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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.**

MINUTES OF THE SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON MONDAY, 21<sup>ST</sup> DECEMBER 2009. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 7.00PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

**1. ATTENDANCE & APOLOGIES:**

IN ATTENDANCE:

**COUNCILLORS:** S Twine .....Presiding Member  
M Harris  
WJ Kirkpatrick  
K Murphy  
C Buttfield  
MJ Geurds  
E Brown  
C Randall  
T Hoyer  
A Lowry

**OFFICERS:** Mrs S van Aswegen ..... Acting Chief Executive Officer  
Mr A Hart .....Director Corporate Services  
Mr B Gleeson ..... Director Development Services  
Mr R Gorbunow ..... Director Engineering  
Mrs C McKee ..... Acting Director Strategic Community Planning  
Mrs L Fletcher .....Minute Secretary

**APOLOGIES:** Chief Executive Officer (annual leave)

**GALLERY:** 4

**2. PUBLIC QUESTION TIME:**

Mrs Bond – Lot 113 Stockmans Close, Oakford

Q. How much sick, leave, annual or stress leave or leave for any other reason has the CEO had since 2004?

Q. Why has Council approved the appointment of person to the position of CEO without requiring qualifications for the position?

These questions were taken on notice.

Mrs Bond requested that a response to these questions be provided in writing.

**3. PUBLIC STATEMENT TIME:**

Mrs Bond – Lot 113 Stockmans Close, Oakford

On the 23rd of November 2009 I attended a Council meeting and after asking several questions including two about the current CEO, I also made a factual statement about this Council and its operation. The CEO thought the entire matter was laughable and when I questioned her behaviour with regard to this matter she claimed I was abusive and threatening and attempted to throw me out of the Council Chamber. As this matter happened at the meeting I am angry that this has not been included in the minutes. My request for written replies was ignored until I telephoned and again requested this to be in writing. The rude and extremely stupid attempt at intimidation of me for daring to pursue this matter has now confirmed I should pursue this matter to the end. I want to make it clear that

the intimidation did not come from the counter staff at the Council. The Councillor who continues to bad mouth me to anyone who will listen should remember their position as a councillor. As I have never spoken one word to this Councillor it appears the behaviour is one of fear and an attempt to turn people against me. Good luck Councillor.

**4. PETITIONS & DEPUTATIONS:**

Nil.

**5. PRESIDENT'S REPORT:**

The Shire President was delighted to attend both Mundijong and Serpentine Primary School award presentations.

The Shire President presented to the Director Engineering, Richard Gorbunow a Certificate of Appreciation from the Local Government Managers Association in recognition of his professional contribution and service to Local Government over many years and commitment to the objects and ethics of the Local Government Managers Association.

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

Nil.

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

**7.1 Ordinary Council Meeting - 23 November 2009**

**Moved Cr Geurds, seconded Cr Buttfield**

**The *attached (E09/7109)* minutes of the Ordinary Council Meeting held on 23 November 2009 be confirmed.**

**CARRIED 10/0**

**7.2 Special Council Meeting - 15 December 2009**

**Moved Cr Brown, seconded Cr Randall**

**The *attached (E09/7582)* minutes of the Special Council Meeting held on 15 December 2009 be confirmed.**

**CARRIED 10/0**

**REPORTS OF COMMITTEES:**

**COUNCIL DECISION**

**Moved Cr Brown, seconded Cr Lowry**

**That item SD078/12/09 be discussed out of order whilst there are members of the gallery present to hear the item.**

**CARRIED 10/0**

SD078/12/09 PROPOSED OVERSIZE OUTBUILDINGS (RETROSPECTIVE) - LOT 18 GLADSTONE DRIVE, SERPENTINE (P02334/01)		
Proponent:	W Mann	In Brief  Applicant seeks retrospective approval for various oversize outbuildings. Approval is recommended.
Owner:	As Above	
Author:	Casey Rose - Planning Assistant	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	9 September 2009	
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: 18 August 2009  
 Advertised: Yes  
 Submissions: No  
 Lot Area: 3.3990ha  
 L.A Zoning: Special Rural  
 MRS Zoning: Rural  
 Rural Strategy Policy Area: Rural Living B  
 Date of Inspection: 5 October 2009

**Background**

The current landowners purchased this property in 1994 and recently elected to list their property for sale. Upon doing so, an archive search was undertaken for the purpose of providing the real estate agent with additional information about buildings on the property. It was identified that a number of existing buildings on the property did not have the relevant Council approvals. These structures include the stables, a shed, two patios and a spa. The only structure to have a building licence granted was the dwelling which was approved in June 1979.

The existing shed is constructed in a green Colorbond material and the stables are constructed from timber. The patios are green to match the tiled roof of the dwelling. There are no policy requirements relating to the use of specific colours and materials that apply to this proposal.

The existing shed measures 159m<sup>2</sup> and the stables measure 115.6m<sup>2</sup>. Under Local Planning Policy (LPP) 17, Council's Planning Officers have delegation to approve a 20% variation to 200m<sup>2</sup> which is a maximum of 240m<sup>2</sup>. As the combined floor area of the existing outbuildings totals 274.6m<sup>2</sup> the applicant seeks retrospective approval for the oversized outbuildings.

***A copy of the location plan, aerial photograph and development plans are with attachments marked SD078.1/12/09.***

**Sustainability Statement – Outbuildings**

<b>Sustainable Element</b>	<b>Comment</b>
Is there remnant native vegetation on site or adjoining verge?	Mature native trees are established on the property
Is remnant native vegetation to be retained or removed as a result of this proposal?	No vegetation is proposed to be removed.
Is additional vegetation required to screen or ameliorate the bulk of the proposed development?	No. The existing vegetation is adequate and the shed is a separate structure from the timber stables therefore does not create a bulky singular structure.
Will the requested variation have an adverse effect on streetscape or the character and amenity of the locality?	No. The structures are not highly visible from the street as the shed is olive green in colour and blends well with the surroundings.
Will the requested variation have an adverse effect on visual amenity of neighbouring properties due to bulk and scale, appearance or materials?	No. The structures are similar to those built on other properties in the area.
Does the proposal include the capture and re-use of stormwater from the roof of the proposed building and/or diversion of stormwater from hardstand areas to landscaped areas?	A rainwater tank is able to collect and reuse stormwater.

**Statutory Environment:**

Town Planning Scheme No. 2

**Policy/Work Procedure**

**Implications:**

LPP 17 - Residential and Incidental Development within Serpentine Jarrahdale Shire

**Financial Implications:**

There are no financial implications to Council related to this application.

**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:

4. Respect diversity within the community.
5. 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. 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.
4. Foster a strong sense of community, place and belonging.

**2. Environment**

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

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
3. Encourage protection and rehabilitation of natural resources.

### 3. Economic

*Objective 1: A vibrant local community*

Strategies:

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

### 4. Governance

*Objective 3: Compliance to necessary legislation*

Strategies:

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

### Community Consultation:

No objections were received to the proposal.

### Comment:

### Policy Requirements

LPP17 Residential and Incidental Development

Policy Requirement	Required	Proposed	Comments (Complies/Variation Supported/Condition Required)
Setbacks			
Primary Street	20	Approx 60m	Complies
Rear	20	Approx 98m	
Side	10	Approx 83m	
Side	10	Approx 110m	
Floor Area (combined total floor area of all outbuildings)	Max 200m <sup>2</sup>	274m <sup>2</sup>	Variation Supported
Wall Height	Max 4m	3.1m Shed 2.7m Stables	Complies Complies
Roof Height	Max 6m	4.8m Shed 2.9m Stables	Complies Complies

The proposal is consistent with many other development proposals within the Shire, particularly on semi rural lifestyle properties. The application is supported.

**Voting Requirements:** Simple Majority

### **SD078/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Hoyer**

**That the stables, shed, patios and spa at Lot 18 Gladstone Drive, Serpentine be granted retrospective approval subject to the following conditions:**

1. All existing native trees on the subject lot and adjacent road verge shall be retained and shall be protected from damage prior to and during construction unless subject to an exemption provided within Town Planning Scheme No. 2 or the specific written approval of the Shire has been obtained for tree removal either through this planning approval or separately.



- 2. All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is prohibited.**

**Advice Notes:**

1. The shed, stables, patios or spa are not to be located within 1.2 metres of a septic tank or 1.8 metres of a leach drain, or other such setbacks as required by relevant Legislation for other types of effluent disposal systems. Please contact Council's Health Services for setbacks and requirements to other systems.
2. The owner will need to submit an authorised building application for the shed, stables, patio and spa within 30 days of this approval to the satisfaction of the Manager Building Services.

**CARRIED 10/0**

SD074/12/09 PROPOSED RETROSPECTIVE APPLICATION FOR INDUSTRY – NOXIOUS (SHEEP MANURE PACKAGING) - LOT 717 (254) BOOMERANG ROAD, OLDBURY (P01542/03)		
Proponent:	Gregory Braithwaite	In Brief  Application for retrospective planning approval for Industry – Noxious - Manure Packaging. It is recommended that the application be approved subject to conditions.
Owner:	Henri Oliver	
Officer:	Helen Maruta - Planning Officer	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	20 July 2009	
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: December 2008  
 Advertised: Yes  
 Submissions: Four objections, three submissions of support  
 Lot Area: 18.53 hectares  
 L.A Zoning: Rural  
 MRS Zoning: Rural  
 Use Class & Permissibility: Industry - Noxious – SA (Discretionary)  
 Rural Strategy Policy Area: Rural  
 Rural Strategy Overlay: Peel-Harvey Coastal Plain Catchment Area

**Background**

At the Ordinary Council meeting of 15 September 2009, Council considered a retrospective application for the Industry – Noxious (Sheep Manure Packaging) Lot 717 Boomerang Road, Oldbury. At this meeting, Council resolved as follows:

**“SD028/09/09 COUNCIL DECISION:**

*Moved Cr Price, seconded Cr Murphy*

*The retrospective application for the Industry-Noxious (Sheep Manure Packaging) on Lot 717 (#254) Boomerang Road, Oldbury be deferred until such time as the issues relating to the movement of trucks and private sales are able to be clarified”*

The application is therefore presented to Council for reconsideration.

## Proposal

The property has been used as a poultry farm for a number of years, however, the poultry farm business is currently not operating.

The Shire received a complaint in respect of sheep manure packaging in one of the sheds at the subject property. A site visit to the property occurred on 16 September 2008. The site inspection confirmed the complaint and revealed that sheep manure packaging activities were being conducted from one of the chicken sheds located to the north western portion of the property.

The Shire wrote to the applicant on 3 October 2008 advising the applicant that the unauthorised sheep manure packaging business had placed the property being Lot 717 (#254) Boomerang Road, Oldbury, "in breach of the Shire's Town Planning Scheme No 2 (TPS 2).

It is against this background that the Shire received a retrospective application for the establishment of a sheep manure packaging business. The use of the land had already commenced and as such the applicant sought retrospective approval.

Since the application was lodged, the following has occurred:

- The applicant was requested to provide further information;
- The application was referred to nearby landowners for comment;
- The application was referred to relevant government agencies for comment; and
- A technical assessment of the application has been completed.

The subject site is located on the western side of King Road and on the northern side of Boomerang Road. The locality comprises rural zoned properties used for a variety of rural uses including grazing, equestrian activities, market gardens, extractive industries (sand mining), poultry farms, Industry – Rural (timber processing), an authorised transport depot and rural lifestyle lots.

Submissions were received during the advertising of the proposal for public comment and as such the matter is presented to Council for consideration. This report provides Council with the opportunity to make a formal determination on the application.

***A location plan and aerial photograph are with attachments marked SD074.1/12/09.***

## Sustainability Statement

***Effect on Environment:*** The northern half of the property contains a 'Multiple Use' Wetland according to the geomorphic wetland dataset. An area of remnant native vegetation exists in the northern corner of the property and there are also areas of remnant native vegetation within the wetland area. It is considered that the proposal which is being carried out in a closed shed with a hardstand floor will not cause any adverse impacts on the wetland function area. The Department of Environment and Conservation (DEC) raised no concerns over the impacts of drainage nutrients and confirmed that the manure packaging shed is well outside the wetland's buffer area.

***Resource Implications:*** The proposal is being carried out in an old poultry farm shed.

***Economic Benefits:*** The business will provide employment for five people in addition to the landowners. Sheep manure is collected and packaged in bags and sold to nurseries and hardware stores.

***Social – Quality of Life:*** There is the potential for the land use to significantly impact on the amenity of the adjoining properties by virtue of odour, noise and dust.

**Statutory Environment:**

Planning and Development Act 2005  
TPS 2  
Serpentine Jarrahdale Rural Strategy  
Health Act 1911

**Policy/Work Procedure Implications:**

State Planning Policy 2.1 Peel Harvey Coastal Plain Catchment Area  
Environmental Protection Authority Guidance Statement 3 – Separation Distances between Industrial and Sensitive Land Uses

**Financial Implications:**

If Boomerang Road is not upgraded through contributions from landowners seeking planning approval for businesses on their land, then Council may experience pressure to upgrade the road.

**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.

*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.

**2. Environment**

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

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
3. Encourage protection and rehabilitation of natural resources.
6. Value, protect and develop biodiversity.

*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.

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

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

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

The applicant has provided the following description of the proposed business:

*“The nature of the business is to package sheep manure for sale to the public at various nurseries and hardware stores. Tipper trucks bring manure to the property and empty it in the shed, where it is bagged, sealed, palletized and wrapped in plastic then distributed to clients.*

*There are currently 2 delivery trucks (no bigger than 5 tonnes), 2 tipper trucks, (which bring the manure to the shed for packing). Inside the shed is a hopper, a tractor used only to load the hopper and a forklift. Manure is delivered to the premises a maximum of three to five times a day. The roads leading up to and around the shed are limestone and have recently been repaired to ensure safety for the drivers. No customers come to the property; sale of the product is solely through delivery basis. No signage and advertising is placed on the property.*

*The machinery involved in this process includes a 35hp tractor, electric hopper, forklift and two electric hand held bag sewers. At no single time are there more than 5 people working and noise is kept to a minimum.*

*Rubbish is collected and removed, and all employees are advised to drive slowly down the entrance road so as not to disturb those living near by. Sheep manure is kept on the property in the shed, and if it is seen outside of the vicinity it is cleaned up. We intend to do our best to operate our company’s activities, between the hours of 6am to 6pm Monday to Sunday.”*

### **Community Consultation:**

The application was referred to adjoining landowners for a period of 21 days in accordance with the requirements set out in TPS 2. During the advertising period, 4 objections and three letters of support were received from adjacent neighbours.

The key issues that were raised in the public submissions were as follows:

- The potential adverse impacts to surrounding residents from the odour that will undoubtedly come with such a facility;
- The generation of dust from movement of trucks delivering manure to and from the site and the associated hours of operation;
- The potential environmental impacts on the established wetland running across the property and some remnant vegetation of paper-bark trees;
- The potential degradation of the gravel Boomerang Road created by the huge influx of traffic for the manure facility;
- The potential for noise impacts from the facility activity generated by the constant movement of trucks; and
- The suitability of the “industrial endeavour” in a rural life lifestyle of a quiet, peaceful existence in an aesthetically appealing area.

Each of these issues is discussed further later in this report.

***A schedule of submissions is with attachments marked SD074.2/12/09.***

### **Comment**

A technical assessment of the current application was completed by the Shire’s Officers and external government agencies. The following considerations were identified as being relevant to the application:

- The potential for off-site impacts to surrounding residents as regards odour, noise and dust from the proposed development;
- The management of drainage nutrients as regards the proximity of the proposal to the Mundijong Drainage District Drainage Area.

The above issues, combined with the issues raised during the public consultation period are discussed further in the following sections.

*Suitability of the proposal in a Rural Zone (normal, quiet and peaceful existence in an aesthetically appealing area and rural lifestyle).*

The proposed use of sheep manure packaging (Industry–Noxious) can be considered by the Council as a ‘SA’ use in the Rural zone. In accordance with the TPS 2, the purpose and intend of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area. Officers have considered manure packaging to be a use which is in accordance with the requirements and provisions of the planning framework of the scheme. The proposed development is considered to be consistent with the general

locality comprising of Rural zoned properties used for a variety of rural pursuits including grazing, equestrian activities, market gardens, extractive industries (sand mining), poultry farms, Industry – Rural (timber processing), transport depots, rural lifestyle lots.

Under the Shire’s Rural Strategy the land falls within the Rural Policy Area which significantly protects the rural lifestyle of agricultural production without necessarily overriding, objectives in the use and development of land. Whilst industry – noxious is considered an undesirable land use (in the general guide to the types of land use than may be considered within the Policy area) the Policy has provisions for decisions to be made over such undesirable land uses, “following site survey and reference to land capability and other relevant planning data”. Based on the size of the proposal, officers are of the view that the off site impacts from the manure packaging can be appropriately managed.

*The potential for off-site impacts from the proposed development*

The potential for off-site impacts from the proposed development needs to be considered in determining the application. The nearest sensitive land uses to the proposed development includes one existing dwelling within the EPA’s recommended 250 metre buffer under the *Environmental Protection Authority’s (EPA) Guidance for Separation Distances between Industrial and Sensitive Land Uses*. With respect to potential off-site impacts from the proposed development, the applicant has provided the following advice:

*“Sheep manure is kept on the property in the shed, and if it is seen outside of the vicinity it is cleaned up. Our aim is to operate this business with no intention of disturbing or upsetting those who live nearby. We have done our best to ensure rubbish is picked up, the area kept clean and noise is kept to a minimum.”*

In addition to the above, the application was referred to Department of Health for comment who provided the following advice:

*“An activity of this nature (processing animal manure), would constitute an offensive trade (manure works) as defined under Section 186 of the Health Act and be subject to compliance with requirements of the Act relating to offensive trades and also, Council’s Local Health Law provisions.*

*As the estimated volume of manure to be processed per annum is 1,000 tons, it is likely the proponent will need to obtain a works approval and license from the DEC. Such approval may also be necessary for environmental protection reasons*

*Although there are no other specific requirements under the Health Act or Regulations that would apply to this activity, it is important that due consideration is given to potential adverse impacts to surrounding residents from odour, noise, dust (and airborne particulate) and pests (in particular, flies)."*

The Department of Health also suggested the Shire could require the proponent to carry out a health impact assessment to demonstrate to the Council that the off-site impacts have been satisfactorily assessed.

However, based on the information and advice provided by the Department of Health, the Shire's Health Service considered that the size/scale of the operation indicated minimal levels of health impacts. The proposal is not considered to require a comprehensive health assessment. The proposal was therefore assessed based on a risk-based approach.

***A copy of the risk based approach Assessment of Off-Site Impacts Report including a photo of the shed currently being used is with attachments marked SD074.3/12/09.***

With respect to potential off-site impacts from the proposed development, the following is a summary of the technical assessment completed:

- The off-site impact risk assessment report demonstrates that if the proposal is allowed to continue at the current level of operation there will not be a serious health risk;
- There is limited potential for amenity impacts that could result in annoyance responses or complaints, with associated resource implications;
- The current operation will be likely to have seasonal peaks in spring and early summer when the atmospheric conditions may not disperse odour from the sheep manure in the sheds; and
- Based on the small size of the proposed operation within the shed, it is highly unlikely that there will be serious health impacts. The risk of amenity impacts is very low at 100 metres and only one residence is currently located within the EPA's recommended 250 metre buffer.

No odour and dust studies were undertaken by the proponent. It was considered by staff that such studies are not needed due to the small scale of the operation. The fact that the process involves only bagging sheep manure and there is no composting and stockpiles are fully enclosed in a shed with a concrete floor, means that the risk of offsite impacts is very low. The proposal will also be subject to an annual licensing process and routine site assessments by the Shire meaning that it is reasonable to assume that the proposal and its impacts can be adequately managed in that locality.

Based on the information available, officers are of the view that off-site impacts from the proposed development can be appropriately managed.

The potential degradation of the gravel Boomerang Road created by an influx of traffic for the manure facility.

The proponent has provided information that trucks will bring manure to the property and empty it in the shed at a maximum of three to five times a day. Packed manure bags will be trucked to the market and no retail activities will be carried out at the subject lot. Additional traffic will be the vehicles of the five staff.

It is recommended that a specific route be identified by the applicant for accessing the property by delivery trucks (both incoming and outgoing).

This portion of Boomerang Road is currently constructed of compacted limestone/gravel that results in the generation of dust when driven on by vehicles. Consideration will be given to the upgrading of the road to cater for the increased vehicle movements from this site.

Upgrading of the road has been included as condition of approval in other land use proposals in the same area previously.

Additional Information on issues relating to the movement of trucks and private vehicles.

The Shire’s technical officers undertook an assessment of the general movement of trucks and private vehicles on this portion Boomerang Road, placing a traffic counter and classifier six metres from intersection of King Road and Boomerang Road (on the left side) for a duration of 8 days. A copy of the data recorded by this device forms part of the attachments of this report. The following information is a summary of the analysis:

- A total of 553 vehicle movements were recorded over a period of 8 days.
- The average speed of all the vehicles was 35km/hr.
- Vehicle classes of 1, 2,3,4,5 and 6 generally transverse Boomerang Road.
- Summary of the vehicle type movements for the 8 day period is tabled below:

Days of Study

	1 (Wed)	2 (Thur)	3 (Fri)	4 (Sat)	5 (Sun)	6 (Mon)	7 (Tue)	8 (Thur)	Total per class
Class One	18	58	70	46	38	66	44	37	377
Class Two	0	0	2	0	0	0	0	0	2
Class Three	2	22	26	25	14	29	27	15	160
Class Four	0	1	3	2	0	1	2	1	10
Class Five	0	0	0	0	0	0	1	1	2
Class Six	0	0	2	0	0	0	0	0	2
Total per day	20	81	103	73	52	96	74	54	553

Key:

- Class one car, vans, wagons, utilities, 4WD
- Class two trailer, caravan, boat
- Class three two axle truck or bus
- Class four three axle truck or bus
- Class five five axle truck
- Class six three axle articulated trucks

From the information tabled above, it is evident that about 70% of the traffic movement was generated by class one vehicles being cars, vans and wagons. It is assumed these are normal private vehicle movements associated with the seven residents from this locality.

Class three vehicles being two axle truck or bus generated 28% of the traffic movement during this assessment period. It can be assumed that vehicles associated with the manure packaging industry falls within this category with an average of 22 vehicle movements per day during the assessment period. Class four vehicles (three axles) formed 1% of the traffic movement with an average of one movement per day.

The proponent provided the following information regard the conduct of business activities and associated vehicle movements:

*The only trucks moving in and out of the property at least 3 times a day is the one picking up the pre packaged manure for the delivery in a small tipper. On very special occasions clients do come to the property, to pick up a large quantity of packaged sheep manure when delivery options are not available.*

*Regular people who come to the property on a regular basis are the workers, a small tipper truck which delivers the manure and a truck that loads up the packaged manure for package. Occasionally we have visitors which don't have anything to do with the business, calling in on a social basis as the neighbours have visitors. Since we live on the property relatives have visited and left with free sheep manure in bags, the neighbours have also taken sheep manure from the business for free.*

*Various activities involving movement of all vehicle types occur within the locality specifically:*

- *a house under construction at the end of the road*
- *the owner of the recently approved paintball is getting the site ready and has vehicle on the site daily*
- *a nursery business at the entrance of Boomerang Road*
- *a house for sale next door to the property attracting many viewers*
- *a truck across the road used to pick up limestone*
- *a bobcat across the road used to operate at times up to 9pm*
- *a property down the road has horse floats, trucks, utilities going in and out throughout the day*
- *Cars also go down the dead end looking for the dirt bike racing.*

Based of the information submitted and result of the traffic counter, it is evident a business involving regular movements of class three vehicles is well established. However, there are other activities (not related to this business) currently happening within this locality that have the potential to increase traffic movement level thereby aggravating the dust nuisance on this gravel road.

***A copy of the report of a daily categorised vehicle numbers and type of vehicles movement risk based for a period of 8 days are with the attachments marked SD074.4/12/09.***

### **Previous Approvals**

#### *Poultry Farm – Lot 717 Boomerang Road, Oldbury*

Council granted a conditional renewal approval on 18 April 2007 for the proposed extensions of the existing poultry farm. The approval was granted subject to conditions including decommissioning of all the old existing sheds, except shed number seven (#7). Condition 6 of the approval related to the upgrading of Boomerang Road:

*Prior to the issue of a Building Licence the proponent shall pay to the Council a contribution toward the upgrading and bituminous surfacing of Boomerang Road between King Road and the western access to the premises equal to 50% of the estimated cost of investigation, design and construction as determined by Council's Director Engineering.*

The Western Australian Planning Commission (WAPC) granted conditional approval for the development under the Metropolitan Region Scheme on 20 September 2007.

After planning approvals were granted, the landowner did not proceed with the development.

#### *Private Recreation – Lot 50 Boomerang Road, Oldbury*

An application for planning approval for the establishment of a Private Recreation – Paintballing gaming facility on Lot 50 Boomerang Road was refused by Council on 27 October 2008. One of the reasons for refusal related to the current condition of Boomerang Road being unsealed and requiring substantial upgrading at the cost of the proponent to



address the dust issues that would result from the significantly increased traffic volumes on the road.

Pursuant to this decision, the applicant made an application through SAT to have the decision reviewed. Through the mediation process, Council reconsidered the matter and set aside the decision to refuse the application and substituted a new decision to approve the Private Recreation (Paintballing Facility), subject to the condition relating to the upgrade of the gravel road as follows:

*Arrangements being made with the Local Government for the upgrading of Boomerang Road for a distance of 1.15 kilometres west of King Road at the full cost to the landowner, to the satisfaction of Council*

However, this planning condition was overturned by SAT on 14 August 2009, based on the reasons outlined below:

- (a) *While the proposed development will generate additional traffic which may ultimately contribute to the need for the road to be sealed if other activities on other properties along Boomerang Road intensify, the Tribunal was not satisfied the other properties are likely to be redeveloped within the foreseeable future. Therefore the nexus between the development and the road sealing condition was not established;*
- (b) *It would not be reasonable to impose the full cost of the upgrade of the road on the Applicants and some methodology for establishing an equitable contribution would need to be established, ideally in a local contributions planning policy.*

Based on the traffic information above and past Council decisions, Officers are of the view that it is reasonable to impose a condition regarding an appropriate contribution towards the partial upgrading of Boomerang Road. The applicant advises that there will be between 3-5 truck movements per day to the site.

The applicant would have a right of appeal to SAT if they are dissatisfied with a road upgrading condition. Based on the previous decision of SAT, it may be difficult to argue a similar road upgrading condition.

The potential environmental impacts on the established wetland running across the property and some remnant vegetation of paperbark trees.

The northern part of the property contains a multiple use category wetland, as classified under the geomorphic wetlands dataset. According to the DEC's wetland position statement it is described as a wetland with few important ecological attributes and functions remaining. The potential threats to the wetland related to this proposal that can be mitigated by buffering could be diminished water quality (nutrients, organic compounds and suspended solids). The use (sheep manure packaging) is not likely to conflict with the management objective if the site is properly managed.

The sheep manure packaging activities are being carried out in one of the seven existing former poultry sheds that have a concrete base (#7). It is important that a management plan be developed that clearly outlines how the cleaning of the packing shed will occur. Run-off from the cleaning of the shed should be captured so as to prevent pollutants entering the local stormwater and groundwater systems. Pollutant traps should be regularly serviced and a monitoring program should be established to ensure that nutrient levels in run-off do not have an adverse impact.

## **TPS 2**

### Unauthorised Development

As approval has not been granted previously for the existing Manure Packaging Activity (Industry Noxious), the carrying out of an unauthorised development constitutes an offence under the Scheme as per clause 8.3 of the Shire's TPS 2 below:

### 8.3 OFFENCES

**8.3.1** *A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building for any purpose:*

*(a) otherwise than in accordance with the provisions of the Scheme;*

*(b) unless all consents required by the Scheme have been granted and issued;*

*(c) unless all conditions imposed upon the grant and issue of any consent required by the Scheme have been and continue to be complied with; and*

*(d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.*

**8.3.2** *A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.*

In accordance with the scheme, planning approval is required for all commercial activities within the Shire. The landowner did not obtain the prior planning consent of the Council and therefore committed an offence under the scheme. It is important to note, however, that Council is obligated to determine the application based on the information submitted against the existing statutory planning framework; past, current or possible future compliance-related issues are not relevant in the determination of the application.

#### Retrospective Application

In considering whether to grant retrospective planning consent, the TPS 2 contains the following provision:

### 6.8 UNAUTHORISED EXISTING DEVELOPMENT

**6.8.1** *The Council may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, providing the development conforms to the provisions of the Scheme.*

It is considered that the retrospective proposal complies with the provisions of the scheme.

#### Use Class & Permissibility

Under TPS 2 the proposal falls into the Industry Noxious category. The use is defined under TPS 2 as follows:

**Industry - Noxious** - means an industry in which the processes involved constitute an offensive trade within the meaning of the *Health Act, 1911* (as amended), but does not include a fish shop, dry cleaning premises, marine collectors yard, laundromat, piggery or poultry farm.

Under TPS 2 the Council has the discretionary power to approve of the use in the Rural zone.

## **Options**

There are a number of options available to Council in determining the application, namely:

1. to approve the application, subject to conditions;
2. to defer consideration of the application; and
3. to refuse the application.

## **Conclusion**

The information provided by the Department of Health and the assessment of the proposal by the Shire's Health Department demonstrates that based on the size of the proposed operation, it is highly unlikely that there will be serious health impacts caused by the minimal offsite impacts of noise, odour and dust.

The proposed uses can be approved by Council under the provisions of TPS 2. The purpose and intent of the Rural zone, as defined by clause 5.10.1 of the scheme, is "*to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the scheme area*". In the instance that Council approves the application, appropriate conditions may be imposed to ensure that use of the land does not unduly impact on the amenity of adjoining properties or the character of the area.

Based on the information currently available and having regard to the matters outlined in this report, it is recommended that the application be approved subject to appropriate conditions.

**Voting Requirements:** Simple Majority

## **Committee/Officer Recommended Resolution:**

The application for retrospective approval to commence development for the Industry-Noxious (Sheep Manure Packaging) on Lot 717 (#254) Boomerang Road, Oldbury is approved subject to the following conditions:

1. Approval for the Industry – Noxious is restricted to wholesale trade of the packaging of sheep manure only, up to 1000 tonnes per year. No processing or composting of any form of manure is permitted.
2. Approval for the Industry-Noxious (Sheep Manure Packaging) is limited to one shed only, being shed number seven. Further expansion of the facility requires approval from the Shire.
3. No development or earthworks shall occur within 50 metres from the edge of the wetland dependant vegetation.
4. All solid wastes should be contained in weather-proof conditions (on a covered hardstand) until removed from the site for disposal at an approved facility.
5. The proponent shall pay to the Council a contribution toward the upgrading and bituminous surfacing of Boomerang Road between King Road and the western access (about 880 metres) to the premises equal to 50% of the estimated cost of investigation, design and construction as determined by the Shire's Director Engineering within 60 days of this approval.
6. The applicant shall construct access crossings servicing the property within 60 days of this approval with pavement strength and asphalt surface able to safely accommodate the turning movements of the largest design vehicle intended to access the property.
7. A Landscape and Vegetation Management Plan for the vicinity of Shed 7, shall be submitted for Shire approval within 28 days of development approval being issued. Once approved, the Landscape and Vegetation Management Plan is to be implemented in its entirety by 30 September 2010 and thereafter maintained to the satisfaction of the Shire.
8. The owner shall keep a register of any complaints received and remedial action taken.

9. All manure packaging activities including deliveries shall take place between the hours of 7.00am and 7.00pm excluding Sundays and public holidays.

Advice Notes:

1. In respect of Condition No. 5 the applicant is advised that Council will require a 50% monetary contribution towards the upgrading of the section of Boomerang Road between King Road and the western most entry point of the site to a sealed standard in accordance with Council's Road Standards policy.
2. Separate approval may need to be obtained from the Department of Water for a bore licence.
3. Native vegetation is valued and protected in the Serpentine Jarrahdale Shire. You are advised that Council's Town Planning Scheme requires separate approval for the clearing of native trees in most instances if approval for this is not given above.
4. The construction or deepening of drains outside of the above approval requires separate approval by the Commissioner of Soil and Land Conservation.
5. Approval does not obviate compliance with any other appropriate legislation in particular, the Environmental Protection (Noise) Regulations 1997.
6. The applicant is advised that this planning consent does not absolve the applicant or owner from time to time from complying with the restrictions contained in any restrictive covenant, estate covenants or easement pertaining to the site. This is the case even if this planning consent is in respect of a development which if constructed or carried out, would necessarily breach such a covenant or easement. Any such restrictive covenant, estate covenant or easement is a matter of private rights between the applicant or owner from time to time and the owner and owners of the land with the benefit of that restrictive covenant, estate covenant or easement, and this planning consent does not authorise a breach of such private rights or prevent such owners from enforcing such rights.
7. The applicant is advised that were there any ongoing complaints and/or evidence of health and amenity impacts on adjoining landowners such as odour noise and/or dust nuisances, the Shire may require the proponent to appoint suitably qualified persons to undertake assessments of those impacts and provide a report to the Shire on the compliance with relevant criteria and/or requirements and recommendations for the management or mitigation of any significant impacts.
8. The proponent is required to make application to the Manager of Health and Ranger Services for an Offensive Trades licence in the form prescribed in the Health Act 1911, within 30 days of receiving planning approval.
9. The landowner shall ensure the building complies with the Building Code of Australia within 60 days of this approval to the satisfaction of the Manager Building Services

Committee Note: Condition 9 was amended by adding the words "*excluding Sundays and public holidays*" and Condition 1 was amended by adding the words "*wholesale trade of the*". The Presiding Officer deemed this to be a minor change which does not change the intent of the recommendation.

**New Motion:**

**Moved Cr Murphy, seconded Cr Kirkpatrick**

**The application for retrospective approval to commence development for the Industry-Noxious (Sheep Manure Packaging) on Lot 717 (#254) Boomerang Road, Oldbury is refused for the following reasons:**

1. The odour, noise, traffic and dust generated as a result of this land use are likely to have an adverse impact on the amenity of the area and nearby landowners.
2. Boomerang Road is unsealed and would require substantial upgrading at the cost of the proponent to address the dust issues that would result from the significantly increased traffic volumes on the road.

**LOST 6/5**

**The Shire President used her casting vote**

Cr Harris foreshadowed that she would move the Committee/Officer Recommended Resolution if the motion under debate is defeated.

**SD074/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Randall**

The application for retrospective approval to commence development for the Industry-Noxious (Sheep Manure Packaging) on Lot 717 (#254) Boomerang Road, Oldbury is approved subject to the following conditions:

1. Approval for the Industry – Noxious is restricted to wholesale trade of the packaging of sheep manure only, up to 1000 tonnes per year. No processing or composting of any form of manure is permitted.
2. Approval for the Industry-Noxious (Sheep Manure Packaging) is limited to one shed only, being shed number seven. Further expansion of the facility requires approval from the Shire.
3. No development or earthworks shall occur within 50 metres from the edge of the wetland dependant vegetation.
4. All solid wastes should be contained in weather-proof conditions (on a covered hardstand) until removed from the site for disposal at an approved facility.
5. The proponent shall pay to the Council a contribution toward the upgrading and bituminous surfacing of Boomerang Road between King Road and the western access (about 880 metres) to the premises equal to 50% of the estimated cost of investigation, design and construction as determined by the Shire's Director Engineering within 60 days of this approval.
6. The applicant shall construct access crossings servicing the property within 60 days of this approval with pavement strength and asphalt surface able to safely accommodate the turning movements of the largest design vehicle intended to access the property.
7. A Landscape and Vegetation Management Plan for the vicinity of Shed 7, shall be submitted for Shire approval within 28 days of development approval being issued. Once approved, the Landscape and Vegetation Management Plan is to be implemented in its entirety by 30 September 2010 and thereafter maintained to the satisfaction of the Shire.
8. The owner shall keep a register of any complaints received and remedial action taken.
9. All manure packaging activities including deliveries shall take place between the hours of 7.00am and 7.00pm excluding Sundays and public holidays.

**Advice Notes:**

1. In respect of Condition No. 5 the applicant is advised that Council will require a 50% monetary contribution towards the upgrading of the section of Boomerang Road between King Road and the western most entry point of the site to a sealed standard in accordance with Council's Road Standards policy.
2. Separate approval may need to be obtained from the Department of Water for a bore licence.
3. Native vegetation is valued and protected in the Serpentine Jarrahdale Shire. You are advised that Council's Town Planning Scheme requires separate approval for the clearing of native trees in most instances if approval for this is not given above.
4. The construction or deepening of drains outside of the above approval requires separate approval by the Commissioner of Soil and Land Conservation.
5. Approval does not obviate compliance with any other appropriate legislation in particular, the Environmental Protection (Noise) Regulations 1997.

6. The applicant is advised that this planning consent does not absolve the applicant or owner from time to time from complying with the restrictions contained in any restrictive covenant, estate covenants or easement pertaining to the site. This is the case even if this planning consent is in respect of a development which if constructed or carried out, would necessarily breach such a covenant or easement. Any such restrictive covenant, estate covenant or easement is a matter of private rights between the applicant or owner from time to time and the owner and owners of the land with the benefit of that restrictive covenant, estate covenant or easement, and this planning consent does not authorise a breach of such private rights or prevent such owners from enforcing such rights.
7. The applicant is advised that were there any ongoing complaints and/or evidence of health and amenity impacts on adjoining landowners such as odour noise and/or dust nuisances, the Shire may require the proponent to appoint suitably qualified persons to undertake assessments of those impacts and provide a report to the Shire on the compliance with relevant criteria and/or requirements and recommendations for the management or mitigation of any significant impacts.
8. The proponent is required to make application to the Manager of Health and Ranger Services for an Offensive Trades licence in the form prescribed in the Health Act 1911, within 30 days of receiving planning approval.
9. The landowner shall ensure the building complies with the Building Code of Australia within 60 days of this approval to the satisfaction of the Manager Building Services.

**CARRIED 8/2**

**COUNCIL DECISION**

Moved Cr Hoyer, seconded Cr Randall that item SD088/12/09 be discussed out of order whilst members of the gallery are present to hear the item.

**CARRIED 10/0**

SD088/12/09		RESTORATION OF DEVELOPER CONTRIBUTION FUNDS TO THE RESIDENTS OF BYFORD EAST (A1294)	
Proponent:	Councillor Tom Hoyer	In Brief  The proponent seeks to encourage Council to consider restoring excess Developer Contributions to the affected residents in Byford East.	
Owner:			
Officer:			
Senior Officer:			
Date of Report	8 December 2009		
Previously	N/A		
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>		

For many years, the less than 10 effected residents in Byford East have been waiting for the Byford Developer Contributions Plan to be finalised. The initial developer contributions were far in excess of the newly evaluated amounts. To continue to hold these funds is unfair.

Recently, the final deliberations of the Byford Structure Plan – Draft Developer Contribution Plan have concluded with a tentative amount of \$5000.00 per lot (excluding the ‘house lot’) for the Byford East urban arena.

As the Byford Structure Plan – Draft Developer Contribution Plan has recognised the assessed new developer contribution amount, these excess funds should be returned to the effected residents.

**SD088/12/09 COUNCIL DECISION/Committee/Councillor Recommended Resolution:**

**Moved Cr Hoyer, seconded Cr Murphy**

**That subject to legal advice being received and a report being presented to the January Sustainable Development Committee meeting, Council considers the return of the excess developer contribution funds, presently held in the designated trust account, which represents the difference between the amount collected from certain ratepayers in Byford East and the amount determined by the Draft Byford Structure Plan - Byford Developer Contribution Plan.**

**CARRIED 10/0**

<b>SD075/12/09 EXTRACTIVE INDUSTRY LICENCE RENEWAL &amp; PLANNING APPROVAL – LOT 3 &amp; PORTION OF LOT 901 (FORMERLY LOTS 3 &amp; 344) SOUTH WESTERN HIGHWAY, WHITBY (P08329/01)</b>		
<b>Proponent:</b>	WA Bluemetal	<b>In Brief</b>  To consider the issue of a planning approval and extractive industry licence for an Extractive Industry for crushed and screened granite. It is recommended that a planning approval and an extractive industry licence be granted for a 3 year period, expiring 31 December 2012.
<b>Owner:</b>	Ransberg Pty Ltd	
<b>Author:</b>	Michael Daymond – Senior Planner	
<b>Senior Officer:</b>	Brad Gleeson – Director Development Services	
<b>Date of Report</b>	25 November 2009	
<b>Previously</b>	SD020/08/09	
<b>Disclosure of Interest</b>	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: 16 September 2009  
 Advertised: No  
 Submissions: No  
 Lot Area: 65.25 ha & 61.75 ha  
 L.A Zoning: Rural, Public Purposes reserve, Parks & Recreation reserve  
 MRS Zoning: Rural, Public Purposes reserve, Parks & Recreation reserve  
 Rural Strategy Policy Area: Agricultural Protection and Raw Materials Extraction  
 Rural Strategy Overlay: Landscape Protection Policy Area  
 Date of Inspection: 12 November 2009

**Background**

Previous Licence

At its meeting held on 24 August 2009, Council resolved to grant an Extractive Industry licence for a period of twelve months, back dated from the 31 December 2008, expiring 31 December 2009. Under Council's Planning Policy 14 - Extractive Industry Licences (PP14), an audit of the operation is required to be undertaken on a yearly basis. An audit of the site was undertaken on 12 November 2009.

Current Approval & Licences

The Western Australian Planning Commission (WAPC) granted planning approval on 1 December 1999 for the extractive industry under the Metropolitan Region Scheme (MRS). This approval expired on 1 December 2009 and is in the process of being renewed by the WAPC.

The operations at the site are also governed by a licence from the Department of Environment and Conservation (DEC). This approval expires on 14 June 2011.

***A copy of the location plan and aerial photograph are with the attachments marked SD075.1/12/09.***

***A copy of the previous Shire Extractive Industry Licence is with the attachments marked SD075.2/12/09.***

***A copy of the quarry layout is with the attachments marked SD075.3/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** Extractive industries have the potential to have a significant effect on the environment if the operations are not undertaken in accordance with statutory approvals and licence conditions. Possible impacts on the environment include noise, dust, water quality, vegetation and visual amenity. These issues are examined at the time of site visits by Shire officers and if any complaints are received from the public. The issues as noted during the last inspection relate to the provision of cover over the crusher for noise mitigation measures. This issue is discussed later in the report. The extraction of granite has the potential to significantly alter the existing landscape, reduce the visual amenity of the area and reduce biodiversity.

***Resource Implications and Use of Local, Renewable or Recycled Resources:*** The proposal will extract a large volume of granite over the life of the extractive industry. The proposal has the potential to use significant amounts of water for dust prevention and fuel for the operation of machinery.

***Economic Viability:*** The extraction of granite has the potential to significantly alter the existing landscape, reduce the visual amenity of the property and reduce biodiversity on the subject land.

***Economic Benefits:*** The operation provides employment opportunities for the community.

***Social – Quality of Life, Social and Environmental Responsibility and Social Diversity:*** The proposal may impact upon the community if the operations do not comply with statutory approvals and licence conditions.

### **Statutory Environment:**

Local Government Act 1995.  
Planning and Development Act 2005  
Extractive Industries – Local Law 1995  
Town Planning Scheme No. 2  
Council Planning Policy 14 (PP14) – Extractive Industry Licences  
Local Planning Policy (LPP) 8 – Landscape Protection  
MRS

### **Extractive Industries Local Law**

Extracts from the Local Law are outlined below

### ***Part 2 - Licensing Requirements for an Extractive Industry***

### ***EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE***



- 2.1 *A person must not carry on an extractive industry -*
- (a) *Unless the person is the holder of a valid and current licence; and*
  - (b) *Otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.*

*Penalty \$5,000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.*

#### **PAYMENT OF ANNUAL LICENCE FEE**

- 3.2 *On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.*

#### **RENEWAL OF LICENCE**

- 4.3(4) *Upon receipt of an application for the renewal of a licence, the local government may-*
- a) *refuse the application; or*
  - b) *approve the application on such terms and conditions, if any, as it sees fit.*

Under the Extractive Industries Local Law, applications to renew a licence are required to be submitted at least 45 days prior to the expiration of the licence. The current application was submitted well before this date.

#### **Policy/Work Procedure**

##### **Implications:**

LPP8 - Landscape Protection Policy area. The objectives of this policy are:

1. To preserve the amenity deriving from the scenic value of the Darling Scarp;
2. To maintain the integrity of landscapes within the Landscape Protection Area;
3. To protect and enhance the landscape, scenic and townscape values through control over design, building materials and siting of development and land uses rather than prohibition of development and land use as such;
4. To maintain the integrity of landscapes in the line of sight view corridor along identified scenic routes in the Shire, including but not limited to South Western Highway, Nettleton Road, Jarrahdale Road, Admiral Road, Kingsbury Drive and both the north-south and east-west railway lines and natural water courses;
5. To provide developers and landowners with a statement describing the requirements for the subdivision and development within the Landscape Protection Area.

It is considered that the renewal of the Extractive Industry Licence complies with the objectives of LPP8.

PP14 - The objectives of this policy are:

1. To provide incentive for good management of extractive industries within the Shire in accordance with extractive industry licence conditions.

2. To provide a level of certainty to extractive industry licence holders on the licence approval and audit process.
3. To set a process for determining the level of non-compliance with licence conditions to be applied in determining the length of extractive industry licence.
4. To set a process for determining audit review timeframes.
5. To set a process for reviewing of documents required under licence conditions to be undertaken by Shire officers.

**Financial Implications:**

The Extractive Industry Licence annual renewal fee of \$4,500.00 was paid for the 2010 calendar year. The Development Application fee of \$662.00 has also been paid.

**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:

1. Increase information and awareness of key activities around the Shire and principles of sustainability.
5. Protect built and natural heritage for economic and cultural benefits.

**2. Environment**

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

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
3. Encourage protection and rehabilitation of natural resources.
4. Reduce water consumption.

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

Strategy:

1. Implement known best practice sustainable natural resource management.

**3. Economic**

*Objective 1: A vibrant local community*

Strategy:

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

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

Strategy:

2. Consider specific sites appropriate for industry /commercial development

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

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

### **Community Consultation:**

Community consultation was not required for this development application or the Extractive Industry Licence renewal.

Approval by the WAPC is required to be undertaken under the MRS, as the current planning approval is due to expire. As the WAPC approval expired on 1 December 2009, the application was referred to the WAPC for determination on 27 October 2009.

### **Comment**

#### **Statutory Environment & Land Swap**

The WA Bluemetal quarry used to be situated on Lot 344 South Western Highway with the stockpile area located on Lot 4223. These lots have now been subdivided into Lots 901 and 902. As a result of this subdivision, which was approved by the WAPC on 28 December 2007, the quarry is now located on the southern portion of Lot 901 South Western Highway, with the stockpile area located on the northern portion. The deposited plan relating to the subdivision was only recently endorsed by the WAPC on 15 June 2009.

The current zoning under both the MRS and the Shire's Town Planning Scheme No.2 (TPS 2) is Rural for Lots 3 and 902. Lot 901 is made up of a portions of 'Rural' zoning, 'Public Purposes – Hospital' reserve and 'Parks and Recreation' reserve. This has come about as previous Lot 4223 was transferred to WA Bluemetal from the Health Department.

The purpose of the subdivision was to allow the applicant to facilitate a land swap that was previously agreed to by the DEC and WAPC. The southern portion of Lot 344 was transferred to the DEC in exchange for land on the north side of Manjedal Brook, within State Forest, that will eventually be mined by WA Bluemetal. This future expansion will be subject to a separate application. As the southern portion of the land (now Lot 902) is pristine scarp land that contains Manjedal Brook and significant stands of high quality vegetation, the land swap with the DEC delivered beneficial environmental outcomes for all parties concerned.

Due to this land swap, the portion of land that contains the Manjedal Brook is no longer in the ownership of WA Bluemetal as it is now owned by the DEC. As such, any conditions on the current Extractive Industry Licence regarding the Manjedal Brook are no longer relevant to WA Bluemetal and therefore were not audited during the recent site inspection.

It is noted that the northern portion of Lot 901, which was formerly Lot 4223 under the control of the Health Department, is used for the stockpiling of material and has not previously been approved by Council for this use. As this portion of land is still reserved for the purpose of 'Public Purposes – Hospital' under the MRS, it needs to be rezoned to an appropriate land zoning before any approvals over this land can be issued. These issues need to be addressed at the same time as the future expansion to the north, into the former State Forest land, is considered. This will be addressed through a separate process.

As the northern portion of Lot 901 is not zoned appropriately for any approvals to be issued over this land, the planning approval and renewal of the extractive industry licence can only be issued over the southern portion of Lot 901, being former Lot 344. This is reflected in the officer recommendation.

***A copy of the previous cadastral boundaries, prior to subdivision, and current cadastral boundaries, after subdivision, are with attachments marked SD075.4/12/09***

***An aerial photograph and cadastral plan showing the portion of the land excluded from the licence and planning approval is with attachments marked SD075.5/12/09.***

Site Inspection

Under PP14, a six monthly inspection of the site is required to be carried out for those operations granted licences for periods of one year. The 2009 licence was issued late by the Shire in August 2009 and therefore only one inspection has been carried out prior to the expiration of the licence on 31 December 2009. The inspection was undertaken on 12 November 2009.

Following the inspection and after assessment of the 2009 Annual Report, WA Bluemetal were found to be compliant in all areas with respect to their Extractive Industry licence, except in relation to two (2) conditions detailed below.

PP14

PP14 sets out guidelines to help Council staff determine the length of licences that should be issued to extractive industry operators. An assessment of the non-compliant condition against PP14 is detailed below.

*Condition 38 The crusher must have a cover which ameliorates the noise emissions. The crusher shall not be operated whilst its cover is not in place. Should the crusher cover be removed for any reason, the Shire is to be informed immediately by facsimile and the crusher not to be restarted until the cover is replaced.*

In terms of site management and operations, PP14 provides the following guidance. A critical ten (10) points of non-compliance is achieved when “non compliance occurred and no remedial action undertaken by next audit”.

On 23 September 2009, one month after the last licence was issued, WA Bluemetal advised that they will not be installing covers on the primary crusher as long as they comply with the appropriate noise regulations. This non compliance was also discussed during the site inspection when WA Bluemetal reiterated that the required cover has not been installed.

Under PP14, ten (10) points of non-compliance are recommended to be imposed as the landowner did not want to install the cover over the crusher. The reasons for this are discussed later in the ‘Noise Management’ section of this report. As WA Bluemetal are non-compliant against a licence condition the length of the licence issued then becomes an issue for the landowner.

*Condition 37 The licensee shall submit by 31 October 2009 a written report outlining the licensee's actions in response to the seven (7) recommendations of Golder Associates regarding the stability of the earth bund.*

A check of Council's records indicates that this written report has not been submitted. In terms of the submission of plans, PP14 provides the following guidance. A major (5) points of non-compliance is achieved when “plans submitted over 30 days late”. Although the written report is technically not a plan, it is considered to fall within this category as PP14 makes no reference to the preparation of reports. As such, this non compliance is awarded five (5) points under PP14.

The requirement for an annual report to be provided to the Shire reporting on the stability of the southern screening earth bund is included as condition 32 in the officer recommendation.

Total Audit Points = 15

Under PP14, if fifteen (15) audit points are obtained a 6 month licence is usually recommended with site inspections being undertaken prior to the expiration of the licence. Given the nature of the two outstanding issues, together with the progress that WA Bluemetal have made over the past year to bring their operations more closely into compliance with the Shire's requirements, a 6 month licence is not recommended. A 3 year licence is recommended as it provides enough time for the Shire to continue to work with the operator to address the outstanding non-compliant matters, prior to being presented back to Council. The applicant advises that WA Bluemetal have at least another 100 years of resource left, so a 6 month licence really serves no useful purpose in working towards bringing their operations into full compliance.

Council is advised that the applicant has a right of appeal against any length of licence that is issued by the Shire. However, a licence of 6 months or 1 year is more likely to end up before the SAT.

### Noise Management

The issues of noise management and noise complaints have been discussed in detail during the last two 'Community Liaison Meetings' held at the Shire between Shire staff, the operator and community members on 18 April 2008 and 20 April 2009. In 2008, a noise assessment and report was presented to the stakeholders meeting and a noise complaint procedure agreed to by all parties. The procedure was that any complaints would be forwarded directly to WA Bluemetal when the noise was evident and the operators would undertake a site visit immediately to assess the noise and take the necessary action. The minutes of the 2009 meeting noted that this procedure for the registering of noise complaints has been operational for 30 months, with no complaints regarding noise being made to the Shire or WA Bluemetal within the last 24 months. Further, WA Bluemetal has not received any complaints directly from the public in relation to noise issues.

The Shire's Environmental Health department have confirmed that the Shire has not received any noise complaints for the same period. In addition, the proponent has detailed a Noise Management Plan in their annual Environmental Report 2009/10 which is deemed to be satisfactory. Given that there have been no noise complaints received and that there is a Noise Management Plan in place, there are no noise issues that the Shire needs to respond to at this time.

Regardless of the above, at the Ordinary Council Meeting of 24 August 2009 when the previous licence was renewed, an additional condition regarding the amelioration of noise impacts from the crusher was included within the Council resolution. This condition states:

*"38. The crusher must have a cover which ameliorates the noise emissions. The crusher shall not be operated whilst its cover is not in place. Should the crusher cover be removed for any reason, the Shire is to be informed immediately by facsimile and the crusher not to be restarted until the cover is replaced"*

In response to this condition, in preparation for the current licence renewal, the applicant has provided the following comment:

*"This condition raises all sorts of legal liabilities and implications for the Shire. The Environmental Protection (Noise) Regulations 1997 are issued under the Environmental Protection Act which is likely to prevail in a legal inconsistency. Therefore, if the quarry complies with the regulations it would be difficult for the Shire to achieve a prosecution under this condition.*

*On the other hand if the Shire fails to enforce the condition they could be deemed negligent under the Local Government Act. As the condition stands that WA Bluemetal "must have a cover" a cover is the only situation that can achieve compliance and it "must" be installed. As such if the Shire placed a stop work order on WA Bluemetal and WA Bluemetal was found to*

*be in compliance with the Noise Regulations, which is the case, then WA Bluemetal may have recourse for damages against the Shire.*

*WA Bluemetal is not prepared to spend the perhaps \$1 million dollars to cover the crusher when they comply with the noise regulations and would have no choice but to appeal the condition to the State Administrative Tribunal (SAT) as it stands. No one wants this situation to occur and as the condition stands it cannot be sensibly complied with. It should also be noted that the noise regulations provide for minor exceedances by 10 dB for LA10 and by 20 dB for LA1 which would cover any occasional sound being heard (LA10 and LA1 are exceedances for 10% and 1% of the time)".*

In light of the above, the applicant has proposed an alternative wording to the condition as follows:

*In the event of any exceedance of the Environmental Protection (Noise) Regulations 1997, the primary crushing facility will be equipped with such noise attenuation measures as necessary to comply with the Regulations.*

As no noise complaints have been received and given that the operation complies with the Environmental Protection (Noise) Regulations 1997, the previous licence condition requiring a cover on the crusher is not warranted. If Council resolves to impose the same condition again on the new licence then the applicant has a right of appeal through the SAT. The applicant has previously advised that this option would be pursued.

It is recommended that the condition be reworded to require the preparation of a noise assessment if a significant number or ongoing noise complaints are received regarding the primary crushing facility and/or if there is any exceedance of the Environmental Protection (Noise) Regulations 1997. Therefore, the proposed rewording of the condition is as follows:

*In the event of a significant number or ongoing noise complaints being received regarding the primary crushing facility and/or any exceedance of the Environmental Protection (Noise) Regulations 1997, the licensee shall within 60 days employ a suitably qualified acoustic consultant to undertake a noise assessment of the operations. This report is to be provided to the Shire's Director Development Services and is to detail all noise exceedances and recommended noise management and mitigation measures to be undertaken.*

The above modified condition is included within the officer recommendation.

#### Other Relevant Information

During the audit inspection it was revealed that a number of conditions on the current licence are no longer relevant for the following reasons:

- They are no longer required as a result of the recent land swap with the DEC;
- They are already covered under other legislation and/or licencing requirements; or
- They refer to the preparation of documentation that has previously been prepared and approved by Council.

Detailed below are the current licence conditions that are proposed to be removed or modified for the new licence, with relevant officer comments provided against each condition. These conditions have been reworded on behalf of WA Bluemetal and proposed to the Shire, after initial consultation with Shire staff.

#### **Condition 5**

5. The licensee shall prepare by 31 October 2009, an updated Water Management Plan for approval by Director Strategic Community Planning and thereafter implement the approved Water Management Plan in its entirety.

Proposal

To be modified to:

*The licensee shall comply with the Stormwater Management Plan for the Southern Screening Bund dated May 2009 and prepare a 5 yearly updated Water Management Plan by 31 October 2010 for approval by Director Strategic Community Planning and thereafter implement the approved Water Management Plan in its entirety.*

Officer Comment

The Stormwater Management Plan dated May 2009 was essentially just a one page summary of the previous years work. The Stormwater Management Plan for the Southern Screening Bund dated May 2008 was more comprehensive and thus should be reflected in the condition, as opposed to the May 2009 plan. It is considered that the approved plan from May 2008 can be used until a new plan is required to be prepared by October 2010. This will necessitate some changes to the suggested wording above as detailed below.

RECOMMENDATION: To be modified to:

*The licensee shall comply with the Stormwater Management Plan for the Southern Screening Bund dated May 2008 and prepare a new Stormwater Management Plan by 31 March 2010 for approval by the Director Engineering and thereafter implement the new approved Stormwater Management Plan in its entirety.*

**Condition 8**

8. The quality of water in Manjedal Brook at the western boundary of the site is to be within 80mg/l of the quality of water at the eastern boundary of the site as measured during the months of April to November.

Proposal

To be modified to:

*The quality of water in Manjedal Brook at the western boundary of the site is to be within 80mg/l TSS and 5 mg/L oil and grease of the quality of water at the eastern boundary of the site as measured during the months of April to November.*

Officer Comment

The modification was proposed in order to bring the condition into line with the current licence from the DEC. However, the current DEC licence does not refer to a variation from boundary to boundary but instead refers to the maximum readings that should be obtained from the site. In order to bring the licence into line with the DEC's licence, some changes to the suggested wording above will be required. This is detailed below:

RECOMMENDATION: To be modified to:

*The quality of water directly or indirectly discharged from the site shall not exceed a concentration limit of 80mg/l TSS and 5 mg/L oil and grease.*

**Condition 11**

11. The licensee is to ensure that there are no interruptions or obstructions to the flow of Manjedal Brook as a result of extractive industry site works, infrastructure, stockpiles, operations or site rehabilitation.

Proposal

To be removed.

Officer Comment

This condition is no longer required as the quarry, now on Lot 901, has no association with the Manjedal Brook.

RECOMMENDATION: Removal supported.

**Condition 12**

12. The licensee shall prepare by 31 October 2009 a Biodiversity and Landscape Management Plan for approval by Director Strategic Community Planning approval and thereafter implement the approved Biodiversity and Landscape Management Plan in its entirety.

Proposal

To be modified to:

*The licensee shall comply with the approved Updated Rehabilitation Plan dated 20 August 2005 and prepare by 31 October 2010 a 5 yearly updated plan for approval by the Director Strategic Community Planning and thereafter implement the approved Biodiversity and Landscape Management Plan in its entirety.*

Officer Comment

This plan has previously been approved by Council so the licence condition should reflect this. However, it is considered that the approved updated Rehabilitation Plan from 2005 can be used until a plan is required to be prepared by October 2010. This will necessitate some changes to the suggested wording above as detailed below.

RECOMMENDATION: To be modified to:

*The licensee shall comply with the approved updated Rehabilitation Plan dated 20 August 2005 and prepare a new Rehabilitation Plan by 31 October 2010 for approval by the Director Strategic Community Planning and thereafter implement the new approved Rehabilitation Plan in its entirety.*

Advice Note:

*The new Rehabilitation Plan for approval in 2010 shall:*

- *Contain criteria that will be met and maintained for the life of the extractive industry licence and for the approved period of time post closure;*
- *Include reference to the southern screening bund and the maintenance of vegetation on it;*
- *Contain reference to the new extractive industry footprint and any works that will be carried out within these newly defined areas;*
- *Contain commitments of rehabilitation works to be carried out for the 5 year period.*

**Condition 13**

13. Revegetation of forest, bushland and riparian habitats is to:

- b) achieve a minimum survival of 1,200 locally native tree stems and 10,000 locally native shrub and ground cover stems per hectare when a minimum of 80% of the plants are at least three years old;



- c) achieve a plant diversity of at least 75% of those species on the Shire species list for the defined community outcome with at least 5 species established per 20m<sup>2</sup>

Proposal

To be modified to:

*Revegetation of forest, bushland and riparian habitats is to:*

- b) *achieve a minimum survival of 1,200 locally native tree stems and plant density of 20 per 100m<sup>2</sup> with a minimum of 80% of the plants are at least three years old;*  
c) *achieve a species richness of 10 species per 100 m<sup>2</sup> and plant diversity of local species.*

Officer Comment

This requirement is stipulated within the approved Updated Rehabilitation Management Plan and therefore should be reflected within the licence condition.

RECOMMENDATION: Modification supported.

**Condition 18**

18. The licensee shall rehabilitate the land adjacent to the northern side of Manjedal Brook, within the boundaries of the subject property, to the satisfaction of the Shire and the Department of Environment and Conservation.

Proposal

To be removed.

Officer Comment

This land is now owned by the DEC and is therefore no longer under the control of WA Bluemetal.

RECOMMENDATION: Removal supported.

**Condition 19**

19. The licensee shall implement the approved Dust Management Plan, dated May 2008, in its entirety to the satisfaction of the Director Development Services.

Proposal

To be modified to:

*The licensee shall implement the approved Dust Management Plan, contained in the Updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Dust Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Strategic Community Planning.*

Officer Comment

The Dust Management Plan was updated in August 2009 so the licence condition should reflect this. The rewording also allows for an update of the plan to be provided in 2014.

RECOMMENDATION: Modification supported, subject to 'Director Strategic Community Planning' being replaced with 'Director Development Services'.

**Condition 22**

22. The licensee shall implement the approved Noise Management Plan, dated May 2008, in its entirety to the satisfaction of the Director Development Services.

**Proposal**

To be modified to:

*The licensee shall implement the approved Noise Management Plan, contained in the updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Noise Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Strategic Community Planning*

**Officer Comment**

The Noise Management Plan was updated in August 2009 so the licence condition should reflect this. The rewording also allows for an update of the plan to be provided in 2014.

RECOMMENDATION: Modification supported, subject to 'Director Strategic Community Planning' being replaced with 'Director Development Services'.

**Condition 26**

26. The licensee shall measure and document for each blast the necessary parameters, and shall ensure that:
- a) the air-blast over-pressure on the curtilage of a premises approved for the purpose of blast monitoring is in accordance with the *Environmental Protection (Noise) Regulations 1997*.
  - b) the peak particle velocity from any single blast does not exceed 10 millimetres per second;
  - c) no more than one blast in any ten consecutive blasts (regardless of the interval between each blast) exceeds a peak particle velocity of 5 millimetres per second;
  - d) ground vibration levels do not exceed 10 millimetres per second peak particle velocity.

**Proposal**

To be modified to:

*The licensee shall measure and document for each blast the necessary parameters, (airblast and ground vibration) and shall ensure that compliance with the Environmental Protection Noise Regulations and DEC Licence 7358 is achieved.*

**Officer Comment**

The specific requirements detailed in the original wording are already covered by the DEC licence and therefore do not need to be replicated.

RECOMMENDATION: Modification supported.

**Condition 27**

27. The licensee shall measure for each blast, the peak particle velocity on any point of a premises approved for the purpose of blast monitoring, at least the longest dimension of the foundations of a building or structure away from such building or structure.

Proposal

To be removed.

Officer Comment

This requirement is already covered by the DEC licence and therefore do not need to be replicated.

RECOMMENDATION: Removal supported.

**Condition 28**

28. In the event that any of the following are recorded at a premises approved for the purpose of blast monitoring:
- a) the peak particle velocity from any single blast exceeds 10 millimetres per second;
  - b) more than one blast in any ten consecutive blasts (regardless of the interval between each blast) exceeds a peak particle velocity of 5 millimetres per second;
  - c) ground vibration levels in excess of 10 millimetres per second peak particle velocity are recorded;

the licensee shall notify the Director Development Services by facsimile within 24 hours and provide a written report within seven days with evidence to satisfy the Director Development Services that measures have been taken to prevent a recurrence.

Proposal

To be modified to:

*In the event of a non compliant noise event, the licensee shall notify the Director Development Services by facsimile within 24 hours and provide a written report within seven days with evidence to satisfy the Director Development Services that measures have been taken to prevent a recurrence.*

Officer Comment

The specific requirements detailed in the original wording are already covered by the DEC licence and therefore do not need to be replicated. The rewording still ensures that the Council is notified of any non compliant noise events.

RECOMMENDATION: Modification supported subject to the wording “non compliant noise event” being replaced with “non compliant noise and/or blast event”.

**Condition 38**

38. The crusher must have a cover which ameliorates the noise emissions. The crusher shall not be operated whilst its cover is not in place. Should the crusher cover be removed for any reason, the Shire is to be informed immediately by facsimile and the crusher not to be restarted until the cover is replaced”

Proposal

To be modified to:

*In the event of any exceedance of the Environmental Protection (Noise) Regulations 1997, the primary crushing facility will be equipped with such noise attenuation measures as necessary to comply with the Regulations.*

#### Officer Comment

This condition was previously addressed in the Noise Management section above. It is recommended that the condition be further modified to require a noise assessment to be undertaken if the levels under the regulations are exceeded or if any noise complaints are received.

RECOMMENDATION: To be modified to:

*In the event of a significant number or ongoing noise complaints being received regarding the primary crushing facility and/or any exceedance of the Environmental Protection (Noise) Regulations 1997, the licensee shall within 60 days employ a suitably qualified acoustic consultant to undertake a noise assessment of the operations. This report is to be provided to the Shire's Director Development Services and is to detail all noise exceedances and recommended noise management and mitigation measures to be undertaken.*

#### Summary

A number of conditions on the current licence are no longer relevant for reasons detailed above. Also, it is not considered necessary to replicate conditions that are covered under separate legislation or through different licencing requirements by various government agencies. The recommended removal of and modifications to the current conditions are reflected within the officer recommendation.

#### Legal Action

When considering the 2008 licence, Council's previous resolution included an option to pursue legal action against the operator if continued non-compliance with conditions occurred. In dealing with the current license, it is considered that the only non-compliance is in relation to installing a cover over the crusher. As long as the operation complies with the Environmental Protection (Noise) Regulations 1997 and relevant condition under the DEC's licence, this condition is not required.

The option to commence legal proceedings is still available to Council but is not supported as the operator has altered their management and operational practices to better conform to the requirements under the current licence.

#### Expansion of Quarry

As part of the application to Council, dated 16 September 2009, WA Bluemetal highlighted their intention to expand the existing quarry footprint to the north. The expansion will essentially occupy the land within State Forest which has been subject to the land swap with the DEC.

Council is advised that this current report is for the issuing of a new planning approval and renewal of the current licence for the existing operations only. Any future expansion of the quarry will be subject to separate approvals and licences from Council, the DEC and the WAPC.

Issues regarding the expansion of the quarry will be assessed at a later date with reports being forwarded to Council in due course.

#### Options Available to Council

There are a number of options that are available to Council in dealing with the planning approval and Extractive Industry Licence renewal for WA Bluemetal. The options, together with the associated officer comments, are detailed below:

	<b>Options</b>	<b>Officer Comment</b>
a)	A 5 year licence and planning approval.	<ul style="list-style-type: none"> <li>Through an assessment under PP14 and consideration of the noise management issues, a licence of this length is not recommended.</li> </ul>
b)	A 3 year licence and planning approval.	<ul style="list-style-type: none"> <li>A three year licence and planning approval, until 31 December 2012, is supported given the level of compliance of the operation as detailed above.</li> </ul>
c)	A 1 year licence and planning approval.	<ul style="list-style-type: none"> <li>Through an assessment under PP14 and consideration of the noise management issues, a licence of this length is not recommended.</li> <li>Risk of an appeal.</li> </ul>
d)	A 6 month licence and planning approval.	<ul style="list-style-type: none"> <li>Through an assessment under PP14, the policy recommends a licence of this length. However, in consideration of the noise management issues, a licence of this length is not recommended.</li> <li>Risk of an appeal.</li> </ul>
e)	Commence prosecution proceedings to address issues of non compliance	<ul style="list-style-type: none"> <li>This option is available to Council and was previously identified in 2008 as an option available to them.</li> <li>This option is not recommended as there have only been two (2) areas of non-compliance.</li> </ul>

The officer recommendation with respect to this application is (b) above, in that the operator be granted a 3 year licence until 31 December 2012.

### Conclusion

A recent audit inspection of WA Bluemetal revealed that only two conditions on the current licence were non-compliant. The operators have always been willing to work closely with Council to ensure that all conditions can be met and the required targets, in terms of vegetation management, noise, visual amenity, biodiversity etc, can be achieved. Although it has taken a number of years, a good working relationship has been established between WA Bluemetal and the Shire.

Based on PP14 and the information as detailed under the 'Other Relevant Information' section, it is recommended that the extractive industry licence and planning approval be issued for a period of 3 years expiring 31 December 2012.

**Voting Requirements:** Simple Majority

### **Officer Recommended Resolution:**

A. Planning approval be granted for granite extraction at Lot 3 and portion of Lot 901 South Western Highway, Whitby for a three year period expiring on 31 December 2012 subject to the following conditions:

PLANNING

1. The northern portion of Lot 902, marked in red on the attached plan, is excluded from this approval. Any works within this area requires the separate approval of Council.
2. The main access road from the South Western Highway to Lot 901 is to be sealed and maintained so as to minimise dust emissions from vehicle movements to the satisfaction of Director Engineering.

## ENVIRONMENTAL

### Water Quality

3. The licensee shall comply with the Stormwater Management Plan for the Southern Screening Bund dated May 2008 and prepare a new Stormwater Management Plan by 31 March 2010 for approval by the Director Engineering and thereafter implement the new approved Stormwater Management Plan in its entirety.
4. The licensee shall ensure that any discharge of water from areas that have been disturbed including excavation and processing areas, stockpiles, roads and access tracks and uncompleted vegetated areas, shall be via treatment in silt traps, detention ponds, settling ponds or other effective mechanism to remove suspended materials.
5. All water treatment traps, bunds, sumps, detention and settling ponds are to be regularly maintained to minimise the discharge to the environment of total suspended dissolved solids and total suspended solids and to prevent siltation of surface streams.
6. The quality of water directly or indirectly discharged from the site shall not exceed a concentration limit of 80mg/l TSS and 5 mg/L oil and grease.
7. Water samples are to be taken in accordance with the approved Water Management Plan at a minimum frequency of four times a year with at least two of those readings being taken within two hours after a 25mm rainfall event (over a duration of two hours) and are to be analysed for total suspended solids and for hydrocarbon concentrations at a NATA accredited laboratory.
8. On receipt of water sample data which is non-compliant with the target levels set out in conditions 7, the licensee shall ensure that an immediate inspection of, and obvious repairs to, all the drainage and treatment systems on the site is undertaken and shall notify the Director Strategic Community Planning by facsimile within 24 hours and provide a written report within five working days with evidence to satisfy the Director Strategic Community Planning that measures have been taken to prevent a recurrence.

### Biodiversity Management

9. The licensee shall comply with the approved updated Rehabilitation Plan dated 20 August 2005 and prepare a new Rehabilitation Plan by 31 October 2010 for approval by the Director Strategic Community Planning and thereafter implement the new approved Rehabilitation Plan in its entirety.
10. Revegetation of forest, bushland and riparian habitats is to be:
  - a) With locally occurring native tree, shrub and groundcover plant species;
  - b) Achieve a minimum survival of 1,200 locally native tree stems and plant density of 20 per 100m<sup>2</sup> with a minimum of 80% of the plants are at least three years old;
  - c) Achieve a species richness of 10 species per 100 m<sup>2</sup> and plant diversity of local species; and
  - d) be managed adaptively to approximate the community structure of an agreed natural community reference site for as long as quarry

activities occur on the site and for a minimum of three years after complying with the density target above.

11. Where sedges and rushes are to be used for revegetation of wetland habitats, they are to be planted at a minimum density of 6 stems per m<sup>2</sup>.
12. The licensee shall control declared and environmental weeds throughout the site to the satisfaction of the Director Strategic Community Planning.
13. The licensee is to maintain a 20 metre buffer along the western boundary of Lot 901 South Western Highway.
14. No works shall be permitted in the 50 metre buffer zone along Manjedal Brook, unless otherwise approved by Council.

#### Dust

15. The licensee shall implement the approved Dust Management Plan, contained in the Updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Dust Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Development Services.
16. The licensee shall ensure so far as practicable that visible particulates (including dust) from roads, access ways, trafficked areas, stockpiles and machinery from crossing the boundary of the premises by using appropriate dust suppression techniques, including, but not limited to, water trucks, stabilisers, water sprays, sprinklers or canons.
17. The licensee shall ensure that all loads entering and leaving the premises of shale, sand, soil, clay or other particulate material, are to be enclosed or completely covered by a secured impermeable tarpaulin to prevent dust nuisance or are treated in an effective manner to suppress dust and prevent dust nuisance to the satisfaction of the Shire.

#### Noise

18. The licensee shall implement the approved Noise Management Plan, contained in the updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Noise Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Development Services.
19. All site operations shall comply with the Environmental Protection (Noise) Regulations at all times.
20. Blasting is to only take place between the hours of 7am and 6pm.
21. The licensee must notify the Director Development Services via facsimile 24 hours prior to each blasting being carried out on the site
22. The licensee shall measure and document for each blast the necessary parameters, (airblast and ground vibration) and shall ensure that compliance with the Environmental Protection (Noise) Regulations 1997 and Department of Environment and Conservation Licence 7358 is achieved
23. In the event of a non compliant noise and/or blast event, the licensee shall notify the Director Development Services by facsimile within 24 hours and provide a written report within seven days with evidence to satisfy the Director Development Services that measures have been taken to prevent a recurrence.
24. In the event of a significant number or ongoing noise complaints being received regarding the primary crushing facility and/or any exceedance of the Environmental Protection (Noise) Regulations 1997, the licensee shall within 60 days employ a suitably qualified acoustic consultant to undertake a noise assessment of the operations. This report is to be provided to the Shire's Director Development Services and is to detail all noise exceedances and recommended noise management and mitigation measures to be undertaken.

### Hazardous Chemicals

25. The licensee shall store environmentally hazardous chemicals including, but not limited to, fuel, oil or other hydrocarbons (where the total volume of each substance stored on the premises exceeds 250 litres) within low permeability ( $10^{-9}$  metres per second or less) compounds designed to contain not less than 110% of the volume of the largest storage vessel or inter-connected system, and at least 25% of the total volume of vessels stored in the compound.
26. The compounds described in condition 25 shall:
  - a) Be graded or include a sump to allow recovery of liquid;
  - b) Be chemically resistant to the substances stored;
  - c) Include valves, pumps and metres associated with transfer operations wherever practical - otherwise the equipment shall be adequately protected e.g. bollards and contained in an area designed to permit recovery of chemicals released following accidents or vandalism;
  - d) Be designed such that jetting from any storage vessel or fitting will be captured within the bunded area - see for example Australian Standard 1940-1993 Section 5.9.3 (g);
  - e) Be designed such that chemicals which may react dangerously if they come into contact, are in separate bunds in the same compound or in different compounds; and
  - f) Be controlled such that the capacity of the bund is maintained at all times e.g. regular inspection and pumping of trapped uncontaminated rain water.
27. The licensee shall immediately remove and dispose of any liquid resulting from spills or leaks of chemicals including fuel, oil or other hydrocarbons, whether inside or outside the low permeability compounds.
28. The licensee shall not store, or permit to be stored, any explosives or explosive devices other than in accordance with Department of Industry and Resources Regulations.
29. The licensee shall keep a register of the extent, location, environmental implications and remedial actions taken for any accidental contamination of soil or water resources in a logbook to be kept on-site and available for immediate inspection by Shire representatives.
30. The proponent shall ensure that no chemicals or potential liquid contaminants are disposed of on-site.

### Minimal Impact Management

31. The proponent shall ensure that materials suitable for recycling are recycled, and that all other wastes are disposed of at a suitably licensed waste disposal facility.
32. Outside lighting is to be kept to a safe minimum and should be angled to minimise light impacts on neighbouring properties. ‘

### Engineering

33. The licensee shall provide a written report from a qualified Engineering Geologist or Geotechnical Engineer by 31 March 2010 regarding the stability of the southern screening earth bund. In the event that any movement of the earth bund is detected, the report shall detail the appropriate mitigation measures that will be undertaken to prevent any further movement.

### Advice Notes:



1. The development must comply with the Approval to Commence Development granted by the Western Australian Planning Commission.

#### Water Quality

2. For the purpose of condition 6, “Quality” refers to the concentrations of total suspended solids, hydrocarbons and nutrients and heavy metals.
3. The written report in relation to condition 8 is to detail the times, dates and locations of water samples, rainfall within the previous 24 hours of the samples being taken, water quality readings, why the non-compliant levels were recorded and how the licensee has adjusted operations to ensure that it does not occur again.
4. The updated Rehabilitation Plan to be prepared by 31 October 2010 should include text and diagrams and is to:
  - a) Include a statement of biodiversity values within that area of the site that is on the northern side of Manjedal Brook;
  - b) Identify threats to and pressures on biodiversity values;
  - c) Include a commitment to strategies to be implemented by the licensee to protect biodiversity values from the identified threats and pressures;
  - d) Include at least one scaled map of the site north of Manjedal Brook which can be placed as an overlay over the most recent aerial photograph of the whole site;
  - e) Illustrate and describe land contours at proposed stages of the development including the current stage of development and following completion of extractive industry activities;
  - f) Locate on the map, and both identify and describe where and how existing indigenous vegetation is to be protected or is proposed to be cleared as a result of extractive industry activities, firebreaks, drainage, the provision of power and any other activities that may impact vegetation;
  - g) Map the locations of, and identify both the types and magnitudes of weed infestations and describe weed management to be undertaken;
  - h) Locate on the map and describe all end point land uses and associated vegetation types for example forest, agricultural parkland cleared, visual screening, aquatic, industrial and riparian;
  - i) Describe the species, sizes, planting densities, soil preparation and adaptive management to ensure endpoint vegetation types are established in accordance with the vegetation types map described in the clauses above;
  - j) Describe the community structures, species compositions and diversities of naturally growing reference communities;
  - k) Include a commitment to auditable completion criteria for vegetation in the different habitat types (including weed burden);
  - l) Illustrate and describe the drainage proposed at different stages of quarry activities including what is proposed on completion of the quarrying activities;
  - m) Locate firebreaks on the map (include copies of any necessary State Government approvals for clearing);
  - n) Describe stages and where possible, timeframes for proposed industry operation and site rehabilitation;
  - o) Contain criteria that will be met and maintained for the life of the extractive industry licence and for the approved period of time post closure;
  - p) Include reference to the southern screening bund and the maintenance of vegetation on it;
  - q) Contain reference to the new extractive industry footprint and any works that will be carried out within these newly defined areas; and

- r) Contain commitments of rehabilitation works to be carried out for the 5 year period.

#### General

5. The applicant is to note that the Shire requires that the administrative steps necessary to conform to all the conditions which form part of this approval are to be put in place by the applicant to ensure all reports and records required by the conditions are made available on time as mandated by this approval.

The applicant is to further note that should reports and records not be made available on time as required by law and/or these conditions, then these facts will be seriously taken into account by the Shire when and if it considers an application for further renewal of the licence.

- B. The extractive industry licence be granted for granite extraction at Lot 3 and portion of Lot 901 South Western Highway, Whitby for a three year period expiring on 31 December 2012 subject to the following conditions:

1. The licensee is to submit an annual report on environmental site management standards to the Director Development Services by 31 October each year.
2. The licensee is to comply with all provisions of the Serpentine Jarrahdale Extractive Industry Local Law.
3. No works are to be exposed to view from the South Western Highway and the coastal plain.
4. Payment of the annual extractive industry licence fee.

#### Advice Notes:

1. In relation to condition 1, the annual report is to:
    - a) Comply with provisions in the Serpentine Jarrahdale Extractive Industry Local Law relating to requirements for documentation to accompany applications for renewal of licences;
    - b) Include results of any dust, noise, water, biodiversity monitoring and report details of complaints and remedies;
    - c) Provide a statement of actions taken and progress made in relation to the implementation of management plans for the preceding 12 months;
    - d) Provide a statement of actions to be taken and progress proposed in relation to the implementation of management plans during the next 12 months;
    - e) Identify any proposed changes to approved management plans.
  2. Compliance with the conditions of the Serpentine Jarrahdale Shire Form 2 Planning Approval.
- C. The applicant/operator is advised that all costs associated with complying with the conditions on the Form 2 Planning Approval and Extractive Industry Licence are to be borne by the applicant/operator.
  - D. The Western Australian Planning Commission be advised of Council's decision.

Director Engineering left the meeting at 7.53pm and returned at 7.56pm.

**SD075/12/09 COUNCIL DECISION/Committee Recommended Resolution:**

Moved Cr Harris, seconded Cr Buttfield

- A. Planning approval be granted for granite extraction at Lot 3 and portion of Lot 901 South Western Highway, Whitby for a three year period expiring on 31 December 2012 subject to the following conditions:

**PLANNING**

1. The northern portion of Lot 902, marked in red on the attached plan, is excluded from this approval. Any works within this area requires the separate approval of Council.
2. The main access road from the South Western Highway to Lot 901 is to be sealed and maintained so as to minimise dust emissions from vehicle movements to the satisfaction of Director Engineering.

**ENVIRONMENTAL**

**Water Quality**

3. The licensee shall comply with the Stormwater Management Plan for the Southern Screening Bund dated May 2008 and prepare a new Stormwater Management Plan by 31 March 2010 for approval by the Director Engineering and thereafter implement the new approved Stormwater Management Plan in its entirety.
4. The licensee shall ensure that any discharge of water from areas that have been disturbed including excavation and processing areas, stockpiles, roads and access tracks and uncompleted vegetated areas, shall be via treatment in silt traps, detention ponds, settling ponds or other effective mechanism to remove suspended materials.
5. All water treatment traps, bunds, sumps, detention and settling ponds are to be regularly maintained to minimise the discharge to the environment of total suspended dissolved solids and total suspended solids and to prevent siltation of surface streams.
6. The quality of water directly or indirectly discharged from the site shall not exceed a concentration limit of 80mg/l TSS and 5 mg/L oil and grease.
7. Water samples are to be taken in accordance with the approved Water Management Plan at a minimum frequency of four times a year with at least two of those readings being taken within two hours after a 25mm rainfall event (over a duration of two hours) and are to be analysed for total suspended solids and for hydrocarbon concentrations at a NATA accredited laboratory.
8. On receipt of water sample data which is non-compliant with the target levels set out in conditions 7, the licensee shall ensure that an immediate inspection of, and obvious repairs to, all the drainage and treatment systems on the site is undertaken and shall notify the Director Strategic Community Planning by facsimile within 24 hours and provide a written report within five working days with evidence to satisfy the Director Strategic Community Planning that measures have been taken to prevent a recurrence.

**Biodiversity Management**

9. The licensee shall comply with the approved updated Rehabilitation Plan dated 20 August 2005 and prepare a new Rehabilitation Plan by 31 October 2010 for approval by the Director Strategic Community

- Planning and thereafter implement the new approved Rehabilitation Plan in its entirety.
10. Revegetation of forest, bushland and riparian habitats is to be:
- a) With locally occurring native tree, shrub and groundcover plant species;
  - b) Achieve a minimum survival of 1,200 locally native tree stems and plant density of 20 per 100m<sup>2</sup> with a minimum of 80% of the plants are at least three years old;
  - c) Achieve a species richness of 10 species per 100 m<sup>2</sup> and plant diversity of local species; and
  - d) be managed adaptively to approximate the community structure of an agreed natural community reference site for as long as quarry activities occur on the site and for a minimum of three years after complying with the density target above.
11. Where sedges and rushes are to be used for revegetation of wetland habitats, they are to be planted at a minimum density of 6 stems per m<sup>2</sup>.
12. The licensee shall control declared and environmental weeds throughout the site to the satisfaction of the Director Strategic Community Planning.
13. The licensee is to maintain a 20 metre buffer along the western boundary of Lot 901 South Western Highway.
14. No works shall be permitted in the 50 metre buffer zone along Manjedal Brook, unless otherwise approved by Council.

#### Dust

15. The licensee shall implement the approved Dust Management Plan, contained in the Updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Dust Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Development Services.
16. The licensee shall ensure so far as practicable that visible particulates (including dust) from roads, access ways, trafficked areas, stockpiles and machinery from crossing the boundary of the premises by using appropriate dust suppression techniques, including, but not limited to, water trucks, stabilisers, water sprays, sprinklers or canons.
17. The licensee shall ensure that all loads entering and leaving the premises of shale, sand, soil, clay or other particulate material, are to be enclosed or completely covered by a secured impermeable tarpaulin to prevent dust nuisance or are treated in an effective manner to suppress dust and prevent dust nuisance to the satisfaction of the Shire.

#### Noise

18. The licensee shall implement the approved Noise Management Plan, contained in the updated Excavation Management Plan dated August 2009, in its entirety to the satisfaction of the Director Development Services. The Noise Management Plan is to become a 5 year plan and be updated no later than 31 October 2014 to the satisfaction of the Director Development Services.
19. All site operations shall comply with the Environmental Protection (Noise) Regulations at all times.
20. Blasting is to only take place between the hours of 7am and 6pm.
21. The licensee must notify the Director Development Services via facsimile 24 hours prior to each blasting being carried out on the site
22. The licensee shall measure and document for each blast the necessary parameters, (airblast and ground vibration) and shall ensure that compliance with the Environmental Protection (Noise) Regulations 1997

and Department of Environment and Conservation Licence 7358 is achieved

23. In the event of a non compliant noise and/or blast event, the licensee shall notify the Director Development Services by facsimile within 24 hours and provide a written report within seven days with evidence to satisfy the Director Development Services that measures have been taken to prevent a recurrence.
24. In the event of a significant number or ongoing noise complaints being received regarding the primary crushing facility and/or any exceedance of the Environmental Protection (Noise) Regulations 1997, the licensee shall within 60 days employ a suitably qualified acoustic consultant to undertake a noise assessment of the operations. This report is to be provided to the Shire's Director Development Services and is to detail all noise exceedances and recommended noise management and mitigation measures to be undertaken.

#### **Hazardous Chemicals**

25. The licensee shall store environmentally hazardous chemicals including, but not limited to, fuel, oil or other hydrocarbons (where the total volume of each substance stored on the premises exceeds 250 litres) within low permeability ( $10^{-9}$  metres per second or less) compounds designed to contain not less than 110% of the volume of the largest storage vessel or inter-connected system, and at least 25% of the total volume of vessels stored in the compound.
26. The compounds described in condition 25 shall:
  - a) Be graded or include a sump to allow recovery of liquid;
  - b) Be chemically resistant to the substances stored;
  - c) Include valves, pumps and metres associated with transfer operations wherever practical - otherwise the equipment shall be adequately protected e.g. bollards and contained in an area designed to permit recovery of chemicals released following accidents or vandalism;
  - d) Be designed such that jetting from any storage vessel or fitting will be captured within the bunded area - see for example Australian Standard 1940-1993 Section 5.9.3 (g);
  - e) Be designed such that chemicals which may react dangerously if they come into contact, are in separate bunds in the same compound or in different compounds; and
  - f) Be controlled such that the capacity of the bund is maintained at all times e.g. regular inspection and pumping of trapped uncontaminated rain water.
27. The licensee shall immediately remove and dispose of any liquid resulting from spills or leaks of chemicals including fuel, oil or other hydrocarbons, whether inside or outside the low permeability compounds.
28. The licensee shall not store, or permit to be stored, any explosives or explosive devices other than in accordance with Department of Industry and Resources Regulations.
29. The licensee shall keep a register of the extent, location, environmental implications and remedial actions taken for any accidental contamination of soil or water resources in a logbook to be kept on-site and available for immediate inspection by Shire representatives.
30. The proponent shall ensure that no chemicals or potential liquid contaminants are disposed of on-site.

#### **Minimal Impact Management**

31. The proponent shall ensure that materials suitable for recycling are recycled, and that all other wastes are disposed of at a suitably licensed waste disposal facility.
32. Outside lighting is to be kept to a safe minimum and should be angled to minimise light impacts on neighbouring properties. ‘

#### Engineering

1. The licensee shall provide a written report from a qualified Engineering Geologist or Geotechnical Engineer by 31 March 2010 regarding the stability of the southern screening earth bund. In the event that any movement of the earth bund is detected, the report shall detail the appropriate mitigation measures that will be undertaken to prevent any further movement.

#### Advice Notes:

1. The development must comply with the Approval to Commence Development granted by the Western Australian Planning Commission.

#### Water Quality

2. For the purpose of condition 6, “Quality” refers to the concentrations of total suspended solids, hydrocarbons and nutrients and heavy metals.
3. The written report in relation to condition 8 is to detail the times, dates and locations of water samples, rainfall within the previous 24 hours of the samples being taken, water quality readings, why the non-compliant levels were recorded and how the licensee has adjusted operations to ensure that it does not occur again.
4. The updated Rehabilitation Plan to be prepared by 31 October 2010 should include text and diagrams and is to:
  - a) Include a statement of biodiversity values within that area of the site that is on the northern side of Manjedal Brook;
  - b) Identify threats to and pressures on biodiversity values;
  - c) Include a commitment to strategies to be implemented by the licensee to protect biodiversity values from the identified threats and pressures;
  - d) Include at least one scaled map of the site north of Manjedal Brook which can be placed as an overlay over the most recent aerial photograph of the whole site;
  - e) Illustrate and describe land contours at proposed stages of the development including the current stage of development and following completion of extractive industry activities;
  - f) Locate on the map, and both identify and describe where and how existing indigenous vegetation is to be protected or is proposed to be cleared as a result of extractive industry activities, firebreaks, drainage, the provision of power and any other activities that may impact vegetation;
  - g) Map the locations of, and identify both the types and magnitudes of weed infestations and describe weed management to be undertaken;
  - h) Locate on the map and describe all end point land uses and associated vegetation types for example forest, agricultural parkland cleared, visual screening, aquatic, industrial and riparian;
  - i) Describe the species, sizes, planting densities, soil preparation and adaptive management to ensure endpoint vegetation types are established in accordance with the vegetation types map described in the clauses above;

- j) Describe the community structures, species compositions and diversities of naturally growing reference communities;
- k) Include a commitment to auditable completion criteria for vegetation in the different habitat types (including weed burden);
- l) Illustrate and describe the drainage proposed at different stages of quarry activities including what is proposed on completion of the quarrying activities;
- m) Locate firebreaks on the map (include copies of any necessary State Government approvals for clearing);
- n) Describe stages and where possible, timeframes for proposed industry operation and site rehabilitation;
- o) Contain criteria that will be met and maintained for the life of the extractive industry licence and for the approved period of time post closure;
- p) Include reference to the southern screening bund and the maintenance of vegetation on it;
- q) Contain reference to the new extractive industry footprint and any works that will be carried out within these newly defined areas; and
- r) Contain commitments of rehabilitation works to be carried out for the 5 year period.

#### **General**

5. The applicant is to note that the Shire requires that the administrative steps necessary to conform to all the conditions which form part of this approval are to be put in place by the applicant to ensure all reports and records required by the conditions are made available on time as mandated by this approval.

The applicant is to further note that should reports and records not be made available on time as required by law and/or these conditions, then these facts will be seriously taken into account by the Shire when and if it considers an application for further renewal of the licence.

- B.** The extractive industry licence be granted for granite extraction at Lot 3 and portion of Lot 901 South Western Highway, Whitby for a three year period expiring on 31 December 2012 subject to the following conditions:

- 1. The licensee is to submit an annual report on environmental site management standards to the Director Development Services by 31 October each year.
- 2. The licensee is to comply with all provisions of the Serpentine Jarrahdale Extractive Industry Local Law.
- 3. No works are to be exposed to view from the South Western Highway and the coastal plain.
- 4. Payment of the annual extractive industry licence fee.

#### **Advice Notes:**

- 1. In relation to condition 1, the annual report is to:
  - a) Comply with provisions in the Serpentine Jarrahdale Extractive Industry Local Law relating to requirements for documentation to accompany applications for renewal of licences;
  - b) Include results of any dust, noise, water, biodiversity monitoring and report details of complaints and remedies;

- c) Provide a statement of actions taken and progress made in relation to the implementation of management plans for the preceding 12 months;
- d) Provide a statement of actions to be taken and progress proposed in relation to the implementation of management plans during the next 12 months;
- e) Identify any proposed changes to approved management plans.

**2. Compliance with the conditions of the Serpentine Jarrahdale Shire Form 2 Planning Approval.**

- C. The applicant/operator is advised that all costs associated with complying with the conditions on the Form 2 Planning Approval and Extractive Industry Licence are to be borne by the applicant/operator.
- D. The Western Australian Planning Commission be advised of Council's decision and requested to defer consideration of the northern portion of Lot 901 (formerly Lot 4223) to allow for further discussions between the Shire and relevant government agencies to resolve zoning issues with the Metropolitan Region Scheme and other relevant issues including environmental impacts.
- E. The proponent be advised of Council's concern that while the noise of the crusher probably does not exceed allowable noise limits, the effect of the noise does indeed intrude on residents in Jarrahdale, Karrakup and Millbrook.

**CARRIED 10/0**

**Committee Note:** The Officer Recommended Resolution was changed by amending condition D and adding Condition E. Due to the complexity of issues surrounding the northern portion of Lot 901, this area of land has not been formally assessed at this point in time. The resolution before Council, for planning approval and to renew the Extractive Industry Licence, relates to the southern portion of Lot 901 (formerly Lot 344) only. The proposal surrounding the use of the northern portion of Lot 901 will be progressed in consultation with the Shire, the proponent and relevant government agencies.

SD070/12/09		DRAFT LOCAL STRUCTURE PLAN - LOT 2 NETTLETON ROAD, BYFORD (A1695)	
Proponent:	Taylor Burrell Barnett Town Planning and Design	<p>In Brief:</p> <p>To consider whether the draft Local Structure Plan submitted for Lot 2 Nettleton Road, Byford is satisfactory for advertising.</p> <p>It is recommended that the draft Local Structure Plan be determined satisfactory for advertising subject to further details being provided and modifications undertaken.</p>	
Owner:	The Aspen Group Pty Ltd		
Author:	Simon Wilkes - Executive Manager Planning		
Senior Officer:	Brad Gleeson - Director Development Services		
Date of Report	10 November 2009		
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>		

Date of Receipt: 9 October 2009  
 Lot Area: 32.3 hectares  
 L.A Zoning: Urban Development  
 MRS Zoning: Urban



Byford Structure Plan: Residential R30-R60, Residential R20, Multiple Use Corridor, Area of Landscape Sensitivity, Proposed Local Park within Multiple use Corridor, Drainage Basin Indicative Location, Proposed Local Park Proposed Neighbourhood Park, 400m and 800m catchments from the Byford railway station, note 13 regarding interfaces between residential and rural-residential development.

## **Background**

Council at its meeting of 19 December 2008 considered a draft Local Structure Plan (LSP) for Lot 2 Nettleton Road, Byford and resolved:

### **“SCM010/12/08 COUNCIL DECISION/Officer Recommended Resolution:**

*Moved Cr Murphy=, seconded Cr Twine*

1. *Council, pursuant to Clause 5.18.3.2 of Town Planning Scheme No. 2 determines that the Local Structure Plan for Lot 2 South Western Highway, Byford as provided at Attachment SCM010.1/12/08 is not satisfactory for advertising as:
  - a) *the proposed form of development would not afford an adequate level of protection of biodiversity values as identified in the Shire of Serpentine Jarrahdale’s adopted Local Biodiversity Strategy.*
  - b) *the Local Water Management Strategy does not demonstrate an adequate level of compliance with the Byford Townsite Drainage and Water Management Plan.**
2. *Council invites Aspen Group to submit a revised Local Structure Plan that affords protection for the 3.0 hectares of vegetation identified by Env Australia as being in good condition, as depicted in Attachment SCM010.11/12/08.”*

Pursuant to Clause 5.18.3.4(a) of Town Planning Scheme No. 2 (TPS 2), the applicant requested the Shire to forward the draft LSP to the Western Australian Planning Commission (WAPC) for consideration. The WAPC subsequently referred the draft LSP to the Department of Environment and Conservation for comment.

The applicant formally withdrew the draft LSP from the WAPCs consideration process on 4 September 2009.

## **Revised Draft Local Structure Plan**

A revised draft LSP has been submitted to the Shire for Lot 2 Nettleton Road. This report provides Council with the opportunity to determine whether the draft LSP is satisfactory for advertising.

The draft LSP has been prepared to guide and facilitate the future subdivision and development of Lot 2 Nettleton Road, Byford. The LSP is proposed to facilitate:

- A traditional retirement village and associated facilities near the intersection of Beenyup Road and South West Highway.
- A lifestyle village with associated facilities in two portions, one to the northeast of Beenyup Brook and one to the south of Beenyup Brook abutting Nettleton Road.
- A small area of residential development at a density of R10 to the southeast of the site, abutting existing rural residential development.
- An aged care facility and medical centre at the intersection of South West Highway and Nettleton Road.
- A multiple-use corridor based upon the Beenyup Brook.

- The proposed retention of an area of vegetation in the northeast corner of the site identified in the Shire's Local Biodiversity Strategy.

***The draft Local Structure Plan Map is with attachments marked SD070.1/12/09.***

***The Statutory Section is with attachments marked SD070.2/12/09.***

***The Indicative Development Concept Plan is provided with attachment SD070.3/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** The multiple-use corridor proposed will facilitate improved water quality outcomes as well as vegetation retention. An area of vegetation within the southeast corner of the site, identified in the Shire's Local Biodiversity Strategy, is proposed to be retained. Increased densities of development in proximity to the Byford Town Centre will provide additional opportunities for non-motorised transport.

***Resource Implications:*** A portion of the site has been set aside for a multiple-use corridor and vegetation retention. These areas will provide a significant environmental function in terms of water quality and vegetation retention. The retention of the land largely in single ownership provides significant opportunities to control development and minimise resource demands. The proposed density of development is considered to represent an efficient use of land.

***Use of Local, Renewable or Recyclable Resources:*** The proponent should be encouraged to use local contractors and materials wherever possible in the eventual construction phase of the development. Also, the reuse of drainage and stormwater runoff in the irrigation of public open space and the multiple use corridor will be required.

***Economic Viability:*** The draft LSP seeks to retain the majority of the land in private ownership, providing opportunities for assets to be delivered and maintained by the private sector and therefore minimising demands on the Shire.

***Economic Benefits:*** The draft LSP area forms part of the catchment area/population for the Byford Town Centre. A number of services and facilities are proposed to be provided internal to the development.

***Social – Quality of Life:*** The draft LSP proposes an east-west corridor, along the Beenyup Brook, for enhancement and utilisation by the existing local community. This proposed public open space will provide improved access to and from the Byford Town Centre. The development is proposed to be gated and as such, the retention of public access to the open space area will be vital. The draft LSP does not propose the creation of any north-south movement networks, as envisaged by the Byford Townsite Detailed Area Plan. The applicant has advised that residents will be provided with a range of internal amenities.

***Social and Environmental Responsibility:*** The proposed development seeks to incorporate principles of water sensitive urban design and energy efficiency. There is the potential for a significant community to be formed within the proposed development, however the form of the development is generally internalised.

***Social Diversity:*** The proposed development seeks to provide significant residential opportunities for middle-aged and seniors in close proximity to the Byford Town Centre. The form of the development contributes to an overall diversity of housing stock in the Byford Area.

### **Statutory Environment:**

Planning and Development Act (2005)  
Town Planning Scheme No. 2  
Byford District Structure Plan  
Byford Townsite Detailed Area Plan

### **Policy/Work Procedure**

**Implications:**

Local Planning Policy No. 19 – Byford Structure Plan Area Development Requirements.  
Local Planning Policy No. 8 – Landscape Protection.  
Draft Local Planning Policy – Water Sensitive Urban Design.

**Financial Implications:**

The proposed form of development will deliver a significant population in close proximity to the Byford Town Centre, with associated demands for commercial and community infrastructure.

The impact on future rate revenue for the Shire from the proposed form of development is a matter that needs to be considered.

**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.
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.
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.
5. Protect built and natural heritage for economic and cultural benefits.

**2. Environment**

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

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
3. Encourage protection and rehabilitation of natural resources.
4. Reduce water consumption.
5. Reduce green house gas emissions.
6. Value, protect and develop biodiversity.

**3. Economic**

*Objective 1: A vibrant local community*

Strategies:

1. Attract and facilitate appropriate industries, commercial activities and employment.
2. Identify value-adding opportunities for primary production.

3. Develop tourism potential.

*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.

3. Integrate and balance town and rural planning to maximise economic potential.

## **Discussion**

### **Context**

Lot 2 Nettleton Road is subject to a complex planning and development environment.

The site is subject to both the Byford District Structure Plan and the Byford Townsite Detailed Area Plan. These plans envisage standard residential subdivision for the site. In contrast, the draft LSP proposes alternative forms of development including a retirement village and lifestyle village.

In addition, the site is bound by South West Highway to the west, existing residential development to the north, rural-residential development to the west and an industry area to the south. The site contains significant areas of remnant vegetation and is traversed by Beenyup Brook.

The draft LSP will need to be considered by Council in this context.

The following sections of this report discuss key issues with regard to the draft LSP, as well as providing an assessment against the BSP, Byford Townsite DAP and Liveable Neighbourhoods.

### **Planning Framework**

#### **Byford District Structure Plan**

The BSP provides district-level guidance for the preparation and assessment of LSPs. The BSP identifies the following proposals and matters applicable to Lot 2:

- A residential density of R30-R60 within a 400m catchment of the Byford railway station/Byford Town Centre.
- A residential density of R20 for the remainder of Lot 2.
- Where land classified as Residential R20 and abuts land classified as Rural residential, an appropriate (lower) interface density of development may be required to be implemented.
- That any change to residential densities or uses within the 800 metre walkable catchment of the town centre will be subject to a separate modification to the District Structure Plan and associated community consultation.
- Future road connections providing a north-south linkage through the site and foreshore roads for Beenyup Brook.
- A multiple-use corridor based around Beenyup Brook.
- An area of landscape sensitivity based around Beenyup Brook.
- A local park within the multiple-use corridor.
- A proposed neighbourhood park.
- A proposed local park.
- At least 10 percent public open space.

- A drainage basin.
- A pedestrian and bicycle plan.

The draft LSP proposes a different form of development to that envisaged under the BSP, and hence varies from the DSP in several areas. The discussion contained within subsequent sections provides Council with the opportunity to consider the merits of the draft LSP in light of the intent of the BSP.

#### Byford Townsite Detailed Area Plan

The Byford Townsite DAP provides a set of subdivision and development guidelines for Lot 2, identified as Character Area F – Nettleton North. The area is identified as being well placed for subdivision. The applicant has prepared an assessment table, comparing the draft LSP against the DAP, and identifying the extent to which the draft LSP adheres or does not adhere to the requirements of the DAP.

***An assessment table for the LSP prepared by the applicant, against the requirements of the Byford Townsite DAP is provided as Attachment SD070.4/12/09.***

The draft LSP proposes a subdivision and development outcome for the subject site which differs from that envisaged by the Byford Townsite DAP. The DAP predicts standard residential subdivision, whilst the LSP proposes private residential development in the form of a retirement and lifestyle village.

The subsequent sections discuss variances from the Byford Townsite DAP and provides Council with the opportunity to consider these matters on their merits.

#### Liveable Neighbourhoods

The WAPCs Planning Bulletin No. 49 – Caravan Parks states that:

*‘...caravan parks which are principally designed for permanent residents should be assessed in the same way as conventional residential development.’*

In this context, the draft LSP has been assessed against the general community design element of Liveable Neighbourhoods.

### **Residential Density**

#### Medium Density Development

The BSP proposes a residential density of R30-R60 for a portion of Lot 2 within a 400m catchment of the Byford railway station and Town Centre. The Byford Townsite DAP identifies a density of R30 for the same portion of Lot 2.

The draft LSP proposes a split density of R40/60 for land generally within the 400m catchment, to be developed as a retirement village.

The applicant has identified that development to the R60 standard will only be undertaken should there be a market established for multiple dwellings. It is expected that most of the site will be developed to the R40 standard.

The provision of medium density on the subject site is supported by Shire staff. In this context, and in the interests of achieving housing diversity and catering for an ageing population, Shire staff consider the density of development to be appropriate.

A variation from the Byford Townsite DAP is considered appropriate in this context.

### Lifestyle Village

The balance of Lot 2 is identified as Residential R20 by the BSP and a combination of R20, R10 and R5 under the Townsite DAP. The lower densities are proposed to provide an interface with surrounding rural-residential development.

Whilst the lifestyle village can be considered residential in nature, the density of development identified on the indicative development concept plan would be higher than that of a R20 subdivision. In addition, no lower density transition area is provided between the lifestyle village and surrounding rural residential development, as espoused by the DAP.

Shire staff consider that the provision of an open space buffer between the lifestyle village and rural residential development appropriately achieves the intention of the DAP, and that the lifestyle village provides for a diverse housing product which should be supported in proximity to a Town Centre. In this context, the density of development proposed within the lifestyle village is considered appropriate, and should be permitted.

### **Land Uses**

#### Special Use

A significant portion of the site is classified as Special Use of Caravan Park (Park Home Park). This area is proposed to be developed for a lifestyle village, encompassing prefabricated residential units which generally sit above natural ground level on footings.

Under the BSP, the site is classified as Residential, with the Townsite DAP envisaging residential subdivision for the site. Under TPS 2, a Caravan Park is not permitted within the Residential zone. In order to allow for the provision of a lifestyle village, which is proposed to cater for a permanent residential population, it has been necessary to classify the site as Special Use, allowing for a Caravan Park (Park Home Park).

A lifestyle village generally caters for a permanent residential population. It is therefore arguable that the village would meet the intent of a residential classification.

However, provision 5.1.1 of the DSP states:

*'Any change to residential densities or uses within the 800m walkable catchment of the town centre will be subject to a separate modification to the District Structure Plan and associated community consultation.'*

Should Council consider the proposed Special Use Caravan Park (Park Home Park) classification acceptable, it will be necessary to progress a modification to the BSP. Such a modification could be progressed either in parallel or after the LSP has been finalised.

#### Commercial

A portion of land at the intersection of South West Highway and Nettleton Road is classified as Commercial under the draft LSP. This site is not identified under the BSP or Byford Townsite DAP for commercial development. The merits and operation of commercial development on this site is subject to further discussion in subsequent sections of this report.

Provision 5.1.1 of the DSP states:

*'Any change to residential densities or uses within the 800m walkable catchment of the town centre will be subject to a separate modification to the District Structure Plan and associated community consultation.'*

Should Council consider the proposed Commercial classification acceptable, it will be necessary to progress a modification to the BSP. Such a modification could be progressed either in parallel or after the LSP has been finalised.

## **Road Network**

### Proposed Roads

The DAP identifies principle road connections for the subject site, including a north-south connection through the site, an east-west connection abutting the rear of existing residential lots on Beenyup Road and a foreshore road to the south of Beenyup Brook. The DSP reflects the need for a north-south linkage and foreshore roads abutting Beenyup Brook. Liveable Neighbourhoods also promotes the use of roads as an interface treatment between development and public open space.

The BSP and Townsite DAP envisage a standard residential subdivision with publicly gazetted roads for Lot 2. In contrast, the draft LSP proposes, for the most part, a private residential area serviced by private roads.

In this context, the draft LSP does not proposed a public road linking the north and south of the site nor an east-west road to the rear of the abutting residential development to the north. A foreshore road is not provided to the south side of Beenyup Brook.

The applicant has advised that the DAP has been reviewed by its traffic consultants who have advised that the north-south link road would not be required from a demand or safety/security perspective.

Further discussion on the exclusion of the east-west road abutting existing residential development to the north is contained in subsequent sections.

### Road Widths

It is stated within the Townsite DAP that all new road reserves are to be 20m wide to allow for tree planting and drainage functions.

Only one public road is proposed for the subject site, this being the proposed extension of Lazenby Drive through to Nettleton Road. The width of the road is proposed to be 18m.

A variation to the road width requirement of the DAP is considered appropriate as the existing portion of Lazenby Drive is 18m wide. This width is greater than the minimum espoused by Liveable Neighbourhoods.

## **Public Open Space**

### Compliance with Byford District Structure Plan and Byford Townsite Detailed Area Plan

The BSP identifies the following public open space on Lot 2:

- A multiple-use corridor;
- A local park within the multiple-use corridor;
- A neighbourhood park; and
- A local park.

In addition, Provision 4.1.1 identifies that 10 percent public open space is to be identified in LSPs and be given up at the time of subdivision.

The Byford Townsite DAP identifies a multiple-use corridor and an additional public open space area to the north of the site to cater for vegetation retention, and a standard requirement for 10 percent public open space.

The draft LSP proposes to set aside the Beenyup Brook multiple-use corridor public open space area, but does not propose any additional public open space. Rather, private open space is proposed in the form of a 3ha vegetation retention area to the northeast of the site, and other small areas of private open space throughout the site.

It is not been identified whether the 10 percent public open space requirements of the DSP and DAP have been met.

#### Requirement for Public Open Space

The applicant advises that:

*'As only three residential lots are proposed, Public Open Space is not required to be ceded.'*

*Private open space equivalent to 10% of the gross subdivisible area of the Aspen Villages site will be provided in accordance with the relevant policy framework (refer to section 4.7.4).*

*The Bulletin confirms that at subdivision stage the Commission may require the ceding of a foreshore reserve where the proposal abuts a creek line or other water course. In this case the Beenyup Brook traverses the site.*

*Where the Commission considers that a foreshore reserve should be ceded, it will be deducted from the gross subdivisible area and will be in addition to any land required for open space.'*

And:

*'The primary open space element of the LSP is proposed to be the Beenyup Brook foreshore. Access, rehabilitation and management shall be in accordance with a Foreshore Management Plan that has been submitted concurrent with this LSP.'*

*Consistent with The WAPC's Policy Planning Bulletin No. 59 and Liveable Neighbourhoods, the Foreshore has been deducted from Gross Subdivisible Area.*

*The three residential lots do not generate a POS contribution.*

*The Aspen Communities site doesn't generate a POS contribution as it is classified as a Retirement Village for the purpose of assessment. The recreation needs of residents are catered for by a clubhouse and pocket parks across the site. Should the site be redeveloped for residential purposes at some time in the future, the developer would need to provide 10% of the site as POS.*

*It is a requirement of the WAPC and the Caravan and Camping Grounds legislation that open space be provided on the Aspen Villages site to the equivalent of 10% Gross Subdivisible Area (i.e. consistent with a standard residential contribution). This can be assured at development application stage, however the Development Concept submitted along with this report would satisfy such requirement as outlined at Table 4.'*



As the draft LSP does not propose a standard residential subdivision, the determination of public open space requirements is complex. The following matters need to be considered:

- The BSP requires that 10 percent public open space be identified in LSPs.
- The Byford Townsite DAP requires a 10 percent public open space contribution for residential subdivision.
- The WAPCs Development Control Policy 2.3 – Public Open Space in Residential Areas identifies that the Commission will not normally require an open space contribution for five lots or less, provided a contribution is not required by a provision of a town planning scheme or approved structure plan.
- The retirement village and lifestyle village proposed under the draft LSP are not of a standard residential nature.

Beyond the creation of the R10 residential lots and the commercial site, the subject site will be subdivided into two large lots, one for the retirement village and one for the lifestyle village. These “super lots” will not be further subdivided.

The WAPC is unlikely to apply a condition of subdivision approval requiring the ceding of public open space at the super lot subdivision stage, as individual residential lots are not being created. It may not be possible to attain public open space for these sites unless they were to be further subdivided in the future.

It does however need to be considered that the subject site is proposed to be developed for a high density of residential development; higher than that envisaged by the BSP and Townsite DAP. A high density of residential development is expected to attract an increased demand for public open space. The existing Byford Townsite entails only approximately 3.5 percent public open space. In this context, it can be considered that additional public open space should be provided through the subdivision and development of Lot 2.

Taking into consideration the above discussion, the following matters are noted:

- The applicant is proposing to cede the Beenyup Brook foreshore reserve as public open space.
- Public open space contributions can be collected for the proposed R10 residential development as they are located within a structure plan area which requires public open space.
- It is not expected that public open space contributions will be able to be collected for the proposed retirement village or lifestyle village site created through a super lot subdivision.
- Should the retirement village or lifestyle village sites be subdivided for residential purposes in the future, public open space will be required. The applicant has acknowledged this.
- Private open space is proposed in the form of a 3ha vegetation retention area to the northeast of the site, and other small areas of private open space throughout the site.

The documentation demonstrates that the recreational needs of the future community will likely be satisfied. It is however recommended that the LSP documentation be modified to include additional information and clarification regarding the provision of public open space, addressing matters of amount, distribution and management.

### **Pedestrian and Cycling**

The BSP sets out the requirement for a pedestrian and bicycle plan to be provided as part of each LSP, in accordance with the Shire’s Bicycle and Pedestrian Master Plan. The draft LSP Map and indicative concept plan do not identify a path network for the subject site or surrounding area. The Transport Assessment prepared for the proposal does however recommend that a footpath be constructed between the South West Highway and the entrance to the retirement village site from Beenyup Road.

Shire staff consider that the LSP Map should be modified to include a pedestrian and cycle network.

### **Solar Orientation**

The achievement of appropriate solar orientation is a requirement of the Byford Townsite DAP. The applicant has prepared a solar orientation plan which identifies that some of the development sites would not achieve best orientation.

***A solar orientation plan prepared by the applicant is provided as Attachment SD070.5/12/09.***

Due to the shape of Lot 2 and the practical constraints of the site, such as surrounding development, roads and environmental features, full compliance would be difficult to achieve. Notwithstanding these constraints, most development on the subject site is appropriately orientated.

A variation from the Byford Townsite DAP is considered appropriate in this context.

### **Integration and Interfaces**

The subject site is located in proximity to residential, rural-residential, industry and proposed commercial development. In this context, land use integration and interfaces are vital issues.

#### Residential Development

The indicative development concept plan identifies that the retirement village and lifestyle village will directly back onto residential development to the north. The Townsite DAP proposes a road as an interface treatment between development on Lot 2 and existing residential lots along Beenyup Road.

In terms of the exclusion of this east-west road, the applicant has advised as follows:

*'A road isn't proposed south of existing lots fronting to Beenyup Road. With uncertainty as to the timing and aspirations for the subdivision of these lots, a road in this location would likely become a poor street environment bounded by solid fencing (to the Communities and Villages sites) to the south and various standards of fencing and rear yard to the north. Lots fronting Beenyup Road could still subdivide albeit in a battleaxe arrangement.'*

Shire staff have considered this matter and agree that the east-west road connection should not be required. This interface proposed by the indicative development concept plan is considered appropriate given that the BSP proposes residential development Lot 2.

A variation from the Byford Townsite DAP is considered appropriate in this context.

#### Rural-Residential Development

Where the site abuts existing rural-residential development to the east, a 15m wide landscaped area is proposed. The applicant has advised that the area will ensure the retention of trees and will act as a visual buffer between rural-residential lots and the lifestyle village.

The BSP identifies that a lower density of residential development may be required where residential development abuts rural-residential development. This is reflected in the Byford DAP which identifies lower densities of residential development abutting rural-residential areas, including R5 and R10. Shire staff consider that the proposed 15m buffer will meet the

intent of the DSP and DAP to achieve an appropriate interface with rural-residential development.

### Industry

The lifestyle village and residential development to the south of Beenyup Brook is located adjacent to the industry area to the south of Nettleton Road. The Townsite DAP suggests the provision of a service road with landscape buffer where Lot 2 abuts Nettleton Road.

The indicative development concept plan contained within the draft LSP proposes only a landscaped buffer as an interface treatment. Shire staff consider this approach to be adequate and do not believe that the provision of a service road would assist.

For the residential development, it will be possible to establish planning mechanisms to appropriately site dwellings and provide a landscaping buffer at the subdivision stage. Noise from the industry area is dealt with in other sections of this report.

### Proposed Commercial Development

A commercial zoned lot is located at the intersection of South West Highway and Beenyup Road and abuts Lot 2. Council has previously considered and refused an application for a fast food outlet and commercial building on the site. The applicant has sought review of the determination and the matter is currently with the State Administrative Tribunal.

The integration of the developments on Lot 2 and Lot 101 is a matter that will require further consideration through detailed planning. It is envisaged that the Tribunal proceedings for Lot 101 will continue in parallel with Lot 2 and the landowners will be encouraged to work together to ensure that a coordinated and effective interface is achieved.

### **Social Capital and Community Development**

Development of the site is proposed to be in a “gated” format with access being generally restricted to residents. This form of development is generally not supported by Liveable Neighbourhoods in a residential scenario as it is not considered to encourage community interaction, especially given the provision of internal facilities.

Given that the development is catering for aged persons and will contribute towards the provision of a diverse housing product in Byford, and that the public open space area abutting Beenyup Brook will remain accessible for the general public, the restricted access nature of the development, although not ideal, is considered acceptable.

### **Noise**

The subject site is affected by traffic noise from South West Highway. The proposed respite care facility at the intersection of Nettleton Road and South West Highway as well as several dwellings proposed within the retirement village will be affected by noise.

Noise amelioration is proposed to be achieved through a combination of noise walls and “quiet building” design principles, including:

- Laminated glazing on windows.
- High quality window frames.
- The appropriate location of doors.
- The provision of closed eaves.
- The appropriate location of vents.
- The provision of mechanical ventilation and air conditioning.
- Appropriately designed doors with acoustic seals.

Whilst the quiet building design principles are supported, the use of noise walls along South West Highway is not considered appropriate in terms of safety and visual amenity, especially given that the site is in close proximity to the Byford Town Centre. Alternative design options for noise amelioration measures will need to be considered by the applicant in the context of a noise management plan.

### Industry Noise

Noise from the industry adjoining the site to the south of Nettleton Road also has impacts on the subject site and proposed development.

Industry noise is proposed to be addressed through:

- “Quiet building” design principles.
- Notifications on title.
- Requiring various noise reductions from the adjacent industry area.
- Advising the service station at the intersection of Nettleton Road and South West Highway that the playing of external music at night is unacceptable.

The Industry Noise Assessment report accompanying the draft LSP does however identify that ultimately, it is the responsibility of the noise emitter to achieve compliance. Compliance for the industry is more difficult, however, since the industry has not been specifically designed to accommodate residences in the proposed location. Although it is the responsibility of the industries to comply and reduce noise emissions as far as reasonably practicable, it is also considered reasonable for some of the responsibility to be on the developer/future residences.

The provision of residential development next to an industrial area may result in noise complaints to the Shire from future residents. The Shire will be required to act on these complaints and may have to undertake appropriate action to reduce noise emissions from the industrial area to acceptable levels. It is recommended that a DAP be required for any subdivision/development abutting Nettleton Road to ensure that the noise amelioration measures are incorporated.

### **Planning Framework Assessment Conclusion**

The draft LSP proposes a subdivision and development outcome for the subject site which differs from that envisaged by the BSP and Byford Townsite DAP. These planning mechanisms predict standard residential subdivision, whilst the draft LSP proposes private residential development in the form of a retirement and lifestyle village.

In considering the draft LSP and its suitability for advertising, Council will also be considering the appropriateness of the variations proposed from the BSP and Byford Townsite DAP, and whether the intent of the DSP and DAP is being achieved through the alternative nature and form of development proposed.

### **Fauna**

#### Kangaroos

There is a significant kangaroo population that utilises Lot 2 for grazing purposes. The consultant team for this project has included Dion Steven, a specialist in respect of animal relocations. Based on the information available to date, including a number of site visits, a general strategy has been developed for the management of the kangaroo population. The strategy involves a staged approach to development and the progressive installation of fencing to encourage the movement of the population along Beenyup Brook and ultimately out onto the Darling Scarp.

## Cockatoos

Environmental studies prepared for the subject proposal have identified the presence of Black Cockatoos on the site. It will be recommended that the requirement for a fauna management plan be incorporated into the LSP Statutory Section, addressing the issue of Black Cockatoos on-site.

## **Vegetation**

The proponent has undertaken two studies with respect to vegetation on site – an Assessment of Remnant Vegetation and a general Flora and Vegetation report.

***Plans indicating the vegetation types and conditions prepared by the applicant are provided as Attachment SD070.6/12/09.***

The Assessment of remnant vegetation considers the portion of Lot 2 that has been designated as Potentially Locally Significant Natural Area in the Shire's Local Biodiversity Strategy. The Assessment was supported by a database (Declared Rare or Priority Flora and Threatened or Priority Ecological Communities), a Tree Survey and three field surveys (two by the consultants and one by the Department of Environment and Conservation).

The report identifies that the remnant vegetation qualifies as a "Natural Area" on the grounds that it is Forrestfield Complex and potentially a Threatened Ecological Community. The report also identifies that the area of retention is viable with management and retains understorey/connectivity. In addition, two separate assessments have been carried out in relation to the trees on Lot 2 in order to inform the retention of mature tree stock.

The manner in which tree retention is achieved through sensitive design may be summarised as follows:

- The retention, as a conservation area, of a sizeable portion of remnant vegetation in the northeast extent of the site;
- The inclusion of corridors to link the Local Natural Area to the Beenyup Brook multiple-use corridor;
- Avoiding fill on the lifestyle village site to north of Beenyup Brook where the bulk of trees are located;
- The utilisation of screw pile footings on the lifestyle village sites;
- The creation of an "Arbor Way" aligned to accommodate remnant vegetation;
- The location of private pocket parks within the development to coincide with the location of those trees worthy of retention;
- An internal road layout sympathetic to the retention of trees across the site; and
- The creation of a vegetated landscape buffer along the eastern edges of the site.

In addition to these design elements, a number of management mechanisms are proposed to be implemented to maximise the likely survival of trees:

- The implementation of suitable protection measures to reduce detrimental damage by heavy machinery;
- As far as practicable, underground services to be constructed a suitable distance from the trees to avoid excessive root plate reduction; and
- As far as practicable, soils levels not to be drastically reduced or increased within the root plate zone of the tree.

With regard to the 3ha vegetation conservation area, the proponent identifies that:

*'Ultimately the area will be revegetated to achieve a "very good" classification across the vegetated area and will be fenced with a single, informal walk trail utilised to minimise access/disturbance.'*

It will be recommended that the requirement for a bushland management plan be incorporated into the LSP Statutory Section, addressing various matters including the future management of the vegetation conservation area.

There is vegetation on-site, outside of the 3 hectares of bushland to retained at the eastern end of the property and retained as part of the Beenyup Brook. The applicant should be encouraged to explore every opportunity to incorporate the retention of all other vegetation, to the maximum extent practicable, through detailed design and assessment as part of future subdivision and development applications.

### **Landscape Protection**

The Shire has prepared Local Planning Policy No. 8 – Landscape Protection Area. The objectives of the Policy are to:

- To preserve the amenity deriving from the scenic value of the Darling Scarp.
- To maintain the integrity of landscapes within the Landscape Protection Area.
- To protect and enhance the landscape, scenic and townscape values through control over design, building materials and siting of development and land uses rather than prohibition of development and land use as such.
- To maintain the integrity of landscapes in the line of sight view corridor along identified scenic routes in the Shire, including but not limited to South Western Highway, Nettleton Road and natural water courses.
- To provide developers and landowners with a statement describing the requirements for subdivision and development within the Landscape Protection Area.

The proponent contends that the Policy is more applicable at the development application stage. Notwithstanding this, an assessment against parts of the Policy considered relevant to the LSP stage has been undertaken by the proponent.

***An assessment table for the LSP prepared by the applicant, against the provisions of Local Planning Policy No. 8 – Landscape Protection Area is provided as Attachment SD070.7/12/09.***

Shire staff considered that the draft LSP generally complies with the Policy.

### **Development Contributions**

In terms of development contributions, the applicant has advised the following:

*“The Shire’s draft Community Facilities and Services Plan indicates that ‘developers would be requested to fully fund facilities where demand is generated by new subdivision.’ Per lot contributions would be calculated and escalated over time with levies payable upon the issue of titles. The early provision of amenities and facilities such as open space would offset contributions and this will be pursued via discussion with Council in detailed design stages.*

*To this end, the Communities and Villages developments are not a standard residential subdivision - the product being developed and the subsequent purchasers of the product will have a lesser demand on external infrastructure (including community infrastructure). The Developer will be building community infrastructure within the developments which will largely service the needs of the occupants of the development. Hence, any scheme costs should be reduced from standard residential scheme costs and subject to negotiation with the Shire.*

*The Shire is also reviewing the general developer contributions applicable to the Development zones throughout the Shire. In this case the majority of the*

*infrastructure will be developer funded. Annual fees from residents would fund recreation/ community facilities in each development. The upgrading of Beenyup Brook would be the developer's responsibility and have wider public benefit. As such we would contend that developer contributions for Lot 2 should be minimal and subject to further negotiation with Council."*

This matter is further discussed below.

### Community Infrastructure

In more recent times, Council has entered into negotiations with developers to achieve the outcomes of the Shire's Community Facilities and Services Plan 2020. The Shire is supportive of developers providing a range of facilities and services that are of benefit to the community. In the context of Lot 2 Nettleton Road, Shire staff believe that discussions and negotiations should be had with the developer in respect of the opportunities set out in the Shire's Community Facilities and Services Plan 2020.

Discussions and negotiations could involve:

- The potential provision of facilities within public open space areas.
- The potential public use of on-site facilities.

In respect to the second dot point above, the draft LSP identifies that:

*"The community facility on the Aspen Communities site may have some elements available to the public (such as seniors' access to some of the recreation facilities and classes) though this is still under review and will be detailed at development application stage."*

It is recommended that discussions proceed with Aspen in parallel with the local structure plan.

### Development Contributions

Shire staff are currently preparing a development contribution arrangement (DCA) for the Byford development area. The DCA will set out infrastructure and cost items for which contributions will be collected from developers. In addition, the DCA will set out a methodology for the calculation of contributions as well as administrative and operational requirements and procedures.

The DCA will be advertised for public comment once considered by Council. At this time, the owner of Lot 2 would be able to comment on the draft contribution arrangement. Should subdivision and development of the site proceed prior to finalisation of the DCA, an interim contribution arrangement will be entered into with the landowner. This approach has been applied elsewhere within Byford and usually involves entering into a legal agreement and associated mechanisms.

### **Fire and Risk Management**

A Fire and Emergency Management Plan has been provided as a technical appendix to the draft LSP.

The Plan identifies a range of fire management measures and standards including the road system, strategic firebreaks, treatment of remnant vegetation and open space, staging and building protection zones. The Plan also provides an assessment of risk associated with storms, drainage and other identified hazards. It provides a management framework for dealing with each.

The Shire's Emergency Services section has reviewed the Plan and requested that certain modifications be made, as well as the provision of additional information.

To properly integrate fire management planning into the statutory planning processes, it is recommended that the statutory section of the LSP include provisions requiring the preparation of a fire management plan.

### **Water Management**

A Local Water Management Strategy (LWMS) has been prepared to support the draft LSP for Lot 2. The LWMS provides a framework for the application of total water cycle management to the study area, consistent with the Byford Townsite Drainage and Water Management Plan. The document aims to integrate stormwater drainage, nutrient and pollutant management, and stormwater conservation, and is based on the principles of water sensitive urban design.

The LWMS provides an understanding of the existing surface water and shallow groundwater for the study area and provides advice on seasonal groundwater variation, stormwater drainage, water quality considerations and flood management.

This document has been prepared to be in accordance with the requirements of the Byford Townsite Drainage and Water Management Plan.

The LWMS will inform the preparation of Urban Water Management Plans (UWMPs) at the subdivision and development stages.

***A copy of the Local Water Management Strategy is with the Attachments marked SD070.8/12/09.***

### **Statutory Matters**

#### Indicative Development Concept Plan

An indicative development concept plan has been prepared for the subject site and included within the Statutory Section of the draft LSP. It is identified in several parts of the Statutory Section that subdivision and development shall generally be in accordance with the indicative development concept plan.

Development concept plans are not recognised within the Shire's TPS 2. Whilst reference to the concept plan within the draft LSP does provide an element of statutory enforcement, this approach is not usual practice. It may be considered more appropriate to consider the development concept plan as:

- A mechanism to guide the preparation of future detailed area plans.
- A mechanism upon which to consider future subdivision and development applications.
- A detailed area plan of which subdivision and development is to generally accord with.

It is recommended that the applicant be required to clarify, within the statutory section of the LSP, the intended statutory status and operation of the indicative development concept plan.

#### Detailed Area Plans and Design Guidelines

It is not stated within the Statutory Section where detailed area plans (DAPs) and/or design guidelines are required.

It is recommended that the requirement for DAPs to be prepared for land abutting Nettleton Road, South Western Highway, surrounding properties and the bushland retention area be inserted into the statutory section.



### Local Structure Plan Map

It is recommended that several changes be made to the LSP Map, ensuring a greater level of guidance, including:

- Identifying the vegetation conservation area in the north-east portion of the site.
- Identifying key road linkages into and within the subject site and responsibilities for construction.
- Identifying interface treatments between the subject site and surrounding development, and development and public open space.
- Identifying the areas subject to DAPs and/or design guidelines.
- Identifying the pedestrian, cycle and dual-use path network.
- Identifying the proposed additional uses in a manner consistent with TPS 2.

### Commercial Site

A portion of land at the intersection of South West Highway and Nettleton Road is classified as Commercial under the draft LSP. It is stated that the commercial site is under consideration for a medical centre and aged car facility. A medical centre is a P (permitted) use within the Commercial zone under the Scheme, however aged or dependent persons dwelling and hospital are not permitted. The draft LSP therefore proposes to have aged or dependent persons dwelling and hospital as additional uses permitted in the Commercial area.

The applicant is cognisant of Shire staff concerns that commercial development, retail development in particular, outside of the Byford Town Centre may detract from the Town Centre as the primary focus for such activities. In responding to these concerns, the draft LSP identifies shop, shopping centre and market land uses as not being permitted on the land identified for Commercial development. This approach is however inconsistent with the Scheme and would therefore not be allowed.

A Residential classification could be more appropriate, given that aged or dependent persons dwelling, medical centre and hospital are land uses which can be considered within the Residential zone, and that shop, shopping centre and market land uses are not permitted.

### Split Density Code

A retirement village is proposed in proximity to the intersection of Beenyup Road and South West Highway. A split residential density code of R40/60 is identified for this portion of the site. It is however identified that the majority of the retirement village will be developed to the R40 density.

It is recommended that clarification as to the criteria intended to be used for the implementation of the proposed split density codes for the area designated Residential R40/R60 be incorporated within the statutory section of the LSP.

### Unzoned Land

A small portion of the subject site running parallel with South West Highway appears to be subject to no zoning or reservation under TPS 2. It is assumed that this land used to be part of the South West Highway Primary Regional Road reservation under the Metropolitan Region Scheme (MRS).

It would appear that the reserve width has been reduced in the past, with the land subsequently being zoned Urban under the MRS. The land has not however been subsequently zoned under TPS 2.

This abnormality will need to be addressed through an Amendment to TPS 2. In the meantime, it is considered that the draft LSP can be progressed and apply to unzoned land. There appears to be nothing within TPS 2 which states that a structure plan needs to be on land zoned Urban Development. In addition, as the land is zoned Urban under the MRS, there is a reasonable expectation that the land would be zoned for development purposes.

### **Consultation**

Should Council determine that the draft LSP is satisfactory for advertising, the proposal would be advertised for a period of not less than 21 days to members of the public (including nearby landowners) and to relevant government agencies. Following the close of the advertising period, both the proposed draft LSP and submissions received would need to be presented back to Council for further consideration and a determination as to whether the draft LSP should be adopted. A final determination on the LSP will be required by the WAPC.

### **Options**

There are 3 main options available to Council with respect to the current proposal, as outlined below.

- Option 1 – determine that the draft LSP is satisfactory for advertising, with or without modifications;
- Option 2- determine that the draft LSP is not satisfactory for advertising, providing reasons to the proponent; or
- Option 3 – defer consideration of the draft LSP, pending the submission of further information.

It should be noted that a decision of Council on the draft LSP at this time will not bind Council in its decision making post-advertising, when Council will need to determine whether to approve the draft LSP ahead of a formal determination by the WAPC.

### **Conclusion**

Lot 2 Nettleton Road is subject to a complex planning and development environment. The site is subject to both the BSP and the Byford Townsite DAP, and is surrounded by rural, industrial and residential land uses. The draft LSP for Lot 2 will facilitate its subdivision and development for a retirement village, lifestyle village, a small area of low density residential development and a commercial development site.

Shire staff consider the draft LSP to be satisfactory for advertising, subject to additional details being provided and modifications undertaken, as detailed in the schedule of modifications.

***The schedule of modifications is provided as Attachment SD070.9/12/09.***

**Voting Requirements:** Simple Majority

Director Corporate Services left meeting at 8.36pm and returned at 8.38pm.

### **SD070/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Randall, seconded Cr Harris**

1. That Council, pursuant to Clause 5.18.3.2(b) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, determine that the draft Local Structure Plan for Lot 2 Nettleton Road, Byford as provided at ***Attachment SD070.1/12/09*** is satisfactory for advertising subject to additional details being provided and modifications first being undertaken, as detailed in the schedule

- of modifications provided at *Attachment SD070.9/12/09*, to the satisfaction of the Director Development Services.
2. That Council, pursuant to Clause 5.18.3.5 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, advertises the draft Local Structure Plan for Lot 2 Nettleton Road, Byford for public inspection for a period of not less than 42 days by way of:
    - a) Written notice to all landowners affected by the draft Local Structure Plan;
    - b) Written notice to all landowners within 200m of the boundary of the draft Local Structure Plan;
    - c) Written notice to relevant agencies to the satisfaction of the Executive Manager Planning;
    - d) An advertisement being placed in a newspaper circulating in the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 area; and
    - e) A sign being erected in a conspicuous position on Lot 2.
  3. That Council, pursuant to Clause 5.18.3.6 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, forward a copy of the draft Local Structure Plan for Lot 2 Nettleton Road, Byford to the Western Australian Planning Commission.
  4. That Council note that an amendment to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 may be required in the future to ensure all land within the Local Structure Plan area is appropriately zoned.
  5. The applicant be encouraged to explore every opportunity to incorporate the retention of all other vegetation, to the maximum extent practicable, through detailed design and assessment as part of future subdivision and development applications.

**CARRIED 6/4**

**Council note:** The Committee/Officer Recommended Resolution was amended with Part B being changed from 21 days to 42 days and Part 2b being changed from 100m to 200m. The Presiding Officer advised that these were minor changes which did not alter the intent of the recommendation.

Cr Kirkpatrick foreshadowed that he would move the Committee/Officer Recommended Resolution with a new part 5 as follows if the motion under debate is defeated:

That the proponent of this subdivision prepare in their Detailed Area Plan for the area commonly known as the nature strip ie the area of land between the edge of the road pavement area and the private property boundary, the following:

1. A detailed arrangement of all verge treatments to include all vegetation present and intended kerbing, footpaths and crossovers.
2. All of these treatments to be installed prior to the release of the blocks.
3. Any footpaths to be a permanent earthy colour.
4. Crossovers to be of bricks, blocks or a similar material.
5. Details of how the developer intends to install and maintain them.

SD071/12/09 ADOPTION OF DRAFT LOCAL STRUCTURE PLAN – BYFORD WEST – LOTS 4 AND 5 ABERNETHY ROAD, BYFORD (A1670)		
Proponent:	Gray and Lewis Planning Consultants	<p>In Brief</p> <p>To consider the adoption of a draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford.</p> <p>It is recommended that the draft Local Structure Plan be adopted by Council, subject to modification and forwarded to the Western Australian Planning Commission for consideration.</p>
Owner:	Byford West Pty Ltd	
Author:	Chris Donnelly - Consultant Senior Planner Simon Wilkes - Executive Manager Planning	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	15 October 2009	
Previously	N/A	
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: 23 November 2005  
 Advertised: Yes  
 Submissions: Five  
 Lot Area: 31.56ha  
 L.A Zoning: Urban Development  
 MRS Zoning: Urban  
 Byford District Structure Plan: Residential (R20), Neighbourhood Node, Multiple Use Corridor, Drainage Basin Indicative Location, Proposed Neighbourhood Park, District Recreation, Future Roads.

## **Background**

### **Draft Local Structure Plan**

Gray and Lewis Planning Consultants submitted a draft Local Structure Plan (LSP) to the Shire in early 2006 to facilitate the subdivision and development of Lots 4 and 5 Abernethy Road, Byford.

Initial drafts of the LSP provided for the following:

- A significant amount of R20 Residential development.
- Small areas of R30 Residential development in proximity to proposed neighbourhood nodes, a neighbourhood park and a district park.
- Public open space abutting Abernethy Road, a neighbourhood park and an area of district open space.
- A multiple-use corridor (MUC) combining drainage, urban water management and public open space functions.

Council at its meeting of 27 March 2006 considered the draft LSP and resolved that the draft LSP was satisfactory for advertising subject to the provision of further details, and with modifications made including:

- The identification of road widening requirements for Abernethy Road.
- The subsequent relocation of affected development including public open space, residential land and a neighbourhood node site.

- A redesign of small lot development adjacent to Abernethy Road to remove rear laneways and to provide frontage of lots to a road reserve and remove rear laneways.

Council also resolved to undertake an independent review of the Drainage and Nutrient Management Plan submitted with the draft LSP, with any required modifications being made to the LSP as a result of the review. In addition, Council resolved that prior to the draft LSP being referred back to Council for adoption, that further details be provided and modifications be made in relation to the following matters:

- Entry statements or advertising works not being permitted, with all reference to entry statements and/or signage being removed from plans. It is suggested to the applicant that they liaise with the Shire regarding the possible use of public art instead.
- That Council will require the installation of technical infrastructure as a condition of development approval.
- The submission of a community and economic development plan, including a memorandum of understanding between the proponent and Council.
- The preparation of a detailed area plan for the smaller lots abutting the Neighbourhood Node site, Abernethy Road and areas of public open space.
- The preparation of a detailed area plan for Lots 27-28, 41-44, 58-61, 76-79 and 96-97 to allow for wider frontages to allow for adequate solar orientation for north facing lots.

Finally, Council resolved to direct the applicant to request the Western Australian Planning Commission (WAPC) to transfer a portion of the subject site from the Urban Deferred zone to the Urban zone under the Metropolitan Region Scheme (MRS), hence ensuring the entire LSP area was zoned Urban.

These modifications were made and the draft LSP was subsequently advertised for public and agency comment.

***A copy of the draft LSP as submitted to the Shire is with the attachments marked SD071.1/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** The MUC proposed will facilitate improved water quality outcomes as well as vegetation retention. Shire staff will recommend modifications to the revised draft LSP to facilitate the retention and preservation of existing vegetation on-site and within adjoining land. Modifications will also be recommended to reintroduce two Neighbourhood Nodes into the subject site, facilitating the ability of local residents to walk to facilities and services.

***Resource Implications:*** A large portion of the area has been set aside as a MUC which will provide a significant environmental function in terms of water quality and vegetation retention. Shire staff will recommend modifications to the revised draft LSP to facilitate the retention and preservation of existing vegetation on-site and within adjoining land.

### ***Use of Local, Renewable or Recyclable Resources:***

The proponent should be encouraged to use local contractors and materials wherever possible in the eventual construction phase of the development. Also, the reuse of drainage and stormwater runoff in the irrigation of public open space and the MUC will be required.

***Economic Viability/Benefits:*** The R20 residential development proposed by the revised draft LSP is generally consistent with that developed and readily marketed elsewhere in Byford. The applicant has advised that the Neighbourhood Nodes, as previously proposed and identified in the Byford Structure Plan (BSP), are no longer justified. Whilst this may be

the case at present, Shire staff do not believe that their development in the future should be prejudiced. These Neighbourhood Nodes will facilitate the establishment of small-scale commercial and retail development and contribute to the local economy and provide employment opportunities. In this context, Shire staff will recommend that the revised draft LSP be modified to reintroduce the Neighbourhood Nodes.

**Social – Quality of Life:** Based upon Council adopting the recommended changes to the draft revised LSP, the LSP will be generally consistent with the principles of Liveable Neighbourhoods, and is considered to provide an appropriate quality of life.

**Social and Environmental Responsibility:** The revised draft LSP, as recommended to be modified by Shire staff, will facilitate the retention and protection of existing vegetation and address water quality objectives through the provision of a MUC. As stated above, the revised draft LSP is considered to provide an appropriate quality of life in a social sense.

**Social Diversity:** The revised draft LSP provides R20 residential development, catering for larger household sizes. The provision of Neighbourhood Nodes, as recommended by Shire staff, will however provide opportunities for housing diversity at medium densities. Such development will facilitate the provision of housing for smaller household sizes.

### **Public and Agency Consultation**

A total of five submissions were received on the draft LSP. The schedule of submissions identifies the submitters, a summary of their submission, Shire staff comments on the submission and any recommended action.

***A copy of the schedule of submissions is with the attachments marked SD071.2/12/09.***

### **Discussion**

#### **Progress since Advertising**

Once the advertising of the draft LSP was complete, the landowner lodged a subdivision application for the site, which was refused by the WAPC. The applicant sought a review of the WAPC determination and the subdivision application was subsequently approved by the State Administrative Tribunal (SAT).

In accordance with the subdivision approval, works are currently being undertaken for stage 1 of the subdivision, in proximity to Abernethy Road.

In light of this, Shire staff sought direction from the applicant as to whether they wished to finalise the draft LSP for Lots 4 and 5 or whether they would like to withdraw the application. In their correspondence dated 14 August 2009, the applicant advised that they wished to proceed with the draft LSP:

*“We request that Council formally adopt the Local Structure Plan so that we can progress with the re-lodgement of the relevant proposed subdivision plans.”*

The applicant intends to submit a revised subdivision application in accordance with a revised version of the draft LSP. It is not considered necessary to re-advertise the revised draft LSP, as the proposal results in largely the same subdivision and development outcome. Furthermore, the revised LSP addresses some of the key issues raised during the advertising period.

#### **Consultation Outcomes**

Based upon the submissions received, the following key points require attention:

- Roads – Shire staff will recommend that the revised draft LSP be modified to identify all road connections onto adjoining lots based upon approved and draft LSPs. This will ensure integration and consistency between individual development proposals.
- Vegetation retention – Shire staff will recommend that the revised draft LSP be modified to relocate the road connection between adjoining Lot 3 and Lot 4 further north of the multiple-use corridor. This modification will facilitate the protection of vegetation in Lot 3.
- Water management – Shire staff and the applicant have met with the Department of Water to discuss a revised drainage strategy based upon the Byford Townsite Drainage and Water Management Plan. Based upon these discussions, the Department of Water has provided in-principle support for the proposed drainage strategy.
- Water – Shire staff will recommend that minor changes be made to the LSP supporting report based upon comments provided by the Water Corporation regarding compliance with State-level water objectives and principles, and infrastructure requirements. These changes are considered minor in nature and do not alter the intent of the LSP.

### **Revised Draft LSP**

The following sections identify and discuss key issues with regard to the revised LSP.

#### Neighbourhood Nodes

The BSP identifies two Neighbourhood Nodes on the subject site. Pursuant to the Shire's Local Planning Policy (LPP) No. 19 – Byford Structure Plan Area Development Requirements, Neighbourhood Nodes are envisaged to be small-scale retail and commercial centres.

The draft LSP, as advertised, included two Neighbourhood Nodes. The Neighbourhood Nodes have since been removed from the LSP and replaced with residential development at an R20 density.

The applicant has provided the following reasoning for removing the Neighbourhood Nodes:

*'The neighbourhood node within the Stage 1 area is no longer justified and has been removed and replaced with single residential R20 lots.'*

The applicant has not provided any additional detail as to why the Neighbourhood Nodes are no longer justified.

In making a determination on the LSP, Council will need to consider the merits of excluding or including Neighbourhood Nodes within the Plan. The BSP was designed generally in accordance with the principles of Liveable Neighbourhoods, promoting a dispersal of commercial and retail development in smaller centres within walking distance of most residential areas. To ensure such sustainable development designs are achieved, it is considered necessary to require provision for Neighbourhood Node development.

Council must however consider that it has not required specific compliance with the BSP in the past, in that Neighbourhood Nodes have not been carried over into precinct-level local structure plans. An example of such is the draft Glades LSP, which does not make provision for Neighbourhood Nodes along Abernethy Road.

In addition, the actual need for the Neighbourhood Nodes requires consideration. Lots 4 and 5 are within 700m of the larger Neighbourhood Centre proposed for Doley Road, within the draft Glades LSP area. This is considered a reasonable walking distance to access retail and commercial facilities and services.

There are clear arguments for and against including or excluding the Neighbourhood Nodes within the LSP for Lots 4 and 5. Shire staff considered that whilst there may be no

justification for the Nodes currently, as indicated by the application, this is no reasoning for excluding their potential development in the future.

To this extent, Shire staff will recommend that the draft revised LSP be modified to include two Neighbourhood Node sites, and insert appropriate provisions into the LSP ensuring that subdivision and development of the sites either incorporates Neighbourhood Node elements currently and/or does not prejudice the future development of a Node in the future. Potential wording for inclusion in the Statutory Section of the LSP is provided below:

(i) *‘Neighbourhood Nodes*

*The following provisions apply to the subdivision and development of land classified as Neighbourhood Node:*

*Subdivision and development of land classified as Neighbourhood Node shall be in accordance with an approved detailed area plan (DAP). The DAP is to address, as a minimum, the following matters:*

- *Objectives and principles*
- *Land use*
- *Retail/shopping floorspace allocations*
- *Detailed development requirements*
- *Public realm development requirements*
- *Transitional land use and development arrangements where an initial land use or development is not consistent with the intended form and function of a Neighbourhood Node.*

*Where there is no approved DAP, the Shire may support an application for subdivision or approve an application for development where at least one of the following circumstances apply:*

- *The application is for the amalgamation of lots.*
- *The application is for subdivision and there is a legally enforceable agreement already in place for the development of the subject land for a form and function consistent with the intended form and function of a Neighbourhood Node.*
- *The application is for a change of use that complies with the requirements of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and if for a retail use, does not exceed any applicable restrictions on retail floorspace for the Neighbourhood Node.*
- *The application is for development on a lot which is already substantially developed and the granting of approval will not be in conflict with the intended form and function of a Neighbourhood Node.*
- *The application demonstrates that the proposed development is of a built form that is robust enough to allow conversion in the future to a use consistent with the intended form and function of a Neighbourhood Node.*

## Densities

The draft LSP for Lots 4 and 5, as advertised, identifies several areas of R30 residential development, abutting public open space and a Neighbourhood Node site. These areas of medium density development have been removed from the revised draft LSP and replaced with R20 development. This results in the entire residential portion of the LSP being at a density of R20. In this context, the applicant has advised:



*'The R30 density surrounding the District Open Space has been removed as there is limited market for such lots at this stage.'*

The provision of medium density residential development is generally supported in new development areas to ensure a mix of housing types can be facilitated. In this regard, having the entire residential portion of the LSP area as R20 is not supported.

It should however be noted that the BSP identifies the residential classification on Lots 4 and 5 at a density of R20. The ability for Council to enforce higher densities of residential development is therefore limited.

In addition, in the absence of a local housing strategy which provides guidance as to the appropriate locations for medium density development, it is not considered appropriate that Council require medium densities of development on the subject site. Shire staff will not recommend that the applicant reintroduce medium density residential development onto the revised draft LSP.

### Public Open Space

The BSP provides for three areas of public open space on the subject site, being a proposed Neighbourhood Park of approximately 4000m<sup>2</sup>, an area of District Recreation and the public open space component of an east-west multiple-use corridor. The draft LSP for Lots 4 and 5, as advertised, reflected these open space requirements and included an additional area of public open space abutting Abernethy Road, protecting existing vegetation.

The draft revised LSP submitted varies from the advertised version. The most significant variation includes removing the centrally located neighbourhood park. The area of public open space attributable to the park has been redistributed to form a larger area of district open space to the south and to the public open space area abutting Abernethy Road.

The BSP clearly identifies a Neighbourhood Park on Lot 4. In this regard, the revised draft LSP does not comply with the BSP. The neighbourhood park would provide a location for passive and informal active recreational functions.

The exclusion of the neighbourhood park must however be considered in context in that all residential development will remain within a 300m catchment of public open space. This includes proposed open space in the draft Glades LSP and LSP for Lot 27 to the west. These alternative open space provisions are considered to provide for neighbourhood park functions including passive and informal active recreation.

In addition, the total amount of public open space provided by the revised draft LSP for Lots 4 and 5 complies with the 10 percent requirement of Provision 4.1 of the BSP Operative Part.

The enlarged area of public open space abutting Abernethy Road is supported to provide for the retention and protection of existing vegetation. This open space will also facilitate the achievement of a landscaping outcome detailed in Provision 4.2.2 of the Operative Part of the BSP:

*'The future construction of Abernethy Road should include measures to provide an amenity buffer to the residential land uses on the south side of Abernethy Road. Such measures could include dense landscaping, appropriate fencing or bunding...'*

The district parkland area in the south of the LSP area is to be co-located with a Primary School site in the adjacent Glades LSP area. The co-location of open space with school sites presents some issues in terms of:

- Future management – which party will be responsible for the maintenance of the district parkland area in the future (Department of Education and/or Shire).
- Fencing of the school site – to reduce crime, many school sites in Perth are being fenced in. If this does occur, the co-location of the district parkland and school site is less effective.

It should however be considered that the district park will form part of a very large area of public open space, as detailed in the draft Glades LSP. In this context it is considered that the size of the district park will be suitable, however Council will continue to oppose any moves to fence the school site in the future.

Although the public open space proposed by the revised draft LSP does not strictly comply with the BSP, when considered on its merits, Shire staff consider the provision to be appropriate and acceptable.

#### Abernethy Road

The draft LSP for Lots 4 and 5, as advertised, was based upon an ultimate reserve of 40m for Abernethy Road. The BSP was modified in September 2009 to reduce the width of Abernethy Road from 40m to 30m.

The revised draft LSP has been modified to reflect the narrower reserve for Abernethy Road. The applicant has advised that the balance of land originally set aside for Abernethy Road has been incorporated within the adjacent public open space area. This approach is supported by Shire staff to provide for a landscaping buffer, as discussed above.

#### Bus Routes

The Public Transport Authority (PTA) has identified potential bus routes to service new residential development west of the railway within the BSP area. A briefing was provided to elected members on the proposed bus routes at the October 2009 Policy Forum.

To this extent, the location of the bus route traversing Lots 4 and 5 has been identified on the revised draft LSP, with a wider 18m road reserve being provided where the bus route heads east towards Lot 3.

Shire staff will be recommending that Council require the revised draft LPS to be modified to identify road connection points from Lot 4 into Lot 3. In parallel, Shire staff will also recommend that the revised draft LSP be modified to show how the bus route will connect into Lot 3. All road portions which will serve as a bus route will need to be at least 18m wide.

#### Vegetation Retention

The Shire places a strong emphasis on the retention of remnant vegetation. This is especially apparent in the BSP area where due to past land use, much of the area has been cleared. Certain portions of Lot 4 and 5 contain vegetation which has the ability to be retained in public open space, especially those abutting Abernethy Road and within the proposed MUC.

A significant line of vegetation exists within Lot 4 abutting the boundary of Lot 5, running north-south. Shire staff has conducted a site inspection to determine whether the vegetation is worthy and appropriate for retention. The trees are located within the path of a future road under the draft revised LSP.

The following conclusions were drawn:

- The trees are relatively young and small in size;

- The trees are off-centre to the future road, meaning that their retention in a median strip would involve deviating the road alignment. In addition to this, it is likely the road median will be required to incorporate a bio-retention swale, meaning that the trees will be located in a site subject to significant earthworks such as subsoil drainage infrastructure and placement of soil amendment. The land will be subject to inundation and will likely be too wet for tree survival;
- The road could be significantly realigned to retain the vegetation, however this would result in the trees being located on private property and be subject to a significant amount of fill;
- The vegetation is not native to the area and has limited ecological value to wildlife; and
- Should the vegetation be retained, there would be a risk of genetic hybridisation with local native vegetation and spread of environmental weeds into adjacent waterways.

Whilst the potential exists for the vegetation to be retained within a road reserve or on private property, Shire staff consider this would be difficult to achieve and therefore it should not be retained. In the preparation of landscaping plans for the site, it will be necessary for local native plants to be utilised.

### Statutory/Operative Section

Most LSPs are prepared incorporating two parts:

- A statutory/operative section, including the structure plan map; and
- Supporting documentation, including technical appendices.

The draft LSP for Lots 4 and 5, as advertised, did not include a statutory section. On request from the Shire, the applicant has since prepared and submitted a statutory section.

Several minor changes are required to the submitted statutory section, including:

- Clarifying that the provisions of Town Planning Scheme No. 2 (TPS 2) prevail over the provisions of the LSP where there is any inconsistency or conflict.
- Under Section 7.0, replacing *'All development should be carried out in accordance with the principles outlined on the Structure Plan Map'* and *'The road layout depicted on the Structure Plan Map is indicative only and is subject to detailed planning at the time of subdivision and development'* with appropriate wording which indicates that subdivision and development should be generally in accordance with the LSP.
- Deleting *'There are no uses other than Residential (R20) and POS proposed'* from Section 8.2.1.
- Inserting a series of objectives for the LSP.

These changes will ensure the effective implementation and operation of the LSP. Shire staff will require that the draft revised LSP be adopted subject to the above described modification being made. Additional changes to the statutory section may also be required based upon the modifications required to the revised draft LSP as required by Shire staff.

### Supporting Documentation and Technical Appendices

Whilst the LSP Map has been revised and a Statutory Section prepared, the Supporting Documentation for the LSP has not yet been updated. To ensure that the LSP is properly finalised, Shire staff will require that the LSP Supporting Documentation be updated based upon the revised LSP Map and Statutory Section, various decisions which have been made on the LSP in the meantime, the progression of planning for the BSP area, and to make and remove reference to higher-level planning documents which have either been introduced or rescinded since the Supporting Documentation was prepared.

### **Modifications and Additional Details Required by Council**

Council at its meeting of 27 March 2006 resolved that prior to the draft LSP being referred back to Council for adoption, that further details be provided and modifications made in relation to several matters. These matters are discussed in the following section.

#### Entry Statements, Advertising Works, Signage and Public Art

Council resolved that no entry statements, advertising works or signage is permitted, with the possible use of public art instead.

The revised draft LSP Map and Statutory Section do not make reference to entry statements, advertising works or signage. The current Supporting Documentation, which is to be comprehensively revised as detailed above, does however identify the provision of low key entry statements into the estate off Abernethy Road. It is identified that the entry statements will consist of unobtrusive signage fixed to robust built form elements (public art) denoting the estates character and name.

The Supporting Documentation and Statutory Section will be modified to identify that all signage will need to be in accordance with the Shire's Local Planning Policy No. 5 – Control of Advertisements, and that no entry statements or advertising signage for the estate is permitted.

#### Technical Infrastructure

Technical infrastructure will likely be required as conditions of subdivision and development approval.

#### Community and Economic Development Plan (CEDP)

Council resolved that a CEDP for the draft LSP area be submitted, and a memorandum of understanding between the proponent and Council be established. In more recent times, Council has not required the preparation of a plan or memorandum, but rather has entered into negotiations with developers to achieve the outcomes of the Council adopted Community Facilities and Services Plan (CFSP) 2020.

The Shire is supportive of developers providing a range of facilities and services that are of benefit to the community. In the context of Lots 4 and 5 Abernethy Road, Shire staff believe that discussions and negotiations should be had with the developer in respect of the opportunities set out in the Shire's CFSP 2020.

Discussions and negotiations could involve:

- The potential provision of facilities within public open space areas; and
- Being part of an agreement between the Department of Education, Shire and other developers regarding the ongoing maintenance and public access to the shared recreation facilities of the district park and primary school site.

These discussions and negotiations need to proceed as soon as possible.

#### DAPs

Council resolved that a DAP be prepared for the smaller lots abutting the Neighbourhood Node sites, Abernethy Road and areas of public open space. The provision of DAPs in the above instances are no longer considered necessary given that the revised draft LSP has removed all small lot medium density residential development sites. The medium density sites have been replaced with R20 residential development, of which the lot size is considered large enough to not require detailed design control. In addition, the revised design of development ensures that no residential development directly abuts public open

space or Abernethy Road. Local roads have been provided as an interface treatment in such instances.

In addition, Council also resolved that DAPs be prepared for specific Lots, being 27-28, 41-44, 58-61, 76-79 and 96-97, as indicated on a plan of subdivision lodged by the applicant, to allow for wider frontages and adequate solar orientation. Based upon the revised draft LSP submitted, Shire staff believe that the R20 residential development will produce lots which are wide enough to allow for adequate solar orientation.

DAPs are now not required.

#### Lifting of Urban Deferment

A small portion of the subject site remains zoned Urban Deferred under the MRS. A request has been made to the WAPC, and remains pending, to have this portion of land transferred to the Urban zone. It is understood that this matter will be addressed administratively in the future by the WAPC and is not a constraint to the finalisation of the LSP as the land is already zoned 'Urban Development' under TPS 2.

***A copy of the revised draft LSP Statutory Section and Map is with the attachments marked SD071.3/12/09.***

#### Statutory Process

Pursuant to Clause 5.18.3.7 of TPS 2, Council is required to consider all submissions received and is to either adopt the draft LSP with or without modifications, or refuse to adopt the LSP and give reasons for this to the applicant. It is recommended that the revised draft LSP be adopted with modifications.

Should Council resolve that the LSP be adopted, it will be necessary to forward the following information to the WAPC for consideration, pursuant to Clause 5.18.3.9:

- A summary of all submissions and comments received and the Shire's decision or comments in relation to these;
- The Shire's recommendation to the WAPC to approve, modify or refuse to approve the LSP; and
- Any other information the Shire considers may be relevant to the WAPC's consideration of the LSP.

#### Options

Under the provisions of TPS 2, there are two primary options available to Council, as follows:  
(1) To adopt the LSP, with or without modification  
(2) To not adopt the LSP and provide reasons.

Should an applicant be aggrieved by a determination (or lack thereof) by Council, the applicant may by notice in writing request that the matter be determined by the WAPC.

#### Conclusion

The finalisation of the LSP remains important to provide a suitable framework for future subdivision and development with some reasonable degree of certainty, enable effective integration with adjoining land parcels and assist with the finalisation of the Byford Developer Contribution Arrangement and implementation of the Byford Townsite Drainage and Water Management Plan. The opportunity also exists for the developer to have a greater degree of certainty and financial return, while enabling Council to achieve some positive outcomes including greater certainty for vegetation retention and the provision of future bus routes. It

may not be possible to satisfy the expectations of every stakeholder through this process, however some substantial positive improvements are potentially achievable.

**Voting Requirements:** Simple Majority

**Officer Recommended Resolution:**

- A. That Council for the purposes of Clause 5.18.3.9(a) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, notes the submissions received on the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, and endorses the Shire staff responses to those submissions.
- B. That Council pursuant to Clause 5.18.3.7(a) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, adopts the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford (as advertised), subject to the following modifications:

Map

- (1) The identification of all road connections into adjoining Lots based upon approved and draft Local Structure Plans;
- (2) The relocation of the road connection between Lot 4 and adjoining Lot 3 further north of the multiple-use corridor to facilitate the retention and protection of existing vegetation on Lot 3;
- (3) The inclusion of the two Neighbourhood Node sites in accordance with the Byford District Structure Plan;
- (4) The designation of the future bus route identified by the Public Transport Authority;
- (5) The identification of areas where the retention of vegetation is a priority matter; and
- (6) The designation of lots that require the preparation of Detailed Area plans to facilitate the retention of vegetation, to the maximum extent practicable.

Statutory Section

- (7) The inclusion of a 'Statutory Section', in accordance with Attachment SD071.3/12/09, with the following changes:
    - (i) text that states that to the extent of an inconsistency, the provisions of Town Planning Scheme No. 2 prevail over the Local Structure plan
    - (ii) the deletion of the text from Section 8.2.1, which reads '*There are no uses other than Residential (R20) and POS proposed*'.
  - (8) The inclusion of relevant provisions in relation to the retention of existing vegetation.
  - (9) The inclusion of relevant provisions in respect of the proposed neighbourhood nodes.
  - (10) The inclusion of text that identifies that all signage will need to be in accordance with the Shire's Local Planning Policy No. 5 – Control of Advertisements, and that no entry statements or advertising signage for the estate is permitted,
- C. Council adopt the updated Drainage Strategy for Lots 4 and 5 Abernethy Road, Byford as provided in attachment marked SD071.4/12/09.
- D. Following compliance with Part B and C of Council's resolution, pursuant to Clause 5.18.3.9 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 to the satisfaction of the Director Development Services, forward to the Western Australian Planning Commission:
1. A summary of all submissions and comments received by the Shire in respect of the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, and Council's decisions or comments in relation to these.

2. Council's recommendation to the Western Australian Planning Commission to adopt the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, with modifications.
  3. Any other information that may be relevant to the Western Australian Planning Commission's consideration of the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford.
- E. Advise the applicant and all agencies and persons who made a submission on the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, of its resolution.
- F. The applicant is required to facilitate the formulation and execution of a binding legal agreement between the Department of Education and Training, Shire of Serpentine Jarrahdale, the landowner of the adjoining property containing the primary school site and the subdivider, for the provision, ongoing maintenance and ongoing public access to the shared recreation facilities at the primary school site, at the earliest opportunity.
- G. Request Shire Officers to negotiate with the applicant in relation to achieving the community outcomes identified within the Shire's Community Facilities and Services Plan 2020.

### **New Motion**

#### **Moved Cr Geurds, seconded Cr Brown**

The draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford be refused until Council is shown a full design of the site. The present lot design gives a maximum 10% public open space including 0.6ha buffer on Abernethy Road and decisions cannot be made as to the outcome of the Local Structure Plan and how it fits in with the Byford Structure Plan.

**LOST 2/8**

Cr Harris foreshadowed that she would move the Officer Recommended Resolution if the motion under debate is defeated.

#### **SD071/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

#### **Moved Cr Harris, seconded Cr Randall**

- A. That Council for the purposes of Clause 5.18.3.9(a) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, notes the submissions received on the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, and endorses the Shire staff responses to those submissions.
- B. That Council pursuant to Clause 5.18.3.7(a) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, adopts the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford (as advertised), subject to the following modifications:

#### **Map**

- (1) The identification of all road connections into adjoining Lots based upon approved and draft Local Structure Plans;
- (2) The relocation of the road connection between Lot 4 and adjoining Lot 3 further north of the multiple-use corridor to facilitate the retention and protection of existing vegetation on Lot 3;
- (3) The inclusion of the two Neighbourhood Node sites in accordance with the Byford District Structure Plan;
- (4) The designation of the future bus route identified by the Public Transport Authority;
- (5) The identification of areas where the retention of vegetation is a priority matter; and
- (6) The designation of lots that require the preparation of Detailed Area plans to facilitate the retention of vegetation, to the maximum extent practicable.

### **Statutory Section**

- (7) The inclusion of a ‘Statutory Section’, in accordance with Attachment SD071.3/12/09, with the following changes:**
    - (i) text that states that to the extent of an inconsistency, the provisions of Town Planning Scheme No. 2 prevail over the Local Structure plan**
    - (ii) the deletion of the text from Section 8.2.1, which reads ‘There are no uses other than Residential (R20) and POS proposed’.**
  - (8) The inclusion of relevant provisions in relation to the retention of existing vegetation.**
  - (9) The inclusion of relevant provisions in respect of the proposed neighbourhood nodes.**
  - (10) The inclusion of text that identifies that all signage will need to be in accordance with the Shire’s Local Planning Policy No. 5 – Control of Advertisements, and that no entry statements or advertising signage for the estate is permitted,**
- C. Council adopt the updated Drainage Strategy for Lots 4 and 5 Abernethy Road, Byford as provided in attachment marked SD071.4/12/09.**
- D. Following compliance with Part B and C of Council’s resolution, pursuant to Clause 5.18.3.9 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 to the satisfaction of the Director Development Services, forward to the Western Australian Planning Commission:**
- 1. A summary of all submissions and comments received by the Shire in respect of the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, and Council’s decisions or comments in relation to these.**
  - 2. Council’s recommendation to the Western Australian Planning Commission to adopt the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, with modifications.**
  - 3. Any other information that may be relevant to the Western Australian Planning Commission’s consideration of the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford.**
- E. Advise the applicant and all agencies and persons who made a submission on the draft Local Structure Plan for Lots 4 and 5 Abernethy Road, Byford, of its resolution.**
- F. The applicant is required to facilitate the formulation and execution of a binding legal agreement between the Department of Education and Training, Shire of Serpentine Jarrahdale, the landowner of the adjoining property containing the primary school site and the subdivider, for the provision, ongoing maintenance and ongoing public access to the shared recreation facilities at the primary school site, at the earliest opportunity.**
- G. Request Shire Officers to negotiate with the applicant in relation to achieving the community outcomes identified within the Shire’s Community Facilities and Services Plan 2020.**

**CARRIED 7/3**



SD076/12/09 PROPOSED RETROSPECTIVE APPLICATION FOR DAM - LOT 139 (20) BULLOCK DRIVE, OAKFORD (P00354/02)		
Proponent:	Simen Tentije	In Brief  Application for retrospective planning approval for dam. It is recommended that the application be approved subject to conditions.
Owner:	As Above	
Officer:	Helen Maruta - Planning Officer	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	16 September 2009	
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:	27 May 2009
Advertised:	Yes
Submissions:	One objection
Lot Area:	2.10 hectares
L.A Zoning:	Special Rural
MRS Zoning:	Rural
Use Class & Permissibility	Residential – Single House – Incidental development
Rural Strategy Policy Area:	Rural

### **Background**

The Shire received a complaint in respect of dust and noise issues emanating from alleged excavation of land that was occurring from the subject property. A site visit to the property occurred in April 2009. The site inspection confirmed the complaint and revealed that an unauthorised dam had been constructed on the western side of the property.

The Shire wrote to the landowner advising that the dam was unauthorised and requested the landowner to submit a retrospective planning application to the Shire. It is against this background that the Shire received a retrospective application for the dam/soak.

Since the application was lodged, the following has occurred:

- The application was referred to nearby landowners for comment;
- The application was referred to relevant government agencies for comment;
- The applicant was requested to provide further information; and
- A technical assessment of the application has been completed.

Submissions were received during the advertising of the proposal for public comment and as such the matter is presented to Council for consideration. This report provides Council with the opportunity to make a formal determination on the application.

***A location plan, aerial photograph, cross section and site plans are with attachments marked SD076.1/12/09.***

***Pictures of the dam are with attachments marked SD076.2/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** The applicant provided information that there was no removal of vegetation during the construction of the dam. The existing dam is located in an area that had a hollow, which at two occasions had filled up during the winter months and flooded the

neighbour's property and the subject property. The dam was constructed in this location to stop flooding from the hollow during the winter season. A site visit on 21 September 2009 (peak of winter) revealed that at this point the dam was not causing any adverse effect in terms of flooding of the western neighbouring property and on the subject lot.

Soaks are a common landscape feature on the Pinjarra Plain and have frequently been used as a means of collecting surface water. They are generally unlined due to the pre-existing clay in the soil profile. The soaks are considered seasonal, full in winter and become a dry land area in summer/autumn.

The dam is to be planted up with local native vegetation to shade the water in order to prevent algal growth and reduce midge problems. Algal growth can be avoided by preventing excessive nutrients from entering the soak and vegetation helps achieve this by nutrient stripping.

**Social – Quality of Life:** It is envisaged that the dam has significantly improved the quality of life for the proponent by minimising the flooding problems that were previously being experienced on the property and all the associated adverse impacts.

**Statutory Environment:** Town Planning Scheme No. 2 (TPS 2)

**Policy/Work Procedure Implications:** Local Planning Policy No.6 (LPP6) – Water Sensitive Design

**Financial Implications:** If the application is refused or the landowner is aggrieved by any of the conditions imposed on an approval, an application for review may be lodged with the State Administration Tribunal (SAT). There may be financial implications for Council.

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

**2. Environment**

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

Strategies:

3. Encourage protection and rehabilitation of natural resources.

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

The application was referred to adjoining landowners in accordance with the requirements set out in TPS 2. During the advertising period, one letter of objection was received.

The key issues that were raised in the objection are detailed below:

- *The proposed Soak pond / dam already existed and has done for some 9 years, originally as a soak and then deepened and was recently enlarged and deepened again.*
- *We have already lodged our objections and my wife has also spoken to them about the matter and we have not had a response to this time.*

- *The construction material is the spoil from the dam excavation and has been used as fill and to create the mound along the western boundary approximately 1.5m high. The problem this will create will be that water be consolidated behind it and then discharge from the ends across the boundary.*
- *A large part of the property was previously filled and graded exaggerating the natural fall of the land and the flow of water across the property from the eastern side to the western boundary. This has been done in part to redirect the overflow from the tanks away from the house and the roof runoff away from the shed.*
- *Even in its former configuration the dam was a problem in that once full the excess water discharged from the dam as a collective mass flowed rapidly to and beyond the western boundary (that is onto our property) increasing the size of the dam will only exacerbate the problem and not resolve it.*

### Comment

The applicant has provided the following information in support of the proposed retrospective dam/soak:

- *“There was no vegetation removed from the site during construction and all trees already planted some years ago, have not been disturbed or affected by the Soak.*
- *All excavated soil from the soak/dam has been put along the West boundary and this total site is to be vegetated with native flora common to the area.*
- *The reason for the soil placed at this location was because of our neighbours on the west side, discussed the problem of water flow off from our block prior to development of the dam/soak. It was the intention of this higher soil barrier to deflect water into the Dam/soak and elevate the problem of flooding on their property.*
- *The site directly around the Dam/soak will also be vegetated with Native trees, flora and reeds for the Bird life and Fauna. There is natural Kiakau grass growing between the buildings and Dam/Soak which will keep the impact of dust to nil.*
- *As stated at the initial meeting, there was already a hollow in the property at this location which filled with water during the winter months flooding our block and our neighbours, on two occasions flooding our shed.*
- *Over the past 8 years we have also had the pleasure of migratory ducks and geese having their young here.*
- *Contours are shown on drawings as flow of land with arrows depicting direction water flows. We have not changed the natural flow of the land.”*

The sole purpose and intent of the dam is to alleviate historical ongoing problems of flooding that have been affecting the neighbour and the landowner especially in winter. This development is considered to be reasonable by Officers and accordingly approval is recommended. The applicant advised that the fill material excavated from the dam and deposited on the western boundary was meant to minimise any water flowing onto the adjoining property. The applicant further proposes to vegetate the site with native flora. The site visit revealed that the height of the mound along the western boundary is only approximately two metres.

### External Government Agency Comments

The application was referred to the Department Of Environment and Conservation (DEC) and the Department Of Water (DoW) for comment. DEC advised they had no objection to the proposal.

DoW requested for further information as regards the following;

- The purpose of the proposed soak pond/dam;
- Whether the soak pond/dam is to be lined, and if so, please specify what materials are to be used; and
- The intended use of water stored in the proposed soak pond/dam

In response to the letter from the DoW, the applicant provided additional information which was subsequently forwarded to the DoW. Upon an assessment of the additional information, the DoW advised that measures needed to be put in place in the event of an overflow occurring. Subsequent comments from relevant technical staff indicated support for the proposal, subject to the inclusion of relevant conditions relating to the specific construction of the dam.

Officers have considered the possibility of any adverse health impacts arising from the establishment of the dam and the potential for the creation of a mosquito or midge breeding area. It is the opinion of Council staff that no adverse health impacts would arise from the construction of the dam as the Shire already has numerous areas that are inundated by water for lengthy periods of time. Around these areas, mosquito and midge complaints are negligible. If any issues were to arise then it would be reasonable to deal with them through the usual health compliance procedure.

## TPS 2

### Unauthorised Development

As approval has not been granted previously for the establishment of the dam, the carrying out of an unauthorised development constitutes an offence under the Scheme as per clause 8.3 of the Shire's TPS 2 below:

#### 8.3 OFFENCES

**8.3.1** *A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building for any purpose:*

*(a) otherwise than in accordance with the provisions of the Scheme;*

*(b) unless all consents required by the Scheme have been granted and issued;*

*(c) unless all conditions imposed upon the grant and issue of any consent required by the Scheme have been and continue to be complied with; and*

*(d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.*

**8.3.2** *A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.*

In accordance with TPS 2, planning approval is required prior to the commencement of any development and/or use within the Shire, unless specifically exempt. The construction of a dam/soak is consistent with the definition of 'development', as provided for under the Planning and Development Act 2005.

The landowner did not obtain the prior planning consent of the Council and therefore committed an offence under TPS 2. It is important to note, however, that Council is obligated to determine the application based on the information submitted against the existing statutory planning framework; past, current or possible future compliance-related issues are not relevant in the determination of the application.

### Retrospective Application

In considering whether to grant retrospective planning consent, TPS 2 contains the following provision:

## **6.8 UNAUTHORISED EXISTING DEVELOPMENT**

**6.8.1** *The Council may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, providing the development conforms to the provisions of the Scheme.*

As no delegation currently exists for Shire staff to deal with applications where objections have been received, the proposal is presented to Council for determination. It is considered that the proposal complies with the provisions of TPS 2.

### **Options**

There are a number of options available to Council in determining the application, namely:

1. to approve the application, subject to conditions;
2. to defer consideration of the application; and
3. to refuse the application.

### **Conclusion**

The construction of the dam has been done for the reason of managing storm water that collected into a hollow part of the property during winter months and flooded the neighbouring property and the subject lot. This feature was meant to alleviate the flooding issues that were being experienced. Construction of the dam has to some extent resolved the problems that were being experienced. It is considered that subject to incorporating conditions that are meant to alleviate and potentially eliminate adverse amenity issues related to this type of development, the retrospective application be conditionally approved.

Based on the information currently available and having regard to the matters outlined in this report, it is recommended that the application be approved subject to appropriate conditions.

**Voting Requirements:** Simple Majority

### **SD076/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Brown, seconded Cr Murphy**

**The application for retrospective planning approval for a dam at Lot 139 (20) Bullock Drive, Oakford be approved subject to the following conditions:**

1. **The dam shall provide a minimum batter slope of 1 in 6 to natural surface and be stabilised to address erosion and sand drift.**
2. **The construction of the dam is not to interfere with the structural integrity of any existing development on the property.**
3. **The dam shall provide a spillway/overflow which is connected to the local drainage network to the satisfaction of the Director Engineering.**
4. **No portion of the dam, including the dam walls, is permitted to encroach closer than ten metres to the side and rear property boundary to the satisfaction of the Director Development Services.**
5. **A Landscape and Vegetation Management Plan shall be submitted for Shire approval within 28 days of development approval being issued. Once approved, the Landscape and Vegetation Management Plan is to be implemented in its entirety by 30 September 2010 and thereafter maintained to the satisfaction of the Director Strategic Community Planning.**

**Advice Note:**

**1. Any further increase to the size of the dam requires the prior written approval of Council.  
CARRIED 10/0**

SD077/12/09 RETROSPECTIVE APPLICATION FOR PLANNING APPROVAL FOR A SOAK – LOT 12 (100) RICHARDSON STREET, SERPENTINE (P02661/03)		
Proponent:	Frances Peek	In Brief  The applicant seeks retrospective planning approval for an existing soak on the subject property. It is recommended that the application be conditionally approved.
Owner:	Richard & Sharon Smith	
Author:	Michael Daymond – Senior Planner	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	19 November 2009	
Previously	NA	
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: 16 March 2009  
 Advertised: Yes  
 Submissions: Yes  
 Lot Area: 5.68 ha  
 L.A Zoning: Rural  
 MRS Zoning: Urban & Rural  
 Rural Strategy Policy Area: Farmlet  
 Date of Inspection: June 2009

**Background**

An application for planning approval was lodged for the construction of a soak on Lot 12 Richardson Street, Serpentine. The applicant advised at the time that the purpose of the soak was purely for the storage of water to help alleviate some of the drainage problems that they were currently experiencing.

Through the referral of the application to surrounding landowners for comment, it was brought to the Shire’s attention in May 2009 that the proposed soak was already under construction. A site visit to the property confirmed that works on the soak had substantially commenced. Subsequent correspondence from the Shire to the applicant in June 2009 advised that any further excavation or works associated with the soak were to cease until such time as a decision had been made on the application by Council.

As works on the proposed soak have commenced, the application is now for retrospective approval.

***A copy of the location plan, aerial photograph, development plans and photographs of the soak are with attachments marked SD077.1/12/09.***

**Sustainability Statement**

***Effect on Environment:*** The existing soak does not appear to be having any negative impacts on the existing environment, as the soak was constructed in a previously cleared area. In addition, the planting of native vegetation within the soak will help with nutrient stripping prior to the stored water being absorbed back into the ground water system.

**Social – Quality of Life:** The soak will significantly improve the quality of life for the owners of Lot 12 Richardson Street as a number of the flooding and water logging problems that are currently experienced on the property will be alleviated.

**Statutory Environment:** Town Planning Scheme No.2 (TPS 2)

**Policy/Work Procedure Implications:**

Local Planning Policy No.6 (LPP6) – Water Sensitive Design

**Financial Implications:**

There are no financial implications to Council related to this application.

**Strategic Implications:**

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

**2. Environment**

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

Strategies:

3. Encourage protection and rehabilitation of natural resources.

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation**

The application was referred to three (3) adjoining properties for comment. One (1) letter of objection was received. A summary of the objection, together with relevant officer comments, are detailed below:

*Objection*

- It is foreseeable that the dam currently under construction will create a private nuisance.
- The land covered by the work is naturally low lying and therefore flooded and retained water during the winter months.
- Work started on 5 May 2009 and is presumably intended to prevent the land from flooding by simply raising the ground level using the spoil excavated from the soak. It may well be that the newly raised ground level will only serve to divert the flood water to an adjacent low lying area.
- The duration of the flooding indicates that the ground is impermeable and this would indicate that the pit will not be a soak but will be a holding dam.
- The drawings show arrows on the area being raised. It is not clear but presumably this is intended to indicate that the ground will be sloped down to the dam, to help fill it, rather than up to the dam causing water to shed onto our property. Either way, the previously flooded area will now become part of the flood water catchment.
- The planned drain will ensure that once the dam fills to the level of the drain intake the area adjacent to the drain will begin to take water. Additional water flowing from the flood catchment will be displaced and may flood ground that was not previously flood affected.
- Percolation tests to determine if the pond can be described as a soak or a dam would have been helpful as would a survey to determine surrounding ground contours to indicate the potential consequences for neighbouring properties.

- It is to be hoped that the work serves its presumed purpose but it may well be ineffective and have adverse consequences. The present owners were aware that the land was flood prone when they purchased it.

#### *Officer Comment*

- The purpose of the soak is to alleviate the existing flooding on the land by diverting the stormwater to a holding area. The applicant anticipates that this water will then soak away and/or evaporate during the summer months.
- Due to the nature of the soil, it is likely that only a small amount of the held water will soak into the groundwater system. Most of the water in the soak will dissipate via evaporation during the warmer months.
- The applicant advises that the fill material excavated from the soak will be used around the soak and graded appropriately to help channel the water. This grading of the land will minimise the risk of any water following into adjoining properties.

#### Government Agency Referrals

The application was also referred to the Department of Environment and Conservation (DEC) and the Department of Water (DoW) for comment. No comment was received from the DEC.

#### *Department of Water*

In correspondence dated 26 May 2009, the DoW advised that they are unable to provide comments following a lack of information submitted with the proposal. Additional information requested by the DoW included the following:

1. The purpose of the proposed soak;
2. Details on the materials that will be used to line the soak;
3. The intended use of the water stored in the soak; and
4. Design details of the soak.

In response to the letter from the DoW, the applicant provided additional information which was subsequently forwarded to the DoW. Upon an assessment of the additional information, the DoW advised that they have no objections to the proposal with a suggestion that native species be used in any landscaping of the soak.

#### **Comment**

#### Statutory Context

The subject property is zoned 'Rural' under Council's TPS 2 and identified as 'Farmlet' under the Rural Strategy. TPS 2 states that the purpose and intent of the Rural zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme area. It is considered that the construction of a soak complies with the purpose and intent of the Rural zone.

#### Proposal

An application was originally lodged with Council in March 2009 for the construction of a soak at the rear of Lot 12 Richardson Street, Serpentine. The soak was proposed to be approximately 50m x 25m x 3m deep in size.

Due to the applicant's desire to establish the soak prior to the onset of winter as a means of alleviating some of the drainage problems that they were currently experiencing, construction of the soak commenced in May 2009 without Council approval. The applicant was advised in June 2009 to cease any further works until a decision on the application had been made by Council.



To help support the proposal, and to justify why the construction of the soak had commenced without approval, the applicant has provided the following information:

#### Purpose of the Soak

- *The sole purpose of the soak is to alleviate severe flooding on the land.*
- *There is no intended use for the stored water in the soak. It is hoped that it will soak away/evaporate over the summer months. If any water remains in the soak over summer it could possibly be used for fire fighting.*
- *It is probable that the construction of the soak will not hold all of the flood water. The design of the soak and utilization of the extracted soil to the levels as indicated on the plan are such that no water can overflow from the soak onto neighbouring properties. Once the soak is full, further water will lay on the surface of Lot 12.*

#### History

- *Lot 12 and surrounding properties were once part of a larger property. Over this property were a series of water courses running through the land following the natural contours down to the Serpentine River which drained the whole area of approximately 65 hectares.*
- *The property was subsequently subdivided and sold as farmlets.*
- *The watercourses were still in place and continued to serve well in draining the area. Most are still in place and drain the water to the river or into the roadside drains.*
- *A couple of years ago, the owners of an adjoining property blocked the water course where it flowed into their property from the back of Lot 12. This caused all of the water from Lot 12, and flowing through Lot 12, to bank up on Lot 12.*
- *Water up to a metre deep covered much of Lot 12 for most of winter and spring rendering most of the property uninhabitable and unusable.*
- *The owners of Lot 12 have previously been advised by Shire staff that no action can be taken against the owners of the adjoining property for blocking the water course as no easements had been put on the titles when the lots were subdivided.*
- *The owners of Lot 12, if they wish to live on the property, have no other option than to build the soak.*

In subsequent correspondence, the applicant further advised that the flooding problem had to be alleviated before they could commence construction on the single dwelling, which was approved by Council in December 2008. With the land being severely waterlogged, machinery could not get access to the site to commence work on the dwelling.

#### Unauthorised Development

As an approval has not been granted previously for the existing soak, the carrying out of an unauthorised use is an offence under the Scheme as per clause 8.3 of the Shire's TPS 2 below:

### **8.3 OFFENCES**

**8.3.1** *A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building for any purpose:*

*(a) otherwise than in accordance with the provisions of the Scheme;*

*(b) unless all consents required by the Scheme have been granted and issued;*

*(c) unless all conditions imposed upon the grant and issue of any consent required by the Scheme have been and continue to be complied with; and*

*(d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.*

**8.3.2** *A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.*

In accordance with the scheme, planning approval is required for all development of land within the Shire. The landowner did not obtain the prior planning consent of the Council.

#### Retrospective Application

In considering whether to grant retrospective planning consent, the scheme contains the following provision:

#### **6.8 UNAUTHORISED EXISTING DEVELOPMENT**

**6.8.1** *The Council may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, providing the development conforms to the provisions of the Scheme.*

As no delegation currently exists for Shire staff to deal with applications where objections have been received, the proposal is presented to Council for determination. It is considered that the proposal complies with the provisions of the scheme.

#### Officer Comment

A site inspection to the property, after the construction of the soak had commenced, revealed that the soak was functioning appropriately without causing any negative impacts on surrounding properties. Subsequent comments from relevant technical staff indicated support for the proposal, subject to the inclusion of relevant conditions relating to the specific construction of the soak.

The subject property has been severely waterlogged during the past few winters and the establishment of a soak on the property is needed to reduce the effect of water logging on the occupants of Lot 12. Although the soak has been constructed without Council approval, the applicant advises that the soak was needed prior to the onset of winter this year. The undertaking of works without Council approval is generally not supported, however after an assessment of the issues at hand it was considered appropriate in this instance. Further, the inclusion of relevant conditions on the approval will reduce any possible impacts on surrounding properties.

The possibility of any adverse health impacts arising from the establishment of the soak, such as providing a mosquito or midge breeding area, has been examined. It is the opinion of Council staff that no adverse health impacts would arise from the construction of the soak as the Shire already has numerous areas that are inundated by water for lengthy periods of time. Around these areas, mosquito and midge complaints are negligible. If any issues were to arise then it would be reasonable to deal with them through the usual health compliance procedure.

#### Options Available to Council

There are three options that are available to Council in dealing with this proposal. These options are:

- Approve the application without conditions;
- Approve the application with conditions; or

- Refuse the application.

The officer recommendation with respect to this application is to approve the application with conditions.

#### Conclusion

The construction of a soak on the subject property is considered to be appropriate given the flooding and water logging issues that are experienced on the property during the winter months. Although the construction of the soak commenced without Shire approval, it was considered necessary by the applicant prior to the onset of winter this year. If the recommended conditions of approval are adhered to by the applicant, it is considered that the soak will not have any negative impacts on the surrounding locality or on any surrounding property. It is therefore recommended that retrospective approval for the soak be granted.

**Voting Requirements:** Simple Majority

#### **SD077/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Brown**

**The application for retrospective planning approval for a soak at Lot 12 (100) Richardson Street, Serpentine be approved subject to the following conditions:**

- 1. The soak is to provide a minimum batter slope of 1 in 6 to natural surface and be stabilised to address erosion and sand drift.**
- 2. The construction of the soak is not to interfere with the structural integrity of any existing development on the property.**
- 3. The soak is to provide a spillway/overflow which is connected to the local drainage network to the satisfaction of the Director Engineering.**
- 4. All overburden fill material that has been excavated from the soak is to be removed from the property. The natural ground level of the site is to be reinstated to the same level that existed prior to the commencement of works to the satisfaction of the Director Engineering.**
- 5. The existing over land flow path is not to be obstructed by fill material.**
- 6. A Landscape and Vegetation Management Plan shall be submitted for Shire approval within 28 days of development approval being issued. Once approved, the Landscape and Vegetation Management Plan is to be implemented in its entirety by 30 September 2010 and thereafter maintained to the satisfaction of the Shire.**
- 7. No portion of the soak is permitted to encroach closer than ten metres to the side and rear property boundary.**
- 8. Any further increase to the size of the soak requires the prior written approval of Council.**

#### **Advice Notes:**

- 1. In relation to condition 4, the applicant is advised to contact the Shire to discuss suitable locations for the disposal of the overburden material.**
- 2. In relation to condition 6, the perimeter of the soak shall be suitably landscaped with appropriate native species, which includes a nutrient stripping function.**

**CARRIED 10/0**

SD082/12/09 REVIEW OF DELEGATED AUTHORITY – STRUCTURE PLANS (A1047/03)		
Officer:	Simon Wilkes – Executive Manager Planning	In Brief  This report provides Council with an opportunity to establish a notice of delegation with respect to structure plans.
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	21 November 2009	
Previously	SD128/06/09 SD023/08/09	
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, at its Ordinary Meeting in August 2009 considered a review of delegated authority in respect of statutory planning functions. A number of new delegations were established and a number of existing delegations were either revoked or modified. The report to Council notes that the review of delegations should progress on an incremental and continual basis, in parallel with the on-going policy development program. Delegations and policies are most effectively reviewed and developed throughout the year, in addition a formal annual review process as required under the provisions of the Local Government Act 1995.

This report provides Council with the opportunity to establish a new notice delegation in respect of Structure Plans. The notice of delegation is intended to be refined over time and as the Shire's policy framework develops. As a first priority, it is considered important that a notice of delegation be established in respect of 'consultation' processes, in respect of decisions by the Western Australian Planning Commission (WAPC).

### **Statutory Environment:**

Local Government Act 1995  
Town Planning Scheme No. 2 (TPS 2)

### **Policy/Work Procedure Implications**

There are a number of existing policies that make reference to individual notices of delegated authority.

### **Financial Implications:**

There are no direct financial implications associated with the review of the existing delegations. Indirectly, effective notices of delegation deliver significant opportunities to improve the efficiency of the statutory functions of the organisation.

### **Strategic Implications:**

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

#### **4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

4. Balance resource allocation to support sustainable outcomes.

*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.
- 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**

The review of the existing delegations did not include any consultation with the community. There are opportunities for the community to provide comment on individual planning proposals. Such opportunities are not proposed to be changed through the review of the existing delegations.

### **Comment**

There are a significant number of structure plans, both district and local, being progressed through statutory processes at this point in time, predominantly within the Byford Area. The progression of structure plans for the Byford Area is anticipated to continue for the foreseeable future. As the planning for Mundijong-Whitby and other areas, such as Oakford and Serpentine, progress in the future, further structure plans will be lodged with the Shire. It is important for the future planning outcomes and the effective operation of the Shire that structure plans be progressed in a timely and efficient manner.

There are three parts to the proposed delegation, as follows:

- (1) in respect of consultation procedures;
- (2) establishing the ability to reach agreement for a longer period of time for making a determination on a structure plan; and
- (3) in respect of determining whether a structure plan is satisfactory for advertising.

With respect to part 1, the proposed notice of delegation relates to the procedures set out for the WAPC to 'consult' with Council prior to making a determination on a structure plan. There are two key occurrences when the WAPC is required to consult with Council, the first being when a structure plan is being considered whether it is satisfactory for advertising, with or without modifications, as set out in Sub-clause 5.18.3.4 (d) of TPS 2:

*'5.18.3.4 (d) If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to making its determination under clause 5.18.3.4(c).'*

The second common occurrence is when the WAPC is making a determination as to whether a structure plan should be adopted, as set out in Clause 5.18.3.13 and 5.18.3.14 of TPS 2, as follows:

*5.18.3.13 If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to approving the Proposed Structure Plan under clause 5.18.3.10.*

*5.18.3.14 If the local government, following consultation with the Commission, is of the opinion that any modification to the Proposed Structure Plan is substantial, the local government may:*

- (a) readvertise the Proposed Structure Plan; or
  - (b) require the Proponent to readvertise the Proposed Structure Plan
- and, thereafter, the procedures set out in clause 5.18.3.5 onwards are to apply.*

In each of the two occurrences, the WAPC is required to make a determination within a sixty (60) day period. If a determination on an application for planning consent is not made within a

60 day period the application may be deemed to be refused and an aggrieved party may lodge an application for review with the State Administrative Tribunal (SAT). Naturally, the WAPC is keen to avoid proceedings before the SAT, wherever possible. Similarly, the WAPC is increasingly looking to refine its statutory decision-making processes to improve the timeliness of decisions.

At present, where the WAPC seeks to progress a modification to a structure plan, the WAPC is required to write to the Shire and seek comment. Officers in turn are required to present the requested modifications to Council for formal consideration. This is the case, irrespective of the scale or significance of the modification, this even includes minor typographical mistakes or minor matters that may have been over-looked or only come to the attention of Council through more detailed investigation by the proponent. While all due care is taken by officers and Council in the assessment of structure plans, occasionally mistakes are made or matters are over-looked; that is the nature of human error and decision-making in a busy environment. The proposed notice of delegation would provide an opportunity to address such matters without going through lengthy processes with associated resource implications.

In addition to the instances mentioned above, the WAPC from time to time will seek to impose policy requirements over and above that required by Council. Provided that the requirements that the WAPC is seeking to impose is not in conflict with a requirement or expectation of Council, then the modifications suggested by the WAPC would generally assist in achieving better planning outcomes on the ground or in future decision-making. Sometimes, the WAPC is able to take the lead in progressing negotiations with other state agencies more effectively than the Shire is able. The current situation, without a notice of delegation, means that it is both cumbersome and unappealing to the WAPC to progress with modifications to structure plans, even when they would result in positive outcomes.

The proposed notice of delegation is not intended to be used where a modification, in the opinion of officers, would alter the material intent of a structure plan, in such instances, the matter should be referred back to Council for formal consideration. As a matter of general practice and where appropriate, officers would ordinarily table the proposed modifications before a policy forum meeting (or similar) before formally responding to the WAPC.

With respect to part 2, the provisions set out in Clauses 5.18.3.3 and 5.18.3.8 of TPS 2 allow for the Shire to reach agreement with a proponent for a longer period of time for a determination to be made, when determining whether a structure plan is satisfactory for advertising and also whether to adopt a structure plan. These clauses read as follows:

*5.18.3.3 If within 60 days of receiving a proposed structure plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 5.18.3.2, the local government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.*

*5.18.3.8 If within the 60 day period, or such further time as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 5.18.3.7, the local government is deemed to have refused the proposed structure plan.*

It is proposed that the notice of delegation enables officers, on behalf of Council, to reach agreement with a proponent for a longer period of time. Although the matter is relatively administrative in nature, it is important that a clear delegation be established for the purposes of properly implementing the provisions of TPS 2 and establishing clarity.

With respect to part 3, the proposed notice of delegation relates to whether a structure plan is satisfactory for advertising pursuant to Clause 5.18.3.2 of TPS 2 which states:

- 5.18.3.2 *Upon receiving a proposed structure plan, the local government is to either:*
- a) *determine that the proposed structure plan is satisfactory for advertising;*
  - b) *determine that the proposed structure plan is not to be advertised until further details have been provided or modifications undertaken; or*
  - c) *determine that the proposed structure plan is not satisfactory for advertising and give reasons for this to the Proponent.*

Until such time as an effective suite of policies is in place for structure plans, clearly outlining 'deemed to comply' provisions, it is not likely that any structure plans would be determined as 'satisfactory for advertising' without further information or modifications being sought prior to the structure plan being considered by Council. Periodically, structure plans are lodged without sufficient information (for example a local water management strategy) or are in conflict with existing statutory provisions. It is important that Council establishes efficient decision-making tools so that decisions can be made both efficiently and effectively, where a structure plan is clearly in conflict with planning framework's established by Council.

The notice of delegation will enable officers to request further information so that when a structure plan is taken to Council it is likely to contain sufficient information for the Structure Plan to be considered 'satisfactory for advertising' with or without modifications.

The third part to the delegation, while important, is arguably less critical at this point in time than the first and second parts. Adopting a notice of delegation in respect of the first and second parts only at this point in time is an option that is open to Council.

In accordance with the provisions of the Local Government Act, any decisions made under delegated authority are required to be recorded and made publicly available. In respect of development applications, subdivision referrals and the like, this is generally achieved through the monthly 'information reports', for consideration at both the Sustainable Development Committee Meetings and Ordinary Council Meetings.

The existence of a notice of delegation does not establish an obligation on an officer to utilise the delegated powers and naturally officers should exercise all due care and caution in making decisions under delegated authority. The ability, however, to process matters in more efficient and effective ways ultimately provides officers with additional time to exercise all due care in decision-making.

***The proposed delegation (DS-28) is with attachments marked SD082.1/12/09.***

#### Conclusion

The proposed notice of delegation will assist with achieving improvements to decision-making processes, including both efficiency and effectiveness. It is intended that the delegation be further refined over time, in parallel with the on-going policy development program. On this basis, adopting the notice of delegation is recommended.

**Voting Requirements:                      ABSOLUTE MAJORITY**

#### **SD082/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Geurds, seconded Cr Hoyer  
That Council:**

**A. In accordance with section 5.42 of the Local Government Act 1995, authorises and grants the delegations of authority, powers and duties as listed and detailed in attachment SD082.1/12/09 entitled:**

- **DS-28 - Structure Plans**

**B. Requests the delegated authority register be updated accordingly.**

**CARRIED 9/1**

**Cr Murphy foreshadowed that he would move the Committee/Officer Recommended Resolution with the addition of the following Part C if the motion under debate is defeated:**

- C. Council notes the intention of staff to bring to Council’s attention through Policy Forum or similar, instances where this delegation has been exercised. A tabulation of all such instances is to be shown on the agenda of such meetings. A short explanation is to be included.**

**CR MURPHY WITHDREW HIS FORESHADOWED MOTION**

SD083/12/09 FINAL BRICKWOOD RESERVE AND BRIGGS PARK MANAGEMENT PLAN (A1387)		
Proponent:	Shire of Serpentine Jarrahdale	In Brief  To adopt the final Brickwood Reserve and Briggs Park Management Plan.
Officer:	Chris Portlock – Manager Environmental Services	
Senior Officer:	Suzette van Aswegen - Director Strategic Community Planning	
Date of Report	23 November 2009	
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**

Brickwood Reserve and Briggs Park are located on the edge of Byford, the main urban centre of the Serpentine-Jarrahdale Shire. It is a popular recreation node within the Shire and it contains the Serpentine Jarrahdale Recreation Centre. The reserve is also recognised as having significant biodiversity values, including being a Bush Forever Reference Site and one of the largest and most intact examples of a critically endangered ecological community, protected under Federal and State policies, on the Swan Coastal Plain.

It is anticipated that urban pressures associated with the growth of Byford in the coming years will place additional pressure on the recreation, access and biodiversity conservation values of Brickwood Reserve. Recognising this fact, the Shire has prepared this management plan to guide and prioritise the use and management of the reserve in the longer term.

The protection of the threatened ecological communities within the reserve is of paramount importance. Reconciling the protection of this significant environmental feature with community demands for access and recreation is a major aim of this management plan. As such, the key issues to be considered by the management plan include:

- Long term protection and management of the reserve’s threatened ecological communities;
- Providing for appropriate community access to the reserve; and
- Recognising the community value associated with the reserve, both in terms of its biodiversity conservation values as well as the recreational opportunities provided.



Councillors have been consulted on the draft plan at a previous Policy Forum meeting and all Council's suggested changes and additions have been made to the final report. Environmental Services and the Manager of Operations and Parks have also thoroughly edited and prepared the final version following inclusion of amendments from the three month public consultation period.

***A copy of the Summary of written submissions and public consultation workshop is with attachments marked SD083.1/12/09.***

***A copy of the final marked up version of the Brickwood Reserve and Briggs Park Management Plan is with attachments marked SD083.2/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** The proposal enhances the environment (built and natural) and minimises environmental damage through best practice.

Biodiversity:

- protection of indigenous flora and fauna will be achieved.
- site disturbance will be minimized.

Energy Use/Greenhouse Gas Emissions:

- carbon sequestration with vegetation protection and enhancement will occur through minimising disturbance to vegetation and providing more vegetation through planting.

Water Quality: stormwater management, waterways management.

- water management in construction sites near the reserve.
- water sensitive urban design in stormwater management in nearby sites.
- minimise use of fertilisers and other contaminants in nearby sites.
- maximum infiltration of water on site through Water Sensitive Design.

Air Quality: The proposal will not result in emissions to the environment.

Heritage and Culture: Heritage and cultural issues have been addressed in the context of the management plan.

### ***Resource Implications:***

Energy Use: The Recreation Centre uses renewable energy technologies, passive solar design.

Water Use: Water sensitive urban design eg stormwater tanks, swales, increased infiltration, reduced areas of lawn and water efficient fixtures are all part of the reserve, park and building management.

Land: The management plan proposes strategies which minimise use of vegetated land to protect biodiversity.

Waste: Recycling collection and reuse of waste is always considered at the Serpentine Jarrahdale Recreation Centre.

***Use of Local, renewable or recycled Resources:*** Any operational requirements will consider the use of locally available or produced resources within the Shire or from the Peel and South East Metropolitan Area in order to reduce transport costs and pollution and to support local business.

Renewable Resources: Sun and wind are used for electricity maximising renewable materials over non renewable

**Economic Viability:** The ongoing management of the reserve, park and its buildings is economically viable in a way that incorporates minimisation of pollution from green house gas emissions, removal of biodiversity (flora and/or fauna), land and waterway pollution, reduction. Quality of life of residents is increased by the facilities best practice management and energy and water consumption is minimised. Costs, monetary and non monetary that the community or Council will incur, as a result of this proposal are minimal. There will be ongoing costs and funding required in the future but management strategies have been designed to minimise maintenance, management and monitoring costs, reducing future costs for Council.

**Economic Benefits:** Employment creation, tourism generation and providing a local community resource otherwise not available are all part of the benefits over costs of the proposal.

**Social – Quality of Life** This proposal improves the quality of life for the community by providing well managed passive and active recreation facilities.

Assets: quality roads, lighting for safety, water sensitive urban design, pedestrian footpaths, trails, cycleways are all part of the facilities being provided at this reserve, park and the Serpentine Jarrahdale Recreation Centre.

Council activities include the provision of events and training, support of groups/committees.

**Social and Environmental Responsibility:** The proposal is designed to be socially and environmentally responsible through building up the community and enabling full participation in the implementation of the management plan. The proposal creates opportunities for the community to participate. The proposal fosters a number of important partnerships with State government agencies in particular.

**Social Diversity:** The proposal does not disadvantage any social groups and does provide for diversity in our community by providing for all including people with disabilities. The proposal caters for all sectors of society eg diverse housing stock and provides for disabled access to all facilities

**Statutory Environment:**

Statutory procedures are not required but the document:  
a) Was advertised in accordance with scheme or policy provisions as if it were a statutory requirement.  
b) Referred to other Federal and State government agencies for comment.  
c) WAPC determination of the application will be sought under the Metropolitan Region Scheme.

**Policy/Work Procedure Implications:**

There are no work procedures/policy implications directly related to this proposal.

**Financial Implications:**

There are no direct financial implications to Council related to this proposal. A budget allocation for this item already exists in addition to grant funds being attracted.

**Strategic Implications:**

Management Plans include social, economic and environmental goals. Good management of the reserve, park and recreation centre cover a range of sustainability result areas including events that occur at this venue.

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.
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:

1. Increase awareness of the value of environmental requirements towards sustainability.
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.
6. Value, protect and develop biodiversity.

*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:

4. Promote info-technology and telecommuting opportunities.

*Objective 3: Effective management of Shire growth*

Strategies:

1. Enhance economic futures for Shire communities.
2. Represent the interests of the Shire in State and Regional planning processes.

**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.
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:

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

**Community Consultation:**

The management plan was advertised for public comment for a period of 90 days and 4 submissions were received. A public consultation workshop was held.

**Comment:**

The final management plan for Brickwood Reserve and Briggs Park will be implemented in collaboration with relevant State and Federal Government agencies and the local and scientific communities. With this partnership approach will come the continuing support by the community and agencies including increased sources for additional funding opportunities.

**Voting Requirements:** Simple Majority

**SD083/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

Moved Cr Randall, seconded Cr Harris

That Council:

1. Notes the Summary of the Public Consultation as provided in attachment SD083.1/12/09, and the underlined amendments made to the management plan.
2. Endorses the final Brickwood Reserve and Briggs Park Management Plan as provided in attachment SD083.2/12/09.

**CARRIED 9/1**

SD085/12/09 FINAL LOCAL PLANNING POLICY NO. 26 – BIODIVERSITY PLANNING (A1593)		
Officer:	Chris Portlock - Manager Environmental Services	In Brief  Council is requested to consider a proposed final Local Planning Policy to achieve the effective integration of the adopted Local Biodiversity Strategy into statutory decision making processes.
Signatures Author:	N/A	
Senior Officer:	Suzette van Aswegen - Director Strategic Community Planning	
Date of Report	17 November 2009	
Previously	SD015/08/07, SD098/04/07, SD037/10/08	
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 at its meeting of 27 October 2008 consider the Local Biodiversity Strategy, passing the following resolution:

*SD037/10/08 'That Council adopts the final Stage 1 Local Biodiversity Strategy, its retention protection targets and identified management actions as per the Attachments marked SD037.1/10/08, SD037.2/10/08 & SD037.3/10/08'*

The report to Council, and more recent workshops with elected members, have confirmed the need for a Local Planning Policy (LPP) to achieve the effective integration of biodiversity planning into statutory decision making processes. This report provides Council with the opportunity to consider submissions on the draft LPP towards adopting a final Biodiversity Planning LPP.

***A copy of the final LPP 26 - Biodiversity Planning is with the attachments marked SD085.1/12/09.***

### **Sustainability Statement**

***Effect on Environment:*** The Local Biodiversity Strategy will see significant advancement towards protecting biodiversity within the Shire. This will be achieved through both the maintenance and continued development of a database / decision support system and progress towards implementing the Strategy and Policy based on WALGA's South West Biodiversity Program.

***Resource Implications:*** The Local Biodiversity Strategy seeks to strategically protect biodiversity assets in the Shire.

***Use of Local, renewable or recycled Resources:*** Local renewable biodiversity resources will be protected and enhanced and seed potentially collected for further resource enhancement.

***Economic Viability:*** The proposal is designed to strategically protect natural assets within the Shire. The Shire has already experienced significant loss of biodiversity assets. This proposal seeks to identify what biodiversity assets should be protected or reinstated and how that should be achieved. Environmental management has an ongoing cost. However, there is also a significant cost if environmental assets are not responsibly managed.

**Economic Benefits:** The proposal will work towards protecting that image of “beauty” that attracts residents and tourists to the Shire. The proposal will also create the need for a part time position or provide work for a consultant.

**Social – Quality of Life:** Biodiversity is an essential component of our heritage and identity. In addition to providing social values such as recreational opportunities and spiritual renewal, biodiversity also provides essential ecosystem services.

**Social and Environmental Responsibility:** The four phase WALGA approach includes community and other stakeholder participation.

### **Statutory Environment**

The implementation of the Local Biodiversity Strategy will enable the Shire to proactively address the requirements of the following legislation as they relate to biodiversity conservation:

- Environment Protection and Biodiversity Conservation Act 1999
- Wildlife Conservation Act 1950
- Environmental Protection Act 1986
- Soil and Land Conservation Act 1945 (to be replaced by amendments to the Environmental Protection Act 1986: (Clearing of Native Vegetation) Regulations 2004 with a Guide for Local Government Clearing Native Vegetation under the Environmental Protection Act 1986)
- Planning and Development Act 2005

State Government environmental policies addressed in a Local Biodiversity Strategy include:

- Bush Forever (Government of Western Australia 2000a, 2000b & 2000c) and related bushland policies (e.g. Urban Bushland Strategy)
- Environmental Protection Authority (EPA) Guidance Statement No. 10: Guidance for the Assessment of Environmental Factors – Level of assessment for proposals affecting natural areas within the System 6 region and Swan Coastal Plain portion of the System 1 region (Environmental Protection Authority 2003a)
- EPA Guidance Statement No. 33 (Draft): Policies, Guidelines and Criteria for Environmental Impact Assessment - Guidelines for Environment and Planning (Environmental Protection Authority 1997)
- Forest Management Plan 2004 – 2013 (Conservation Commission 2003)
- System 6 report (Department of Conservation & Environment 1983) and the System 6 Update program (Department of Environmental Protection unpublished (1996)
- Wetlands Conservation Policy for Western Australia (Government of Western Australia 1997)
- EPA Position Statement No. 4: Environmental Protection of Wetlands (preliminary) (Environmental Protection Authority 2001)
- EPA Position Statement No 2: Environmental Protection of Native Vegetation in Western Australia (Environmental Protection Authority 2000b)
- State Weed Plan (State Weed Plan Steering Group 2001);
- Draft Policy Statement No. 9 Conserving Threatened Species and Ecological Communities (Department of Conservation and Land Management 2003a)
- EPA Guidance Statement No. 51: Guidance for the Assessment of Environmental Factors – Terrestrial flora and vegetation surveys for environmental impact assessment in Western Australia. (Draft) (Environmental Protection Authority 2003c)
- EPA Guidance Statement No. 56: Guidance for the Assessment of Environmental Factors – Terrestrial fauna surveys for environmental impact assessment in Western Australia. (Draft) (Environment Protection Authority 2003d)
- Draft Statement of Planning Policy: Bushland Policy for the Perth Metropolitan Region (Western Australian Planning Commission in preparation)

- Western Australian State Sustainability Strategy (Government of Western Australia 2003a)
- Environment and Natural Resources Statement of Planning Policy No. 2 (Government of Western Australia 2003b)
- Peel-Harvey Coastal Plain Catchment Statement of Planning Policy No. 2.1 (Government of Western Australia 1992d)
- Jandakot Groundwater Protection Policy Statement of Planning Policy No. 2.3 (Government of Western Australia 1998b)
- Development Control Policy No. 2.3 Public Open Space in Residential Areas (Western Australian Planning Commission 2002)
- Position Statement: Wetlands. (Water and Rivers Commission 2001)
- Wildlife Conservation (Rare Flora) Notice 2001 (Government of Western Australia 2001b)
- Wildlife Conservation (Specially Protected Fauna) Notice 2001 (Government of Western Australia 2001c)

### **Policy/Work Procedure**

#### **Implications:**

The proposal is for a new LPP, to achieve the effective integration of the Local Biodiversity Strategy into statutory decision making processes. It is not envisaged that any new work procedures will be required, nor existing procedures reviewed, as a result of the ultimate adoption of this LPP.

#### **Financial Implications:**

The costs associated with advertising were met from existing operational budgets.

#### **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*

##### Strategy:

5. 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*

##### Strategy:

5. Protect built and natural heritage for economic and cultural benefits.

*Objective 3: High level of social commitment*

##### Strategy:

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

##### **2. Environment**

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

##### Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
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.
6. Value, protect and develop biodiversity.

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

##### Strategy:

1. Implement known best practice sustainable natural resource management.

### **3. Economic**

*Objective 1: A vibrant local community*

Strategy:

3. Develop tourism 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.

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

Strategies

1. Improve coordination between Shire, community and other partners.
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.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

## **Community Consultation**

The approach to participate in the South West Biodiversity Project (SWBP) toward the development of a Strategy for biodiversity conservation recognises the need for broad consultation. Formal community consultation was carried out with the release of the Draft Strategy. This included a public consultation program and reference group review. The reference group structure includes Shire officers, SWBP officers, the engaged consultant, a representative from the Department of Planning and the Department of Environment and Conservation, two rural private property landholders and two representatives from the development sector. The community's existing involvement in management of local bushland and other natural areas is hoped to be strengthened by the Strategy.

Council adopted the draft LPP and public comment was invited attracting four public submissions. Advertising of the draft LPP included the following:

- (i) notification being placed in a newspaper for two consecutive weeks in a local newspaper circulating;
- (ii) a notice being placed on the Shire's Website; and
- (iii) letters being sent to relevant government agencies

***A schedule of submissions is with the attachments marked SD085.2/12/09.***

## **Comment**

### **Interim policy**

Council officers are currently finalising a number of other measures identified in Local Biodiversity Strategy, including:

- Further survey work;
- An Incentives Strategy for Conservation on Private Property



### Appeal rights

In broad terms, the determination of proposals by either the Shire, or other agencies or the advice of the Shire, may typically include an approval (with or without conditions/modifications) or a refusal. The proposed LPP seeks to formally establish biodiversity as a relevant planning consideration in decision-making processes. It is possible that a landowner/proponent may be aggrieved by a determination on a proposal.

It is not considered necessary to establish any new appeal rights through the draft local planning policy. Nearly all statutory decision-making processes incorporate an established appeal right for the landowner/proponent; it is critical that due and proper processes are followed.

### Information to be used for decision-making processes

The Local Biodiversity Strategy was prepared, advertised and adopted in an open, transparent and accountable manner. A copy of the Local Biodiversity Strategy is available to members of the public through a number of different avenues, including on the Shire's internet website. It is considered important that the same high level of openness, transparency and accountability is maintained with the implementation of the Local Biodiversity Strategy.

The draft LPP stipulates that the following information will be used in decision-making processes:

- The Shire's adopted Local Biodiversity Strategy (dated June 2008)
- Any information provided by the landowner/proponent.
- Any information provided by a relevant government agency, for example a submission received during the advertising of a Local Structure Plan.

It is important for both the Shire and landowners that there is confidence and consistency in the information that is used for decision-making processes.

Should any third party, such as a member of the public, wish to provide any additional information for Council to consider in its decision making process on a particular proposal, such information should be only be invited and considered by Council during the formal advertising of the proposal in accordance with statutory processes. Over time, additional information may become available by Council in respect of biodiversity values within the Shire. This may include survey work, information provided by landowners and/or members of the public.

**Voting Requirements:** Simple Majority

### **SD085/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Randall, seconded Cr Harris**

**That Council:**

- Consider the written submissions made and the underlined changes resulting in the final Local Planning Policy No. 26 – Biodiversity Planning.**
- Adopt the final Local Planning Policy No. 26 – Biodiversity Planning included as attachment SD085.1/12/09 in accordance with TPS No. 2 Clause 9.3 Procedures for Making and Amending a Local Planning Policy.**

**CARRIED 10/0**

The meeting was closed to members of the public at this point in accordance with S5.23.(2)(d) of the Local Government Act 1995 to allow Council to discuss confidential item SD086/10/09.

SD086/12/09 <b>CONFIDENTIAL ITEM</b> - RECONSIDERATION OF PROPOSED BOUNDARY FENCE – LOT 6 (12) OLD BRICKWORKS ROAD, BYFORD (P01237/03)		
Proponent:	Che Jackson	In Brief  The applicant has lodged an application for review with the State Administrative Tribunal against the refusal of an application for a proposed boundary fence on Lot 6 Old Brickworks Road, Byford.  The SAT has invited Council to reconsider its decision under Section 31 of the SAT Act 2004. It is recommended that Council approve a modified proposal.
Owner:	As Above	
Author:	Michael Daymond – Senior Planner	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	27 November 2009	
Previously	SD031/09/09	
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>	

**Committee/Officer Recommended Resolution:**

That Council:

- A. Having noted the particular circumstances surrounding the application and having considered the modified proposal as put forward by the proponent, approves the proposed boundary fence on Lot 6 (#12) Old Brickworks Road, Byford subject to the following condition:
- (1) The proposed fence shall be constructed out of evergreen colorbond to a maximum height of 1.8 metres and for a maximum length of 40.0 metres in the location shown on the site plan attached to and forming part of this approval.
- B. The State Administrative Tribunal be advised of Council's decision for the purpose of mediation.

Advice Note:

1. Any proposed change in colour of the colorbond fence is to be to the satisfaction of the Director Development Services.

**SD086/12/09 COUNCIL DECISION/New Motion:**

**Moved Cr Murphy, seconded Cr Brown**

**That Council:**

- A. Having noted the particular circumstances surrounding the application and having considered the modified proposal as put forward by the proponent and taking into account the visual amenity requirements particular to this location as part of the Darling Scarp, approves a boundary fence on Lot 6 (#12) Old Brickworks Road, Byford subject to the following condition:
1. The proposed fence shall be constructed as a solid fence consisting of natural material such as rammed earth (preferred), rocks or reconstituted limestone blocks of a colour acceptable to the Shire to a maximum length of 40 metres in the location shown on the site plan attached to and forming part of this approval.

**B. The State Administrative Tribunal be advised of Council’s decision for the purpose of mediation.**

**Advice Note:**

- Any proposed change in colour of the fence is to be to the satisfaction of the Director Development Services.**

**CARRIED 8/2**

**Council note: The Committee/Officer Recommended Resolution was changed with additional wording being added to Part A and Part 1.**

**COUNCIL DECISION**

**Moved Cr Harris, seconded Cr Murphy that the meeting be re-opened to members of the public at 9.28pm.**

**CARRIED 10/0**

CGAM036/12/09		FEES AND CHARGES – AMEND PLANNING SERVICE FEE FOR DEVELOPMENT APPLICATIONS (A0857)	
Proponent:	Shire of Serpentine Jarrahdale	In Brief  To amend the Planning Service Fee for Development Applications in the Schedule of Fees and Charges for the 2009/2010 financial year, for development applications where the estimated cost of the development is more than \$21.5 million to \$31,100.00.	
Owner:	Not Applicable		
Officer:	Bonnie Robertson - Coordinator Finance Services		
Senior Officer:	Alan Hart – Director Corporate Services		
Date of Report	3 September 2009		
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**

Council, at the Special Council Meeting held on 21 July 2009, adopted the Statutory Budget for 2009/2010 including the adoption of the Schedule of Fees and Charges.

Included in the Schedule Fees and Charges for Town Planning Table 1 – Schedule of Fees Part 1 Maximum Fixed Fees was;

*1. Determination of development application (other than for an extractive industry) where the estimated cost of Development is:*

*(f) more than \$21.5 million, the fee was set at \$30,600 excluding GST.*

The Western Australian Planning Commission (WAPC) has increased the price of this fee to \$31,100 excluding GST.

**Statutory Environment:**

Section 6.16, Imposition of Fees and Charges, of the Local Government Act 1995, states:

(3) Fees and charges are to be imposed when adopting the annual budget but may be -

- (a) imposed\* during a financial year; and
  - (b) amended\* from time to time during a financial year.
- \* Absolute majority required.

Section 6.19, Local Government to give notice of Fees and Charges, of the Local Government Act 1995, states:

If a Local Government wishes to impose any fees or charges under this Subdivision after the Annual Budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

**Policy/Work Procedure Implications:**

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

**Financial Implications:**

There will be no financial implications as the planning department have not budgeted for applications over \$21.5 million.

**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.
- 4. Balance resource allocation to support sustainable outcomes.

*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:**

Not Required.

**Comment:**

The Schedule of Fees and Charges for Town Planning Table 1 – Schedule of Fees Part 1 Maximum Fixed Fees - Determination of Development Application (other than for an extractive industry) where the estimated cost of development is more than 21.5 million needs to be at \$31,100 excluding GST, to comply with the fees set by the WAPC.

**Voting Requirements:      ABSOLUTE MAJORITY**

**CGAM036/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Hoyer, seconded Cr Buttfeld**

**That:**

- 1. Council amends its adopted Schedule Fees and Charges for the year ending 30 June 2010 by amending the Planning Service Development Application Service fee for developments where the estimated cost of the development is more than \$21.5 million to \$31,100.00.**

**2. Council gives local public notice of the intention to impose the revised fee effective from 13 January 2010.  
CARRIED 10/0**

CGAM037/12/09		NEW FEE STRUCTURE FOR FOOD SAFETY PROGRAM UNDER FOOD ACT 2008 (A0586)
Proponent:	Serpentine Jarrahdale Shire Health Services	In Brief  To introduce a new licensing and fee structure for the Shire's Food Safety and Risk Assessment Program, in accordance with the Food Act 2008.
Owner:	Not Applicable	
Author:	Tony Turner – Manager Health & Ranger Services	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	23 November 2009	
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**

In July 2009, the *Food Act 2008* (the Act) received Royal Assent and Part 1 - Preliminary, which resulted in Sections 1 and 2 of the Act coming into operation immediately. The remaining sections of the Act and the *Food Regulations 2009* were proclaimed on 23 October 2009.

This legislation replaces all previous food legislation, including Part 8 of the *Health Act 1911*, the *Health (Food Hygiene) Regulations 1993*, the *Health (Meat Hygiene) Regulations 2001* and the *Health (Pet Meat) Regulations 1990*. Trading in Public Places licences will remain unchanged.

Fees under this new structure will apply to all food businesses, rather than the current system that only applies to eating houses selling meals. Until now, premises such as supermarkets, butchers and food manufacturers have not been required to pay any fees, despite these premises being inspected on a regular basis by Health Services as part of its Food Safety Program.

With the introduction of the Act, the existing licensing and fee structures will no longer apply. The Act gives autonomy to Local Government to impose and recover fees under the *Local Government Act 1995* Part 6 Division 5 Subdivision 2 for certain functions.

All Western Australian Local Governments will be able to determine their own fee arrangements within the context of the Acts. The fees should reflect the costs incurred in providing the service, which includes involve risk assessment, food sampling, food safety education and administration. At present fees for Eating House Registrations are issued on the calendar year. It is proposed to continue with this time frame introducing the new food business fee structure in January 2010.

**Sustainability Statement**

***Economic Viability:*** This proposal will increase Council's income and allow some cost recovery for the delivery of its Food Safety Program.

**Statutory Environment:** *Food Act 2008*

*Food Regulations 2009*  
*Local Government Act 1995*

Approval of the proposed fees and charges require an absolute majority in support of the recommendation, in accordance with the Local Government Act. The proposed fees and charges are required to be advertised to the public prior to their introduction.

**Policy/Work Procedure Implications:**

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

**Financial Implications:**

The estimated income for license and registration of food premises in the existing 2009-10 budget report is \$7,000. Eating Houses currently pay \$300 per year. At present the Shire has approximately 50 classified food premises of which 20 are registered Eating Houses.

Initial estimated income from these premises for 2009-10 would be:

Notification (one-off fee).....\$ 2,300  
Annual risk assessment fee.....\$12,700

Anticipated income for 2009-10 will be approximately \$15,000, this may result in an additional income of approximately \$8,000. This increase is attributed to an additional 30 food premises that are required to register and pay annual fees under the Act. These premises have previously not been charged fees, however, have still been included in the Shire's food premises assessment program and the cost has been absorbed by the Shire.

**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.
6. Ensure a safe and secure community.

**Community Consultation:**

The Shire's food business proprietors have been made aware of the imminent changes to the food legislation for some time through written information and Environmental Health Officers' inspections.

Section 6.19 of the Local Government Act requires Council to give local public notice when introducing fees and charges outside the annual budget process. The Notice is to give the intention of introducing the fee and when the fee would become effective. The proposed licensing and fee structure will be advertised in a local newspaper for a period of 14 days.

**Comment:**

The Act will result in a more risk-based system of regulating food businesses that will require some increase in workload for the Shire's Health Services. A greater number of food premises will require notification and registration and these changes will need to be communicated to food businesses.

As the Act is now in effect, the existing food business structure of Eating Houses and Class 1 to 5 food premises no longer exists. The new licence categories have been prescribed under the Food Standards Australia New Zealand (FSANZ) Priority Classification System for Food Businesses as being high, medium and low risk premises. The Department of Health WA has also suggested including a category for very low risk premises. All high, medium and low risk premises will need to register with the Shire and pay annual assessment fees. All very low risk premises and exempted premises will still be required to complete a notification to the Shire, however no assessment fees will be applicable.

Exempted food premises are defined under the proposed *Food Regulations 2009* and include those food businesses conducted to raise money solely for purposes that are of a charitable or community nature where the food is not potentially hazardous or the food is for immediate consumption after cooking (e.g. sausage sizzle), businesses that provide beverages as part of another services (e.g. hairdressers) and food businesses that deal solely with non-perishable, fully packaged foods.

### Proposed New Fees

The Act allows Local Governments to set the fees that apply within their jurisdiction. The fees should reflect the costs incurred in providing a service. The Metropolitan Environmental Health Management Group (MEHMG) has provided methodology to assist local authorities in calculating their proposed fee structure. It has been suggested that all local authorities refer to this calculation procedure to ensure some consistency across municipalities.

The proposed fee structure has been calculated following the MEHMG methodology and is shown in the table below. The Food Safety Program, in addition to conducting food safety assessments, includes the administration of the assessment data and registrations, notifying food businesses of food recalls, officer time taken in carrying out food sampling and responding to complaints relating to food and food safety promotion. Having estimated the time taken to carry out these functions, using the Health Services Health Plan, the Food Safety Program cost was determined using a calculated hourly rate, which consisted of all administrative costs that the Shire incurs in employing officers, including (but not limited to) salaries, insurance, telephones and vehicle expenses.

The cost below is based on average time taken and may not represent the actual time taken to perform the functions of the Food Safety Program. Any additional cost may be viewed as Council's contribution to providing this service to the Shire's community.

Cost of Food Safety Program	\$15,900 per annum
Total hours spent assessing food businesses	High = 1 hour/assessment x 3 assessments/year x 5 premises = 15 hours/annum Med = 1 hour/assessment x 2 assessments/year x 42 premises = 84 hours/annum Low = 30 min/assessment x 1 assessment/year x 7 premises = 4 hours/annum Total hours on assessments = 103 hours/annum
Hourly rate for assessment	\$15,900 divided by 103 = \$154/hr
Annual assessment charge per risk level of business	High = 3 assessments/yr x 1 hour x hourly rate (\$154) = \$462 Med = 2 assessments/yr x 1 hour x hourly rate (\$154) = \$308 Low = 1 assessment/yr x 30 min x hourly rate (\$154) = \$77
Proposed fees	High risk = \$465 Med risk = \$310 Low risk = \$80 Very low risk = Nil fees

### Current Fees

The Serpentine Jarrahdale Shire currently charges annual Eating House Licence fees at \$300. There are currently approximately 30 food premises within the Serpentine Jarrahdale Shire that are not charged annual fees, even though most of these premises are inspected

on a regular basis and form part of the Shire's Food Safety Program. This new fee structure will allow the Shire to recover most of the costs of providing this service to these premises.

#### Comparison to Other Local Authorities

Serpentine Jarrahdale	Mandurah	Rockingham	Kwinana
High risk = \$465 Medium risk = \$310 Low risk = \$80 Very low risk = Nil	High risk = \$280 Medium risk = \$280 Low risk = \$140 Very low risk = Nil	High risk = \$400 Medium risk = \$200 Low risk = \$75 Very low risk = Nil	High risk = \$645 Medium risk = \$430 Low risk = \$215 Very low risk = \$110

#### Transferring licences

Under the previous legislation, proprietors could transfer an existing Eating House Licence into a new proprietor's name when a business was sold. The existing fee for this is \$50.

Under the Act, there is no provision to transfer a Licence to another proprietor. Instead, once a food business is sold, the registration ceases to exist for that premises. A new proprietor must then apply for a new registration for the food business. Registrations only need to be done once, with a proposed fee of \$78 to cover administration costs. Any annual fees paid for the food business will continue until the next financial year, so a new proprietor would not be required to pay additional annual fees, as the cost of providing a Food Safety Program has already been recovered.

Food businesses that store or sell food, but do not need food safety assessments to be conducted (for example video stores, chemists etc) are still required to notify the Shire that they operate, but will not be charged annual fees. It is a one-off notification and it is not proposed to charge fees for this.

All premises that are currently registered with the Shire are considered to be already registered under the Act and therefore do not require re-registration. Any new premises that are established between the adoption of the proposed fees and the end of the 2009-10 financial year will need to be charged the new fees, as the current fees will no longer exist.

#### Application to Construct a Food Premises Fees

When an application to construct or alter a food premises is lodged with the Shire, separate Health Services fees are charged for the assessment of the application. The Shire currently charges \$100 for the assessment of a food premises. These fees do not reflect the time taken to assess plans, particularly for high risk premises that can include several hours to assess the plans, plus any site meetings and report assessment that may be required.

The Act encourages local authority fees to reflect the costs incurred in providing a service. Based on the above calculations that have determined an officer's time at \$154/hr, it is proposed to increase the application fee to \$200.

These fees are not full cost recovery, however are considered a reasonable increase to better reflect the time taken to assess and approve applications.

#### Communication

The structure of the new fees is very different to the previous Eating House Licence fees and as such, the changes need to be communicated to all food businesses. It is anticipated that this will be done through the distribution of written information. As many food businesses within the Shire have not previously been required to pay registration and licensing fees, it is also proposed to conduct face-to-face discussions with food business proprietors, to ensure the changes are fully understood.

#### Conclusion

A summary of the proposed changes required under the *Food Act 2008* is as follows:



	Proposed Fees	Current Fees
Notification <i>One-off fee for food premises that don't need to be assessed</i>	Nil	Nil
Registration <i>*One-off fee for food premises that need to be assessed</i>	\$78* Applies to new premises only – all premises currently operating are already considered to be registered	<u>Annual</u> Eating House Licence Fee = \$50
Annual Assessments <i>Applies to food premises that need to be assessed</i>	High risk = \$465 Medium risk = \$310 Low risk = \$80 Very low risk = Nil Community groups = Nil Charities = Nil	Eating House Restaurant/Dining or Eating House Take Away or Eating House Tearoom = \$250
Application to Construct or Alter a Food Premises <i>Applies to food premises that need to be assessed</i>	\$200	\$100

This fee structure will allow Health Services to recover most of the costs of providing its Food Safety and Risk Assessment Program.

**Voting Requirements: ABSOLUTE MAJORITY**

**CGAM037/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

Moved Cr Harris, seconded Cr Randall  
That Council:

1. **Adopts the proposed fee structure below for registering and assessing food businesses under the *Food Act 2008*, from the completion of the advertising period.**  
**Notification fee: Nil**  
**Registration fee: \$78 – one-off fee**  
**Annual Assessment charge –**

High risk:	\$465/annum
Medium risk:	\$310/annum
Low risk:	\$80/annum

  
**Application to Construct or Alter a Food Premises: \$200**
2. **Give local public notice of the intention to impose fees, effective from 1 January 2010.**

**CARRIED 10/0**

CGAM038/12/09		PARKS ASSET MANAGEMENT PLAN (A0888)	
Proponent:	Shire of Serpentine Jarrahdale	In Brief  The Parks Asset Management Plan outlines planning, acquisition, maintenance, renewal, replacement and disposal of the Shire's parks infrastructure. The financial requirements to provide the desired level of service are also discussed with the amount of funding quantified.	
Owner:	Shire of Serpentine Jarrahdale		
Officer:	Julie Brown – Asset Management Coordinator		
Senior Officer:	Richard Gorbunow – Director Engineering		
Date of Report	20 October 2009		
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**

The Serpentine Jarrahdale Shire has placed strategic importance on the proper management of its infrastructure.

At the Corporate Governance and Asset Management meeting held on 18 August 2009, Council's first Asset Management Improvement Strategy was adopted, which defined the pathway for organisational wide commitment to the principles of sound asset management.

Council has now progressed to the next phase in the asset management planning process by developing asset management plans for key asset groups. The Parks Asset Management Plan is the first of such plans.

***A copy of the Parks Asset Management Plan and Parks Inventory Summary is with attachments marked CGAM038.1/12/09 (E09/6675) and CGAM038.2/12/09.***

### **Sustainability Statement**

***Resource Implications:*** To manage Councils assets in a strategic manner promotes efficient practices and therefore an efficient use of resources.

***Social and Environmental Responsibility:*** To develop asset management plans that consider environmental issues in relation to the upgrade and renewal of assets and to ensure community assets are managed in a way that is responsible and efficient.

**Statutory Environment:** Local Government Act 1995

### **Policy/Work Procedure Implications:**

Policies that have relevance to the Parks Asset Management Plan are:

- AP9 Lighting
- AP26 Reserve Improvement / Development by the Community
- CSP29 Depreciation and Amortisation

### **Financial Implications:**

Significant financial resources will be required to meet the levels of service and address the backlog of renewal as identified and outlined in this plan to bring these assets below the set intervention level.

Resource requirements have also been identified as a part of the improvements section of this plan (Section 8).

**Strategic Implications:**

This plan is linked to the Shire of Serpentine Jarrahdale's Plan for the Future 2009 – 2014 through the following statements of commitment within the Plan:

Infrastructure

- Continually improve the accuracy of the long term financial Plan for the Future by accommodating asset management plans that are developed.
- Ensure asset management plans extend to whole of life costing of assets and reflect the level of service determined by Council.

Strategy and Planning

- Create innovative solutions and manage responsibly to aid our long term financial sustainability

Success and Sustainability

- The Shire will exercise responsible financial and asset management cognisant of being a hyper-growth council.

**Community Consultation:**

Not required.

**Comments**

The draft asset management plan is a culmination of data and strategies which together define future management, financial and technical practices required for the Serpentine Jarrahdale's parks facilities.

This plan for parks infrastructure seeks to ensure that assets are used in the most effective and efficient way to support the delivery of the Plan for the Future. The Plan determines recommended service levels and proactive and reactive maintenance routines to keep the parks assets in a safe and usable condition. It also defines hierarchies which determine at what condition the asset will be listed for renewal.

This plan has been prepared in consultation with the Asset Management Working Group. Development has involved establishing a hierarchy for parks, determining levels of service, undertaking preliminary condition assessments and assessing remaining useful life. This information was used as a basis for determining the financial projections.

The Parks Asset Management Plan will be enhanced on an annual basis as data completeness increases and processes are measured, recorded and reviewed.

**Voting Requirements:**

Simple Majority

**CGAM038/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Randall, seconded Cr Hoyer**

**That Council adopts the Parks Asset Management Plan 2009 - 2012.**

**CARRIED 10/0**

**Council note: Cr Hoyer congratulated the Director Engineering and his team for their efforts on this Plan.**

CGAM039/12/09		NATIONAL LOCAL ROADS AND TRANSPORT ROADS CONGRESS 2009 (A0032)
Proponent:	Australian Local Government Association	In Brief  The primary purpose of this document is to provide feedback for the Elected Members and to summarise the key issues discussed and agreed upon by delegates at the congress.
Owner:	Not Applicable	
Officer:	Richard Gorbunow - Director Engineering	
Senior Officer:	Joanne Abbiss - Chief Executive Officer	
Date of Report	December 2009	
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**

This report provides details of the information presented at the recent Australian Local Government Association Local Roads and Transport Congress which was attended by the Director Engineering from 8<sup>th</sup> to 10th November 2009.

The theme for this National Conference was Road to the Future and designed to promote Federal Funding and to consider the road to tomorrow's transport future. Approximately 300 delegates attended the congress coming from every State and Territory of Australia.

***A copy of the conference program are attached at CGAM039.1/12/09 (E09/7139)***

### **Sustainability Statement**

***Effect on Environment:*** Ensures the Shire's natural assets are managed, and assists in development of a roads asset strategy that meets the needs of the community.

***Resource Implications:*** Accessing the National Road Grant Funding.

***Social – Quality of Life:*** Efficient road network within the Serpentine Jarrahdale Shire will enhance sense of local identity, purpose and pride.

***Social and Environmental Responsibility:*** Achieving community support through improved partnerships amongst stakeholders in promoting transport sustainability.

***Social Diversity:*** Allow for greater representation from a wider diversity of community.

### **Policy/Work Procedure**

#### **Implications:**

In accordance with CSWP54 - COUNCIL TRAINING, DEVELOPMENT AND CONFERENCE ATTENDANCE POLICY

#### **Financial Implications:**

All conference fees, flights and accommodation expenditure have been allocated in the 2009/10 Budget (DAS 505).

#### **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 transport opportunities.

*Objective 2: Plan and develop towns and communities based on best transport principals*

Strategies:

1. Increase information and awareness of key transport network within the Shire

*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.

*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:

3. Develop business performance, quality and ethical delivery of service

## **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.
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.

*Objective 3: Compliance to necessary legislation*

Strategies:

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

## **Community Consultation:**

Not Required.

**Comment:**

The framework for new strategy and the outcomes as discussed at the Australian Local Government Association National Local Roads and Transport Congress in Mackay November 2009.

Recognising the critical importance of Australia's transport system for the economic and social wellbeing of the nation, delegates to the 2009 National Local Roads and Transport Congress meeting in Mackay, Queensland, called for greater collaboration between all levels of government on the planning, delivery and funding of transport infrastructure at the local, regional, state and national level.

Delegates endorsed the need for the ALGA Board to update the Local Government Roads and Transport Strategy 2006–2016, to reflect the current policy and economic environment as well as taking into account the position adopted by delegates on the key issues set out below.

Delegates welcomed the ALGA Board's commitment to launch the revised strategy at ALGA's next National General Assembly in June 2010 and called on the Board to also develop a plan to drive the roads and transport agenda forward.

As representatives of the sphere of government closest to the community, delegates welcomed Federal Government funding initiatives in relation to transport and infrastructure. Local government also applauded the Federal Government's decision to support improved planning and management of councils through the establishment of the Australian Centre of Excellence for Local Government and the Local Government Reform Fund.

Local government embraced the transport vision adopt by the Australian Transport Council (attached).

As owner and manager of more than 80% of the nation's road network on which more than 25% of the transport task is undertaken, local government acknowledged the importance of continuous improvement in the way governments meet the transport task through the provision of transport infrastructure and in partnership with each other through land use and wider city or regional planning.

Local government recognised there will be technological innovations but acknowledges that the motor vehicle will remain the dominant form of transport in our cities and regional areas for the foreseeable future.

The projected growth in population to 35 million by 2049 will require high standards of planning in our cities and regional areas. Consideration should be given to the most appropriate locations to settle the expanded population including examining the scope for decentralising industry and government agencies. Planning for this population increase should recognise the critical importance of retaining land and providing transport links for sustainable food and agricultural production.

Social cohesion and inclusion is dependent on access to social, medical and educational facilities in both urban and regional Australia and is critically dependent on an efficient and effective transport system.

Local government recognised the importance of and the need for collaboration on developing strategies to adapt to changes in the way transport will need to be delivered in the future, eg in a low carbon economy.

Whilst local roads and transport are core deliverables for local government, they cannot be viewed in isolation from the broader issue of local government financial sustainability. Local

government's contribution to the transport vision can only be achieved with appropriate resources.

### **Local road funding and management**

*Objective: Permanent and certain funding arrangements for local roads*

Local government has responsibility for the vast majority of Australia's road infrastructure (over 80% by length). These roads are currently predominantly funded by councils from rate revenues however Commonwealth funding, especially through the Roads to Recovery Program, is a valuable source of funding to assist councils to improve the standards of their roads.

Local government called for Roads to Recovery to be made permanent and indexed in line with the cost increases of roads and bridges. Funding should not be unnecessarily administratively complex. The delegates called on the ALGA Board to develop campaign to lobby for more funding from both the Federal and State Governments.

Local government called on the Federal Government, in light of the High Court's recent judgment in the Pape case, to provide certainty for direct local road funding from the Commonwealth to councils.

If the Federal and State Governments decide to move to a system of funding roads by road user charging then local government calls on them to ensure that local roads are included. Local government must be consulted through the ALGA prior to the adoption of any proposed roads user charging system that applies to local roads. Any road user charging arrangement must result in appropriate funding for local roads.

If the Government does not choose to adopt road user charging, then local government seeks hypothecation of a fixed portion of fuel excise revenue for funding of local roads in addition to current funding programs. Local government needs to develop a consistent set of data on the condition of local roads to provide evidence of the funding gap.

Local government called on the Federal Government to support improvement in the management of the 650,000 kilometres of local roads by funding programs aimed at improving the management capacity of councils and supporting further technical work to improve the maintenance process and outcomes of local roads.

### **Transport Planning**

*Objective: Establish transport and planning systems that improve amenity, public transport, social inclusion, freight efficiency and to provide viable alternatives to the private motor vehicle.*

Local government welcomed the decision of the Federal Government to involve itself more directly in the planning of our cities to accommodate the expected population of 35 million by 2049 and looks forward to working with the Federal Government on these issues. The efficient operation of our cities is a matter for all levels of government.

Local government called on the Federal Government to acknowledge that urban planning issues extend beyond the capital cities and are just as important in provincial centres and sea and tree change areas of Australia

In developing plans for our cities and regional centres there is a need to balance the requirements of communities and industry so that efficient and equitable outcomes can be achieved. The needs of all in our society including the disabled and the aged, must be taken into account as part of the planning process.

Local government recognised the need for better integrated transport planning between adjoining local government areas, state government and Federal Government. Local government encouraged the integrated planning which links social infrastructure such as

housing, access to schools and health facilities to transport infrastructure which is essential to employment growth in middle, outer metropolitan and regional areas.

Planning for our cities needs to recognise the changing transport patterns of individuals who must integrate a number of points in their daily transport requirements to meet family and work commitments, eg particularly working families.

Local government recognised that future transport developments must take account of the impact on the environment, especially greenhouse gas emissions, and the increasing scarcity of the supply of oil, and seeks to work with the Federal Government to establish sustainable communities to meet these challenges.

The design of the Carbon Pollution Reduction Scheme (CPRS) should recognise the transport system is likely to remain heavily dependent on oil for the foreseeable future.

All levels of government need to develop and coordinate plans for dealing with disruptions to oil supplies and, in the longer term, the increased price of oil especially greater use of Australia's abundant gas resources.

Local government recognised the need for State and Federal Governments to develop alternative approaches to dealing with congestion such as congestion charging. In developing these schemes local government called for a whole of road network approach to be taken so that congestion is not simply transferred from the freeway or arterial road system on to local roads.

Specifically local government is seeking:

- an integrated whole of government approach to urban and regional transport, land use planning and service provision;
- expansion of programs that encourage more physically active transport across urban, regional and rural Australia and provide for funding for the associated infrastructure eg bike paths;
- equitable access to services, particularly to essential services, through integrated planning and the provision of appropriate transport services for all regional communities; and
- a comprehensive government policy for the production and effective use of alternative fuel sources including gas and non-food biofuels.

Local government urged the Federal Government to immediately restrict the graduated formula for the charging of Fringe Benefits Tax on motor vehicles to vehicle owners that do not have access to public transport. The FBT should be used to positively encourage reduced use of motor vehicles in order to improve health outcomes and air quality and to invest in public transport to assist passengers to achieve less reliance upon fossil fuels and cars.

### **Public Transport**

*Objective: Australian cities to be adequately serviced with public transport to provide a viable alternative to the use of private vehicles and to meet existing population and future population growth.*

Local government acknowledged the initiative of the Federal Government to become involved in the provision of public transport in capital cities and reminded the Federal Government of the public transport needs of regional centres.

There is a need to urgently deal with the backlog in public transport in existing areas and to make early provision for it in newly developing areas. This should be achieved by establishing long term public transport plans for all urban areas with an appropriate funding source and implementation schedule. The public transport needs of outer metropolitan growth should receive priority.



Governments need to encourage and develop transport systems that provide a balance between urban amenity, freight efficiency and viable alternatives to the use of private motor vehicles. A priority is the efficient movement of freight vehicles through local communities must be in a way which recognises community concerns for safety and amenity.

### **Mobility and Access for Rural, Regional and Remote Australia**

*Objective: Equitable access, particularly to essential services, for all regional communities*

Australians living in rural, regional and remote Australia face particular transport handicaps with limited or no public transport and dependence on the car for their transport needs. People living in Indigenous communities also have high levels of dependence on the car for transport. Everyday services such as medical services are increasingly being centralised in larger regional centres which provide a greater range of facilities. This means, however, reduced access for those living away from those centres and even greater dependence on motor vehicles.

Federal and state governments need to recognise that people in regional and rural Australia have no alternative to the use of motor vehicles to meet their everyday needs of education, freight, industry and social needs.

Ownership of regional airports was transferred to local government without ongoing means of financing their maintenance or upgrading. The Federal Government needs to show leadership and provide financial support to establish a proper hierarchy of regional airports.

Local government welcomed the studies undertaken by the Federal Government into rural rail freight services. It recognises that rural passenger trains have only a limited role to play but that rail has a key role to play for freight which will require selective investment in lines and associated infrastructure if rail freight is to be competitive in an environment of changing needs and technologies.

Note a further aspect of access in regional Australia is good access to broadband and mobile phone coverage.

Local government called on the Federal Government to:

- Recognise the special public transport needs of regional Australia especially in regional centres;
- Recognise the high level of dependence on motor vehicles for access and mobility for those living in regional Australia, the cost of which is exacerbated by higher fuel costs;
- Recognise the special mobility and access issues for Indigenous communities;
- Recognise that the high level of dependency on motor vehicles for mobility and access in rural and regional Australia will result in the greater likely impact of oil shortages or price increases on individuals, communities and industry;
- Provide an equivalent level of funding for regional rail services as is provided for urban rail;
- Ensure that a full assessment of the impact on the road system is undertaken when rail services are closed and provide appropriate funding to compensate for roads damage caused by the additional freight being moved onto the road system;
- Provide access for all Australians to the broadband network and full mobile phone coverage of the arterial road network and small populations centres; and
- Provide dedicated funding for timber bridge maintenance and renewal.

### **Road safety**

*Objective: Reducing road deaths and serious injuries on local roads*

The death and injury caused by road vehicle crashes is a national tragedy and remains a major concern to all communities. Local government supported strategies to reduce

accidents and lessen their impact through improvements in road infrastructure (such as the Blackspots Program), level crossing improvements, vehicle design, speed enforcement, and educational programs for drivers.

Local government recognised the principles of Safe Systems approach to road safety. However this approach needs to be cognisant of the vast distances in rural and regional Australia and that some speeds proposed under Safe Systems could result in considerable economic costs from increased travel times. Local government supports realistic and practical speed limits for low volume roads.

Local government can play a vital role in road safety by providing good quality roads that have as many hazards as possible removed.

### **Freight management**

*Objective: Efficient movement of freight through local communities in a way that recognises community concerns for safety and amenity*

Local government recognised and understands that emerging freight-efficient road transport technologies have an important role to play if Australia is to meet the challenge of the doubling of the freight task by 2020. Local government has already shown that it can work with the freight industry to meet the infrastructure challenges of new technologies and is committed to working even more closely with industry and other levels of government in the future.

Local government recognised the need for the development of standard policies for Higher Mass Limits and other freight-efficient vehicles access at the council level and seeks the assistance of the National Transport Commission in this area. Access policies should recognise that the social and economic impacts fall disproportionately on rural and remote communities.

Local government called on the Federal, State and Territory Governments and the road transport industry to recognise that:

- Local government has responsibilities to its communities on how it spends its available resources and how it meets all of the expectations of communities including the access, safety and amenity of its citizens;
- Many councils face financial constraints which make it difficult for them to finance road upgrading to meet the needs of freight efficient vehicles;
- Local government receives no direct funding for the use of local roads by heavy vehicles;
- There is a need for partnerships between all levels of government and industry such as mining to fund local transport solutions; and
- There is an essential role for multimodal transport hubs in the Australian freight system.

Local government, consistent with the 2006 Intergovernmental Agreement on Cost Shifting, called for the development of mechanisms which enable it to recover the costs imposed and the investment required to provide access for freight efficient vehicles to the local road system and to develop and upgrade existing multimodal transport hubs.

Local government considers revitalisation of rail in regional Australia (including the establishment of the inland rail route between Melbourne and Brisbane) to be essential to contribute to meeting the expected growth in the land transport freight task.

### **Local Government Sustainability**

*Objective: Long term sustainability of local road and transport systems is dependent on financing and the ongoing access to an appropriately skilled workforce.*

The significance of road funding in council budgets mean the sustainability of this infrastructure is closely tied to the financial sustainability of councils themselves.

Delegates noted that the Federal Government collects more than 80% of the nation tax revenue whilst local government collects about 3% of the total tax revenues.

Delegates reiterated their call for long-term financial sustainability for local government by the provision of a fair share of at least 1% of Commonwealth taxation revenue (excluding GST) to local government as an untied intergovernmental transfer.

Local government recognised the importance of workforce planning including the attraction and retention of appropriate skilled personnel.

The ageing of the technical staff of local government has the potential to create major deficiencies in council capabilities to manage its physical infrastructure in the medium term. Local government called on the Federal and State Governments to work with it to develop and retain the people with the necessary technical skills for the ongoing management of its assets.

Almost 300 delegates at the Australian Local Government Association's 2009 National Local Roads and Transport Congress meeting in Mackay have called for a detailed intergovernmental national strategic transport vision to respond to population projections of 35 million by 2049 and a doubling of freight volume by 2020.

"Our cities urgently need coordinated and integrated planning by the three levels of government to address the pressing issues of ageing and social inclusion, congestion and carbon emissions,

"Local government has responsibility for over 80% of Australian roads," Cr Lake said. "It is becoming increasingly difficult for local government to meet the funding needs associated with maintaining this vast national asset. As almost every trip begins and ends on a local road, appropriate investment in our local roads is essential for boosting the nation's productive capacity. Local government wants to work closely with the Commonwealth Government to secure an increased investment in our local road network."

In a Communiqué issued from the Congress, delegates have called for:

- Permanent funding for the Roads to Recovery program;
- The inclusion of local roads in any move to road user charges to ensure that any revenue raised is returned to councils for reinvestment in local roads;
- The Federal Government to establish an agreed set of indicators in consultation with local government to measure the condition and performance of the local road system; and
- The Federal Government to amend the graduated formula for the charging of Fringe Benefits Tax on motor vehicles to properly reflect government and community need to positively encourage reduced use of motor vehicles.

### **Local Roads and Transport Congress**

Transport is critically important to the social, cultural, and economic well being of every Australian community, from our city centres to remote communities. With the freight and passenger transport task expected to more than double in the 20 years to 2020 getting transport right is more important than ever. Local government is the level of government closest to the community and plays an essential role, in partnership with other levels of government and the community, to ensure that the nation's transport system including the 'last and first mile' is capable of meeting the anticipated transport challenges over the next several decades. Roads represent the single largest item of expenditure for most council, especially in regional areas. Local roads that are the responsibility of councils make up more than 80% of the total road length in Australia. The National Transport Commission has estimated that some 18% of kilometres travelled by vehicles over 4.5 tonnes and 28% of commercial kilometres are on local roads. In urban areas the need for improved public transport systems and linkages to local communities are key issues. In regional areas the need to have effective linkages to the arterial road system, ports and mines is a priority,

along with improved public transport (bus) services both within and between towns to provide public transport options for people traditionally reliant on private vehicles. For some council, the funding of airports and the provision of efficient air services are major concerns.

### **A Local Roads and Transport Strategy**

Local government has developed a strong relationship with the Federal Government over many years that sees the Federal Government providing more than \$2.5 billion in 2009-10 to local government, of which about one third is earmarked for roads. However the relationship between local government and the Federal Government cannot be measured just by the number of dollars provided by the Federal Government. Local government's approach to working with the Federal Government is much more than money.

Our engagement with the Federal Government is guided by an agreed strategy that was developed following the 2006 National Local Roads and Transport Congress endorsed by the ALGA Board and launched at the 2006 National General Assembly. The strategy provides a practical framework within which the ALGA Board can lobby the Federal Government and deal with issues as they emerge, such as local road funding, heavy vehicle standards, new freight efficient vehicles, public transport issues and community infrastructure. The ALGA Local Roads and Transport Strategy 2006-16 can be found on the ALGA website at <http://www.alga.asn.au/policy/transport/transportstrategy/>.

### **Achievements**

Under the existing strategy local government has been successful in pursuing major transport initiatives. Major achievements flowing from the lobbying effort by ALGA on behalf of local government include:

- Roads to Recovery extended to 2014 at an increased rate of \$350 million per year worth \$1.75 billion;
- Federal involvement in the funding of urban rail projects; the
- \$40 million for bike paths;
- \$150 million for railway level crossing upgrading
- \$1 billion Regional and Community Infrastructure Program;
- \$25 million Local Government Reform fund;
- Australian Centre of Excellence for Local Government;
- Recognition of the needs of local "last and first mile" in road transport reforms including a local government targeted communication strategy by the National Transport Commission;
- Regional airports security funding: \$42.9 million over four years;
- Subsidies for weekly flights to remote regions: \$44.7 million over four years; and
- \$3 million for a Remote Aviation Infrastructure Fund

### **Rationale**

The current strategy has served local government well but with the change of Government and its different transport funding and planning focus, Global Financial Crisis and the Government's fiscal balance, there is a need to review and update the strategy. The Rudd Government has taken a radically different approach to transport funding and planning with a greater direct involvement in the urban agenda and public transport. It has established Infrastructure Australia and the Major Cities Unit to help guide its funding decisions.

Importantly, the current Government has continued the previous government's move towards mass distance charging for heavy vehicles. The Henry Review of Taxation has examined the issue of road pricing and has issued a discussion paper [A Conceptual Framework for the Reform of Taxes Related to Roads and Transport by Harry Clarke and David Prentice] on the topic. A further significant development is the High Court decision in *Pape v Commissioner of Taxation* which brings into question the constitutional validity of the federal government providing funding directly to local government through programs such as

the Roads to Recovery. We need to be in a position to influence the Government's thinking and to be ready to respond as policies are developed. To do that, any new strategy needs to recognise the changes in the policy landscape and to adapt to those changes. This approach does not mean giving up objectives, such as permanent funding for local roads, but it may mean different approaches to achieving those objectives.

To assist the ALGA Board in its negotiations with the Federal Government, an updated framework on transport issues is needed.

### **Development of a local roads and transport strategy**

A local government roads and transport strategy MUST reflect the needs and interests of local government and local communities and be informed by current events/ policy settings. The current Local Government Roads and Transport Strategy have five key themes:

- Local road funding and management;
- Urban transport;
- Mobility and access for regional Australians;
- Freight management; and
- Long term financial sustainability of local government.

With the changing domestic and world economic environment local government faces a range of new challenges. Some of these challenges are outlined below:

#### **Local road funding and management**

*Objective: Permanent funding arrangements for local roads*

In light of the High Court decision in Pape should local government rely on grant funding? What are other options to secure funding?

Would constitutional recognition help to secure funding?

If funding were to be directed through state governments what can be done to ensure the funding is passed on in full?

What is a fair funding level? How can it be maintained in real terms?

What are the threats and opportunities of roads user charging?

How to meet the data needs for local government to present its case to government?

How to better involve the private sector in the provision and funding of road infrastructure?

What does local government need to improve the managements of the roads and other assets?

#### **Urban transport and Congestion**

*Objective: Transport systems that improve urban amenity and freight efficiency and to provide viable alternatives to the private motor vehicle.*

How to involve all three levels of government in future land use planning including integration of city wide, regional and national transport planning?

How to meet the transport needs of a growing population (estimated to be 35 million by 2049)?

How to balance the needs of industry and urban amenity?

What role can cycling play as means of urban public transport?

What are possible future roles for councils in providing transport to the disadvantaged eg community buses and how should they be funded?

How can bipartisan support for Commonwealth funding of public transport be achieved?

How can the public transport experience be improved for users?

What are the possible impacts (costs and revenues) on local government to changes to accessible parking arrangements?

What are the possible impacts of disability legislation on transport infrastructure provision?

How can councils prepare for peak oil or future oil price spikes?

Impact of the Carbon Pollution Trading Scheme on transport?

Should there be congestion charging and how should it work?

### **Mobility and access for regional Australian**

*Objective: Equitable access, particularly to essential services, for all regional communities*

How can regional communities be provided with better access to public transport?

What are the mobility and access issues for indigenous communities?

How can communities in regional and remote Australia prepare for peak oil or future oil price spikes?

What is the future role of country rail passenger services?

What is the future role of country rail freight services?

What is the future role of rail in the transport of bulk commodities, eg grain?

How can country and regional aviation services be improved?

Is there scope for rationalization of regional airports?

What has been the impact of the transfer of airport ownership to councils?

What is the impact of the centralisation of services (ie medical, government and business) in regional centres?

Is improving broadband access in regional and remote areas an alternative to improving physical access?

How can mobile phone coverage in regional and remote areas be improved?

Road safety Objective: Reducing road deaths and serious injuries on local roads

What is the role of local government in road safety?

What are the road safety issues specific to urban areas?

What are the road safety issues specific to regional and remote areas?

How can local government improve the safety of rail level crossings on local roads?

Local government response to proposals under Safe Systems to speed limits as follows:

<b>Road and section types combined with road users</b>	<b>Target Safe System speed (km/h)</b>
Roads and sections used by cars and <b>vulnerable users</b>	30
Intersections with possible <b>side-on conflicts</b> between cars	50
Roads with possible <b>frontal conflicts</b> between cars	70
Roads with <b>no possible frontal or side-on conflicts</b> between vehicles and no vulnerable road users present	≥100

### **Conclusion:**

The Annual Congress aim was to achieve a more comprehensive transport approach, in both rural/urban areas and regional Australia. It also aimed to develop a joint policy position document that summarises Local Government's priorities in roads and transport.

The information provided at the congress was a valuable resource and allowed the opportunity to network with other practitioners on activities within Local Government operations. A noteworthy example was that Queensland Local Government is able to impose a road improvement levy and some Queensland Council's have already introduced it to help with their road funding. In Western Australia the legislation does not allow for the Local Government Authorities to impose such charges, it requires an amendment to the Financial Management Regulations.

Thank you to Council for the opportunity to attend this extremely well organised and valuable information gaining experience.

**Voting Requirements:** Simple Majority

### **CGAM039/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

Moved Cr Brown, seconded Cr Buttfield

That:

1. The Officer report be received.
2. The Peel Zone and South East Metropolitan Zone Representatives on WALGA raise the issue to change the Financial Management Regulations to allow Councils in Western Australia to charge a levy for Road Improvement on Local Roads.

**CARRIED 10/0**

CGAM040/12/09 LONG VEHICLE PERMIT APPLICATION – DIRK ROAD, KEYSBROOK (R0061)		
Proponent:	Intercon Millar Logistics	In Brief  Council is requested to conditionally approve an application to extend Intercon Millar Logistics' permit for the use of Long Vehicles on Dirk Road, Keysbrook for the purpose of entering and exiting a storage yard that houses power poles on behalf of Western Power.
Owner:	Not Applicable	
Officer:	Richard Gorbunow – Director Engineering	
Senior Officer:	Joanne Abbiss – Chief Executive Officer	
Date of Report	19 November 2009	
Previously	CGAM139/06/07 & CGAM048/12/08	
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 request for extension has been received from Intercon Millar Logistics regarding their permit for the use of oversize vehicles up to 27.5m in length to cart on Dirk Road Keysbrook, (Lot 321 Kentish Road) for the purpose of entering and exiting a storage yard that houses power poles on behalf of Western Power. This permit was granted in November 2008 (CGAM048/12/08).

***A copy of a map showing the road section is attached at CGAM040.1/12/09 (E09/7431)***

According to our records, this haulage operation has not been the subject of complaint or incident during the period of operation.

As in past applications, the proponent has advised that access will be within normal working hours except in emergency situations (i.e. pole fires). In this regard they have indicated that at times they will require access approval for twenty four (24) hours seven (7) days per week.

### **Sustainability Statement**

***Effect on Environment:*** The use of larger combination vehicles reduces the number of truck movements on a road resulting in reduced congestion and reduced fuel use per unit of transported material.

***Resource Implications:*** Properly managed permit vehicle operations would minimize road resource use. The use of truck combinations reduces the burning of fossil fuels by increasing the efficiency of material haulage per unit of material.

***Economic Viability:*** The proposal is economically viable as the use of oversize vehicles can result in real cost savings of 25% of freight transport tonnage costs. A reduction in heavy vehicle numbers, combined with suitable axle configurations on oversized vehicles will assist in slowing the deterioration of road pavements through reduced loading.

***Economic Benefits:*** The proposal does not provide a direct economic benefit to the community.



**Social – Quality of Life:** The use of larger combination vehicles reduces the total number of trucks on the road, reducing congestion and truck noise and reducing the frequency aspect of truck conflict risk.

**Statutory Environment:** The operation of permit vehicles is controlled by Main Roads Western Australia on the basis of recommendations provided by Council.

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

**Financial Implications:** There are no financial implications to Council related to this application/issue.

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

**2. Environment**

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

Strategies:

5. Reduce green house gas emissions.

**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:

1. Improved freight, private and public transport networks.

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

Not applicable.

**Comment:**

The applicant, Intercon Millar Logistics, is seeking Council approval to extend their permit to operate vehicles up to 27.5 metres in length to cart to the Western Power storage yard located within Lot 321 Kentish Road, Keysbrook. The storage yard is a long term facility that contains power poles. The applicant is seeking approval to access the storage yard on a twenty four (24) hour seven (7) days per week basis to allow for access during emergency requirements.

Given the ability of Council to apply conditions to the operation of the vehicles, officers recommend that approval be granted in this instance for a twelve (12) month period, after which time the applicant may apply for an extension. This will allow Council to grant future approvals based on the performance of the operator during the permit period and any issues that may arise such as complaints from the general public.

Dirk Road has only two residential accesses, both of which are located more than 600m from the stockpile site. Dirk Road currently carries minimal traffic which could be affected

by the proposed truck movements. This section of Dirk Road is relatively straight allowing motorists to see oncoming vehicles.

Although Dirk Road is not particularly wide, there is enough room for vehicles to pass side-by-side using the shoulder, and with the low anticipated traffic volumes this is considered acceptable and can be enhanced with the imposition of a speed restriction.

Dirk Road is included in the list of roads included in MRWA's Restricted Access vehicle Network, subject to approval being granted by the local government. Copies of such approvals (Permits) must be carried in the vehicles at all times.

As the use of Dirk Road by residential users is limited, due to the small number of private residences and the lack of access to other roads, the frequency of permit vehicle interaction with smaller vehicles will be limited and well below the frequency of interaction on most permit vehicle routes.

**Voting Requirements:** Simple Majority

**CGAM040/12/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Buttfield**

**That:**

- 1. Council endorses the use of oversize vehicles (up to 27.5 metres in length) by Intercom Millar Logistics for a period of twelve (12) months from the date of this meeting for access to the Western Power storage facility located within Lot 321 Kentish Road, Keysbrook, subject to compliance with the following conditions:**
  - a) No haulage by oversized vehicles (up to 27.5 metres in length) is permissible during school bus times;**
  - b) Vehicle speed being limited to 40 km/hr on Dirk Road and 80 km/hr on sealed roads without pavement markings or less where either appropriate for safety reasons or posted at a lesser speed;**
  - c) Vehicles are permitted to operate during daylight hours only between Monday and Saturday, unless access is required during an emergency situation;**
  - d) All owner/operators adhering to the Motor Vehicle Act and Regulations and to any road closure as prescribed in Section 3.50 of the Local Government Act 1995;**
  - e) Any damage to the road pavement at the confluence of Dirk Road and access to Lot 321 Kentish Road being reported to the Shire within 24 hours of the damage occurring and rectified by and at the expense of the applicant where such damage is caused as a direct result of heavy haulage operations;**
  - f) Any damage to the road pavement, seal or shoulders on any section of Dirk Road or the intersection of Dirk Road and South Western Highway used by the operator's permit vehicles, being reported to the Shire within 24 hours of the damage occurring and such damage is to be rectified by and at the expense of the applicant where such damage is caused as a direct result of heavy haulage operations;**
  - g) Council reserves the right to revoke its support if any of the above conditions are not adhered to or road conditions and user safety is compromised;**
  - h) Copies of all permits, including truck and trailer registration numbers, as issued by Main Roads Western Australia to be submitted to Council prior to the commencement of haulage operations; and**
  - i) Any application for extension to the permit after the 12 month period being referred to Council**

- j) A log of vehicle movements outside of the daylight hours described in provision C shall be provided to the Shire on a monthly basis with a description of the nature of the emergency requiring such movements.
2. Main Roads Western Australia being advised in writing of the Council's decision in relation to the use of oversize vehicles (up to 27.5 metres in length) by Intercom Logistics for a period of twelve months for access to the Western Power storage facility located within Lot 321 Kentish Road, Keysbrook.
3. In accordance with Section 5.4.2 of the Local Government Act 1995, Council authorises and grants the delegation of authority, power and duties as listed in attachment CGAM040.2/12/09 entitled:
- ENG25 Renewal of B-Double and Long Vehicle Permits
4. Requests the delegated authority register be updated accordingly.
- CARRIED 10/0**

## 8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

OCM017/12/09		PROPOSAL TO DEMOLISH HOMESTEAD ON LOT 116 SOUTH WESTERN HIGHWAY, BYFORD (P00602/05)
Proponent:	Aspen and Byford Scarp Residents Association	In Brief  Proposed demolition of homestead on public open space reserve within Byford by the Scarp Development. It is recommended that approval be granted subject to a demolition License being obtained from the Shire.
Owner:	Crown	
Officer:	Carole McKee, Manager Community Development	
Senior Officer:	Deon van Der Linde, Acting Director Strategic Community Planning	
Date of Report	11 December 2009	
Previously	SD072/12/05; SD045/10/05	
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>	

Lot Area: 3.57ha  
 L.A Zoning: Public Open Space  
 MRS Zoning: Urban  
 Bush Forever: Part of foreshore reserve is classified as Bush Forever and contains riparian vegetation (Site No. 271)

### **Background**

An application was received in 2005 for planning approval and a demolition license for the demolition of the existing house (known as Percy's Place) located on the public open space abutting the Cardup Brook. The dwelling was built in 1914 by a local soldier, Percy Nairn. An application for planning approval is required because the site is within the Landscape Protection Policy Area. At the Ordinary Council meeting in October 2005, following some uncertainty about information submitted with the application, it was resolved that the proposal be deferred pending a site inspection and assessment of the proposed demolition in the context of overall community benefit now and in the future.

***A copy of the Officer's Report and attachments is with attachments marked OCM017.1/12/09 (E05/5723) and OCM017.2/12/09.***

At the Sustainable Development Committee Meeting in December 2005 Council resolved to refuse the application, for heritage and future community facility planning reasons. The site was to be considered as a part of the preparation of the Community Facilities and Services Plan (CFSP), and the Royal Australian Naval Armaments Depot (RANAD) land and any remaining buildings related to the past operation of the depot were to be subject to further research and to be included in the next review of the Shire's Municipal Heritage Inventory. The site was fenced off and made secure.

***A copy of the Officer's Report and attachments is with attachments marked OCM017.3/12/09 (E05/7085), OCM017.4/12/09, OCM017.5/12/09, OCM017.6/12/09 and OCM017.7/12/09.***

After being made aware of Percy's Place by Shire officers, the Byford RSL examined the potential of the site for providing a community facility in line with Council's resolution. They prepared a draft concept plan and conducted some preliminary consultation with other community associations to gauge the level of interest in the concept. The RSL were keen to conduct activities and programs from the facility to benefit all age groups with the management of the facility controlled by a community based committee. In response to community feedback the RSL have since entered into discussions with LWP regarding the possibilities of developing a facility in the Glades development. They are no longer interested in Percy's Place.

The Council has been made aware that there are some residents of Byford by the Scarp who object to any facility being operated from the site. They wish to see Percy's Place demolished and the area left as public open space, which they state is the understanding they had been given from the developer when purchasing the properties.

Correspondence has since been received from the current developer (Aspen) and from the community (through Byford Scarp Residents Association) requesting that the application for a demolition license be reconsidered, with the developer volunteering to pay for the demolition and then landscape the site including some commemorative detail.

***A copy of correspondence received from The Heritage Council on 11 August 2009 is with the attachments marked OCM017.8/12/09 (in09/9864) and correspondence from Byford Scarp Residents Association and Aspen on 14 September 2009 is with attachments marked OCM017.9/12/09 (in09/14223).***

### **Sustainability Statement**

***Effect on Environment:*** The site will be landscaped by the developer who has also indicated an intent to erect a plaque to commemorate the Heritage and Cultural significance of the site. The Heritage Council have deemed that while the building may have some cultural significance it is unlikely that it would meet the threshold for entry on the State Register of Heritage Places. The site can however be considered for inclusion in the Shire's Inventory of Heritage Places.

As a precursor to the 2005 application to demolish the house, the proponents (LWP at the time) engaged ATA Environmental Scientists to assess the site. In summary, the findings indicated that demolition of the dwelling will have the following environmental benefits:

- remediation of the contaminated soil under the house.
- decommissioning of the existing septic tanks and leach drains.
- removal of asbestos from the site.

These works will remove a possible source of contamination close to Cardup Brook. There is also a risk of squatters or vandals setting fire to the house, which could result in a serious bushfire incident. No indigenous vegetation will require removal as a result of this approval.

***Resource Implications:*** Aspen will provide all the resources required to demolish the building, remove the waste and restore the site with landscaping and commemorative detail.

There will be a necessity to import fill to the site to replace the contaminated soil removed and to fill the decommissioned septic tanks. A condition should be imposed requiring the use of clean fill and care taken not to import fill that may be contaminated with diseases such as dieback.

**Use of Local, renewable or recycled Resources:** There is an opportunity for some of the demolished building materials to be recycled such as bricks, tiles and any usable jarrah. Of particular interest is the large slab of jarrah which forms the threshold at the front door. There may be an opportunity for some of the recycled materials to be used in the construction of interpretive walls, park furniture and sculptures as a means of interpreting the European history of the site. Aspen will be requested to recycle some of the bricks and other materials from the building to utilise within the landscaping of the park and commemorative plaque as well as to provide LWP with materials from the demolition for use in the Glades to contribute to their “old and new” theme.

**Economic Viability:** Aspen will cover the costs of the demolition works. The proposal will allow the removal of some existing contamination issues on the site. An assessment was also made by the Shire Engineering Team on the cost of renovating the building (including full lifecycle costs) should Council choose not to allow it to be demolished:

Percy Place whole life costing based on \$220,000 upfront to bring building up to useable standard

Initial Investment	220,000.00		220,000.00				
Estimated maintenance cost per year	12,000.00						
Estimated energy cost per year	1,000.00		390,000.00	Overall costs	Maintenance		410,000.00
Estimated demolition cost at end	20,000.00		20,000.00				
			630,000.00	Total Cost			
Years of Operation	30						
Value at end of life	0.00						
Overall Cost over Lifetime	630,000.00						
Annual Cost	21,000.00						
Discounting of Future Costs (Rate of Return)	4.50%						
Net Present Value of Future Costs	\$109,470.01						

Both the costs determined and the Community Association’s recommendations that Council funds and grants be better directed to a facility within the Byford Town Centre render the proposal to renovate as unsustainable.

**Economic Benefits:** The proposal will enhance the park, attract visitors and improve the amenity adjacent to residences which in turn may improve their value. Recycling of materials for use in construction of park features could provide an economic benefit to the Shire.

**Social – Quality of Life:** The proposal will improve the quality of life for Byford on The Scarp residents as they will have a more accessible park in which to recreate as well as enjoying a more pleasing visual amenity. Removing the dwelling will also remove the risk of vandals and squatters being attracted to the site and the associated fire and social risks and remove sources of contamination from this future public open space including contaminated soil and asbestos fibres.

**Social and Environmental Responsibility:** The Shire will meet its social and environmental responsibilities by allowing removal of the house and clean-up of the site. The

proposal reflects the pro-activity in the Byford on the Scarp community in researching and campaigning to have the building demolished in partnership with Aspen.

**Social Diversity:** The proposal does not disadvantage any social group as the building was not in a useable state. The proposal is of advantage to residents in that it opens up the access to the park.

**Statutory Environment:**

Planning and Development Act 2005  
Town Planning Scheme No.2 (TPS2)

**Policy/Work Procedure Implications:**

Local Planning Policy (LPP) 8 Landscape Protection

**Financial Implications:**

There are no financial implications to Council related to this proposal for demolition as the developer Aspen has offered to cover the cost of demolition, landscaping and commemorative detail.

**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.
5. 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*

Strategy:

5. Protect built and natural heritage for economic and cultural benefits.

**2. Environment**

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

Strategy:

3. Encourage protection and rehabilitation of natural resources.

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

Strategy:

3. Reduce waste and improve recycling processes

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategy:

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

**Community Consultation:**

The CFSP to 2020 indicates that there may be a need for a community facility within the Byford by the Scarp subdivision. However, the Plan does not specify the size, nature or exact location of that facility as this can only be determined by a detailed feasibility study involving extensive community consultation. Initial consultation suggests that residents may prefer to access facilities within the Byford Town Centre instead. More detailed consultation will take place as the CFSP feasibility studies are implemented.

Byford Scarp Residents Association has made a number of submissions in relation to supporting the demolition.

***A copy of the public statement received on 28 July 2008 summarising their concerns is with attachments OCM017.10/12/09 (in08/9430).***

**Comment:**

The house proposed to be demolished is in extremely poor condition. There is evidence that squatters have used the building in the past and there is a lot of damage existing to the fabric of the house caused by a combination of vandalism, theft of materials (the floor boards and other fixtures) and lack of maintenance.

The environmental assessment carried out by environmental scientists commissioned by the proponent has revealed that there is pesticide contamination in the soil under the house. These pesticides are now banned. In addition, the building contains some asbestos sheeting, some of which has been broken. Accordingly, the site needs to be remediated to make it safe for future users of the public open space. The existing septic system poses both a danger of contamination of Cardup Brook, due to its proximity to the Brook, and possibility of collapse if it is not maintained.

It is recommended that approval be granted for the demolition of the dwelling given:

1. Environmental issues;
2. The Heritage Advisor's comments that retention of the dwelling is not essential to an understanding of the history, operations and function of the former armament depot, and;
3. The high costs involved in restoring the house to a suitable and safe condition.

An extensive range of photographs has been taken of the house and its setting by Shire officers, the Regional Heritage Advisor and the proponent. In addition, sketch plans have been made of the site and the floor plan of the dwelling. It is therefore considered that an adequate record has been made of the building. It is recommended that these records be incorporated in the upcoming review of the Shire's Municipal Inventory along with other historical information relating to the RANAD site and that steps be taken to provide some protection for the remaining depot buildings on Lot 1 Nettleton Road and the three 1950's Defence Force houses related to the depot that are located on the western side of South Western Highway.

A theme relating to the RANAD period of the history of the Byford by the Scarp site has been used in naming the roads within the subdivision including:

1. Types of weapons for which ammunition was stored and prepared on the site during World War II;
2. Royal Australian Navy Ships supplied by the depot during World War II; and
3. Armaments and structures related to the facility's operation.

Some of the materials from the demolished house could be retained for use in the construction of walls, park furniture and other features in the public open space containing the house site along with appropriate interpretive signage relating to the RANAD period of the history of the site.

Council Officers have delegated authority to process and grant planning approval for the demolition of the building on Lot 116. This will occur once the issue is considered by Council.

**Voting Requirements:** Simple Majority

**OCM017/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Randall, seconded Cr Brown**

- A. The application for approval to demolish the existing old house on the public open space (Lot 116) located on the northern side of Cardup Brook within the**

**Byford by the Scarp residential estate be approved subject to the following conditions:**

1. A Demolition License is to be obtained prior to the commencement of any demolition works.
2. Demolition is to be carried out by a licensed demolition contractor.
3. Contaminated soil shall be removed from the site to an approved landfill facility and the site remediated to the satisfaction of the Shire.
4. Any existing septic tanks and leach drains shall be decommissioned and the site remediated to the satisfaction of the Shire.
5. All existing indigenous vegetation shall be retained and shall be protected from damage prior to and during demolition of the house.
6. Materials such as bricks and sound pieces of jarrah are to be retained for use in the construction of features in the public open space containing the house site such as paths, walls, park furniture, artwork and signage to the satisfaction of the Shire. Details of how these recycled materials are to be used to give an interpretive history of the site are to be included in a landscape and vegetation management plan required to be prepared by the developer for the public open space.
7. A commemorative plaque is to be installed by Aspen as part of the interpretive landscape plan detailed above.
8. The offer from Aspen to cover the full cost of demolition, landscaping and interpretation of the site be accepted.

**B. The Royal Australian Naval Armaments Depot land and any remaining buildings related to the past operation of the depot be included in the next review of the Shire’s Municipal Inventory.**

**CARRIED 10/0**

OCM018/12/09		RESPONSIBILITIES FOR WATER MANAGEMENT IN BYFORD (A0827-02/01)	
Proponent:	Water Corporation	In Brief  A request has been received from the Water Corporation for the Shire to take over responsibility for Sub-Section M of the Oakland Drain in the Byford Area. It is recommended that the proposal be supported and Shire President and the Chief Executive Officer be authorised to sign an agreement between the Water Corporation and the Shire.	
Owner:	Not Applicable		
Author:	Simon Wilkes – Executive Manager Planning		
Senior Officer:	Brad Gleeson – Director Development Services		
Date of Report	14 December 2009		
Previously	SD100/04/07; SD27/09/06; SD141/06/06; SD123/04/06;		
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>		

**Background**

In January 2001, the Western Australian Planning Commission (WAPC) approved the draft Byford Structure Plan (BSP) subject to the completion of an urban stormwater management strategy. Council adopted the Byford Urban Stormwater Management Strategy (BUSMS) in September 2003. The BSP was adopted by Council in 2005 and subsequently approved by the WAPC in 2005.

In February 2006, a Local Structure Plan (LSP) was lodged for the Byford ‘Main Precinct’. In March 2006, the Shire commenced a review of the BSP to consider the impacts of the proposed Main Precinct LSP. The review of the BSP was ultimately discontinued in



February 2007, with a number of individual modifications instead being progressed and ultimately determined by the WAPC.

During the course of the BSP review, the Water Corporation in September 2006 raised a number of concerns regarding regional drainage planning for the Byford Area. In November 2006, a 'round-table' forum was convened with the Department for Planning and Infrastructure, Department of Water (DoW), the Shire and Water Corporation to discuss regional drainage requirements and to determine an appropriate path forward. The DoW subsequently engaged consultants SKM to prepare the Byford Flood Plain Management Strategy and then later engaged consultants GHD to further progress this work in the form of a Drainage and Water Management Plan (DWMP). In February 2008, a draft DWMP for the Byford Townsite was released by the DoW for public comment. The DWMP was published as a final document in September 2008.

Since the publishing of the final DWMP by the DoW in September 2008, all LSP's, detailed area plans, subdivision and engineering drawing applications have been assessed against the water quantity and quality design objectives outlined in the DWMP.

As part of the implementation of the BSP and the DWMP, one matter that needs to be addressed is the responsibilities associated for the 'Oaklands Drain Sub-Section M'. The drainage in this area has historically been the responsibility of Water Corporation, as part of the Mundijong Drainage District declared under the Land Drainage Act 1925.

***A location plan for Sub-Section M of the Oaklands Drain is with attachments marked OCM018.1/12/09.***

There is a need for agreement to be reached between the Water Corporation and the Shire regarding responsibilities for the Sub-Section M of the Oaklands Drain. This report provides Council with the opportunity to authorise staff to enter into required agreements with the Water Corporation to progress this matter.

**Sustainability Statement**

***Effect on Environment:*** The DWMP establishes a framework for new urban development, such that established stormwater water quantity and quality design objectives can be achieved and the concerns and risks identified by the DoW and the Water Corporation can be addressed. The DWMP reinforces Council's commitment to ensuring that water sensitive urban design principles are incorporated into new urban development.

***Resource Implications:*** The DWMP provides a framework for the efficient and effective use and re-use of water as a valuable resource within the BSP area. There are considerable opportunities for continuous improvement and embracing best practice.

***Use of Local, Renewable or Recycled Resources:*** Promotion of the use of local, renewable and recycled resources will be carried out during the local structure planning, subdivision and development processes.

***Economic Viability:*** The integration of the DWMP into the statutory planning framework will ensure that drainage planning is effectively progressed with land use planning in the most cost efficient and effective manner – ensuring that issues are addressed to the appropriate level of detail at the right stage in the planning process.

***Economic Benefits:*** The DWMP seeks to protect the natural environment, through the establishment of water quality and quantity design objectives. The implementation of the DWMP should enable the Shire to minimise the likelihood of environmental harm into the future, with associated remediation and/or rectifications costs.

***Social – Quality of Life:*** The DWMP retains many of the key features for drainage established under the BUSMS, including an interconnected network of multiple-use corridors

and public open space areas that will provide opportunities for community appreciation and recreation.

***Social and Environmental Responsibility:*** The incorporation of the DWMP into the Shire's statutory planning framework is a further demonstration of the Shire's commitment to continuous improvement and best practice for the protection of the natural environment.

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

**Policy/Work Procedure Implications:** Local Planning Policy No. 22 – Water Sensitive Urban Design.

**Financial Implications:** Developers will be responsible for maintaining the multiple use corridors (MUC) which includes the drainage channel and public open space for a period of two years (or for longer period if negotiated with the developer), once the land is ceded at the time of subdivision clearance. After this time, the Shire is responsible for all maintenance costs.

These costs will be determined over time and included in the Shire's forward financial plan.

**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.
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.

**2. Environment**

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

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
3. Encourage protection and rehabilitation of natural resources.
6. Value, protect and develop biodiversity.

*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.

*Objective 3: Effective management of Shire growth*

Strategies:

2. Represent the interests of the Shire in State and Regional planning processes.

**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.
4. Balance resource allocation to support sustainable outcomes.

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

Strategies

1. Improve coordination between Shire, community and other partners.
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.

**Community Consultation:**

The DWMP was advertised by the DoW for public comment prior to its finalisation. Amendment 164 to TPS 2, which seeks to formally integrate the DWMP into the statutory planning framework for Byford, has also recently been advertised for comment. There are further opportunities available to stakeholders to provide comment on detailed planning/drainage matters in the Byford Area, through individual LSPs and associated local water management strategies.

**Comment:**

There are a number of key issues that Council needs to consider in respect of the Oaklands Drain Sub-Section M, as follows:

- Historical arrangements;
- Plan for the Future 2009 – 2014;
- Potential impact on LSPs and subdivisions;
- Proposal from Water Corporation for responsibility to be transferred across to the Shire;
- Key technical assumptions and inputs into planning; and
- Financial risks/responsibilities.

Each of these key issues is discussed further in the following sub-sections.

**Historical arrangements**

The Mundijong Drainage District is a 'declared' area under the Land Drainage Act 1925. The Water Corporation operates the drainage system under an Operating Licence issued by the Economic Regulatory Authority. The Operating Licence standard for a rural drain allows flooding for up to three days where the land-form allows for natural drainage to the drain. The Water Corporation requires developers in the catchment of a rural drain to place a 'Section 70A' notification to be placed on titles, to ensure that prospective purchasers are aware of the potential for flooding. As an alternative arrangement, DoW have advised that

development sites within the Byford Structure Plan Area shall be filled to give a minimum of 500mm freeboard between finished floor levels of buildings and the 100 Year ARI top water levels in flood storage areas.

The Water Corporation has recently written to landowners within the sub-catchment, providing the following advice:

*'to protect the capacity of the rural drain the Water corporation requires the pre-development 100 year flood plain of the drain to be protected by 100 metre wide reserve for drainage, which is to be vested in the corporation. Works or clearing will not be permitted in this reserve. Any flows from urban development within the catchment will need to be compensated to pre-development levels in accordance with the Byford Drainage Water Management Plan prepared by the Department of Water... as operation and maintenance standard for a rural drainage are not suitable for the safety requirements of an urban environment, the drainage reserve may need to have a 1.8 metre high security fence erected to Corporation standards, in locations where the Corporation deems that they may be a public risk'*

And

*'the above criteria will be applied by the Corporation to agreements for subdivision applications within the catchment of the sub-section M drain upstream of the Tonkin Highway, unless the drain reverts to a local urban drain, under the care and control of the local government.*

Although the manner in which the matter has been progressed and the measures mentioned above by the Water Corporation have been disappointing, it is important that satisfactory arrangements be established for the future of the drainage network. Leaving the drainage network in the hands of the Water Corporation is not likely to result in outcomes that would meet the expectations of the community or Council.

#### Council's Plan for the Future 2009-2014

The Plan for the Future 2009-2014 identifies various objectives which relate to urban water management and include:

- Encourage the conversion of man-made drainage of the Palusplain back to natural systems;
- Improve and maintain surface and ground water quality;
- Enforce the adoption of "better urban Water management"; and
- Facilitate and encourage the preservation, management and restoration of natural water systems.

These objectives will not be achieved by the Shire if the sub-section M drain is managed by Water Corporation as a rural drain.

#### LSP's and Subdivisions

The Shire, in accordance with the provisions of TPS 2, is required to progress LSP's and subdivisions in accordance with the BSP and the DWMP. MUC's, generally along existing drainage lines are a critical element of the planning for the Byford area. Significant works are required to ensure that recreational opportunities are created and that water quality and quantity objectives are achieved.

There are three current LSP's that have been progressed to various degrees through statutory processes that relate to the Oaklands Drain Sub-Section M. The current LSPs are as follows:

- Lots 6 and 27 (Corona)
- Los 4 and 5 (Byford West)
- Byford Main Precinct (LWP Property Group).

LSPs are progressed under a separate legislative framework to drainage planning, however the implementation of LSPs is clearly dependent upon effective arrangements being reached for land/works/costs associated with drainage networks.

#### Proposal from Water Corporation for transfer of responsibility

The Water Corporation has written to the Shire, seeking support for an agreement to be reached, where the drain reverts to a local urban drain, under the care, control and maintenance of the Local Government.

#### Key technical assumptions

Over the past few years, there has been much technical debate about the relevant assumptions for drainage planning in the Byford Area including debate about pre and post development water regimes, run-off co-efficient and the like. These matters were all considered as part of the formulation, advertising and ultimate finalisation of the DWMP.

From an officer perspective, there is no reason at this point in time to suggest that the DWMP that was prepared by the DoW, as the state's lead water agency, is not a suitable framework for detailed planning and ultimate subdivision and development. There may be some challenges in the future, including the possible need for the Water Corporation to upgrade drainage networks down-stream of the Byford Area and design assumptions for the construction of the Tonkin Highway in the future by Main Roads Western Australia.

It is recommended that the Shire's responsibility for drainage be limited to urban zoned land within the Byford Area and ensuring compliance with the DWMP, in partnership with the DoW.

#### Perth Metropolitan Context

There are a number of areas in Perth where rural drains are being incorporated to urban environments and issues of governance between relevant stakeholders need to be resolved. Two areas, as examples, where drainage responsibilities are progressing are Wungong (as part of the Armadale Redevelopment Authority Area) and Southern River (partly in the City of Armadale, partly in the City of Gosnells). Although not without challenge, particularly in areas of fragmented landownership, the incremental transfer of responsibilities from the Water Corporation (as part of the rural drainage network) to local governments (as part of urban drainage network) is becoming an increasingly common progression.

#### **Conclusion**

The Water Corporation is not currently investing funds into the maintenance of the drainage network within the BSP area. The DoW is the lead agency for drainage planning. The DWMP provides a robust framework for the preparation of local structure plans and ultimate subdivision/development. The agreement proposed by the Water Corporation would not likely see any change to the current situation. The transferring of responsibilities for the Oaklands Drain Sub-Section M is a logical and necessary step in the implementation of the BSP and the Byford Townsite DWMP.

**Voting Requirements:** Simple Majority

**OCM018/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Randall**

- 1. Council accepts the transfer of the Oakland Drain Sub-Section M as shown at Attachment OCM018.1/12/09 to the Shire as a local urban drain subject to an agreement being signed between the Water Corporation and the Shire of Serpentine-Jarrahdale.**
- 2. Council authorises the Chief Executive Officer and Shire President to sign an agreement with the Water Corporation in respect of the Oakland Drain Sub-Section M.**

**CARRIED 10/0**

OCM019/12/09 PROPOSED OVERSIZE OUTBUILDING - LOT 505 (36) CRADDON ROAD, OAKFORD (P01794/01)		
Proponent:	C & A Symes	In Brief  Application for the construction of an oversize outbuilding. Approval subject to conditions is recommended.
Owner:	As Above	
Officer:	Peter Varelis – Planning Officer	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	14 December 2009	
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: 29 Sept 2009  
 Lot Area: 2.51ha  
 MRS Zoning: Rural  
 TPS Zoning: Special Rural  
 Use Class & Permissibility: Single Residence – incidental development (P use)  
 Rural Strategy Policy Area: Rural Living B

**Background**

An application was received to construction 198.9m<sup>2</sup> addition to an existing 113.95m<sup>2</sup> shed. The proposed additions and existing shed means the total combined floor area for outbuildings is 312.8m<sup>2</sup>.

***The location, aerial photo, elevation and site plans are with attachments marked OCM019.1/12/09, OCM019.2/12/09 and OCM019.3/12/09.***

**Variations requested**

The additions to the existing shed would result in a total combined floor area for outbuildings of 312.8m<sup>2</sup>, representing a 56.4% variation to the maximum allowable 200m<sup>2</sup> in the Special Rural zone as per LPP 17. Up to 20% variation can be approved under Delegated Authority, thus a 56.4% variation necessitates determination by Council. The matter is presented to Council to assist the applicant with a timely decision on the application.

**Sustainability Statement – Outbuildings**

<b>Sustainable Element</b>	<b>Comment</b>
Is there remnant native vegetation on site or adjoining verge?	Remnant vegetation is located within the subject site.
Is remnant native vegetation to be retained or removed as a result of this proposal?	No vegetation is proposed to be removed. However, the pruning of undergrowth within 20 metres of the proposed extensions is suggested as a condition to fulfil requirements delineated by Fire and Emergency Services.
Is additional vegetation required to screen or ameliorate the bulk of the proposed development?	Existing mature vegetation located within the subject site and adjoining land owners provides adequate screening of the proposed shed.
Will the requested variation have an adverse effect on streetscape or the character and amenity of the locality?	No. The proposal will not be highly visible from the street.
Will the requested variation have an adverse effect on visual amenity of neighbouring properties due to bulk and scale, appearance or materials?	The proposal is well screened by existing mature vegetation within both the subject site and adjoining land owners.
Does the proposal include the capture and re-use of storm water from the roof of the proposed building and/or diversion of storm water from hardstand areas to landscaped areas?	An existing rainwater tank on the property can be used to capture storm water runoff from the roof of the proposed extensions and existing shed.

**Statutory Environment:**

Planning and Development Act 2005  
Town Planning Scheme No. 2  
Serpentine Jarrahdale Rural Strategy 1994

**Policy/Work Procedure Implications:**

LPP17 Residential and Incidental Development

**Financial Implications:**

There are no financial implications to Council related to this application.

**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:

5. Value and enhance the heritage character, arts and culture of the Shire.

**2. Environment**

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

Strategies:

3. Encourage protection and rehabilitation of natural resources.

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

Consultation was conducted and no objections were received from adjoining landowners.

**Planning Assessment:**

**Policy Requirements**

LPP17 Residential and Incidental Development.

<b>Policy Requirement</b>	<b>Required</b>	<b>Proposed</b>	<b>Comments</b> (Complies/Variation Supported/Condition Required)
Setbacks Primary Street Rear Side	20 metres 20 metres 10 metres	110 metres 122 metres 27 metres	Complies Complies Complies
Floor Area (combined total floor area of all outbuildings)	Max. 200m <sup>2</sup>	312.8 m <sup>2</sup>	Variation Supported
Wall Height	Max. 4 metres	3.6 metres	Complies
Roof Height	Max. 6 metres	4.5 metres	Complies

Options:

There are primarily two options available to Council in considering the proposal:

- (1) to approve the application, with or without conditions; and
- (2) to refuse the application.

Should the applicant be aggrieved by a determination by Council, including a refusal determination or approval conditions, the applicant could lodge an application for review with the State Administrative Tribunal.

Conclusion

The variation is supported because:

- The use of the shed is consistent with rural lifestyle activities, including maintenance of the property;
- The proposed setbacks are in excess of minimum requirements;
- The property is internally and externally well screened by remnant vegetation; and
- The proposed shed is comparable to other similar sized sheds within the locality and will not detrimentally affect the amenity of the area.

**Voting Requirements:**

Simple Majority

**OCM019/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Brown, seconded Cr Murphy**

**That the application for approval to commence development for an oversized outbuilding on #36 (Lot 505) Craddon Road, Oakford be approved subject to the following conditions:**

- 1. All existing native trees on the subject lot and adjacent road verge shall be retained and shall be protected from damage prior to and during construction unless subject to an exemption provided within Town Planning Scheme No. 2 or the specific written approval of the Shire has been obtained for tree removal either through this planning approval or separately.**



2. **All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is prohibited.**

**Advice Notes:**

1. **The outbuilding is not to be located within 1.2 metres of a septic tank or 1.8 metres of a leach drain, or other such setbacks as required by relevant Legislation for other types of effluent disposal systems.**
2. **A building licence is required to be issued prior to commencement of development including earthworks.**
3. **A reduction in undergrowth by pruning within 20 metres of the proposed shed extensions to the satisfaction of the Manager of Emergency Services. This does not permit the removal of any significant stands of vegetation.**
4. **The shed is not to be used for any commercial or industrial purpose (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock unless the written approval of the Shire has first been obtained.**

**CARRIED 10/0**

OCM020/12/09		ANNUAL REPORT 2008/2009 (A1656)	
Proponent:	Serpentine Jarrahdale Shire	<b>In Brief</b>  It is recommended that Council accepts the 2008/2009 Shire of Serpentine Jarrahdale Annual Report.	
Owner:			
Officer:	Suzette van Aswegen - Acting Chief Executive Officer		
Signatures Author:			
Senior Officer:	Not applicable		
Date of Report	15 December 2009		
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).

**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 21 September 2009 and Council adopted the audit and financial report on the 26 October 2009.

No major non-compliance or management issues have been raised as part of the audit process. The Audit Committee meeting was held on 15 October 2009 to consider the signed audit report and financial statements. The Audit Partner from UHY Haines Norton was present at this meeting to answer any Audit Committee questions in relation to the audit. The Committee's recommendation to Council was adopted at the Ordinary Council Meeting on 26 October 2009.

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

***A copy of the Annual Report is with the electronic attachments marked OCM020.1/12/09.***

**"AC005/10/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

Moved Cr Murphy, seconded Cr Harris

- A. That the Audit Committee:
1. Adopt the Independent Audit Report from UHY Haines Norton for the financial year ended 30 June 2009;
  2. Receive the Management Report and note no management issues raised.
  3. Receive the Audited Financial Report for the Shire of Serpentine Jarrahdale for the financial year ended 30 June 2009.
- B. That the Chief Executive Officer, Director Corporate Services and Executive Manager Financial Services be congratulated on the outstanding quality of the Financial Statements for the year ended 30 June 2009.
- C. That the Chief Executive Officer, Director of Corporate Services, Executive Manager Financial Services and their respective staff, be commended for the industry leading standard of the detailed work that has resulted in the Management Report and the Financial Report from the Shire's Independent Auditor.

CARRIED 10/0

Council notes:

- The Committee Recommended Resolution was changed with the addition of part C.
- In presenting the reports, the representative of the independent auditor stated that their firm audits 60-70 local governments in WA and this audit result places Serpentine Jarrahdale in the top two or three local governments in management control and financial recording.
- The auditors comments on the Current Ratio where if adjusted by excluding the liability for leave entitlements (the liability is calculated for the purposes of including a figure in the Annual Financial Statements at 30 June each year, but never actually paid) and current loan repayments, the index would be greater than 1.0 which indicates the Shire is financially sustainable."

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 21 December 2009 the annual electors meeting would need to be held before the 15 February 2010.

It is anticipated that the annual electors meeting will be held in the Council Chambers, Shire Administration Building, 6 Paterson Street, Mundijong, on Wednesday, 3 February 2010 commencing at 7.00pm, with the planned order of business being as follows:

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

The annual elector's meeting will be advertised to the community in 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 June 2009 will be able to be obtained from the Shire's Administration Centre in Mundijong or by telephoning 9526 1111.

**Voting Requirements: ABSOLUTE MAJORITY**

**OCM020/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Brown**

**The 2008/2009 Annual Report for the Serpentine Jarrahdale Shire as provided at Attachment OCM020.1/12/09 be accepted.**

**CARRIED 10/0**

OCM021/12/09		REQUEST FOR LEAVE OF ABSENCE – SHIRE PRESIDENT SHEILA TWINE (A0024)
Proponent	Councillor Sheila Twine	In Brief  Shire President Sheila Twine has requested Leave of Absence from 3 February to 18 March 2010.  It is recommended that a Leave of Absence is approved for Councillor Twine from the Ordinary Council Meeting to be held on 22 February 2010.
Officer	Suzette van Aswegen – Acting Chief Executive Officer	
Signatures - Author:		
Senior Officer:	Not applicable	
Date of Report	8 December 2009	
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	Council	

**OCM021/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Buttfeld, seconded Cr Randall**

**Council approves Leave of Absence for Shire President Sheila Twine from the Ordinary Council Meeting to be held on 22 February 2010.**

**CARRIED 10/0**

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

OCM022/12/09		INFORMATION REPORT
Proponent	Suzette van Aswegen – Acting Chief Executive Officer	In Brief  Information Report.
Officer	Lisa Fletcher - Personal Assistant to the Chief Executive Officer	
Signatures - Author:		
Senior Officer:	Suzette van Aswegen – Acting Chief Executive Officer	
Date of Report	8 December 2009	
Previously		
Disclosure of Interest		
Delegation	Council	

OCM022.1/12/09 COMMON SEAL REGISTER REPORT – NOVEMBER 2009

The Common Seal Register Report for the month of November 2009 as per Council Policy G905 - Use of Shire of Serpentine Jarrahdale Common Seal is with the **attachments marked OCM022.1/12/09.**

OCM022.2/12/09 POLICY FORUM – 1 DECEMBER 2009

The following items were discussed at the 1 December 2009 Policy Forum:

<b>Topic / Subject</b>
<b>Presentations</b>
Ward and Delegate update
Update on the South West Biodiversity Project
Reserve Management Plans
Proposed Shire's Community Funding Program with Byford & Districts Community Bank
Byford Beautification Project update
<b>Issues / Clearing House &amp; Report on Progress</b>
Report on progress of Council and Committee resolutions
Report on Councillor correspondence
General update on major planning matters
<b>Statutory Planning</b>
Detailed Area Plans
Update on Byford West Local Structure Plan
Update on Hungry Jack's appeal proceedings
Development application for transmission lines
Local Structure Plan for Lot 2 Nettleton Road

OCM022.3/12/09 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) SOUTH EAST METROPOLITAN ZONE MINUTES – 25 NOVEMBER 2009 (A1164)

***In the attachments marked OCM022.3/12/09 (IN09/16086) is the minutes of the South East Metropolitan Zone Meeting held on 25 November 2009.***

OCM022.4/12/09 WALGA PEEL ZONE MINUTES – 26 NOVEMBER 2009 (A1164)

***In the attachments marked OCM022.4/12/09 (IN09/16115) is the minutes of the Peel Zone Meeting held on 26 November 2009.***

OCM022.5/12/09 WALGA STATE COUNCIL MINUTES – 2 DECEMBER 2009 (A1164)

***In the attachments marked OCM022.5/12/09 (IN09/16528) is the minutes of the WALGA State Council meeting held on 2 December 2009.***

**OCM022/12/09 COUNCIL DECISION/Officer Recommended Resolution:**

Moved Cr Brown, seconded Cr Hoyer  
The Information Report to 18 December 2009 is received.  
**CARRIED 10/0**

**10. URGENT BUSINESS:**

Nil

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

Nil

**12. CLOSURE:**

There being no further business, the meeting closed at 9.50pm.

I certify that these minutes were confirmed at the  
Ordinary Council Meeting held on 25 January 2010.

.....  
Presiding Member

.....  
Date

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

<b>SD072/12/09 PROPOSED LOCAL STRUCTURE PLAN – LOTS 1 &amp; 2 ROWLEY ROAD, DARLING DOWNS (A1664)</b>		
Officer:	Megan Gammon – Planning Officer	In Brief  This report provides Council with the opportunity to consider a Local Structure Plan for Lots 1 and 2 Rowley Road, Darling Downs and provide a recommendation to the Western Australian Planning Commission.
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	21 October 2009	
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>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD072/12/09 Committee Decision/Officer Recommended Resolution:**

**That Council:**

- A. Note the proponent has requested that the Local Structure Plan for Lots 1 and 2 Rowley Road, Darling Downs be determined by the Western Australian Planning Commission.**
- B. Recommend to the Western Australian Planning Commission, pursuant to Clause 5.18.3.4 (b) (ii) of Town Planning Scheme No. 2, that in considering the Local Structure Plan for Lots 1 and 2 Rowley Road, Darling Downs the Commission should deem the Local Structure Plan not satisfactory for advertising for the following reasons:**

- (1) The local structure plan does not provide a suitable framework for future subdivision and development, as it lacks clarity about how it is proposed to operate in a statutory environment.
- (2) The local structure plan does not demonstrate how effective integration with land to the south will be achieved, as is required under Clause 5.18.2.4 (c) of Town Planning Scheme No. 2.
- (3) The local structure plan does not demonstrate that measures will achieve protection from stormwater and maintain natural drainage networks and water quality with a site responsive approach, while balancing the need for efficient, walkable and compact urban development – as required under R2 of Element 5 of Liveable Neighbourhoods.
- (4) Issues relating to roles and responsibilities associated with the future form and function of the Birrega Main Drain remain unresolved with relevant agencies including the Water Corporation and the Department of Water.
- (5) Birrega Main Drain (Birrega Brook) will be realigned along the southern boundary of the subject land which is not supported. The Birrega Brook is required to be retained in its present course.
- (6) The local water management strategy does not include details of structural and non structural Best Management Practices to be implemented including maintenance requirements, expected performance and agreed ongoing management arrangements including costs, as required under Appendix 15 of Town Planning Scheme No. 2.

**CARRIED 7/0**

<b>SD073/12/09 PROPOSED MODIFICATIONS TO DETAILED AREA PLANS 6, 7, 8 &amp; 9 FOR THE BYFORD CENTRAL ESTATE (A1707, A1708, A1709, A1710)</b>		
Proponent:	Arbitrage Projects	In Brief  The applicant seeks to modify Detailed Area Plans 6, 7, 8, 9 for the Byford Central Estate relating to setbacks to the primary street (truncated boundaries). It is recommended that the proposed modifications be supported.
Owner:	Byford Central Pty Ltd	
Author:	Michael Daymond – Senior Planner	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	20 November 2009	
Previously	NA	
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	<b>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD073/12/09 Committee Decision/Officer Recommended Resolution:**

**That Council:**

**A. Support the modification to the following Detailed Area Plans:**

1. Detailed Area Plan No. 6 for Lots 688, 693, 716, 721, 744, 749, 855 and 869 of the Byford Central estate to allow a minimum setback of 1.5 metres to the truncated primary street boundary.
2. Detailed Area Plan No.7 for Lot 904 of the Byford Central estate to allow a minimum setback of 1.5 metres to the truncated boundary.
3. Detailed Area Plan No.8 for Lot 938 of the Byford Central estate to allow a minimum setback of 1.5 metres to the truncated boundary.
4. Detailed Area Plan No. 9 for Lot 795 of the Byford Central estate to allow a minimum setback of 1.5 metres to the truncated boundary.

**B. Support the requirement for the modifications to be reflected through changes to the building envelope locations for the affected lots.**

**C. Modified Detailed Area Plans No. 6, 7, 8 and 9 be prepared and submitted to Council to the satisfaction of the Director Development Services.**

**D. Subject to B above, a copy of the approved modified Detailed Area Plans No. 6, 7, 8 and 9 for the Byford Central estate be sent to the Western Australian Planning Commission in accordance with clause 5.18.5.1(e) of the Shire of Serpentine-Jarrahdale’s Town Planning Scheme No. 2.**

**CARRIED 7/0**



<b>SD079/12/09 PROPOSED OVERSIZE OUTBUILDINGS LOT 10 BISHOP ROAD, MUNDIJONG (P03076/01)</b>		
<b>Proponent:</b>	Andrew Bett	In Brief  Application for the construction of oversize and overheight outbuildings in the Urban Development Zone. Approval subject to conditions is recommended.
<b>Owner:</b>	As Above	
<b>Officer:</b>	Casey Rose - Planning Assistant	
<b>Senior Officer:</b>	Brad Gleeson - Director Development Services	
<b>Date of Report</b>	13 November 2009	
<b>Previously</b>	Nil	
<b>Disclosure of Interest</b>	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>Committee in accordance with resolution CGAM064/02/08</b>	

**SD079/12/09 Committee Decision/Officer Recommended Resolution:**

That the proposed overheight and oversize garage at Lot 10 Bishop Road (cnr Taylor Road), Mundijong be approved subject to the following conditions:

1. All storm water is to be disposed of via soakwells or the use of storm water retention/re-use methods such as rainwater tanks or the grading of hardstand areas to lawns and garden beds. Direct disposal of storm water onto the road or neighbouring properties is not permitted.
2. The garage is not to be located within 1.2 metres of a septic tank or 1.8 metres of a leach drain, or other such setbacks as required by relevant Legislation for other types of effluent disposal systems.

**Advice Notes:**

1. A planning consent is not an approval to commence any works. A building licence must be obtained for all works.
2. Your application for a building licence must satisfy the conditions specified in this decision.

**CARRIED 7/0**

SD080/12/09 PROPOSED WORKS ON EXISTING TRANSMISSION LINES (P03787/02)		
Proponent:	Western Power	In Brief  An application for development approval has been lodged by Western Power in respect of existing transmission lines. Providing a supportive recommendation to the Western Australian Planning Commission is recommended.
Owner:	Various	
Author:	Simon Wilkes - Executive Manager Planning	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	23 November 2009	
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>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD080/12/09 Committee Decision/Officer Recommended Resolution:**

**That Council:**

- A. Notes the advice of Western Power that the proposed works that form part of this application are a separate matter for the future installation of infrastructure, including the possible construction of 330kV transmission lines.**
- B. Note the advice of Western Power that any support for the proposed development works shall not be construed as support for any future alignment or configuration of infrastructure within the Shire.**
- C. Notes that Western Power’s commitment to the implementation of a stakeholder management strategy to inform and consult with the community about the work planned for future infrastructure within the Shire.**
- D. Recommends to the Western Australian Planning Commission that the development approval lodged by Western Power for those areas shown in Attachment SD080.2/12/09 be approved, subject to the following conditions:**
  - (i) The removal of vegetation shall be minimal and restricted to that essential for the proposed development works.**
  - (ii) No development, including soil, building materials, rubbish or other deleterious matter shall be deposited in Bush Forever areas 347, 68, 360, 368 and 77.**

**CARRIED 7/0**

SD081/12/09 PROPOSED ROAD NAMES - LOT 9 ABERNETHY ROAD, BYFORD (S139739 )		
Proponent:	Australand Holdings Ltd	In Brief  Applicant seeks approval for proposed road names for a new residential subdivision in Byford. Approval is recommended.
Owner:	As Above	
Author:	Casey Rose - Planning Assistant	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	16 November 2009	
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	
Delegation	<b>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD081/12/09 Committee Decision/Officer Recommended Resolution:**

**That:**

- 1. The proposed road names for the residential lot subdivision at Lot 9 Abernethy Road, Byford (WAPC Reference 139739) be approved as identified on the plans attached to and forming part of the approval.**
- 2. The Geographic Names Committee be informed of Council’s decision.**

**CARRIED 7/0**

SD084/12/09 SOUTHERN SOURCES INTEGRATION ASSETS SUBMISSION (A0297-02)		
Officers:	Chris Portlock - Manager Environmental Services	In Brief  For Council to be informed of the Shire’s submission which has been prepared for the Environmental Protection Authority’s Southern Sources Integration Assets Draft Strategic Environmental Assessment Report with the knowledge that a Construction Environmental Management System document will be developed in more detail in due course.
Senior Officer:	Suzette van Aswegen – Director Strategic Community Planning	
Date of Report	20 November 2009	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the local provisions of the Local Government Act.	
Delegation	<b>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD084/12/09 Committee Decision/Officer Recommended Resolution:**

**That Council endorse the submission prepared for the Southern Sources Integration Assets Draft Strategic Environmental Assessment Report as provided in attachment SD084.1/12/09.**

**CARRIED 7/0**

SD087/12/09 INFORMATION REPORT		
Proponent:	N/A	In Brief  To receive the Information Report to the 23 November 2009.
Owner:	N/A	
Officer:	Various	
Senior Officer:	Brad Gleeson – Director Development Services, Suzette van Aswegen – Director Strategic Community Planning	
Date of Report	23 November 2009	
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	
Delegation	<b>Committee – in accordance with resolution CGAM064/02/08</b>	

**SD087/12/09 Committee Decision/Officer Recommended Resolution**

**That Council accept the Information Report.  
CARRIED 7/0**

CGAM034/12/09 MONTHLY FINANCIAL REPORT – NOVEMBER 2009 (A0924/07)		
Proponent:	Shire Serpentine Jarrahdale	In Brief  To receive the November 2009 Monthly Financial Report.
Owner:	Not Applicable	
Author:	Belinda van de Linde - Developer Contribution Finance Officer	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	25 November 2009	
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	
Delegation	<b>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM034/12/09 Committee Decision /Officer Recommended Resolution:**

**That Council receives the Monthly Financial Report for November 2009, in accordance with Section 6.4 of the Local Government Act 1995.  
CARRIED 7/0**

CGAM035/12/09 CONFIRMATION OF PAYMENT OF CREDITORS (A0917)		
Proponent:	Not Applicable	In Brief  To confirm the creditor payments made during the period of 20 October 2009 to 20 November 2009.
Owner:	Not Applicable	
Author:	Joanne Egitto - Finance Officer	
Senior Officer:	Alan Hart - Director Corporate Services	
Date of Report	23 November 2009	
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	
Delegation	<b>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM035/12/09 Committee Decision /Officer Recommended Resolution:**

That Council receives the payments authorised under delegated authority and detailed in the list of invoices for period of 20 October 2009 to 20 November 2009, presented as 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**

CGAM041/12/09 INFORMATION REPORT		
Proponent:	Not Applicable	In Brief  To receive the information report to 23 November 2009.
Owner:	Not Applicable	
Author:	Various	
Senior Officer:	Alan Hart - Director Corporate Services	
Date of Report	23 November 2009	
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	
Delegation	<b>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM041/12/09 Committee Decision /Officer Recommended Resolution:**

That the Information Report to 23 November 2009 be received.  
**CARRIED 7/0**

- 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.