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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 ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON TUESDAY, 22<sup>ND</sup> JUNE 2009. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 7.00PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

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**1. ATTENDANCE & APOLOGIES:**

IN ATTENDANCE:

**COUNCILLORS:** DL Needham .....Presiding Member  
M Harris  
WJ Kirkpatrick  
K Murphy  
C Buttfield  
MJ Geurds  
JE Price  
S Twine  
E Brown  
C Randall

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

**APOLOGIES:** Nil

**GALLERY:** 5

**2. PUBLIC QUESTION TIME:**

Nil

2.1 Response To Previous Public Questions Taken On Notice

Nil

**3. PUBLIC STATEMENT TIME:**

SD115/06/09 - Denise Armitage (Myara Brook, Keysbrook)

It would appear apparent the proposed Music Festival has again been given precedence over the 82% of local residents opposing the event. The organisers and those Councillors supporting this event have shown total disregard and inconsideration to those neighbouring properties of this proposed event site.

Having said this please consider, the intrusion of this proposed event on our lifestyles for eg we were advised that the event would take place on Mothers Day *a day of some significance*. Instead of making arrangements to visit and celebrate with families we opted to remain home to monitor any detrimental impact the proposed concert may inflict upon us and safeguard our properties.

Unnecessarily so, the event didn't occur. Why could we not have been advised that this was to be the case?

Maybe this was considered to be inconsequential to supporters of this proposed event. But none the less yet another intrusion, lack of consideration and inconvenience placed upon those neighbouring residents.

This event has surely proved to have a significant financial impart upon the shire and ratepayers, the time expended upon this event and non event is not something that should be the responsibility of ratepayers.

Nor should we as the majority of 82% of opposing residents be placed in the position of being shown this inconsideration.

SD115/06/09 - Gary & Susan Davey (3435 South Western Highway, Keysbrook)

I am writing to let the Councillors know that we have not changed our minds regarding this proposed event. We are still of the opinion that the Councillors who should be representing the majority of the local residents who have said no, and vote against this proposal.

We are asking that you please consider our opinions and respect our wishes and vote against the music festival. This event is inappropriate for this area and it must not be inflicted upon the neighbouring residents who have shown that they are against it. If I had wanted loud music I would have bought a property next to Subiaco oval.

We are zoned Rural and do not wish our peace and quiet shattered due to loud music for the benefit of a few city people.

It is also disappointing that Shire rates and finances are being wasted on something that has gone on far too long and is clearly uninvited.

As we are one of the neighbours who will be affected, I hope you will consider and take on board our concerns.

We do not welcome this intrusion on our family.

Thank you for your time and understanding.

SD115/06/09 - Paul Stallwood (229 Boyd Road, Keysbrook)

According to the record, Mr Porter sought Councillors consent to (a) change the date of his proposed event and (b) allow fires to be lit.

Nothing more, nothing less.

Yet the motion adopted by the Sustainable Development Committee advises Mr Porter to make a fresh application entirely, thus removing 'any doubt as to whether the Council should amend the date'.

Mr Porter only wanted a simple 'yes or 'no' in answer to his request. He didn't need to be advised to reapply.

So far as permission for fires is concerned – the answer is irrevocably 'no' as stressed in his licence.

Let me put this to you. As the Committee has gone further than the application by Mr Porter requested ie by putting a motion asking Council to suggest or advise that he should submit a brand new development application they are acting beyond the actual application.

If this motion which I agree with in principle is to be allowed to stand, then I respectfully ask for the addition of the following to be added to that motion (or words of a similar intent):

“Further that Mr Porter be requested to consider an alternative location for the proposed event which could perhaps be entirely regulated by this Shire, or contrive to ensure that noise levels comply to the requirements of the Noise Regulations thus preventing any lawful cause for concern or complaint by neighbours relating to excessive noise.”

It seems to me that if the put motion as it stands seeks to give advice then there can be only further benefit to be derived by adding the words suggested (or similar) which may lead to a reduction in time, effort and money expended by Councillors and Council staff and allow, perhaps, those resources to be better utilised.

Whilst it would be a brave Councillor that took up this suggestion, that person would be a Councillor that really was considering the interest of all ratepayers – not simply just one.

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

Nil

#### **5. PRESIDENT’S REPORT:**

Nil

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

Cr Price declared an interest of impartiality in item CGAM115/06/09 as he is a member of the Peel Cycling Club and the Club has made a submission to the consultants report. However, this would not affect the way he would vote on this matter.

The Chief Executive Officer declared an interest in common in item SD115/06/09 as she is within the radius of community consultation for the event.

Cr Kirkpatrick declared an interest of impartiality in item SD129/06/09 as he has purchased a block of land in this area. However, this would not affect the way he would vote on this matter.

Cr Twine declared an interest of impartiality in item SD129/06/09 as she has purchased a block of land in this area. However, this would not affect the way she would vote on this matter.

Cr Randall declared an interest of impartiality in item SD126/06/09 as she is a member of a community group. However, this would not affect the way she would vote on this matter.

Cr Harris declared an interest of impartiality in item SD116/06/09 as her brother is a member of the Sports Aircraft Builders Club of WA Inc. However, this would not affect the way she would vote on this matter.

Cr Needham declared that she does not have an interest in item SD115/06/09 except maybe an interest in common as she received a letter during the public consultation period as her property is within a two kilometre radius of the property holding the festival – she did not respond to the letter. However, one of the objectors to the Music Festival stated that a major reason a few residents in Keysbrook wanted to *“redraw the Shire boundary and get out of Serpentine Jarrahdale in spite of higher rates awaiting them in Murray”* has linked the boundary change to the Music Festival. As the boundary change involves Cr Needham and her property and will disadvantage her both personally and financially, she will leave the Chamber whilst this item is discussed.

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

**7.1 Sustainable Development Committee – 19 May 2009**

Moved Cr Brown, seconded Cr Kirkpatrick  
The *attached (E09/3235)* minutes of the Sustainable Development Committee Meeting held on 19 May 2009 be confirmed.  
CARRIED 10/0

**7.2 Ordinary Council Meeting – 25 May 2009**

Moved Cr Brown, seconded Cr Price  
The *attached (E09/3396)* minutes of the Ordinary Council Meeting held on 25 May 2009 be confirmed.  
CARRIED 10/0

**7.3 Special Council Meeting – 2 June 2009**

Moved Cr Harris, seconded Cr Twine  
The *attached (E09/3496)* minutes of the Special Council Meeting held on 2 June 2009 be confirmed.  
CARRIED 10/0

**7.4 Special Council Meeting – 16 June 2009**

Moved Cr Geurds, seconded Cr Kirkpatrick  
The *attached (E09/3788)* minutes of the Special Council Meeting held on 16 June 2009 be confirmed.  
CARRIED 10/0

## REPORTS OF COMMITTEES:

Cr Needham declared an interest in item SD115/06/09 and left the meeting at 7.10pm. Cr Price assumed the role of Presiding Member.

SD115/06/09 PROPOSED VARIATION TO CONDITION OF PLANNING APPROVAL FOR PROPOSED PUBLIC AMUSEMENT (MUSIC FESTIVAL) – LOT 15 GOBBY ROAD, KEYSBROOK (P02346/02)		
Proponent:	Myravale Pty Ltd	In Brief  The applicant seeks a variation to a condition of planning approval relating to the date of the event for a proposed Public Amusement (Music Festival) at Lot 15 Gobby Road, Keysbrook. It is recommended that the variation be granted.
Owner:	As Above	
Author:	Michael Daymond – Senior Planner	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	22 May 2009	
Previously	SD028/09/08	
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>	

Date of Receipt: 21 April 2009  
 Advertised: Yes  
 Submissions: Yes  
 Lot Area: 40.22 ha  
 L.A Zoning: Rural  
 MRS Zoning: Rural  
 Rural Strategy Overlay: Landscape Protection

### Background

At the Ordinary Council Meeting held 22 September 2008, planning approval was granted for a Public Amusement (Myravale Music Festival) on Lot 15 Gobby Road, Keysbrook. The applicant originally proposed to hold the event on the weekend of 17 to 19 of October 2008.

At the time, it was acknowledged by Council that due to the requirements to obtain noise approvals from the Shire of Murray and/or the Minister for Environment, it would be very likely that time may run out to hold the event in October 2008. Therefore, the applicant provided alternative dates to hold the festival if the proposed October 2008 dates could not be achieved. The applicant advised that alternative dates in November 2008 and May 2009 would be suitable. To reflect these alternative dates, condition 1 on the Form 2 Approval stated:

1. *Approval for the event is valid for one single date only being from 9:00am Friday 7 November 2008 to 5:00pm Monday 10 November 2008 or 9:00am Friday 8 May to 5:00pm Monday 11 May 2009.*

***A copy of the planning conditions issued with the approval is with Attachments marked SD115.1/06/09 (OC08/7749).***

A major issue throughout the assessment of the application related to possible noise impacts on surrounding properties, including those within the Shire of Murray. The application was deemed to be a 'non complying noise event' under Regulation 18 of the Environmental Protection (Noise) Regulations 1997 and as such required the Shire of Serpentine Jarrahdale and the Shire of Murray to agree on the noise conditions imposed. Part 12 of

Regulation 18 states in relation to granting a noise approval for a 'non complying noise event', such as a music festival:

*“(12) An approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 agrees to proposed conditions applicable to the approval”*

The Shire of Murray declined to sign the exemption certificate as provided for in Regulation 18 of the Noise Regulations. In instances such as these, the Minister for Environment is able to determine the conditions of approval in accordance with Regulation 18 (13) and on advice of the Director General of the Department of Environment and Conservation.

### Noise Approval

On 1 April 2009, correspondence was received from the Minister for Environment advising that the application for a non-complying event had been conditionally approved. Further, the Minister stated that:

*“Although the event is likely to be audible to some neighbouring residents, at the noise levels predicted this event should not have an unacceptable noise impact on the surrounding community”.*

### Request for Change of Date

Due to the fact that the approval from the Minister for Environment was only received on 1 April 2009, the applicant was unable to hold the event in November 2008. Further, as the applicant was waiting for the approval from the Minister prior to finalising the event and given that the approval was only received approximately 5 weeks prior to the scheduled date of the event, the applicant advised that the festival could not be held in May 2009 either.

The landowner has therefore formally requested that the date of the festival be changed to the 2 to 4 October 2009.

### Sustainability Statement

**Effect on Environment:** The three day festival involves a range of activities occurring in the natural environment which has the potential for impacts to occur. To help mitigate and avoid these impacts, the applicant has prepared an Environmental Management Plan (EMP) for the event which details the steps that will be taken to avoid any immediate impacts as well as outlining the longer term strategies that will be employed to improve the health of the surrounding environment. These strategies will continue after the event has been held.

**Resource Implications:** Any waste and effluent that is created on site will be properly disposed of. On-site toilet facilities and rubbish collection receptacles will be provided for patrons' use with the majority of rubbish being recycled. Separate bins will be provided for glass and aluminium (to be recycled) and general rubbish and a compost bin will be constructed for organic wastes. The recyclable materials will be washed and separated on site and taken to the City of Armadale tip on Hopkinson Road along with the general rubbish collected during the festival. The 'Green Team' volunteers will ensure that patrons abide by the rubbish policies and dispose of rubbish in an appropriate way.

The event will not place any increased demand on any existing services on site. Water consumed by patrons will be bottled with any additional water required being carted in. All electrical systems will be operated by generators on site.

**Economic Benefits:** It is considered that this event may encourage tourism within the Shire. Although the event is by invitation only, people from all over Perth will be attending the event



providing an opportunity for Serpentine Jarrahdale to be showcased to those who may be visiting for the first time.

**Social – Quality of Life:** The proposal has the potential to have a short-term impact on surrounding landowners by way of noise and increased traffic. The applicant has endeavoured to take all precautions necessary to help minimise the potential impacts on the locality. Firstly, the Music Festival is split into three distinct days. Friday is proposed to consist of a short film competition, Saturday will be a full day of bands and a series of environmental stalls and Sunday will consist of jazz and country music and a farmers market. There will not be any amplified music on Friday. A Traffic Management Plan has been prepared and submitted to Council which ensures that suitable management is in place for vehicle ingress and egress from the site, provides a safe environment for patrons and minimises disruption, delays and congestion to all road users.

**Social and Environmental Responsibility:** The event organisers have placed a high emphasis on the safety of the community and patrons through the preparation of a comprehensive Emergency and Risk Management Plan. This includes the employment of qualified security staff to oversee the event and the provision of First Aid and Medical facilities administered by the Royal Lifesaving Society Australia.

An EMP has also been prepared to help mitigate any impacts on the natural environment and details how the land will be rehabilitated soon after the event to ensure that impacts on the environment are minimal. Further, a revegetation workshop was previously undertaken on the property as a precursor to the festival, where approximately 350 new seedlings were planted throughout the property.

**Statutory Environment:** Town Planning Scheme No.2 (TPS 2)  
Environmental Protection (Noise) Regulations 1997

**Policy/Work Procedure Implications:** LPP8 – Landscape Protection

**Financial Implications:** There will be direct financial implications to Council related to this application with regard to Environmental Health Officers monitoring and undertaking follow up inspections after the event. In 2007, approximately 18 hours of officer time was spent at the event. At \$95 per hour, this equates to a cost to Council of approximately \$1,700. There is the potential for the Council to claim these costs from the proponent.

**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*

**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.

**3. Economic**

*Objective 3: Effective management of Shire growth*

Strategy:

1. Enhance economic futures for Shire communities.

**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategy:

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

Strategy

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

The original application was referred to surrounding land owners for comment in accordance with clause 6.3 of TPS 2.

The request to modify the condition of approval, to change the date of the festival, was referred to the same surrounding land owners for comment resulting in forty six (46) letters to forty four (44) different properties.

As a result of the advertising, five (5) submissions of objection, one (1) submission of support and four (4) submissions seeking further information were received. It is noted that in one instance, two (2) objections together with a request for further information came from the same landowner. In addition, four separate pieces of correspondence (including one (1) objection and (3) requests for further information) were also received from one single property.

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Officer's Comment</b>	<b>Action</b>
A10000	<p>Supports the change of date for the following reasons:</p> <p>Members of our family attended the previous event in 2007 and were impressed with the degree of organisation that had gone into the event.</p> <p>High security and safety measures, together with a respect for the environment, were evident.</p>	Noted.	<p>No change to the officer resolution is recommended.</p> <p>.</p>

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>Equally impressive was the level of young Western Australian talent that has been engaged.</p> <p>We also understand that a number of local voluntary organisations benefited from their involvement.</p>		
A31500	<p>Objects for the following reasons:</p> <p>We continue to be vehemently opposed to this event and find it incomprehensible how you can continue to waste our rate monies on this unfortunate matter. We understand that the Council by laws do not permit the change of date easily. If the applicant failed to get the necessary approvals in place then that is their fault and should be the end of the matter.</p> <p>We maintain that the neighbouring properties should have been properly consulted and their opinion weighted heaviest in any of these decisions.</p>	<p>Comments noted.</p> <p>The applicant has a right to request an amendment to a condition of planning approval in accordance with clause 6.7 of the scheme.</p> <p>There is no stipulation under the scheme that requires the proposed modified date to be referred to neighbouring properties for comment. However, it was deemed appropriate that the proposed date change be advertised as part of the assessment process.</p>	<p>Comments noted but no change to the officer resolution is recommended.</p>
Shire of Murray resident	<p>Three separate submissions were received from this property, firstly seeking more information and then objecting to the proposal. A summary of these submissions are as follows:</p> <p><u>Submission 1</u></p> <p>I have made an application under Freedom of</p>	<p>Comments noted.</p> <p>The FOI application will be processed by Council's</p>	<p>Comments noted but no change to the officer resolution is recommended.</p>

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>Information (FOI) to obtain additional information in respect to the proposed change of date.</p> <p>In addition, can you advise how many letters like mine were sent and will the change of date need to go to the Shire of Murray if approved by SJ Council.</p> <p><u>Submission 2</u></p> <p>The applicant has had ample opportunity to arrange the event as approval was granted 6 months prior by Council in September 2008.</p> <p>In relation to the noise approval from the Minister:</p> <p>When did the Shire write to the Minister seeking permission?</p> <p>Did the applicant ask the Shire to seek a response from the Minister prior to the formal noise approval being received in April 2009?</p> <p>Can the event be held without excessive noise? If not why not?</p> <p><u>Submission 3</u></p> <p>There is doubt as to whether the applicant can legally apply for a change of date.</p>	<p>Information Services Department.</p> <p>Forty six (46) letters were sent to forty four (44) different properties. Advice from the DEC is still pending regarding the process for obtaining the necessary noise approvals.</p> <p>The applicant has advised that the festival could not be finalised until the noise approval had been granted.</p> <p>The Shire wrote to the Minister on 5 February 2009, after correspondence had been received from the Shire of Murray advising that they do not agree to the proposed noise conditions.</p> <p>This question does not relate to the current application at hand.</p> <p>Although it may be possible for the event to be held as a 'complying event', it is considered that the event may lose much of its character and usefulness if it were required to comply with Environmental Protection (Noise) Regulations 1997.</p> <p>Legal advice has been obtained regarding this matter. This is discussed later in this report.</p>	

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>The property is completely unsuitable for the proposed purposed.</p> <p>Over 80% of people in this area do not agree with the Council's continued support of the event.</p> <p>Murray Council have also rejected SJ Council's request for support on 3 occasions.</p>	<p>All of the issues relating to the suitability of the property have previously been addressed by Council. These comments are in no way related to the proposed change of date.</p> <p>The figure of 80% relates only to the percentage of the submitters that opposed the event and not the percentage of residents in the area. Out of all the letters that were referred for comment in June 2008, only 24% of residents responded. Of these, 80% objected. Therefore, it is considered that only 20% of residents in the area oppose the event.</p> <p>The Shire of Murray have not supported SJ Council's decision, hence a determination was required by the Minister for Environment.</p>	
<p>Shire of Murray resident</p>	<p>Objects for the following reasons:</p> <p>The original approval given by the Minister for Environment was for a one off event, which did not occur. How many more one off events are going to be allowed?</p> <p>The submission reiterates the previous concerns held in respect of the original application, relating to traffic and access, impacts on fauna and the security of surrounding properties.</p>	<p>The applicant has a right to apply for an event of this nature under the scheme. Any application needs to be taken through the required process before a determination is made.</p> <p>All of these issues have previously been addressed by Council. These comments are in no way related to the proposed change of date.</p>	<p>Comments noted but no change to the officer resolution is recommended.</p>
<p>A41300</p>	<p>Four separate submissions were received from this property, firstly seeking more information and then objecting to the proposal. A</p>	<p>Comments noted.</p>	<p>Comments noted but no change to the officer resolution is recommended.</p>

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>summary of these submissions are as follows:</p> <p><u>Submission 1</u></p> <p>Prior to making a formal submission we require the following additional information:</p> <ul style="list-style-type: none"> <li>▪ A copy of the formal request to change the date from the applicant; and</li> <li>▪ A copy of clause 6.7 of the scheme.</li> </ul> <p><u>Submissions 2 &amp; 3</u></p> <p>The submitter requested:</p> <ul style="list-style-type: none"> <li>▪ A review of the decision not to provide the information requested;</li> <li>▪ Advice on who made the decision not to provide the information; and</li> <li>▪ The full reasons as to why the information isn't being provided.</li> <li>▪ An extension to the deadline for comments.</li> </ul> <p>This submission was also replicated in a subsequent letter from another occupant on the same property. All the same questions were asked in this correspondence.</p> <p><u>Submission 4</u></p> <p>The proposal is a breach of process and is non compliant with clause 6.7 of Council's scheme.</p> <p>The approval passed by the SJ Shire on 22 September 2008 has lapsed and the dates cannot be changed.</p>	<p>The applicant was advised that the correspondence from the applicant would not be provided. An FOI application was subsequently lodged and at the time of writing was being processed by Council officers.</p> <p>Advice has been provided to the submitter addressing the matters raised.</p> <p>The proposal is not in breach as it is in accordance with clause 6.7 of the scheme. This is discussed in more detail in the report.</p> <p>Previous legal advice provided in relation to this matter has advised that it is within Council's power to amend the date as long as the applicant requested a date change prior to the original date specified on</p>	

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>Given the provisions of the Council's zoning by-laws, no Amusement Event can be conducted or considered for Lot 15 Gobby Road before 11 May 2010.</p> <p>It will be inappropriate for the Councillors of Serpentine-Jarrahdale Shire to consider this matter at committee and full council meetings scheduled for June 2009.</p> <p>Moreover, it will be inappropriate and in contravention of convention and the applicable by-laws to refer the proposal to the Shire of Murray and/or the Minister of the Environment.</p> <p>It is our intention to advise the Shire of Murray, the Minister of the Environment and the Minister of the Local Government of the circumstances pertaining to this issue, the specific provisions of clause 6.7 of the Town Planning Scheme No. 2 and the zoning specifics of the Council by-laws.</p> <p>We therefore request that the proposal be deferred, that full and detailed responses to the information sought in our previous correspondence be provided and that the matter be referred to independent legal council for advice and ruling on the provisions of clause 6.7 of Town Planning Scheme No.2.</p>	<p>the approval. The request was made prior to the date on the current approval.</p> <p>It is not known where this stipulation comes from. There are no relevant provisions in the Scheme preventing a determination at this time.</p> <p>The consideration of this matter is appropriate as the applicant has a right to request a modification to a condition of approval as per clause 6.7 of the Scheme.</p> <p>The potential referral of the application to the Shire of Murray and Minister for the Environment is covered by separate legislation and is not related to the application currently before Council.</p> <p>Noted.</p> <p>A deferral of the application is not supported. The submitter has been provided with answers to their questions by Council staff. Legal advice regarding this issue has previously been sought in 2007 when the date of the festival was changed for the 2007 event.</p>	

**Comment**

### Proposed Change of Date

In formal correspondence from the applicant dated 21 April 2009, Council has been requested to amend condition 1 of the current planning approval so that the event can run from 2 to 4 October 2009. Extracts from the applicant's correspondence is detailed below:

*"I refer to the Minister for the Environment's agreement as to the proposed noise conditions for the Myaravale Music Festival. Unfortunately, the conditions were only confirmed 5 weeks away from the proposed event. As you know, the festival is one I am able to organise thanks to a large team of volunteers and musicians alike. I have spoken with these various people who have collectively come back to me and said they are not able to put together the festival in this short space of time.*

*Consequently, and with much regret, we are unable to proceed with the festival over the weekend of 9 May 2009. We do still hope to hold the festival and would like to formally request that council amend the date of the event to the weekend of 2 to 4 October 2009".*

### TPS 2

In respect to amending conditions of a planning approval, clause 6.7 within TPS.2 states:

#### **6.7 AMENDING AND REVOKING A PLANNING APPROVAL**

*The Council may on application in writing from the owner of the land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.*

As the use has not commenced and given that the request to amend the condition was made prior to the approved date of the festival, being May 2009, Council has the authority to amend the conditions on the current planning approval.

### Noise Approval

The current approval from the Minister for Environment, with respect to the noise conditions, makes specific reference to the festival dates as being the 9 and 10 May 2009. As this date has lapsed, consideration needs to be given to how the proposed change of date will impact on the current noise approval.

As the date for the original event has passed, a relevant consideration is whether the previous approval by the Minister can be amended or if a new approval is required. The Department of Environment and Conservation is currently considering this matter.

In the instance that the approval conditions issued by the Minister can be changed, the amended conditions would be required to be sent to the Minister for Environment for further approval, as the Minister ultimately set the conditions for the non-complying event approval. It is likely that the Minister's approval would take 1-2 months. If a new approval is required for the event, the Shire of Murray would need to agree with the conditions set by Council, if the proposed change of date for the event was to be approved. If the Shire of Murray does not agree to the conditions set by Council, the conditions would again need to be determined by the Minister. It is likely that this approval would take 3-5 months, with consideration for the timeframes of both the Shire of Murray and the Minister. In such an instance, it is likely that this approval would not be granted prior to the date proposed.

Although the above possible timeframes for obtaining the necessary noise approvals are a relevant consideration for Council, they do not bind Council in determining the proposal under the Shire's TPS 2. The noise approval requirement is a separate process that the applicant needs to go through once Council has made a decision on the proposed change of



date. The question before Council is whether or not to support the proposed change of date, regardless of whether the relevant noise approvals can be obtained in time for the new date of 2 to 4 October 2009.

If Council supports the proposed change of date, appropriate noise conditions will need to be approved by Council for the regulation 18 approval. The recommendation includes the noise conditions that will be recommended to the Minister for Environment for consideration as part of the regulation 18 noise approval.

#### Legal Advice

A request to amend the date for the 2007 festival was considered and approved by Council previously in 2007. In this instance, the request to amend the date was received prior to the original date that the festival was to be held, however the Council resolution to approve the date change was not made until after the original approved date for the festival (being May 2007). A similar situation has occurred with this recent request to amend the date of the 2009 festival, as the request has been made prior to the date that the festival would be held, however any Council resolution made will be after the approved May 2009 date.

In response to the legality of the above issue, legal advice was received by Council's lawyers in 2007 advising that it was within Council's power to amend the date as long as the applicant requested a date change prior to the original date specified on the approval. Advice was received that it did not matter that the Council resolution to amend the date was made after the original date of the festival. This advice still applies with this application.

Subsequent legal advice has also recently been provided by Council's lawyers in response to questions raised regarding the applicant's request to amend the date of the event on behalf of the landowner. The request from the applicant dated 21 April 2009 to change the date of the festival is deemed to be sufficient to satisfy clause 6.7 of the scheme which states "an application in writing from the owner of the land in respect of which planning approval has been granted". The subsequent correspondence from Myravale Trust, as the owners of the land, confirming that the applicant had authority to apply to amend the date of the festival confirms this to be the case.

The legal advice received from Council's lawyers confirms that clause 6.7 of the scheme has been satisfied in respect to the request to amend the condition of approval relating to the date of the proposed event.

#### Options Available to Council

There are two primary options that are available to Council in dealing with this proposed change of date. The options, together with the associated officer comments, are detailed below:

<b>Options</b>	<b>Officer Comment</b>
a) Support the change of date.	<ul style="list-style-type: none"><li>• The event will be run as previously approved by Council, albeit on a different date.</li><li>• The application for the event itself has already been considered and approved by Council.</li><li>• The proposed change of date poses no additional impacts on surrounding properties to those that may have been experienced under the previously approved event.</li></ul>
b) Not support the change of date.	<ul style="list-style-type: none"><li>• There does not appear to be any substantial reason as to why the</li></ul>

## Options

## Officer Comment

proposed change of date should be refused.

- Any issues raised by submitters, not related to the date change, have previously been considered and addressed by Council.
- Risk of an appeal.

The officer recommendation with respect to this application is consistent with option (a) above. The event has previously been approved by Council and all relevant issues previously considered. The request is only to change the date of the event and it is only this matter that requires a determination by Council, having due regard for relevant planning matters.

## Conclusion

The proposed change of date will not affect the nature of the event nor change the way in which the event is run. All that is being sought is an approval to change the date that the festival was to be held. It is recommended that the condition of approval be amended to reflect the new date of 2 to 4 October 2009. All other conditions remain the same as per the previous Council resolution. If approved, surrounding landowners and the Shire of Murray will be advised in writing of the date change.

**Voting Requirements:** Simple Majority

## **Officer Recommended Resolution:**

That Council,

- A. In accordance with clause 6.7 of Town Planning Scheme No.2, resolve to amend condition 1 on the Form 2 Approval dated 22 September 2008 for the proposed Public Amusement (Music Festival) at Lot 15 Gobby Road, Keysbrook as follows:
1. Approval for the event is valid from 9:00am Friday 2 October 2009 to 5:00pm Sunday 4 October 2009 only.
- B. Note that all other conditions of the development approval dated 22 September 2008, as provided with attachment SD115.1/06/09 remain unchanged.
- C. Council approve the following proposed conditions under Regulation 18 (12) of the Environmental Protection (Noise) Regulations 1997, for the Myravale Music Festival:
1. The starting time for entertainment at the Event on the Saturday shall not be earlier than 11:30am and the completion time for entertainment at the Event on the Saturday shall not be later than 11:30pm.
  2. The starting time for entertainment at the Event on the Sunday shall not be earlier than 10:00am and the completion time for entertainment at the Event on the Sunday shall not be later than 5:00pm.
  3. Any sound system tests for the Event shall only occur between 10:30am and 11:30am on the Saturday and must be kept to the minimum reasonably necessary.
  4. Subject to condition 6, the sound level at the mixing desk position resulting from entertainment and sound system tests associated with the Event, shall not exceed an  $L_{Aeq, 1min}$  level of 95 dB(A); where  $L_{Aeq, 1min}$  is an average value taken over one minute, whose level contains the same energy as the fluctuating sound during that period.

5. The mixing desk shall be located no more than 20 metres from the front of the stage.
  6. The sound levels specified in condition 4 may be exceeded for any one minute period, but on no more than 30 occasions between 10:30am and 11:30pm on the Saturday and on no more than 16 occasions between 10:00am and 5:00pm on the Sunday and never by more than 5 dB(A).
  7. The stage and loudspeakers shall face north-east.
  8. Sound levels shall be continuously monitored at the mixing desk from 10:20am until 11:40pm on the Saturday and from 9:50am until 5:10pm on the Sunday.
  9. Sound level monitoring equipment shall record  $L_{Aeq, 1min}$  and  $L_{Ceq, 1min}$  levels.
  10. Sound levels shall be recorded and reported to the nearest 0.1dB.
  11. Monitoring of sound levels shall be carried out by a suitably qualified person (“approved noise monitor”) who has been approved by the Chief Executive Officer of the Shire of Serpentine Jarrahdale.
  12. Monitoring of sound levels shall be carried out using monitoring equipment that complies with regulation 22 of the *Environmental Protection (Noise) Regulations 1997*.
  13. A report of the sound level monitoring required by condition 8 to 12 shall be prepared by the approved noise monitor and shall be provided by 5:00pm on the second Monday following the event to the following persons:
    - i) The Director, Environmental Regulation Branch, Department of Environment and Conservation;
    - ii) The Chief Executive Officer of the Shire of Serpentine Jarrahdale; and
    - iii) The Chief Executive Officer of the Shire of Murray.
  14. Myravale Pty Ltd shall nominate a person, or persons, (“nominated person(s)”) who shall be in control of the sound levels produced by the Event at all times.
  15. The names of the nominated person(s) shall be submitted to the Chief Executive Officer of the Shire of Serpentine-Jarrahdale by 5:00pm on the Thursday immediately prior to the event.
  16. A nominated person shall be in attendance at the Event at all times.
  17. A direction given to a nominated person to reduce sound levels during the Event (including low frequency sound levels), which has been issued by any of the following –
    - i) The approved noise monitor;
    - ii) An Inspector appointed under Section 88 of the Act employed by the Shire of Serpentine-Jarrahdale; or
    - iii) An Inspector appointed under Section 88 of the Act employed by the Department of Environment and Conservation;shall be complied with forthwith.
  18. Myravale Pty Ltd shall ensure that the approved noise monitor, the nominated person(s) and all other personnel involved with the operation of the sound system during the Event are instructed as to the conditions of this Approval.
  19. Myravale Pty Ltd shall be responsible for any failure by the nominated person(s) to control sound levels so as to comply with the conditions of this Approval.
  20. An Inspector appointed under Section 88 of the Act shall be allowed access to Lot 15 Gobby Road, Keysbrook at any time on the Saturday and Sunday of the event and shall be given such assistance as he or she reasonably requires to measure noise or to determine compliance with this Approval.
- D. The Minister for the Environment and the Shire of Murray be advised of Council’s decision.
- E. Surrounding landowners be advised of Council’s decision.

Advice Notes:

1. The purpose of condition 6 is to provide a reasonable time to respond to and rectify any inadvertent breach of the sound level limit specified by condition 4. Regardless of condition 6, all reasonable and practicable measures are to be taken to comply with the sound level limit in condition 4.

**SD115/06/09 COUNCIL DECISION/Committee Recommended Resolution:**

**Moved Cr Murphy, seconded Cr Twine**

**The applicant be requested to lodge a new application for planning consent prior to the Council determining whether the Myravale Music Festival can take place on 2-4 October 2009.**

**CARRIED 9/0**

**Cr Needham was not present and did not vote**

**Committee Note: The Officer Recommended Resolution was changed in order to remove any doubt about the power of the Council to approve the change of date pursuant to clause 6.7 of TPS2. As a matter of form it is preferable for Council and the applicant if the decision is made pursuant to a new application for planning consent.**

Cr Needham returned to the meeting at 7.14pm.

SD116/06/09 PROPOSED PRIVATE RECREATION - HANGAR – LOT 164 YANGEDI ROAD, HOPELAND (RS0008/10)		<b>In Brief</b>
Proponent(s):	N Witty	
Owner:	Serpentine Jarrahdale Shire	
Author:	Helen Maruta – Planning Officer	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	20 May 2009	
Previously	CGAM012/08/08	
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>	

Date of Receipt: April 2009  
 Lot Area: 64.7421 ha.  
 L.A Reservation: Public Open Space  
 MRS Zoning: Rural  
 Rural Strategy Policy Area: Parks and Recreation  
 Bush Forever: Conservation Category Wetland & Bush Forever site 378

**Background**

An application has been lodged for the development of an aircraft hangar at the Serpentine Airfield. The land is in the care, control and management of the Shire of Serpentine Jarrahdale for the purpose of Recreation. The site is leased to the Sports Aircraft Builders Club of WA Inc.

The Sports Builders Club of WA Inc. has leased the reserve since 1973 with the current lease expiring in 2012. The club's lease was renewed in 2002. During the time the club has leased the land it has been developed to establish a private airfield with infrastructure including hangars, 3 km of runway and a clubhouse.

The proposed hangar is to be 12 metres by 12 metres in size with 4.0 metre wall height. It will be located in the area already cleared, following approval by the Shire and the Department of Environment and Conservation. The use of the land is subject to a signed Memorandum of Understanding (MOU) regarding the Reserve Management Plan for the site.

***A locality plan, aerial photograph, details of areas to be cleared and elevations are with the attachments marked SD116.1/06/09.***

### **Sustainability Statement**

***Effect on Environment:*** The northern half of the property contains Bush Forever site number 378. The site also contains a Conservation Category Wetland. The proposed development is associated with the predominant use of the reserve for the Sports Aircraft Builders Club. (The site being proposed for the hangar has already been cleared of vegetation). It is recommended that the application be approved. A number of hangars are already in existence on the subject land and as such it is considered that the proposed hangar will fit in with the existing built development on the subject lot.

***Resource Implications:*** No information has been provided in respect of resource implications. It is considered that the application does not propose any specific measures to minimise resource use compared to traditional development approaches.

***Economic Benefits:*** The proposed hangars may create some limited employment or economic benefit to the Shire.

### **Statutory Environment:**

Town Planning Scheme No 2 (TPS 2)  
Planning & Development Act 2005  
Environmental Protection Act 1986

### **Policy Implications:**

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

### **Financial Implications:**

There will be no direct financial implications to Council as a result of 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:**

1. Provide recreational opportunities

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

##### **Strategies:**

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:**

3. Encourage protection and rehabilitation of natural resources.

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.

#### **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.

#### **Comment**

##### TPS 2

Clause 2.3 of Council's TPS 2 states the following:

*"Where an application for planning consent is made with respect to land within a local reserve, the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent".*

The Public Open Space reserve is currently being used for the purposes of a sports airfield. It is considered that the application for the additional hanger is in accordance with the ultimate purpose of the reserve, as the reserve is currently being used as an airfield.

##### Reserve Management Plan

A draft Management Plan has been prepared by Shire officers in consultation with members of the aircraft club, the Department of Environment and Conservation and the Department of Planning and Infrastructure. The Reserves Advisory Committee is currently reviewing the draft and it is planned to present this to Council within the next three months.

##### Options

There are primarily two options available to Council in considering this 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.

**Voting Requirements:** Simple Majority

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

**Moved Cr Murphy, seconded Cr Price**

**The application for approval to commence development for the construction of a hangar on Lot 164 Yangedi Road, Hopeland be approved subject to the following conditions:**

- 1. The extent of development to be consistent with that shown on the approved plans attached to and forming part of this.**
- 2. The storage of fuels shall be contained within a perimeter/container bund of sufficient height to contain the total volume of stored fuel in event of a leak.**
- 3. The use is not to cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, electrical interference, dust, oil, liquid wastes or waste products or the unsightly appearance of the subject land or any structure built thereon.**

4. The hangar is to be constructed in accordance with the submitted Schedule of Colours and Materials.

**Advice Notes:**

1. Any development or use not depicted or detailed in the approved plan and proposal documentation will require further planning approval to be obtained from the Council.
2. A building licence is to be obtained prior to commencement of development including earthworks.
3. Applicants are required to comply with State and Federal Legislation in regards to the storage of fuels.

**AMENDMENT**

Moved Cr Randall, seconded Cr Kirkpatrick

That the following condition 5 be added - Due care is taken during construction to ensure that building materials and rubbish do not damage or contaminate native vegetation outside the building envelope.

**CARRIED 9/1**

The amended motion became the question before the meeting and was put as follows:

**SD116/06/09 COUNCIL DECISION:**

Moved Cr Murphy, seconded Cr Price

The application for approval to commence development for the construction of a hangar on Lot 164 Yangedi Road, Hopeland be approved subject to the following conditions:

1. The extent of development to be consistent with that shown on the approved plans attached to and forming part of this.
2. The storage of fuels shall be contained within a perimeter/container bund of sufficient height to contain the total volume of stored fuel in event of a leak.
3. The use is not to cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, electrical interference, dust, oil, liquid wastes or waste products or the unsightly appearance of the subject land or any structure built thereon.
4. The hangar is to be constructed in accordance with the submitted Schedule of Colours and Materials.
5. Due care is taken during construction to ensure that building materials and rubbish do not damage or contaminate native vegetation outside the building envelope.

**Advice Notes:**

1. Any development or use not depicted or detailed in the approved plan and proposal documentation will require further planning approval to be obtained from the Council.
2. A building licence is to be obtained prior to commencement of development including earthworks.
3. Applicants are required to comply with State and Federal Legislation in regards to the storage of fuels.

**CARRIED 10/0**

**Council note:** The Committee Recommended Resolution was changed with the addition of condition 5.

SD120/06/09 PROPOSED PYLON SIGN, LOT 2, 868 SOUTH WESTERN HIGHWAY, BYFORD (P01760/05)		
Proponent:	DMI SIGNS	In Brief  The applicant seeks approval for a pylon sign (price board sign) at 868 South Western Highway, Byford. It is recommended that the application be refused as it does not comply with the Byford Townsite Detailed Area Plan.
Owner:	C I Ierace	
Officer:	Casey Rose - Planning Assistant	
Senior Officer:	Brad Gleeson Director Development Services	
Date of Report	20 May 2009	
Previously	01 April 2008	
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>	

Received	1 April 2009
Advertised	Yes
Submissions	Yes
Lot Area	971m <sup>2</sup>
TPS Zoning	Commercial
MRS Zoning	Urban
Byford Structure Plan	Town Centre

### **Background**

In April 2008, an application was submitted to Council for a sign displaying both discounted and normal fuel pricing at this property. The proposal was referred to Main Roads WA (MRWA), which in turn advised that they objected to the proposal. MRWA advised the basis of their objection being the display of more than one fuel price can lead to a driver scanning the board and mentally calculating the different prices which potentially led to driver distraction. Subsequently, Council resolved to refuse the application for the sign.

***A copy of the location plan, aerial photo and original sign that was refused is with the attachments marked SD120.1/06/09.***

The applicant then engaged in negotiations with MRWA and subsequently lodged a new application with Council proposing a revised pylon sign that met the requirements of MRWA. The revised sign deleted the separate fuel pricing and was simplified to advertise the name of the liquor store, the fuel outlet and major supermarket involved in offering discount vouchers to consumers that can be used at participating fuel outlets.

The revised sign was referred to MRWA for comment, who advised that the concerns raised previously had been addressed through the deletion of the additional fuel pricing. MRWA advised that the proposed signage was not considered to be problematic due to the campaign being a State-wide advertising method that was commonly seen by motorists and therefore did not result in further pricing calculations on the driver's behalf.

***A copy of the revised sign is with attachments marked SD120.2/06/09.***

### **Sustainability Statement**

#### ***Effect on Environment:***



The sign will be an improvement on the current damaged sign that visually detracts from the area. The sign will compliment existing colours on the fascia of the store after recent upgrades of the exterior was undertaken.

**Economic Benefits:**

The sign is the most appropriate mechanism for advertising a function of the local business, which includes the provision of fuel to local and passing motorists.

**Statutory Environment:**

Town Planning Scheme No.2  
Planning and Development Act 2005  
Petroleum Products Pricing Act 1983  
Petroleum Products Pricing Regulations 2000  
Byford Townsite Detailed Area Plan (DAP)

**Policy/Work Procedure Implications:**

Local Planning Policy (LPP) 5 – Control of Advertisements

**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:-

**Strategic Implications:**

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

**4. Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

Affected Property	Summary of Submission	Officer's Comment	Action (Condition/ Support/ Dismiss)
MRWA	No objection but provides the following comments:  Signage must comply with Main Roads "Guide to the Management of Roadside Advertising". The aim of the guide is to ensure road user safety is foremost in all considerations whilst balancing the justified interest of businesses to advertise.	Comments noted. MRWA have provided conditions that would be incorporated into an approval, if granted by Council.	Noted.

**Comment:**

The proposed pylon sign would measure 6 metres high and 2.26 metres wide and would result in the replacement of the existing damaged pylon sign. The revised sign no longer displays separate fuel prices and intends to displays the store's new branding but also discreetly advertises what the store's primary functions are, being a fuel and liquor store.

The sign also identifies that consumers could value-add on their purchases at the local grocery store by utilising a discount coupon for the fuel purchase.

There are a number of different matters that Council needs to consider in determining the application including:

- The requirements on retailers to display retail prices under the Petroleum Products Pricing Regulations 2000;
- The provisions of LPP 5; and
- The provisions of the Byford Townsite DAP.

#### Petroleum Products Pricing Regulations (Regulations)

The Regulations operate in conjunction with the Petroleum Products Pricing Act 1983. Under Part 2, Division 1, Section 6 of the Regulations, the following provisions relating to the displaying of retail prices:

#### **6. Retailer to display standard retail prices**

- (1) *A person who offers motor fuel for standard retail sale at a place where this regulation applies is required to have, at the place of sale, a price display as described in this regulation.*

*Penalty: in the case of an individual, \$20 000 and, in the case of a body corporate, \$100 000.*

- (3) *The price display has to be in a suitable position, and if necessary sufficiently illuminated, to enable each price shown and the description of the kind of motor fuel to which the price applies to be clearly legible to passing motorists whenever the motor fuel is offered for standard retail sale.*

The proposed sign is considered to satisfy the requirements of the Regulations. A question that Council needs to consider is the 'reasonableness' and 'need' for the sign and the information that is to be displayed. The proposal is not dissimilar to other proposals within the Perth Metropolitan Area, with decisions made by both local governments and the State Administrative Tribunal (SAT). As a general comment, what has been seen as reasonable has been the displaying of the business name and the displaying of pricing information. Information/signage that has advertised other 'ancillary convenience services' has not been seen as necessary nor any different to the advertising needs and aspirations of any other commercial business offering similar services.

With respect to the current sign proposal, the advertising of the business name and the pricing information for the fuel products is considered to satisfy the 'realistic' advertising needs for the service station. The display panel for 'IGA – Spend \$25, Save 4¢'line and 'Byford Liquor Celebration' is not considered as necessary.

#### LPP 5

LPP 5 provides a Shire-wide framework for the lodgement and assessment of signage applications; the policy is not limited to the Byford Town Centre. With respect to the proposed development, there are two particularly relevant sections in LPP 5, being Table 1, which outlines the information to be submitted with an application and a dedicated section for pylon signs.

The dedicated section in LPP 5 for pylon signs states that pylon signs should not be more than 6.0 metres above ground level, not cause a hazard to pedestrians or vehicles, not exceed 2.5 metres measured either vertically or horizontally across the face of the sign, not be greater than 4.0m<sup>2</sup> in area and be limited to a maximum of one sign per street frontage on

any one lot. Due to the signage display area exceeding 4.0m<sup>2</sup> in area, the proposed sign is not consistent with the provisions of LPP 5.

### Byford Townsite DAP

The Byford Townsite DAP was prepared to provide area-specific guidance for future subdivision and development, in this case the Byford Town Centre. The relevant DAP provisions for signs within the central core of the town centre precinct are as follows:

#### *(x) Advertising Signage*

- *Advertising signage must conform to the requirements of the Shire of Serpentine-Jarrahdale Local Planning Policy No. 5 – “Control of Advertisements”. However, the following signs will not be permitted in the town centre:*
  - *Building signs above roof*
  - *Building signs wall*
  - *Building signs projecting*
  - *Off-building signs pylon*
  - *Off building signs panel*
  - *Off building signs hoarding*
  - *Tethered Off-building signs*
  - *Off building signs product display*
- *A signage strategy shall be submitted with all applications for commercial development, for approval by Council, to ensure co-ordinated signage consistent with the principles and requirements of this DAP.  
(G6, C1)*
- *Building signage shall be kept simple and be uniform throughout each development and set above the verandah on the building fascia at a consistent height as appropriate. Corner buildings may be treated differently where signage can be made an integral part of the design, and demonstrated to be visually compatible.*
- *Signage on shops shall generally be restricted to the building fascias, and on shopfronts. Signage other than the name of the business, the principal activity of the business and the street address will not be permitted. ‘Third party’ advertising will not generally be permitted. No signage is to be permitted more than 2m above the verandah level.*
- *Signs painted on shop windows or otherwise fixed to shop windows should not obscure views into or out of the shop, and to this end no more than approx. 33% of the front glazed area may be obscured in this manner.*
- *Colours for signs should be selected with due consideration for the colours used in neighbouring developments. Signage should be located in places that are appropriate to the architecture, and be part of the overall building.’*

The proposal is not consistent with the provisions of the Byford Townsite DAP.

The DAP operates under Clause 15.8.5 of TPS 2 and is consistent with the purpose (b)(i), which is *‘to enhance, elaborate or expand on the details or provisions contained in a Proposed Structure Plan or a Structure Plan’*. In this instance and at this point in time, the relevant Structure Plan is the Byford Structure Plan.

Clause 5.18.6.2 of TPS 2 states the following:

*'if a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Planning Codes then:*

- (a) the provisions of the Structure Plan apply to the land within the area as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and*
- (b) provisions in the Scheme applicable to land in those classifications under the Scheme apply to the Development Area.'*

In this instance, the provisions of the Byford Townsite DAP (as an elaboration on the Byford Structure Plan) has statutory effect as if they formed part of TPS 2.

Clause 5.2 of TPS 2 states the following:

*5.2.1 If a development, other than a residential development, the subject of an application for planning consent, does not comply with a standard or requirement prescribed by the Scheme with respect to that development the Council, may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*

*5.2.2 The power conferred by this Clause may only be exercised if the Council is satisfied that:*

*a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;*

*b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and*

*c) the spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.*

Should Council seek to approve the proposed development, Council needs to be satisfied that it has properly considered the matters outlined in Clause 5.2.2. Similarly, Council needs to ensure that it is cognizant of issues including the potential to create an undesirable precedent and consistency in the application of planning policy. It is considered the proposal does not comply with the Byford Townsite DAP.

### **Options:**

There are primarily two options available to Council in consider the proposal, as follows:

- (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 SAT.

### **Conclusion:**

The proposal is inconsistent with the Byford Townsite DAP and LPP 5 and is not supported. Council in determining the proposal needs to ensure it is cognizant of the requirements of the Petroleum Products Pricing Regulations 2000 to display fuel pricing. The current proposal includes information/display panels that are considered to be over and above the 'realistic needs' of the business.

### **Voting Requirements:**

Simple Majority

**SD120/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Price, seconded Cr Kirkpatrick**

**That Council refuse the application for development approval for the proposed pylon sign at 868 South West Highway, Byford for the following reasons:**

- 1. The proposed sign is inconsistent with the adopted Byford Townsite Detailed Area Plan, which does not permit the construction of an off-building pylon sign.**
- 2. The proposed sign is inconsistent with Local Planning Policy 5 as the display area exceeds 4m<sup>2</sup> in area.**

**CARRIED 9/1**

**Cr Brown voted against the motion**

**Council note: The Committee Recommended Resolution was changed as the Byford Townsite DAP (as an elaboration on the Byford Structure Plan) has statutory effect as if they formed part of the TPS2 which states that signage shall be a maximum of 4m<sup>2</sup>, at the discretion of the Council.**

**During debate Cr Brown foreshadowed that she would move a motion to approve the pylon sign with one condition if the motion under debate is defeated.**

<b>SD121/06/09 EXTRACTIVE INDUSTRY LICENCE RENEWAL – LOT 422 KING ROAD, OLDBURY (P00659)</b>		
<b>Proponent:</b>	Cook Industrial Minerals Pty Ltd	<b>In Brief</b>  To consider the issue of an extractive industry licence in accordance with the Local Laws for Extractive Industries for sand. It is recommended that the extractive industry licence be granted for a three year period until 31 December 2011.
<b>Owner:</b>	As Above	
<b>Author:</b>	Michael Daymond – Senior Planner	
<b>Senior Officer:</b>	Brad Gleeson – Director Development Services	
<b>Date of Report</b>	27 May 2009	
<b>Previously</b>	OCM019/12/05	
<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: 10 February 2009  
 Lot Area: 20.5 hectares  
 L.A Zoning: Rural  
 MRS Zoning: Rural  
 Rural Strategy Policy Area: Raw Materials Extraction  
 Date of Inspection: 19 February 2009

**Background**

**Previous Licence & Planning Approval**

At its meeting held on 19 December 2005, Council passed the following resolution:

**“OCM019/12/05 COUNCIL DECISION/Officer Recommended Resolution:**

***Moved Cr Star seconded Cr Hoyer***

*The Executive Manager Planning & Regulatory Services be granted delegated authority to issue a planning approval and extractive industry licence for the extraction of sand at Lot 422 King Road, Oldbury”.*

An Extractive Industry licence was subsequently issued on 29 December 2005 for a three year period expiring 31 December 2008.

Planning approval was issued by the Shire under the Town Planning Scheme No.2 (TPS 2) to the landowner on 29 December 2005.

#### Western Australian Planning Commission Approval

The Western Australian Planning Commission (WAPC) granted planning approval on 14 July 2006 for the extractive industry under the Metropolitan Region Scheme (MRS). This approval is valid until 14 July 2011.

***A copy of a location plan and aerial photo are with the attachments marked SD121.1/06/09.***

***A copy of the previous Shire Extractive Industry Licence is with the attachments marked SD121.2/06/09.***

#### Sustainability Statement

***Effect on Environment:*** The area to be extracted has generally been cleared of vegetation with the exception of the wetland area on the southern boundary.

***Resource Implications:*** The subject site is nearing the end life of the pit. The proposal does not specify any specific measures to minimise resource use. The proposal has the potential to use significant amounts of water for dust prevention.

***Use of Local, renewable or recycled Resources:*** The proposal will extract locally available materials within the Shire, which will then mostly be exported from the Shire.

***Economic Viability:*** It is considered that the proposal is unlikely to impact on the landscape as most of the sand has previously been extracted. The site has been extensively rehabilitated over the past few years.

***Economic Benefits:*** The operation has the potential to create some limited employment for residents in the Shire.

***Social – Quality of Life:*** It is considered that the proposal will not impact on the quality of life for the community.

***Social Diversity:*** The proposal does not disadvantage any social groups.

#### 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 – Extractive Industry Licences  
Metropolitan Region Scheme

#### 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.

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

Council Planning Policy (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 was paid for the 2009 calendar year.

## **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 Extractive Industry Licence renewal.

**Comment:**

Site Inspection

Under PP14, an annual inspection is required to be carried out for those operations granted licences for periods of three years. It is noted that although inspections were carried out by Shire staff to undertake water sampling on the property, annual audit inspections in 2006 and 2007 were not carried out.

An inspection of the property was undertaken by Shire staff on 19 February 2009 as part of the licence renewal process. Following the inspection, Cook Industrial Minerals were found to be compliant in all areas with respect to their Extractive Industry licence, except in relation to the two conditions detailed below.

Planning Policy No. 14 (PP14)

PP14 'Extractive Industry Licences' 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 conditions against PP14 is detailed below.

*Condition 1 – Submission of Annual Report*

In terms of the submission of documentation, PP14 provides the following guidance. A major (5) points of non-compliance is achieved when the "plans submitted over 30 days late". The



first condition on the licence relates to the submission of the annual report by 31 October each year.

Although the annual report was submitted late, in May 2009, the applicant advised in their self assessment audit sheet that the submission of the annual report would be delayed. Even though this report was over 30 days late, it is recommended that a minor (1) point of compliance should be awarded for this condition instead of 5 points.

It is considered that since the annual report is not a management plan and is essentially just a summary of what was undertaken throughout the previous year, the late submission of this report does not significantly affect the current operation or management of the site. There are no negative impacts created as a result of the late submission of the annual report, whether on the environment or on the surrounding locality, and does not affect the current operation of the site. Due to the minor impact that the late submission of the annual report has on the overall operation of the site, 1 point would be awarded under PP14.

#### *Condition 5 – Prevention of the Discharge of Surface Water*

Settlement ponds and recycling ponds have been designed and constructed to be internally draining. A multiple use wetland is located on the property down slope from the ponds. The wetland is an ephemeral wetland in that it dries up during the summer. As opposed to either conservation category or resource enhancement, the wetland has been categorised as a multiple use wetland which would make any possible discharge into this wetland during high rainfall events of minor consequence and minor risk to biodiversity values.

Environmental Services are mindful that there is the potential for discharge from settlement and recycling ponds during peak rainfall events and will therefore monitor this potential discharge. Although there is the potential for some surface water to be discharged into the wetland, the recycling ponds are internally draining and therefore there is no discharge of surface water from site. As there is the potential for non-compliance in this regard, it is recommended that 1 point would be awarded under PP14.

Total Audit Points = 2

Under PP14, if between 0 and 2 audit points are obtained, a five year licence is normally recommended with site inspections to be undertaken every twelve months. However, the determination of the licence also needs to be based on a consideration of any other relevant information deemed appropriate.

#### Other Relevant Information

The Annual Report for the 2008 calendar year was submitted late by the landowner in May 2009, 6 months after the due date and after the site inspection was undertaken by Shire staff. The information contained within the Annual Report is generally used as a basis for the issues that are examined during the site audit. The late submission of the report therefore meant that it could not be used during the audit inspection.

However, an audit was still undertaken on the 19 February 2009 once the self assessment audit sheet had been completed by the proponent. The self assessment audit sheet comprised of a table of the current licence conditions which were sent to the proponent by the Shire to enable them to assess their performance during the previous year. The results of the self assessment were then discussed in detail during the site inspection.

Given that the Annual Report for the 2008 calendar year was not submitted until May 2009, this late submission needs to be considered when determining the length of licence to be issued.

#### Options Available to Council

There are a number of options that are available to Council in dealing with this proposed change of date. The options, together with the associated officer comments, are detailed below:

<b>Options</b>	<b>Officer Comment</b>
a) A 5 year licence.	<ul style="list-style-type: none"><li>• Through an assessment under PP14 and consideration of the other relevant information relating to the annual report, a licence of this length is not supported.</li></ul>
b) A 3 year licence.	<ul style="list-style-type: none"><li>• This option is recommend given the delay in the submission of the annual report.</li></ul>
c) A 1 year licence.	<ul style="list-style-type: none"><li>• A one year licence would be recommended if the non-complaint issues were both considered to be major.</li><li>• Risk of an appeal.</li><li>• This option is not recommended.</li></ul>
d) Commence prosecution proceedings to address issues of non compliance	<ul style="list-style-type: none"><li>• Due to the nature of the non-compliances, this option is not recommended.</li></ul>

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

#### Conclusion

Based on LPP14 and the information as detailed under the 'Other Relevant Information' section, it is recommended that a three year licence be granted, expiring 31 December 2011.

**Voting Requirements:** Simple Majority

#### **SD121/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Brown**

**The extractive industry licence be issued for sand extraction at Lot 422 King Road, Oldbury for a three year period expiring 31 December 2011 subject to the following conditions:**

#### **Planning**

- 1. The licensee is to submit an annual report 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.**

#### **Dust**

- 3. The licensee shall ensure so far as practicable to the satisfaction of the Shire that visible particulates (including dust) from roads, access ways, trafficked areas, stockpiles and machinery from crossing the boundary of the site by using, where necessary, appropriate dust suppression techniques, including, but not limited to, water trucks, stabilisers, water sprays, sprinklers or canons.**
- 4. The licensee shall ensure that all loads leaving the premises of shale, sand, soil, clay or other particulate material likely to blow around, are to be enclosed or completely covered by a secured impermeable tarpaulin to prevent dust nuisance or are treated in an alternative effective manner to suppress dust and prevent dust nuisance to the satisfaction of Director Development Services.**

### **Water Quality**

5. The licensee is to minimise any possible discharge of surface water from that portion of the site which is currently being used, and/or has been used in the past for extraction, mineral processing, stockpiling, haulage, storage of mining and other machinery, settlement and other ponds or any other activity that results in disturbance of the natural surface or vegetation of the site.

### **Biodiversity Management**

6. No activity is to occur in dieback prone areas.
7. 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.

The compounds described 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 meters 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.
8. The licensee shall implement measures to minimise the risk of spills or leaks of chemicals including fuel, oil or other hydrocarbons and 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 any low permeability compounds.
  9. 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 made available for immediate inspection by Serpentine Jarrahdale Shire representatives.
  10. The proponent shall ensure that no chemicals or potential liquid contaminants are disposed of on-site.
  11. Logs from on-site clearing are to be progressively used in rehabilitation and must not be burnt.

### **Impact Management**

12. 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.

### **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 and complaints monitoring;
  - c) provide a statement of actions taken and progress made in relation to the implementation of management plans during the preceding twelve (12) months;
  - d) provide a statement of actions to be taken and progress proposed in relation to:-
    - i) the implementation of management plans during the next 12 months;
    - ii) identify any proposed changes to approved management plans.
  - e) include levels being achieved at the property in accordance with the development approval – separation of works from the highest known groundwater levels
2. The licensee is encouraged to develop and implement an environmental management system using the conditions on this licence as targets. If Council approved such a document, the license conditions could be redrafted to remove individual conditions and instead refer to the approved environmental management system document.
  3. 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 and with the prior written approval of the Director Strategic Community Planning.

**CARRIED 10/0**

**Council Note:** The Committee Recommended Resolution was changed with the addition of Advice Note E. The Presiding Officer advised that this was a minor amendment and did not change the intent of the recommendation.

SD122/06/09 BYFORD STRUCTURE PLAN REVIEW – OPERATION OF THE PLAN IN A STATUTORY ENVIRONMENT (A1568)		
Officer:	Simon Wilkes – Executive Manager Planning	In Brief  A review of the Byford Structure Plan has assessed the statutory operation and effectiveness of the plan. It is recommended that a modification be progressed to the Byford Structure Plan to create an ‘Operative Part’.
Senior Officer:	Brad Gleeson – Director Development Services.	
Date of Report	28 May 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>	

### **Background**

The Byford Structure Plan (BSP) 2005 was approved by the Western Australian Planning Commission (WAPC) on 30 March 2005 and adopted by the Shire of Serpentine Jarrahdale at its meeting of 22 August 2005. In 2006, the Shire undertook a comprehensive review of the District Structure Plan (DSP); however in February 2007 Council resolved to discontinue the review process and instead progress a series of 33 modifications to the Byford DSP.

The WAPC determined each of the modifications, the majority of which were supported as they were considered minor in nature. However a number of the modifications were not supported and were identified as requiring further consideration. If the Shire wished to

proceed with the modifications, they would be progressed in accordance with Clause 5.18.3 of Town Planning Scheme No.2 (TPS 2), including formal advertising for public comment.

A consolidated Structure Plan 'map' was prepared, incorporating those modifications supported by the WAPC. This remains as the current and operational Structure Plan at this point in time.

***A copy of the current Byford Structure Plan is with attachments marked SD122.1/06/09.***

Over the past 12 months, consultants (Aurecon, formerly Connell Wagner) have been engaged under the State Government's Local Government Assistance Program, to assist the Shire with progressing a number of different planning initiatives, including a review of the BSP and in turn to resolve a number of outstanding district level matters. The key matters that have progressed include:

- a review of the statutory operation of the BSP;
- the finalisation of Amendment 148 to TPS 2;
- the number, distribution and location of primary schools;
- the integration of the Byford Townsite Drainage and Water Management Plan into TPS 2 (considered by Council in May 2009);
- the provision of future public transport services;
- the methodology for determining the amount of public open space; and
- the alignment of a proposed multiple-use corridor through the 'Doley Road' precinct.

This report provides Council with the opportunity to consider the findings from review of the statutory operation of the BSP, including the potential creation of an 'operative part'. Further reports will be presented to Council in coming months, outlining the findings from the remaining elements of the BSP review.

**Statutory Environment:** Planning and Development Act 2005  
TPS 2

**Policy/Work Procedure Implications:** Local Planning Policy 19 (LPP 19) provides guidance on the permissibility of land uses within the BSP area. A future report to Council will explore the opportunities to incorporate LPP 19 (and associated Amendment 148) into the statutory operation of the BSP.

**Financial Implications:** All costs associated with a minor modification to the BSP are within the current operational budget.

### **Sustainability Statement**

***Effect on Environment:*** The creation of an operative part to the BSP will ensure that effects of the environment are properly recognised and incorporated into future detailed planning for the Byford Area. There will be opportunities for continuous improvement over time, with the benefit of further experience and knowledge.

***Economic Viability:*** The creation of an operative part can assist in clearly outlining Council's expectations and requirements, which in turn may assist in reducing uncertainty and costs for both Council and the private sector.

***Social and Environmental Responsibility:*** The creation of an operative part for the BSP will provide additional clarity for all stakeholders and in turn will assist with effective stakeholder engagement and participation in planning for the Byford Area.

**Social Diversity:** A clear and effective statutory planning framework can assist in planning for a diverse community, having regard for such matters as future housing stock, transport opportunities and community and commercial services.

**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.
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.

*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. Economic**

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

Strategies:

1. Improved freight, private and public transport networks.
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.

#### **4. Governance**

*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 cost-effective way.

### **Community Consultation:**

Should Council resolve to proceed with a modification to the BSP, consideration will need to be given to whether the modification alters the material of the structure plan. If the modification does not alter the material intent of the Structure Plan, then advertising for public comment is not required. If, however the material intent is altered, then the procedures set out in TPS 2 for inviting comment, for a period of not less than 21 days, must be followed.

### **Comment**

Part of the review of the BSP involved looking at how the structure plan is operating, in a statutory planning environment. The BSP currently does not contain an “operative part” that clearly outlines how the Structure Plan is to be implemented, including what is fixed, what is indicative and what is to be refined through more detailed planning.

A DSP is not intended to provide information such as detailed lot layout, local road reserve widths and exact open space areas, location and layout. A DSP covers a broad area and necessarily deals with inter regional issues such as major road and infrastructure connections, regional open space and public reserves as well as generally indicating urban form. Whereas a Local Structure Plan (LSP) may detail lot layout, road reserve widths, POS configuration and purpose, urban form and depicts configuration of commercial centres.

For comparative purposes, other Structure Plans within the Perth Metropolitan Area were examined. The review looked at various City of Wanneroo Structure Plans including the Two Rocks Northern Precinct, Butler–Jindalee and The Brighton West Village Centre. These all have “operative” Structure Plan provisions which guide the application and interpretation of the Structure Plan map. This is a standard and accepted practice in the City of Wanneroo which encompasses many similar urban-rural interface land use planning issues to the Shire of Serpentine Jarrahdale. The City of Gosnells also uses a similar approach in its planning for Canning Vale and Southern River. The Shire has started using operative parts for individual LSP’s, for example Lot 9 Abernethy Road, Byford. It is recommended that a similar approach be adopted by Council for the preparation and implementation of DSP’s.

### **Operative Part**

The review identified opportunities to improve the operation of the Structure Plan in a statutory environment, particular through the creation of an operative part, in the form of a Schedule to the BSP. An operative part was identified as being able to potentially assist Council in clearly outlining its expectations and requirements for more detailed planning, through LSP’s for such matters as the following:

- road hierarchy;

- intersection treatments;
- public transport provision;
- open space configuration;
- school sites;
- commercial and mixed use centres;
- housing variety;
- subdivision design;
- detailed area plans; and
- utilities.

***The proposed Operative Part to the Byford Structure Plan is provided with attachments marked SD122.2/06/09.***

The Operative Part could establish a clear hierarchy of structure plans. Currently it is not clearly set out in TPS 2 how different plans sit in relation to each other and the Scheme. It should be clear in the Scheme and the BSP that a “District” Structure Plan provides broad land use and district transport guidance followed by a “Local” Structure Plan providing more fine grained planning details. The level of detail and information required for each should be clearly described, as currently there is no demarcation in the Scheme between the requirements for a DSP and LSP. This lack of demarcation has been a contributing factor to a number of difficulties experienced by the Shire in the early stages of planning for Byford.

In the first instance, it is recommended that an operative part be created that is based on the current notations on the BSP and that it is only refined for the purposes of clarifying the planning requirements for the BSP area. It is not recommended that Council make changes to the actual planning requirements for the area at this time. On this basis, the process of establishing the operative part does not, in the opinion of officers, constitute a change to the material intent to the structure plan as per TPS 2 and should therefore be able to proceed quickly and efficiently, without the need for formal public comment.

Once formally established more substantial modifications to the BSP could be progressed independently, on an as-needs basis and incorporate full stakeholder engagement. Examples include:

1. The creation of specific provisions for future commercial areas, including the Byford Town Centre and The Glades Village Centre;
2. Creation of specific provisions for public open space provision, integrating the requirements of the Byford Townsite Drainage and Water Management Plan with *Liveable Neighbourhoods*; and the allocation of retail floor space and establishing performance objectives for future development, upon the finalisation of the Shire’s draft Activity Centres Strategy.

It is fair to say that over the coming 12 months and beyond, there are opportunities to continually improve and strengthen the planning framework for Byford.

To achieve clarity of the BSP, it is recommended that the creation of an operative part be progressed in parallel with a number of other modifications, namely:

- the deletion of the current notes from the BSP;
- the deletion of the current ‘Taylor Burrell Barnett’ logo;
- the deletion of the scale bar and references to the scale of the plan; and
- the inclusion of text stating ‘This is a District Structure Plan and shall be used as a basis for more detailed planning’.

### Conclusion

There is a considerable amount of subdivision and development still to occur within the Byford Area over coming years. A considerable number of LSP’s need to be progressed



and finalised, to provide guidance for future subdivision and development. Many planning initiatives are currently being progressed for the Byford Area, which will ultimately need to be effectively implemented.

As can be noted from the above discussion, the creation of an operative part to a structure plan can offer Council significant clarity and opportunities to continually improve and refine the statutory planning framework in an effective and efficient manner. Once established, the operative part to the BSP may potentially be used for other DSP's in the future, including Mundijong-Whitby and Serpentine.

### Options

There are primarily three options available to Council with respect to the statutory operation of the BSP namely:

- Option 1: progress no changes and continue 'business as usual';
- Option 2: progress as a minor modification to the BSP the creation of an operative part, to ensure clarity in a timely manner, and then progress a series of individual modifications on an as-needs basis and independent basis; or
- Option 3: progress as a major modification the resolution of all outstanding district level matters and the subsequent creation of an operative part to the BSP.

Option 1 is not recommended as the current lack of statutory clarity would continue to exist. Option 3 is not recommended as the resolution of all outstanding district-level issues is going to take some time, including considerable stakeholder engagement. In the interim, the current lack of statutory clarity will continue and the opportunity for continual improvement will not exist.

**Voting Requirements:** Simple Majority

### **SD122/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Randall, seconded Cr Brown  
That Council:**

- 1. Pursuant to clause 5.18.4.1 of Town Planning Scheme No 2 adopt the following modifications to the Byford Structure Plan:**
  - (a) The creation of Schedule 1 – Operative Part, as outlined in Attachment marked SD122.2/06/09.**
  - (b) Delete the current notes on the Byford Structure Plan.**
  - (c) Delete the scale bar and references to scale on the Byford Structure Plan.**
  - (d) Place the following notation on the Byford Structure Plan – 'This is a District Structure Plan and shall be used as a basis for more detailed planning when read in conjunction with other documents and the Byford Structure Plan report'.**
  - (e) Place the following notation on the Byford Structure Plan – 'This Plan should be read in conjunction with Schedule 1 – Operative Part'.**
  - (f) Delete the current Taylor Burrell Barnett logo from the Byford Structure Plan.**
- 2. Forward the proposed modification to the Western Australian Planning Commission for determination.**
- 3. Note that further reports will be presented to Council in coming months, outlining the key findings from the review of Byford Structure Plan.**

**CARRIED 10/0**

**Committee Note: The Officer Recommended Resolution was altered with an addition to part 1d. The Presiding Officer advised that this was a minor amendment and did not change the intent of the recommendation.**

SD123/06/09 ADOPTION OF DRAFT LOCAL PLANNING POLICY NO. 23 - SERPENTINE PLANNING FRAMEWORK (A1590)		
Proponent:	Not applicable	In Brief  Council is requested to consider a proposed Local Planning Policy for the Serpentine Urban Development Area. It is recommended that Council adopt the draft Local Planning Policy and formally invite public comment.
Owner:	Not applicable	
Author:	Robina Crook – Senior Statutory Planner Heleen Muller – Senior Strategic Planner	
Senior Officer:	Suzette van Aswegen - Director Strategic Community Planning	
Date of Report	26 May 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	
Delegation	<b>Council</b>	

### **Background**

On 8 September 2008 Council resolved to initiate Amendment 162 to Town Planning Scheme No. 2 (TPS 2), for a large number of lots in Serpentine townsite. Amendment No. 162 will introduce an 'Urban Development' zone within the Serpentine Townsite Area that are zoned 'Rural', 'Residential R5', 'Residential R10' and zoned 'Urban' within the Metropolitan Region Scheme.

Amendment No. 162 seeks to amend TPS 2 to ensure that a coordinated and comprehensive approach to planning is in place to guide future subdivision and development. Key components to the proposed planning framework are the preparation, advertising and adoption of Structure Plans, pursuant to Clause 5.18 of TPS 2.

To complement Amendment 162, the Shire has identified the need to establish a statutory planning framework to guide future planning and ultimate subdivision/development in and around the Serpentine Townsite, in an orderly and proper manner. A new Local Planning Policy (LPP) is proposed to provide a statutory planning framework in relation to the sequencing of planning and outlining the matters that are to be addressed at each stage in the planning process.

Fundamentally, the draft LPP seeks to ensure that the planning for the Serpentine Urban Development Area occurs in an orderly and proper manner, including considerable opportunities for stakeholder involvement. The LPP also seeks to clearly outline what matters will need to be addressed at each stage in the planning process. A draft policy was presented to Council for discussion at the Policy Forum meeting on 2 June 2009.

***A copy of the draft LPP is with the attachments marked SD123.1/06/09 (E09/3543).***

### **Sustainability Statement**

***Effect on Environment:*** The policy in itself does not afford protection of the natural, built or community environment but rather it ensures that these matters are incorporated into the planning for the Serpentine Urban Development Area in an orderly and proper manner, maximising opportunities and minimising impacts.

**Resource Implications:** The policy will ensure that a holistic approach is taken in the planning of future urban development to ensure that resource consumption is minimised wherever possible and that opportunities for innovation and continuous improvement are realised. The policy seeks to formally recognise matters such as biodiversity, water consumption and energy consumption as relevant considerations.

**Economic Viability:** The policy seeks to ensure that opportunities are maximised and costs minimised through the orderly and proper planning for new urban development. The policy seeks to ensure that direct costs to both Council and landowners/developers, are minimised through a clear understanding of the planning issues that need to be addressed. The policy seeks to minimise the likelihood of appeals on planning proposals, ensure efficiency in the assessment of planning proposals and ensure that the efforts of landowners/developers in progressing technical investigations and preparing planning proposals are most effective.

**Economic Benefits:** The LPP seeks to ensure that opportunities for orderly and proper residential development and associated land uses, such as, public open space are realised through the planning for future urban development.

**Social – Quality of Life:** The LPP seeks to recognise quality of life as a relevant planning consideration in the planning for the Serpentine Urban Development Area.

**Social and Environmental Responsibility:** The LPP seeks to ensure that the planning for the Serpentine Urban Development Area is both inclusive and comprehensive. Clearly outlining the planning issues and requirements for the area in an open, transparent and relatively easy to understand manner is critical for effective stakeholder engagement.

**Social Diversity:** The LPP seeks to recognise social diversity as a relevant planning consideration in planning for the Serpentine Urban Development Area.

**Statutory Environment:**

Planning and Development Act 2005  
Town Planning Scheme No. 2 (TPS 2)  
WAPC Statement of Planning Policy 3 – Urban Growth and Settlement.

**Policy/Work Procedure Implications:**

The LPP is intended to provide a broad framework for the planning of the Serpentine Urban Development Area, complementing the TPS 2 Amendment 162 being progressed by the Shire.

It is not anticipated that any new work procedures will need to be established to facilitate the implementation of the policy.

**Financial Implications:**

The costs associated with the formal advertising of the LPP are within 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*

**Strategies:**

1. Provide recreational opportunities.
2. Develop good services for health and well being.
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.

*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. 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.
4. Promote info-technology and telecommuting opportunities.

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

Strategies:

1. Improved freight, private and public transport networks.
2. Consider specific sites appropriate for industry /commercial development.

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

**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

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

In accordance with the provisions of Section 9.3 of TPS 2, Council is required to seek public comment on a draft policy for a period of not less than 21 days before making a decision to finally adopt a LPP. The provisions of TPS 2 require Council to publish a notice once a week for two consecutive weeks in a local newspaper circulating within the District.

To ensure that stakeholders have sufficient opportunity to provide comment, in addition to notices being placed in a newspaper it is recommended that the advertising of the LPP include the following:

- A notice being placed in the Shire's Administration Centre;
- A notice being placed on the Shire's internet website;
- A letter being sent to all landowners within the policy area;
- A letter being sent to key developers within the policy area;
- A letter being sent to the development industry peak body, the Urban Development Institute of Western Australia; and
- A letter being sent to all relevant state government agencies.

### **Comment:**

#### Orderly and proper planning

Fundamentally, the draft LPP seeks to ensure that the planning for the Serpentine Urban Development Area occurs in an orderly and proper manner, including considerable opportunities for stakeholder involvement. The LPP seeks to clearly outline what matters will need to be addressed at each stage in the planning process. The LPP is broadly based on the information provided within documents such as Liveable Neighbourhoods and TPS 2 and has then been customised to the specific circumstances of the Serpentine Urban Development Area.

It is important that the parameters for each stage in the planning process are established ahead of the consideration of any formal planning proposal for reasons of effective planning, efficiency, accountability and transparency.

#### Stakeholder engagement

A key reason for progressing the LPP is to provide stakeholders with an opportunity to help shape the planning processes and ultimate outcomes for the Serpentine Area. The LPP identifies that need for the Shire to prepare a district level structure plan. Through that structure planning process relevant stakeholders will be engaged, inclusive of but not limited to state environmental agencies.

### **Options**

There are three primary options that are available to Council in considering the draft LPP, as follows:

1. to adopt the draft LPP, without modification;
2. to adopt the draft LPP, with modification/s; and
3. to not adopt the draft LPP.

In the instance that Council decides to adopt the draft LPP, a further report will need to be presented to Council, post-advertising, to determine whether to grant final adoption of the LPP.

### **Conclusion**

Having regard to the objectives of the draft LPP, the issues at hand and the options available to Council, it is recommended that the draft LPP be adopted pursuant to Clause 9.3(a) of TPS 2 for the purpose of advertising.

**Voting Requirements:** Simple Majority

### **SD123/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Price, seconded Cr Kirkpatrick**

**That Council:**

1. **Adopt the draft Local Planning Policy No. 23 – Serpentine Planning Framework (pursuant to Clause 9.3(a) of Town Planning Scheme No.2).**
2. **Invite public comment on draft Local Planning Policy No. 23 – Serpentine Planning Framework for a period of not less than 21 days by way of a:**
  - (a) **notice being placed in the Shire’s Administration Centre;**
  - (b) **notice being placed on the Shire’s internet website;**
  - (c) **letter being sent to all landowners within the policy area;**
  - (d) **letter being sent to key developers within the policy area;**
  - (e) **letter being sent to the development industry peak body, the Urban Development Institute of Western Australia; and**
  - (f) **letter being sent to all relevant State Government agencies.**
3. **The draft Local Planning Policy be referred back to Council after the completion of the advertising period.**

**CARRIED 10/0**

**Council note: The invitation for public comment is to clearly express Council’s desire for the town of Serpentine to be planned in an orderly and proper manner and this policy will ensure that this happens in a controlled and co-ordinated way with the necessary time taken to complete underlying studies over a number of years.**

SD124/06/09 ADOPTION OF FINAL LOCAL PLANNING POLICY NO. 21: MANAGEMENT PLANS (A1513)		
Proponent:	Shire of Serpentine Jarrahdale	In Brief  To adopt the final Local Planning Policy No. 21 – Management Plans. The draft Local Planning Policy Management Plans was advertised inviting public submissions for a standard submission period with no submissions received.
Officer:	Chris Portlock - Manager Environmental Services	
Senior Officer:	Suzette van Aswegen - Director Strategic Community Planning	
Date of Report	25 May 2009	
Previously	SD025/09/08	
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**

Staff in consultation with the Shire's Elected Members, have identified the need for a Local Planning Policy (LPP) to address Management Plans that are more comprehensive and requiring adequate detail to maximise the usefulness of these documents. Guidelines have also been developed to complement the Policy so as to require a high and consistent standard of management plan actions.

Previous Council resolution SD025/09/08 adopted the draft LPP – Management Plans for advertising to formally invite public comment. Council staff have prepared the LPP and presented the policy to staff at the Strategic Workshop Assessment Group meetings and the Shire's Elected Members at Policy Forum. The purpose of the policy is to:

- Ensure that a standard approach to the structure and content of management plans is taken, both by consultants under Shire officer direction and Shire staff internally preparing management plans;
- Enable better continuity in land management, for local as well as State government agencies, via this standard approach which adopts best practice management;
- Include a list of recommendations within management plans, which can act as a subset of Western Australian Planning Commission conditions for checking compliance or requiring bonding;
- Supply a collated selection of check lists (from those provided in policy guidelines produced by both local and State government agencies specifically for current and prospective local government managed lands) for the use by Shire Officers;
- Deliver a balance of social, environmental and economic outcomes by the very effective mechanism of management plan preparation with full public consultation;
- Facilitate the preparation of management plans for any natural area, reserve or public open space, both in-house or by outsourcing to consultants; and
- Require developers, as a condition of subdivision or development, to prepare a management plan.

***A copy of the Local Planning Policy - Management Plans is with the attachments marked SD124.1/06/09 (E09/3398).***

### **Sustainability Statement**

**Effect on Environment:** The proposal enhances the environment (built and natural) and minimises environmental damage through best practice in management plan preparation and production.

**Biodiversity:**

Management plans often provide protection of indigenous flora and fauna and reduce site disturbance and can detail cut and fill management to minimise impacts.

**Energy Use/Greenhouse Gas Emissions:**

Management plans can encourage and provide opportunities for energy efficiency.

**Water Quality:** Management Plans often detail stormwater and waterways management, including water management in construction, water sensitive urban design and stormwater infiltration and can minimise the use of fertilisers and other contaminants.

**Air Quality:** The proposal could result in reduction of emissions to the environment including solid, liquid, gas, noise and electromagnetic radiation.

**Resource Implications:** The proposal can minimise resource use, eg. energy, land, water, soil, (compared to traditional development approaches) through the implementation of best management practice actions.

**Energy Use:** Potentially any management plan may include renewable energy technologies, passive solar design eg facing the building to the north etc.

**Water Use:** Water sensitive urban design could include management plan action implementation to include stormwater tanks, swales, increased infiltration, and reduced areas of lawn.

**Land:** Management plan actions could minimise use of vegetated land to protect biodiversity.

**Non renewable Resources:** A management plan may include ways of minimising non renewable resource use.

**Waste:** Management actions may minimise waste in the process which would go to landfill, recycling and reuse of waste.

**Use of Local, renewable or recycled Resources:** Management plan actions could be included to use locally (within the Shire of Serpentine Jarrahdale) or regionally (Peel and South East Metropolitan) available or produced resources. A management plan could include actions to reduce transport costs, pollution and support local business. Management plan actions could include ways of maximising renewable materials over non renewable resources and could require the use of recycled materials in a proposal.

**Economic Viability:** A management plan action could include economic viability in a way that incorporates its external costs. External Costs include: pollution from transport or car dependence, removal of biodiversity (flora and/or fauna), land and waterway pollution, reduction in quality of life of residents eg, increased noise, pollution, increased resource use eg energy and water consumption. It also includes costs (monetary and non monetary), that the community or Council would incur as a result of a proposal.

The minimising of ongoing costs would be included in any management plan actions including future funding requirements in order to reduce costs to Council.

**Economic Benefits:** Management plan actions could provide economic benefits to the community including employment creation, tourism generation and providing local resources where they were otherwise not available.



**Social – Quality of Life** This proposal for management plans to include meeting triple bottom line goals and objectives will improve the quality of life for the community - unrestricted solar access, public open space, good design for crime prevention, retention of existing vegetation, access to services eg; local shops, public transport, noise, quality roads, lighting for safety, water sensitive urban design, pedestrian footpaths, trails, cycle ways, etc.

**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 management plans' implementation. Management Plans can create opportunities for the community to participate and can foster partnerships with the community.

**Social Diversity:** Management Plans can include actions that do not disadvantage any social groups and can provide for diversity in our community including youth, seniors, indigenous, ethnic minorities and people with disabilities. A management plan can cater for all sectors of society eg diverse housing stock, disabled access to all facilities.

**Statutory Environment:**

Planning and Development Act 2005  
TPS 2  
Extractive Industry Local Laws  
State Government Policies: Department of Environment and Conservation Management Plan Guidelines

**Policy/Work Procedure Implications:**

There are work procedure implications directly related to this proposal in terms of preparation of management plans using this policy and its guidelines as a checklist to ensure all requirements of a management plan are included.

**Financial Implications:**

Other than advertising costs, there are no financial implications directly related to the adoption of this policy. Ongoing training of staff in this interdisciplinary, comprehensive approach to management plans will be needed.

**Strategic Implications:**

This policy 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.

*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:

1. Attract and facilitate appropriate industries, commercial activities and employment.
2. Identify value-adding opportunities for primary production.
3. Develop tourism potential.
4. Promote info-technology and telecommuting opportunities.

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

Strategies:

1. Improved freight, private and public transport networks.
2. Consider specific sites appropriate for industry /commercial development.

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

**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

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

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

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

Strategies

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

*Objective 3: Compliance to necessary legislation*

Strategies:

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

**Community Consultation:**

In accordance with provisions of Section 9.3 of TPS 2, Council is required to seek comment on a draft policy for a period of not less than 21 days before making a decision to finally adopt a LPP. The provisions of TPS 2 require Council to publish a notice once a week for two consecutive weeks in a local newspaper circulating within the District. A notice was also put on the Shire's internet website. No public submissions were received. Staff workshops and staff consultation have continued and the policy has been refined to include a section on Statutory Decision Making to make the policy more clear and robust.

**Comment:**

The LPP - Management Plans outcomes are:

- Clear expectations through provision of a structured approach to guide and monitor development;
- The elimination of unnecessary requirements for technical information which has no on ground benefits and a limited technical audience;
- Greater practical application for establishment, maintenance, monitoring and adaptive management;
- Tested and reviewed set of actions or recommendations based on existing successful model management plans; and
- Higher consistent standard of integrated documentation and information management.

**Conclusion:**

Having regard to the objectives of the LPP, the issues at hand and the options available to Council, it is recommended that the final LPP be adopted pursuant to Clause 9.3 (a) of TPS 2.

**Voting Requirements:** Simple Majority

**SD124/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Twine, seconded Cr Harris**

**That Council pursuant to Clause 9.3 (a) of Town Planning Scheme No 2, adopt the final Local Planning Policy No. 21 – Management Plans as included in *attachment SD124.1/06/09*.**

**CARRIED 10/0**

SD125/06/09 ADOPTION OF DRAFT LOCAL PLANNING POLICY NO. 26 – BIODIVERSITY PLANNING (A1593 / A0397)		
Officer	Chris Portlock - Manager Environmental Services Simon Wilkes – Executive Manager Planning	In Brief  Council is requested to consider a proposed Local Planning Policy to achieve the effective integration of the adopted Local Biodiversity Strategy into statutory decision making processes. It is recommended that Council adopt the draft Local Planning Policy and formally invite public comment.
Senior Officer:	Suzette van Aswegen - Director Strategic Community Planning	
Date of Report	4 June 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 considered 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 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 a draft local planning policy before inviting public comment.

***A copy of the draft Local Planning Policy 26 – Biodiversity Planning is with the attachments marked SD125.1/06/09 (E09/294).***

**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 Western Australian Local Government Association’s (WALGA) 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 vegetation 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.

**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.

**Social Diversity:** The proposal does not impact or disadvantage any social group.

### **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
- Town Planning Scheme No 2

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 (EPA 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) (EPA 2001)
- EPA Position Statement No 2: Environmental Protection of Native Vegetation in Western Australia (EPA 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) (EPA 2003c)
- EPA Guidance Statement No. 56: Guidance for the Assessment of Environmental Factors – Terrestrial fauna surveys for environmental impact assessment in Western Australia. (Draft) (EPA 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 (SPP) No. 2 (Government of Western Australia 2003b)
- Peel-Harvey Coastal Plain Catchment SPP No. 2.1 (Government of Western Australia 1992d)
- Jandakot Groundwater Protection Policy SPP 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.

Work procedures will be required as a result of the ultimate adoption of this LPP. The policy seeks to incorporate biodiversity planning into existing statutory decision making processes.

**Financial Implications:**

Stakeholder input will need to be invited, by way of advertising, prior to the finalisation of the LPP. The costs associated with advertising can be 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 Infrastructure 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.

Once Council has adopted the draft LPP, public comment will need to be invited for a period of not less than 21 days. It is recommended that the advertising of the draft LPP include the following:

- (i) notification being placed in a local newspaper for two consecutive weeks;
- (ii) a notice being placed at the Shire's Administration Centre;
- (iii) letters being sent to relevant government agencies;
- (iv) notification on the Shire's website; and
- (v) a letter be sent to the development industry peak body, the Urban Development Institute of Australia.

## **Comment**

### **Interim policy**

The policy is intended as an interim measure to achieve effective integration of biodiversity values into statutory decision-making processes. The interim policy does not permit or prohibit particular activities or actions but rather ensures that biodiversity values are properly considered, enabling informed decisions to be made.

Council officers are currently finalising a number of other measures identified in the Local Biodiversity Strategy, including:

- Further survey work;
- Incentives strategy;
- Review of the conservation zone and conservation living special purpose zone initiative;
- A stewardship program linked to grants developed;
- Partnerships to deliver established stewardship programs;
- Ongoing Biodiversity protection and management priorities for Local Government reserves developed and implemented; and
- Ongoing development of GIS/Biodiversity data base information.

### **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.

Section 3.2 of this Policy outlines the statutory decision-making processes for considering the impacts of proposals on the Local Biodiversity Targets established under the adopted Local Biodiversity Strategy. A copy of the Local Biodiversity Strategy shall be maintained as a publicly available document, primarily through the Shire's internet website.

The Shire shall establish and maintain a protocol for requests to be considered for specific information in respect of individual land parcels. In addition, the Shire shall establish and maintain a protocol for the updating of information datasets held by the Shire.

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 and the like. Should Council wish to utilise new information in its decision-making processes, it is recommended that the LPP be updated, advertised for stakeholder comment and ultimately adopted. Such processes will ensure openness, transparency and accountability.

## **Options**

There are three primary options that are available to Council in considering the draft LPP, as follows:

- (1) to adopt the draft LPP, without modification;
- (2) to adopt the draft LPP, with modification/s; and



(3) to not adopt the draft LPP.

In the instance that Council decides to adopt the draft LPP, a further report will need to be presented to Council, post-advertising, to determine whether to grant final adoption of the LPP.

### **Conclusion**

Having regard to the objectives of the draft LPP, the issues at hand and the options available to Council, it is recommended that the draft LPP be adopted pursuant to Clause 9.3(a) of TPS 2 for the purpose of advertising.

**Voting Requirements:** Simple Majority

### **SD125/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

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

- 1. Adopt the draft Local Planning Policy No. 26 – Biodiversity Planning pursuant to Clause 9.3(a) of Town Planning Scheme No. 2.**
- 2. Invite public comment on draft Local Planning No. 26 – Biodiversity Planning for a period of not less than 21 days, by way of:**
  - (a) a notification being placed in a local newspaper for two consecutive weeks;**
  - (b) a notice being placed at the Shire’s Administration Centre;**
  - (c) letters being sent to relevant Government agencies;**
  - (d) notification on the Shire’s website; and**
  - (e) a letter be sent to the Urban Development Institute of Western Australia**
- 3. The draft Local Planning Policy be referred back to Council after the completion of the advertising period.**

**CARRIED 10/0**

<b>SD126/06/09 COMMUNITY FUNDING PROGRAM (A1173/09)</b>		
<b>Proponent:</b>	Various Community Groups	<b>In Brief</b>  Council is asked to consider the recommendations of the Community Funding Program Working Group as part of the 2009/10 budget deliberations.
<b>Owner:</b>	Not applicable	
<b>Author:</b>	Julie Sansom – Community Planning Officer	
<b>Senior Officer:</b>	Suzette van Aswegen - Director Strategic Community Planning	
<b>Date of Report</b>	16 June 2009	
<b>Previously</b>	SD092/05/08; SD106/05/07	
<b>Disclosure of Interest</b>	Julie Sansom declares an interest as a member of Byford Enviro Link. No other 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**

Thirty three (33) funding applications, requesting a total in excess of \$50,650 (including one group which did not specify any costs or funding amount required) were received for the

2009/2010 Community Funding Program (CFP) and assessed by the CFP Working Group in line with the assessment criteria outlined in *Policy PC102 Financial Assistance to Community*.

This compares to twenty eight (28) funding applications, requesting a total of \$28,183 received for the 2008/2009 CFP.

Council Policy PC102 states:

*“All applications are to be assessed by the Community Funding Program Working Group which is to make recommendations to Council as to how the total Community Funding Program budget allocation be divided between the selected groups.”*

*“The nominal provision for this program is \$20,000 per annum however Council will determine the actual budget provision in the annual budget process”*

### **Sustainability Statement**

***Effect on Environment:*** The CFP does not specifically relate to the natural environment but to the social and cultural environment in which we live. The CFP selection criteria rates more highly projects that are: based in or relevant to Serpentine Jarrahdale Shire; Shire (community) facilities; high community benefit; value for money; matched by other funds (cash or in-kind); urgent in need; material in nature (as opposed to operational) and sustainable in nature (environmentally, economically and/or socially).

***Resource Implications:*** It is proposed that twenty four of the thirty three applications be funded through the CFP. A Council contribution of \$20,000 will enable approximately \$119,150 worth of projects to be accomplished across the community. Another three projects have alternative funding options recommended.

***Use of Local, Renewable or Recycled Resources:*** The CFP works through a capacity building model that encourages partnerships and use of local and regional resources (including volunteer labour). The CFP is only available to local groups and many projects use local resources both human and material to achieve their project outcomes.

***Economic Viability:*** The process encourages the development of business plans to justify funding requests – which should lead to more strategic applications and planning in future. Of the thirty three applications, twenty four have business plans and a further three groups have indicated that they intend to access someone who has the skills to assist the group to develop an organisational plan. The CFP process also enables Council to identify where groups may be able to work together or share resources to accomplish outcomes.

***Economic Benefits:*** Building the capacity of the community to apply for funding from other sources – through skill development as well as assisting with seeding or matching funds to increase their chances of drawing more funds to this community. Many of the projects utilise local resources, businesses and/or attract visitors to the Shire who then spend money locally.

***Social – Quality of Life:*** The program encourages partnerships that enable progress towards achieving sustainability. The process has been designed to build the capacity of the community to put together funding applications for this and other programs. The Community Development team works with the groups to this end.

***Social and Environmental Responsibility:*** This process involves a holistic approach encouraging groups to be socially, environmentally and economically responsible.

***Social Diversity:*** The program is holistic and aims to be inclusive of all social groups.

**Statutory Environment:** Not Applicable

**Policy/Work Procedure**

**Implications:**

PC102 Financial Assistance to Community

**Financial Implications:**

\$20,000 to be included in the 2009/2010 budget for the CFP.

**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:

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

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

Strategy:

- 1 Foster a strong sense of community, place and belonging

*Objective 3: High level of social commitment*

Strategies:

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

**3. Economic**

*Objective 3: Effective management of Shire growth*

Strategy:

- 1 Enhance economic futures for Shire communities

**4. Governance**

*Objective 1: An effective continuous improvement program*

Strategies:

- 4 Balance resource allocation to support sustainable outcomes
- 5 Harness community resources to build social capital within the Shire

**Community Consultation:**

All community groups were given equal opportunity to apply for the CFP 2009/2010. The community groups represent the interest of their membership community. It was a compulsory requirement that all community groups consult with a Community Development Officer prior to submitting their written application. This ensured groups were not disadvantaged by submitting an application for which a grant could not be considered. Only one of the groups did not comply with this requirement.

**Comment:**

It is worth noting the number of community groups who either have or are pursuing business/organisational plans. This is an impressive improvement and reflects the achievement of part of the rationale of Policy PC102 which in part states "This policy provides a framework for the Council to equitably distribute funding to community organisations and individuals to encourage community and personal development".

Of the thirty three applications, twenty four are recommended for funding through the 2009/2010 CFP, with requested funds scaled down in most cases in order to assist all recommended applications within the budget of up to \$20,000. Two of these, although compliant, have conditional recommendations (Table B in recommendation). Nine applications received have not been recommended for funding. Three of these applications have alternative funding options recommended. One project will be funded through the 2008/09 Youth Leadership Training Budget, another project will be considered for funding to be pursued through the proposed Community Safety and Crime Prevention Plan, and a third project will be funded through the Clem Kentish Hall Upgrade – Regional and Local Community Infrastructure Program.

***A table detailing the Community Funding Program applications not recommended for funding through CFP528 in the 2009/2010 Budget is with attachments marked SD126.1/06/09.***

**Voting Requirements:** Simple Majority

**SD126/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Murphy**

**That Council considers the recommendations of the Community Funding Program Working Group as part of the 2009/2010 Budget deliberations:**

**A. Recommended Projects**

Organisation	Name of Project	Grant Requested \$	Recommended Funding through CFP 2009/10
Mundijong Poultry Club	Show cages	1,012	600
Jarrahdale Primary School	Books for Community Library/Shared reading session	800	400
Jarrahdale Primary School	Gardening Tools for Community/School Gardening Club	200	200
Mundijong Primary School P & C	Air-conditioning in School Library	4,070	1,000
Birds of Prey Conservation	New Freezer	1,000	1,000
Lions Club of Serpentine Jarrahdale	Renovation of Catering Caravan	2,000	1,548
Mundijong Playgroup	Toys and Equipment	1,000	750
Black Cockatoo Preservation Society of Australia	Quality Rescue/Catching nets	948	948
Serpentine Jarrahdale Youth Activity Group	Continuation of Safety and Vocational Educational Courses	3,313	1,000
North Murray Diamond Sports Association	Purchase eight (8) sport benches	1,000	800
Byford Oh Do Kwan Taekwondo	Competition and training equipment for 2009 competition program	1,100	800
Keysbrook Environment Group	Myara Brook Reserve Replanting Project	825	825
Keysbrook Environment Group	Myara Brook Reserve Native Animal Hollows	780	780

Organisation	Name of Project	Grant Requested \$	Recommended Funding through CFP 2009/10
Marri Grove Primary School	Powder coated bag hooks for Pre-primary	1,000	500
Peel Metropolitan Horse and Pony Club	Dressage arena project	1,000	1,000
SJ Hurricanes Netball Club	Uniforms for second team	980	500
Byford Baptist Group	Replace toys and carpet mats	1,012	500
Byford Enviro Link	Printing brochures and Artificial Habitats	1,000	800
Probus Club of Byford and Districts	PA System	850	850
Riding for the Disabled Association of Oakford	Air-conditioning in Administration Building	1,775	800
Redbacks Floorball Club Inc	Floorball Promotion and Development	1,000	500
Darling Downs Management Committee	Reprint of Trails Book	899	899
<b>Sub-total A</b>		<b>41,064</b>	<b>17,000</b>

#### B. Projects – Conditional Approval

Organisation	Name of Project	Conditional Recommendation	Grant Requested	Conditional Recommended Funding through CFP 2009/10
Jarrahdale Playgroup	Shade sail	This project is subject to applicable Planning and Reserves Advisory Group approval.	1,500	1,500
Lightweight Motor Cycle Club	Replacement Buildings	This project is subject to applicable Planning, Building and Reserves Advisory Group approval.	1,500	1,500
<b>Sub Total B</b>			<b>3,000</b>	<b>3,000</b>
<b>Control total of A &amp; B</b>				<b>20,000</b>

**CARRIED 9/1**

**Cr Brown voted against the motion**

During debate Cr Brown foreshadowed that she would move a new motion to include the Rotary Club of Byford in Part A and a change to the dollar amounts in Part B if the motion under debate is defeated.

SD127/06/09 PROPOSED TOWN PLANNING SCHEME AMENDMENT 165 – TEXTUAL AMENDMENT (A0781)		
Author:	Robina Crook – Senior Planner	In Brief  Council to initiate Amendment 165 under the provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 to 1. Modify Clause 5.4.2 to remove the words ‘or any one of two lots created because of particular circumstances’ and 2. Insert Clause 5.10.4 ‘The Council will not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares.’
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	4 June 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>	

### Purpose

The purpose of this report is for Council to initiate an Amendment to Town Planning Scheme No. 2 (TPS 2) to 1. Modify Clause 5.4.2 (c) to remove the words ‘or any one of two lots created because of particular circumstances’ and 2. Insert Clause 5.10.4 ‘The Council will not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares.’ Both of which will put in place provisions that will support the intent of the Shire’s Rural Strategy that recommends lot sizes within a ‘Rural’ zone are to be greater than 40 hectares.

### Background

The intent of Clause 5.4.2 of TPS 2 has been the subject of a number of subdivision applications and appeals before the State Administrative Tribunal (SAT). The Western Australian Planning Commission (WAPC) with the support of the Shire has expended significant time and resources to defend the Shire’s position to restrict subdivision within the ‘Rural’ zones of the Shire in accordance with the intent of the Shire’s Rural Strategy.

Due to the lack of clarity of Clause 5.4.2 in TPS 2, an applicant has been successful at gaining subdivision potential. Most recently, Justice Barker (President) of the SAT made the following comment in his determination of a matter between Michael Cornhill (Applicant) and WAPC (Respondent):

*‘The drafting of cl 5.4.2(c) of TPS 2 leaves much to be desired in terms of its clarity of expression.’*

Justice Barker went on to state the following:

*‘...I consider that the Tribunal interpreted the effect of the second sentence of the clause correctly. Properly interpreted, the second sentence of cl 5.4.2 (c) does not clarify and emphasise the operation of the first sentence, but rather prescribes a substantive exception to the operation of the first sentence that contemplates subdivision of the land in circumstances which are different to those referred to in the first sentence.’*

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Needless to say Justice Barker’s determination was in favour of the applicant and subdivision within a ‘Rural’ zone was approved.

Part five of TPS 2 details the development requirements for a Rural zone. Currently this does not provide guidance in relation to the minimum lot size that Council would support. By adding in Clause 5.10.4 'The Council will not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares.' TPS 2 will clearly articulate the lot sizes that are supported within the Shire's Rural Strategy.

### **Comments**

The purpose of the proposed Amendment is to clarify the intent of the clause within TPS 2. The intent of the proposed Amendment is to remove the words within Clause 5.4.2 (c) that SAT relied upon to approve subdivision in contrast to the intent of the Shire's Rural Strategy.

The Shire's Rural Strategy was prepared in 1994 with the intent to direct development over the next 5 years, with a 25 year planning horizon. Among a range of broad strategy aims the strategy was to 'implement government land use planning and management policy', 'provide land release to accommodate population growth, whilst maintaining a healthy rural living lifestyle close to Perth', 'protect the Shire's agricultural lands and their productivity, rural character and lifestyle', and to 'ensure that land is used and developed only within its capability'.

The Shire's Rural Strategy identifies that in a 'Rural Policy Area' the subdivision and development guidelines indicate that:

*'A range of lots sizes above 40 hectares is supported. The recommended minimum lot size for new subdivisions is 40 hectares.'*

Clearly the intent of the Rural Strategy is to restrict subdivision of 'Rural' zoned land to a minimum of 40 hectare lots.

In accordance with the Rural Strategy the Shire and the WAPC have regularly defended the position that there should be a presumption against subdivision within a 'Rural' zone, specifically restricting lot sizes to a minimum of 40 hectares for the following reasons:

- Ad hoc subdivision within a 'Rural' zone adversely affects the rural character and amenity of the area;
- The Shire's Rural Strategy recommends a minimum lot size of 40 hectares within a 'Rural' zone; and
- The subdivision of land into lots smaller than 40 hectares within a 'Rural' zone would set an undesirable precedent.

Currently, TPS 2 does not clearly state a minimum lot size of 40 hectares for 'Rural' zone land. The Shire's Rural Strategy provides strategic guidance however does not appear to provide the statutory rigor that would support the Shire recommending refusal or WAPC refusing subdivision below 40 hectare sized lots.

Whilst the WAPC is the determining authority for subdivision, pursuant to Section 138 of the Planning and Development Act 2005, the WAPC is required to:

*'have regard to the provisions of any local planning scheme that applies to the land under consideration and is not to give an approval that conflicts with the provisions of the local planning scheme.'*

This Amendment proposes to clearly state the minimum lot size of 40 hectares within the Rural zone. Such an amendment will provide the WAPC with greater ability to refuse subdivisions that are inconsistent with the intent of the Rural Strategy.

The current proposal before Council is simply to delete the words 'or any one of two lots created because of particular circumstances.' from Clause 5.4.2 (c) and add after Clause 5.10.3 'Clause 5.10.4 The Council will not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares.'

## **Discussion**

This Amendment removes the wording that was utilised by SAT to approve the subdivision application thus amending the clause that created uncertainty and ambiguity. It also provides for a minimum lot size within the Rural zone thus providing statutory rigor to the Rural Strategy. The Amendment is however a limited response to a complex matter. There are inconsistencies within TPS 2 in relation to subdivision and development and a number of unclear provisions for other zones of a rural nature. To rectify the inconsistencies there is a need for a comprehensive review of TPS 2 and subsequently a further Scheme Amendment. This proposed interim Amendment is a low risk option for moving the matter forward and will reduce the proliferation of inappropriate subdivision within the Rural zone. The Amendment addresses the two key matters, clarifying the intent of Clause 5.4.2 (c) and providing a minimum lot size in the Rural zone.

### **Statutory Environment:**

Planning and Development Act 2005

TPS 2:

5.4.2 (a) Where no Residential Density Code area is depicted on the Scheme Map, residential development shall be in accordance with the R10 Density Code except in the Special Rural, Rural Living A, Rural Living B, Farmlet and Rural where it shall be in accordance with the R2 Density Code.

(b) The Codes, where so specified, shall relate solely to the number of residential units which the Council may permit and not to the subdivision, inclusive of strata title, of the land, the subject of the application.

(c) The subdivision of rural land in the Shire for lots ranging in area from 2000m<sup>2</sup> to 4 hectares shall only occur on land that is appropriately zoned either Special Rural (Rural Living A and B Rural Living) or Special Residential under the Scheme as applicable and Clauses 5.8, 5.9 and 5.12 shall apply and be satisfied. This excludes all existing lots that are currently zoned Rural on the Scheme map that are between 2,000m<sup>2</sup> and 4 hectares in area or any one of two lots created because of particular circumstances.

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

The way the Shire is able to recommend determination of subdivision by the WAPC of land zoned 'Rural' within the TPS 2 will be more clearly defined.

### **Financial Implications:**

The costs associated with the advertising of the amendment are within the existing operational budget.

### **Strategic Implications:**

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

#### **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.

*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.

**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.

**Consultation**

In the instance that Council decides to resolve to initiate the Amendment, the Amendment is to be referred to the Environmental Protection Authority in accordance with the Planning and Development Act 2005 and the Town Planning Regulations 1967. If the Amendment complies with the provisions of the EPA Act then the Shire is to advertise the Amendment for a period of at least 42 days. The Amendment will be advertised in the local newspaper and displayed in the Shire Offices. On completion of the advertising the Council is to consider the submissions and resolve to forward the Scheme Amendment documentation to the Commission or resolve not to continue and provide the Commission written notice. Once a Scheme Amendment has been initiated then the Minister has the ability to progress the Amendment through the adoption process.

**Options**

There are three options that are available to Council in considering the Amendment, they are as follows:

- (1) resolve to initiate the Amendment, without modification;
- (2) resolve to initiate the Amendment, with modification/s; and
- (3) resolve not to initiate Amendment.

**Conclusion**

This report proposes to initiate the Amendment to the TPS 2 to modify Clause 5.4.2 and provide an additional Clause 5.10.4. This proposal will go some way to providing statutory provisions that will assist the Shire and the WAPC in implementing the objectives of the Shire's Rural Strategy. The Amendment is expected to provide greater clarity in decision making for both the Shire and the WAPC.

**Voting Requirements:** Simple Majority

**SD127/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Brown**

**That:**

1. **Council, pursuant to Section 75 of the Planning and Development Act 2005, amends the Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2 by:**
  - (a) **Deleting the words 'or any one of two lots created because of particular circumstances.'** from Clause 5.4.2 (c); and

**(b) Inserting Clause 5.10.4 'The Council will not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares.'**

**2. Subject to the advice of the Environmental Protection Authority under Section 48A of the Environmental Protection Act that the Amendment is not subject to formal environmental assessment, advertise the Amendment in accordance with the requirements of the Town Planning Regulations 1967 (as amended) for a period of 42 days.**

**CARRIED 10/0**

SD128/06/09 REVIEW OF DELEGATED AUTHORITY (A1047)		
Officer:	Simon Wilkes – Executive Manager Planning	In Brief
Senior Officer:	Brad Gleeson – Director Development Services	A review of existing delegations has been completed for the organisation. The findings of the review are provided for Council to note.
Date of Report	1 June 2009	
Previously	SM046/05/04 CGAM064/02/08	
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	
Delegation	Council	

### **Background**

The Shire has established delegated authority for a number of different functions, focusing on achieving timely and efficient decision making. Under the provisions of the Local Government Act 1995, Council is required to review its delegations every financial year. There are a number of existing delegations that are administered by the Corporate Services, Engineering Services and Development Services Directorate, including the areas of planning compliance, statutory town planning, environmental health, rangers and building control. A review of the existing delegations has recently been completed; this report provides Council with the opportunity to note/endorse the findings from the review.

**Statutory Environment:** Local Government Act 1995  
Town Planning Scheme No. 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.

### **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**

The findings from the review of delegations were presented to elected members at a briefing session on 25 May 2009; this report provides Council with the opportunity to formally consider the findings from the review.

### **Corporate Governance Policies**

The following Corporate Governance policies have been reviewed;

- CG01 Committees of Council
- CG02 Organisational Structure and Staff
- CG03 Freedom of Information
- CG06 Caveats - Withdrawal
- CG07 Payments from Municipal or Trust Fund
- CG08 Lodgement of Objections with the Mining Warden for Mineral Sand Mining
- CG09 Disposition of Council Owned Property in Staff Street: Jarrahdale Heritage Park
- CG10 Waiver of Fees for Community Organisations
- CG11 Write Off of Rates
- CG12 Execution of Documents
- CG13 Administration of the Trails Policy
- CG14 Appointment of Acting Chief Executive Officer
- CG15 Legal Representation and Cost Indemnification
- CG16 Hire of Community Bus
- CG17 Jarrahdale Heritage Park Committee

The review identified that the above policies are operating efficiently and there are no amendments required.

### **Engineering Policies**

The following Engineering policies have been reviewed;

- ENG01 Acceptance Of Tenders
- ENG02 Prohibited Burning Times
- ENG03 Variation To Firebreak Order
- ENG04 Emergency Services
- ENG05 Light Vehicle Fleet
- ENG06 B-Double And Long Vehicle Permits

- ENG07 Road Closures
- ENG08 Main Roads WA – Oversize Load Permits
- ENG09 Gates Across Public Thoroughfares
- ENG10 Obstructing Public Thoroughfare
- ENG11 Encroaching on Public Thoroughfare
- ENG12 Separating Land from Public Thoroughfare
- ENG13 Dangerous Excavation in or near Public Thoroughfare
- ENG14 Crossing from Public Thoroughfare to Private Land or Private Thoroughfare
- ENG15 Protection of Thoroughfares from Water Damage
- ENG16 Private Works on, over or under Public Places
- ENG17 Protection of Watercourses, Drains, Tunnels and Bridges
- ENG18 Removal of Dangerous Trees
- ENG19 Sand Drift
- ENG20 Works in Drainage Easements
- ENG21 Disturbing Local Government Land and anything on that Land
- ENG22 Requirement to Construct or Repair Crossing
- ENG23 Reciprocal Works
- ENG24 Rivers Regional Council

The review identified that the above policies are operating efficiently and there are no amendments required.

#### Building Control

There are primarily 5 existing notices of delegation relating to building control, as follows:

- CG05 Infringement notices.
- DS14 Orders for breach of building requirements.
- DS05 Variations to Residential Design Codes.
- DS16 Building Applications and Licences.
- DS19 Classification of Buildings.

CG05, DS14 and DS19 are considered to be operating effectively at this time. A number of minor potential improvements to the notices of delegation were identified, as follows:

- CG 05 Including reference to the Building Regulations 1989 (as amended).
- DS 14 Amending reference from 'Section 401' to 'Part XV'.
- DS 19 Including the text '(as amended)' after 'Building Regulations 1989'.

Some potential improvements were identified for DS05 and DS16, as outlined below:

- DS05 Amending the notice of delegation to include the Manager Building Services.
- DS16
  - (i) Amending the notice of delegation to include the positions of Senior Building Surveyor, Building Surveyor and Trainee Building Surveyor
  - (ii) Amending the notice of delegation to read:  
*"Pursuant to Section 374 of the Local Government (Miscellaneous Provisions) Act 1960 and the Building Regulations 1989 (as amended) the Council of the Shire of Serpentine Jarrahdale hereby delegates authority to Manager Building Services to:*

*Determine building applications, issue building licences and certificates of unauthorised works in accordance with the requirements of Section 374 of the Local Government (Miscellaneous Provisions) Act 1960, the Building Regulations 1989 (as amended), other applicable legislation and Council policy."*

#### Environmental Health

There are primarily 3 existing notices of delegation relating to environmental health matters, as follows:

- DS21 Health Act Section 26 Delegations.
- DS22 Health Act Administration, Enforcement and Prosecution.
- DS23 Temporary Accommodation.

Potential improvements were identified for each of the above-listed notices of delegation, as outlined below:

- DS21 and DS 22 Opportunities to 'streamline' the delegations.
- DS21 Updating of the delegation to make reference to latest legislation, for example the Health (Aquatic Facilities) Regulations 2007.
- DS22 Extending the delegations to the Shire's Environmental Health Officers.
- DS23 Amending the delegation to refer to authorised officers under the Caravan and Camping Ground Regulations.

### Rangers

There are primarily 6 existing notices of delegation relating to the operations of the Council rangers, as follows:

- CG04 Prosecution-Legal Proceedings.
- CG05 Infringement Notices.
- ENG01 Acceptance of Tenders.
- ENG10 Obstructing Public Thoroughfare. (Not Directions).
- ENG11 Encroaching on Public Thoroughfare. (Not Directions).
- ENG21 Disturbing Local Government Land and anything on it. (Not Directions).

In addition to the above notices of delegation, Council's Rangers are authorised to exercise delegation under the Dog Act 1976 and the Local Government (Misc Provisions) Act 1960.

The review of the existing notices of delegation identified that the existing notices were effective. The review identified opportunities for improving CG04, which is outlined in the Planning Compliance section below. In addition, the review identified the opportunities to improve the delegations under Sections 3.25, s3.26 & Sch 3.1 of Local Government (Misc Provisions) Act 1960 by extending the delegation to Directors and in some cases Manager Level, to improve the efficiency of compliance and enforcement processes, and enable outcomes to be achieved in a more timely manner.

### Planning Compliance

There are primarily 12 existing notices of delegation relating to the matters associated with Planning Compliance, as follows:

- CG04 Prosecution-Legal Proceedings
- ENG 10 Obstructing a Public Thoroughfare
- ENG 11 Encroaching on Public Thoroughfare
- ENG 12 Separating Land from Public Thoroughfare
- ENG 13 Dangerous Excavation in or near Public Thoroughfare
- ENG 15 Protection of Thoroughfares from Water Damage
- ENG 16 Private Works on, Over or Under Public Places
- ENG 17 Protection of Watercourses, Drains, Tunnels and Bridges
- ENG 18 Removal of Dangerous Trees.
- ENG 19 Sandrift
- ENG 21 Disturbing Local Government Land and anything on that Land
- ENG 22 Requirement to Construct or Repair Crossing
- DS 14 Orders for Breach of Building Requirements

The review of the existing notices of delegation identified the opportunity to improve CG04, to broaden its scope and to amend its wording to read as follows:

*“Pursuant to section 5.42 of the Local Government Act 1995 the Council of the Shire of Serpentine Jarrahdale hereby delegates authority to the Chief Executive Officer to initiate a prosecution or commence legal proceedings for a breach or offence against any legislative requirement, local law, policy, town planning scheme administered by the Shire of Serpentine Jarrahdale and not limited to any other delegation authorised by a state government agency or department”*

Should CG04 be broadened and amended in accordance with the above recommendation, there is the potential to rescind all of the other listed delegations relating to Planning Compliance. In addition to the potential modifications to CG04, the review identified the potential for a new delegation, relating to the issuing of notices for Planning Compliance related matters. Such a new notice of delegation could read as follows:

*“Pursuant to section 5.42 of the local Government Act the Council of the Shire of Serpentine Jarrahdale hereby delegates authority to the Chief Executive Officer to serve Notices and Directions as required for any breach or requirement under any legislation, local law, policy, town planning scheme administered by the Shire of Serpentine Jarrahdale. The Chief Executive Officer delegates the following officers as set out in the table below pursuant to section 5.44 of the Local Government Act 1995”*

### Statutory Planning

The review of the existing notices of delegation for the Statutory Planning functions of Council focused primarily on decision-making processes under Town Planning Scheme No. 2. There are primarily 15 existing notices of delegation relating to Statutory Planning matters, as follows:

- DS01 Making Recommendations to the Western Australian Planning Commission on Subdivision/ Amalgamation Referrals
- DS02 Detailed Area Plans
- DS03 Extractive Industry Licence Renewals
- DS04 Endorsement of Planning Applications
- DS05 Variations to Residential Design Codes
- DS06 Outbuildings
- DS07 Setback Variations in Industrial and Commercial Zones
- DS08 Power of Approval and Refusal for some Land Uses and Development
- DS09 Applications Within the Urban Development Zone
- DS10 Determine of Some Applications for Minor Land Uses
- DS11 Amendments or Extension/Additions to Planning Approvals
- DS12 Dealing with Subdivision Clearances
- DS13 Enforcement under Town Planning Scheme
- DS15 Building Envelopes – Local Variations
- DS24 Management of Reserves Created under Section 152 of the Planning and Development Act 2005

The review identified that delegations DS01, DS03, DS04, DS07, DS11 and DS24 were operating effectively.

A number of potential improvements were identified for the other existing notices of delegation as follows:

- DS02/DS05
  - The delegation should be updated to reflect the provisions contained with the latest versions of Liveable Neighbourhoods and Residential Design Codes

- The delegation should make reference to a new policy on residential development, including performance criteria under the R-Codes
- The delegation should make reference to a new policy on detailed area plans.
- A considerable amount of detail should be removed from the delegation
- DS06
  - The delegation should be updated, in parallel with a review of Local Planning Policy 17 and with a greater focus on performance-based assessment
  - References to development in the Special Use Zone should be either clarified or removed.
- DS08
  - The delegation should be re-structured to improve readability
  - The delegation should be clarified to where Council has discretion to vary scheme requirements (eg. Clause 5.2 of TPS 2 – modifying development standards)
  - The delegation should be clarified to specifically include reference to the granting of retrospective approval for developments
- DS10 – Determine Some Applications For Minor Land Uses
  - Delegation should be revoked as it has limited value.
  - Clause 5.4.3 has been deleted from TPS 2, so reference in delegation is no longer valid
- DS12
  - Paragraph 3 should be deleted as it is an operational matter
- DS13
  - The delegation should be amended to allow a wider range of officers to issue infringements, notices and commence legal action
- DS15 – Building Envelopes – Local Variations
  - Objections should be limited to the matters for which Council is exercising discretion in its decision-making
  - Delegation should be given to Director Development Services to determine applications, where an advertised proposal could be either modified or conditioned to satisfactorily address identified concerns

A number of new delegations were identified as potentially assisting the Shire in operating effectively and efficiently, as follows:

- The referral of proposals under Section 38 of the Environmental Protection Act;
- Making recommendations and determining applications for minor ‘public works’;
- The assessment of engineering drawings under Section 170 of the Planning and Development Act 2005;
- Representing the Shire in proceedings before the State Administrative Tribunal, including providing advice on whether Council would be willing to reconsider its original decision under Section 31 of the State Administrative Tribunal Act; and
- The approval of names for new subdivision roads.

## **Conclusion**

The majority of existing delegations are operating effectively. There are, however, opportunities to improve a number of the individual notices of delegation. There are also opportunities to introduce new notices of delegation. It is recommended that further reports be presented to Council on a progressive basis over the next 12 months (and in parallel with continuous improvements to the Council’s policy framework), to formally consider whether the findings from the 2008-2009 review process should be implemented.

**Voting Requirements:** Simple Majority

**SD128/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Harris, seconded Cr Brown**

**That Council note the findings from the review of the notices of delegated authority for the 2008-2009 financial year and request that the delegations recommended for review are formally presented to the August Ordinary Council meeting.**

**CARRIED 10/0**

SD129/06/09 DELEGATION – VARIATION OF DETAILED AREA PLANS (A1047)		
Officer:	Councillor Kirkpatrick	In Brief  Request from Councillor Kirkpatrick that the Chief Executive Officer be granted delegated authority to vary environmental Detailed Area Plan provisions, subject to assessment against a checklist.
Senior Officer:	N/A	
Date of Report	12 June 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>	

**Background**

Councillor Kirkpatrick advises:

*“ That delegated authority to the Chief Executive Officer to vary environmental conditions on subdivisions in the Shire be given subject to the following Check sheet”.*

A simple checklist with suggested environmental outcomes based on a point scoring system was also submitted.

**Comment**

The Director Development Services and Executive Manager Planning currently have delegated authority to approve Detailed Area Plans (DAP's) under Clause 5.18.5 of Town Planning Scheme No. 2. This authority extends to approving DAP's with standard provisions, unless special circumstances such as outlined in an individual structure plan, warrant a particular provision not to be included.

The existing delegation of authority does not allow staff to vary any of the existing DAP provisions once they have been adopted. Any changes to a DAP provisions or a proposal that is in variance to an adopted DAP, will need to be referred to Council for consideration.

As the Shire develops, there is likely to be more and more situations where the adopted DAP provisions become too restrictive or place limitations on landowners to design a dwelling that incorporates innovative or best practice environmental/urban design outcomes.

**Voting Requirements:** Simple Majority

**SD129/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Randall**

**That officers prepare a report for the August Sustainable Development Committee meeting to review the existing Delegation of Authority DS02.**

**CARRIED 10/0**



CGAM114/06/09		OVERSIZE VEHICLE APPLICATION TO SERVICE LOT 6 GOSSAGE ROAD, OLDBURY (A0512-03)
Proponent:	Dawson Contracting	In Brief  An application has been made by Dawson Contracting for Council consent to use long vehicle (pocket road trains) to cart timber product to Lot 6 Gossage Road, Oldbury.
Owner:	Not Applicable	
Officer:	Richard Gorbunow - Director Engineering	
Senior Officer:	Joanne Abbiss – Chief Executive Officer	
Date of Report	25 May 2009	
Previously	CGAM090/03/07 CGAM066/03/08	
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**

In March 2008 Council supported an application by Dawson Contracting to use oversize permit vehicles (Pocket Road Trains) up to 27.5 metres in length. The purpose of the application was for the efficient transportation of timber products to the Inglewood Products site, located at Lot 6 Gossage Road, Oldbury. The support given by Council was conditional and for a period of twelve (12) months in accordance with the resolution below.

#### “CGAM066/03/08 COUNCIL DECISION/Committee/Officer Recommended Resolution:

*Moved Cr Kirkpatrick, seconded Cr Brown*

*That:*

1. *Support is conditionally granted to the use of oversize vehicles (up to 27.5 metres in length) by Dawson Contracting for a period of twelve (12) months for access to Inglewood Products, Lot 6 Gossage Road, Oldbury via Thomas Road (South Western Highway to Kargotich Road), Kargotich Road (Thomas Road to Gossage Road) and Gossage Road (Kargotich Road to Lot 6 Gossage Road).*
2. *Support being granted subject to the following conditions:*
  - (a) *Vehicle speeds on Gossage Road to not exceed 60 km/hr.*
  - (b) *Vehicles are to operate during daylight hours only between Monday and Saturday and should be limited to one vehicle movement per day, three days per week.*
  - (c) *Vehicles are not to operate during school bus travel times.*
  - (d) *Any application for extension to the permit(s) being referred to Council.*
  - (e) *Copies of permits, including truck and trailer registration numbers, as issued by Main Roads Western Australia are to be submitted to Council prior to the commencement of operations.*
  - (f) *All owner/operators adhering to the Motor Vehicle Act and Regulations and to any road closures as prescribed in Section 3.50 of the Local Government Act 1995;*
  - (g) *The Shire being advised by Dawson Contracting of any bitumen seal failures in the vicinity of the driveway access to Lot 6 Gossage Road Oldbury within twenty four (24) hours of damage occurring and that such damage be rectified by and at the expense of Dawson Contracting and/or its haulage Contractor(s).*
  - (h) *Vehicle axel loads are not to exceed Main Roads allowable axel limits. The applicant is to forward copies of weighbridge dockets to the Shire on a monthly basis.*

- (i) *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.*

3. *Main Roads be advised of the Council's decision.*

*CARRIED 9/0"*

The permit to service these properties expired in March 2009.

As Kargotich Road and Gossage Road are not included in the Notice Network for oversize vehicle use, any application to use oversize vehicles on these roads would require Council support to obtain permits issued by Main Roads WA.

Dawson Contracting have recently submitted an application for an extension of a further twelve (12) months seeking Council support for the use of oversize permit vehicles (Pocket Road Trains) to transport jarrah sawlogs and timber products to Lot 6 Gossage Road, Oldbury. It is expected that road train movements will be limited to one trip per day, three days a week.

***A copy of the application is with attachments marked CGAM114.1/06/09 (IN09/5931)***

**Sustainability Statement:**

***Effect on Environment:*** The proposal would reduce Greenhouse Gas Emissions by allowing oversize vehicles to carry out this transport service. The use of medium size trucks would be minimized resulting in less vehicle trips.

***Resource Implications:*** Properly managed permit vehicle operations would minimize road resource use.

***Use of Local, renewable or recycled Resources:*** The proposal utilizes regionally available resources.

***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.

This proposal should also not incur any ongoing costs or requirement of funding in the future for Council above routine maintenance.

***Economic Benefits:*** Properly managed permit vehicle operations have potential sustainability benefits in reduced transport and road maintenance costs.

***Social – Quality of Life:*** By creating endorsed heavy haulage routes, while retaining the ability to issue permits for other routes, the movement of freight vehicles can be controlled and, in the case of as-of-right vehicles, encouraged onto fit for purpose routes. This will assist in ensuring the local road network is safer for general traffic movements.

***Social and Environmental Responsibility:*** Properly managed permit vehicle operations have potential sustainability benefits in reduced social impact from transport vehicles and reduced environmental emissions.

***Social Diversity:*** This proposal does not directly affect any social or community groups.

**Statutory Environment:** Motor Vehicle Act and Regulations

**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.
2. Identify value-adding opportunities for primary production.

*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:**

No consultation is required to be undertaken for this report.

**Comment:**

Officers have received no complaints from the public regarding the use of these larger vehicles. It should be noted, however, that the operation of trucks results in accelerated deterioration of roads. This deterioration of road pavements increases as loads on individual vehicle axels increase. For this reason it is recommended that Council limit the vehicle axel loadings in accordance with Main Roads standard axel limits. Where this cannot be achieved compensation should be negotiated with the applicant.

It is recommended that conditional approval be granted for a period of twelve (12) months.

**Voting Requirements:**

Simple Majority

**CGAM114/06/09 COUNCIL DECISION/Committee/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Brown**

**That:**

- 1. Support is conditionally granted to the use of oversize vehicles (up to 27.5 metres in length) by Dawson Contracting for a period of twelve (12) months for access to Inglewood Products, Lot 6 Gossage Road, Oldbury via Thomas Road (South Western Highway to Kargotich Road), Kargotich Road (Thomas Road to Gossage Road) and Gossage Road (Kargotich Road to Lot 6 Gossage Road).**
- 2. Support being granted subject to the following conditions:**
  - (a) Vehicle speeds on Gossage Road to not exceed 60 km/hr.**
  - (b) Vehicles are to operate during daylight hours only between Monday and Saturday and should be limited to one vehicle movement per day, three days per week.**
  - (c) Vehicles are not to operate during school bus travel times.**
  - (d) Any application for extension to the permit(s) being referred to Council.**

- (e) Copies of permits, including truck and trailer registration numbers, as issued by Main Roads Western Australia are to be submitted to Council prior to the commencement of operations.
- (f) All owner/operators adhering to the Motor Vehicle Act and Regulations and to any road closures as prescribed in Section 3.50 of the Local Government Act 1995;
- (g) The Shire being advised by Dawson Contracting of any bitumen seal failures in the vicinity of the driveway access to Lot 6 Gossage Road Oldbury within twenty four (24) hours of damage occurring and that such damage be rectified by and at the expense of Dawson Contracting and/or its haulage Contractor(s).
- (h) Vehicle axel loads are not to exceed Main Roads allowable axel limits. The applicant is to forward copies of weighbridge docketts to the Shire on a monthly basis.
- (i) 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.

**3. Main Roads be advised of the Council's decision.  
CARRIED 10/0**

CGAM115/06/09 APPROVAL OF SERPENTINE JARRAHDAL SHIRE LOCAL AREA BICYCLE PLAN (A0360)		
Proponent:	Serpentine Jarrahdale Shire	In Brief  Council is requested to endorse the Serpentine Jarrahdale Shire Local Area Bicycle Plan.
Owner:	Not Applicable	
Officer:	Uwe Striepe – Executive Manager Engineering	
Senior Officer:	Richard Gorbunow – Director Engineering	
Date of Report	25 May 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 January 2008, the Shire applied for Grant Funding from the Department for Planning and Infrastructure (formerly Bikewest) for the appointment of consultants to prepare a report for the introduction of a Local Bicycle Plan. Grant funding in the amount of \$15,000 was approved and the Shire requested the submission of proposals from various consultants.

Based on submissions received, SHAWMAC Consulting Traffic and Civil Engineers were engaged to undertake the investigation and prepare the Local Area Bicycle Plan in line with the brief as issued by the Engineering Department.

***A copy of the Serpentine Jarrahdale Shire Local Area Bicycle Plan is with attachments marked CGAM115.1/06/09 (IN09/6215)***

### **Sustainability Statement**

***Effect on Environment:*** The local area bicycle plan will minimize the effects on the environment by way of reducing pollution.

**Resource Implications:** Implementation of the local area bicycle plan promotes use of bicycles as an alternate means of transport and minimizes use of non renewable resources.

**Use of Local, renewable or recycled Resources:** Implementation of the local area bicycle plan reduces transport costs and emissions.

**Economic Viability:** The local area bicycle plan prioritises where improvement is required to the existing paths avoiding unnecessary expenditure.

**Economic Benefits:** The local area bicycle plan promotes cycling as a recreational activity in the Shire and therefore has a positive effect on tourism.

**Social – Quality of Life:** The local area bicycle plan promotes cycling which is a healthy exercise in a safe environment for the residents of our community.

**Social and Environmental Responsibility:** The proposal is designed to be socially and environmentally responsible as it promotes the use of the bicycle for all residents.

**Statutory Environment:** The Local Area Bicycle Plan compliments the existing Perth Bicycle Network (PBN) Bike Plan of the Department of Planning and Infrastructure.

**Policy/Work Procedure Implications:** There are no work procedures directly related to the implementation of the local area bicycle plan.

**Financial Implications:** The cost of preparing the Local Area Bike Plan was \$19,500 a claim has been submitted for \$15,000 to the Department of Planning and Infrastructure as the local area bicycle plan has been successfully completed. Adequate provision exists on the 2008-09 budget for the balance of \$4,500 funds required. The financial costs of implementing paths within the Shire is determined by Council each year. Previous budget allocations varied from \$50,000 - \$100,000.

**Strategic Implications:** The proposal incorporates the following strategic implications:

**1. People and Community**

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

Strategies:

1. Provide recreational opportunities.
6. Ensure a safe and secure community.

**2. Environment**

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

Strategies:

3. Encourage protection and rehabilitation of natural resources.
5. Reduce green house gas emissions.

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

Strategies:

1. Implement known best practice sustainable natural resource management.

**3. Economic**

*Objective 1: A vibrant local community*

Strategies:

3. Develop tourism potential.

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

Strategies:

1. Improved freight, private and public transport networks..

*Objective 3: Effective management of Shire growth*

Strategies:

1. Enhance economic futures for Shire communities.

#### **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 3: Compliance to necessary legislation*

Strategies:

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

#### **Community Consultation:**

The following organisations were invited to provide input in the development of the Serpentine Jarrahdale Bike Plan:

State Government Agencies:

- Main Roads Western Australia
- Department of Planning and Infrastructure

Cycling Groups:

- Bicycle Transport Alliance
- Peel District Cycling Club

Schools:

- Jarrahdale Primary School
- Serpentine Primary School
- Mundijong Primary School
- Byford Primary School
- Marri Grove Primary School
- John Calvin School
- Serpentine Jarrahdale Grammar School

#### **Comment:**

Serpentine Jarrahdale Shire has established a need to improve cycling facilities for school children, residents and the cycling community, throughout the Shire to compliment the existing Perth Bicycle Network (PBN) Bike Plan.

The Local Area Bicycle Plan is considered to be the most appropriate solution to ensure that council can have a plan of sustainable objectives whilst providing guidance in relation to maintenance and any required improvements of existing paths, the need for new paths and where end of trip facilities are required to be constructed.

The Local Area Bicycle Plan identifies the cycling potential throughout the entire Shire. The interconnection of Byford, Cardup, Mundijong, Serpentine, Jarrahdale, Mardella, Oakford, Darling Downs, Karrakup, Oldbury and Keysbrook and the connection of these suburbs to neighbouring councils and suburbs.

**Voting Requirements:** Simple Majority

**Officer Recommended Resolution:**

Moved Cr Price, seconded Cr Geurds

That;

1. Council adopts the Serpentine Jarrahdale Local Area Bicycle Plan as per attachment *CGAM115.1/06/09 (IN09/6215)*.
2. The Local Area Bicycle Bike Plan be used as a guidance document for the construction of paths within the Shire subject to it's incorporation into the fully costed Plan for the Future.
3. The Local Area Bicycle Bike Plan be included on the Council's Asset Management Plan.

LOST 1/6

During debate Cr Harris foreshadowed that she would move an alternate motion if the motion under debate is defeated.

**Committee Recommended Resolution:**

Moved Cr Harris, seconded Cr Needham

That;

1. Council receives the Serpentine Jarrahdale Local Area Bicycle Plan as per attachment *CGAM115.1/06/09 (IN09/6215)*.
2. An amended Local Area Bicycle Plan be used as a guidance document for the construction of paths within the Shire subject to it's incorporation into the fully costed Plan for the Future. The amendments shall include the removal of references to section 6.6.1 (page 25) and the designation of the Hall Road / Lesley Street bike path.
3. The Local Area Bicycle Bike Plan be included on the Council's Asset Management Plan.

CARRIED 7/0

**New Motion:**

Moved Cr Randall, seconded Cr Kirkpatrick

That Item *CGAM115/06/09 - Approval of Serpentine Jarrahdale Shire Local Area Bicycle Plan* be deferred pending a workshop with elected members prior to it being represented to Council.

LOST 4/6

During debate Cr Price foreshadowed that he would move the Committee Recommended Resolution with the change of the word 'designation' to 'inclusion' in part 2 if the motion under debate is defeated.

**New Motion:**

Moved Cr Price, seconded Cr Harris

That;

1. Council receives the Serpentine Jarrahdale Local Area Bicycle Plan as per attachment *CGAM115.1/06/09 (IN09/6215)*.
2. An amended Local Area Bicycle Plan be used as a guidance document for the construction of paths within the Shire subject to it's incorporation into the fully costed Plan for the Future. The amendments shall include the removal of references to section 6.6.1 (page 25) and the inclusion of the Hall Road / Lesley Street bike path.
3. The Local Area Bicycle Bike Plan be included on the Council's Asset Management Plan.

## LOST 4/6

During debate Cr Needham foreshadowed that she would move an alternative recommendation if the motion under debate is defeated.

### CGAM115/06/09 COUNCIL DECISION/New Motion:

Moved Cr Needham, seconded Cr Brown

1. Council receives the Serpentine Jarrahdale Local Area Bicycle Plan as per attachment CGAM115.1/06/09 (IN09/6215).
2. A workshop be held within the next two months for Councillors to workshop and have their ideas included in the Plan.
3. Following this workshop, the amended Serpentine Jarrahdale Local Area Bicycle Plan be included as part of the Asset Management Plan.

CARRIED 10/0

## 8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

OCM031/06/09		PROPOSED SUB LEASE SERPENTINE JARRAHDAL SHIRE AND MINISTER FOR WORKS (A0840-05)
Proponent:	Serpentine Jarrahdale Shire	In Brief  For Council to consider a sublease with Minister for Works (West Australian Police) for space on the Communications Tower in Jarrahdale to extend their police radio communication network. It is recommended that Council authorise the Chief Executive Officer and the President to sign the Lease Agreement.
Owner:	Not Applicable	
Officer:	Louisa Loder – PA to Director Corporate Services	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	14 June 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

Minister for Works have approached the Shire with a request to lease space on the communications tower in Jarrahdale to install equipment to extend their radio communications network in the area. Council resolved 25 May 2009 to advertise the disposition of property in accordance with Section 3.58 of the Local Government Act (1995). The disposition was advertised in the local press on 30 May 2009 and no submissions were received.

***A copy of the draft Lease Agreement is with CONFIDENTIAL attachments marked OCM031.1/06/09 (IN09/4209).***

### Sustainability Statement

***Effect on Environment:*** The proposed sublease will have no effect on either the built or natural environment. The communications equipment will be housed in a new structure within the existing compound and will be located on the tower. The location of the facility is such that it is not easily visible by the surrounding community and any additional equipment installed on the tower will not change the appearance of the communications tower.



**Biodiversity:** As the equipment will be installed on existing infrastructure and the new building installed on a cleared site, there will be no disturbance of any existing vegetation on the site.

**Economic Viability:** The proposed sublease will result in an additional income stream for the Shire.

**Economic Benefits:** The proposed sublease will assist Minister for Works in providing a higher quality communications network in the general locality.

**Social and Environmental Responsibility:** The telecommunications network is an essential resource of the West Australian Police force. The expansion of their radio communications network is intrinsic to the operation of the West Australian Police, and it is essential that they have the infrastructure in place to be able to offer the high quality service their community demands. This sublease will enable this and provide a higher level of service to the Jarrahdale community and surrounds.

**Statutory Environment:** Section 3.54 of the Local Government Act 1995 applies.

Section 3.58 – Disposal of Property by way of selling, leasing or otherwise applies and Council is required to advertise the proposed disposition in accordance with the provisions of this section of the Act. In addition, Council must consider all submissions made during the advertising period prior to Council disposing of the property.

**Policy/Work Procedure Implications:**

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

**Financial Implications:**

There is an annual lease fee payable by the lessee for the use of the property. All costs in relation to the preparation of the lease will be paid by the lessee.

**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.
6. Ensure a safe and secure community.

*Objective 3: High level of social commitment*

Strategies:

2. Build key community partnerships.

**3. Economic**

*Objective 1: A vibrant local community*

Strategies:

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

**Community Consultation:**

In accordance with the Local Government Act (1995), the proposed disposition was advertised in the local press on 30 May 2009 and no submissions were received.

**Comment:**

The proposed sublease has been drafted by the Shire's solicitors in accordance with the head lease already in operation between the Department of Environment and Conservation and the Shire of Serpentine Jarrahdale.

The Minister for Works is keen to have this agreement endorsed by Council as quickly as possible, all preliminary work associated with installing their equipment onto the Tower has been completed and subject to this sub lease being endorsed by Council all statutory approvals are waiting to be lodged. The officer has been advised that this is the last point required to update the radio communications network.

The site on which the communications tower sits is owned by the Department of Environment and Conservation and they have advised the Shire they have no objections to the installation of the communication equipment on this site.

An independent valuation to obtain a rental figure has been obtained and it is recommended that an annual rent be set at \$3,000.00 (excluding GST).

The term of the proposed lease is for 4 months, commencing on 1 July 2009 and then a five year renewal option is being offered. The reason for the lease being structured in this way is so that it is aligned with the head lease between the Department of Environment and Conservation and the Serpentine Jarrahdale Shire.

It is therefore recommended that Council endorse the lease and approve administration to commence the advertising process in accordance with the Local Government Act (1995).

**Voting Requirements: ABSOLUTE MAJORITY**

**OCM031/06/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Kirkpatrick, seconded Cr Price**

- 1. That Council endorse the terms and conditions of the lease agreement between Shire of Serpentine Jarrahdale and Minister for Works, for the use of part reserve 16634, Kingsbury Drive, Jarrahdale for the purpose of installing communications equipment on the communications tower for a period of 4 months commencing on 1 July 2009 with a further five (5) year option to renew.**
- 2. The proposed lease fee be set at \$3,000.00 per annum (excluding GST).**
- 3. That Council authorise the President and Chief Executive Officer to sign the lease agreement.**

**CARRIED 10/0**

OCM032/06/09		STATE GOVERNMENT LANDFILL LEVY INCREASE (A0683)
Proponent:	Serpentine Jarrahdale Shire	In Brief  It is recommended that Council express its concern at the 300% increase in the State Government's landfill levy.
Owner:	Not applicable	
Author:	Joanne Abbiss – Chief Executive Officer	
Senior Officer:	Not applicable	
Date of Report	18 June 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	Council	

**Background**

The State government has proposed in the 2009/2010 budget to increase the landfill levy by 300%. The increases currently only affect the metropolitan area but the State Government has not ruled out extending the levies to regional areas.

The proposed new levies will generate the Department of Environment and Conservation (DEC) \$39 million in revenue at a cost to ratepayers of up to an additional \$48 per year.

Since 1998 a levy has been imposed according to the amount of waste going to landfill. The primary purpose of the establishment of the landfill levy was to provide resources to fund projects for advancing waste reduction and recycling. The State Government will have to change existing legislation in order to allocate the extra funds to the DEC.

There is no intention to use the additional funds for resources recovery or recycling purposes which was the prime purpose for which the waste levy fund was originally established. The State government has now advised that it will be used for operational issues by the DEC contrary to the requirements previously established. This however, will require legislative changes.

The President of the Western Australian Local Government Association (WALGA) has encouraged all WA Local Governments to formally register their opposition to the “exorbitant increase and the lack of consultation by the State Government”.

When it was first introduced in 1998, the landfill levy was \$3 per tonne for putrescible wastes and \$1 per tonne for inert waste. In October 2006 the levy increased to \$6 per tonne for biodegradable waste and \$3 per cubic metre for inert waste.

The WA State Budget has provided that the Waste levy will increase to \$28 per tonne for putrescible waste to Class 3 landfills and \$12/m<sup>3</sup> for inert waste to landfill effective from 1 July 2009. This is a significant cost to the community.

Table 1

**Western Australia’s Landfill Levy**

Date (Class II, III & IV)	Putrescible Landfill	Inert Landfill
1998-Oct2006	\$3/tonne	\$1/tonne
2006/07	\$6/tonne	\$3/m <sup>3</sup>
2007/08	\$6/tonne	\$3/m <sup>3</sup>
2008/09	\$7/tonne	\$5/m <sup>3</sup>
2009/10	\$28/tonne	\$12/m <sup>3</sup>

The comparison of the waste levy by the various Australian states shows that Western Australian will be the second highest in Australia behind NSW if the proposed levy is introduced.

Table 2

**Comparison of Current Landfill Levies in Australian States**

State	Metropolitan Landfill	Non-metropolitan Landfill
New South Wales	\$58.80/tonne	\$10.00/tonne
South Australia	\$24.20/tonne	\$12.10/tonne
Victoria	\$9.00/tonne	\$7.00/tonne
Western Australia	\$28.00/tonne	no levy
Queensland	no levy	no levy
Tasmania	no levy	no levy

In New South Wales the bulk of the money raised by the landfill levy goes straight into consolidated revenue. It has been estimated that only \$13.25 million of the \$300 million raised from the levy has been applied to waste management programs in New South Wales.

**Statutory Environment:**

Waste Avoidance and Resource Recovery Act 2007 and the Waste Avoidance and Resource Recovery Levy Act 2007.

**Policy/Work Procedure Implications:**

There are no work procedure/policy implications related to this issue.

**Financial Implications:**

The Shire in 2009/2010 anticipates disposing of 4,300 tonnes of waste to landfill and this levy will add approximately \$90,300 to the 2009/2010 proposed budget based on the anticipated tonnages to be disposed to landfill. This does not account for the additional staff time and resources required for compliance activities.

**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:

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.

*Objective 3: High level of social commitment*

Strategies:

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.
4. Reduce water consumption.
5. Reduce green house gas emissions.

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

Strategies:

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

**3. Economic**

*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:**

Required: No

**Comment:**

WALGA has raised with the following specific points with the Minister for the Environment:

- Lack of consultation with the sector regarding the increase;
- Likely increase in illegal dumping as a result;
- Likelihood of increasing transport of waste from the metropolitan to non-metropolitan areas (and dumping in non-manned landfills); and
- Needs of the waste industry (such as support for recycling).

The response from the Minister included:

- That WA needs to improve recycling, particularly construction and demolition; and she sees an increase in the Levy as one way to do that;
- Under the proposed WARR Act amendments waste related issues would receive about \$13 million / year (as with the current Levy rate); and
- The Department of Environment and Conservation is drafting changes to the Environmental Protection Act to significantly increase the fines for illegal dumping.

There were no suggestions from the Minister about other ways to assist Local Government, such as extra investment in infrastructure to facilitate recycling or extra enforcement officers to ensure that illegal dumping does not increase.

On 3 June 2009 Environment Minister Donna Faragher said the State Government's move to introduce tougher penalties for illegal dumping of waste in Western Australia would have a significant impact on those who believed it was acceptable to dump their rubbish illegally. She also encouraged waste reduction and increased recycling as alternatives.

A new offence under the Environmental Protection Act 1986 would see individuals face tough fines of up to \$62,500 or \$125,000 for a body corporate. Mrs Faragher said the proposed new penalties would have a marked effect on the fight against illegal dumping, which often happened in bushland on the outskirts of cities and towns. “Too often, we are forced to deal with unsightly discarded waste on our urban fringes that not only looks disgusting but is also detrimental to the health of our environment,” she said.

“Currently fines for dumping are limited to a maximum of \$1,000 under the Litter Act where a case for the offence of pollution cannot be made.”

These changes will be effective to address illegal dumping only when staff resources are available to conduct surveillance and investigations which are costly and time consuming and rely on community support to report illegal dumpers.

### **Conclusion**

The waste levy increase of 300% announced in the 2009/2010 State Government budget will impose a significant financial burden on the Shire and the community. The original purpose of the waste levy prohibited the funds from being used for DEC operational activities and the proposed purpose of this significant increase to \$28 per tonne, effective from the 1 July 2009, is to fund DEC operational activities.

There is a distinct probability that instances of illegal dumping will occur as individuals attempt to avoid paying the levy. This has a resource implication for the Shire as there would be a need to fund increased compliance activities.

It is recommended that Council adopt the resolution and provide strong opposition to the 300% increase.

**Voting Requirements:** Simple Majority

### **OCM032/06/09 COUNCIL DECISION/Officer Recommended Resolution:**

**Moved Cr Brown, seconded Cr Harris**

**A. That in response to the State Government’s increase of the landfill levy by 300%, the Shire of Serpentine Jarrahdale advise the Premier, the Minister for Local Government, the Minister for the Environment and all State Parliamentary Members, of the Shire’s position on this matter, particularly the following areas of significant concern:**

- 1. The lack of consultation and notice provided by the State Government in increasing the landfill levy by 300%.**
- 2. The lack of time to plan for this excessive cost increase will cause considerable financial burden to Local Governments and the community.**
- 3. That the Shire strongly condemns the use of landfill levy funds for consolidated revenue purposes and requests that the state government reconsider this position.**
- 4. The Government be reminded that at the time of the introduction of the levy, commitments were made to Local Government that the amount of money used for the administration of the levy would be strictly limited (1% to 3%) and that a rebate scheme would be introduced to return funds to Local Government for materials diverted from landfill.**
- 5. The Shire recognises that this increase will assist with driving greater diversion of waste from landfill, however without the infrastructure or cost support for alternative waste processing systems, the impact of the increased landfill levy will be nullified.**
- 6. The Shire strongly supports the position that all funds raised by the landfill levy generated from domestic municipal waste streams and**

**Local Governments be hypothecated back to Local Government to support recycling and resource recovery activities and the associated infrastructure. Should this support not be provided, continued diversion of waste from landfill will be put in jeopardy as the levy increase also penalises resource recovery facilities.**

7. The Shire strongly supports an exemption from the landfill levy for all residual wastes from resource recovery facilities thus providing further incentive for the development of such facilities.

B. That the Chief Executive Officer write to the Western Australian Local Government Association and request that a media campaign be initiated to inform the community of the State Government's actions.

**CARRIED 10/0**

## 9. CHIEF EXECUTIVE OFFICER'S REPORT

OCM033/06/09		INFORMATION REPORT
Proponent	Joanne Abbiss - Chief Executive Officer	In Brief  Information Report.
Officer	Lisa Fletcher – Personal Assistant to the Chief Executive Officer	
Signatures - Author:		
Senior Officer:	Joanne Abbiss - Chief Executive Officer	
Date of Report	17 June 2009	
Previously		
Disclosure of Interest		
<b>Delegation</b>	<b>Council</b>	

### OCM033.1/06/09 COMMON SEAL REGISTER REPORT – MAY 2009

The Common Seal Register Report for the month of April 2009 as per Council Policy G905 - Use of Shire of Serpentine Jarrahdale Common Seal is with the **attachments marked OCM033.1/06/09**.

### OCM033.2/06/09 POLICY FORUM – 2 JUNE 2009

The following items were discussed at the 2 June 2009 Policy Forum:

<b>Topic / Subject</b>
<b>Presentations</b>
Future of Local Government Conference
Communications and Marketing Strategy
Regional Resilience Through Partnerships
Community group insurance vs community funding program
Tree preservation
Environmental Management Plan
<b>Issues / Clearing House &amp; Report on Progress</b>
Ward Update
<ul style="list-style-type: none"> <li>Report on progress of Council and Committee resolutions</li> <li>Report on Councillor correspondence</li> </ul>
Review of Standing Orders Local Law 2002
<b>Statutory Planning</b>
Presentation on works in the Shire
Briefing on major developments, subdivisions, local structure plans and detailed area plans
BSP review

<b>Topic / Subject</b>
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Draft Local Planning Policy – Serpentine Planning Framework
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OCM033.3/06/09 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) SOUTH EAST METROPOLITAN ZONE MINUTES – 27 MAY 2009 (A1164)

*In the attachments marked OCM033.3/06/09 (IN09/6610) is the minutes of the South East Metropolitan Zone Meeting held on 27 May 2009.*

OCM033.4/06/09 WALGA PEEL ZONE MINUTES – 28 MAY 2009 (A1164)

*In the attachments marked OCM033.4/06/09 (IN09/6491) is the minutes of the Peel Zone Meeting held on 28 May 2009.*

OCM033.5/06/09 WALGA STATE COUNCIL MINUTES – 3 JUNE 2009 (A1164)

*In the electronic attachments is the State Council minutes marked OCM033.5/06/09 (IN09/6902) and composite resolution marked OCM033.5a/06/09 (IN09/7251).*

**OCM033/06/09 COUNCIL DECISION/Officer Recommended Resolution:**

Moved Cr Price, seconded Cr Brown  
The Information Report to 19 June 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 8.49am.

I certify that these minutes were confirmed at the  
Ordinary Council Meeting held on 27 July 2009.

.....  
Presiding Member

.....  
Date



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

SD114/06/09 DEVELOPMENT SERVICES INFORMATION REPORT – BUILDING, HEALTH, RANGERS AND PLANNING SERVICES		
Proponent:	N/A	In Brief  Information report
Owner:	N/A	
Officer:	Jason Robertson - Manager Building Services, Tony Turner – Manager Health and Rangers and Simon Wilkes – Executive Manager Planning	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	28 May 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>	

**SD114/06/09 Committee Decision/Officer Recommended Resolution**

**That Council accept the Development Services Information Report.  
CARRIED 7/0**

SD117/06/09 PROPOSED PATIOS & FENCING (RETROSPECTIVE) – LOT 503 BRUNS DRIVE, DARLING DOWNS (P05938/04)		
Proponent:	L and C Murray	In Brief  An application was received for colourbond swimming pool fencing and patios (Retrospective). It is recommended the patios and an alternative fencing be approved.
Owner:	As Above	
Author:	Casey Rose – Planning Assistant	
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	17 April 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>	

**SD117/06/09 Committee Decision/Officer Recommended Resolution:**

**That the application for Approval to Commence Development for two patios and swimming pool fencing on Lot 503 (4) Bruns Drive, Darling Downs be determined subject to the following conditions:**

1. **The retrospective application for planning approval for the two patios be approved without conditions; and the retrospective application for planning approval for the colourbond fencing be excluded from this approval.**
2. **The applicant being invited to lodge a new planning application that is compliant with the relevant provisions of Local Planning Policy 8.**
3. **Council authorise the Director Development Services to determine the development application for a fence to facilitate an effective and efficient outcome.**

**CARRIED 7/0**

<b>SD118/06/09 RETROSPECTIVE APPLICATION FOR MASONRY WALL AND POOL ENCLOSURE - LOT 556 (135) BRUNS DRIVE, DARLING DOWNS (P05903/09)</b>		
<b>Proponent:</b>	S G Marshall	<b>In Brief</b>  The applicant seeks retrospective planning approval for a masonry wall swimming pool enclosure in a Landscape Protection Area. It is recommended that the application be conditionally approved.
<b>Owner:</b>	As Above	
<b>Officer:</b>	Helen Maruta – Planning Officer	
<b>Signatures Author:</b>		
<b>Senior Officer:</b>	Brad Gleeson – Director Development Services	
<b>Date of Report</b>	29 April 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>	

**SD118/06/09 Committee Decision/Officer Recommended Resolution:**

**That the Application for Approval to Commence Development for a masonry wall pool enclosure on Lot 556 (135) Bruns Drive, Darling Downs be approved subject to the following condition:**

1. **The masonry wall be screened along the northern and eastern edge of the wall by 30 September 2009 and thereafter maintained to the satisfaction of the Director Strategic Community Planning.**

**CARRIED 7/0**

SD119/06/09 PROPOSED OVERSIZE OUTBUILDING - LOT 320 (30) FIELDVIEW CHASE, OAKFORD (P04629/03)		
Proponent:	R A Pink	In Brief  Application for the construction of an oversize outbuilding. Approval subject to conditions is recommended.
Owner:	As Above	
Officer:	Casey Rose - Planning Assistant	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	28 May 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>	

**SD119/06/09 Committee Decision/Officer Recommended Resolution:**

That the Application for Approval to Commence Development for an oversized outbuilding on Lot 320 (30) Fieldview Chase, 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.
3. The outbuilding being screened on the eastern and southern sides to the satisfaction of the Director Strategic Community Planning and thereafter maintained at all times

**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 for the development.

**CARRIED 7/0**

<b>CGAM110/06/09 MONTHLY FINANCIAL REPORT – APRIL 2009 (A0924/07)</b>		
Proponent:	Not Applicable	In Brief  To receive the Monthly Financial Report as at 30 April 2009.
Owner:	Not Applicable	
Officer:	Belinda van der Linde – Acting Manager Finance Services	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	11 May 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 1995	
<b>Delegation</b>	<b>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM110/06/09 Committee Decision / Officer Recommended Resolution:**

**Council receives the Monthly Financial Report, as at 30 April 2009, in accordance with Section 6.4 of the Local Government Act 1995.  
CARRIED 7/0**

<b>CGAM111/06/09 CONFIRMATION OF PAYMENT OF CREDITORS (A0917)</b>		
Proponent:	Not Applicable	In Brief  To confirm the creditor payments made during the period of 1 May 2009 to 21 May 2009.
Owner:	Not Applicable	
Author:	Joanne Egitto – Finance Officer	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	22 May 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>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM111/06/09 Committee Decision / Officer Recommended Resolution:**

**That Council notes the payments authorised under delegated authority and detailed in the list of invoices for period of 1 May 2009 to 21 May 2009, presented 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**

CGAM112/06/09		SUNDRY DEBTOR OUTSTANDING ACCOUNTS (A0917)
Proponent:	Not Applicable	In Brief  To receive the sundry debtor balances as at 25 May 2009.
Owner:	Not Applicable	
Author:	Melissa Armitage - Finance Officer (Debtors)	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	25 May 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>	

**CGAM112/06/09 Committee Decision / Officer Recommended Resolution:**

**That Council receive and note the report on Sundry Debtor Outstanding Accounts as at 25 May 2009.  
CARRIED 7/0**

CGAM113/06/09		RATE DEBTORS REPORT (A0917)
Proponent:	Not Applicable	In Brief  To receive the rates report as at 25 May 2009.
Owner:	Not Applicable	
Author:	Kellie Bartley - Finance Officer	
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	25 May 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>	

**CGAM113/06/09 Committee Decision / Officer Recommended Resolution:**

**That Council receive and note the report on the Rate Debtors accounts as at 25 May 2009.  
CARRIED 7/0**

CGAM116/06/09		OFFICER ATTENDANCE AT INTERSTATE CONFERENCE (H0017)
Proponent(s):	Dave Gossage – Manager Emergency Services	In Brief  Council approve the attendance of the Manager Emergency Services at the Australasian Fire Authorities Councils (AFAC) / Cooperative Research Centres (CRC) Annual Conference 2009 in the Gold Coast in September.
Owner:	Not Applicable	
Officer:	Richard Gorbunow – Director Engineering	
Senior Officer:	Joanne Abbiss – Chief Executive Officer	
Date of Report	8 January 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>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM116/06/09 Committee Decision / Officer Recommended Resolution:**

**Council approves the attendance of the Manager Emergency Services to attend the AFAC/CRC Annual Conference 2009 to be held at the Gold Coast from 22 to 24 September 2009.  
CARRIED 7/0**

CGAM117/06/09		INFORMATION REPORT
Proponent:	Not Applicable	In Brief  To receive the information report to 25 May 2009.
Owner:	Not Applicable	
Author:	Various	
Senior Officer:	Alan Hart - Director Corporate Services	
Date of Report	25 May 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>Committee in accordance with resolution CGAM064/02/08</b>	

**CGAM117/06/09 Committee Decision / Officer Recommended Resolution:**

**That the Information Report to 25 May 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.