more than six dogs on those premises; and*
- (c) may be revoked or varied at any time.”*

Application 1:

Application to keep four dogs at 32 Swamp Gum Road, Oakford. The details of the dogs are as follows:

	Breed	Name	Age	Sex	Registration Details	Sterilised
1	Boxer	Brutus	7	M	1671-14	Yes
2	Staffy x	Spud	8	M	1673-14	Yes
3	Staffy x	Spike	8	M	1672-14	Yes
4	Foster Dog	N/A	N/A	N/A	N/A	Yes

All dogs are currently registered with the Shire. The reason for the application is on occasion they take care of their mothers dog when she is too sick to look after it and they have registered with an organization to foster dogs before they are sent to their new homes. Rangers have inspected the property and have ascertained the following:

- The fencing is in good order, and is suitable to contain the 4 dogs.
- The size of the property (2.4HA) and is suitable to house the dogs.

- The property is clean and well maintained, and there was no sign of faeces at the property.
- The dogs have suitable shelter at the property, with kennels on the back veranda.
- There have been no dog related complaints recorded against the property or dog owners.



Aerial – 32 Swamp Gum Road

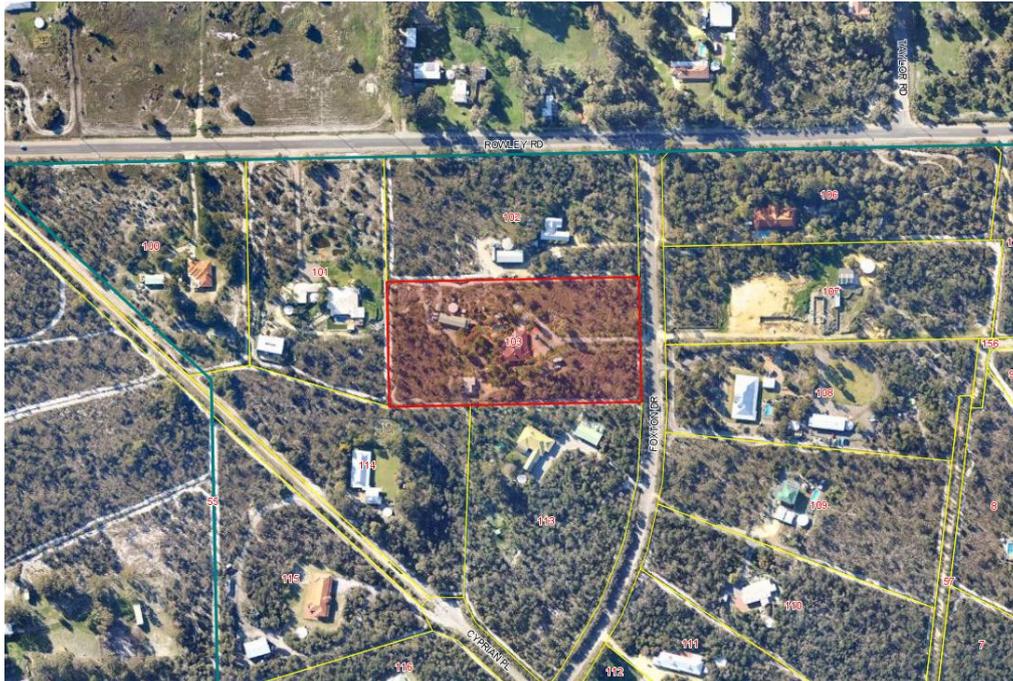
Application 2:

Application to keep four dogs at 303 Foxton Drive, Oakford. The details of the dogs are as follows:

	Breed	Name	Age	Sex	Registration Details	Sterilised Yes/No
1	Maltese x Jack Russell	Ike	12	M	1372-15	Yes
2	Greyhound	Red	3	M	1377-15	No
3	Greyhound	Zoe	2	F	1374-15	No
4	Greyhound	N/A	N/A	N/A	N/A	N/A

All dogs are currently registered with the Shire. The reason for the application is he is a registered greyhound owner/trainer and would like to keep up to 3 greyhounds and the existing family pet. Rangers have inspected the property and have ascertained the following:

- The fencing and enclosures are in excellent order, and are suitable to contain the 4 dogs.
- The size of the property (2.0HA) and is suitable to house the dogs.
- The property is clean and well maintained, and there was no sign of faeces at the property.
- The dogs have suitable shelter at the property, and are kept within a insulated shed with access to outside enclosures.
- There have been no dog related complaints recorded against the property or dog owners.



Aerial – 303 Foxton Drive

Attachments:

Nil

Statutory Environment:

Dog Act 1976 (as amended) Section 26

Shire of Serpentine Jarrahdale Local Law Relating To The Keeping Of Dogs

4. Application to keep more than Two Dogs

- (a) Any application for an approval to keep more than two registered dogs and six dogs or less shall be submitted in writing.
- (b) The applicant shall submit plans showing the specifications and location of fencing and yards in relation to the boundaries and dwellings and proximity to the adjoining properties and other information as the Council may require.

5. Conditions.

Where the Council grants approval to keep more than two registered dogs on a premises or property, the following conditions and provisions apply, the applicant shall comply with the following conditions and any other conditions and or provisions as determined by the Local Government:-

- (a) The approval shall be to the applicant and is not be transferred to or assigned to any other person, company or organisation.
- (b) That the applicant comply with provisions of the Dog Act 1976, Dog Regulations 1976 (as amended) and Local Law.
- (c) The person to whom approval is given by the Local Government shall not carry on that approval at any premises other than the land in respect of which the Local Government approval is granted.

6. Refusal of an Application.

Subject to the provisions of the Dog Act 1976 as amended and Local Government Local Law, Local Government may refuse an application. If an application has been refused by the Local Government, the applicant may lodge a written objection to the Chief Executive Officer of the Local Government within 28 days of notification of the decision in accordance with Section 26 (5) of the Dog Act 1976 as amended.

Part 4 – Permitted Numbers and Restrictions in Certain Areas

7. Permitted Numbers in Certain Areas.

The permitted number of dogs in certain areas without approval of Council:-

- (a) *Areas zoned urban development, residential, commercial, industrial, showroom, warehouse, special residential, special rural, rural living A & B, farmlet, special use zone & conservation zone- up to a maximum of two registered dogs permitted.*
- (b) *Areas zoned rural and in receipt of Urban Farmland Concession and of one kilometre from a townsite or an urban area - up to a maximum of four registered dogs permitted.*

Financial Implications:

Nil

Voting Requirements: Simple Majority.

OCM068/10/09 COUNCIL DECISION / Officer Recommendation:

Moved Cr Moore, seconded Cr Wilson

That Council:

1. **Approve the application under the Shires Local Law Relating to the Keeping of Dogs to house four dogs at 32 Swamp Gum Road, Oakford.**
2. **Approve the application under the Shires Local Law Relating to the Keeping of Dogs to house four dogs at 303 Foxtton Drive, Oakford.**

CARRIED 8/0

10. Information reports:

Nil

11. Urgent business:

Nil

12. Councillor questions of which notice has been given:

COUNCIL DECISION

Moved Cr Piipponen, seconded Cr Hawkins

That the meeting be closed to members of the Public at 7.25pm to allow Council to discuss the Councillor questions of which notice has been given.

CARRIED 8/0

COUNCIL DECISION

Moved Cr Piipponen, seconded Cr Hawkins

That Standing Orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.26pm in order to further discuss Councillor questions of which notice has been given.

CARRIED 8/0

COUNCIL DECISION

Moved Cr Rossiter, seconded Cr Piipponen

That Standing Orders be reinstated at 7.35pm

CARRIED 8/0

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:

It has been drawn to my attention by ratepayers and residents that a number of Councillors may have received complimentary tickets to a concert in Perth.

1. Which Councillors if any received these tickets?
2. Were they donated by a developer?
3. Were any tickets returned as soon as they were received?
4. Were any tickets returned prior to the CEO's caution about gifts?
5. Were any tickets returned after the CEO drew it to Councillors attention that if they received gifts they had to be registered in the gift register?

Cr Piipponen foreshadowed he would move a new motion that the Council received the questions from Councillor Kirkpatrick and no further action be taken, if the motion under debate is lost.

COUNCIL DECISION

Moved Cr Kirkpatrick, seconded Cr Moore

That the questions of which notice has been given by Councillor Kirkpatrick are to be take on notice and answers be provided at the next Ordinary Council Meeting.

LOST 1/7

NEW MOTION

Moved Cr Piipponen, Seconded Cr Hawkins

That Council receive Councillor Kirkpatrick’s questions and no further action be taken.

CARRIED 8/0

COUNCIL DECISION

Moved Cr Piipponen, seconded Cr Rossiter

That the meeting be reopened to the public at 7.38pm

CARRIED 8/0

Members of the public returned to the Chambers and the Presiding Member advised that Council voted to receive the questions from Councillor Kirkpatrick and that no further action need be taken with a vote of 8/0.

13. Closure:

There being no further business the Presiding Member declared the meeting closed at 7.40pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on 27 October 2014

.....
Presiding Member

.....
Date