

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET MUNDIJONG ON MONDAY, 17<sup>th</sup> DECEMBER 2007. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 7.03PM AND WELCOMED MEMBERS OF THE PUBLIC PRESENT IN THE GALLERY, COUNCILLORS AND STAFF.

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**1. ATTENDANCE & APOLOGIES:**

IN ATTENDANCE:

**COUNCILLORS:** DL Needham ..... Presiding Member  
JE Price  
MJ Geurds  
M Harris  
WJ Kirkpatrick  
EE Brown  
C Randall  
S Twine  
KR Murphy  
C Buttfeld

**OFFICERS:** Ms J Abbiss ..... Chief Executive Officer  
Mr A Hart ..... Director Corporate Services  
Mrs S van Aswegen ..... Director Strategic Community Planning  
Mr M Botte ..... Acting Director Engineering  
Mr J Robertson ..... Acting Director Development Services  
Mrs A Nolan ..... Manager Executive Services  
Ms C Rose ..... Planning Assistant  
Mrs L Fletcher ..... Minute Secretary

**APOLOGIES:** Nil

**GALLERY:** 4

**2. PUBLIC QUESTION TIME:**

2.1 Response To Previous Public Questions Taken On Notice

Public Question Time commenced at 7.03pm

Ron Iannello – 324 Jarrahdale Road, Jarrahdale

Q. Where is a response to a letter he wrote to the Shire? He would also like councillors to vote on the issue of his rezoning of land at Lot 199 Jarrahdale Road, Jarrahdale. This is very critical in progression of the project.

A. Chief Executive Officer advised that Council has passed a resolution regarding this matter. Council officers are now required to enact this resolution of Council. The only avenue this matter could come before Council is via a motion put forward by a Councillor in order for an alternative decision to be made.

Officers have discussed this matter with Mr Iannello and advised that the outstanding issues can be raised through the advertising process.

The scheme amendment has been recommended for initiation. Advertising can now commence, then the amendment will be presented to Council for a formal resolution to finalise. The rezoning provisions can be amended at this stage.

- Q. Mr Iannello advised he does not want to put the amendment out for advertising until these issues are resolved and would like these matters raised at this meeting.
- A. The Chief Executive Officer advised that as it currently stands the Council resolution is that the scheme amendment goes to advertising in its current form.
- Q. Mr Iannello advised that he has previously pointed out that there is an error in the amendment documentation relating to the internal fencing.
- A. Chief Executive Officer advised that the reasons behind the recommendation regarding no internal fencing are in the report presented to Council. There has been no suggestion from Councillors that this recommendation should be changed which has to be done through a Notice of Motion.

Under Council's Town Planning Scheme No. 2, an amendment can be progressed with or without the landowners consent.

Cr Needham advised that Council have made a decision for this amendment to go to advertising. This decision cannot be revoked unless requested by a Councillor. The motion could be rescinded and another motion considered or the other alternative is to progress advertising of the amendment at which time submissions can be made advising of concerns with the amendment.

- Q. Mr Iannello advised the subdivision will not be feasible. Why were subdivision issues included at the rezoning stage?
- A. Chief Executive Officer advised that this was as a result of advice received from the WA Planning Commission.

Public Question Time concluded at 7.15pm

### **3. PUBLIC STATEMENT TIME:**

Public Statement Time commenced at 7.15pm

#### OCM013/12/07 - Nino Gangemi (1164 Kargotich Road, Mundijong)

There is not enough people living in Mundijong to have both a liquor store and drive through bottle shop in the town (within 100 metres of each other).

- A. Cr Needham advised that it is not Council's prerogative to determine competition and the application must be considered on planning grounds.

Mr Gangemi commented that he could make application for a second tavern in Mundijong and advised that he may have to spend a lot of money in court to oppose a decision to have two liquor stores in Mundijong.

- A. Chief Executive Officer advised that the Councillors are restricted in what they have to consider in this application which is the planning grounds only. Competition cannot be used as a reason for refusal.

#### David Bradbury – Anglican Priest for Serpentine Jarrahdale

A statement asking for support of the Parishes application for the Shire to waive the Demolition, Planning and Building fees for the proposed Parish Community Centre on the corner of Mary and Clifton Streets, Byford.

As has been explained and discussed at concept forum meetings that the proposed building has been designed to serve the community by providing not only a place of workshop but also counselling, meeting rooms and offices that can be hired out at minimal cost on a user pays system to non profit organisations. Thereby providing much needed facilities for welfare and care organisations.

Facilities that are needed at the moment and according to various agencies are going to be needed even more with the population growth that is occurring in the area.

In consultation with the Shires consultants addressing the Community Facilities and Services Plan it was agreed that the existence of the Parish Community Centre would alleviate the need for the Shire to develop additional buildings for such agencies. This in turn would relieve Shire funds to develop other projects.

In considering your decision I ask that you take into account that the Anglican Parish of Serpentine Jarrahdale as a local church has to rely on local donations for its existence, most of which comes from worshipping members and various community events organised by the Parish.

As the shire Council has been generous in waiving the fees for numerous other organisations that contribute to community life, I urge you to favourably consider our application.

Thank you for your time and have a blessed Christmas.

Public Statement Time concluded at 7.20pm.

#### **4. PETITIONS & DEPUTATIONS:**

Ron & Lyn Iannello – 324 Jarrahdale Road, Jarrahdale

The following statement was provided by Mr Iannello during the Sustainable Development Committee meeting on 11 December 2007 but could not be heard as it did not relate to an item that was on the agenda and has been put forward to the Council meeting to be heard.

Mr/Mrs Chairperson I thank you for today's opportunity to address members of the Committee and also congratulate the newly elected councillors.

As most of you are aware on 23/7/07 councillors unanimously voted to initiate the rezoning of Lot 199 Jarrahdale Road from Rural to Special Rural. The rezoning process which commenced on 18/08/04 has still a long way to go in terms of advertising, EPA approval, town planning approval etc etc. In the meantime the entire process has come to a standstill due to 2 major issues remaining unresolved. Correspondence sent to the Shire dated "9/11/07" addressing these issues still remains unanswered. Effectively we are now at a stalemate. This development was given front page exposure by the Examiner Newspaper and was hailed as a project which would set the pace for all future development in terms of its environmentally innovative concepts and respect for the historic name of Jarrahdale.

The areas of concern are:

- (1) Fencing
- (2) Roads and drainage

Both these issues are of such significance that they could effectively cripple the entire project. In relation to fencing the Shire has insisted on NO internal fencing to green title lots and had stated to Councillors that modified documentation from my planner indicated I also supported this approach. In other words councillors were misled when they voted on this issue (however innocently). There is no documentation to support this statement. Unfenced

properties simply do not sell except at give away prices. The focal point of this development is the Gooralong Brook and if internal fences are not erected the potential of children wandering through neighbouring properties over roads and into ponds is very real. The land is essentially parkland cleared and fencing is anticipated to do minimal damage to any trees.

In relation to road and drainage issues outside of the developed area I would not be opposed to making a realistic contribution but do not believe it is fair to include this as a condition for rezoning when it should only be addressed during subdivision stage. Including this as a condition of approval during rezoning takes away any rights I may have to appeal against an unfair contribution.

I therefore respectfully ask that in order to move forward on this unique project that those issues be addressed at the next council meeting on 17/12/07.

#### OCM013/12/07 - R W Leighton (36 (Lot 30) Paterson Street, Mundijong)

##### Background

- In reply to an invitation to comment on an Application submitted by the Mundijong Tavern, we wrote and pointed out that the location of the Drive-In Bottle Shop and the use of the balance of Lot 5 as a carpark for the exclusive use of the Tavern customers contradicts the provisions of the Paterson Street Design Guidelines Bylaw
- In reply, Council's December 12 letter advised that a copy of the report to be considered by Council on December 17 could be accessed from the afternoon of Friday December 7. This advice proved to be incorrect and the information was still not available at the close of business on Friday December 14. A senior staff member emailed us a copy of the submission at 4.50pm on December 14. Otherwise it would not have been possible to obtain the 26 page report until today.
- The abovementioned report which is to be considered by Councillors at your meeting this evening supports the Tavern's position which does not comply with the Guidelines.
- The report contains a lot of material which is controversial and in some instances we believe the information is inaccurate and in others, the opinions, presented as facts, lack the evidence needed to support the claims. Also we note that the substantial comments by Strategic Planning on Page 33 seem to reflect many of the comments we made in our December 03 reply.
- We feel that in a democratic system there should be some opportunity for us to detail our concerns about the report. The matters set out in this submission all relate to the deliberations to be undertaken at tonight's meeting.

##### Summary

The following pages attempt to bring to notice some of our concerns regarding the deficiencies in the content of the report that has been prepared for Council.

We trust Council at tonight's Ordinary meeting will reject the Officer Recommended Resolution that that Application for approval to commence development of additions to the Mundijong Tavern be approved.

We ask that a more appropriate course be adopted by having the report referred back with the objective that a consensus of view be forthcoming from Council's other professional staff and from any other interested parties including nearby land owners.

We particularly ask that any subsequent approval be determined within an orderly framework:

- a) appropriate to the community's expectations
- b) having regard to current Planning Works-In-Progress; and
- c) in compliance with the earlier history of Council's Planning works and current practice regarding compliance with the By law

In common with all ratepayers who have a genuine interest in the enhancement of facilities in the Shire, we congratulate and support anyone who wants to do something to improve the fabric of our towns, but, things need to be done the right way.

Once buildings are built, they are there for a long time – in the case of the Tavern – 100 years and counting.

#### Concerns

##### A. Attachments to the report – Attachment 13.1

The aerial photograph copied onto a sheet dated 14 November 2007 is a very old photograph and does not show the present parking facilities on Lot 5. An up to date photograph is enclosed with this letter.

##### B. Previous and current Planning

1. The report diminishes the importance of earlier Planning history which Council has undertaken and also diminishes Council's current and continuing strategies for the orderly progression of Planning for the Mundijong/Whitby community. This is demonstrated by its criticism of people who have waited patiently for some years for the proper Planning processes to be observed and concluded.

##### Page 27 Economic Benefits reports as follows

"The restoration and renovation of the tavern will improve the streetscape and may serve to encourage other business owners in Paterson Street to upgrade their premises"

This contrasts with Council's position outlined in the Strategic Planning comments on:

Page 33: Unable to support the proposal from a strategic planning point of view as the District Structure Plan is not yet in place

Page 34 The heading "5.18.7 No Development Before Structure Plan" and the following text is self evident as to Council's position.

2. Other comments in the report indicate a lack of peer support for the Author's views and in some cases there is specific conflict with the Author's recommendations. The report also ignores the Paterson Street Precinct Guidelines which were gazetted early in 2003, now some five years ago.

##### 3. Paterson Street Guidelines

The theme of the Guidelines is co-operation. The integrity and the sincere intentions of the governing Bylaw are destroyed by the Author's unsupported opinion on Page 29 Comments 1 that:

"It should be noted that the Paterson Street Design Guidelines are just that – guidelines and variations may be required to suit site constraints"

This is out of step with current Council practice, evidencing the very serious concerns Council has shown for adherence to its Bylaw. An example of that was the extremely detailed compliance with the Guidelines that Council insisted upon in relation to a proposal for the then owner of Lot 30, Jenny Ahmat (as provided in my recent correspondence).

A further example is also found on Page 29 1.2.3 Setbacks:

“Figures 7 and 8 of the guidelines contradict each other in that they nominate the same part of Lot 5 as both the shared vehicle access for Lots 5 and 6 and as a nominated square. In addition, the nomination of Lot 5 as the site of a “square” and the rear of the lot as carparking leaves little room, for any other development on Lot 5.”

Lot 5 is 31.7 metres wide and the pavement is only required to be 6.0 metres wide, leaving 25.7 metres square for the Nominated Square and the other approved development concept.

A qualified Landscape Architect could readily present an integrated canvass accommodating the Shared Access Way and the Nominated Square which are required to be provided on Lot 5 by Figure 7. Figure 7 also establishes that a generous portion of Lot 5 is reserved for Major Commercial Development and is shown shaded on Figure 7. The use for carparking of that part of Lot 5 reserved for Major Commercial Development should be specifically refused at this time.

The report also includes selective quotation of the Guidelines and/or misleading interpretation. An example of special concern may be found on Page 39 Policy Requirement Buildings 1.2.8 Vehicular Access – Shared Driveways:

The Bylaw as quoted omits the third paragraph in Clause 1.2.8 which reads as follows:

“Easements in gross no less than 8.0 metres in width shall be applied to shared driveways to guarantee shared use and access.”

The words the Author has omitted clearly indicate the community expectation that there would be free and unhindered access to the communal parking arrangements to be provided at the rear of all the lots between Whitby Street and Richardson Street.

#### C. Other Parking issues

1. The report also attempts to re-write the bylaw, so that its provisions do not conflict with the objective of the report which is to persuade Councillors on December 17 to approve, against the findings of other of Council's professional staff an incomplete Application which additionally does not comply with Council's Guidelines, gazetted in 2003.

The Author does so by including a recommendation which would result in a denial of access to the communal parking for all time by proposing that a 2.0 metre high masonry wall be built 5 metres to the east of Lot 5's boundary. It is important to note that this proposal was not made by the owner of the property but by the Author of the report. In fact, the second and third paragraphs of the second dot point on Page 33 have a significant relevance to the comments the Author has made.

In time, the District Structure Plan will address these issues:

1. By adopting the Author's proposals as an isolated “one off” decision, the real result will be to effectively seal off the Tavern's parking area for all time marking it an exclusive parking area for the benefit only of the Tavern while the Tavern patrons could nonetheless park in the other future communal parking area and would have access to that parking by the access ways provided by the other property owners in this locality.
2. There is in the report a specific denial of the physical existence of the present carpark which was said to have been illegally constructed on approximately half of Lot 5. Page 39 Proposed Development (re: 1.2.9 Parking) says:  
“The existing tavern does not have any existing on-site car parking.”

Councillors might like to know what the purpose of that parking area was stated as being, when the Development Application relating to it was submitted. Also an outdated photo

showing unimproved vacant land has been included in the report in support of the Application.

3. A formula is quoted in the report in relation to the parking layout submitted by the Applicant as follows:  
Page 39 Policy Requirement Buildings (1.2.9 Parking):  
“Parking is to be provided on site at a rate prescribed in the Shire of Serpentine-Jarrahdale TPS No. 2 – Tavern – 2 spaces per 2m<sup>2</sup> lounge and bar area”

Following that information there is in the report (Page 39) a miscalculation of the parking requirement of the 31 spaces for the new bar area of 61.5 square metres. On the basis of the quoted formula 61.5 car parking spaces are required to be provided and the Applicant is 27.5 carparking spaces short.

It appears that the need for the Tavern to provide parking spaces based on the bar/lounge areas presently contained in the building, is dismissed on the grounds that as they haven't been previously provided, they don't need to be provided now.

There is no detail on the aggregate parking required to support the total existing and new tavern floor space, merely an explicit statement that “additional parking can only be required for ..... the extension”. It remains unclear if this Application brings the overall parking situation into full compliance with the legal requirements.

#### D. Opinions presented as facts

The report contains unsupported comments presented as facts.

One in particular is very superficial as in reality the comment needs to be supported by evidence of, for example, scientifically relevant medical research into the effects of corporate marketing strategies for the sale of alcoholic drinks.

I refer to the statement on Page 31 Comment on submission:

“A drive through bottleshop is no more likely to encourage drink driving than a walk in bottle shop”

As a matter of commonsense however, the comments when viewed in the context of the marketing strategies employed by all the major fast food outlets Australia wide are simply not true.

It is obvious that retailers of ‘quick serve’ products go out of their way to provide Drive-In facilities so that they can sell more product than they otherwise would if people had to get out of their cars and walk into their premises.

#### Conclusion

We do hope the foregoing remarks will be of assistance to Council. The project that has been presented is a very worthwhile addition to the facilities in Mundijong but a hurried determination of the critical elements might well destroy much of the benefits that the town could otherwise enjoy.

#### 5. PRESIDENT'S REPORT:

Cr Needham acknowledged that this is the Chief Executive Officer's last Council meeting before she commences maternity leave. Stephen Goode will be the Acting Chief Executive Officer until 11 April 2008.

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

Cr Brown declared an interest of impartiality in item CGAM041/12/07 as she is a member of the Redevelopment Group of the Parish of Serpentine Jarrahdale and will be leaving the room when this matter is considered.

Cr Price declared an interest of impartiality in item OCM013/12/07 as he has had casual contact over a number of years with at least two of the objectors to this proposal. Cr Price declared that this would not affect the way he votes on the matter.

**7. RECEIPT OF MINUTES OR REPORTS AND CONSIDERATION OF ADOPTION OF RECOMMENDATIONS FROM COMMITTEE MEETINGS HELD SINCE THE PREVIOUS COUNCIL MEETINGS:**

**7.1 Ordinary Council Meeting – 26<sup>th</sup> November 2007**

**COUNCIL DECISION**

Moved Cr Price, seconded Cr Kirkpatrick  
That the minutes of the Ordinary Council Meeting held on 26<sup>th</sup> November 2007  
be confirmed.  
CARRIED 10/0

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- NOTE:**
- a) The Council Committee Minutes Item numbers may be out of sequence. Please refer to Section 10 of the Agenda – Information Report - Committee Decisions Under Delegated Authority for these items.
  - b) Declaration of Councillors and Officers Interest is made at the time the item is discussed.

**Moved Cr Murphy, seconded Cr Kirkpatrick**

**That item SD050/12/07 be considered at the end of the meeting so the meeting may be closed to the public in accordance with Section 5.23(2)(d) of the Local Government Act with minimum disturbance to those people present in the gallery.**

**CARRIED 10/0**

**REPORTS OF COMMITTEES:**

SD051/12/07 STATE ADMINISTRATIVE TRIBUNAL APPEAL WITH REGARD TO APPLICATION FOR FRONT FENCING - JOHN CALVIN SCHOOL - LOT 61 (7) SOLDIERS ROAD, BYFORD (P05567/03)		
Proponent	Free Reformed Church of Byford	<b>In Brief</b>  Application for retrospective approval of front fence refused under delegated authority. Applicant lodged appeal against this decision with State Administrative Tribunal (SAT). SAT have now ordered the Council to consider a modified fence design. It is recommended that Council advises SAT that the modified design is acceptable.
Owner	As above	
Officer	Meredith Kenny - Co-ordinator Planning Services	
Signatures - Author:		
Senior Officer:		
Date of Report	28 November 2007	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report has a declared interest.	
<b>Delegation</b>	<b>Council</b>	

Date of Receipt: 8 October 2007  
 Advertised: N/A  
 Submissions: N/A  
 Lot Area: 1.7078 hectares  
 L.A Zoning: Urban Development  
 MRS Zoning: Urban  
 Byford Structure Plan: Existing Primary School  
 Municipal Inventory: Not listed  
 Townscape/Heritage Precinct: N/A  
 Bush Forever: No  
 Site Inspection: 20 November 2007

Background

The subject site contains the John Calvin Primary School. Fencing comprising cyclone mesh 2 metres high plus 3 rows of barbed wire atop has been constructed around the front rear and northern side boundary of the site. A 1.5 metre high fence comprising steel posts and top and bottom rails and black pvc coated wire mesh was erected around the street boundaries of the adjoining church.

Following advice to the landowner by Council Officers that planning approval was required for front fencing on non-residential developments, an application for retrospective planning approval for the fence was submitted to the Shire. On 4 September 2007 the application was refused under delegated authority following discussion of the intended decision by the members of the Concept Forum and Shire Officers.

On 8 October 2007 the landowner submitted an application for review against the refusal with the State Administrative Tribunal. At the Directions hearing for this matter the landowner advised that they would be prepared to modify the fence around the school by:

- a) removing the 3 strands of barbed wire;
- b) cutting down the steel poles to a maximum height of 1.8 metres; and

c) adding a top rail.

The Shire Officer attending the Directions Hearing advised the Tribunal that the officer would be prepared to present a proposal to the Council to modify the fence design and recommending that the Council advise the Tribunal that they would support the issue of Orders approving the modified fence design. The Tribunal was also advised by the Shire Officer that the fence erected around the street boundaries of the church site was considered acceptable as it was a replacement of an old fence of the same design.

***A site plan and photographs of the fencing are with the attachments marked SD051.1/12/07.***

### **Sustainability Statement**

***Effect on Environment:*** No vegetation was required to be removed to erect the fence.

***Economic Benefits:*** The retention of the fencing around the school and church sites will provide a better level of security and deter people from entering the school site after hours and on weekends. This may reduce the incidence of vandalism and break-ins at the school.

***Social – Quality of Life:*** The fencing will also deter pupils from leaving the school site during school hours thereby, providing better safety for the pupils. This is particularly important given that the school is located on a busy road and traffic volumes on this road are likely to substantially increase in the future.

**Statutory Environment:** Planning and Development Act 2005  
Town Planning Scheme No. 2  
Byford Structure Plan  
Fencing Local Laws

**Policy/Work Procedure Implications:** Nil

**Financial Implications:** There may be financial implications to Council related to this application if Council does not accept the modified design and the matter proceeds to a formal hearing.

**Strategic Implications:** This proposal relates to the following Key Sustainability Result Areas:-  
**1. People and Community**  
*Objective 2: Plan and develop towns and communities based on principles of sustainability*  
Strategies:  
2. Develop compatible mixed uses and local employment opportunities in neighbourhoods.  
**4. Governance**  
*Objective 3: Compliance to necessary legislation*  
Strategies:  
1. Ensure development and use of infrastructure and land complies with required standards.

### **Community Consultation:**

Required: No

### **External Referrals**

Not required

### **Comment**

The school previously had a 1.2 metre high, uncoated wire mesh fence with top and bottom rails along the Soldiers Road frontage of the site. This was removed when the existing fence was erected. The proposed modified fence design is not dissimilar to the previous fence except it will be 600 millimetres higher and will have powder coated black poles and rails and pvc coated black 0wire mesh. The black poles and mesh are considered to be an aesthetic improvement to uncoated wire mesh and unpainted steel poles.

The land owners advise that since the Recreation Centre in Mead Street opened they have experienced an increased amount of casual pedestrian and bicycle traffic through the site on weekends and after hours due to people taking a shortcut from Soldiers Road through to the recreation centre. The accessibility of the school yard also meant that many of these people lingered in the school and played on the pre-school play equipment. There has been a sharp rise in the amount of vandalism at the school in this time as well.

In the last few months since the fencing had gone up and the gates were able to be closed to deter casual traffic through the school these problems had reduced dramatically.

Accordingly, it is considered that the school does have a genuine necessity to close the school yard off after hours and on weekends to deter casual pedestrian and bicycle traffic. Accordingly, it is recommended that the Council support the State Administrative Tribunal issuing an order approving the retention of the fencing subject to conditions requiring the modification of the fence (as detailed in their previous order) within a restricted timeframe.

**Voting Requirements:** Simple Majority

### **SD051/12/07 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Harris**

**Council advises the State Administrative Tribunal that the issue of Orders by the State Administrative Tribunal approving the retention of the existing fence around the church site and the school site is supported by the Council subject to:**

- 1. The fencing on the Soldiers Road boundary of the school being modified as follows:**
  - a) removing the 3 strands of barbed wire;**
  - b) cutting down the steel poles to a maximum height of 1.8 metres; and**
  - c) adding a top rail; and**
- 2. The modifications to the fencing being carried out to the satisfaction of the Shire within 60 days of the date of issue of the Order approving the fence.**

**CARRIED 10/0**

SD052/12/07 MINOR MODIFICATION TO BYFORD STRUCTURE PLAN – LOT 3 LARSEN ROAD, BYFORD (P05318/01)		
Proponent:	Koltasz Smith	In Brief
Owner:	Goldtune Investments Pty Ltd	
Officer:	Brad Gleeson – Director Development Services	To consider a minor modification to the Byford Structure Plan (BSP) for Lot 3 Larsen Road, Byford.
Signatures Author:		
Senior Officer:		It is recommended that Council not support the minor modification to the BSP as the proposal should not be considered until such time as the Shire is satisfied that the proposed Local Structure Plan design will not compromise the regional drainage strategy developed by the Department of Water.
Date of Report	13 November 2007	
Previously	SD113/03/06	
Disclosure of 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	
<b>Delegation</b>	<b>Council</b>	

Date of Receipt: August 2005  
 Advertised: This has not commenced  
 Submissions: N/A  
 Lot Area: 32.2 hectares  
 L.A Zoning: Urban Development  
 MRS Zoning: Urban Deferred and Urban  
 Byford Structure Plan: To be consistent with BSP 2006  
 Rural Strategy Policy Area: NA  
 Rural Strategy Overlay: NA  
 Municipal Inventory: NA  
 Townscape/Heritage Precinct: NA  
 Bush Forever: NA  
 Dates of Inspection: 2005, 2006 and 2007

**Background:**

August 2005 The applicant originally lodged a Local Structure Plan (LSP) for the subject land.

Nov 2005 Council resolved to investigate and initiate changes to the BSP 2005.

Dec 2005 Meeting held between applicant and Shire staff to discuss recommended changes to the submitted plan.

Jan 2006 The applicant submitted a revised LSP, a landscape master plan and further supporting information.

March 2006 The Council resolved to defer consideration of the revised LSP for the following reasons:

“SD113/03/06 COUNCIL DECISION/Committee/Officer Recommended Resolution:

*Moved Cr Richards seconded Cr Hoyer  
 The Shire considers the request to advertise the Local Structure Plan for Lot 3 Thatcher Road, Lot 301 Larsen Road, Lot 3 Alexander Road and Lot 2 Abernethy Road, Byford for public comment and resolves:*

1. *To defer Council consideration of the local structure plan until traffic and retail modelling has been undertaken and used to review the Byford Structure Plan.*
2. *To advise the applicant that the submitted local structure plan does not meet Shire neighbourhood design objectives for optimum solar orientation of residential lots and the internal road layout raises concerns for the creation of cohesive neighbourhood streetscapes, convenient pedestrian and cycle access.  
The Shire acknowledges that further traffic modelling may result in a review of the road layout to relieve some of the neighbourhood design constraints which impact this land. Council will not be able to consider approval of the Structure Plan before these traffic studies are completed.*
3. *To advise the Department for Planning and Infrastructure of this resolution and undertake to liaise regarding the progress of the review.*

*CARRIED 8/0”*

July 2007 The WAPC issued conditional approval for stage one of the subdivision, subject to 39 conditions and 19 advice notes.

***A copy of the subdivision guide plan is with the attachments marked SD052.1/12/07.***

July 2007 The applicant lodged an application to the State Administrative Tribunal (SAT) for review of the WAPC conditions, specifically seeking deletion of conditions 1, 2, 7, 14, 15, 17, 20, 22, 28 and 36, which in summary relate to the following matters:

- “1. *Areas deleted from approval to facilitate consideration of drainage, alignment of district distributor and urban density and form and interface with land to the south.*
2. *Areas deleted from approval to facilitate the road widening to accommodate possible bioretention swales in road reserve.*
7. *Widths of dual use paths (2.5m) and footpaths (1.5m).*
14. *Landscape development plan and management strategy.*
15. *Implement 14 above.*
17. *Preparation of Drainage Nutrient Management Plan.*
20. *Land being filled or drained.*
22. *Land to be provided with adequate outlet drainage system.*
28. *Arrangements being made with Water Corporation (WC) for drainage of land directly/indirectly into WC drain.*
36. *Developer contributions.”*

To date a number of mediation sessions have been held. It is hoped that the issues can be resolved before the matter proceeds to a hearing. Some issues listed in the subdivision review are related to the subject LSP application and once resolved should assist in the appeal process.

Nov 2007 BSP update endorsed by WAPC

The applicant seeks Council approval for a plan for the subject land that identifies the broad subdivision and zoning patterns over the land.

The subject land is bounded by Larsen Road to the north, Thatcher Road to the west and Evans Way to the east. The southern portion abuts a private property owned by Peet. The land comprises a total area of approximately 19.37ha.

The eastern portion of the subject area is presently zoned "Urban" under the Metropolitan Region Scheme (MRS), with the western portion adjacent to the Byford Trotting Complex zoned "Urban Deferred". A request to lift the urban deferment over Lot 3 has been lodged with the WAPC to allow a continuation of Rural Residential development or subdivision consistent with urban purposes, whilst in consideration of a required buffer area to the Byford Trotting Complex.

### Subdivision Design

The subject land is located in the north eastern sector of the Byford Structure Plan (BSP 2005) area, east of the Byford Trotting Complex. The BSP 2005 presently shows the Thomas Road deviation diagonally bisecting the subject land and identifies Rural-Residential land uses and Multiple Use Corridors (MUC) in the western and southern portions. The central and eastern portions of the land are Residential R20. A strip of Residential R30/60 is shown between the southern boundary of Lot 3 and a MUC running in an east west direction.

Some of the proposed modifications have already been incorporated into the Applicant's subdivision design through earlier negotiations over the subdivision application now approved by the WAPC. The final subdivision pattern will be dependent on the design outcomes of the Applicant's Drainage and Nutrient Management Plan (DNMP), which is yet to be approved by the Shire. There has been some debate over the design details of the DNMP, which is expected to have some affect on the subdivision design layout.

### Filling / Vegetation

Filling of the site is required to satisfy both stormwater management issues associated with this land and stabilisation of the land to be made suitable for building. The Byford Urban Stormwater Management Strategy suggests that up to 1.1 metres of fill may be required across this site. Council approved bulk earthworks over a portion of the land early this year and significant works have already been carried out.

There was little existing vegetation on the subject land worthy of retention as most of the land had been cleared in the past for agricultural pursuits. This vegetation has now been removed due to the realignment of the natural overland creeks. The alterations to the land form are in accordance with the BSP and relocation of the creeks to coincide with the Multiple Use Corridors (MUC). Vegetation will be added to the area on completion of subdivision works, within areas such as the MUC, the up-stream drainage / bio-retention facilities and the streetscapes. The applicant is required to lodge a landscaping master plan for the Shire's approval of all landscape works and quality of plants to be introduced into the area.

### Residential Densities

The Applicant's most recent modification to the LSP depicts mostly R20 residential density lots, with some medium densities of R30 along the Town Centre distributor road, along the frontages of the MUCs and the southern boundary to the area coinciding with the adjoining property to the south, Lot 1 Abernethy Road. The issue of suitability of these densities will be determined as part of finalising this plan and adopted changes to the BSP. There are presently several discussions regarding the location and appropriate design of the R30 density areas as part of the subdivision application.

Generally it can be concluded that the R30 areas north of the east west MUC and west of the Thomas Road deviation are acceptable. The medium density area indicated west of the Thomas Road deviation is not acceptable at this stage, as it may be affected by outcomes of the Drainage and Nutrient Management Plan. This area has been purposely excluded from the subdivision plan approved by the WAPC for this reason and the land is still 'Urban Deferred' under the Metropolitan Region Scheme. The R30 coded area south of the east-west MUC is also presently under review with the adjoining landowners, to co-ordinate required drainage corridors, road networks and lot configuration. These design issues should be finalised before any amendment to the BSP can proceed.

**Comment:**

Department of Water

Recent information received from the Department of Water indicates that there will be changes to the regional stormwater drainage strategy, which affects the subject land. These changes relate to regional drainage facility locations and sizes and directly to land availability within the subject locality.

The Shire together with the Department for Planning and Infrastructure and Department of Water recognise that development in Byford needs to address the preliminary outcomes of this regional strategy, as well as the Byford Urban Stormwater Strategy, with the regional strategy prevailing to the extent of any inconsistency.

Changes to Local Structure Plan

Whilst the Draft LSP is awaiting finalisation from the Department of Water Regional Drainage Strategy, it is noted that changes to the LSP should be made in regard to the following matters.

- (1) *Provision of advanced telecommunications infrastructure to the local structure plan area at the time of subdivision of the land.*

Similar strategies have been undertaken for Byford Central, Redgum Brook and Lots 6 and 27 Abernethy Road, Byford. In these cases it has been required that the developer install conduit suitable for future telecommunication purposes during subdivision, which provides for easy installation of advanced telecommunications infrastructure in future.

- (2) *Preparation of residential design guidelines for the Draft LSP and detailed areas plans for all R30 lots.*

The draft LSP should address matters such as water sensitive urban design for individual house lots (identifying opportunities for rainwater tanks and grey water usage), solar orientation principles for housing design and general design principles for the dwellings. DAP's will be required for all R30 lots within the LSP abutting areas of MUC public open space and the main distributor road.

It is acknowledged that the applicant has provided some DAP information which can be refined to incorporate into the document.

**Sustainability Statement**

***Effect on Environment:*** The site contains significant drainage issues.

***Economic Viability:*** The LSP seeks to maximise lot yield and to implement urban development to accord with the Byford Structure Plan.

***Economic Benefits:*** Some local employment during construction (possible) and an increase in the number of households will assist growth of the Byford townsite.

**Statutory Environment:**

Town Planning Scheme No. 2: The Scheme establishes the statutory framework to facilitate the planning, subdivision and development of land within the 'Urban Development' zone. This is done through:

- i. Introducing a procedure for the preparation and adoption of structure plans; and
- ii. Introducing development contribution area provisions for the equitable sharing of costs for essential services and urban infrastructure.

With regard to ii), consultants were engaged by the Shire to prepare a development contribution plan for the Byford Structure Plan area. The 2005 study by Worley Parsons which is currently being reviewed and updated by Connell Wagner will be completed in the New Year and will necessitate an amendment to the Scheme.

*"5.19.1.5 Where a Development Contribution Plan is necessary but is not in effect, the local government may support subdivision or approve development where the Owner has made other arrangements satisfactory to the local government with respect to the Owner's contribution towards the provision of Infrastructure in the Development Contribution Area."*

A legal agreement will need to be prepared and entered into between the landowner and the Shire at the time of subdivision.

**Policy/Work Procedure Implications:**

There is no work procedures/policy implications directly related to this issue.

**Financial Implications:**

Planning and Development (Local Government Planning Fees) Regulations 2000 - Through the Planning and Development Regulations, the Shire requires fees for processing structure plans. Fees are required to be calculated using the Table outlined in the Regulations, which are based on estimated salary costs, direct costs, specialist report costs and documentation costs incurred by the Shire for processing an application.

Since lodgement of the subject structure plan amendment in 2005, the Applicant has not made a payment for the processing of the application. This information is provided in anticipation of the amendment being advertised in the future and the estimated fees applicable to the processing of the structure plan.

It is considered reasonable that an application fee be made prior to the initiation of advertising. In accordance with the Planning and Development (Local Government

Planning Fees) Regulations 2000, it is estimated that fee for processing the application will be \$15 350.

**Strategic Implications:**

This proposal relates to the following Key Sustainability Result Areas:-

**1. People and Community**

*Objective 1: Good quality of life for all residents*

Strategies:

1. Provide recreational opportunities.
2. Develop good services for health and well being.
3. Retain seniors and youth within the community.
6. Ensure a safe and secure community.

*Objective 2: Plan and develop towns and communities based on principles of sustainability*

Strategies:

1. Increase information and awareness of key activities around the Shire and principles of sustainability.
2. Develop compatible mixed uses and local employment opportunities in neighbourhoods.
3. Design and develop clustered neighbourhoods in order to minimise car dependency.
4. Foster a strong sense of community, place and belonging.

**Community Consultation:**

Required: No

Conclusion

It is considered that the local structure plan application not be progressed until such time that the Shire is satisfied that the proposed local structure plan design will not compromise the regional drainage strategy developed by the Department of Water.

**Voting Requirements:**

Simple Majority

**SD052/11/07 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Price, seconded Cr Randall**

**Council considers the request to advertise the Local Structure Plan for Lot 3 Larsen Road, Byford for public comment and resolves:**

1. The application not be advertised until such time that the Shire is satisfied that the proposed local structure plan design will not compromise the regional drainage strategy developed by the Department of Water.
2. The applicant be required to modify the Local Structure Plan report and plan for review by the Director Development Services prior to further consideration for advertising, with regard to the following:
  - i) remove references to adjoining land, Lot 3 Alexander Road and Lot 2 Abernethy Road, Byford.
  - ii) change reference of plan from a Detailed Area Plan to a Local Structure Plan.
  - iii) Provision of reference for incorporating advanced telecommunications infrastructure to the local structure plan area at the time of subdivision of the land.

**iv) Provision of reference for preparation of residential design guidelines for the Draft Local Structure Plan and detailed areas plans for all R30 lots.**

**CARRIED 10/0**

CGAM040/12/07 AMENDMENT TO DEPRECIATION POLICY (A0924) (P00946)	
Proponent	In Brief
Officer	To add Motor Vehicles and Computer Equipment asset classes to the existing depreciation rate policy and to adopt the revised depreciation and capitalisation rates used by Council.
Signatures - Author:	
Senior Officer:	
Date of Report	
Previously	
Disclosure of Interest	
Delegation	Council

**Background**

Upon reviewing the depreciation rates adopted by Council in 2003, and comparing the classes of assets in the Financial Statements for the current and previous years, it appears that Council have not outlined their depreciation and capitalisation rates for the Motor Vehicle and Computer Equipment classes of assets. The Motor Vehicle and Computer Equipment classes appear in the Financial Statements and should have their own rates that should be applied to each asset in the respective classes. Below are the current depreciation policy rates as per Council Policy CSP29;

Land	100 years
Buildings	30 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Sealed roads and streets	
clearing and earthworks	not depreciated
construction/road base	40 years
original surfacing	
bituminous seals	20 years
asphalt surfaces	25 years
Gravel roads	
clearing and earthworks	not depreciated
construction/road base	40 years
Formed roads (unsealed)	
clearing and earthworks	not depreciated
construction/road base	25 years
Footpaths	40 years
Water supply piping & drainage systems	50 years
Irrigation Systems	25 years

Current Council practice is to use the Plant and Equipment rates that have been adopted by Council and apply these to the Motor Vehicle Class. This however does not reflect the correct useful life for Motor Vehicles at the Shire. Currently in order to maximise the Shire's return on trade-in's for Motor Vehicles, a vehicle has a useful life of two (2) years.

Therefore, the correct depreciation rate would be, to apply a two year useful life with an estimated written down value (being the value at the end of two years), advised by a third party, commonly through a car dealership or a certified valuation website, such as redbook.com.au. If Council continue to apply the Plant and Equipment class rate to motor vehicles the annual financial statements will result in the depreciation costs to be lower, and the loss on sale of assets to be higher, due to Council not calculating depreciation on sale of Motor Vehicles accurately and at a rate that is not appropriate for the length of time the asset is held by Council. It is recommended that a range for the years be adopted by Council due to one off Motor Vehicles being held for greater than two (2) years. This is rare, however there needs to be a provision in the rate in case this occurs for a vehicle, such as a Fire and Emergency Vehicle, which is usually funded in the form of a grant by FESA.

The other asset class that Council has not outlined a depreciation rate for is the Computer Equipment class. Common practice is to use the Furniture and Equipment class to apply rates to new computer items. From the advice of the Director of Corporate Services and Information Technology Consultants, the asset range of two (2) to five (5) years is reasonable depending on the asset purchased.

### **Comments**

We are currently depreciating our assets on a straight line basis, using rates which are reviewed each reporting period and shown in the notes to the Financial Statements.

Council has followed general accounting standard rates with regard to depreciation and capitalisation rates over previous years. In order to comply with the accounting standards, Council will need to recognise the new classes, being Motor Vehicles, and Computer Equipment.

Therefore it is proposed to formalise depreciation and capitalisation rates, as listed below:

Land	100 years
Buildings	30 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Motor Vehicles**	2 to 5 years
Computer Equipment**	2 to 5 years
Sealed roads and streets	
clearing and earthworks	not depreciated
construction/road base	40 years
original surfacing	
bituminous seals	20 years
asphalt surfaces	25 years
Gravel roads	
clearing and earthworks	not depreciated
construction/road base	40 years
Formed roads (unsealed)	
clearing and earthworks	not depreciated
construction/road base	25 years
Footpaths	40 years
Water supply piping & drainage systems	50 years
Irrigation Systems	25 years

\*\* Note: Reflects the new classes of assets recommended.

Previously, Council adopted the following capitalised items threshold ;

Infrastructure	\$10,000
Land	Nil

Buildings	\$10,000	
Plant		\$ 1,000
Tools		\$ 1,000
Furniture and Office Equipment		\$ 1,000

With the recognition of the two new classes the following is recommended for items to be capitalised if equal to or above the respective limits;

Motor Vehicles		\$ 1,000
Computer Equipment		\$ 1,000

<b><u>Statutory Environment:</u></b>	Australian Accounting Standards
<b><u>Policy Implications:</u></b>	Amending Council Policy CSP29 as per item.
<b><u>Financial Implications:</u></b>	Nil
<b><u>Strategic Implications:</u></b>	No Impact on Council's Strategic Plan.
<b><u>Voting Requirements:</u></b>	Simple Majority

**Officer Recommended Resolution**

**Moved Cr Harris Seconded Cr Geurds**

**That Council adopt the depreciation and capitalisation rates for its capital assets as follows:**

<b>Land</b>	<b>100 years</b>
<b>Buildings</b>	<b>30 to 50 years</b>
<b>Furniture and Equipment</b>	<b>4 to 10 years</b>
<b>Plant and Equipment</b>	<b>5 to 15 years</b>
<b>Motor Vehicles</b>	<b>2 to 5 years</b>
<b>Computer Equipment</b>	<b>2 to 5 years</b>
<b>Sealed roads and streets</b>	
clearing and earthworks	not depreciated
construction/road base	40 years
original surfacing	
bituminous seals	20 years
asphalt surfaces	25 years
<b>Gravel roads</b>	
clearing and earthworks	not depreciated
construction/road base	25 years
<b>Formed roads (unsealed)</b>	
clearing and earthworks	not depreciated
construction/road base	50 years
<b>Footpaths</b>	40 years
<b>Water supply piping &amp; drainage systems</b>	50 years
<b>Irrigation Systems</b>	25 years

<b>2. Capitalisation rates for assets be adopted as:</b>	
<b>Infrastructure</b>	<b>\$10,000</b>
<b>Land</b>	<b>Nil</b>
<b>Plant</b>	<b>\$ 1,000</b>
<b>Tools</b>	<b>\$ 1,000</b>

<b>Furniture and Office Equipment</b>	<b>\$ 1,000</b>
<b>Computer Equipment</b>	<b>\$ 1,000</b>
<b>Motor Vehicles</b>	<b>\$ 1,000</b>

**LOST 0/7**

**CGAM040/12/07 COUNCIL DECISION/Committee Recommended Resolution**

**Moved Cr Kirkpatrick seconded Cr Harris**

**That Council adopt the depreciation and capitalisation rates for its capital assets as follows:**

<b>Land</b>	<b>Not depreciated</b>
<b>Buildings</b>	<b>30 to 50 years</b>
<b>Furniture and Equipment</b>	<b>4 to 10 years</b>
<b>Plant and Equipment</b>	<b>5 to 15 years</b>
<b>Motor Vehicles</b>	<b>2 to 5 years</b>
<b>Computer Equipment</b>	<b>2 to 5 years</b>
<b>Sealed roads and streets</b>	
clearing and earthworks	not depreciated
construction/road base	40 years
original surfacing	
bituminous seals	20 years
asphalt surfaces	25 years
<b>Gravel roads</b>	
clearing and earthworks	not depreciated
construction/road base	25 years
<b>Formed roads (unsealed)</b>	
clearing and earthworks	not depreciated
construction/road base	50 years
<b>Footpaths</b>	<b>40 years</b>
<b>Water supply piping &amp; drainage systems</b>	<b>50 years</b>
<b>Irrigation Systems</b>	<b>25 years</b>

**2. Capitalisation rates for assets be adopted as:**

<b>Infrastructure</b>	<b>\$10,000</b>
<b>Land</b>	<b>Nil</b>
<b>Plant</b>	<b>\$ 1,000</b>
<b>Tools</b>	<b>\$ 1,000</b>
<b>Furniture and Office Equipment</b>	<b>\$ 1,000</b>
<b>Computer Equipment</b>	<b>\$ 1,000</b>
<b>Motor Vehicles</b>	<b>\$ 1,000</b>

**CARRIED 10/0**

**Committee Note: The Officers Recommended Resolution was amended to remove the depreciation of land. The description in the table was amended to read “Not depreciated”.**

CGAM041/12/07		COMMUNITY FACILITIES AND SERVICES PLAN – REQUEST TO WRITE OFF DEBTORS (A1345/05)
Proponent:		In Brief  Council is requested to write off the outstanding debts raised through tax invoices in relation to voluntary contributions from land developers towards the Community Facilities and Services Plan study.
Owner:	Not Applicable	
Officer:	Carole McKee - Manager Community Development	
Signatures Author:		
Senior Officer:		
Date of Report	28 November 2007	
Previously	Not Applicable	
Disclosure of 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	
<b>Delegation</b>	<b>Council</b>	

**Background**

During the 2006/07 financial year land developers were invited to contribute towards the Community Facilities and Services Plan to 2020 study. This was considered to be an advance payment on any negotiated community infrastructure payments that may later be linked to the implementation of the Plan.

Four (4) developers contributed a combined amount of \$32,500 (including GST) and seven (7) developers have either declined or are still considering their participation in contributing a combined amount of \$49,500 (including GST).

The internal process that was adopted was to raise a tax invoice which was attached to the request. In hindsight what should have been attached was a recipient created invoice which would not have registered on our system as a debtor, until a tax invoice was raised as a result of an agreement being reached with each developer who was willing to contribute.

A strategic decision was made during the 2007/08 budget preparations, to not anticipate this income through CDO105 (developer contributions) – hence the zero balance in this line item in the projected 2007/08 budget. In hindsight what should also have happened at that time was to write off the \$49,500 (including GST) from the debtors system, instead of including it in the Carried Forward Surplus amount from 1 July 2007.

**Statutory Environment:** Approval requires an absolute majority of the Council to vote in support of the recommendation.

**Policy/Work Procedure Implications:** There are no work procedures/policy implications directly related to this application/issue.

**Financial Implications:** Council will be required to write off \$49,500 (including GST) in the 2007/08 financial year. It is anticipated that this can be funded from surplus revenue in 2007/08. A budget reallocation will be proposed in the Half Yearly Budget Review.

**Strategic Implications:** This proposal relates to the following Key Sustainability Result Areas:-  
**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

1. Identify and implement best practice in all areas of operation.

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Develop a risk management plan.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:**

No community consultation is required.

**Comment:**

Whilst Council Officers will continue to work with land developers in relation to community infrastructure contributions through the Community Facilities and Services Plan to 2020, Council is asked to write off the following debts from the debtor's system.

Debtor Number	Amount Outstanding
61	\$5500.00
83	\$5500.00
90	\$5500.00
91	\$5500.00
82	\$11000.00
89	\$5500.00
26	\$11000.00

**Voting Requirements:**

**ABSOLUTE MAJORITY**

**CGAM041/12/07 COUNCIL DECISION/Committee/Officer Recommended Resolution**

**Moved Cr Murphy, seconded Cr Price**

**That Council writes off the following debts from the debtor's system:**

Debtor Number	Amount Outstanding
61	\$5500.00
83	\$5500.00
90	\$5500.00
91	\$5500.00
82	\$11000.00
89	\$5500.00
26	\$11000.00

**CARRIED 10/0 ABSOLUTE MAJORITY**

Cr Brown declared an interest of impartiality in item CGAM042/12/07 as she is a member of the Redevelopment Group of the Parish of Serpentine Jarrahdale and left the Chamber.

CGAM042/12/07		REQUEST TO WAIVE DEMOLITION, PLANNING AND BUILDING FEES FOR PROPOSED CHURCH ON LOT 34, 19 CLIFTON STREET, BYFORD (IN07/15623)
Proponent:	Anglican Church of Australia-Parish of Serpentine Jarrahdale	<p>In Brief</p> <p>Council to consider an application from the Anglican Church of Australia – Parish of Serpentine Jarrahdale to waive demolition, planning and building application fees for the development and construction of a new Parish Centre on the site of St. Aidan’s Church in Byford.</p> <p>It is recommended that Council do not waive the demolition fees, development application and building licence fees.</p>
Owner:	Anglican Church of Australia	
Officer:	Alan Hart Director Corporate Services	
Signatures Author:		
Senior Officer:		
Date of Report	29 November 2007	
Previously		
Disclosure of 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	
<b>Delegation</b>	<b>Council</b>	

**Background**

Council has received an application from the Anglican Church of Australia – Parish of Serpentine Jarrahdale to waive the demolition fees, development application and building licence fees for the new Parish Centre in Byford. The Development Application has not yet been received by Council.

***A copy of the Letter is with attachments marked CGAM042/12/07 (IN07/15623)***

**Sustainability Statement**

**Heritage and Culture:** Due to an increasing population in the district, there will be more demand on services provided by the Parish of Serpentine Jarrahdale. The Parish currently services Byford, Cardup, Jarrahdale, Karnet, Keysbrook, Mardella, Mundijong, Oakford, Serpentine and Whitby.

**Social Diversity:** The fees that are requested to be waived are statutory fees that are charged to all landowners undertaking a development within the shire.

**Statutory Environment:** Building Regulations 1989 Part 6 – Fees; Town Planning (Local Government Planning Fees) Regulations 2000.

**Policy/Work Procedure Implications:** There is no work procedures/policy implications directly related to this issue.

**Financial Implications:** Council will forego approximately \$6,639 in fee revenue from the applicant should Council agree to this request. In addition, Council will incur costs to assess the application, issue the necessary licences and undertake inspections during construction.

**Strategic Implications:** This proposal relates to the following Key Sustainability Result Areas:-

## **1. People and Community**

*Objective 1: Good quality of life for all residents*

Strategies:

1. Develop good services for health and well being.
2. Respect diversity within the community.
3. Value and enhance the heritage character, arts and culture of the Shire.

*Objective 2: Plan and develop towns and communities based on principles of sustainability*

Strategies:

1. Foster a strong sense of community, place and belonging.
2. Protect built and natural heritage for economic and cultural benefits.

*Objective 3: High level of social commitment*

Strategies:

1. Encourage social commitment and self determination by the SJ community.

## **4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:** Not applicable at this time

**Comment:**

The proposed church is on the site of the current St Aidan's Church in Byford, the proposal is to demolish the existing building and construct a new building which will meet the needs to the expected future population of the Serpentine Jarrahdale community.

Assessing development and building applications consumes a considerable amount of resources from the planning and building departments and wherever possible council should be minimising the costs to ratepayers of providing these services. These costs cannot be estimated until the development application is lodged with Council. Based on past experience the cost of undertaking these assessments generally exceeds the revenue gained from the fees.

The estimated value of the development is \$1.6 million and the expected revenue from fees is as follows:

Demolition Application	\$50.00
Planning Application	\$3,680.00
Building Application	\$2,909.00

These do not include the BCITF and BRB levy, which are payable to the relevant authorities and these total \$3,237. These fees will need to be paid by the parish irrespective of any resolution by Council to waive the demolition, planning and building application fees.

**Voting Requirements:** **ABSOLUTE MAJORITY**

**Officer Recommended Resolution:**

That Council do not waive the Demolition, Development Application and Building Licence Fees for the construction of a new Parish Centre on the site of St Aidan's Byford.

**Committee Recommended Resolution:**

**That Council:**

1. Waive the demolition, development application, and building licence fees on the site of St Aidan's church, Byford.
2. Note the BCITF and BRB levy remain payable by the Church as it is a charge imposed by an external agency.
3. Notify the applicant accordingly.

During debate Cr Price foreshadowed that he would move the following motion if the motion under debate is defeated:

**Foreshadowed Motion**

**That Council:**

1. Waive the demolition, and building licence fees on the site of St Aidan's Church, Byford.
2. Charge the Planning Application fee plus the prescribed percentage in relation to the estimated value of the development of \$1.6 million.
3. Note the BCITF and BRB levy remain payable by the Church as it is a charge imposed by an external agency.
4. Notify the applicant accordingly.

**CGAM042/12/07 COUNCIL DECISION:**

Moved Cr Price, seconded Cr Harris

**That Council:**

1. Waive the demolition, and building licence fees on the site of St Aidan's Church, Byford.
2. Charge the Planning Application fees.
3. Note the BCITF and BRB levy remain payable by the Church as it is a charge imposed by an external agency.
4. Notify the applicant accordingly.

**CARRIED 7/2**

Cr Kirkpatrick and Cr Murphy voted against this motion.

**Council Note:** The Committee Recommended Resolution was changed by removing 'development application' from point 1 and adding point 2 that the planning application fee be charged.

Cr Brown returned to the meeting at 7.53pm and did not vote.

## **AUDIT COMMITTEE**

AC002/12/07 AUDIT REPORT AND MANAGEMENT REPORT 2006/2007 (A1399)		
Proponent:	Local Government Act 1995	In Brief  To receive the Auditors Report and the Management Report for the financial year ended 30 June 2007.
Owner:		
Officer:	Casey Mihovilovich Manager Finance Services	
Signatures Author:		
Senior Officer:		
Date of Report	3 <sup>rd</sup> December 2007	
Previously		
Disclosure of 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 1995	
<b>Delegation</b>	<b>Council</b>	

### **Background**

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

Council's Auditor, UHY Haines Norton, has provided Council with the Audit report and Management Report for the financial year ended 30 June 2007.

***A copy of the Independent Audit Report is attached and marked AC002.1/12/07.***

***A copy of the Management Report is attached and marked AC002.2/12/07.***

***A copy of 2007 Financial Report is attached and marked AC002.3/12/07.***

### **Statutory Environment:**

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

Section 7.3 of the Local Government Act 1995 states ‘A local government is to, from time to time whenever such an appointment is necessary or expedient, appoint a person, on the recommendation of the audit committee, to be its auditor’.

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

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

### **Policy Implications:**

There are no Policy Implications.

**Financial Implications:** A budget provision has been made in the 2007/2008 budget to accommodate the costs associated with the audit.

**Strategic Implications:** This proposal relates to the following Key Sustainability Result Areas:-

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:** No community consultation is required for this item.

**Comments**

At the completion of the audit, UHY Haines Norton advises that there are no major non-compliance issues that have been identified.

UHY Haines Norton has raised the following management issues in their Management Report for the financial year ended 30 June 2007:

1. Review of Delegation Register

The delegations register has not been reviewed since the 2004/2005 financial year. To help ensure compliance with the Act, we recommend all delegations be recorded in the delegations register and reviewed at least once a year as required by Section 5.46 (2).

Management Response

This matter has been discussed with the Personal Assistant to the Chief Executive Officer. The Chief Executive's Office is reviewing the delegation register.

2. Delegation of CEO's Power to Other Employees

We noted the following delegations of CEO's power to the Director Corporate Services and/or Manager Financial Services were not in writing:

- authorisation of payments, and
- investment of funds

To help ensure compliance with the Act, we recommend all delegations should be made in writing as soon as practicable as requires by Section 5.44 (2).

Management Response:

This matter has been discussed with the Personal Assistant to the Chief Executive Officer. The Chief Executive's Office is reviewing this management item.

3. Road Infrastructure Assets

At present, road infrastructure assets as per the general ledger do not agree with the fixed assets register. The Council has only started to record the additions into the fixed assets system during the 2006/2007. The carrying amount as at 30 June 2007 was calculated by adding the additions for the year to the opening carrying amount and deducting the same amount of depreciation as last year.

To enable Council to maintain an accurate record and control over its road network, as well as helping to ensure these assets are correctly depreciated, we recommend that Council update and reconcile the fixed assets to the general ledger for the road infrastructure assets.

From our testing and review, the carrying amount as at 30 June 2007 appeared to be reasonable and no adjustment to the calculation was required

Management Response:

It is acknowledged that the road infrastructure assets prior to this financial year were not entered into the fixed asset system. This is a high priority project that the Manager Finance Services will be responsible for. It is complex and will require the purchase of ROMAN's (Engineering calculator, which measures roads and costs of these roads).

It is recommended that the Audit Committee:

1. Adopt the Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2007;
2. Receive the Management Report and note the management issues raised; and
3. Receive the Audited Annual Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2007.

Voting Requirements: Simple Majority

**AC002/12/07 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

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

1. **Adopt the Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2007.**
2. **Receive the Management Report and note the management issues raised, and the corresponding actions to be taken by Council Officers to address the management issues by end of March 2008.**
3. **Receive the Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2007.**

**CARRIED 10/0**

**Committee Note: The Officer's Recommendation was altered to introduce a date for the management issues to be rectified, but the Presiding Officer determined that this did not affect the intent of the motion.**

**8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

OCM013/12/07		PROPOSED ADDITIONS TO MUNDIJONG TAVERN – LOTS 5 & 6 (32) PATERSON STREET, MUNDIJONG (P01611/07)	
Proponent:	D Bathurst	<b>In Brief</b>  Application for additions to existing tavern including new verandah, drive through bottle shop, car parking area and extension of public bar. It is recommended that the application be approved subject to conditions including conditions requiring modifications to the design of the development.	
Owner:	Mundijong Land Pty Ltd		
Officer:	Meredith Kenny – Co-ordinator Planning Services		
Signatures Author:			
Senior Officer:			
Date of Report	27 November 2007		
Previously	Nil		
Disclosure of 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		
<b>Delegation</b>	<b>Council</b>		

Date of Receipt:	2 November 2007
Advertised:	Yes
Submissions:	Two
Lot Area:	4 000m <sup>2</sup>
L.A Zoning:	Commercial (Scheme Amendment in progress to change zoning to Urban Development)
MRS Zoning:	Urban
Use Classification:	SA – Special Advertising required before Council may exercise discretion to approve.
Heritage:	Listed in Appendix 13 of TPS Municipal Inventory Management Category: 1 preservation essential.
Townscape/Heritage Precinct:	Paterson Street
Site Inspection:	14 November 2007

### **Background**

Lot 6 Paterson Street contains the original Mundijong Tavern. Lot 5 is on the same Certificate of Title and is currently vacant.

An application has been received for additions to the Mundijong Tavern. The additions comprise:

- Construction of a drive through bottle-shop and car park on Lot 5.
- Construction of an extension to the existing public bar on the southern side of the tavern and replacement of the existing flat roof with a pitched roof.
- Construction of a new front verandah.

***Site, floor and elevation plans and an aerial photo are with the attachments marked OCM013.1/12/07.***

### **Sustainability Statement**

***Effect on Environment:*** None of the existing vegetation is to be removed. Additional landscaping will be carried out in the new car park. Waterwise plants (preferably locally indigenous species) should be required to be used in the landscaping areas. Where possible, hardstand areas (ie the car park) should be graded to allow stormwater to runoff to garden beds. Garden beds need to be of sufficient size to accommodate the volume of water. The combination of using waterwise plants and stormwater runoff to water garden beds will help to reduce the amount of scheme water required to maintain landscaped areas.

***Resource Implications:*** As stated above, there are opportunities to re-use captured/directed stormwater in landscaped areas and reduce the use of the scheme water resource.

***Use of Local, renewable or recycled Resources:*** No information provided by applicant.

***Economic Benefits:*** Facilities within the Mundijong townsite will help to make the community more sustainable by providing local employment, local services and goods and reducing the need for local residents to travel to other centres outside the Shire. The addition of the drive-through bottle shop will help to enable competitive pricing of liquor. The restoration and renovation of the tavern will improve the streetscape and may serve to encourage other business owners in Paterson Street to upgrade their premises.

***Social – Quality of Life:*** The development will provide an extension to the range of retail and ancillary facilities in the town. The development will also serve to consolidate existing commercial development in Mundijong and provide additional activity on Paterson Street.

Extension and upgrading of the existing tavern will help to ensure the traditional commercial area of Mundijong is a more vibrant hub than currently exists and make the area less subject to possible decline once additional centres are developed elsewhere within the Mundijong/Whitby future urban area.

The provision of parking on the tavern site will provide a safer environment for patrons than the existing parking area on the railway reserve, which necessitates patrons to cross the road. This will be particularly important as Mundijong grows and traffic on Paterson Street increases in the future. It will also free up the railway reserve (Railway Park) parking for users of the train station, playground and linear park (as development of the Railway Park progresses in future).

**Statutory Environment:**

Planning and Development Act 2005  
Town Planning Scheme No. 2  
Amendment No. 152

**Policy/Work Procedure Implications:**

Local Planning Policy LPP16 – Paterson Street Design Guidelines

**Financial Implications:**

Nil

**Strategic Implications:**

This proposal relates to the following Key Sustainability Result Areas:-

**1. People and Community**

*Objective 2: Plan and develop towns and communities based on principles of sustainability*

Strategies:

2. Develop compatible mixed uses and local employment opportunities in neighbourhoods.
3. Design and develop clustered neighbourhoods in order to minimise car dependency.

**2. Environment**

*Objective 2: Strive for sustainable use and management of natural resources*

Strategies:

1. Implement known best practice sustainable natural resource management.
2. Respond to Greenhouse and Climate change.
3. Reduce waste and improve recycling processes

**3. Economic**

*Objective 1: A vibrant local community*

Strategies:

1. Attract and facilitate appropriate industries, commercial activities and employment.

*Objective 2: Well developed and maintained infrastructure to support economic growth*

Strategies:

2. Consider specific sites appropriate for industry /commercial development.

*Objective 3: Effective management of Shire growth*

Strategies:

1. Enhance economic futures for Shire communities.

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.

**Community Consultation:**

Required: Yes, as the land use of Tavern is classified as "SA" in the Town Planning Scheme. Letters sent to adjacent landowners.

Submissions: Three conditional comments.

Summary of submissions:

No.	Submission	Comment on submission
1	<p>Please take the following issues into consideration in determining this application:</p> <ol style="list-style-type: none"> <li>1. The setback of the southern elevation of the building (including openings) from the southern boundary to comply with the requirements of the Building Code of Australia.</li> <li>2. Is side/rear access for pedestrians to be maintained along the southern elevation?</li> <li>3. The protrusion of the chimney on the southern elevation is not shown on the site plan. Ensure minimum setback required under BCA is achieved.</li> <li>4. The tavern site should be surveyed by a licensed surveyor prior to the submission of an application for a Building Licence as due to the age of the development the existing building, proposed extensions and fencing may be closer to the southern boundary than currently thought. There aren't any survey markers in existence.</li> </ol>	<p>It is considered appropriate given the age of the building that a condition be placed on the development requiring both Lots 5 and 6 to be surveyed by a Licensed Surveyor and boundary markers installed prior to submission of an application for a Building Licence. A copy of the survey diagram produced should be submitted with the application. This will enable any current anomalies to be addressed and for Building Services to be adequately satisfied that the building and proposed extension and existing fencing and services are located fully within the boundaries of Lots 5 and 6 and that the minimum setbacks required by the BCA are able to be achieved.</p> <p>In addition, it is of concern that hotel patrons park in the Australia Post and Fish and Chip shop carpark. Accordingly, it is recommended that pedestrian access not be provided down the southern side of the hotel to the beer garden (where there is an existing gate) and the space between the southern wall of the hotel and the southern boundary be landscaped and treated to discourage pedestrians using that area. A "no-entry to patrons" sign (or similar wording) should also be attached to the gate.</p>
2	<p>Submitter does not believe the development complies with the design guidelines for Paterson Street adopted by the Council for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Shared vehicle access is not provided for Lots 5 and 6 as required by the guidelines. The location of the bottleshop prevents this from happening and destroys an essential element of the Planning provided for in Figure 7 of the guidelines.</li> <li>2. The rear of all lots in this part of Paterson Street are required to be used as a shared parking facility and the proposed development</li> </ol>	<ol style="list-style-type: none"> <li>1. The bottle shop on Lot 5 is being developed as an extension of the existing tavern and the extension of the public bar on Lot 6 relies on the parking to be provided on Lot 5 adjacent to the bottleshop. Both these lots are currently on the same certificate of title. A condition included in the recommendation requires the amalgamation of Lots 5 and 6 so only the one access point is required.</li> </ol> <p>It should be noted that the Paterson Street Design Guidelines are just that – guidelines and variations</p>

No.	Submission	Comment on submission
	<p>does not achieve this.</p> <p>3. It is unwise to permit development which will encourage heavy traffic onto and off Paterson Street during times when businesses are busiest.</p> <p>4. The verandah design proposed does not comply with the guidelines.</p> <p>5. The guidelines are the Shire's only legislation which specifically relate to that is presently the most important street in Mundijong so far as commercial and civic use is concerned. Perhaps the present staff in the Planning Department are not aware of the existence of the guidelines.</p>	<p>may be required to suit site constraints. With regard to forecourts and squares the guidelines state as follows:</p> <p><i>1.2.3 SETBACKS: FRONT (FORECOURTS AND SQUARES) Forecourts or Squares are <b>encouraged</b> for those locations notated as "Nominated Squares" in <b>Figure 7</b> of these Guidelines.</i></p> <p>Figures 7 and 8 of the guidelines contradict each other in that they nominate the same part of Lot 5 as both the shared vehicle access for Lots 5 and 6 and as a nominated square. In addition, the nomination of Lot 5 as the site of a "square" and the rear of the lot as carparking leaves little room for any other development on Lot 5. The four lots to the north of Lot 5 are nominated on Figure 7 as being opportune for a major commercial development. Accordingly, it is considered that the future development of those lots would be more appropriate for the inclusion of a square than the site made up of Lots 5 and 6 which is already constrained by the existing boundary to boundary development on Lot 6 (the tavern).</p> <p>2. At the present time it is not possible to provide parking at the rear of the existing tavern on Lot 6 as the rear area of the lot contains the septic tanks and leach drains for the tavern. In the future when sewer is available the area of Lot 6 currently occupied by the septic tanks and leach drains could be converted to parking with access via the right of way at the rear.</p> <p>3. Any commercial development along Paterson Street is likely to cause increased traffic flow. However, this is appropriate given that this is a commercial area and Paterson Street is the main street. A condition in the recommendation requires drive through traffic to enter from the right of way at the rear. This will ensure stacking of vehicles in the drive-through</p>

No.	Submission	Comment on submission
		<p>entrance does not obstruct traffic flow into and out of the car park nor result in an undue amount of vehicles stacking on Paterson Street waiting to turn right into Lot 5. Only a single crossover is proposed onto Paterson Street to serve both Lots 5 and 6. This ensures that pedestrians are not unduly impeded along the public footpath.</p> <p>4. Conditions in the recommendation require the modification of the design of the verandah to the front of the hotel and the extension to the public bar to comply with the architectural style of other existing heritage buildings in the street and the original design of the two-storey verandah that previously existed at the front of the tavern.</p> <p>5. It is clear from the assessment of the application detailed in this report that existing Shire staff are fully aware of the Paterson Street Design Guidelines.</p>
3	<p>I am happy to support the construction of formal carpark, extension of bar and replacement of front verandah. I feel this will entice and retain our locals</p> <p>However I do have issues with the construction of a new drive through bottle shop</p> <p>As a landowner nearby:</p> <ul style="list-style-type: none"> <li>• I think a drive through will encourage drink driving which may inturn cause harm to innocent patrons or locals who become subject to their unacceptable behaviour</li> <li>• My property is directly behind the pub, noise levels sometimes become excessive and a drive through will definitely contribute further to this</li> <li>• I do not wish to have moving car headlights beaming into the rear of my home</li> </ul> <p>As a business owner:</p> <ul style="list-style-type: none"> <li>• We were not informed of the predatory nature of this application which sells packaged liquor in an extended hours format that will be housed 100 metres from an existing liquor licence</li> <li>• We currently have a seven day liquor</li> </ul>	<p>A drive through bottleshop is no more likely to encourage drink driving than a walk in bottle shop.</p> <p>A condition is included in the recommendation requiring the construction of a 2 metre high masonry wall between the drive through property and the right of way. This wall will be setback 5 metres from the current rear boundary of lot 5. Therefore, there will be 10 metres between the rear boundary of the submitter's property and the masonry wall on Lot 5. In addition, the recommendation includes a condition requiring vehicles to enter the drive through from the right of way at the rear only and exit onto Paterson Street only. With these two requirements in place light spill from headlights is not expected to be an issue for adjacent properties. The submitter's residence is over 55 metres from the proposed car park and drive through.</p> <p>It is not the role of the Shire to determine whether the addition of another liquor</p>

No.	Submission	Comment on submission
	<p>store that trades 8-7pm Mon-Sat and 10-4pm Sundays</p> <ul style="list-style-type: none"><li>• It's a Franchises Cellarbration Liquor Store that provides competitive pricing</li><li>• After 7pm Mon-Sat you are attracting a different consumer which may have further repercussions in the township</li><li>• Our current population in the area does not warrant a drive through in particular one, 100 metres away from our existing Cellarbrations Liquor Store</li></ul>	<p>outlet in Mundijong is viable. However, with the massive growth in population in Mundijong expected in the short to medium term there will be a need for the replication of many retail outlets and other services in future.</p>

### **External Referrals**

#### ***Peel Heritage Advisor***

The application was referred to the Peel Heritage Advisor for comment. The response received is detailed below:

- *The siting of the new structure at the rear corner of the building ensures the least impact on the heritage fabric of the place. This is therefore in keeping with heritage principles.*
- *The styling of the front and rear elevations is clearly modern with a modern function. The impact of this is moderated by the style detail of the matching gable on the front façade. This gable is proposed to be an exact match but a simpler design, which echoed the original building, would be more suitable and prevent the structure falling into the category of mock heritage.*
- *The Heritage Advisor discussed the planned materials with Mr Bathurst and stated that a new addition should be recognisable as a new element by the use of modern materials with complimentary style elements. To this end using modern red brick rather than trying to source matching old bricks was discussed. Windows in the side elevation of the new structure are close in style to the windows in the side elevation of the heritage building but are UPVC rather than timber. The proposed roof will be in colour bond. The use of the new materials should identify the proposed structure as new while allowing it to blend with the existing side façade of the heritage structure.*

#### **Officer Comment**

Conditions will be imposed to address the issues raised by the heritage advisor including, the use of modern red bricks and simplification of the gable on the bottle-shop.

The heritage advisor does not appear to have commented on the extension of the public bar, modification of the façade and roof of the public bar or replacement of the new verandah. Therefore, these have been assessed by the Planning Services based on the principles of the Burra Charter. The Burra Charter provides guidance for the conservation and management of places of cultural significance in Australia and is based on the knowledge and experience of the Australia International Council on Monuments and Sites (Australia ICOMOS). Australia ICOMOS is the peak body of professionals working in heritage conservation in Australia.

The principles of the Burra Charter of most relevance to this proposal are Articles 3 and 22 as follows:

#### ***Article 3 Cautious Approach***

- 3.1 *Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as*

*little as possible. The traces of additions, alterations and earlier treatments to the fabric of a place are evidence of its history and uses which may be part of its significance. Conservation action should assist and not impede their understanding.*

- 3.2 *Changes to a place should not distort the physical or other evidence it provides, nor be based on conjecture.*

### **Article 22 New Work**

22.1 *New work such as additions to the place may be acceptable where it does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work may be sympathetic if its siting, bulk, form, scale, character, colour, texture and material are similar to the existing fabric, but imitation should be avoided.*

22.2 *New work should be readily identifiable as such.*

Photos of the Mundijong hotel from the turn of the century and circa the 1940's have been obtained from the Mundijong Historical Society. These show that the front verandah of the hotel was two storey with posts and a straight skillion angled roof set just below the gutter line. Originally the balustrading of the hotel was intricate wrought iron lace but later in the 1930's-40's this was replaced with solid wooden panels. The proposed new verandah is not in keeping with the original style. Accordingly, a condition has been included in the recommendation requiring any replacement verandah to be true to the original style with either the original wrought iron lacework balustrading or the subsequent solid balustrading installed in the 1930's-1940's.

Lotterywest offers cultural heritage grants and the owner of the Mundijong Tavern could apply for such a grant to replace the front verandah with one in the same style as the original two storey verandah.

***Historic photos of the Mundijong Hotel are with the attachments marked OCM013.2/12/07.***

The proposed verandah to the front of the 1960's-70's addition (public bar) on the southern side of the hotel should be modified to a straight angled skillion style and clearly demarcated from the verandah on the original building. The gable proposed on the top of the public bar addition should be deleted and the style of this addition kept simple. The pitched roof style on the addition is considered to be a significant improvement on the existing flat roof. A vertical line in an alternative brick colour or by some other detailing material should be incorporated where the heritage building is joined to the new additions. Conditions addressing these issues are included in the recommendation.

Signage on the front of the original hotel building and the southern side addition should be kept to a minimum and limited to the name of the hotel on the gable and maybe one or two under verandah hanging signs. Signage for the bottleshop also needs to be strictly controlled. Conditions addressing these issues are included in the recommendation.

***Elevation drawings detailing the required modifications to design are with the attachments marked OCM013.3/12/07.***

### **Internal Referrals**

The application was referred to the Development Control Unit for comment. The following comments were returned:

### ***Strategic Planning***

Some comments provided by Strategic Planning have not been included in this report as they relate to studies not yet considered by the Council and are therefore not for public release.

- *Unable to support the proposal from a strategic planning point of view as the District Structure Plan is not yet in place. Whilst the land is currently zoned 'Commercial' under TPS 2, Amendment 152 proposes to rezone the property to 'Urban Development'. Given the Amendment is almost finalised, it is considered a 'seriously entertained planning document' and therefore must be addressed. Therefore provision 5.18.7 of TPS2 needs to be addressed as part of this DA;*
- *There are concerns with the long term impacts that future traffic levels on Paterson Street, resulting from the future urbanisation of Mundijong/Whitby, may have on a 'drive through'.*

*In the long term, there also may be a need for consideration to be given to shared driveways/entrances off Paterson Street to ensure that there is not an excessive amount of driveways fronting onto Paterson Street.*

*The only other option is that access be obtained via the laneway to the rear, however this option is much longer term and would require a widening of the laneway and resumption of land. Again this is something that will be considered through the preparation of the District Structure Plan;*

- *Until the District Structure Plan is in draft, unable to advise on surrounding land uses and the impacts that the development may have on them or visa versa.*

#### Officer Comment

The subject land is currently zoned Commercial under Town Planning Scheme No. 2 (TPS2) and a tavern is an "SA" use in that zone. Therefore, the Council does have the discretion to approve the development under the current zoning. When Amendment 152 receives final approval from the Minister for Planning and Infrastructure and is gazetted the zoning of the land will change to Urban Development. Clause 5.18.7 of TPS 2 states as follows:

#### **5.18.7 No Development Before Structure Plan**

- 5.18.7.1 *Except as provided in sub-clauses 5.18.7.2 and 5.18.7.3 hereof, no new development or use of land shall be commenced or carried out within the Urban Development zone until a Structure Plan has been approved for the relevant part of the zone.*
- 5.18.7.2 *Development of a single house on a lot within the "Urban Development" zone prior to the approval of a Structure Plan is permitted subject to the Council being satisfied that such development will not have an adverse effect on:-*
  - a) *the preparation of a Structure Plan for; or*
  - b) *the orderly and proper planning of the area intended for the preparation of a Structure Plan.*
- 5.18.7.3 *Council may approve the development or use for other than a single house within the Urban Development zone subject to Council being satisfied that the nature or scale of such development or use will not have an adverse effect on:*
  - a) *the preparation of a Structure Plan for, or*
  - b) *the orderly and proper planning of, or*
  - c) *the health, amenity, safety or convenience of the future occupants of,**the area intended for the preparation of a Structure Plan, and subject to the proposed development or use being advertised for public inspection in accordance with Clause 6.3.*

As detailed above, clause 5.18.7.3 of TPS2 gives the Council the power to approve developments or uses other than a single house within the Urban Development zone as long as they are satisfied that specific criteria can be met. It is considered that the proposed development will not have an adverse effect on the preparation of the Mundijong Whitby District Structure Plan, orderly and proper planning or the health, amenity, safety or convenience of the future occupants of the structure plan area for the reasons set out below:

- It is intended to require a 5 metre strip of land along the western boundary to be ceded from the rear of Lot 5 as a condition of development to provide for future widening of the laneway as this may be required under the Mundijong Whitby Structure Plan. A separate condition included in the recommendation requires the amalgamation of Lots 5 and 6. The ceding of land for widening of the right of way could be done as part of the application for amalgamation.
- Vibrant, mixed use areas are encouraged by liveable neighbourhoods including shop top housing and this occurs in many mixed use areas throughout the metropolitan area such as Subiaco, Fremantle and Northbridge. The tavern has been there for over 110 years and in the interests of preserving the cultural heritage significance of both that specific place and the surrounding locality of Paterson Street the current use (tavern) must be retained and the desirability of retaining it taken into consideration during the preparation of the Mundijong/Whitby District Structure Plan (MWDSP). If the MWDSP were to propose a change to the use of this building and surrounding buildings and land uses along Paterson Street (ie to residential only) then such a proposal would be in direct contradiction of the Burra Charter and result in the diminution of the cultural heritage of Mundijong.
- The additions proposed will revitalise and reinforce the cultural heritage of the Mundijong Tavern and provide the facilities expected by hotel patrons today.

### ***Environment***

- Carparking area should be separated more effectively from the drive-through to prevent conflict with pedestrian safety.
- Screening vegetation should be provided on the western boundary abutting the Right of Way to provide better separation between residential properties on the other side of the right of way and this development.
- Landscaping areas in the car park should be used to capture stormwater.

### **Officer Comment**

It is considered that the layout of the car park and bottleshop drive-through access provides adequate safety for pedestrians travelling between their parking space and the tavern as a pedestrian path is delineated in front of the drive-through exit and vehicles in the drive-through will exit from a stationery position and will not have time to pick up significant speed between the bottleshop and the pedestrian path. Providing a hump under the pedestrian path would further serve to reduce vehicle speeds when exiting the drive-through. A condition will be included in the recommendation in this regard.

It is intended to require the construction of a masonry wall at the western end of the car park to aid with acoustic attenuation and visual screening. In addition, landscaping will be required along this wall (inside the carpark). However, it should be noted that there is an existing 5 metre wide right of way between the western boundary of Lot 5 and residential properties to the rear so the car park will not directly abut any residential property. Also, it is intended to require a 5 metre strip of land along the western boundary to be left outside the carpark (ie the masonry wall would be setback 5 metres from the western boundary in case future widening of the laneway is proposed under the Mundijong Whitby Structure Plan as discussed in the response to Strategic Planning's comments.

A condition requiring the use of alternative stormwater disposal methods such as using (as much as possible) landscaping beds to capture runoff from hardstand areas and the use of rainwater tanks is included in the recommendation.

### **Environmental Health**

- *Fencing details should be provided between the western boundary and the right of way. A masonry wall with a minimum height of 2 metres should be required on this boundary to provide an adequate standard of acoustic and visual screening for residential properties on the other side of the right of way.*
- *As the applicant proposes to make significant changes to the kitchen they are required to submit floor plans and details of all work and fittings to the Principal Environmental Health Officer.*
- *Advice Note: The applicant is required to provide plans showing the interior layout of all food preparation areas and food storage rooms detailing the use and all fixtures, fittings equipment and finishes. The plans should be working drawings with adequate detail and appropriate scale for Shire Environmental Health Officers to assess the Food Safety risk. For further information and clarification the applicant is referred to the attached "Food Premises Construction Guide" and Australian Standard "Design, construction and fitout of food premises AS 4674-2004".*

### Officer Comment

The conditions and advice note requested by Environmental Health will be included in the recommendation.

### **Asset Services**

*The following additional and modified documentation should be provided prior to the granting of Planning Approval:*

1. *Drainage concept design and hydraulic calculation to be provided, detailing that on-site stormwater detention/disposal and water quality treatment can be achieved to maintain pre-development conditions.*
2. *Car parking redesign in compliance with landscaping requirements of TPS 2 (e.g. front buffer landscaping widths) and Australian Standards for off-street car parking facilities. AS 2890. 1:2004 – user class 3, and shall demonstrate that the circulation roadway and parking aisle width is sufficient to accommodate passing and turning of vehicles (using single turn swept path templates provided in AS 2890.1:2004).*
3. *A loading bay shall be incorporated into the design, entirely located within the lot and suitable in size for access by a single unit truck, without obstructing circulation traffic flows to the drive through bottle shop and/or car parking area.*

*The following conditions should be imposed on the development:*

1. *Access: Vehicle parking, manoeuvring and circulation areas to be suitably designed and constructed, sealed, kerbed, line marked and drained to the specification and satisfaction of Council's Director Engineering.*
2. *Access: Crossover shall be designed and constructed to the specification and satisfaction of Council's Director Engineering.*
3. *Access: "No parking signage" and vehicular guide signs to the parking facility to be installed at the applicant's cost to the specification and satisfaction of Council's Engineering.*
4. *Drainage: Stormwater from roofed and paved areas being disposed of to the specification and satisfaction of Council's Director Engineering. Stormwater to be detained on-site and connected to the existing drainage system at pre-development hydraulic flow rates and water quality regimes. Should on-site disposal of stormwater be considered, a geotechnical report is to be submitted detailing site conditions,*

- particularly in respect to soil and groundwater and stormwater disposal by soakage (clearance, quantity, soil permeability and location and size of soak wells).*
5. *Drainage: A petrol and oil trap being installed to the specification and satisfaction of Council's Director Engineering.*
  6. *Traffic impacts: Light spill and nuisance to neighbouring residences is to be prevented by the construction of solid fencing to the side and rear boundaries.*

**Advice Notes:**

1. *The applicant is requested to contact the Shire of Serpentine Jarrahdale's Asset Services Department regarding disposal of stormwater.*
2. *In regard to condition 3 the applicant is advised that "No Parking restrictions shall be provided with appropriate signage and line marking on the eastern side of Paterson Street road pavement to ensure sight distance requirements for safe access and pedestrian safety at the access driveway.*
3. *In regard to condition 4 the applicant is advised that stormwater outflow is to achieve pre-development hydraulic flow regimes up to the 1 in 100 year storm event. The system is to be designed by a suitably qualified hydraulic consulting engineer.*
4. *No stormwater runoff to enter Paterson Street road reserve or the rear laneway via overland flow from the subject lot. Construction of a highpoint will be required at the boundary to prevent overland stormwater flows.*

**Officer Comment**

It is not intended to require the additional documentation and modifications requested by Asset Services prior to issue of planning approval for the following reasons:

1. Preliminary drawings were tabled and discussed at DCU and at meetings between Shire officers and the applicant over a five week period prior to the formal application for planning approval being submitted. The requirement for drainage designs, calculations and specifications to be submitted with the application for planning approval was not requested by the Shire during that extensive preliminary consideration period.
2. There is no guarantee that the development will be approved by the Council and it is not considered appropriate to require this expensive work to be carried out if it cannot be guaranteed that an approval will be granted.
3. Modifications are already required to the layout of the site as a result of the planning assessment and conditions have been included in the recommendation of the report. The requirement to modify the car park can be addressed in the same way.

Conditions 1 to 5 and the Advice Notes recommended by Asset Services have been included in the recommendation with some minor modifications/additions for clarity. With regard to condition 6, it is intended to only require a solid masonry wall to be constructed on part of the rear (western) boundary and not on the side boundaries, which abut existing commercial businesses (shops). On the side boundaries colourbond fencing is deemed to be acceptable. A condition in the recommendation deals with the requirement to hood and orient external lighting to prevent light spill onto adjoining properties or glare to road users.

**Comment:**

In the process of assessing this application the following matters were taken into consideration:

1. The existing and proposed zoning of the site and the use Classification of the proposed development;
2. The relationship of the land use proposed to the provisions of (TPS 2) and power for Council to approve the proposed use;
3. The compliance of the application with Local Planning Policy LPP16 Paterson Street Design Guidelines;

These matters are discussed in detail below.

Town Planning Scheme No. 2 (Matters 1, 2, and 3 above)

The land use fits the definition of the land use of "Tavern" under Town Planning Scheme No. 2 (TPS 2) as follows:

***Tavern** - means land and buildings the subject of a Tavern Licence granted under the provisions of the Liquor Act, 1970 (as amended).*

The use is classified as an "SA" use under TPS 2 (Council may exercise discretion to approve following advertising being carried out).

The intent of the Commercial zone as set out in TPS 2 is as follows:

5.6 *Commercial Zone*

*The purpose and intent of the Commercial Zone is to encourage the establishment of a commercial centre in each of the four towns in the Shire, to maximise the public benefit and amenity in the towns in respect of retail, office and entertainment facilities.*

The proposed development is consistent with the stated purpose and intent of the Commercial zone.

As discussed in detail in the response to Strategic Planning's comment it is not considered that the proposed development will constrain or prejudice the preparation of the Mundijong Whitby Structure Plan.

Local Planning Policy LPP16 – Paterson Street Design Guidelines

The proposed development has been assessed against the provisions of Local Planning Policy LPP16 Paterson Street Design Guidelines as detailed in the table below:

<b>Policy Requirement</b>	<b>Proposed Development</b>
<b><i>Buildings</i></b>	
1.1.1 MAXIMUM HEIGHT The maximum height of building walls of buildings to Paterson Street shall be two storeys, or 7.0 metres.	Complies
1.2.1 SETBACKS: FRONT (Paterson Street) Buildings should be set back to the greater dimension specified for their respective lots on <b>Figure 6</b> of these Guidelines (attached). Setbacks may be relaxed to the lesser dimension shown on <b>Figure 6</b> where those circumstances described under the 'Deemed to Comply' criteria apply. Rationale: This variety of setbacks gives Paterson Street its unique character, and ought to be reflected in new development. For this reason, <b>Figure 6</b> specifies three distinct setback ranges, based on context (ie, the prevailing setback of character building stock or heritage buildings), or on the desirability to return to a traditional street-based character for new commercial development.	Figures 6 nominates a 2 metre minimum setback for all of Lot 6 (existing tavern). The extension to public bar is Nil which is consistent with the rest of the existing building.  A 15 metre minimum setback is specified on Figure 6 for the portion of Lot 5 directly abutting the northern side of the tavern and the bottle-shop has been setback in accordance with this requirement. For the remainder of Lot 5 a 2 metre minimum front setback is specified. This is contradicted on Figure 7 of LPP 16, which nominates Lot 5 as a Square. The proposed development is deemed to comply because no other buildings are proposed to be constructed on Lot 5

Policy Requirement	Proposed Development
<b>Buildings</b>	
	and the car parking area will be landscaped.
<p>1.2.4 SETBACKS: SIDE            Except for those locations designated as “Nominated Shared Access” in <b>Figure 8</b> of these Guidelines, a building shall have a minimum setback of three (3.0) metres to a common side boundary at the ground floor. This may be relaxed to nil in those circumstances described in the “Deemed to Comply” criteria for this Guideline Statement.</p> <p>The traditional, spaced building form along Paterson Street is seen to contribute to its unique character, and is preserved under these Guidelines.</p> <p>A minimum side setback of three (3.0) metres is seen to preserve this, and also allow for the protection of Solar Access.</p>	<p>Nil setback exists on northern boundary of Lot 6. Figure 8 of LPP16 nominates that Lots 5 and 6 should have shared access. The development complies with this.</p> <p>A 5 metre setback exists on the southern side. The development proposes to reduce the southern side setback to 1.5 metres. Given that this side will not have direct solar access anyway (ie its faces south) the reduced setback is supported.</p>
<p>1.2.5 SETBACKS: REAR            A building shall have a minimum setback of 9.0 metres to a rear boundary.</p>	Complies
<p>1.2.6 LANDSCAPING - PROVISION            Ten (10%) percent of the gross area of a site in the Commercial Zone shall be provided as Landscaping, and landscaped to the satisfaction of the Council. Landscape Plan required.</p>	Amount of landscaping complies. Condition included with regard to landscape plan. Modifications are required to the layout of the car parking area to comply with the minimum 2 metre landscaping strip abutting the frontage of the lot. A condition in this regard has been included in the recommendation.
<p>1.2.8 VEHICULAR ACCESS: SHARED DRIVEWAYS            Development on properties fronting Paterson Street which are affected by the designation of “Nominated Shared Access” easements in <b>Figure 8</b> of these Guidelines shall, at the time of development or redevelopment, design and construct shared driveways in those locations shown on the plan.</p> <p>Shared Driveways shall be no less than six (6.0) metres in width.</p> <p>Due to the need to encourage traditional street based commercial development, on-site access and parking should be coordinated behind buildings so as not to adversely impact on the streetscape character and pedestrian qualities of the street.</p>	<p>A single shared driveway is provided for the development in the location nominated on Figure 8. Car parking is not located behind the building as this is not possible on Lot 5 due to the 15 metre setback required for the bottle-shop and the fact that no other buildings are to be built on this lot. However, the carpark is small and only has a single crossover and landscaping can be used to soften its appearance further.</p> <p>It is considered that access into the drive-through should be via the right of way at the rear only with exit via the Paterson Street crossover. It is recommended that traffic flow in the right of way be one-way only and that the drive-through be restricted to a single lane. This measure is considered necessary to prevent the potential for vehicle conflict that might arise if the drive-through is double-lane width and two vehicles are exiting at the same time.</p>

Policy Requirement	Proposed Development
<b>Buildings</b>	
<p>1.2.9 PARKING Parking is to be provided on site at a rate prescribed in the Shire of Serpentine-Jarrahdale TPS No. 2 – Tavern – 2 spaces per 2m<sup>2</sup> lounge and bar area.</p>	<p>The existing tavern does not have any existing on-site car parking. Accordingly, additional parking can only be required for the area of the extension to the public bar (61.5m<sup>2</sup>). Therefore based on the requirements of TPS 2 a total of 31 additional parking spaces are required. Approximately 34 parking spaces can be provided on Lot 5 (after the modifications required to plans by conditions). Modifications are required to the layout of the car parking area to comply with the landscaping and car parking area specifications contained in TPS 2. Conditions in this regard have been included in the recommendation.</p>
<p>1.2.10 LOADING On-site loading areas are to be generally located at the rear of developments, gated and screened.</p>	<p>Condition included in recommendation.</p>
<p>1.3.2 ROOF FORMS Roof pitch should be between 30<sup>o</sup>-45<sup>o</sup>. Gables facing the street are encouraged. Flat deck roofs are not permitted, unless they are concealed behind a parapet façade to the street. Skillion roof forms are acceptable.</p>	<p>Complies</p>
<p>1.3.3 ROOF MATERIALS The permissible roof materials include profiled colourbond sheet metal, terracotta roof tiles and grey (timber) shingles.</p>	<p>Complies – colourbond to match existing roof.</p>
<p>1.3.4 WALL MATERIALS Walls facing a public street should be constructed of either brick, rendered brick, local stone or weatherboard. Brick shall be laid in a running bond or English garden bond pattern. Bricks shall be similar to the Cardup type brick originally used on the Mundijong Hotel.</p>	<p>Complies</p>
<p>1.3.5 COLOURS – Walls Rendered or weatherboard walls require painting. Preferred colours include either “traditional white wash”, a cream render, but may also include darker toned browns, olives, ochres and tan/pinks.</p>	<p>Complies – off-white render.</p>
<p>1.3.6 COLOURS – Accents Accent colours are to either complement base tonings or provide relief. By definition, complimentary accent colours should be those of opposite (or “complementary”) chroma and hue. Coloured accents should remain dark toned. Relief colours may be white or cream. Heritage colour list provided by paint manufacturers should be referred to.</p>	<p>Complies</p>

Policy Requirement	Proposed Development
<b>Buildings</b>	
1.3.8 WINDOWS: AT STREET LEVEL No less than sixty (40) percent of the vertical area of a building façade facing a street (or formal public space such as a square) at street level shall comprise windows, or glazed doors.	Deemed to comply as glazing to front façade is consistent with that of the original tavern percentage-wise.
1.3.10 ENTRANCES TO STREET Buildings should provide primary door openings to street footpaths for each tenancy abutting a street.	Complies
1.3.13 FLOOR TO CEILING HEIGHTS: GROUND FLOOR The minimum ground floor height (floor to ceiling), in buildings adjacent to the street, shall be a minimum of 3.5 metres	Deemed to comply as floor and ceiling heights match that of the original building.
1.3.14 WEATHER COVER Where buildings abut a street sidewalk, such buildings shall provide a continuous awning over the footpath.	Complies
1.3.15 SIGNAGE Signage is to comply with Council's Local Planning Policy No. 5 Control of Advertisements. Signage on building fronts should be limited to panels no greater than 3.0m <sup>2</sup> in area, and situated on the façade above 4.0 metres. Panel signs shall be limited to one per tenancy. Awning signs facing the street, and affixed to the street edge of the awning are permitted, but should not exceed 0.5 metres in vertical dimension. Under-awning signs are permitted.  Painting out of more than 50% of the area of windows with signage is not permitted.	Conditions within the recommendation require a signage strategy to be prepared for approval by the Shire, restrict sign numbers and prohibit pylon signs and wall signs on the original historic building.
Air conditioning equipment, satellite dishes and other roof structures shall be located so as not to extend above the roof line.	No details provided. Condition included in recommendation.
1.3.16 LIGHTING OF BUILDING EDGES Building facades should be illuminated wherever possible. Pedestrian paths and spaces accessible at night should be adequately lit. Particularly along key walking paths, lighting should be contiguous, without gaps.	Conditioned.
1.4.1 PUBLIC ART Proposals for civic, cultural, commercial, residential (except single residential), and/or mixed residential/commercial developments over the value of \$500,000 are to set aside a minimum of one half of one per cent (i.e., 0.5%) of the estimated total project cost for the development of public art works which reflect the place, locality and/or community.	Value of project is less than \$500,000.

**Figures 6-8 of Local Planning Policy LPP16 Paterson Street Design Guidelines is with the attachments marked OCM013.4/12/07.**

**A site plan showing how the parking area on Lot 5 could be modified to address the modifications required to address conditions relating to access to the drive-through**

***being via the right of way only, the drive through having a single lane, the provision of a loading bay, landscaping bay widths and access and parking bay widths as per scheme requirements is with the attachments marked OCM013.5/12/07.***

It is recommended that the application be approved subject to the conditions detailed in the report.

**Voting Requirements:** Simple Majority

**Officer Recommended Resolution:**

The application for approval to commence development of additions to the Mundijong Tavern on Lots 5 and 6 (32) Paterson Street, Mundijong be approved subject to the following conditions:

1. Plans submitted for the purpose of obtaining a Building Licence are to address the following matters:
  - a) The ceding of the rear 5 metres of Lot 5 to allow for future widening of the right of way in order not to prejudice the outcome of the Mundijong Whitby Structure Plan (preparation in progress).
  - b) The car parking area design being modified to comply with the specifications contained in Appendices 11 and 12 of Town Planning Scheme No. 2.
  - c) Provision of a loading bay entirely located within the lot and suitable in size for access by a single unit truck, without obstructing circulation traffic flows to the drive through bottle shop and/or car parking area.
  - d) Landscaping in the car parking area shall comply with the following requirements of Clauses 7.3 and 7.10.2 of Town Planning Scheme No. 2:
    - i) for areas with 21 or more parking spaces, a minimum of one square metre of landscaping for every ten square metres of parking stall area shall be provided in addition to any other landscaping required by this Scheme.
    - ii) the landscaping bed along the Paterson Street frontage of the lot is to have a minimum width of 2 metres.
    - iii) all other landscaping beds are to have a minimum width of 1.5 metres.
  - e) The verandah to the front of the original tavern building being designed to match the original two storey verandah with full height posts as depicted on the historic photograph attached to and forming part of this approval (refer Advice Note 1.).
  - f) The front verandah roof of the public bar extension on the southern side of the original building is to be modified to a simple straight angle skillion.
  - g) The gable above the public bar extension is to be deleted.
  - h) The gable to the front of the drive-through bottle shop is to be modified by deleting the finial and board detailing.
  - i) Vertical detailing such as a vertical row of contrasting brickwork or other detailing being used to clearly delineate the boundary between the original tavern building and the extended public bar area (refer marked up plans attached to and forming part of this approval).
  - j) Access into the drive-through being from the rear right of way only.
  - h) The drive-through being reduced to one vehicle lane only.
2. A survey of the boundaries of Lots 5 and 6 is to be carried out and the site repegged by a Licensed Surveyor prior to submission of an application for a Building Licence for the development. A copy of the completed survey diagram is to be submitted with the application for a Building Licence.
3. Lots 5 and 6 are to be amalgamated into one parcel and the land required for widening of the right of way (as detailed in condition 1 a)) being ceded free of cost to the Shire prior to submission of an application for a Building Licence.
4. The external walls of the additions are to be red brick in a modern profile to complement but not imitate the existing heritage building.

5. The north facing external wall of the original tavern building is not permitted to be painted or rendered and no signage is permitted to be fixed to this wall.
6. The location of external fans, air conditioners and the like shall be to the satisfaction of the Director Development Services and installed to prevent loss of amenity to the area by its appearance, noise, emission or otherwise.
7. All sewerage wastes and water pipes to be concealed within the building.
8. A stormwater drainage management plan and detailed technical drawings and specifications for the car park area are to be submitted for approval by the Council's Director Engineering prior to submission of an application for a Building Licence for the development. Such plans are to address the requirements of conditions 9. to 18. below.
9. Stormwater from roofed and paved areas being disposed of to the specification and satisfaction of Council's Director Engineering. Stormwater to be detained on-site and connected to the existing drainage system at pre-development hydraulic flow rates and water quality regimes. Should on-site disposal of stormwater be considered, a geotechnical report is to be submitted detailing site conditions, particularly in respect to soil and groundwater and stormwater disposal by soakage (clearance, quantity, soil permeability and location and size of soak wells). If on-site disposal of stormwater is proposed then where possible, water sensitive urban design methods are encouraged including the grading of hardstand areas to allow stormwater to be disposed of within garden beds and rainwater tanks (above or below ground) being provided to store runoff from the roof of the bottleshop and the new pitched roof over the public bar addition. Such captured water to be used for the watering of garden beds subject to suitable treatment to remove any oils, fuels and other contaminants.
10. A petrol and oil trap being installed in the car park drainage system to the specification and satisfaction of Council's Director Engineering.
11. The vehicle parking area, accessway(s), right of way and crossover shall be designed, constructed, sealed, kerbed, drained, linemarked and thereafter maintained in accordance with the approved plan and specification to the satisfaction of the Director Engineering prior to the occupation of the development for the use hereby permitted.
12. The upgrading of the right of way from Whitby Street to a minimum of 50% of the length of the rear boundary including paving, kerbing, drainage, lighting, directional signage and pavement markings to the satisfaction of the Director Engineering.
13. A minimum of 30 parking bays are required to support the extension to the public bar/lounge bar.
14. The pedestrian path between the carpark and the tavern (in front of the drive-through exit) is to be in the form of a raised speed hump to the satisfaction of Council's Director Engineering.
15. The provision of "Give Way" and "No Entry" signs where indicated on the marked up copy of the site plan, attached to a forming part of this approval, to the satisfaction of the Council's Director Engineering.
16. Two (2) disabled parking bays with the required statutory signage and markings are to be located in the car park in close proximity to the pedestrian path linking the carpark to the tavern.
17. Crossover shall be designed and constructed to the specification and satisfaction of Council's Director Engineering.
18. "No parking signage" and vehicular guide signs to the parking facility to be installed at the applicant's cost to the specification and satisfaction of Council's Director Engineering.
19. All deliveries are to take place within the boundaries of the premises.
20. Lighting to be provided to all carparking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P).
21. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or adjacent residences.
22. Prior to the submission of an application for a Building Licence for the development a Signage Strategy complying with the restrictions listed in conditions 23-25 below and detailing location, size and height of signage for the whole development (including wall signs, window signs and under verandah signs and fascia signage) is to be

- submitted for the approval of the Shire. All signage is thereafter to comply with the approved Signage Strategy and is to be maintained in good condition at all times to the satisfaction of the Shire.
23. Pylon signs are not permitted on either lot and wall signs are not permitted on the original tavern building.
  24. A maximum of two under-verandah signs are permitted. The only signage permitted on the fascia of the original tavern building are the words Mundijong Hotel and the year of construction.
  25. A sign is to be placed on the gate to the beer garden adjacent to the southern side of the building with the wording "No entry" or similar.
  26. Landscaping and bollards are to be established between the southern side of the building and the southern boundary to the satisfaction of the Shire.
  27. With the exception of the vehicle entrance to the drive-through bottleshop, a masonry wall with a minimum height of 2 metres is to be erected along the full length of the rear boundary of Lot 5 (being the new rear boundary created by the ceding of land required for widening of right of way).
  28. Colourbond fencing 1.8 metres high is to be constructed on the northern boundary of Lot 5 but is not to extend past the front of the existing buildings on Lots 6 and Lot 30.
  29. Prior to submission of an application for a Building Licence for the development landscaping and reticulation plan must be submitted (in triplicate) to Council's Planning Services and approved, for the carparking area and the area of land between the southern side of the building and the southern boundary. For the purpose of this condition a detailed landscape plan shall be drawn to a scale of 1:100 and shall show the location, name and mature heights of proposed trees and shrubs. Trees and shrubs to be planted are to be waterwise species with a preference for locally indigenous species.
  30. Landscaping and timed reticulation is to be established in accordance with the approved plans prior to occupation of the development and thereafter maintained to the satisfaction of the Shire.

Advice Notes:

1. Lotterywest offers cultural heritage grants and such a grant could be applied for to replace the front verandah with one in the same style as the original two storey verandah.
2. The applicant is required to provide plans showing the interior layout of all food preparation areas and food storage rooms detailing the use and all fixtures, fittings equipment and finishes. The plans should be working drawings with adequate detail and appropriate scale for Shire Environmental Health Officers to assess the Food Safety risk. For further information and clarification the applicant is referred to the attached "Food Premises Construction Guide" and Australian Standard "Design, Construction and Fitout of Food Premises AS 4674-2004".
3. The tavern is to be provided with a suitable enclosure for the storage and cleaning of rubbish receptacles in accordance with the *Shire of Serpentine-Jarrahdale Health Local Laws 1999*. The location of the enclosure is to be to the satisfaction of the Manager Health and Ranger Services / Director Engineering.
4. A "suitable enclosure" means an enclosure:
  - a) of sufficient size for the number of receptacles to be used;
  - b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material approved by the Principal Environmental Health Officer;
  - c) fitted with a tap connected to an adequate supply of water;
  - d) having smooth impervious walls constructed of approved material not less than 1.5m in height and an access way not less than 1 metre in width, fitted with a self-closing gate;
  - e) containing a smooth impervious floor of not less than 75mm thickness, evenly graded and adequately drained to an approved liquid refuse disposal system; and;
  - f) which is easily accessible to allow for the removal of the receptacles.

5. The applicant is requested to contact Council's Asset Services regarding disposal of stormwater.
6. In regard to condition 9, the applicant is advised that stormwater outflow is to achieve pre-development hydraulic flow regimes up to the 1 in 100 year storm event. The system is to be designed by a suitably qualified hydraulic consulting engineer.
7. In regard to condition 18, the applicant is advised that "No Parking" restrictions shall be provided with appropriate signage and line marking on the western side of Paterson Street road pavement where deemed necessary by the Director Engineering to ensure sight distance requirements for safe access and pedestrian safety at the access driveway.
8. No stormwater runoff to enter Paterson Street road reserve or the rear laneway via overland flow from the subject lot. Construction of a highpoint will be required at the boundary to prevent overland stormwater flows.
9. Documentation submitted for the purpose of obtaining a Building Licence, is to comply with the Building Regulations 1989 and the Building Code of Australia, including in particular detailed plans and specifications for site works, including finished ground and floor levels, existing easements, lighting, loading bays, and refuse bulk bin areas, if applicable, to the satisfaction of Council.
10. The building is not to be occupied until a Certificate of Classification has been issued by Council. A person who uses or occupies, or permits the use or occupation, of a building without a Certificate of Classification in contravention of Building Regulation 20(4) or 22 is guilty of an offence.
11. Planning approval and a Building Licence are to be obtained for any internal or external works including re-painting.

**OCM013/12/07 COUNCIL DECISION:**

**Moved Cr Price, seconded Cr Kirkpatrick  
 That item OCM013/12/07 be deferred until the January round of meetings in order that a written submission received on 17 December 2007 may be considered.  
 CARRIED 9/1**

**Council Note:** The Officer Recommended Resolution was altered to defer consideration of this item until January 2008.

OCM014/12/07		REPORT ON RISK MANAGEMENT ISSUES (A1054/02)
Proponent:	Local Emergency Management Committee	In Brief  Council is requested to endorse the Community Education, Awareness and Self Preservation Project. That this be used as a tool to develop future strategic plans in emergency management.
Owner:	N/A	
Officer:	D Gossage - Manager Emergency Services	
Signatures Author:		
Senior Officer:		
Date of Report	30 November 2007	
Previously		
Disclosure of 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	
<b>Delegation</b>	<b>Council</b>	

**Background**

A letter was received by the previous Chief Executive Officer of the Shire from Councillor Kirkpatrick in March 2004 that drew environmental and social similarities of fire situations that have occurred in Canberra and Dwellingup with the Jarrahdale community and townsite.

As a consequence of this the Manager of Emergency Services developed a strategic plan that addressed the concerns raised, with Council's visions and capabilities in mind. This was presented to the Local Emergency Management Committee who has now endorsed the document.

The resolution reads:- *That the "Report on Risk Management Issues, Sept 2005" be endorsed by LEMC and forwarded to Council for adoption as a Policy. The motion was supported 9/0 with the document to be forwarded to Council for resolution to adopt the "Report on Risk Management Issues, Sept 2005" as policy.*

**A copy of the "Report on Risk Management Issues" is with attachments marked OCM014.1/12/07. (E05/4733)**

### **Sustainability Statement**

**Effect on Environment:** This project will help to reduce the effects on the environment by reducing the effects by fire.

**Biodiversity:** the implementation of the project will set the foundations in place for the long term protection of indigenous flora and fauna.

**Heritage and Culture:** as a part of the project these values will be incorporated into the assessment process with the aim of preserving and enhancing these areas where appropriate.

**Resource Implications:** The project aims to engage the community and volunteers within the shire. As the project is a council responsibility the Emergency Services Department time and resources will be utilised to achieve the outcomes.

**Use of Local, renewable or recycled Resources:** The project will be involving the use of the local community resources and associated man power required to progress the outcomes.

**Economic Viability:** Whilst components of this are included within the core business of Councils Emergency Services Department there will be some initial cost associated with the management, resources and manpower required for the success of the project. The long term financial impacts on the community resulting from the impact on natural disasters should be reduced. Depending on the outcomes of the research, there may be future funding requirements to mitigate Council's liability within the community, however in the longer term the cost impacts to council will be reduced by the outcomes within the community.

**Economic Benefits:** The project outcomes once implemented will reduce the economic impact within the community.

**Social – Quality of Life:** The project aims to have a more informed and aware community that is actively involved in emergency management prevention activities. The results of this reduce the impact on the community due to them being more prepared to handle unplanned events. Minimising the impact of emergencies has less impact on Council's infrastructure and reduces the amount of damage that Council is required to repair. This also reduces the recovery requirements that Council is required to do as a consequence of an emergency.

**Social and Environmental Responsibility:** The success of this project is reliant on the community participation. There will be a number of community engagement forums throughout the process.

**Social Diversity:** As the project is an open and involving process there is no issues of any persons or groups being disadvantaged as they will all have equal opportunity to participate at all levels throughout the process.

**Statutory Environment:**

Emergency Management Act  
Bush Fires Act  
Fire Brigades Act  
Fire & Emergency Services Authority Act

**Policy/Work Procedure Implications:**

There is no work procedures/policy implications directly related to this application/issue.

**Financial Implications:**

A federal grant for \$50,000 has been obtained. The grant is for only one area of the shire. The Financial Implications to Council related to this project will be covered by this grant. The longer term risk management requirements for the greater shire region will not be known as this project will be used as a benchmark for future activities. Future funding requirements will be referred to council for consideration in the normal manner.

**Strategic Implications:**

This proposal relates to the following Key Sustainability Result Areas:-

**1. People and Community**

*Objective 1: Good quality of life for all residents*

Strategies:

2. Develop good services for health and well being.
3. Retain seniors and youth within the community.
4. Respect diversity within the community.
5. Value and enhance the heritage character, arts and culture of the Shire.
6. Ensure a safe and secure community.

*Objective 2: Plan and develop towns and communities based on principles of sustainability*

Strategies:

1. Increase information and awareness of key activities around the Shire and principles of sustainability.
4. Foster a strong sense of community, place and belonging.
5. Protect built and natural heritage for economic and cultural benefits.

*Objective 3: High level of social commitment*

Strategies:

1. Encourage social commitment and self determination by the SJ community.
2. Build key community partnerships.

**2. Environment**

*Objective 1: Protect and repair natural resources and processes throughout the Shire*

Strategies:

2. Develop partnerships with community, academia and other management agencies to implement projects in line with Shire objectives.
3. Encourage protection and rehabilitation of natural resources.
4. Reduce water consumption.
5. Reduce green house gas emissions.

*Objective 2: Strive for sustainable use and management of natural resources*

Strategies:

1. Implement known best practice sustainable natural resource management.

**3. Economic**

*Objective 1: A vibrant local community*

Strategies:

1. Attract and facilitate appropriate industries, commercial activities and employment.
3. Develop tourism potential.

*Objective 2: Well developed and maintained infrastructure to support economic growth*

Strategies:

Objective 3: Effective management of Shire growth

Strategies:

1. Enhance economic futures for Shire communities.
3. Integrate and balance town and rural planning to maximise economic potential.

**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

1. Identify and implement best practice in all areas of operation.
2. Promote best practice through demonstration and innovation.
3. Regularly update information services and IT capacity to support programs and projects.
4. Balance resource allocation to support sustainable outcomes.
5. Harness community resources to build social capital within the Shire.

*Objective 2: Formation of Active Partnerships to progress key programs and projects*

Strategies

1. Improve coordination between Shire, community and other partners.
2. Improve customer relations service.
3. Develop specific partnerships to effectively use and leverage additional resources.

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Develop a risk management plan.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:**

This will be done as a normal course of business and is reliant on this consultation for effective community outcomes.

**Comment:**

The key issue requiring Council's attention and resolution is the requirements to address the Prevention, Preparedness, Response and Recovery as defined by the Emergency Management Act. To provide a report that covers all duty of care matters in this regard is not an achievable goal. Emergencies are governed by human, environmental and natural

events; whilst we can plan for the most common emergencies it is unrealistic to predict them all.

The concerns raised in the letter are a local government responsibility and were referred to the Local Emergency Management Committee for direction. The Manager Emergency Services was asked to investigate and provide a report and direction on how to address the issues. The Local Emergency Management Committee confirmed that this was not just a Jarrahdale issue but a shire wide issue that, over time will have to be addressed and resourced by the shire.

It was identified that Council did not have all the funding or resources required to undertake this project. A vital tool needed for the development, maintenance and management of information and planning resources is the GIS (Global Information System). This system will enable Council to establish an Emergency Management Services data base that can be used for Prevention, Preparedness, Response and Recovery activities on an ongoing basis. Council has now purchased this GIS system via grant funds and general revenue.

Investigations were undertaken as to how other Local Authorities and State agencies were dealing with these types of issues. Research was undertaken in regards to funding opportunities that local governments could utilise to assist in these matters. A federal grant was applied for and Council was successful in acquiring a \$50,000 grant for the purchase of equipment and resources to undertake a project in the Jarrahdale Community.

In the last few years with the various local community projects undertaken by the Shire's Emergency Services Department and Local Emergency Management Committee has shown that prevention is better than trying to find a cure. The other is an informed community reduces the risk and impact of emergencies.

Council must be able to demonstrate that it is undertaking its responsibilities in accordance with the new Emergency Management Act seriously and there needs to be strategic direction of what Council is working towards to meet its obligations. Grant opportunities are continually being sought to assist Council, however they are never guaranteed. The Fire and Emergency Services Authority have made it quite clear that none of these activities are claimable through the emergency services levy grant system and need to be budgeted through normal Council revenue sources.

Some time has passed since the report that the Local Emergency Management Committee is seeking Council's support on was tabled. A number of the activities and objectives mentioned within the report and plan are already progressing. With the success of the grant this will enable the plan objectives to be progressed more efficiently.

What this report and recommendation is aiming to achieve is to give strategic direction towards addressing the issues. The objectives are intended to be worked towards within the current grant and resource base of the Council's Emergency Services Department. It is important that Council does deal with the issues raised to ensure its duty of care is being addressed in a fair and reasonable manner.

**Voting Requirements:** Simple Majority

**Officer Recommended Resolution:**

**Council endorses the Community Education, Awareness and Self Preservation Project.**

**New Motion:**

**Cr Murphy, seconded Cr Kirkpatrick  
That item OCM014/12/07 be deferred until the February 2008 Ordinary Council meeting.**

**LOST 3/7**

During debate Cr Harris foreshadowed that she would move the following motion if the motion under debate was defeated:

**Foreshadowed Motion**

Moved Cr Harris, seconded Cr

That Council endorses in principle the objectives of this report, however, by the February meeting the Council be presented with an itemised timeline for accomplishment of the component parts of the resolution.

LAPSED

**OCM014/12/07 COUNCIL DECISION:**

Moved Cr Price, seconded Cr Geurds

Council endorses the Community Education, Awareness and Self Preservation Project.

CARRIED 9/1

OCM015/12/07 ANNUAL REPORT 2006/2007 (A0006/11)		
Proponent:	Chief Executive Officer	<b>In Brief</b>  It is recommended that Council accepts the 2006/2007 Shire of Serpentine Jarrahdale Annual Report.
Owner:	N/A	
Officer:	Joanne Abbiss – Chief Executive Officer	
Signatures Author:		
Senior Officer:		
Date of Report	12 December 2007	
Previously	Nil	
Disclosure of 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	
<b>Delegation</b>	<b>Council</b>	

**Background**

The Local Government Act 1995 (the Act) requires the Annual Report to be adopted by Council no later than 31 December after that financial year.

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

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

**Statutory Environment:**

Section 5.53 of the Local Government Act 1995 requires local governments to prepare an annual report for each financial

year and stipulates the format of the report. Section 5.54 states that this report is to be accepted by the local government no later than 31 December each year unless the auditor's report is not available.

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

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

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

**Policy Implications:**

Work Procedure WCSP2 – Elector Meetings (Annual) provides that annual meetings of electors be held on the first Wednesday in December each year in Mundijong, commencing at 7:00pm provided that this is not more than 56 days after Council accepts the annual report for the previous financial year (s5.27(2) Local Government Act 1995).

**Financial Implications:**

A comparison of the finalised figures for the annual report and budget brought forward figures will be undertaken and presented to the mid year budget review.

**Strategic Implications:**

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:**

Section 5.55 of the Local Government Act 1995 states that *"the CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government."*

**Comments**

The audit was undertaken during the week commencing 29<sup>th</sup> October 2007 and was finalised and signed on 30<sup>th</sup> November 2007. The audit report and financial statements are included in the Annual Report. ***A copy of the Annual Report is with the attachments marked OCM015.1/12/07.***

No major issues have been raised as part of the audit process, however some minor management issues have been highlighted for officers to review. The Audit Partner from UHY Haines Norton conducted a conference call on 4<sup>th</sup> December 2007 to answer any Audit Committee questions in relation to the audit. The Audit Committee meeting was then held on the 11<sup>th</sup> December 2007 to consider the signed audit report and financial statements. The Committee's recommendation to Council is considered elsewhere in this Ordinary Council Meeting agenda and is as follows:

*That Council:*

4. *Adopt the Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2007;*
5. *Receive the Management Report and note the management issues raised, and the corresponding actions to be taken by Council Officers to address the management issues by end of March 2008;*
6. *Receive the Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2007.*

As the auditor's report was not received until the 29<sup>th</sup> November 2007 it was impossible for staff to comply with Work Procedure WCSP2. There are no statutory implications of not complying with this work procedure however, in order to meet the requirements of the Local Government Act 1995, the annual electors meeting must be held within 56 days of the adoption of the annual report. Should the annual report be accepted by the Council at their meeting of 17<sup>th</sup> December 2007 the annual electors meeting would need to be held before the 11<sup>th</sup> February, 2008.

It is anticipated that the annual electors meeting will be held in the Council Chambers, Shire Administration Building, 6 Paterson Street, Mundijong, on Wednesday 6<sup>th</sup> February 2008 commencing at 7.00pm, with the planned order of business being as follows:

1. Confirmation of the previous annual electors' meeting minutes held on the 7<sup>th</sup> February 2007.
2. Receiving of the annual report
3. Receiving of the annual financial statements
4. Reading of the auditors' report
5. General business

The Annual Elector's Meeting will be advertised to the community in The Examiner newspaper as well as through community notice boards in the New Year. The public will be asked to provide questions in writing at least forty-eight (48) hours before the meeting to enable questions to be answered fully and without delay. Questions must be received by mail or over the counter, not by facsimile.

Copies of the annual report including the financial statement for the period ending 30<sup>th</sup> June 2007 will be able to be obtained from the Shire's Mundijong office or by telephoning 9526 1111 as soon as it has been printed.

**Voting Requirements:      ABSOLUTE MAJORITY**

**Officer Recommended Resolution:**

The 2006/2007 Annual Report for the Shire of Serpentine Jarrahdale (as provided in *attachment OCM015.1/12/07*) be accepted.

**OCM015/12/07 COUNCIL DECISION:**

**Moved Cr Price, seconded Cr Geurds**

**The 2006/2007 Annual Report for the Shire of Serpentine Jarrahdale (as provided in *attachment OCM015.1/12/07*) be accepted with the addition of the Chief Executive Officer's report, Shire President's report, replacement of the Auditor's Report and the corrections to the localities for Ward Councillors.**

**CARRIED 10/0 ABSOLUTE MAJORITY**

**9. CHIEF EXECUTIVE OFFICER'S REPORT**

OCM016/12/07		INFORMATION REPORT
Proponent	Chief Executive Officer	<b>In Brief</b>  Information Report for the month of December 2007.
Officer	L Fletcher - Acting PA to the Chief Executive Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	13 December 2007	
Previously		
Disclosure of Interest		
<b>Delegation</b>	<b>Council</b>	

OCM016.1/12/07      **COMMON SEAL REGISTER REPORT – NOVEMBER 2007(A1128)**

*The Common Seal Register Report for the month of November 2007 as per Council Policy CSP30 Use of Shire of Serpentine Jarrahdale Common Seal is with the attachments marked OCM016.1/12/07. (E02/5614)*

OCM016.2/12/07      **POLICY FORUM – DECEMBER 2007 (A0429/05)**

The following items were discussed at the December 2007 Policy Forum:

<b>ITEMS FOR PRELIMINARY DISCUSSION</b>	
1.	Brief Updates on Strategic Projects: a) Update on Mundijong/Whitby Structure Plan (project and timeframe)
2.	Byford Trotting Complex Area
3.	Cr Price – presentation on Pulse Vital Signs of a Creative Life Regional WA State Arts Conference held in Denmark, 26-28 October, 2007
4.	Local Government Planning Assistance Program
5.	Submission to WALGA on review State Planning Policy 2.5 and Development Control Policy 3.4 (re Agricultural Lands)
6.	Status Report on Agriculture Sector Paper

**OCM016/12/07 COUNCIL DECISION/Officers Recommended Resolution**

**Moved Cr Price, seconded Cr Brown**  
 The Information Report to 14<sup>th</sup> December 2007 is received.  
**CARRIED 10/0**

**Moved Cr Murphy, seconded Cr Kirkpatrick**  
 That the meeting go behind closed doors to discuss item SD050/12/07 in accordance with Section 5.23(2)(d) of the Local Government Act.  
**CARRIED 10/0**

SD050/12/07 STATE ADMINISTRATIVE TRIBUNAL APPEAL WITH REGARD TO CONDITION OF APPROVAL FOR PROPOSED POULTRY FARM – LOT 701 HENDERSON ROAD, HOPELAND (P02435/02)		
Proponent	Proten Pty Ltd	<b>In Brief</b>  Approval granted with conditions for new poultry farm on above property. Applicant lodged appeal with State Administrative Tribunal (SAT) against condition of approval requiring applicant to upgrade Henderson Road. SAT have now ordered the Council to consider an offer by the proponent to pay a proportion of the road upgrading costs only. It is recommended that the Council advises SAT that the offer of a proportional payment only towards the road works is not accepted.
Owner	As above	
Officer	Meredith Kenny - Co-ordinator Planning Services	
Signatures - Author:		
Senior Officer:		
Date of Report	28 November 2007	
Previously	SCM006/09/07	
Disclosure of Interest	No officer involved in the preparation of this report has a declared interest.	
<b>Delegation</b>	<b>Council</b>	

Date of Receipt:	17 April 2007
Advertised:	N/A to appeal
Submissions:	N/A
Lot Area:	39.2 ha
L.A Zoning:	Rural & Special Control – Poultry Farms Area
MRS Zoning:	Rural
Byford Structure Plan:	Not applicable
Rural Strategy Policy Area:	Rural Policy Area
Rural Strategy Overlay:	Poultry Farms
Municipal Inventory:	Not applicable
Townscape/Heritage Precinct:	Not applicable
Bush Forever:	Nil
Date of Inspection:	11 July 2007

### Background

At their Ordinary meeting held on 4 September 2007 the Council carried a motion approving an application for Approval to Commence Development of a poultry farm on the above lot subject to conditions.

On 28 September 2007 the proponent submitted an application for review to the State Administrative Tribunal with regard to condition 47. of that approval as follows:

47. *The Developer be required to make a substantial or complete contribution to the costs associated with the required upgrading of Henderson Road and the Henderson and Hopeland Road intersection. The contribution is to be negotiated with the Shire's Director Engineering.*

A Directions hearing in the above matter was held at the State Administrative Tribunal on 12 October 2007. Both parties requested that the tribunal adjourn the matter to a mediation and that both parties provide cost estimations prior to the mediation. The Tribunal also queried the wording of the condition stating that it was too broad. Accordingly, the Tribunal made the follow orders:

1. On or before 17 October 2007 the Respondent is to file and serve particulars of the road works it asserts necessary for the Applicant to comply.

2. On or before 9 November 2007 each party is to file and serve its costings of the suggested works.
3. On or before 9 November 2007 the Respondent will file and serve a reformulation of Condition 47.
4. The matter is to be adjourned to mediation on 14 November 2007.

The Shire's Solicitor's undertook the required actions with regard to the Tribunal Orders. The mediation date was subsequently moved to 22 November 2007.

With regard to the upgrading works required to Henderson Road the Tribunal was advised that the Shire would require:

1. Widening of the road pavement from approx 4.5 to 5m (current width) to 7.4m width with 1.2m shoulder each side for a distance of 800m approx (distance between the proposed crossover for the poultry farm and the intersection of Henderson Road and Hopeland Road).
2. Modification of existing roadside drainage (ie some pipes located at various points along the road that direct water into the roadside drains may need to be lengthened).
3. Widening of the western side of the intersection of Henderson Road and Hopeland Road to provide for safer and easier turning movements for trucks. This will involve moving the existing kerbing further back and widening the pavement.
4. Linemarking etc.

The Shire estimated that the upgrading of Henderson Road and the Henderson and Hopeland Road intersection would cost in the vicinity of approximately \$360,000 to \$400,000. This figure is based on the Main Roads WA value of \$45 per square metre. As the Main Roads WA figures are conservative, it is considered that the approximate value as determined by the Shire would be at the upper limits of the costs.

It was put to the Tribunal that the Shire's position was that the Applicant should contribute a large proportion, if not the entire cost of the road widening.

The Applicant initially argued that it did not see the road widening as being necessary, as it did not consider the number of truck movements to be significant. The Shire did not agree with this proposition. The applicant went on to say that as the total costs of the development was only \$13 million a condition requiring a contribution in the area of \$400,000 to \$700,000 was not appropriate or reasonable.

The mediation was concluded by the Applicant making an offer to contribute \$180,000 to the cost of the road widening, to be paid at the completion of the works. The following orders were made by SAT:

1. The Applicant's offer is to be put to Council at the first available meeting in the month of December.
2. That the matter be adjourned to a further mediation on Thursday 20 December 2007 at 2.15pm.

The applicant's without prejudice offer to pay \$180,000 towards the costs of the roadworks at the completion of those works was confirmed in writing on 26 November 2007.

### **Sustainability Statement**

**Economic Benefits:** If the road is not upgraded the heavy truck traffic generated by the development has the potential to damage the road surface. The intersection is not of sufficient width to allow trucks, of the size that will visit this poultry farm, to turn from Henderson Road onto Hopeland Road (and vice versa) without cutting the corner. These matters would result in traffic safety issues on both roads and damage to the kerbing and pavement at the intersection.

**Social – Quality of Life:** The current width of the road will not allow two trucks to pass in opposite directions. There are implications for traffic safety in this regard which may impact on local residential traffic on Henderson and Hopeland Roads.

**Statutory Environment:** Planning and Development Act 2005  
Town Planning Scheme No. 2

**Policy/Work Procedure Implications:** Nil

**Financial Implications:** There would be financial implications to the Shire in the order of \$250,000 to \$300,000 if the proponent is only required to pay a proportionate amount towards the required roadworks. There have already been financial implications for the Shire with regard to this matter due to the legal costs already incurred in defending the appeal to date.

**Strategic Implications:** This proposal relates to the following Key Sustainability Result Areas:-

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.

**Community Consultation:**

Required: No

**External Referrals**

Not required

**Comment**

The offer of \$180,000 is extremely low considering the amounts given in the estimations and the fact that the development is the sole reason for the road widening requirement. The Applicant also owns the land on Hopeland Road which was the subject of the Big Country SAT appeal and are in a position to consider the costs of development on either site. It should be noted that the planning approval issued by the Council for the establishment of a Poultry Farm on the alternative site (Lot 368 Hopeland Road) expires in January 2008.

There is not a capital expenditure item in the current 2007/2008 Council budget for the upgrading of Henderson Road. Therefore, if the Shire ends up having to pay for all or a substantial part of the works then another planned road upgrade will most likely have to be deleted from the budget when it is reviewed to pay for the works on Henderson Road. This is not acceptable.

It should be noted that even though a multi-million dollar business (1 million bird poultry farm) will be operated from Lot 701 the Shire's Finance Services advise that the property will remain classified as a rural property with an unimproved value and the annual rates paid for this property will be only approximately \$1800 per annum (based on today's figures). There is not a case for saying that the rates they will pay in future will cover the required road upgrade.

Accordingly, it is recommended that the Council advise the State Administrative Tribunal that the Applicant's without prejudice offer of \$180,000 is not acceptable.

**Voting Requirements:** Simple Majority

**Officer Recommended Resolution:**

Council advises the State Administrative Tribunal (via Council's Solicitors) that the without prejudice offer made by Proten Ltd to pay the Shire \$180,000 towards the costs of the required road works is not accepted for the following reasons:

1. The Shire would not have to upgrade the road at this stage if it wasn't for the potential burden on the road and the intersection by the traffic generated by this new poultry farm.
2. It should be noted that even though a multi-million dollar business (1 million bird poultry farm) will be operated from Lot 701, the annual rates paid for this property will be only approximately \$1800 per annum (based on today's figures). There is not a case for saying that the rates they will pay in future will cover the required road upgrade.

**Committee Recommended Resolution:**

**That item SD050/12/07 - State Administrative Tribunal Appeal With Regard To Condition Of Approval For Proposed Poultry Farm - Lot 701 Henderson Road, Hopeland be deferred to the December Ordinary Council Meeting.**

**Committee Note: The Officer Recommended Resolution was changed to defer the item to the December Ordinary Council meeting.**

**New Motion**

**Moved Cr Murphy, seconded Cr Kirkpatrick**

**That the State Administrative Tribunal be informed that the offer made by the applicant to contribute to the road construction cost is accepted by the Shire.**

**LOST 4/6**

**SD050/12/07 COUNCIL DECISION:**

**Moved Cr Price, seconded Cr Randall**

**Council rejects the offer of \$180 000 on the grounds that it is inadequate and the remaining estimated cost of the road construction is an unfair imposition on the ratepayers of the Shire.**

**CARRIED 6/4**

Councillors Kirkpatrick and Murphy voted against this motion.

**Council Note:** The Committee Recommended Resolution was changed to reject the offer of \$180 000 on the grounds that it is inadequate and an unfair imposition on the ratepayers of the Shire.

The meeting was re-opened to the public at 9.15pm.

**10. URGENT BUSINESS:**

Nil

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

Nil

**12. CLOSURE:**

There being no further business, the Presiding Member closed the meeting at 9.16pm.

I certify that these minutes were confirmed at the  
Ordinary Council meeting held on 29<sup>th</sup> January 2008

.....  
Presiding Member

.....  
Date

**13. INFORMATION REPORT – COMMITTEE DELEGATED AUTHORITY:**

SD048/12/07 BUILDING INFORMATION REPORT		
Proponent:	N/A	In Brief
Owner:	N/A	
Officer:	Jason Robertson - Manager Building Services	Information report
Signatures Author:		
Senior Officer:		
Date of Report	3 December 2007	
Previously		
Disclosure of 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	
Delegation	Committee – in accordance with resolution SM051/06/04	

**SD048/12/07 Committee Decision/Officer Recommended Resolution**

**That Council accepts the November 2007 Building Information Report.  
CARRIED 7/0**

SD049/12/07 HEALTH INFORMATION REPORT		
Proponent:	N/A	In Brief
Owner:	N/A	
Officer:	Tony Turner – Manager Health & Ranger Services	Information report
Signatures Author:		
Senior Officer:		
Date of Report	3 December 2007	
Previously		
Disclosure of 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	
Delegation	Committee – in accordance with resolution SM051/06/04	

**SD049/12/07 Committee Decision/Officer Recommended Resolution**

**That Council accepts the November 2007 Health Information Report.  
CARRIED 7/0**

SD053/12/07 PLANNING INFORMATION REPORT		
Proponent	Director Development Services	<b>In Brief</b>  Information Report.
Officer	Lisa Fletcher – Development Services Support Officer	
Signatures – Author:		
Senior Officer:		
Date of Report	3 December 2007	
Previously		
Disclosure of Interest		
<b>Delegation</b>	<b>Committee – in accordance with resolution SM046/05/04</b>	

**SD053/12/07 Committee Decision/Officer Recommended Resolution**

**The Planning Information Report to 5 December 2007 be received.  
CARRIED 7/0**

CGAM043/12/07 MONTHLY FINANCIAL REPORT – NOVEMBER 2007 (A0924/07)		
Proponent:	Local Government Act 1995	<b>In Brief</b>  To receive the Monthly Financial Report as at 30 November 2007.
Owner:		
Officer:	Casey Mihovilovich Manager Finance Services	
Signatures Author:		
Senior Officer:		
Date of Report	5 December 2007	
Previously		
Disclosure of 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 1995	
Delegation	Committee in accordance with resolution SM051/06/04	

**CGAM043/12/07 Committee Decision/Officer Recommended Resolution:**

**Council receives the Monthly Financial Report, as at 30 November 2007, in accordance with Section 6.4 of the Local Government Act 1995.  
CARRIED 7/0**

CGAM044/12/07 CONFIRMATION OF PAYMENT OF CREDITORS (A0917)		
Proponent:	Director Corporate Services	In Brief  To confirm the creditor payments made during November 2007
Owner:	N/A	
Officer:	Tracy Mladenovic Coordinator Financial Services	
Signatures Author:		
Senior Officer:		
Date of Report	5 December 2007	
Previously		
Disclosure of 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	
Delegation	Committee in accordance with resolution SM051/06/04	

**CGAM044/12/07 Committee Decision/Officer Recommended Resolution:**

**That Council notes the payments authorised under delegated authority and detailed in the list of invoices for the month of November 2007, presented to the Corporate Governance & Asset Services Committee and to Council, per the summaries set out above include Creditors yet to be paid and in accordance with the Local Government (Financial Management) Regulations 1996.  
CARRIED 7/0**

CGAM045/12/07 SUNDRY DEBTOR OUTSTANDING ACCOUNTS (A0917)		
Proponent:	Director Corporate Services	In Brief  To receive the sundry debtor balances as at 30 November 2007
Owner:	Not Applicable	
Officer:	Melissa Armitage Finance Officer - Debtors	
Signatures Author:		
Senior Officer:		
Date of Report	5 December 2007	
Previously		
Disclosure of 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	
Delegation	Committee in accordance with resolution SM051/06/04	

**CGAM045/12/07 Committee Decision/Officer Recommended Resolution:**

**That Council receive and note the report on Sundry Debtor Outstanding Accounts as at 30 November 2007.  
CARRIED 7/0**

CGAM046/12/07		RATE DEBTORS REPORT (A0917)	
Proponent:	Director Corporate Services	In Brief  To receive the rates report as at 30 November 2007.	
Owner:	Not Applicable		
Officer:	T Mladenovic Coordinator Financial Services		
Signatures Author:			
Senior Officer:			
Date of Report	5 December 2007		
Previously			
Disclosure of 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		
Delegation	Committee in accordance with resolution SM051/06/04		

**CGAM046/12/07 Committee Decision/Officer Recommended Resolution:**

**That Council receive and note the report on the Rate Debtors accounts as at 30 November 2007.  
CARRIED 7/0**

CGAM047/12/07		INFORMATION REPORT	
Proponent:	Director Corporate Services	In Brief  To receive the information report to 30 November 2007.	
Owner:	Not Applicable		
Officer:	Various		
Signatures Author:			
Senior Officer:			
Date of Report	5 December 2007		
Previously			
Disclosure of 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		
Delegation	Committee in accordance with resolution SM051/06/04		

CGAM047/12.1/07 INTEREST ON INVESTMENTS (A0073)

CGAM047/12.2/07 CEMETERIES MANAGEMENT COMMITTEE MEETING MINUTES – 12 SEPTEMBER 2007

CGAM047/12.3/07 SERPENTINE JARRAHDAL RECREATION CENTRE PROFIT AND LOSS STATEMENT FOR PERIOD UP UNTIL 30 SEPTEMBER 2007 TO BE INCLUDED IN THE INFORMATION REPORT

**CGAM043/12/07 Committee Decision/Officer Recommended Resolution:**

The information report to 30 November 2007 be received.  
**CARRIED 7/0**