

TABLE OF CONTENTS

1.	ATTENDANCES & APOLOGIES (including Leave of Absence):	2
2.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:	2
3.	PUBLIC QUESTION TIME:	9
4.	PUBLIC STATEMENT TIME:	9
5.	PETITIONS & DEPUTATIONS:	9
6.	PRESIDENT’S REPORT:	11
7.	DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:	11
8.	RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:	11
9.	MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:	12
OCM041/09/12	FORWARD CAPITAL WORKS PLAN (A0119)	12
OCM042/09/12	NEW COUNCIL POLICY - PC104 - FACILITY HIRE (A1048)	17
OCM043/09/12	AMENDMENT NO. 171 TO TOWN PLANNING SCHEME NO. 2 – CONSIDERATION OF SUBMISSIONS (A1902)	18
OCM044/09/12	PROPOSED SHOPPING CENTRE, OFFICE AND RESTAURANT – LOT 2 (20) ABERNETHY ROAD, BYFORD (P01330/01)	37
OCM045/09/12	PROPOSED SHOPPING CENTRE – LOT 15 ABERNETHY ROAD, BYFORD (P00104/01)	65
OCM046/09/12	COUNCIL MEETINGS AND SERVICES OVER THE CHRISTMAS AND NEW YEAR PERIOD (A0023-02)	83
OCM047/09/12	MONTHLY FINANCIAL REPORT - AUGUST 2012 (A2092)	86
OCM048/09/12	CONFIRMATION OF PAYMENT OF CREDITORS (A0917)	88
10.	INFORMATION REPORTS:	90
OCM049/09/12	ACTING CHIEF EXECUTIVE OFFICER INFORMATION REPORT	90
OCM050/09/12	DEVELOPMENT SERVICES INFORMATION REPORT	90
OCM051/09/12	ENGINEERING SERVICES INFORMATION REPORT	91
OCM052/09/12	CORPORATE SERVICES INFORMATION REPORT	91
11.	URGENT BUSINESS:	94
OCM053/09/12	REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR SAM PIIPPONEN (SJ1001)	94
12.	COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:	94
13.	CLOSURE:	94

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON MONDAY, 24 SEPTEMBER 2012. THE SHIRE PRESIDENT DECLARED THE MEETING OPEN AT 7.01PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

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

IN ATTENDANCE:

COUNCILLORS: B Moore Presiding Member
M Harris
D Atwell
S Piipponen
C Randall
B Urban
G Wilson

OFFICERS: Mr R Gorbunow Acting Chief Executive Officer
Mr B Gleeson Director Development Services
Ms K Hayward Acting Director Corporate Services
Mr Uwe Striepe Acting Director Engineering
Mrs S van Aswegen Director Strategic Community Planning
Mrs D Bridson Agendas and Minutes Officer

APOLOGIES: Mr A Hart Director Corporate Services
Cr J Kirkpatrick (Leave of Absence)
Cr M Ricketts

Members of the Public - 24

Members of the Press - 1

2. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:

Linda Starcevich, 76 Baigup Loop, Cardup

Over the past month my household has been inundated with smoke from a neighbour's burn off every day and night, we have been unable to open windows, hang out washing or partake comfortably in any outdoor activities without coughing, runny eyes and sore throat. My animals have also been suffering from similar symptoms, but sadly cannot move indoors to escape this. This only stopped after the arrival of last week's rain.

After over 20 days straight of smoke inundation and in frustration a week ago, I rang my local Fire Control Officer and was told by his wife that you can burn 24 hours per day, 7 days per week in this Shire and that it's just bad luck about the washing. I asked her about the nuisance and health issues and the response was "oh well" followed by silence. I was told that there is no policy or local law relating to burn offs and smoke and that the Shire only has general hints. She then told me that this is what everyone in this Shire wants, which is clearly not the case as I would not be here tonight.

After this rather surprising discussion I looked at the Serpentine Jarrahdale Shire Health Local Laws 1999, and under part five – Nuisance and General, I found the following:

"Escape of Smoke etc.

52.(1) Subject to Sub-Section (2), an owner or occupier of premises shall not cause or permit the escape of smoke, dust, fumes, offensive or foul odours, liquid waste

- or liquid refuse from the premises in such quantity or of such a nature as to cause or to be a nuisance.*
- (2) *Sub-Section (1) does not apply to smoke from the chimney of a private dwelling house.”*

In this case it seems that local health laws are ignored.

I then referred to the neighbouring City of Armadale regulations and found on their website, and I quote, “Burning of any type is not permitted, including incinerators, on Sundays and Public Holidays”. They also have a local health law, which states:

*“The City of Armadale Health Local Law prohibits:
The escape of smoke to such quantity or nature as to be a nuisance to any person.
The burning of any plastic, rubber, green garden waste, wet materials or any other matter likely to cause a smoke nuisance. Burning at any time during a period where a “Haze Alert: has been issued for the Perth metropolitan area by the Western Australian Bureau of Meteorology”.*

The City of Armadale also have hints for burning, one of which states “make sure smoke and sparks will not affect your neighbour’s washing or living conditions”. Having previously been a resident of the City of Armadale, please let me assure you that their rangers do respond to and order to put out burn offs on a Sunday, as well as smoke inundation reports.

Q1. *Based on all the above, my question to Council tonight is, why does the Serpentine Jarrahdale Shire not have one day per week when burning is prohibited, when residents can be assured that they can hang out their washing, participate in outdoor activities and open windows in a comfortable smoke free environment?*

Photographs were provided by Ms Starcevich.

A1. Outside of the Restricted & Prohibited burning periods, the Shire’s Emergency Services Department, have no authority to stop or control any burning unless it threatens to directly endanger life or property or travel to another property.

Council’s annual firebreak notice provides all the information on burning off during the restricted and prohibited burning periods and includes days where no burning is to take place. Note: if a permit is issued then four days notice to neighbours likely to be affected is required, garden refuse is only supposed to be lit after 6pm and extinguished before midnight.

Sandra Hawkins, 27 Burgess Drive, Byford - President of the Byford Scarp Resident Association

There is a strip of road on Vicars Pass and a section of road on Quiberon Link, both places on the Byford Scarp Estate which urgently require repair.

I have telephoned the Shire offices on numerous occasions and written to the Shire President regarding this issue. This has been going on for over 18 months for the Vicars Pass section and for over three years on Quiberon Link. The residents are furious that this small repair can take so long to carry out, also one section has had several unprofessional repairs done which have resulted in leaving a dangerous situation for one household in particular. The stones have been showered onto the lawn and driveway of the property by vehicular traffic turning the corner probably at excessive speed. Unfortunately the morons of this world have no respect for anyone else but it is our duty to see that a safe environment prevails.

Q1. *I ask Council when these repairs are going to be done?*

By the way there is also a small pothole entering the Scarp on Clondyke that constantly re-appears and needs attention.

There are other larger issues which our association will address with the Shire's Engineers and Park Rangers in the near future.

- A1. The civil engineering infrastructure for Byford on the Scarp was installed by the developer, Aspen, for takeover by the Shire. Aspen's consulting engineers, Wood and Grieve, have admitted that substandard materials were used in the construction of some of the roadways, particularly stage 3b, which encompasses Vicars Pass and Quiberon Link, as well as others that are currently exhibiting signs of failure. The developer's contractor, Marsh Civils, started with the rehabilitation process, initially replacing asphalt on the upper portion of Quiberon link, and then went into receivership. Wood and Grieve Engineers have indicated that resolution on the matter is being delayed due to the mediation process required to resolve the receivership issue with Marsh Civils. Serpentine Jarrahdale Shire's Engineering Services have stated their displeasure with regard to this request and legal advice has indicated that there is no easy resolution to this situation.

The investigation by Wood and Grieve Engineers into the failures at Byford on the Scarp revealed that complete reconstruction of certain sections of road is required. There is, therefore, no quick fix and proper reconstruction will be expensive. In the meantime, Serpentine Jarrahdale Shire Operations are doing remedial works to keep the infrastructure usable until proper reconstruction takes place. Operations are recording expenditure on the remedial works with a view to eventually claiming these back from the developer.

The small pothole at the entrance to Clondyke has once again been repaired and if it appears again may require more extensive repair by way of reconstruction of a larger section of roadway.

The issue with the stones on Vickers Pass is a result of a repair to a stormwater drainage pipe road crossing that has subsided. Subsequently the stones have been cleaned up and a final layer of asphalt placed over the re-compacted trench.

Serpentine Jarrahdale Shire Operations will need to continue to do patch repairs at Byford on the Scarp as and when these occur until the developer, Aspen, meets its obligations with regard to complete reconstruction of effected roads.

Brendan Adam, 48 Plaistowe Boulevard, Byford

I speak in regards to a letter sent out by the Serpentine Jarrahdale Shire regarding the park/playing fields surrounded by Plaistowe Boulevard, Portwine Ave, Spearmint Drive and Caraway Ave. It was proposed that club rooms be built on this family park area which is questionable for the kinds of activities put forward by the Shire. There was a meeting on the park grounds on 9 June 2012 between 10.30am and 13.30pm, which had such low numbers that many believe it didn't give a true reflection of the actual desires of people in the area for the park facilities direction.

I have door knocked and chatted to a few neighbours of mine and find that the playing fields proposal is an unwelcomed change, and they have questions that need clarification due to unwanted outcomes to rate payers that are inherent with playing grounds and club room infrastructure that the Shire will not be able to correct.

These include but are not limited to:

- Parking: The oval seriously lacks this necessary facility and the unwanted outcome will be people parking on verges blocking driveways and causing congestion of roads as well as inevitable damage to front gardens.

- Clubrooms and Toilets: These attract crime, a location for people to loiter and vandalise which can put residents at risk when people come to confront the vandals as well as devaluing property in the entire area.
- Devaluation of Property: People fear that unless the facilities proposed are not maintained scrupulously and are a professional facility (grounds are not big enough for this) then we will face long lasting devaluation of our property and slow growth on property values.
- Churning up of the Field Itself: The nature of some of the sports proposed causes unsightly damage to the grass fields as the area is subject to mild flooding.
- Late Night Training: The clubs will no doubt later request to have this field equipped with unsightly flood lighting used for night time training which can be as late as 9.00pm.
- Damage to Housing from These Sports: As the field itself is quite small for these activities it is likely that there could be damage from a cricket ball hitting a house or other damage.
- Privacy: The influx of people into the area can cause additional unwanted intrusion of your privacy or opportunistic theft of items that would be otherwise safe in a quiet neighbourhood.
- Decreased Park Access: People are unhappy with the proposed sports taking their freedom of use of the park away due to weekend sports clashing with leisure time.
- Night Shift Workers: People that do night shift are concerned that the sports will disturb the peace they need to manage fatigue for their work.

People are also annoyed at the Shire's stance on this proposal of "what they say goes" and "this is going ahead". Also, unanswered emails and phone calls on this issue have been another sour note on these proposed works. The under signed (refer to petition) have made suggestions that better reflect the culture of people and families in the area. Some suggestions include barbeque areas, better play equipment or a water feature. They will oppose any kind of clubroom structure.

The questions I ask on behalf and for the undersigned (refer to petition) are:

Q1. Why are these works going ahead when the 95% of people in the area are against it?

A1. The findings of the community consultation process that included the local community were that the project was welcomed by the majority and that it should go ahead. The various concerns that were raised were taken into consideration and certain recommendations were made in order to deal with these. This will be addressed in question four.

The Local Structure Plan (LSP) for Byford Central which was developed in 2003/4 included a District Open Space (DOS). The purpose of this DOS was always to make provision for sporting activities due to the shortage of these facilities throughout Byford. To be able to operate effectively as an area for active sporting activities it would require a small club facility. This was also outlined in the landscape plans which accompanied the LSP.

Q2. Why were the undersigned (refer to petition) not asked or consulted on what they wanted first before something was chosen for them? So as to avoid the situation of protest.

A2. A more detailed study revealed that the playing field and associated club facility was required by a variety of sporting clubs such as Junior Soccer, AusKick and cricket. Without it they would not be able to use the playing field effectively.

The intention with the club facilities is not only to accommodate the sporting groups but also to make it available for the wider local community for any small to medium size community event. The recent consultation process was an opportunity for the local residents to have input prior to providing the facilities.

Q3. *Why were our emails and phone calls not returned when we voiced concerns to the Shire when we opposed the works or had questions we needed answering.*

A3. Our records indicate that all emails and phone calls have been replied to.

Q4. *What will the Shire do to fully prevent the above mentioned issues and protect the rate payer's happy current lifestyle?*

A4. Parking: The Shire's project team is fully aware of the shortage in parking space around the oval. In order to prevent visitors from parking on verges or in front of driveways, additional on road parking will be provided alongside Caraway Avenue and Plaistowe Boulevard. These parking bays will be considered during the budget deliberations in the 2013/14 financial year. Subject to budget approval, a permanent onsite parking area in the corner of the oval on Caraway Avenue and Plaistowe Boulevard will be scheduled to commence works in the 2014/15 financial year.

Clubroom and toilets: The Shire is aware of the problems related to vandalism in the Byford area. Various other community strategies and facilities are planned for the Byford area which should contribute to solving these problems over the years to come. In terms of the building design itself, the project team has aimed to provide a design with as little as possible hiding spaces. Security lighting in strategic locations around the building will also be provided.

Devaluation of property values: The Shire will aim to maintain the building and field to the highest possible standards. The new playground will be located between the car park and the club building and this, coupled with the junior sport opportunities the oval will offer, should make the subdivision attractive to families with younger children.

Churning up of field: The Shire will aim to maintain the field to the highest possible standard.

Late night training: Representatives from the various junior sporting groups have indicated that these groups do not play or practice after dark and therefore the field may not be equipped with flood lights. If there is a need for lighting at a future date the Shire will consider the implications on local residents.

Damage to surrounding houses as a result of sport activities: Only junior sport will be allowed on the oval and this should reduce the risk significantly.

Privacy: When using the playing field or club facility people's attention will be focused on these facilities, not into residents' homes and with increased usage and passive surveillance from those using the facilities it is anticipated that the area should be less attractive to crime during the times of use.

Decreased park access: Frequency and extent of use will not prevent residents from having access to the park.

Night Shift Workers: Noise levels generated by such activities are controlled in accordance with the Environmental Protection (Noise) Regulations 1997 under regulation 16 'Community Activities' and Schedule two of the Regulations.

Keith Whibley, 22 Cranbourne Way, Byford

I would like to bring to the attention of the Council the Coffey Report on the Glades Village Lake Management Plan passed at the Ordinary Council Meeting on 28 November 2011.

I have two questions on this report:

Q1. I would like to know if any Councillors read this report prior to voting on the plan at the meeting on 28 November 2011?

A1. All elected members receive the agenda prior to the meeting enabling them to consider the reports and make informed decisions.

Q2. There are many inconsistencies in the report and it appears to just skim the surface rather than be a detailed analysis. It makes suppositions based on a “best case scenario”, why was no scenario requested based on a less than ideal scenario or even a “worst case scenario”?

A2. In addition to the Council report, there were attachments that detailed the asset management costs and the different methods of funding the asset management costs. The purpose of the report was to implement a method of funding the additional maintenance cost over and above what the Shire normally provides for public open space and the replacement of the infrastructure.

Sylvia Whibley, 22 Cranbourne Way, Byford

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

A1. The Shire has been in discussion with the property developer regarding this issue since the Local Structure Plan was approved by Council and the approach taken by the Shire is that the Developer will communicate this with the residents at the time of sale of the land. The Shire does acknowledge that communication could have been better and direct communication with residents should have occurred.

Q2. Why is the maintenance based on an assumption?

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

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

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

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

A2. The Shire received estimated maintenance costs from the developer on maintaining the infrastructure, these costs together with the estimated asset replacement costs have been used to determine the annual cost to maintain the infrastructure.

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

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

A3. The view of the Council is that ratepayers that will receive a direct benefit from the infrastructure need to make a contribution towards its renewal cost.

Marian Best, 805 Bournbrook Avenue, Cardup

I do not want a lean-to to go on the RDA property which is at the back of our property. It already looks like an industrial area, so no more. Their property has taken a lot of money off the value of our property.

They already have various sheds and other buildings; I will not live at the back of an industrial area.

Q1. How much more is Council going to let happen at the RDA property?

A1. Any further development that may occur on this reserve will require Council approval. It is considered at this time that the reserve would have limited potential for further expansion.

Q2. Where is the fire break?

A2. There is no requirement for firebreaks between 31 May and 30 November each year. The 2011/2012 firebreak inspection revealed no non-compliance with council's firebreak notice on this property as they were compliant with the Variation to Firebreak Order, as is done every year the property will be inspected for compliance with the firebreak notice.

Q3. Where are the council people that are supposed to monitor this property?

A3. Council officers will monitor the activities on this Reserve.

Q4. Are you going to pay for my paddocks to be de-weeded again this year?

A4. Council officers will monitor weeds on this Reserve to ensure that they are managed. Council is not required by legislation to pay for the removal of weeds on private land; this is the responsibility of landowners.

Michael Dagostino, 434 Kargotich Road, Oakford

Q1. Why has the Draft Rural Land Strategy, as tabled, varied so markedly from the objective?

I thought this was a progressive and forward thinking Council. I am very disappointed with this report.

A1. The Draft Rural Land Strategy has taken a number of aspects into consideration and has integrated a number of conflicting realities. The objectives of the Rural Land Strategy form the framework for the Strategy and the strategy leads on from these. The Rural Land Strategy has increased potential urban land, subdivisible smallholdings and equine subdivisions without compromising valuable conservation land.

Tony Mustica, 900 Hopkinson Road, Cardup – Proposed Industrial Area

Mundijong, Kargotich and Bishop Roads and Tonkin Highway, this industrial area requires a 2km buffer zone.

The area to the north east is not 2km from the town lots of small subdivisions and SJ Grammar School. If a buffer zone is required it should be on the whole four sides or if a wall is sufficient for the east side it should be either a buffer zone or a wall.

If a person subdivides land they have to supply the roads and public open spaces out of that land. In this case the public land is supplied by the neighbours. If for example, 100 hectares is required industrial and 100 hectares for a buffer zone, then an area of 200 hectares should be required.

Q1. *For example, if Alcoa required 100 hectares then shouldn't they purchase the whole 200 hectares as one piece just like any other land developer and then supply the buffer zone out of their land not the neighbours land free of charge?*

A1. It is logical to have a buffer between two different land uses particularly when the urban use borders a rural use. The West Mundijong site is potentially not large enough to incorporate its buffers within the particular area and hence the buffer requirements. The buffer is established to prevent new incompatible land uses being introduced to the area. The land does not currently have subdivision potential and the proposal does therefore not differ substantially from the current use rights in this sense.

3. PUBLIC QUESTION TIME:

Nil.

4. PUBLIC STATEMENT TIME:

Public statement time commenced at 7.02pm.

Wally Schmidt, Chestnut Road, Jarrahdale

Why wasn't there any public consultation about the increase in the special area rate for people residing in the Chestnuts Estate?

The Shire President advised that this matter is still being addressed so that it doesn't happen again. The Shire President recently met with Mr Bishop and Mr Clarkson for discussions and Council is in the process of addressing the issue. The Shire President also advised that this matter is currently subject to a legal opinion so he asked for patience and understanding. Council hopes to have a resolution by the end of October.

Public statement time concluded at 7.05pm.

5. PETITIONS & DEPUTATIONS:

Petitions and deputations commenced at 7.05pm.

5.1 Cr Urban presented a petition on behalf of Mr Bill Bishop regarding the removal of the special area rate from the annual rates for the Chestnuts Estate. The petition contained 92 signatures of residents located within the area. The petition does not comply with the Shire's Standing Orders Local Law 2002 Part (3) s3.6.

COUNCIL DECISION

Moved Cr Wilson, seconded Cr Harris

That Council receive the petition and note that it does not conform with the Shire's Standing Orders Local Laws 2002 Part (3) s3.6.

CARRIED 7/0

5.2 Mr Kim Doepel presented a deputation regarding the proposed Shopping Centre at Lot 15 Abernethy Road, Byford - OCM045/09/12.

Thank you for the opportunity to address you again on this very important night for the future of Byford.

You are all well acquainted with the owners, Paul & Nino Gangemi, and their endeavours since 1999 to invest in Byford and create a family orientated shopping centre, which the Council adopted as Town Centre in 2005, and 2007 and reaffirmed in 2009.

I am shocked by such a negative report (much of which is interpretation). I do not agree with the outcome of the report on legal, planning and architectural grounds.

The Coles application has similar non-compliance and does not comply with the Local Structure Plan either, yet that proposal has received a recommendation for approval. All we ask for is a fair go in the Australian way, nothing more and nothing less.

I would like to remind you of these vital facts contained in our planning report:

1. That our retail study prepared by Syme Marmion, experts in strategic retail modelling, have confirmed that Byford can build up to 20,000m² of retail space now and therefore both proposals can be approved.
2. The Byford Town Centre Local Structure Plan (BTCLSP) has not been adopted by Council and the Shire has not accepted or agreed to the modifications required by the Western Australian Planning Commission (WAPC).
3. The Coles proposal does not comply with the draft BTCLSP confirmed in the Officer's report. We do not accept that the BTCLSP is approved as the requirements of the WAPC will dramatically affect the design of the Coles proposal.
4. A Water Management Plan was submitted to Council. The Civil Engineer spoke to Council officer Craig Wansbrough, and it is confirmed in an email that he did not need any further information at this stage and the plan was sufficient. This was confirmed on 25 June 2012.
5. The Council has the right and the power to approve any application with or without conditions or refuse any application. The Lot 15 application is capable of approval and I seek your support to express your support to the JDAP by approving this application.

You have the right, as the approving body representing the Shire and all your ratepayers, to adopt one of two recommendations which have been presented to you in the officer's report.

You can support and approve this application. I ask you to put an alternative recommendation for approval and vote to approve Option 1 as per the report. I am happy to have the same conditions put on my application as for the Coles application.

You can approve both or refuse both, but do not approve one and not the other one. This is not fair or reasonable.

5.3 Mr Ernest Samec presented a deputation regarding the proposed Shopping Centre at Lot 15 Abernethy Road, Byford - OCM045/10/12.

I provided some advice to council in July. I am here tonight to explain the opinion that I provided to Council. If there is a view to Council that this item shouldn't be approved then that would be wrong. In this case there is Byford Town Centre Local Structure Plan but there is also another Local Structure Plan that has not been finalised. The scheme is very simple; it provides the Council with three criteria to consider. All three criteria are separated by the word or, all three do not have to be satisfied. These criteria enable Council to exercise a discretion; the discretion rests with Council. The Council does have the discretion to approve this development or recommend approval to the DAP.

Petitions and deputations concluded at 7.14pm.

6. PRESIDENT'S REPORT:

Nil.

7. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

The Director Development Services declared a financial interest in item OCM045/09/12 as he owns shares in Woolworths.

Cr Piipponen declared a financial interest in item OCM044/09/12 as his parents are fencing contractors and work for Coles.

Cr Harris declared an interest of impartiality because she lives in the town site of Byford with reference to items OCM044/09/12 and OCM045/09/12 and it won't affect the way she votes.

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

8.1 Ordinary Council Meeting – 10 September 2012

Moved Cr Harris, seconded Cr Wilson

The attached minutes of the Ordinary Council Meeting held on 10 September 2012 be confirmed ([E12/6493](#)) with an amendment to the Presidents Report which stated that all of Lightbody Road would be sealed when it should have stated that 2kms will be sealed.

CARRIED 7/0

9. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:

OCM041/09/12	FORWARD CAPITAL WORKS PLAN (A0119)
Author:	Casey Mihovilovich - Executive Manager Finance Services
Senior Officers:	Alan Hart - Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

The Forward Capital Works Plan is designed to provide Council, the community, and Shire officers with a list of infrastructure items that will be constructed in each respective financial year. The Forward Capital Works Plan will be included in the Fully Costed Plan for the Future, which is anticipated to be presented to Council in February 2013. The Forward Capital Works Plan is also a requirement by the Department of Regional Development and Lands when assessing eligible Royalties for Regions Country Local Government Fund (CLGF) projects. Under the Royalties for Regions CLGF guidelines the Forward Capital Works Plan must address the following:

1. Infrastructure items only, not plant and equipment;
2. Infrastructure should be owned by the Council;
3. Expenditure for five years; and
4. Plan must be approved by Council.

The following documents were used as references when the plan was prepared;

1. Community Facilities and Services Plan (CFSP);
2. Engineering Services Priority Roads Report; and
3. Asset Management Plan.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

OCM178/06/12 whereby Council adopted the draft Forward Capital Works Plan 2012/2013 to 2021/2022 to be advertised and provide a 21 day comment period. A report was to be presented back to Council with any modifications required.

CGAM026/12/10 whereby Council adopted the Forward Capital Works Plan for the financial years 2010/2011 to 2014/2015.

COMMUNITY / STAKEHOLDER CONSULTATION

Community consultation was undertaken whereby Shire officers advertised a 21 day comment period. Shire officers advertised the draft Forward Capital Works Plan on 3 July 2012 in the SJ Newsboard in the Examiner Newspaper, on the Shire's website and issued a media release and on 4 July 2012 all community groups on the Shires database were emailed requesting comments to be received by 24 July 2012.

There was one request, from Councillor Urban, to include the Jarrahdale Heritage Park (JHP) Amphitheatre. It has been included in the final Forward Capital Works Plan as presented. The JHP Amphitheatre is fully funded from a grant and no municipal funds have been identified to contribute to the project in the Forward Capital Works Plan. The JHP Amphitheatre has been included in the 2013/2014 financial year.

REPORT

The following components are included in the Forward Capital Works Plan:

1. Opening statement, which includes an overview of the Shire;
2. Financial Tables which includes:
 - a) Grouping of infrastructure into asset categories;
 - b) Details on whether it's a creation or renewal of asset;
 - c) Whole of life costing, annual expenditure and revenue sources; and
 - d) Municipal funding gap on all projects.
3. Project information which includes:
 - a) Background of infrastructure item;
 - b) Risk assessment addressing scenarios where one or more funding sources for a project is cancelled, postponed, or reduced; and
 - c) Alignment with the Plan for The Future (Councils strategic plan).

The following tables are a summary of the Forward Capital Works Plan for each financial year;

Year 1 - 2012/2013 Financial Year

Infrastructure	Grants and Contributions						Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Individual (CLGF)	Regional (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	280,000			249,664	-	826,568	1,270,000	8,440	2,634,672
Roads	175,573		721,000		170,000		764,728	-	4,177,760
Parks, Ovals & Gardens	200,000			220,000	4,242,348	530,000	-	2,000	5,194,348
Footpaths	88,345	555,000		139,839		51,494	-	-	834,678
Other Infrastructure	10,000	149,000		318,000	-	-	44,420	30,000	521,420
Total	753,918	704,000	721,000	927,503	4,412,348	1,408,062	2,079,148	40,440	13,362,878

Year 2 - 2013/2014 Financial Year

Infrastructure	Grants and Contributions						Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Individual (CLGF)	Regional (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	-			-	1,713,230	-	-	678,053	2,391,283
Roads	-		1,793,001		-		-	688,000	2,481,001
Parks, Ovals & Gardens	515,000			-	-	-	-	-	515,000
Paths & Cycleways	-	95,000		51,500			-	51,500	198,000
Other Infrastructure	-	63,858		1,480,000	605,138	10,000	-	270,404	2,429,400
Total	515,000	158,858	1,793,001	1,531,500	2,318,368	10,000	-	1,687,957	8,014,684

Year 3 - 2014/2015 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	387,668			547,258			224,819	1,159,745
Roads		1,194,334		500,000			708,687	2,403,021
Parks, Ovals & Gardens								
Paths & Cycleways			53,000				53,000	106,000
Other Infrastructure	133,890			1,158,119			420,839	1,712,848
Total	521,558	1,194,334	53,000	2,205,377			1,407,345	5,381,614

Year 4 - 2015/2016 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	320,850			1,707,599			569,200	2,597,649
Roads		1,873,001		500,000			1,118,040	3,491,041
Parks, Ovals & Gardens								
Paths & Cycleways			54,500				54,500	109,000
Other Infrastructure	218,000		109,000				22,966	349,966
Total	538,850	1,873,001	163,500	2,207,599			1,764,706	6,547,656

Year 5 - 2016/2017 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	75,600		50,000				22,400	148,000
Roads		1,644,201		500,000			998,600	3,142,801
Parks, Ovals & Gardens	400,000			1,732,920				2,132,920
Paths & Cycleways			56,000				56,000	112,000
Other Infrastructure				1,260,000			446,410	1,706,410
Total	475,600	1,644,201	106,000	3,492,920			1,523,410	7,242,131

Year 6 - 2017/2018 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings				2,008,060			1,577,761	3,585,821
Roads		2,359,668					1,071,413	3,431,081
Parks, Ovals & Gardens								
Paths & Cycleways			57,500				57,500	115,000
Other Infrastructure	493,750		-	1,268,034			783,693	2,545,477
Total	493,750	2,359,668	57,500	3,276,094			3,490,367	9,677,379

Year 7 - 2018/2019 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings				2,800,636			2,207,486	5,008,122
Roads		1,717,001					775,100	2,492,101
Parks, Ovals & Gardens	300,000			1,049,403				1,349,403
Paths & Cycleways			59,000				59,000	118,000
Other Infrastructure	250,000			280,010			128,737	658,747
Total	550,000	1,717,001	59,000	4,130,049			3,170,323	9,626,373

Year 8 - 2019/2020 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	550,000		-	3,313,085	-	-	1,104,361	4,967,446
Roads	-	2,185,001		-		-	1,034,120	3,219,121
Parks, Ovals & Gardens	-		-	-	-	-	-	-
Paths & Cycleways	-		60,500			-	60,500	121,000
Other Infrastructure	-		-	-	-	-	36,300	36,300
Total	550,000	2,185,001	60,500	3,313,085	-	-	2,235,281	8,343,867

Year 9 - 2020/2021 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	550,000		1,959,200	1,701,881			1,573,592	5,784,673
Roads		2,073,668					1,003,473	3,077,141
Parks, Ovals & Gardens								
Paths & Cycleways			62,000				62,000	124,000
Other Infrastructure							37,200	37,200
Total	550,000	2,073,668	2,021,200	1,701,881			2,676,265	9,023,014

Year 10 - 2021/2022 Financial Year

Infrastructure	Grants and Contributions					Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Royalties for Regions (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	552,863		1,735,667	1,708,089			1,450,116	5,446,735
Roads		2,104,201					1,043,760	3,147,961
Parks, Ovals & Gardens				1,452,324				1,452,324
Paths & Cycleways			63,500				63,500	127,000
Other Infrastructure							38,100	38,100
Total	552,863	2,104,201	1,799,167	3,160,413			2,595,476	10,212,120

Summary – 2012/2013 to 2021/2022

Infrastructure	Grants and Contributions						Proceeds Loan Amount	Municipal Funded	Initial Capital Cost
	Individual (CLGF)	Regional (CLGF)	Road Funding	Other Govt	DCA Funding	Other			
Buildings	2,716,981	-	-	3,994,531	15,499,838	826,568	1,270,000	9,416,228	33,724,146
Roads	175,573	-	19,681,535	-	1,670,000	-	764,728	8,441,193	31,063,029
Parks, Ovals & Gardens	1,415,000	-	-	220,000	8,476,995	530,000	-	2,000	10,643,995
Paths & Cycleways	88,345	650,000	-	657,339	-	51,494	-	517,500	1,964,678
Other Infrastructure	1,105,640	212,858	-	1,907,000	4,571,301	10,000	44,420	2,184,649	10,035,868
Total	5,501,539	862,858	19,681,535	6,778,870	30,548,134	1,418,062	2,079,148	20,561,570	87,431,716

The Forward Capital Works Plan will be incorporated into the Fully Costed Plan for the Future, which is anticipated to be presented to Council in February 2013.

The projects outlined in the plan may be subject to change due to a change in Council priorities, cost escalations, and/or community needs. A review of the Forward Capital Works Plan will take place once every two years in line with the Fully Costed Plan for the Future review.

ATTACHMENTS

- [OCM041.1/09/12](#) - Forward Capital Works Plan (E12/5767)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

The Forward Capital Works Plan emphasizes all the vision categories in the Council's Plan for the Future. In particular the infrastructure items identified in the Forward Capital Works Plan aim to:

1. Plan and facilitate the provision of a range of facilities and services that meet community needs;
2. Strive to create a unique employment environment;
3. Plan for the creation and preservation of iconic buildings and places that add to our sense of identity;
4. Ensure asset management plans extend to whole of life costings of assets and reflect the level of service determined by Council; and
5. Develop and adequately fund a functional road network and bridges based on the level of service set by Council.

STATUTORY ENVIRONMENT

There are no statutory requirements for the adoption of the Forward Capital Works Plan; however, there are statutory requirements for the forward financial plan, referred to as the Fully Costed Plan for the Future, which includes community consultation.

FINANCIAL IMPLICATIONS

There are financial implications to Council related to this plan. Part two of the report outlines the projects that municipal funds will be used to either fully fund or part fund these projects. All the projects will be incorporated into the forward financial plan, and are subject to change at budget deliberations each financial year.

**VOTING REQUIREMENTS**

ABSOLUTE MAJORITY

OCM041/09/12 COUNCIL DECISION/Officer Recommendation

**Moved Cr Harris, seconded Cr Urban
That Council adopts the Forward Capital Works Plan 2012/2013 to 2021/2022.
CARRIED BY ABSOLUTE MAJORITY 7/0**

OCM042/09/12	NEW COUNCIL POLICY - PC104 - FACILITY HIRE (A1048)
Author:	Lisa Fletcher - Organisational Improvement Officer
Senior Officers:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	22 August 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

Council is requested to adopt a new Policy PC104 – Facility Hire which aims to determine a fair and equitable method for determining fees and charges for the hire of community facilities.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

There is no previous Council decision relating to this issue.

COMMUNITY / STAKEHOLDER CONSULTATION

No community consultation was undertaken / required.

REPORT

The Shire currently owns and operates various facilities for casual and seasonal hire as a service provided to the community. This service aims to foster the development of the community and meet their needs for a well resourced space to conduct activities.

Fees and charges are established for the hire of community facilities as part of Council's annual budget process and are designed to assist the Shire with the cost of operating and maintaining community facilities.

This policy aims to clarify in which circumstances fees and bonds will or will not be reduced or waived and also outlines criteria relating to the fees that may apply when facility bookings are cancelled.

Conclusion

It is requested that Council adopt the new Policy PC104 - Facility Hire.

ATTACHMENTS

- [OCM042.1/09/12](#) - Proposed Policy PC104 - Facility Hire (E12/5395)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

Council's Plan for the Future has placed an emphasis on being healthy, happy and safe and enabling the provision of a range of facilities and services for families and children.

STATUTORY ENVIRONMENT

- *Local Government Act* Sections 6.16 and 6.17

FINANCIAL IMPLICATIONS

This new policy relates to fees and charges for the hire of community facilities which are established in Council's annual budget.

VOTING REQUIREMENTS ABSOLUTE MAJORITY

OCM042/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Harris, seconded Cr Urban

That Council adopts the new Policy PC104 - Facility Hire as per attachment OCM042.1/09/12.

CARRIED BY ABSOLUTE MAJORITY 7/0

COUNCIL NOTE: Clarification is required with regards to the wording of the refund of the bond and facility hire fee within Policy PC104.

COUNCIL DECISION

Moved Cr Moore, seconded Cr Wilson

That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.22pm.

CARRIED 7/0

COUNCIL DECISION

Moved Cr Piipponen, seconded Cr Wilson

That standing orders 9.5, 9.6, 10.7 and 10.13 be reinstated at 7.30pm.

CARRIED 7/0

OCM043/09/12	AMENDMENT NO. 171 TO TOWN PLANNING SCHEME NO. 2 – CONSIDERATION OF SUBMISSIONS (A1902)
Author:	Peter Varelis - Senior Strategic Planner Chris Donnelly - Senior Consultant
Senior Officers:	Deon van der Linde - Executive Manager Strategic Planning Suzette van Aswegen - Director Strategic Community Planning
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

Proponent: Shire of Serpentine Jarrahdale
 Owner: NA
 Date of Receipt: NA
 Lot Area: NA
 Town Planning Scheme No. 2 Zoning: NA
 Metropolitan Region Scheme Zoning: NA

EXECUTIVE SUMMARY

The Byford District Structure Plan (DSP) and various Local Structure Plans (LSPs) prepared for Byford include zones which are not found within Town Planning Scheme No. 2 (TPS 2). This has created an issue whereby there is uncertainty about the permissibility of particular land uses within these structure plan zones.

As an interim measure, Council adopted Local Planning Policy No. 19 – Byford Structure Plan Area Development Requirements (LPP 19), which included a zoning table indicating the permissibility of land uses within the structure plan zones.

The use of a Local Planning Policy (LPP) to control land use was acceptable as an interim measure, but did not represent orderly and proper planning in the long term. To this extent, Council initiated Amendment No. 148 at its meeting of 22 August 2005, which sought to introduce the LPP 19 zoning table and various other development control provisions into TPS 2. The progression of Amendment No. 148 was put on hold pending a comprehensive review of the Byford DSP.

At its meeting of 28 September 2010, Council resolved to discontinue Amendment No. 148 and initiate a new Amendment No. 171, the subject of this report, which seeks to insert several new zones into TPS 2, and an associated set of land use permissibilities.

Amendment No. 171 was advertised for comment, with several submissions received. Shire staff have considered these submissions and recommend that Council adopt a modified version of Amendment No. 171, and forward it to the Western Australian Planning Commission (WAPC) and Minister for Planning for approval.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

SD030/09/10 – Council resolved to initiate Amendment No. 171.

COMMUNITY / STAKEHOLDER CONSULTATION

Amendment No. 171 was advertised by way of advertisement in local newspapers, publication on the Shire website, and information sessions held at the Serpentine Jarrahdale Recreation Centre in 2010.

Various submissions were received; officers have sought to resolve most of these issues by way of modifications.

REPORT

Amendment No. 171 Background

The Byford DSP and precinct level LSPs have been prepared to guide and facilitate the subdivision and development of Byford. The DSP and LSPs entail a number of structure plan zones which are intended to guide land use and development. In an ideal sense, all of these zones should correspond with zones in TPS 2, however, the DSP and several LSPs contain structure plan zones which are not consistent with TPS 2, including:

- Rural Residential;
- Neighbourhood Centre;
- Town Centre;
- Highway Commercial;
- Mixed Business; and
- Mixed Use.

This creates an issue whereby there is uncertainty about the permissibility of particular land uses within the structure plan zones.

Council adopted LPP 19 as an interim approach to addressing the issue. The LPP includes a zoning table identifying the permissibility of certain land uses within each structure plan zone. The use of an LPP to control land use is acceptable as an interim measure, but does

not represent orderly and proper planning in the long term. Land use permissibility at the local planning level is most commonly dealt with in the district wide planning scheme, which in the context of the Shire is TPS 2.

Accordingly, Council at its meeting of 22 August 2005 initiated Amendment No. 148 to TPS 2. Amendment No. 148 sought to introduce the LPP 19 zoning table and various other development control provisions into TPS 2, essentially creating an additional zoning table and set of development controls specifically aimed at the Byford urban area.

Following advertising, Amendment No. 148 was adopted by Council on 27 March 2006, subject to various modifications. The Amendment was however, never referred to the WAPC/Minister for Planning for approval, primarily due to the Byford DSP being under a comprehensive review at that point in time. The review identified that Amendment No. 148 would:

- Introduce inconsistencies with TPS 2; and
- Be inconsistent with the model scheme text provisions, including zoning and structure planning provisions.

At its meeting of 28 September 2010, Council considered this matter and resolved to not proceed with Amendment No. 148. At the same meeting, Council initiated proposed Amendment No. 171 to TPS 2. Amendment No. 171 was prepared to achieve the same fundamental aim of Amendment No. 148, but in a more orderly and proper manner. In summary, Amendment No. 171 proposes to:

- Introduce six new zones into the TPS 2; and
- Identify the permissibility of all TPS 2 land uses against the new zones.

The Amendment is proposed to formalise the interim approach to land use control of LPP 19 in a manner consistent with the WAPC's Model Scheme Text, which is a template for the preparation of town planning schemes throughout Western Australia.

Amendment No. 171 has been advertised for public and agency comment. Shire staff have considered the submissions received and recommend a number of modifications to the Amendment, as discussed in the following sections.

Key Issues for Discussion – Amendment No. 171

Zone Objectives/Statements of Purpose and Intent

The Shire's TPS 2 entails a purpose and intent for each zone, essentially setting out the envisaged development outcome for each zone. Amendment No. 171, as advertised, proposed to insert several new zones into TPS 2 and identify the land use permissibility within each of these zones, but did not identify the purpose and intent of each new zone.

Several submissions were received during the consultation period requesting that the Scheme Amendment be modified to include objectives for each proposed zone. In this regard, it should be noted that the Shire's TPS 2 does not entail zone objectives as such, but rather statements of purpose and intent, which essentially serve the same purpose.

Statements of purpose and intent for zones are vitally important, especially to guide discretionary decision making in terms of land uses. For example, where a land use is "AA" (discretionary) or "SA" (discretionary and requiring advertising), the Shire will be required to make a decision to refuse or approve the land use primarily based on whether the land use, as proposed, would accord with the objectives of the zone.

Shire staff therefore recommend a modification to Amendment No. 171 to insert a purpose and intent for each new zone proposed to be inserted into TPS 2. The following purposes and intents are recommended, and justification is provided for each.

Rural Residential

The following purpose and intent is proposed for the Rural Residential zone:

'The purpose and intent of the Rural Residential zone is to provide for lot sizes ranging from 2,000m² to 1ha, primarily facilitating rural living rather than productive agriculture. The zone will facilitate vegetation retention and act as a buffer or transition between rural or reserve areas and urban development as and where appropriate.'

The proposed purpose and intent for the Rural Residential zone is based upon the description of the Rural Residential zone contained within the Byford DSP. It is acknowledged that the WAPC's State Planning Policies and Local Planning Manual define the Rural Residential zone in a different manner. This is due to the Byford DSP being finalised prior to the relevant State Policy and Planning Manual. It is also acknowledged that the Shire is currently in the process of reviewing its Rural Lands Strategy, and is preparing a new Strategy. This review has sought to utilise terminology and definitions which are consistent with State Policy. However, given that the purpose of Amendment No. 171 is to address specific issues in relation to the Byford DSP and its implementation, the purpose and intent proposed is deemed appropriate. A future review of TPS 2 would likely see a more comprehensive review of zones and their objectives in light of State Policy and Shire Strategy.

Neighbourhood Centre

The following purpose and intent is proposed for the Neighbourhood Centre zone:

'The purpose and intent of the Neighbourhood Centre zone is to provide for daily and weekly household shopping needs, community facilities and a small range of other convenience services for the surrounding neighbourhood. Typical land uses will include smaller format supermarkets, personal services, convenience shops, local professional services and medium density housing.'

State Planning Policy No. 4.2 – Activity Centres for Perth and Peel (SPP 4.2), and the Shire's draft Activity Centres Strategy, which is generally consistent with SPP 4.2, has formed the basis for the proposed purpose and intent for the Neighbourhood Centre zone.

Town Centre

The following purpose and intent is proposed for the Town Centre zone:

'The purpose and intent of the Town Centre zone is to have a greater focus on the servicing the daily and weekly needs of residents of a broader district, as well as providing services, facilities and employment opportunities for the district. Typical land uses will include discount department stores, supermarkets, other convenience shops, small scale comparison shopping, personal services, speciality shops, district level office development, local professional services, community services and facilities, and medium to high density housing.'

SPP 4.2, the Shire's draft Activity Centres Strategy and the WAPC's Local Planning Manual has formed the basis for the proposed purpose and intent for the Town Centre zone.

Highway Commercial

The following purpose and intent is proposed for the Highway Commercial zone:

'The purpose and intent of the Highway Commercial zone is to provide for a range of commercial development, including particularly bulk retailing and open air display, showrooms, bulky goods, offices, medical centres and consulting rooms which may not be suitable for an activity centre but be suitable for a highway frontage location.'

This purpose and intent is based on the description of the Highway Commercial zone contained in the Byford DSP, a similar zone within the City of Gosnells TPS 6 which applies to a significant portion of Albany Highway, and SPP 4.2.

Mixed Business

The following purpose and intent is proposed for the Mixed Business zone:

'The purpose and intent for the Mixed Business zone is to provide for a range of light and service industrial, wholesaling, showrooms, trade and professional services which, by reason of their scale, character and operational land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within centre zones or industrial zones. This zone only applies in specialist locations where this type of development is either existing or strategically justifiable.'

The Byford DSP does not provide suitable guidance as to the land use and development intentions; therefore, this definition has been sourced from SPP 4.2 and the WAPC's Local Planning Manual.

Mixed Use

The following purpose and intent is proposed for the Mixed Use zone:

'The purpose and intent of the Mixed Use zone is to provide for a variety of commercial and residential land uses in a complimentary and co-located manner, often in a mixed-use format. Development in the zone may provide a transition between intense activity centre development and surrounding residential areas, or for the purposes of minor local commercial development sites in residential areas. Residential development should allow for future conversion into mixed use development.'

The Mixed Use zone is intended to apply in various contexts, such as for the development of neighbourhood nodes identified on the Byford DSP, and to provide for a land use transition between more intense commercial development and surrounding residential areas. The purpose and intent has been derived from the Byford DSP, the draft Byford Town Centre LSP and a description of neighbourhood nodes contained within the 28 September 2010 Ordinary Council Meeting agenda item for Amendment No. 171.

On the presumption that Council will agree and modify Amendment No. 171 to insert statements of purpose and intent for each zone, a submitter has requested that the Scheme Amendment be re-advertised so that the statements of intent and purpose can be reviewed and commented upon.

Shire staff have considered the submitter's request and do not believe that re-advertising of a modified Amendment would be necessary in this instance. The justification provided for each of the proposed zone purposes and intents clearly demonstrates consistency with what has been envisaged and already delivered through the Byford DSP. In addition, the purpose and intent of most of the zones is generally consistent with State Planning Policy, the WAPC's Local Planning Manual, the Shire's strategic planning and the same zones used in other local government town planning schemes in Western Australia. On this basis, it is assumed that there would be a reasonable expectation of what the purpose and intent for each zone would be.

Scheme Maps

A submission has been received identifying that whilst Amendment No. 171 proposes a series of modifications to the TPS 2 text, it does not propose any modifications to the TPS 2 maps.

Amendment No. 171 is limited in its purpose to insert a new series of zones into TPS 2. It is not proposed to rezone any land through the Amendment. However, in inserting new zones into TPS 2, it will be necessary to update the TPS 2 map legend to identify each of the new zones.

Shire staff therefore propose a modification to Amendment No. 171 which will see an update to the TPS 2 map legend, identifying appropriate colours/patterns for each of the new zones. These new colours/patterns will be used for any future rezoning proposals. The colours/patterns are proposed to be consistent with the Department of Planning's mapping standards wherever possible.

Development Control

A submission was received during the advertising process identifying that Amendment No. 171 did not propose any development controls, ie setbacks, car parking, landscaping, open space, height etc, for each of the newly proposed zones. The submission states that with the introduction of six new zones into TPS 2, it would normally be anticipated that additional development controls for each specific zone would also be included. It is argued that development controls are vitally important for effective implementation and to outline the intended development outcome.

There are several options to address this issue, as identified below:

No Additional Development Controls

Some town planning schemes in Western Australia do not include any development controls relevant to a specific zone. In these instances, development applications are assessed on their merits having regard to the objectives of this zone.

New Development Controls

A series of new development controls applicable to the new zones could be inserted into the Scheme, addressing matters such as setbacks, car parking, landscaping, open space, car parking and similar matters.

Modify LPP 19

LPP 19 could be modified to include revised and additional development controls for the new zones proposed by Amendment No. 171.

Use Planning Frameworks

Planning frameworks such as LPPs, ie design guidelines, activity centre structure plans or detailed area plans can be prepared for specific areas to guide and facilitate development.

Analysis

Each approach identified above has its pros and cons. Including no additional development controls within TPS 2 for each zone and relying on a merit based assessment does provide developers and the Shire with a significant amount of flexibility, but there will also be a lack of certainty in terms of preparing, assessing and determining applications. Including a set of controls within TPS 2 for each zone is possible; however, it is somewhat difficult to set

generic controls for differing contexts. This is especially apparent in the Shire whereby each settlement and development area is site specific. Generic controls do not generally respond well to diversity. Preparing a set of generic controls for each zone would also be a timely exercise and would likely warrant re-advertising of Amendment No. 171.

The Shire has previously used LPP 19 as a method of development control on an interim basis. The Policy sets out some basic development control provisions for the proposed zones. These provisions could be retained and or modified to provide a more complete development control mechanism, however, the role and purpose of LPP 19 as an interim mechanism for Byford needs to be acknowledged. Prolonging use of LPP 19 is not considered to represent orderly and proper planning.

The majority of zones within Amendment No. 171, excluding Rural Residential, are commercial zones. The subdivision and development of most new commercial zoned sites in the Shire is controlled by a planning framework such as a LPP ie design guidelines, an activity centre structure plan or a detailed area plan. These frameworks usually cover development controls such as height, setbacks, open space and car parking. The Shire's TPS 2 sets out the ability to require these frameworks prior to development. In many instances, developers prepare these frameworks to ensure a certain development outcome is achieved on their sites. An example of such is the Glades Village Centre Policy. Furthermore, the Shire recently prepared a draft Activity Centres Strategy which states that the Shire will require an activity centre structure plan or detailed area plan for all commercial development. This requirement is supported by the WAPC's SPP 4.2, which sets policy direction requiring such planning frameworks for various scales of commercial development.

Planning frameworks prepared for specific commercial zoned sites are beneficial in terms of providing a site specific and site responsive mechanism for development control, as opposed to applying generic TPS 2 zone based development controls. Planning frameworks provide an appropriate balance between flexibility and certainty in terms of development design and control. More generally within Western Australia, there is a move away from the broad application of Scheme controls to the use of site specific planning frameworks, and this is supported by State Policy.

Shire staff recommend that Council take the approach of requiring planning frameworks to guide the development of land zoned for commercial purposes. Several modifications to Amendment No. 171 are proposed to make this clear by identifying that development within the proposed commercial zones is to be in accordance with a planning framework.

In terms of the Rural Residential zone, Shire staff propose a modification to Amendment No. 171 identifying that subdivision and development is to be in accordance with a LSP. Whilst this would normally be a standard practice of the Shire, inserting this requirement into the Scheme would provide additional guidance, certainty and clarity on the matter.

Changes in Land Use Permissibility

Several submissions have been received which propose a change in the permissibility of certain land uses within certain zones. The following changes are supported by Shire staff:

- Home business and home occupation land uses to be AA (discretionary) within the Town Centre zone. The Shire should be able to consider applications for home businesses and home occupations in a Town Centre zone. Such minor commercial uses operated on an ancillary basis to a residential land use are considered appropriate in a Town Centre zone;
- Private recreation to be AA within the Highway Commercial zone. Land uses such as indoor sporting complexes and dance studios should be able to be considered within this zone;

- Recreation public to be a P use in the Rural Residential, Neighbourhood Centre and Town Centre zones. This land use permissibility was identified in the report to Council of 28 September 2010 initiating Amendment No. 171, but was not mistakenly excluded from the Amendment;
- Multiple dwellings to be an AA use in the proposed Neighbourhood Centre and Town Centre zones. Residential development at increased densities should be encouraged within centres to assist in economic viability, vitality and after hours activation/surveillance. This approach would be consistent with State Policy;
- Marine collector's yard to be a not permitted land use within the Mixed Use zone. This land use is unlikely to be compatible with the purpose and intent of the Mixed Use zone which is catering for a mix of compatible and co-located residential and commercial land uses; and
- Public amusement to be an AA use within the Mixed Use zone, ensuring consistency with the Neighbourhood Centre and Town Centre zones.

Shopping Centre

A submission has been received arguing that a shopping centre land use should not be permitted within the Mixed Use zone. It is stated that a shopping centre approved in a Mixed Use zone would be in direct conflict with the Town Centre and Neighbourhood Centre zones specifically designed to encourage and facilitate shopping centre development.

Shire staff note that a Mixed Use zoning has been used in several structure plans throughout Byford, including Redgum Brook, the Glades and the Byford Town Centre. The zoning has mainly applied to neighbourhood node sites indicated on the Byford DSP as well as areas surrounding local/neighbourhood centres and town centres, providing a transition between commercial development and surrounding residential development.

SPP 4.2 places a strong emphasis on consolidating retail development district and neighbourhood/local centres, and this is reflected in the Shire's draft Activity Centres Strategy. Whilst small scale retail development could be considered within mixed use zones ie convenience stores or corner stores catering for the immediate catchment, significant retail development such as shopping centres with a broader catchment are not considered appropriate.

To this extent, Shire staff propose a modification to Amendment No. 171 to make "shopping centre" a not permitted land use with the proposed Mixed Use zone.

Service Stations

With regard to the permissibility of a service station in Amendment No. 171, the following submission has been received:

'Service station is identified as a use not permitted in the Neighbourhood Centre zone, but allowable in Town Centre, Highway Commercial, Mixed Business and Mixed Use zones. From a planning point of view, it is difficult to argue why a service station should be allowed in the Town Centre zone but not in the Neighbourhood Centre zone. Given the main distinction between the two is based on the size of the centre, it is strongly suggested that a service station use ought to be allowed in the Neighbourhood Centre zone, even if it was classified as an "SA" (discretionary requiring advertising) use. This will at least allow public consultation prior to approval.'

Shire staff disagree with the submitter's comment that the main difference between a Neighbourhood Centre and a Town Centre is its size. Different centres also perform different functions. This is identified and set out in SPP 4.2, and is also reflected in the Shire's draft Activity Centres Strategy. Whilst size is one consideration, it is not the only differing element between centres. The submitter's comments in relation to the permissibility

of service stations in the proposed Neighbourhood Centre zone are however noted. The permissibility of service stations needs to be considered on multiple fronts.

Neighbourhood Centres are generally located within neighbourhoods away from surrounding arterial roads. This is reflected in the Byford DSP. Service stations have a significant reliance on passing trade in addition to local trade, and henceforth, their provision on major arterial roads is common. However, it is noted that there are some instances in which neighbourhood centres are, or are proposed to be established abutting major arterial road networks. An example of such is the neighbourhood centre proposed to abut Thomas Road at the intersection with Malarkey Road in Byford. In this instance, a service station may be considered an appropriate land use.

Service stations can also play a small scale convenience function, through their ancillary shops. Besides catering for service station users, these shops are also frequented by immediately surrounding populations for convenience shopping. This would accord with the function of a neighbourhood centre.

Neighbourhood centres, by virtue of their role and function, are often located in close proximity with their surrounding residential catchment, and can entail residential land use. A service station in proximity to residential development may present land use conflict issues by virtue of noise, odour and activity, especially in terms of extended hours of operation.

As detailed above, there are various matters which can be considered in terms of the appropriateness of a service station within a neighbourhood centre. The locational context of the neighbourhood centre would appear to be a key determining factor, and henceforth, a complete restriction on the ability to consider service stations within neighbourhood centres is not considered appropriate or reasonable. Shire staff believe that the appropriateness of a service station within a neighbourhood centre should be determined on its merits. On this basis, Shire staff propose a modification to Amendment No. 171 to make service station a SA, discretionary and advertising required, land use within the Neighbourhood Centre zone.

It should be noted that most contemporary commercial development within the Shire is preceded by a planning framework, such as a LSP, activity centre structure plan, detailed area plan or LPP. SPP 4.2, the Shire's draft Activity Centres Strategy and TPS 2 set the framework for the Shire to require such frameworks. It is through the preparation of these frameworks that the Shire will be able to consider service stations within Neighbourhood Centre zones on their merits, as well as through the normal development application process.

Should Council wish to provide additional guidance to applicants and the community in relation to service stations, it could prepare a LPP addressing the matter.

Fast Food, Restaurants and Lunch Bars

A submission has been received in relation to the proposed permissibility of fast food outlets, restaurant and lunch bars, as detailed below:

'Fast food/takeaway, lunch bar and restaurant uses are not permitted in the Mixed Business zone. This omission is considered serious as this proposed zone is probably intending to target business type uses together with some compatible service commercial and light industrial uses. As these types of developers will help providing local employment opportunities that support industry such as fast food, lunch bar and restaurant should be encouraged to meet the needs of the local employment node.'

Shire staff note that fast food outlets can provide a convenience food source to local employees as well as passing users of a mixed business area. These outlets also commonly operate with extended trading hours, offering an element of afterhours activation to what are often low density commercial areas. Fast food/takeaway uses can also attract additional

vehicle movements and fast car parking turnover times, especially where drive-throughs are provided. These developments are often readily catered for in mixed business areas due to the existence of extensive open car parking areas, providing ample land for parking and access, as well as large building and site development footprints required for many fast food/takeaway outlets.

Shire staff therefore propose a modification to Amendment No. 171 to make fast food/takeaway uses AA (discretionary) land uses within the Mixed Business zone.

Restaurants are less likely to provide a quick and convenient food source, but rather provide sit down dining areas and specialised food types. Restaurants also present the opportunity for alfresco dining, which is a highly valued element of street activation in town centre areas, especially at after hours times. In the interests of focussing the level of activity brought about by a restaurant within town centre areas, it is not considered appropriate to allow for restaurant land uses within a Mixed Business zone.

Lunch bar is not a land use included within TPS 2.

Corner Store

A submission has been received stating that Corner Stores should be permissible in Neighbourhood Centre, Town Centre and Mixed Use zones.

Residential development in appropriate locations and forms is encouraged within commercial zones, especially where it is provided in a mixed use manner. The corner store land use in TPS 2 facilitates this by allowing for a shop to be attached to a house. Shire staff therefore agree with the submitter's comments that a corner store is a desirable land use within a Mixed Use, Neighbourhood Centre and Town Centre zone.

Shire staff propose a modification to Amendment No. 171 to make corner store a AA (discretionary) land use within the Neighbourhood Centre, Town Centre and Mixed Use zones.

Shire staff propose a further modification to Amendment No. 171 to make corner store an SA (discretionary following advertising) land use within the Rural Residential zone. This will ensure consistency with TPS 2, which currently has corner stores as SA uses within the Special Residential, Special Rural and Rural zones.

Residential in the Mixed Business Zone

Amendment No. 171, as advertised, does not permit residential development within the Mixed Business zone. A submission has been received stating that in the interests of promoting vibrancy and human scale activity at street level that residential, particularly medium density housing, should be encouraged within the Mixed Business zone.

The following TPS 2 purpose and intent is proposed for the Mixed Business zone, generally consistent with SPP 4.2 and the WAPC's Local Planning Manual:

'The purpose and intent for the Mixed Business zone is to provide for a range of light and service industrial, wholesaling, showrooms, trade and professional services which, by reason of their scale, character and operational land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within centre zones or industrial zones. This zone only applies in specialist locations where this type of development is either existing or strategically justifiable.'

Based on the normal nature of a Mixed Business zone, as reflected in numerous Western Australian local planning schemes, SPP 4.2 and the WAPC's Local Planning Manual, residential development is generally inappropriate. Mixed Business zones generally cater for

service industry, bulky goods, showrooms, trade and professional services, which can conflict with residential development.

Comprehensive Review Request

A submitter has requested a comprehensive review of all land use permissibilities contained in Amendment No. 171.

In preparing the previous Amendment No. 148, Shire staff undertook a comprehensive review of the land use permissibilities contained in LPP 19. Upon review of Amendment No. 148 and the subsequent preparation of Amendment No. 171, an additional review of the land use permissibilities was undertaken. The details of this review, the changes made and rationale for each change are contained in the Council meeting minutes of 28 September 2010. Given that two reviews have already been undertaken, an additional comprehensive review is not proposed.

In addition, as detailed above, Shire staff have recommended several modifications to the land use permissibilities of Amendment No. 171 based on submitter comments and identified errors.

Reference to Notes

On the “residential” land use row the Amendment No. 171, the annotation ‘*see notes 1 and 2*’ is identified. These notes formed part of the previous Amendment No. 148, and as discussed in the 28 September 2010 Council meeting agenda item, should have not been included in Amendment No. 171. A submitter has also identified this error.

Shire staff proposed a modification to Amendment No. 171, to remove reference to the annotation ‘*see notes 1 and 2*’ on the residential land use row of the zoning table. This modification is consistent with the intent of Council for Amendment No. 171.

Land Use Definitions

A submitter has identified that a number of the land uses presently included within TPS 2, and included within the proposed changes to Table 1, are not defined in Appendix 1 – Interpretations of TPS 2. These include Aged & Dependent Persons Dwelling, Cemetery and Craft Workshop. The submitter recommends that the Shire consider updating TPS 2 to include definitions for all uses within the Table 1 for greater clarity.

Whilst the Shire acknowledges that these land uses are not currently defined in TPS 2, Amendment No. 171 has been prepared to specifically address zoning, land use and development control operational matters in relation to the Byford DSP, various LSPs and LPP 19. Addressing additional matters as part of Amendment No. 171 is not considered appropriate, especially post-advertising. These matters would be more appropriately addressed through a separate Amendment or broader review of TPS 2.

Documentation Corrections

Several minor corrections are required to the as-advertised Scheme Amendment document to ensure that it is consistent with Council’s resolution of 28 September 2010:

- Remove the wording “Neighbourhood Node” from part one of the Amendment;
- Making the land use “Plant Nursery” an AA use (discretionary) in the Neighbourhood Centre, Town Centre, Highway Commercial, Mixed Business and Mixed Use zones; and
- Making the land use “Nursery” an AA use in the Neighbourhood Centre and Town Centre zone.

These modifications will be recommended to the WAPC as Council is unable to make modifications to a Scheme Amendment document once it is advertised.

Referral to the Western Australian Planning Commission

In accordance with the *Planning and Development Act (2005)* and *Town Planning Regulations (1967)*, when scheme amendments are initiated, they are referred to the Environmental Protection Authority (EPA) for review. Local governments are only required to refer scheme amendments to the WAPC for consent to advertise where the amendment is inconsistent with the Metropolitan Region Scheme (MRS) or a State Planning Policy (SPP). Given that determining consistency with SPP can be somewhat of a subjective matter, most scheme amendments are referred to the WAPC as a matter of process. A large majority of the time, the WAPC notes the local government's intent to amend its scheme, and is not required to give consent for advertising. However, in some instances where there is inconsistency with the MRS or SPP, the WAPC will review the Scheme Amendment in detail and may require modifications prior to granting consent to advertise.

Shire staff have made contact with and written to the WAPC, providing a copy of Amendment No. 171 as advertised, as well as providing an explanation of the purpose and intent of the Amendment and its current status. In this correspondence, Shire staff have identified that they consider Amendment No. 171 to be consistent with the MRS and SPP, and therefore, consent from the WAPC for advertising is not required.

In a letter dated 20 July 2012, the WAPC acknowledged the Shire's correspondence and noted Council's intent to advertise the Amendment.

Local Planning Policy No. 19

In parallel with the progression of Amendment No. 171, a review of LPP 19 will likely be required to remove redundant components including the land use table, and review other provisions such as development controls. Shire staff propose to present this review to Council upon finalisation of Amendment No. 171, at which point there will be certainty to the final scope and content of the Amendment.

Other Planning Frameworks

Amendment No. 171 has been prepared to insert a number of Byford DSP zones into TPS 2. This will provide additional clarity in terms of land use permissibility and development control where these zones apply. Whilst most LSPs prepared under the DSP have utilised these structure plan zones, there are some instances where alternative zonings have been used.

In parallel with the progression of Amendment No. 171, Shire staff will review the various LSPs for Byford and determine whether any LSP modifications are required to ensure their zones conform with the zones proposed by Amendment No. 171. In some instances, different zonings may be acceptable provided that the relevant LSP provides suitable guidance in terms of land use permissibility and development control.

In addition to a review of certain LSPs, it may be necessary to review other planning tools and frameworks to ensure consistency with Amendment No. 171 upon finalisation. In most instances, modifications to planning items such as LPPs and detailed area plans will be subject to consultation in accordance with TPS 2 and Shire requirements.

Rural Land Strategy and Town Planning Scheme No. 3 (TPS 3)

The Shire is currently progressing with the establishment a new Rural Land Strategy (the Strategy). Broadly the purpose of the Strategy is to enhance the Shire's rural character and its role as an important economic contributor to the Shire and the broader region. It will clearly indicate the areas capable of agricultural land uses and consider how other rural

uses, including intensive agriculture, will be considered. It will also provide guidance on how the Shire should process planning applications, including Scheme Amendments, in rural areas and address rural settlement patterns. It is hoped that the Strategy will help to enhance agricultural productivity, diversity and guide land use in a more environmentally and economically sustainable manner.

The Strategy will be Council's key strategic document that provides guidance to landowners on the future rezoning, development and use of rural land within the Shire. The Strategy outlines various new policy areas in the Shire and at the time of finalisation will require the scoping of TPS 3.

Although the Shire is currently busy progressing the background work required for the establishment of TPS 3, it is not considered appropriate to defer pending Scheme Amendments such as Amendment No.171 for the following reasons:

- Development will still occur in the interim and it is important that the Shire's officers are provided with a relevant statutory framework to assist with the assessment of Scheme Amendments and Development Applications; and
- The establishment of the land use framework in the Shire's existing TPS 2 to support the ongoing development of the Byford Structure Plan is important in the context of increased development pressures particularly within the boundaries of the Byford Town Centre.

Options

Council has the following options in making a decision on Amendment No. 171:

- Adopt the Amendment as advertised;
- Adopt a modified version of the Amendment, as per the staff recommendation or alternative modifications; or
- Refuse to adopt the Amendment.

Regardless of the decision made, Amendment No. 171 will be forwarded to the WAPC and Minister for Planning for a determination.

Conclusion

Amendment No. 171 will specifically improve the operation and implementation of the Byford DSP and various LSPs within the area. It will introduce a new set of zones into TPS 2, providing additional clarity in terms of envisaged development outcomes. These new zones will also be able to be used in other areas of the Shire, particularly where urban and commercial development is proposed.

Submitter comments on Amendment No, 171 have been considered in detail and Shire officers recommend that Council adopt a series of modifications to the Amendment which will see some changes in land use permissibility, an enhanced understanding of the purpose and intent of each proposed zoned and setting out that planning frameworks will guide detailed design and development.

In summary, the following modifications to Amendment No. 171 are recommended:

- The inclusion of a purpose and intent for each of the six proposed zones;
- The inclusion of additional Scheme clauses detailing the requirement for planning frameworks to guide and facilitate subdivision and development for each of the six zones;
- Shopping centre to be a use not permitted within the Mixed Use zone;

- Home business and home occupation to be AA (discretionary) uses within the Town Centre zone;
- Service station to be a SA (discretionary after advertising) use within the Neighbourhood Centre zone;
- Private recreation to be an AA use within the Highway Commercial zone;
- Fast food/takeaway to be an AA use within the Mixed Business zone;
- Recreation public to be a P use within the Rural Residential, Neighbourhood Centre and Town Centre zones;
- Multiple dwellings to be an AA use within the Neighbourhood Centre and Town Centre zones;
- Corner store to be an AA use within the Neighbourhood Centre, Town Centre and Mixed Use zones;
- Corner store to be an SA use within the Rural Residential zone;
- Marine collectors yard to be a use not permitted within the Mixed Use zone;
- Public amusement to be an AA use within the Mixed Use zone;
- Plant nursery to be an AA use within the Neighbourhood Centre, Town Centre, Highway Commercial, Mixed Business and Mixed Use zones;
- Nursery to be an AA use in the Neighbourhood Centre and Town Centre zones;
- Delete the wording 'Neighbourhood Node' from part 1 of the Amendment;
- Delete the wording '(see notes 1 and 2)' from the proposed additions to Table 1; and
- Inserting a Scheme Amendment Map to identify a colour for each of the proposed new zones.

ATTACHMENTS

- [OCM043.1/09/12](#) - Amendment No. 171 as advertised (E11/6691)
- [OCM043.2/09/12](#) - Schedule of submissions (E12/5871)
- [OCM043.3/09/12](#) - Proposed Amendment No. 171 Scheme Amendment Map (E12/5931)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

The Shire's local statutory planning framework provides one mechanism through which the Shire's Plan for the Future 2009-2014 can be implemented. The Plan for the Future contains numerous objectives that will form the framework for the broader Strategy review. An assessment against the Shire's Plan for the Future identifies that the Strategy broadly aligns with the following key actions:

- Ensure the built form complements and enhances the rural environment;
- Ensure land use planning accommodates a vibrant and diverse range of activities and employment opportunities;
- Develop comprehensive governance policies and strategies; and
- Our structure, processes, systems and policies are aligned with the Plan for the Future.

As part of responsibly planning for future urban land use it is vital that the Shire's local statutory planning framework is developed in a manner that accurately reflects the land use envisaged with the Shire's structure planned areas.

STATUTORY ENVIRONMENT

Amendment No. 171 to TPS 2 has been progressed in accordance with the requirements and processes set out within the *Planning and Development Act (2005)* and the *Town Planning Regulations (1967)*.

FINANCIAL IMPLICATIONS

Amendment No.171 and associated costs have been budgeted for through the Shire's annual budgeting process.

VOTING REQUIREMENTS Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Pursuant to Regulation 17(1) of the *Town Planning Regulations (1967)* (as amended), note the submissions received in respect of proposed Amendment No. 171 to the Serpentine Jarrahdale Shire Town Planning Scheme No. 2, and endorse the Shire officers responses to those submissions as contained in the schedule of submissions attachment OCM043.2/09/12.
2. Pursuant to Section 75 of the *Planning and Development Act (2005)* (as amended) and Regulation 17(2)(a) of the *Town Planning Regulations (1967)* (as amended), adopt proposed Amendment No. 171 to the Serpentine Jarrahdale Shire Town Planning Scheme No. 2, with modifications, as follows:

- a) Amending clause 3.1.1 of the Scheme to insert the following additional zones after "RURAL GROUNDWATER PROTECTION":

RURAL-RESIDENTIAL
NEIGHBOURHOOD CENTRE
TOWN CENTRE
HIGHWAY COMMERCIAL
MIXED BUSINESS
MIXED USE

- b) Inserting into Scheme Table 1 the following:

USE CLASSES	Rural-Residential	Neighbourhood centre	Town Centre	Highway Commercial	Mixed Business	Mixed Use
Aged & Dependent Persons Dwelling	AA					
Amusement Parlour		AA	AA			AA
Animal Husbandry						
Apiary						
Aquaculture						
Automotive & Marine Sales				AA	P	SA
Automotive Repairs				AA	AA	
Automotive Vehicle Wash				AA	AA	
Automotive Wrecking						
Caravan or Trailer Hire				AA	P	AA
Caretaker's Dwelling				AA	AA	
Car Park		AA	AA	AA	AA	P
Caravan Park						

USE CLASSES	Rural-Residential	Neighbourhood centre	Town Centre	Highway Commercial	Mixed Business	Mixed Use
Cattery						
Cemetery						
Child Minding Centre		P	P			AA
Civic Buildings		P	P	AA	AA	P
Club Premises			AA	AA		AA
Commercial Vehicle Parking		AA	AA	AA	AA	SA
Consulting Rooms		P	P			P
Convenience Store		AA	P	AA	AA	SA
Corner Store	SA	AA	AA			AA
Craft Workshop	AA				P	
Dog Kennels						
Dry Cleaning Premises		AA	AA	AA		AA
Educational Establishment		AA	AA			SA
Environmental Research Centre						
Equestrian Activity						
Farriery						
Fast Food/Takeaway		AA	P	AA	AA	P
Feedlot						
Floriculture						
Fodder and pasture						
Fuel Depot					SA	
Funeral Parlour		AA	AA	AA	P	AA
Health Studio		AA	P	AA	P	P
Hobby Farm						
Holiday Accommodation						
Home Business	AA	AA	AA			AA
Home Occupation	AA	AA	AA			AA
Hospital			AA			
Hotel			P	AA		SA
Hydroponics						
Industry: - Cottage - Extractive - General - Hazardous - Light - Noxious - Rural - Service	SA	SA	SA			SA
Marine Collectors Yard				AA	P	
Market		AA	AA	AA	AA	AA
Medical Centre		AA	P	P	AA	P
Motel			P	AA		SA
Nightclub			SA			SA

USE CLASSES	Rural-Residential	Neighbourhood centre	Town Centre	Highway Commercial	Mixed Business	Mixed Use
Nursery		AA	AA	AA	AA	AA
Office		P	P	P	IP	P
Orcharding						
Pig Farming						
Plant Nursery		AA	AA	AA	AA	AA
Poultry (Housed)						
Private Recreation		AA	P	AA	AA	
Private Tree Plantation						
Produce Store						
Public Amusement		AA	AA	AA		AA
Public Utility	AA	P	P	P	P	AA
Public Worship - Place of		SA	P	AA	AA	SA
Radio & TV Communication Installation		AA	AA	AA	AA	AA
Reception Centre		SA	AA	AA		P
Recreation Public	P	P	P			
Residential: - Single House - Grouped Dwelling - Multiple Dwelling - Ancillary Accommodation	P P P IP	AA AA AA	AA AA AA			AA AA AA
Residential Building	SA		AA			SA
Restaurant		P	P	AA		P
Rural Use						
Rural Workers Dwelling						
Service Station		SA	SA	SA	AA	SA
Shop		P	P		IP	P
Shopping Centre		AA	AA			
Showroom		AA	AA	P	P	AA
Stable						
Stall Wayside						
Tavern		SA	SA	AA		SA
Trade Display				AA	AA	
Transport Depot					AA	
Vehicle Hire				AA	P	
Veterinary Establishment		SA	AA	AA	AA	
Viticulture						
Warehouse			IP	AA	P	IP

c) Inserting the following new Clauses into the Scheme after Clause 5.20.3:

5.21 Rural Residential

5.21.1 The purpose and intent of the Rural Residential zone is to provide for lot sizes ranging from 2,000m² to 1ha, primarily facilitating rural living rather than productive agriculture. The zone will facilitate vegetation

retention and act as a buffer or transition between rural or reserve areas and urban development as and where appropriate.

- 5.21.2 Unless otherwise approved by the Shire, an approved local structure plan will be required to guide the subdivision and development of land zoned Rural Residential, prior to the Shire providing support for a subdivision application or approving development.

5.22 Neighbourhood Centre

- 5.22.1 The purpose and intent of the Neighbourhood Centre zone is to provide for daily and weekly household shopping needs, community facilities and a small range of other convenience services for the surrounding neighbourhood. Typical land uses will include smaller format supermarkets, personal services, convenience shops, local professional services and medium density housing.

- 5.22.2 Unless otherwise approved by the Shire, an approved detailed area plan or local planning policy will be required to guide the subdivision and development of land zoned Neighbourhood Centre, prior to the Shire providing support for a subdivision application or approving development.

5.23 Town Centre

- 5.23.1 The purpose and intent of the Town Centre zone is to have a greater focus on servicing the daily and weekly needs of residents of a broader district, as well as providing services, facilities and employment opportunities for the district. Typical land uses will include discount department stores, supermarkets, other convenience shops, small scale comparison shopping, personal services, speciality shops, district level office development, local professional services, community services and facilities, and medium to high density housing.

- 5.23.2 Unless otherwise approved by the Shire, an approved activity centre structure plan will be required to guide the subdivision and development of land zoned Town Centre, prior to the Shire providing support for a subdivision application or approving development.

5.24 Highway Commercial

- 5.24.1 The purpose and intent of the Highway Commercial zone is to provide for a range of commercial development, including particularly bulk retailing and open air display, showrooms, bulky goods, offices, medical centres and consulting rooms which may not be suitable for an activity centre but be suitable for a highway frontage location.

- 5.24.2 Unless otherwise approved by the Shire, an approved detailed area plan or local planning policy will be required to guide the subdivision and development of land zoned Highway Commercial, prior to the Shire providing support for a subdivision application or approving development.

5.25 Mixed Business

- 5.25.1 The purpose and intent for the Mixed Business zone is to provide for a range of light and service industrial, wholesaling, showrooms, trade and professional services which, by reason of their scale, character and operational land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within centre

zones or industrial zones. This zone only applies in specialist locations where this type of development is either existing or strategically justifiable.

5.25.2 Unless otherwise approved by the Shire, an approved detailed area plan or local planning policy will be required to guide the subdivision and development of land zoned Mixed Business, prior to the Shire providing support for a subdivision application or approving development.

5.26 Mixed Use

5.26.1 The purpose and intent of the Mixed Use zone is to provide for a variety of commercial and residential land uses in a complimentary and co-located manner, often in a mixed-use format. Development in the zone may provide a transition between intense activity centre development and surrounding residential areas, or for the purposes of minor local commercial development sites in residential areas. Residential development should allow for future conversion into mixed use development.

5.26.2 Unless otherwise approved by the Shire, an approved activity centre structure plan, detailed area plan or local planning policy will be required to guide the subdivision and development of land zoned Mixed Use, prior to the Shire providing support for a subdivision application or approving development.

3. Modifying the Scheme Map legend by inserting colours for the Rural Residential, Neighbourhood Centre, Town Centre, Highway Commercial, Mixed Business and Mixed Use zones, as indicated on the Scheme Amendment Map at attachment OCM043.3/09/12.
4. Authorise the Shire President and the Acting Chief Executive Officer to execute the relevant Amendment No. 171 documentation pursuant to Regulation 22(1) of the *Town Planning Regulations (1967)* (as amended).
5. Forward the schedule of submissions at attachment OCM043.2/09/12 to the Western Australian Planning Commission together with three copies of the signed and sealed Amendment No. 171 documents for endorsement pursuant to Regulation 22(2) of the *Town Planning Regulations (1967)* (as amended).
6. Request the Western Australian Planning Commission and Honourable Minister for Planning to grant final approval to Amendment No. 171 to the Serpentine Jarrahdale Shire Town Planning Scheme No. 2.
7. Inform all persons and parties who made a submission on Amendment No. 171 to the Serpentine Jarrahdale Shire Town Planning Scheme No. 2 of its decision.

OCM043/09/12 COUNCIL DECISION/NEW MOTION

Moved Cr Piipponen, seconded Cr Wilson

That the item OCM043/09/12 be deferred to allow time for a presentation on this item at the next Policy Forum.

CARRIED 5/2

Cr Piipponen left the room at 7.33pm as he has declared a financial interest in item OCM044/09/12 as his parents are fencing contractors that work for Coles.

COUNCIL DECISION

Moved Cr Moore, seconded Cr Urban
That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.33.pm.
CARRIED 4/2

COUNCIL DECISION

Moved Cr Moore, seconded Cr Wilson
That standing orders 9.5, 9.6, 10.7 and 10.13 be reinstated at 7.35.pm.
CARRIED 6/0

COUNCIL DECISION

Moved Cr Harris, seconded Cr Urban
That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.36.pm.
CARRIED 6/0

COUNCIL DECISION

Moved Cr Urban, seconded Cr Wilson
That standing orders 9.5, 9.6, 10.7 and 10.13 be reinstated at 7.52.pm.
CARRIED 6/0

OCM044/09/12	PROPOSED SHOPPING CENTRE, OFFICE AND RESTAURANT – LOT 2 (20) ABERNETHY ROAD, BYFORD (P01330/01)
Author:	Michael Daymond - Senior Planner
Senior Officer:	Brad Gleeson - Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

The following report has been prepared using the Responsible Authority report template as provided in Appendix F of the Development Assessment Panel Procedures Manual.

Form 1 - Responsible Authority Report (Regulation 12)

Application Details:	Proposed Shopping Centre, Office and Restaurant
Property Location:	Lot 2 (20) Abernethy Road, Byford
DAP Name:	Metro East JDAP
Applicant:	TPG Town Planning & Urban Design
Owner:	LWP Byford Syndicate Pty Ltd Coles Group Property Developments Ltd
LG Reference:	P2585
Responsible Authority:	Shire of Serpentine Jarrahdale
Authorising Officer:	Michael Daymond - Senior Planner Brad Gleeson - Director Development Services
Application No and File No:	LG:P2585 and P01330/01 DAP: DP12/00765
Report Date:	24 September 2012
Application Receipt Date:	5 July 2012
Application Process Days:	57
Attachment(s):	Location plan & aerial photograph Development Plans and Elevations (drawing No. DA

	101, DA 102, DA 201, DA 401, DA 402, DA 001) Schedule of public submissions Schedule of government agency submissions Byford Town Centre Local Structure Plan (adopted by Shire) and Concept Plan Byford Town Centre Local Structure Plan (approved by WAPC)
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Recommendation:

That the Metro East Joint Development Assessment Panel (JDAP) resolves to:

Approve Development Assessment Panel (DAP) Application and accompanying plans for a new Shopping Centre, Office and Restaurant in accordance with Byford Town Centre Stage 1 drawings prepared by Hames Sharley, being Drawing No. DA 102, titled 'Site Plan – Stage 1 & Detailed Plan – Town Square', Drawing No. DA 201, titled 'Plan – Stage 1', Drawing No. DA 401, titled 'North & South Elevations', Drawing No. DA 402, titled 'East & West Elevations & Site Sections and Drawing No. DA 001, titled 'Perspectives', all dated 3 July 2012 in accordance with Clause 6.4.3 of the Serpentine Jarrahdale Shire Town Planning Scheme No.2, subject to the following conditions:

PLANNING

1. An operational management plan being submitted and approved by the Shire prior to the commencement of site works and thereafter implemented, to the satisfaction of the Shire, that addresses such matters as:
 - a) Antisocial behaviour management;
 - b) Complaints handling;
 - c) Litter management; and
 - d) Trading hours.
2. The owner entering into a legally binding agreement with the Shire of Serpentine Jarrahdale to contribute towards the cost of providing the common service and community infrastructure of the Byford Structure Plan as established through amendment to the Shire of Serpentine Jarrahdale Town planning Scheme No. 2 (when gazetted).
3. The owner entering into a legally binding agreement with the Shire of Serpentine Jarrahdale to ensure that the Town Square remains publicly accessible at all times.
4. A monetary contribution being paid to Council for the establishment of public art in accordance with Council's Local Planning Policy No.59 - Public Art Policy for Major Developments to the satisfaction of the Director Development Services.

MOVEMENT NETWORK

5. An updated Transport Assessment to be prepared and approved by the Director Engineering, upon advice from the Department of Transport and Main Roads WA, prior to the commencement of site works. The updated Transport Assessment shall be prepared in accordance with the Western Australian Planning Commission's Transport Assessment Guidelines for Developments and account for development up to the year 2031. Once approved, the updated Transport Assessment is to be implemented in its entirety.
6. Street intersections, including the intersection of the accessway with Abernethy Road, being designed and constructed to the satisfaction of the Director Engineering prior to the occupation of the development for the uses hereby permitted.
7. The vehicle parking areas and accessways shall be designed, constructed, sealed, kerbed, drained, line marked and thereafter maintained in accordance with the approved

- plan and specification to the satisfaction of the Director Engineering prior to the occupation of the development for the uses hereby permitted.
8. The entry to the site, including the intersection of the accessway with Abernethy Road, shall be maintained to the satisfaction of the Director Engineering. Any damage caused to the intersection with Abernethy Road by the proponent or its contractors shall be immediately repaired to the satisfaction of the Director Engineering.
 9. A Traffic Management Plan being submitted and approved by the Director Engineering prior to the commencement of site works.
 10. Four hundred and twenty two (422) car parking bays to be provided in accordance with the plans attached to and forming part of this approval.
 11. Ten (10) disabled parking bays are to be provided along with the required statutory signage and markings to the satisfaction of the Shire.
 12. Any required "No parking signage" and vehicular guide signs to the parking facility to be installed at the applicant's cost to the specification and satisfaction of the Director Engineering and maintained at all times.
 13. Shared paths, bicycle parking facilities and end of trip facilities being provided in accordance with Local Planning Policy No.58 Bicycle Facilities in Urban Developments to the satisfaction of the Director Engineering.

SITE WORKS

14. The owner is to provide a geotechnical report certifying that the land is physically capable of development prior to the commencement of site works and that any filling or backfilling has been adequately compacted.
15. Works (including earthworks) are not to commence until Council has approved detailed engineering plans and specifications of the works, including earthworks, retaining walls, roads and paths, drainage, clearing, landscaping/rehabilitation and soil stabilisation measures, that apply both during and after construction.
16. Prior to commencement of any site works, a Dust Management Plan is to be developed in accordance with the Department of Environment and Conservation "Guidelines for the prevention of dust and smoke pollution from land development sites in Western Australia" and submitted to the Shire for approval. Shire approval of the Dust Management Plan must be obtained prior to the commencement of works and thereafter implemented at all times.

DRAINAGE

17. An Urban Water Management Plan being prepared and approved prior to the commencement of site works to the satisfaction of the Director Engineering. Once approved, the Urban Water Management Plan is to be implemented in its entirety.
18. The boundary of the Beenyup Brook and the Oakland Tributary South within the proposed lot to be surveyed and fenced to restrict vehicle and pedestrian access prior to the commencement of any works on the subject land.

AMENITY

19. Within 60 days of the date of this approval, a Noise Impact Assessment is to be undertaken by a suitably qualified acoustic consultant to indicate whether the development complies with the *Environmental Protection (Noise) Regulations 1997* (Regulations) and submitted to the Director Development Services for approval. The Noise Impact Assessment shall identify all noise sources and report on the potential noise levels to be received at nearby existing and future noise sensitive premises. The assessment shall include noise contours and proposed noise ameliorations such as acoustic barriers and/or noise walls and operational noise management solutions required to achieve practicable noise reduction targets in accordance with the relevant Australian Standards and Regulations. Any identified noise mitigation measures are to

be constructed prior to the occupation of the development for the uses hereby permitted to the satisfaction of the Director Development Services.

20. The external walls of the buildings are to be painted natural or earth tonings to complement the surroundings and/or adjoining developments in the locality in which it is located. A schedule of colours and finishes, including samples of materials to be used, is to be provided for approval to the satisfaction of the Director Development Services prior to the commencement of site works.
21. No goods or materials are to be stored either temporarily or permanently in the parking area, driveway, landscape areas, public footpath areas or road reserves.

LOADING BAY

22. All loading and unloading to take place within the boundaries of the premises.

EXTERNAL LIGHTING

23. A Lighting Plan is to be submitted and approved by the Director Development Services prior to the commencement of site works. The Lighting Plan shall demonstrate the provision of lighting to all accessways, car parking areas, the exterior entrances to all buildings and the extent to which light from all external light sources is cast.

BIN STORAGE AND PICK-UP

24. The development is to be provided with a suitable enclosure for the storage and cleaning of rubbish receptacles in accordance with the Shire of Serpentine-Jarrahdale Health Local Laws 1999. The location of the enclosure is to be to the satisfaction of the Director Development Services.
25. The applicant is to submit a Waste Storage and Removal Plan to the satisfaction of the Director Development Services prior to the commencement of site works. Once approved, the Waste Storage and Removal Plan is to be implemented in its entirety.

SIGNAGE

26. Prior to the commencement of site works, a Signage Strategy detailing location, size and height of signage for the whole development, including wall signs, window signs, under verandah signs and fascia signage, is to be submitted for the approval of the Shire. All signage is thereafter to comply with the approved Signage Strategy and is to be maintained in good condition at all times to the satisfaction of the Shire.

LANDSCAPING

27. A Landscape and Vegetation Management Plan for Stage 1 of the development, including all car parking areas, access roads, road verges and areas of open space, must be submitted and approved by the Director Strategic Community Planning prior to the commencement of site works.
28. Landscaping and timed reticulation is to be established in accordance with the approved Landscape and Vegetation Management Plan prior to occupation of the development and thereafter maintained to the satisfaction of the Shire.
29. Measures being taken to the satisfaction of the Director Strategic and Community Planning to ensure the identification and protection of any vegetation on the site, not affected by necessary development works, which is worthy of retention prior to commencement of site works.
30. Street furniture (fixed seating and bins) to be provided within the development to the satisfaction of the Shire.

ASSETS

31. An agreement to be entered into with the Shire, prior to the commencement of site works, to address the proposed cadastral boundaries of future road reserves that are to accommodate servicing requirements for the entire development and the handover of assets that are proposed in the future to revert to the Shire's control.

Advice notes

1. A planning consent is not an approval to commence any works. A building permit must be obtained for all works. Your application for a building permit must satisfy the conditions specified in this decision notice.
2. The Landscape and Vegetation Management Plan shall:
 - a) Be drawn to a scale of 1:200 and show the following:
 - i. The location, name and mature heights of proposed trees and shrubs at a rate of one tree per six parking bays;
 - ii. Areas of drainage swales for at source storm water percolation; and
 - iii. Those areas to be reticulated or irrigated or demonstrated to be designed using water sensitive principles.
 - b) Incorporate measures creating sustainable landscapes extensively using local plants for nutrients reduction, water conservation and creation of a "sense of place". This includes dry planting of local plants on verges.
 - c) Include the provision of semi mature trees to ensure that shade in the car park and landscaping amenity is provided in a reasonable period of time.
3. Prior to the approval of the Urban Water Management Plan, the proposed development layout and configuration may need to be modified. Key outstanding matters that are required to be addressed in the Urban Water Management Plan prior to the commencement of site works include, but are not limited to:
 - a) The detention volume, storage and location within the development;
 - b) The Multiple Use Corridor crossing culvert configuration and sizing; and
 - c) Repositioning of landscaped areas to allow for stormwater treatments (ie bio-retention structures).
4. The Shire encourages the following Water Sensitive Urban Design principles:
 - a) The use of permeable surfaces within the car park;
 - b) Installation of flash kerbs around tree wells;
 - c) Laying hard surfaces with small falls (1-2%) towards vegetated garden beds and tree wells;
 - d) Introduction variety of measures slowing down the storm water run-off (meandering, mimicking nature);
 - e) Introduction of nutrient-stripping planting along the way the storm water flows to bio-retention swales/rain gardens;
 - f) Harvesting storm water run-off from roofs and hard surfaces wherever possible;
 - g) Extensive use of local plants, grown to provenance; and
 - h) The use of reticulation systems suitable for native plants where applicable.
5. The design of the car parking bays is to comply with the relevant Australian Standards and Regulations.
6. No signs are to be displayed in the road reserve adjacent to the site at any time.
7. A Demolition Permit is to be obtained from the Shire should any existing buildings be removed.

8. The food premises shall comply with the Food Act 2008, Food Regulations 2009, Australian and New Zealand Food Safety Standards Code.
9. Any proposal to utilise the premises as a food business requires the submission of plans to the local government for health approval prior to any alterations, fitting out or use of such shop as a food business.
10. The food business is not to commence the sale of food without the prior approval of the local government. The applicant is required to submit an Application for Registration of a Food Business at least two weeks prior to commencing operation.

Background

Insert Property Address:	Lot 2 (20) Abernethy Road, Byford
Insert Zoning	MRS: Urban
	TPS: Urban Development
Insert Use Class:	Shopping Centre, Office & Restaurant
Insert Strategy Policy:	Byford Town Centre Local Structure Plan
Insert Development Scheme:	Town Planning Scheme No. 2
Insert Lot Size:	19.27 hectares
Insert Existing Land Use:	Single Dwelling - Residential
Value of Development:	\$12 million

Details: Outline of Development Application

This development application represents the first stage of development within the Byford Town Centre. The proposed development includes 7,372m² of Gross Leasable Area (GLA) of floor space, including:

- A 3,250m² Coles supermarket;
- Sixteen specialty retail tenancies;
- Eight commercial (office) tenancies; and
- A restaurant/café.

A total of 422 car parking spaces are proposed to service the development, including 10 disabled bays.

In summary, the applicant proposes the following:

- A high amenity contemporary built form, incorporating activated tenancies that will establish a 'main street' adjacent to the supermarket in accordance with the Byford Town Centre Local Structure Plan (BTCLSP);
- The development of a Town Square, which is designed to act as a vibrant pedestrian destination;
- The construction of an at grade car park in the eastern section of the subject land with an integrated vehicle and pedestrian access network that will be required to safely and legibly service the proposed development; and
- The construction of appropriately positioned service areas, including those associated with the development of the restaurant.

Legislation & Policy

Legislation

- Metropolitan Region Scheme

- *Environmental Protection (Noise) Regulations 1997*
- Serpentine Jarrahdale Shire Town Planning Scheme No. 2 (TPS 2)
- Byford Structure Plan (BSP)
- BTCLSP adopted by the Shire
- BTCLSP approved by WAPC

State Government Policies

State Planning Policy 4.2 Activity Centres

Local Policies

The following Local Planning Policies (LPPs) are applicable to this application:

- LPP 05 - Advertising Signs
- LPP 19 - Byford Development Requirements
- LPP 24 (revised draft) - Designing Out Crime
- LPP 31(draft) - Byford Town Centre Design Guidelines
- LPP 52 - Interim Development Contributions - Western Byford
- LPP 58 - Bicycle Facilities in Urban Developments
- LPP 59 - Public Art Policy for Major Developments
- LPP 62 (draft) - Urban Water Management
- LPP 63 (draft) - Integrated Land Use and Transport Planning
- LPP 67 (draft) - Landscape and Vegetation
- LPP 68 - Sustainability Assessment
- LPP 70 (draft) – Activity Centres

An assessment of the proposal against each of these LPPs is detailed below. Whilst a number of policies are still in draft form, they have been advertised for public comment but have not yet been finally adopted as required by clause 9.3(b) of TPS 2. However, they are considered to be seriously entertained planning proposals that can be used in the assessment of the current application.

LPP 05 - Advertising Signs

LPP 05 sets out the requirements for signage throughout the Shire. The general aim of the policy is to facilitate high quality signage in appropriate locations, which is compatible with the building it is attached to and the location within which it is located.

The plans as submitted have identified nominal signage for the development. A signage strategy will be required to be prepared and approved.

LPP 19 - Byford Development Requirements

Comment regarding LPP 19 is included within the 'Zoning and Use Class Permissibilities' section of this report.

LPP 24 (Revised Draft) - Designing Out Crime

Draft LPP 24 encourages commercial development to incorporate principles of Crime Prevention Through Environmental Design (CPTED). LPP 24 sets out five key principles that are to be addressed as part of any development application. The table below demonstrates

how each of the micro-level principles has been addressed as part of the design of the Byford Town Centre.

Micro Principle	Design Outcome
Principle 1 – Surveillance	
Ensure clear sightlines to public realm from adjacent buildings.	The proposal seeks to develop a town square sleeved with retail and commercial tenancies, which will provide surveillance to the town square.
Light primary pedestrian routes.	An open pedestrian mall is to be sleeved with retail shops which will provide lighting during trading hours.
Ensure level changes do not obscure public places.	As detailed on the elevations, site levels have been given due regard in the design of the town centre and there are no obscured public areas.
Front boundary fencing should be visually permeable.	No fencing is proposed.
Principle 2 – Access Control	
Secure access against offenders with gates and defining structures.	Not applicable as this development involves the development of a town square that is open to the public, rather than a private development.
Ramps and steps can create effective local access controls.	As above.
Changes to ground level delineate ownership or use changes.	As above.
Integrate security screens and bars as design elements not afterthoughts.	In order to maximise surveillance and integration between the shops and the public realm, glazing is incorporated fronting the town square with steel grates above.
Careful consideration of scalable fences and bollards, which may inhibit pursuit of offenders.	Not applicable as no fencing is proposed.
Principle 3 – Territorial Reinforcement	
Clearly define private ownership by structures and surface materials.	There is a clear distinction in materials and structures between the retail and commercial tenancies and the proposed town square.
Avoid ambiguity of ownership and responsibility.	The Town Square is in private ownership.
Principle 4 – Target Hardening (security measures)	
Incorporate shuttering and window barring as integral design elements where openings are susceptible to break-in and concealed crime exit.	Extensive glazing is incorporated where openings front the mall and town square. Any facades that are orientated towards the car park and Back Of House (BOH) areas have minimal openings, but incorporate a range of materials as per the elevations.
Ensure building parapets do not conceal unlawful access.	Complies.
Install CCTV where natural surveillance is poor.	The installation of CCTV is a standard requirement for any Coles development.

The fifth principle, management and maintenance, refers to the removal of graffiti and maintenance of vegetation post-development and therefore has not been addressed in detail at this stage.

LPP 31 (draft) - Byford Town Centre Design Guidelines

LPP 31 has been prepared to facilitate and coordinate development within the Byford Town Centre area. Within LPP 31 it divides the Byford Town Centre area into 8 sub-precincts, with the subject land being located within the 'Town Centre' precinct.

The application generally conforms to the general and precinct specific requirements of LPP 31. The aspects that don't comply are detailed in the table below.

Policy Requirement	Comment
Building articulation and building materials	Generally conforms, however it is considered that the largely straight frontages do not make for interesting urban form as envisaged in the policy.
Roofscape	The roof is a contemporary flat structure with no variation in pitch and little variation in design.
Crime Prevention	The application generally conforms to the requirements. A second storey is provided to some of the commercial buildings to enable the passive surveillance that is envisaged to ensure crime prevention.
Private Outdoor Space	The proposal does not provide any residential development and thus does not specifically adhere to the policy requirements.

The proposal generally complies with the design element stipulated in LPP 31.

LPP 52 - Interim Development Contributions - Western Byford

LPP 52 requires contributions to be paid for developments that are proposed within the Byford Development Contribution Areas, as referenced by Plan 16A within LPP 52 and Appendix 16 of TPS 2. The Byford Traditional Infrastructure Development Contribution Plan for Byford has not yet been finalised and the developer is required to enter into an interim Development Contribution Arrangement with the Shire for the payment of these contributions.

LPP 58 - Bicycle Facilities in Urban Developments

In accordance with the Shire's LPP 58, bicycle facilities are to be provided in accordance with the table below. The ratios specified are in relation to the number of bicycle parking spaces to be provided per 'x' square metres of floor area.

Land Use	NLA (m ²)	Staff facilities		Public facilities	
		Ratio	Bikes	Ratio	Bikes
Supermarket	3,250	1:300	11	1:500	7
Specialty Retail	1,653	1:300	6	1:500	4
Restaurant	393	1:100	4		
Commercial	2,019	1:200	10	1:750	3
SUB TOTAL			31		14
TOTAL					45

The bicycle parking facilities are proposed to be located conveniently, such as outside the supermarket, the town square, restaurant and commercial tenancies. In addition, end of trip facilities are to be provided as part of the Coles supermarket, including staff shower and change room facilities within the proposed building. Similar facilities are also proposed to be provided to serve the specialty retail and commercial tenancies.

LPP 59 - Public Art Policy for Major Developments

LPP 59 sets out the requirements for physical and financial contributions for public art as part of applications within the Shire with a development value greater than \$1 million.

As part of the proposed development, Coles will be constructing the entire town square. Careful consideration has gone into the design of the town square, which is represented by the inclusion of a landmark chimney stack, reminiscent of the local area's history with the State Brickworks. Under LPP 59, a contribution of 2% of the development cost is required, which in this instance equates to \$240,000. It could be considered that this contribution is not required given that Coles will be funding and constructing the town square. However, the Shire is not aware of the full design details of the Town Square at this time, including the value of the works. It is recommended that the condition for a contribution to Public Art be included on the approval.

LPP 68 - Sustainability Assessment

One of the main objectives of LPP 68 is to “encourage the achievement of more sustainable development outcomes as part of planning and development within the Shire”. To achieve this, the LPP identifies a number of key issue streams including governance, ecosystems and water. It is considered that these key issues are addressed in this application.

LPP 62 (draft) - Urban Water Management

LPP 62 aims to maximise water efficiency by encouraging best practice urban water management methods. It also encourages the incorporation of water efficient fixtures and fittings as well as the minimisation of water used for irrigation of landscaped areas.

The site contains a future Multiple Use Corridor (MUC) along the northern boundary that is to be maintained to the satisfaction of the Shire. Any proposed landscaping within this area is proposed to be covered via a Landscape and Vegetation Management Plan, included as a condition of approval. An Urban Water Management Plan (UWMP) will need to be prepared for the site. This matter is proposed to be dealt with as a condition of development approval. Further comment regarding water management is included within the ‘key issues’ section of this report.

LPP 63 (Draft) - Integrated Land Use and Transport Planning

There are two key objectives of draft LPP 63 relevant to this proposal, as follows:

- Ensure that transport assessments are effectively integrated into land use planning process; and
- Ensure a consistent, open and transparent approach is taken to the consideration of transport impacts.

Development proposals ahead of the finalisation of a structure plan, in this case the BTCLSP, are required to include a transport assessment for not only the development proposal but also the balance of the structure plan area, or where relevant, an established precinct. Comment regarding the transport statement and applicable traffic impacts are discussed under the ‘key issues’ section of this report.

LPP 67 (Draft) - Landscape and Vegetation

The key objective of LPP 67, relevant to this application, is as follows:

“Contribute towards achievement of vegetation and landscape outcomes that meet the expectations of stakeholders and contribute towards the achievement of biodiversity and water use targets and the creation of vibrant places for our communities”.

In accordance with draft LPP 67, a Landscape and Vegetation Management Report and accompanying Landscape Drawings are required to be submitted. With respect to landscaping, the applicant has advised the following:

“The BTCLSP and draft Town Centre Design Guidelines requires that 5-10% of the Town Centre be landscaped. As mentioned previously, the landscaping accounts for approximately 25% of stage 1. The landscaping as part of the second stage will be smaller in area, as the MUC in the southern portion of the site is smaller than the MUC in stage 1, however the second stage will still include landscaping, as shown on the master plan, and will not fall below the required 5-10% as per the Town Centre Design Guidelines”.

The applicant has acknowledged that the vegetation as provided on the site plan is illustrative only and that should the application be approved, there will be the requirement for further details to be submitted.

LPP 70 (draft) – Activity Centres

At the Ordinary Council meeting held on 9 July 2012, Council resolved to adopt LPP 70 for the purposes of advertising. The development application broadly reflects the key policy objectives; however, the following aspects have not been addressed sufficiently in the application:

- To promote a strong and positive identity and image for the Activity Centre and a strong sense of pride and belonging;
- To promote increased residential opportunities within the Shire;
- To improve pedestrian access throughout Activity Centres; and
- To provide opportunities for a greater diversity of dwelling types in and around activity centres.

A number of key aspects of the draft LPP have not been adequately addressed. The application generally complies with the suite of relevant LPPs that have been adopted by Council.

Consultation

In accordance with LPP 27 Stakeholder Engagement in Land Use Planning, the application was referred for a period of 21 days to all landowners within the DSP boundary and 22 government agencies. As a result of the advertising, 58 submissions were received representing 50 letters of support, six letters of objection and two letters of no comment.

With respect to the letters of objection, the following points were raised:

- The proposed shopping centre will affect the existing local businesses that have already been established;
- The proposal is not needed in light of the other application for a supermarket on the south side of Abernethy Road;
- The existing Byford Village (IGA) shopping centre is adequate; and
- The design of the development does not accurately reflect the history of the area;

In response to these points, the following comments are provided:

- The only existing supermarket within Byford is the IGA located at the Byford Village Centre development, on the corner of Abernethy Road and South Western Highway. Additional supermarkets within the Shire are needed to cater for existing and future retail needs of the community.

- The development has attempted to take inspiration from the surrounding area through the incorporation of the contemporary structure, referencing the brickworks chimney, within the Town Square.

Consultation with other Agencies or Consultants

As a result of the advertising to government agencies, a total of 13 submissions were received. Whilst most agencies indicated that they have no objection to the proposal or provided conditions should the development be approved, concerns were raised by Main Roads WA (MRWA), the Public Transport Authority (PTA) and the Department of Transport (DoT) regarding potential traffic impacts that could be created as a result of the development. Comment regarding the potential traffic impacts are discussed under the 'key issues' section of this report.

Planning Assessment

Statutory Framework

With respect to the statutory framework relevant to this application, there are a number of key documents that need to be addressed. These are:

- TPS 2;
- BSP;
- The Shire's adopted BTCLSP;
- The WAPC adopted BTCLSP;
- WAPC Statement of Planning Policy (SPP) 4.2 - Metropolitan Centres Policy; and
- The Shire's Activity Centres Strategy.

TPS 2

The subject site is zoned 'Urban Development' under Council's TPS 2. With respect to land uses, the proposal is deemed to fall under the use class definitions of 'shopping centre', 'office' and 'restaurant' within TPS 2 as follows:

Shopping Centre - means a group of shops, service offices and general offices and related activities, the group being in excess of 5000 square metres gross leasable area, developed as an integrated unit together with the required onsite parking facilities.

The 'shopping centre' incorporates the proposed Coles supermarket and the sixteen specialty retail outlets, totalling 5,694m².

Office - means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature.

The 'office' component of the development incorporates the eight commercial tenancies, identified as T18 to T25 on the site plan.

Restaurant - means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business.

The 'restaurant' incorporates the proposed restaurant/café.

When assessing development within the Urban Development zone before the adoption of a structure plan, clause 5.18.7.3 of TPS 2 states the following:

“Council may approve the development or use for other than a single house within the ‘Urban Development’ zone subject to Council being satisfied that the nature or scale of such development or use will not have an adverse effect on:

- a) the preparation of a Structure Plan for, or*
- b) the orderly and proper planning of, or*
- c) the health, amenity, safety or convenience of the future occupants of,*

the area intended for the preparation of a Structure Plan, and subject to the proposed development or use being advertised for public inspection in accordance with Clause 6.3”.

Clause 5.18.7.3 of TPS 2 gives the Council the power to approve developments or uses other than a single house within the Urban Development zone as long as they are satisfied that specific criteria can be met. Whilst an approval of the proposed development is unlikely to adversely impact the health and amenity of the community, consideration is required in terms of whether an approval will adversely impact on the finalisation of the BTCLSP and in turn the orderly and proper planning of the Byford Town Centre. This issue is addressed further within the ‘key issues’ section of this report.

BSP

The BSP was adopted by the Council in accordance with the provisions of clause 5.18.3.15 of TPS 2 on 22 August 2005 to provide a framework for the development of the Byford urban area. Council at its meeting of 17 February 2007 progressed a number of minor modifications to the BSP, including placing notation 17 on the plan that states:

“Town centre requires the preparation and completion of a Local Structure Plan, complete with Detailed Area Plans and Design Guidelines. Local Structure Plan is to include an investigation with Transit Oriented Urban Design: the location, nature, role, relationship and distribution of different activities within the town centre including 800 metre walkable catchment area...”

The proposed modification to the DSP was subsequently endorsed by the WAPC. The timing of the current application, relevant to the completion of a Local Structure Plan (LSP) for the Byford Town Centre, consistent with the BDSP notation, is a relevant consideration for Council, which is discussed within the ‘key issues’ section of this report.

BTCLSP

Under both the Shire adopted BTCLSP and the WAPC approved BTCLSP, the site is identified within the ‘Town Centre’ area. With respect to land use permissibilities within this zone, guidance is taken from LPP 19. The objective of LPP 19 is to clearly define the permissibility of various land uses within the zones contained in the BTCLSP.

Under both the Shire adopted BTCLSP and the WAPC approved BTCLSP, the site is identified within the ‘Town Centre’ precinct. LPP 19 identifies the land uses of ‘shopping centre’, ‘office’ and ‘restaurant’ as permitted (P) uses within the Town Centre zone. Therefore, the development as proposed is the type of development that is encouraged within the Town Centre and therefore can be supported.

TPS 2 Requirements

Car Parking

The parking requirements under TPS 2 for the proposed development are detailed in the table below. For the purpose of the calculation it has been interpreted that the 'shopping centre' incorporates the Coles supermarket together with the 16 specialty retail outlets and that the eight proposed commercial tenancies will comprise of offices.

Use Class	Total GLA (m ²)	Ratio (TPS 2)	Car Bays (required)
Shopping Centre	5,694	1 per 12.5m ² GLA	456
Restaurant	393	1 per 4 persons accommodated	Estimated 10 - 20
Offices	2,019	1 per 40m ² GLA	50
TOTAL BAYS REQUIRED			Minimum of 516
TOTAL BAYS PROVIDED ON PLAN			422 (inclusive of 10 disabled bays)

Based on the TPS 2 requirements, the proposal has a shortfall of at least 94 car parking bays. Although there is a shortfall in the number of bays as required under TPS 2, clause 5.2 of TPS 2 provides the Council with the discretion needed to vary the parking requirements as detailed above:

“5.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

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.”*

Therefore, it is open to Council to consider a variation to the parking requirements. A variation to the parking requirements under TPS 2 is supported given that the BTCLSP requires parking at 1 bay per 20m² GLA. Based on a total GLA of 8,106m² for the development, 406 bays are required to be provided. The applicant satisfies this requirement.

Landscaping

An assessment of the proposed development demonstrates that it complies with the landscaping requirements of TPS 2, as detailed in the table below.

TPS 2 Requirement	Provided	Comment
For an area with >21 car bays, 1m ² of landscaping for every 10m ² of car park shall be provided in addition to any other landscaping required by the scheme	Area of car parking = 8,800m ² Area of landscaping = 1,400m ² 1m ² of landscaping is provided for every 6.3m ² of car parking	COMPLIES
Landscaping strips to be provided	Location of landscaping strips	COMPLIES

adjacent to the car park is required by Council	are detailed on site plan	
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In accordance with draft LPP 67, a Landscape and Vegetation Management Report and accompanying Landscape Drawings are required to be submitted. This matter is proposed to be dealt with as a condition of development approval to require a Landscape and Vegetation Management Plan to be prepared prior to the commencement of works.

WAPC SPP 4.2 Metropolitan Centres Policy

Applications for retail developments which are consistent with any approved structure plan, town planning scheme or planning policy are able to be determined under both TPS 2 and the MRS by the local authority. In SPP 4.2, Byford is designated as a district level centre. This status has been addressed in the BDSP through the designation of the Town Centre zone. The Town Centre zone aims to build upon and consolidate the existing retail centre of Byford. The subject development is considered to be consistent with this aim.

KEY ISSUES

There are a number of key issues that need to be considered in the context of the current application. These relate to:

1. The status (legal standing) of the BTCLSP and proceedings before the State Administrative Tribunal (SAT);
2. Compliance with the Shire's adopted version and the WAPC's approved version of the BTCLSP;
3. Water Management;
4. Transport and traffic; and
5. Noise

Each of these issues is discussed in detail below.

1. The Status (legal standing) of the BTCLSP & Proceedings Before the SAT

The Shire's Adopted Version of the BTCLSP – June 2010

At the Special Council Meeting held on 13 February 2007, Council initiated the BTCLSP process by resolving the following:

“Council immediately commences the Local Structure Planning for Byford Town Centre, with the Council taking the lead role and working in collaboration and partnership with the affected landowners”.

The detailed planning process commenced in May 2007 when a vision workshop was held and attended by landholders, developers, Councillors, Shire officers and members of the community. In April 2008 a tender was issued to appoint a lead consultant to assist with the commencement of a number of documents including the preparation of a LSP, Implementation Strategy, Design Guidelines and associated technical documentation.

Since this time the BTCLSP has been the subject of various forms of community consultation, formal advertising and Council decisions over the last three years. After a robust consultation and statutory process, Council considered proposed modifications that were requested by the Department of Planning (DoP).

At the Special Council Meeting held on 2 June 2011, Council considered the proposed modifications and resolved to advertise them for public comment for a period of 14 days as they were deemed to be substantively different to the Shire's endorsed LSP. Council then at

its Ordinary Meeting held 22 August 2011 resolved to not accept a number of the DoP recommendations. Subsequent to Council's decision in August 2011, the Statutory Planning Committee of the WAPC at its meeting held 13 December 2011 considered Council's resolution. The Shire's technical staff and consultant made a deputation as a formal delegation of the Shire to the Statutory Planning Committee regarding the modifications prior to the determination being made. The primary themes of the presentation were to:

1. Outline of the rigorous design and consultation process the LSP had been through; and
2. Raise issues surrounding modifications to the Shire's open swale drainage philosophy including; principles, approaches, implications and ongoing implementation.

Subsequently, the WAPC made the decision to adopt the BTCLSP as modified by the DoP. The Statutory Planning Committee of the WAPC did not consider Council's comments about drainage as significant enough to adopt the BTCLSP that the Council had endorsed. The Shire's primary contention with the modifications surrounds drainage. The WAPC in making its determination concurred with the Shire on other matters including but not limited to pedestrian access to the Byford Trotting Complex, requirements for Detailed Area Plans, and the boundaries of the BTCLSP.

SAT Proceedings

In February 2012, Council considered the WAPC determination and resolved to reject modifications to the Shire's BTCLSP that were approved by the WAPC and subsequently lodged an application for review (an appeal) with the State Administrative Tribunal (SAT) against the WAPC's decision. Since the lodgement of the appeal the following has occurred:

1. The DoP have bought into question the Shire's jurisdiction to appeal the WAPC's decision. As a result the issues surrounding specific modifications to the BTLSP have not been explored and will not be explored until such time as the SAT have determined the preliminary issue surrounding the Shire's jurisdiction to appeal the decision.
2. The hearing for the preliminary matter concerning the Shire's jurisdiction to appeal the WAPC have concluded and the Shire is awaiting the decision from the SAT.

WAPC Approved Modifications to the Shire's Structure Plan

It is important to note that the BTCLSP has not yet been finally adopted as the Shire under TPS 2 and DoP have differing opinions on the particulars of the BTCLSP. The path forward for resolution of these issues will be known once the SAT makes the determination on the Shire's jurisdiction to appeal the decision of the WAPC.

SPP 4.2 Activity Centres for Perth and Peel states that one of the key requirements to its implementation is the preparation of activity centre structure plans and district and local structure plans. Clause 6.4(1) stipulates that activity centre structure plans should be endorsed prior to a major development being approved to ensure a centre's development is integrated, cohesive and accessible. In the context of Byford being a district centre, SPP 4.2 requires an activity centres plan. The Shire has invested significant time and resources into the detailed planning for the BTCLSP, it has been acknowledged by the Shire and DoP that the BTCLSP coupled with technical investigations such as the Byford Town Centre Strategy, Design Guidelines and Parking & Access Strategy provides enough detailed guidance for it to also provide guidance as an activity centres plan. Until such time as the BTCLSP is settled with the WAPC in the SAT, the technical investigations to support the BTCLSP being an activity centres plan cannot be properly finalised.

Legal Advice

Due to the issues surrounding the status of the BTCLSP and the current appeal proceedings, it was considered prudent to obtain legal advice with respect to which version

of the BTCLSP the development application should be assessed against. As both the Shire's adopted version and the WAPC's approved version of the plan vary in a number of key areas, it is important to understand which plan holds more weight and which plan the development should comply with. In this regard, key extracts from the legal advice is provided below:

“The Shire of Serpentine Jarrahdale (Shire) has prepared a Local Structure Plan (LSP) for the Byford Town Centre, and has advanced that process to the point where the Town Centre LSP has been advertised for public submissions and approved by the WAPC with modifications, and is only awaiting adoption by the Shire, a final step which is being delayed by an appeal process in the SAT.

Clause 5.18.7.1 of TPS 2 provides:

Except as provided in sub-clauses 5.18.7.2 and 5.18.7.3 hereof, no new development or use of land shall be commenced or carried out within the Urban Development zone until a Structure Plan has been approved for the relevant part of the zone.

Clause 5.18.7.1 only talks about a Structure Plan having been approved for the relevant part of the zone. In fact there are two Structure Plans which can be said to have been approved for the Byford Town Centre, namely the District Structure Plan, and the Byford Town Centre LSP, of which the Shire is the proponent.

TPS 2 does not make any distinction between District Structure Plans and Local Structure Plans. Therefore, where clause 5.18.7.1 speaks of a Structure Plan having been approved for the relevant part of the zone, the clause is open to interpretation that its requirements would be satisfied by the approval of the District Structure Plan.

In any event, the Shire's own Byford Town Centre LSP has been approved by the WAPC, albeit with a requirement for modifications, but nevertheless is has been approved in the sense recognised by TPS 2. The Byford Town Centre LSP has not completed its promulgation process because the adoption of the Shire has not occurred, but clause 5.18.7.1 does not speak of adoption of a Structure Plan, but rather speaks of approval. The WAPC's involvement is the approval process under TPS 2”.

When looking at the statutory process that a Local Structure Plan (LSP) is required to go through, as per TPS 2, it is acknowledged that the Shire's BTCLSP has been adopted in accordance with TPS 2 and approved by the WAPC in accordance with TPS 2. The WAPC approval was subject to a number of modifications being undertaken. Therefore, the BTCLSP as approved by the WAPC, with modifications, is the version of the LSP that the current application should be assessed against.

2. Compliance with the BTCLSP

WAPC Approved Plan (with modifications) – December 2011

The proposed development generally accords with the modified BTCLSP as approved by the WAPC.

The most significant difference is the water retention basin which is proposed in the location west of the supermarket, where the 'Mixed Use' zone is identified on the adopted BTCLSP. It however, needs to be noted that the application is for stage 1 only and that the temporary retention basin can be modified to comply with the BTCLSP in the future.

Changes to Proposed Zoning & Removal of the Proposed East-West Road

This change is reflected as modification 10 on the WAPC's approved BTCLSP which required the proposed east-west road to be eliminated. This modification indicates no road corridor and splits the cell into 30% Mixed Use and 70% Town Centre.

On 22 August 2011, Council passed a resolution to formally support this modification as it was considered that the detailed traffic, access and design matters could be considered at more detailed planning stages, such as through the preparation of a detailed area plan, design guidelines and/or subdivision and development.

The current application reflects this modification, as the proposed land uses are permitted within the 'Town Centre' area and the spatial layout complies with the WAPC approved BTCLSP.

Shire Adopted Version – June 2010

Although the legal advice that has been received indicates that the application should generally be assessed against the WAPC's approved version of the BTCLSP, it is still considered prudent to assess whether the requirements of the Shire's adopted version of the BTCLSP have also been addressed.

In this regard, the application generally accords with the requirements of the 'Operative Part' of the BTCLSP, with the exception of the following provisions detailed below:

Provision	Comment
1.3 Contents of the LSP	The proposal does not generally accord with the provisions of <i>1.3 Contents of the Local Structure Plan</i> which refer to the Council approved LSP. The plan however accords with the modified BTCLSP as approved by the WAPC.
1.5 Byford Town Centre Concept Plan	The proposal does not generally accord with <i>1.5 Byford Town Centre Concept Plan</i> in the sense that a Shopping Centre was not shown in this location on the concept plans. The area shown as Stage 1 of the proposal was to be smaller scale "main street" type shops. Council on 31 August 2011 agreed with the WAPC that the east-west link road could be removed from the plan to accommodate a second shopping centre as envisaged in the retail study provided by Pracsys for the LSP. The general concept should however have been adhered to in the proposal. The principle in section 1.5 that "the Concept Plan shall be given due regard in the preparation and assessment of subdivision and development applications, and detailed area plan (DAP's)" has not been adhered to.
1.8 Objectives	The proposal: <ul style="list-style-type: none"> • Does facilitate an appropriate mix of retail, commercial, and mixed-use development within the Byford Town Centre but does not include residential development. • Does not specifically provide for increased densities of residential development within proximity of the Byford Town Centre and proposed Byford metropolitan railway station/transit node. • Does not specifically create a residential and mixed use, well defined Town Centre but does offer facilities of local and district value. • Does not provide a range of dwelling types and densities accommodating a diverse residential community as it only addresses the Shopping centre component.



Provision	Comment
1.10 Residential Densities	The proposal generally does not accord with 1.10 <i>Residential Densities</i> as no residential land uses are indicated as would have been expected as per the Council adopted BTCLSP.
1.12 Town Centre	The proposal does not generally accord with 1.12 <i>Town Centre</i> provisions as it proposes a shopping centre and parking in the area identified for Town Centre (Mixed use). It does not show complimentary residential development to assist with surveillance and after-hours activation. The proposal attempts to move the retail core northwards into the Town Centre (Mixed use) area and away from the Town Centre (Retail Core) that was envisaged adjacent the station. This is not in accordance with the BTCLSP.
1.14 Detailed Area Plans	The proposal has not provided a Detailed Area Plan as required by provision 1.14 Detailed Area Plans.
1.20 Park and Ride	The proposal has not attempted to facilitate the provisions of 1.20 Park and Ride.

Together with the above, there are a number of additional key issues that are identified within in the Shire's adopted BTCLSP that should be addressed as part of any development proposal. These are detailed in the below table, with relevant officer comments.

Provision	Comment
<u>General Design Elements</u>	The location of the supermarket is not in accordance with the Shire's BTCLSP which dictates that such retail anchors must primarily be developed in the Town Centre core area to maximise the activation of the north-south "main street".
	The Shire's BTCLSP and Design Guidelines primarily situate the town square south east to the intersection of the two main streets, which is favoured from a climatic point of view (wind direction and solar orientation). The scale of built-form around the square does not reflect these considerations. The surrounding buildings have significantly been setback from the intersection, which impacts on the enclosure of the space.
<u>Land Use</u>	The application proposes commercial (retail) development over an area that is essentially identified for mixed use (commercial & residential) development. The proposal also places one of the main shopping centres in the Town Centre (mixed use) area which will substantially affect the required residential densities. No residential component is shown.
	The proposal places a shopping centre and more specifically it's parking in the mixed use zone which is contrary to the BTCLSP requirements.
	The application changes the focus of the "main street" from the north-west running road to the east-west road as stated earlier. This is contrary to the BTCLSP which clearly states that "The central north-south road has been identified as the priority for main street development."

Whilst the above issues can be considered to be quite significant in the context of the current application, the layout and locations of the various zoning designations as shown on the Shire's adopted BTCLSP have not been fully agreed to by the WAPC. The proposal complies with the layout of the Town Centre as depicted on the WAPC's approved version of the BTCLSP and therefore the application has been assessed against this plan accordingly.

3. Water Management

There are a number of issues relating to the management of water within the proposed development. Water quality and quantity management has not been adequately addressed. The proponent has not adequately demonstrated compliance with the following:

- Byford Townsite Drainage and Water Management Plan (GHD, 2008)
- Byford Town Centre Local Water Management Strategy (GHD, 2010)

Stormwater Storage Requirements

The development application indicates that only temporary stormwater storage is provided, and this is provided on a site that is subject to future development. The ultimate post-development scenario must be taken into account with the final storage locations provided in the development application.

The proposed site plan identifies a required storage area of 1,980m². The stormwater detention storage volumes are a permanent requirement and are expected to remain for the life of the project and beyond. The proposed stormwater storage area is located within part of the development site earmarked for a future commercial building. The proponent has not demonstrated what will happen to this stormwater storage once the storage area is filled in and built upon. The ultimate post development scenario must be taken into account with the final storage locations provided in the development application. This is required to be provided so that the Shire and the DAP have confidence that adequate spatial area is provided on site for water management.

The proposed temporary stormwater storage area shows 1:3 side slopes, which are not acceptable and should have a batter no steeper than 1:6 for safety and maintenance access. The required stormwater storage may be achieved through underground storage within the proposed car park. However, the proponent has not indicated such an approach will be taken.

Water Quality

The proponent is required to retain the 1-Year 1-Hour rainfall event on site to comply with the requirements of the Byford Townsite Drainage and Water Management Plan (GHD, 2008). The applicant has proposed bio-retention tree pits within the car park area as well as a bio-retention swale along the northern edge of the car park. However, the applicant has not demonstrated how the surface run-off from the car park will enter these treatment areas.

Considerable landscaping area is proposed at the eastern end of the car park but has not been identified as a potential area for stormwater treatment. As this area is uphill, it would be difficult to direct car park stormwater runoff into this area. It is highly recommended the car park is redesigned to take advantage of this landscaped area by placing it at the western, downstream, end of the car park.

MUC, Culverts and Flood Protection

The proposed MUC alignment is not consistent with the Shire's Local Water Management Strategy (GHD, 2010) which shows the MUC further to the west on the western side of the proposed San Simeon Boulevard. The alignment is consistent with the Local Water Management Strategy (LWMS) prepared by Emerson Stewart in support of the WAPCs approved BTCLSP. However, Emerson Stewart's LWMS and the proposed WAPC modifications to the Shire's LSP currently form the basis of the Shire's appeal at the SAT.

The proposed culvert arrangements for road crossing points across the MUCs are not consistent with the Shire's Byford Town Centre LWMS (GHD, 2010) nor the Lot 1 Abernethy

Road, Byford LWMS (Emerson Stewart, 2011) used to support the WAPC proposed modifications to the BTCLSP. The cross sectional area of the proposed culverts is much greater than what has been proposed in both LWMSs. It is not possible to adequately assess the impact this may have on 100-Year ARI Top Water Levels within the MUC, freeboard for finished lot levels and the degree of flood protection within the broader BTCLSP.

UWMP

The proponent has yet to adequately demonstrate that water management can be achieved on the proposed development site. It is required that an UWMP be prepared prior to any ground disturbing activities. The proposed development's layout and configuration may need to change as a result of the drainage requirements and solutions identified in an UWMP required as a condition of planning approval.

4. Transport and Traffic

Abernethy Road

The proposal will have a significant and growing impact on traffic movements. This impact ultimately needs to be considered in association with other town centre developments and traffic demands associated with the adjacent school developments, increased residential growth and the proposed railway station. In order to avoid congestion the ultimate access arrangements to the site need to cater for site access in a way that does not unduly impact on the through movements of traffic. Problems with stacking vehicles have the potential to be compounded due to the proximity of the railway crossing at Abernethy Road. Movements at this crossing will increase substantially when the line is electrified and the suburban rail network is extended into and beyond this location.

The impact of catering for through and entering traffic is that sufficient room will be required to allow for channelized treatments at the key intersection with turning pockets of sufficient length to cater for stacking entering vehicles. The proposed development will be exclusively accessed off Abernethy Road. Abernethy Road in this area is currently a two lane rural standard road. The proposal would see both eastbound left and westbound right turning movements into the development off Abernethy Road. Even in the short term a channelized treatment at the proposed entry road would be required to avoid congestion and provide safe movement for vehicles and pedestrians. It would be desirable that any channelization in this area be constructed in its ultimate form. Completing intersection treatments as road upgrades in the future in an already operating commercial environment adds difficulty, traffic congestion and costs to the works.

Delivery Access

Delivery access into the development is proposed to occur via the access road and then through the shopping centre car parking area and access roads.

Pedestrian Access

Pedestrian access has not been adequately covered. Nothing is shown to indicate the link to the railway station or the utilisation of the MUC areas to provide an integrated path system. Street lighting requirements have not been considered in the submission.

Status of Roads

The access road entering the development is a private accessway to the car park, until it is created as a road reserve. Any regulatory signing or lining placed on the access road would not be approved and accordingly have no legal status on the public. If the road were to be gazetted then the developer would be responsible for paying the costs of initial spotting,

pavement marking and placement of signs. All roads, access ways, parking bays and footpaths are assets that are to revert to the Shire in the future, and need to be constructed to Shire standards.

Traffic and Parking Assessment

A Traffic and Parking Assessment has been assessed, with a number of concerns being raised by the DoT and MRWA. The Shire's consultants, GHD, have also raised concern with various sections of the Traffic Assessment.

Through further discussions with the DoT, it has been agreed that the application is capable of approval subject to a condition being imposed that requires an updated Transport Assessment to be prepared and approved by the Shire, upon advice from the DoT and MRWA, prior to the commencement of site works. The updated Transport Assessment would need to be prepared in accordance with the WAPC Transport Assessment Guidelines for Developments and account for development up to the year 2031.

MRWA have advised that caution should be exercised if considering approval of the development prior to an updated Transport Assessment being prepared and approved. MRWA do not support this issue being addressed via a condition of approval as they deem that it is fundamental to the entire operation of the site. The updated Transport Assessment should ideally identify all the applicable road works that need to be undertaken to facilitate the safe movement of traffic into and out of the development, and will also identify the infrastructure that is to be constructed by the developer and the infrastructure that will fall with the Shire to construct. The location of the 10 bus parking bays which link to the future train station have been identified on the west side of the railway line. If the station is moved north then these facilities would affect this Stage 1 development for parking and access road requirements.

5. Noise

There are a number of issues relating to the potential noise impacts from the development on adjoining future residential areas. The location of the loading bays and bin area at the rear of the building is adjacent to a MUC and north of the future R60 residential area of this MUC.

There is the potential for significant noise impacts from the off loading of delivery trucks and pick up of refuse during bin collections, particularly if these activities occur prior to 7.00am. It is recommended that the proponent needs to appoint a suitably qualified person to undertake a noise impact assessment.

Options

There are two options available to Council with respect to this application as follows:

Option 1: Recommend to the JDAP that the application be approved, subject to conditions;
or

Option 2: Recommended to the JDAP that the application be refused, providing reasons.

Option 1 is recommended.

Conclusion

The proposal represents a high amenity contemporary built form that will facilitate the development of a much needed supermarket and commercial tenancies within the Byford Town Centre area. The application will increase the range of locally available goods and

services and increasing the amount of employment opportunities in the immediate locality and the Shire.

The application conforms to the requirements of the BTCLSP as approved by the WAPC. Whilst it is acknowledged that there are a number of outstanding issues that require resolution with respect to this application, on balance it is considered that the application can be conditionally approved.

ATTACHMENTS

- [OCM044.1/09/12](#) - Location plan & aerial photograph
- [OCM044.2/09/12](#) - Development Plans and Elevations (drawing No. DA 101, DA 102, DA 201, DA 401, DA 402, DA 001)
- [OCM044.3/09/12](#) - Schedule of public submissions
- [OCM044.4/09/12](#) - Schedule of government agency submissions
- [OCM044.5/09/12](#) - BTCLSP (adopted by Shire) and Concept Plan
- [OCM044.6/09/12](#) - BTCLSP (approved by WAPC)

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Randall, seconded Cr Harris
That Council:

- Note that the application for the proposed Recommendation Shopping Centre, Office and Restaurant at Lot 2 (20) Abernethy Road, Byford will be determined by the Metropolitan East Joint Development Assessment Panel.**
- Recommend to the Metropolitan East Joint Development Assessment Panel that the proposed Shopping Centre, Office and Restaurant at Lot 2 (20) Abernethy Road, Byford be approved subject to the following conditions:**

PLANNING

- An operational management plan being submitted and approved by the Shire prior to the commencement of site works and thereafter implemented, to the satisfaction of the Shire, that addresses such matters as:
 - Antisocial behaviour management;**
 - Complaints handling;**
 - Litter management; and**
 - Trading hours.****
- The owner entering into a legally binding agreement with the Shire of Serpentine Jarrahdale to contribute towards the cost of providing the common service and community infrastructure of the Byford Structure Plan as established through amendment to the Shire of Serpentine Jarrahdale Town planning Scheme No. 2 (when gazetted).**
- The owner entering into a legally binding agreement with the Shire of Serpentine Jarrahdale to ensure that the Town Square remains publicly accessible at all times.**
- A monetary contribution being paid to Council for the establishment of public art in accordance with Council's Local Planning Policy No.59 - Public Art Policy for Major Developments to the satisfaction of the Director Development Services.**

MOVEMENT NETWORK

5. An updated Transport Assessment to be prepared and approved by the Director Engineering, upon advice from the Department of Transport and Main Roads WA, prior to the commencement of site works. The updated Transport Assessment shall be prepared in accordance with the Western Australian Planning Commission's Transport Assessment Guidelines for Developments and account for development up to the year 2031. Once approved, the updated Transport Assessment is to be implemented in its entirety.
6. Street intersections, including the intersection of the accessway with Abernethy Road, being designed and constructed to the satisfaction of the Director Engineering prior to the occupation of the development for the uses hereby permitted.
7. The vehicle parking areas and accessways shall be designed, constructed, sealed, kerbed, drained, line marked and thereafter maintained in accordance with the approved plan and specification to the satisfaction of the Director Engineering prior to the occupation of the development for the uses hereby permitted.
8. The entry to the site, including the intersection of the accessway with Abernethy Road, shall be maintained to the satisfaction of the Director Engineering. Any damage caused to the intersection with Abernethy Road by the proponent or its contractors shall be immediately repaired to the satisfaction of the Director Engineering.
9. A Traffic Management Plan being submitted and approved by the Director Engineering prior to the commencement of site works.
10. Four hundred and twenty two (422) car parking bays to be provided in accordance with the plans attached to and forming part of this approval.
11. Ten (10) disabled parking bays are to be provided along with the required statutory signage and markings to the satisfaction of the Shire.
12. Any required "No parking signage" and vehicular guide signs to the parking facility to be installed at the applicant's cost to the specification and satisfaction of the Director Engineering and maintained at all times.
13. Shared paths, bicycle parking facilities and end of trip facilities being provided in accordance with Local Planning Policy No.58 Bicycle Facilities in Urban Developments to the satisfaction of the Director Engineering.

SITE WORKS

14. The owner is to provide a geotechnical report certifying that the land is physically capable of development prior to the commencement of site works and that any filling or backfilling has been adequately compacted.
15. Works (including earthworks) are not to commence until Council has approved detailed engineering plans and specifications of the works, including earthworks, retaining walls, roads and paths, drainage, clearing, landscaping/rehabilitation and soil stabilisation measures, that apply both during and after construction.
16. Prior to commencement of any site works, a Dust Management Plan is to be developed in accordance with the Department of Environment and Conservation "Guidelines for the prevention of dust and smoke pollution from land development sites in Western Australia" and submitted to the Shire for approval. Shire approval of the Dust Management Plan must be obtained prior to the commencement of works and thereafter implemented at all times.

DRAINAGE

17. An Urban Water Management Plan being prepared and approved prior to the commencement of site works to the satisfaction of the Director Engineering. Once approved, the Urban Water Management Plan is to be implemented in its entirety.

18. The boundary of the Beenyup Brook and the Oakland Tributary South within the proposed lot to be surveyed and fenced to restrict vehicle and pedestrian access prior to the commencement of any works on the subject land.

AMENITY

19. Within 60 days of the date of this approval, a Noise Impact Assessment is to be undertaken by a suitably qualified acoustic consultant to indicate whether the development complies with the *Environmental Protection (Noise) Regulations 1997* (Regulations) and submitted to the Director Development Services for approval. The Noise Impact Assessment shall identify all noise sources and report on the potential noise levels to be received at nearby existing and future noise sensitive premises. The assessment shall include noise contours and proposed noise ameliorations such as acoustic barriers and/or noise walls and operational noise management solutions required to achieve practicable noise reduction targets in accordance with the relevant Australian Standards and Regulations. Any identified noise mitigation measures are to be constructed prior to the occupation of the development for the uses hereby permitted to the satisfaction of the Director Development Services.
20. The external walls of the buildings are to be painted natural or earth tonings to complement the surroundings and/or adjoining developments in the locality in which it is located. A schedule of colours and finishes, including samples of materials to be used, is to be provided for approval to the satisfaction of the Director Development Services prior to the commencement of site works.
21. No goods or materials are to be stored either temporarily or permanently in the parking area, driveway, landscape areas, public footpath areas or road reserves.

LOADING BAY

22. All loading and unloading to take place within the boundaries of the premises.

EXTERNAL LIGHTING

23. A Lighting Plan is to be submitted and approved by the Director Development Services prior to the commencement of site works. The Lighting Plan shall demonstrate the provision of lighting to all accessways, car parking areas, the exterior entrances to all buildings and the extent to which light from all external light sources is cast.

BIN STORAGE AND PICK-UP

24. The development is to be provided with a suitable enclosure for the storage and cleaning of rubbish receptacles in accordance with the Shire of Serpentine-Jarrahdale Health Local Laws 1999. The location of the enclosure is to be to the satisfaction of the Director Development Services.
25. The applicant is to submit a Waste Storage and Removal Plan to the satisfaction of the Director Development Services prior to the commencement of site works. Once approved, the Waste Storage and Removal Plan is to be implemented in its entirety.

SIGNAGE

26. Prior to the commencement of site works, a Signage Strategy detailing location, size and height of signage for the whole development, including wall signs, window signs, under verandah signs and fascia signage, is to be submitted for the approval of the Shire. All signage is thereafter to comply with the approved

Signage Strategy and is to be maintained in good condition at all times to the satisfaction of the Shire.

LANDSCAPING

- 27. A Landscape and Vegetation Management Plan for Stage 1 of the development, including all car parking areas, access roads, road verges and areas of open space, must be submitted and approved by the Director Strategic Community Planning prior to the commencement of site works.**
- 28. Landscaping and timed reticulation is to be established in accordance with the approved Landscape and Vegetation Management Plan prior to occupation of the development and thereafter maintained to the satisfaction of the Shire.**
- 29. Measures being taken to the satisfaction of the Director Strategic and Community Planning to ensure the identification and protection of any vegetation on the site, not affected by necessary development works, which is worthy of retention prior to commencement of site works.**
- 30. Street furniture (fixed seating and bins) to be provided within the development to the satisfaction of the Shire.**

ASSETS

- 31. An agreement to be entered into with the Shire, prior to the commencement of site works, to address the proposed cadastral boundaries of future road reserves that are to accommodate servicing requirements for the entire development and the handover of assets that are proposed in the future to revert to the Shire's control.**

Advice notes

- 1. A planning consent is not an approval to commence any works. A building permit must be obtained for all works. Your application for a building permit must satisfy the conditions specified in this decision notice.**
- 2. The Landscape and Vegetation Management Plan shall:**
 - a) Be drawn to a scale of 1:200 and show the following:**
 - i. The location, name and mature heights of proposed trees and shrubs at a rate of one tree per six parking bays;**
 - ii. Areas of drainage swales for at source storm water percolation; and**
 - iii. Those areas to be reticulated or irrigated or demonstrated to be designed using water sensitive principles.**
 - b) Incorporate measures creating sustainable landscapes extensively using local plants for nutrients reduction, water conservation and creation of a “sense of place”. This includes dry planting of local plants on verges.**
 - c) Include the provision of semi mature trees to ensure that shade in the car park and landscaping amenity is provided in a reasonable period of time.**
- 3. Prior to the approval of the Urban Water Management Plan, the proposed development layout and configuration may need to be modified. Key outstanding matters that are required to be addressed in the Urban Water Management Plan prior to the commencement of site works include, but are not limited to:**
 - a) The detention volume, storage and location within the development;**
 - b) The Multiple Use Corridor crossing culvert configuration and sizing; and**
 - c) Repositioning of landscaped areas to allow for stormwater treatments (ie bio-retention structures).**

4. The Shire encourages the following Water Sensitive Urban Design principles:
 - a) The use of permeable surfaces within the car park;
 - b) Installation of flash kerbs around tree wells;
 - c) Laying hard surfaces with small falls (1-2%) towards vegetated garden beds and tree wells;
 - d) Introduction variety of measures slowing down the storm water run-off (meandering, mimicking nature);
 - e) Introduction of nutrient-stripping planting along the way the storm water flows to bio-retention swales/rain gardens;
 - f) Harvesting storm water run-off from roofs and hard surfaces wherever possible;
 - g) Extensive use of local plants, grown to provenance; and
 - h) The use of reticulation systems suitable for native plants where applicable.
5. The design of the car parking bays is to comply with the relevant Australian Standards and Regulations.
6. No signs are to be displayed in the road reserve adjacent to the site at any time.
7. A Demolition Permit is to be obtained from the Shire should any existing buildings be removed.
8. The food premises shall comply with the Food Act 2008, Food Regulations 2009, Australian and New Zealand Food Safety Standards Code.
9. Any proposal to utilise the premises as a food business requires the submission of plans to the local government for health approval prior to any alterations, fitting out or use of such shop as a food business.
10. The food business is not to commence the sale of food without the prior approval of the local government. The applicant is required to submit an Application for Registration of a Food Business at least two weeks prior to commencing operation.

LOST 2/4

Cr Piipponen was not present and did not vote.

Cr Moore foreshadowed a new motion if the motion under debate is defeated, because it doesn't conform with the current Town Planning Scheme and needs to be assessed by the Joint Development Assessment Panel.

OCM044/09/12 COUNCIL DECISION/NEW MOTION

**Moved Cr Moore, seconded Cr Wilson
That Council:**

- A) Note that the application for the proposed Shopping Centre at Lot 2 (20) Abernethy Road, Byford will be determined by the Metropolitan East Joint Development Assessment Panel.
- B) Recommend to the Metropolitan East Joint Development Assessment Panel that the proposed Shopping Centre, at Lot 2 (20) Abernethy Road, Byford be refused for the following reasons:
 - a) Council's draft Local Planning Policy 70 (Activity Centres Strategy) has not yet been finalised as required under State Planning Policy 4.2 Activity Centres for Perth and Peel. The development application broadly reflects the key

policy objectives; however, the following aspects have not been addressed sufficiently in the application:

- To promote a strong and positive identity and image for the Activity Centre and a strong sense of pride and belonging;
- To promote increased residential opportunities within the Shire;
- To improve pedestrian access throughout Activity Centres; and
- To provide opportunities for a greater diversity of dwelling types in and around activity centres.

b) The development is inconsistent with the approved Byford Town Centre Local Structure Plan as a temporary retention basin has been shown in Stage 1 in the “Mixed Use” zone.

c) The development is inconsistent with the following provisions of the Council’s Byford Town Centre Local Structure Plan – Operative Part:

- (i) 1.5 Byford Town Centre Concept Plan – A shopping centre is not shown in the location as per this Plan.**
- (ii) 1.8 Objectives – The proposal does not specifically provide for increased densities of residential development within proximity of the Byford Town Centre and proposed Byford metropolitan railway station/transit node, does not specifically create a residential and mixed use, well defined Town Centre and does not provide a range of dwelling types and densities accommodating a diverse residential community as it only addresses the Shopping centre component.**
- (iii) 1.10 Residential Densities - No residential land uses are indicated as required in the Local Structure Plan.**
- (iv) 1.12 Town Centre - The proposal does not generally accord with these provisions as it proposes a shopping centre and parking in the area identified for Town Centre (Mixed use). It does not show complimentary residential development to assist with surveillance and after-hours activation. The proposal attempts to move the retail core northwards into the Town Centre (Mixed use) area and away from the Town Centre (Retail Core) that was envisaged adjacent the station.**
- (v) 1.14 Detailed Area Plan – This document has not been provided.**
- (vi) 1.20 Park and Ride – The proposal has not attempted to facilitate the provision of this facility.**
- (vii) Land Use - The application proposes commercial (retail) development over an area that is essentially identified for mixed use (commercial & residential) development. The proposal also places one of the main shopping centres in the Town Centre (mixed use) area which will substantially affect the required residential densities. No residential component is shown. The proposal places a shopping centre and more specifically car parking in the mixed use zone which is contrary to the Local Structure Plan requirements.**

d) An updated Transport Assessment has not been completed and approved by Main Roads WA. The updated Transport Assessment should ideally identify all the applicable road works that need to be undertaken to facilitate the safe movement of traffic into and out of the development, and will also identify the infrastructure that is to be constructed by the developer and the infrastructure that will fall with the Shire to construct. The location of the 10 bus parking bays which link to the future train station have been identified on the west side of the railway line. If the station is moved north then these facilities would affect this Stage 1 development for parking and access road requirements.

CARRIED 6/0

Cr Piipponen was not present and did not vote.

COUNCIL NOTE: Council refused the officer recommendation based on the key policy objectives having not been sufficiently addressed in the application. The item is to be referred to Joint Development Assessment Panel.

Cr Piipponen returned to the room at 8.05pm.

OCM045/09/12	PROPOSED SHOPPING CENTRE – LOT 15 ABERNETHY ROAD, BYFORD (P00104/01)
Author:	Louise Hughes - Manager Statutory Planning
Senior Officer:	Richard Gorbunow - Acting Chief Executive Officer
Disclosure of Officers Interest:	Brad Gleeson - Director Development Services, declares a Financial Interest in this matter as he owns shares in Woolworths.

The following report has been prepared using the Responsible Authority report template as provided in Appendix F of the Development Assessment Panel Procedures Manual.

Form 1 - Responsible Authority Report (Regulation 12)

Application Details:	Proposed Shopping Centre
Property Location:	Lot 15 Abernethy Road, Byford
DAP Name:	Metro East JDAP
Applicant:	Doepel Marsh Architects
Owner:	P & N Gangemi
LG Reference:	P00104/01
Responsible Authority:	Shire of Serpentine Jarrahdale
Authorising Officer:	Louise Hughes – Manager Statutory Planning Richard Gorbunow – Acting Chief Executive Officer
Application No and File No:	P00104/01
Report Date:	24 September 2012
Application Receipt Date:	9 July 2012
Application Process Days:	63
Attachment(s):	Location plan and aerial photograph Development plans and elevations (drawing No.s DA02, DA04, DA01, DA05 colour, DA05, DA06-(a). Schedule of public submissions. Schedule of Government Agency submissions. Byford District Structure Plan. Byford Town Centre Local Structure Plan (approved by WAPC). Byford Town Centre Local Structure Plan (adopted by Shire) and Concept Plan

Recommendation:

That the Metro East Joint Development Assessment Panel (JDAP) resolves to:

Refuse Development Assessment Panel (DAP) Application for proposed Shopping Centre and accompanying plans prepared by Doepel Marsh Architects - DA3D Abernethy Road View, DA02 Site Plan and Car parking layout, DA3C Alfresco Area Layout, DA04 Basement floor plan, DA05-colour Part Elevations, DA01 Survey Plan, DA02(a) Site Plan and Car parking layout, DA03-A Ground Floor plan part A, DA03-B Ground floor plan – Part B, DA04-(a) Basement floor plan part A & B, DA05 Elevations, DA06-(a) section AA, BB & CC & Service Road South Elevation, dated July 2012 in accordance with Clause 6.4.3 of the Serpentine Jarrahdale Shire Town Planning Scheme No.2, for the following reasons:

- a) The proposed development is not in accordance with the zoning of the Western Australian Planning Commission (WAPC) approved Byford Town Centre Local Structure Plan (BTCLSP);
- b) The proposed development is not in accordance with the zoning of the Shire's adopted BTCLSP;
- c) Approval of the development would result in fragmentation of the Byford Town Centre contrary to the objectives of the BTCLSP;
- d) The application fails to demonstrate compliance with the provisions of Local Planning Policy 31 (draft) (LPP 31) – Byford Town Centre Design Guidelines, which facilitates and coordinates development within the BTCLSP area;
- e) Approval of the development would be contrary to the orderly and proper planning of the area; and
- f) Approval of the development would result in the loss of an area of resource enhancement wetland, which could potentially have a significant detrimental impact on the environment and drainage within the locality.

Background

Insert Property Address:	Lot 15 Abernethy Road, Byford
Insert Zoning	MRS: Urban
	TPS: Urban Development
Insert Use Class:	Shopping Centre
Insert Strategy Policy:	Byford Town Centre Local Structure Plan
Insert Development Scheme:	Town Planning Scheme No. 2
Insert Lot Size:	4.05ha
Insert Existing Land Use:	Vacant
Value of Development:	\$17.5 million

The subject site comprises a level vacant parcel of land situated to the south of Abernethy Road and west of Soldiers Road Byford. A wetland area is situated to the western part of the site. A private primary school is situated to the south and a public high school is being developed on land to the west of the lot.

Details: Outline of Development Application

The development application proposes a shopping centre on Lot 15 Abernethy Road, Byford (the subject land). The proposed development includes 11,910m² of Gross Leasable Area (GLA) of floor space, including:

- A discount department store – 4,500m²;
- A supermarket – 3,800m²; and
- 18 speciality shops – 1,850m².

A total of 812 car parking spaces are proposed to service the development, including 11 disabled bays.

Legislation & Policy:

Legislation

- Metropolitan Region Scheme;
- *Environmental Protection (Noise) Regulations 1997*;
- Serpentine Jarrahdale Shire Town Planning Scheme No. 2 (TPS 2);
- Byford District Structure Plan (BSP);
- Byford Town Centre Local Structure Plan (BTCLSP) adopted by the Shire;
- BTCLSP approved by WAPC.

State Government Policies

State Planning Policy (SPP) 4.2 - Activity Centres.

Local Policies

The following Local Planning Policies (LPPs) are applicable to this application:

- LPP 05 - Advertising Signs;
- LPP 19 - Byford Development Requirements;
- LPP 24 - (Revised Draft) - Designing Out Crime;
- LPP 31 - (Draft) - Byford Town Centre Design Guidelines;
- LPP 52 - Interim Development Contributions - Western Byford;
- LPP 58 - Bicycle Facilities in Urban Developments;
- LPP 59 - Public Art Policy for Major Developments;
- LPP 62 - (Draft) - Urban Water Management;
- LPP 63 - (Draft) - Integrated Land Use and Transport Planning;
- LPP 67 - (Draft) - Landscape and Vegetation;
- LPP 68 - Sustainability Assessment; and
- LPP 70 – (Draft) Activity Centres.

An assessment of the proposal against each of these LPPs is detailed below. Whilst a number of policies are still in draft form, they have been advertised for public comment but have not yet been finally adopted as required by clause 9.3(b) of TPS 2. However, they are considered to be seriously entertained planning proposals that can be used in the assessment of the current application.

LPP 05 - Advertising Signs

LPP 05 sets out the requirements for signage throughout the Shire. The general aim of the policy is to facilitate high quality signage in appropriate locations, which is compatible with the building it is attached to and the location within which it is located. Clause 7.7 of the application document states that no signage forms part of the application and will be the subject of a separate planning application at a later date.

LPP 19 - Byford Development Requirements

Comment regarding LPP 19 is included within the 'Zoning and Use Class Permissibility' section of this report.

LPP 24 (Revised Draft) - Designing Out Crime

Draft LPP 24 encourages commercial development to incorporate principles of Crime Prevention Through Environmental Design (CPTED). LPP 24 sets out five key principles that are to be addressed as part of any development application. The table below demonstrates how each of the micro-level principles has been addressed as part of the design of the Byford Town Centre.

Micro Principle	Design Outcome
Principle 1 – Surveillance	
Ensure clear sightlines to public realm from adjacent buildings.	The proposed development is situated to the southern part of the lot with an expanse of car parking to the north of the building. Provision for car parking and loading area is also made to the south of the property in conjunction with the service corridor. Clear sightlines from the building to the public realm may not be achieved. These spaces are not considered to be sufficiently within sight of the primary entrance of the building.
Light primary pedestrian routes.	There are no dedicated pedestrian routes; no details relating to lighting have been submitted as part of the application.
Ensure level changes do not obscure public places.	The basement car park has one entry point on the western elevation, which is not highly visible from the public realm.
Front boundary fencing should be visually permeable.	No fencing is proposed.
Principle 2 – Access Control	
Secure access against offenders with gates and defining structures.	Loading areas and service areas are open areas.
Ramps and steps can create effective local access controls.	As above.
Changes to ground level delineate ownership or use changes.	As above.
Integrate security screens and bars as design elements not afterthoughts.	The elevation plans show screens to the alfresco areas.
Careful consideration of scalable fences and bollards, which may inhibit pursuit of offenders.	Not applicable as no fencing is proposed.
Principle 3 – Territorial Reinforcement	
Clearly define private ownership by structures and surface materials.	The proposed seating to the alfresco areas provides a distinction between private ownership and public space.
Avoid ambiguity of ownership and responsibility.	As above.
Principle 4 – Target Hardening (security measures)	
Incorporate shuttering and window barring as integral design elements where openings are susceptible to break-in and concealed crime exit.	Extensive glazing is incorporated where openings front the mall and car park, specific shuttering details are yet to be addressed. Any facades that are orientated towards the Back of House areas have minimal openings.
Ensure building parapets do not conceal unlawful access.	Not applicable.
Install CCTV where natural surveillance is poor.	Not referred to in application.

The fifth principle, management and maintenance, refers to the removal of graffiti and maintenance of vegetation post-development and therefore has not been addressed in detail at this stage.

LPP 31 (Draft) - Byford Town Centre Design Guidelines

LPP 31 has been prepared to facilitate and coordinate development within the Byford Town Centre area. Within LPP 31 it divides the Byford Town Centre area into 8 sub-precincts, with the subject land being located within the 'Abernethy South' precinct. The provisions of the policy which are not complied with are detailed in the table below.

General requirement	Policy	Comment
Setback requirements		The proposed setback is almost 60m off Abernethy Road and does not generally conform – maximum setback allowable is 5m on Abernethy road as indicated in Diagram 22. The policy states that 'Developments constructed to street lot boundaries are preferred over setbacks, however it is acknowledged that setbacks might be required to create favourable conditions for alfresco activities for north facing developments'.
Architectural character		Does not generally conform – the building is a standard shopping centre that does not reinforce the rural feel. The buildings are not generally interesting and the walls are mostly flat and blank. The contemporary design does not emphasize the local identity through the appropriate use of building form, building materials, articulation and colour and does not take advantage of views toward the Darling Scarp.
Landmark location		Does not conform to the policy – no landmarks are provided as identified in Diagram 2.
Building articulation and building materials		Does not conform to the policy – elements not address are R5.1 – 5.7, 5.9 and 5.11
Roofscape		This element has generally been neglected – the roof is a contemporary flat structure with no variation in pitch and little variation in design.
Entrances and pedestrian access		The application does not generally conform to the policy in terms of R7.1, 7.2 and 7.4
Building orientation		Does not generally conform to the requirements – retail frontage for individual tenancies has not been achieved.
Parking		The application exceeds the number of parking bays as envisaged by the BTCLSP as the calculation is based on TPS 2 requirements. The location of some of the parking bays at the perimeter of the site is not in accordance with the policy.
Crime prevention		The main concern is the lack of residential land use proposed for the site. This will not enable the surveillance that is envisaged to ensure crime prevention.
Stormwater management		Does not generally conform to the requirements.
Landscaping		The details submitted are not adequate to facilitate a full evaluation of the principles.
Private outdoor space		The proposal does not provide any residential development and thus does not specifically adhere to the policy requirements.
Abernethy South Precinct requirements		Comment
Envisaged Land use – Retail, office and recreation		The proposal does not strictly adhere to the land use requirements shown.
Setbacks		The policy requires setbacks of between 0.0m and 5.0m from

	the property line – the proposed development is setback almost 60m.
Building orientation	The proposal does not show activated frontages as required by the policy to Abernethy Road, Soldiers Road or Gordin Way.
Parking and access	The policy requires car parking to be contained on site and screened from Abernethy Road, no onsite parking shall be situated within any setbacks on Abernethy Road – the proposal does not comply with these requirements.

The proposal fails to meet the majority of the requirements of the policy. Comment regarding the provisions of this policy are discussed under the 'key issues' section of this report.

LPP 52 - Interim Development Contributions - Western Byford

LPP 52 requires contributions to be paid for developments that are proposed within the Byford Development Contribution Area, as referenced by Plan 16A within LPP 52 and Appendix 16 of TPS 2. The Byford Traditional Infrastructure Development Contribution Plan for Byford has not yet been finalised and as such the developer is required to enter into an interim Development Contribution Arrangement with the Shire for the payment of these contributions.

LPP 58 - Bicycle Facilities in Urban Developments

In accordance with the Shire's LPP 58, bicycle facilities are to be provided in accordance with the table below. The ratios specified are in relation to the number of bicycle parking spaces to be provided per 'x' square metres of floor area.

Land Use	NLA (m ²)	Staff facilities		Public facilities	
		Ratio	Bikes	Ratio	Bikes
Shopping centre	10150	1:300	33	1:500	20
Total required					53
Total Proposed					6

The development application does not make specific reference to bicycle parking facilities, although 6 spaces are annotated on the basement car parking plan. LPP 58 sets out the required location of bicycle parking in line of sight of the building's main entry or within 20 metres of the front entry; it also required end of trip facilities in the form of showers and change rooms to be provided. Neither of these aspects has been addressed as part of the application and therefore a full assessment against the provisions of the LPP 58 is not possible at this stage.

LPP 59 - Public Art Policy for Major Developments

LPP 59 sets out the requirements for physical and financial contributions for public art as part of applications within the Shire with a development value greater than \$1 million. The development application does not make specific reference to the provision of public art or the requirements of LPP 59. Examples of materials and 'Piazza Features' are included in the document, but it is unclear as to how they may fit into the proposed development. It is not considered that the requirements of the policy have been addressed and therefore should the application be approved, a suitable condition will be required.

LPP 68 - Sustainability Assessment

One of the main objectives of LPP 68 is to "encourage the achievement of more sustainable development outcomes as part of planning and development within the Shire". To achieve this, the LPP identifies a number of key issues including governance, ecosystems and water. It is considered that these key issues are addressed via other LPPs.

LPP 62 (Draft) - Urban Water Management

LPP 62 aims to maximise water efficiency by encouraging best practice urban water management methods. It also encourages the incorporation of water efficient fixtures and fittings as well as the minimisation of water used for irrigation of landscaped areas. No details in relation to this matter have been addressed as part of the development application. It has not therefore been possible to undertake an assessment in this regard. If the application is supported, an UWMP will need to be prepared for the site prior to the commencement of site works. Further comment regarding water management is included within the 'key issues' section of this report.

LPP 63 (Draft) - Integrated Land Use and Transport Planning

There are two key objectives of draft LPP 63 relevant to this proposal, as follows:

- Ensure that transport assessments are effectively integrated into land use planning process; and
- Ensure a consistent, open and transparent approach is taken to the consideration of transport impacts.

The policy determines whether a transport statement or assessment is required by assessing land use and size - shopping centres with a gross floor area of more than 1000m² are considered to be '*high impact*' and therefore a transport assessment is required. The transport assessment should generally address the checklists in the LPP 63 which accord with the WAPC guidelines.

Development proposals ahead of the finalisation of a structure plan, in this case the BTCLSP, are required to include a transport assessment for not only the development proposal but also the balance of the structure plan area, or where relevant, an established precinct. Comment regarding the transport statement and applicable traffic impacts are discussed under the 'key issues' section of this report.

LPP 67 (Draft) - Landscape and Vegetation

The key objective of LPP 67, relevant to this application, is as follows:

“Contribute towards achievement of vegetation and landscape outcomes that meet the expectations of stakeholders and contribute towards the achievement of biodiversity and water use targets and the creation of vibrant places for our communities”.

In accordance with draft LPP 67, a Landscape and Vegetation Management Report and accompanying Landscape Drawings are required to be submitted. The application includes documentation which identifies that the site includes a Resource Enhancement Wetland (REW) and concludes '*that the wetland management category provides no constraints to the development proposal*'. However, the application does not include a comprehensive Landscape and Vegetation Management Report to identify the significance of the wetland area and vegetation nor the impact that the loss of this area will have. Details of the management of the small area of REW to be retained have not been provided nor the provisions which will be put in place to address any environmental consequences of removing the vegetation and REW.

It is therefore considered that the requirements of LPP 67 have not been adequately met and the loss of the wetland and vegetation cannot therefore be fully assessed. Comments regarding this are discussed under the 'key issues' section of this report.

LPP 70 (draft) – Activity Centres

At the Ordinary Council meeting held on 9 July 2012, Council resolved to adopt LPP 70 for the purposes of advertising. The development application broadly addresses a number of the objectives in the policy. However, it fails to address in sufficient detail, aspects such as:

- Transit Orientated Development;
- Maximising the intensity of land use;
- Vehicle traffic impacts, pedestrian movement and cycling facilities;
- Built form outcomes – small walkable blocks, activity centre facilitating a lifestyle beyond '9 - 5pm'. Long building facades and continuous concrete walls with minimal articulation, activity or visual interest should be avoided;
- A diverse range of building types including residential to create a vibrant and viable environment, buildings addressing streets and public spaces to promote vitality and encourage natural surveillance and active frontages; and
- Development should complement and enhance the character of the surrounding area and

Whilst these issues are addressed in LPP 70, many of them are also identified in other Shire LPPs. It is not considered that the above issues could be addressed by imposing conditions to an approval as they relate to the design of the development and require fundamental changes in order for them to comply or to address the objectives of the policy.

Officer Comment

A number of the LPPs have been complied with and in some instances it is possible to satisfy the requirements of a LPP by including a condition of approval. The requirements of LPP 31 Town Centre Design Guidelines are also largely not complied with and given the extent of the issues it is not considered that they could be addressed through a condition of approval.

Consultation

In accordance with LPP 27 - Stakeholder Engagement in Land Use Planning, the application was referred for a period of 21 days to all landowners within the BSP boundary and 22 government agencies. As a result of the advertising, 66 submissions were received representing 56 letters of support and 10 letters of objection.

With respect to the letters of objection, the following points were raised:

- Objection to increase in traffic and potential harm to equestrian users of Briggs Road;
- The development is not rural in character and will break up the town centre and impact upon the existing IGA;
- The development is not consistent with the BTCLSP, does not support the principle of a main street;
- The development is a standalone activity centre resulting in a single purpose centre;
- The development will have an adverse impact on the streetscape due to large car park to the front;
- Insufficient demand for a second Discount Department Store (DDS); and
- Poor connectivity across major road.

In light of these points, the following comments are provided:

- The increase in traffic in the area will, to a large extent, arise from the general development of the general area including residential developments, commercial developments, education establishments and the Byford Town Centre.

- The design does not reflect the rural character of the area and is contrary to the provisions of the BTCLSP, LPP 70, and design guidelines;
- The only supermarket within Byford is the IGA located on the corner of Abernethy Road and South Western Highway. The extent of the development of Byford is such that it is considered more than one supermarket is supportable.
- The development, if approved, would result in a standalone single purpose centre which would not address any of the mixed use, activity centre elements identified in the BTCLSP and relevant LPPs.
- The large car parking area fronting Abernethy Road is contrary to the design guidelines which requires a maximum setback of 5 metres and seeks to locate car parking to the rear of the building – the development is contrary to these provisions.
- The BTCLSP identifies the provision of a DDS to the north of Abernethy Road. The retail demand analysis undertaken as part of the BTCLSP concludes the Town Centre will support between 9000m² and 15500m² of retail Net Lettable Area (NLA) to 2031. These figures suggest that if development is undertaken in accordance with the provisions of the BTCLSP then a second DDS south of Abernethy Road probably may not be sustained even in the long term.
- The issue of connectivity has not been adequately addressed in the application including no provision for pedestrian access across Abernethy Road.

With the exception of the increase in traffic volumes, it is considered that the remainder of the submissions objecting to the proposal raise valid concerns. The issue of traffic is discussed in the key issues section of the report.

Consultation with other Agencies or Consultants

As a result of the advertising to government agencies, a total of 14 submissions were received. Whilst most agencies indicated that they have no objection to the proposal or provided conditions should the development be approved, concerns were raised by Main Roads WA (MRWA) and the Department of Transport (DoT) regarding potential traffic impacts that could be created as a result of the development. Concerns were also raised by Department of Environment and Conservation (DEC) in relation to the loss of the REW and the potential deterioration of water quality as a result of new development adjacent to the wetland. Comment regarding the potential traffic impacts are discussed under the 'key issues' section of this report.

Planning Assessment

Statutory Framework

With respect to the statutory framework relevant to this application, there are a number of key documents that need to be addressed. These are:

- TPS 2;
- BSP;
- The Shire's adopted BTCLSP;
- The WAPCs adopted BTCLSP;
- WAPC SPP 4.2 Metropolitan Centres Policy; and
- Shire's Activity Centres Strategy.

TPS 2

The subject site is zoned 'Urban Development' under Council's TPS 2. With respect to land uses, the proposal is deemed to fall under the use class definitions of 'shopping centre' within TPS 2 as follows:

Shopping Centre - means a group of shops, service offices and general offices and related activities, the group being in excess of 5000 square metres gross leasable area, developed as an integrated unit together with the required onsite parking facilities.

The shopping centre comprises 11,910m² gross floor area including malls, comprising:

- Discount department store – 4500m²;
- Supermarket – 3800m²; and
- 18 specialty shops – 1850m².

When assessing development within the Urban Development zone before the approval of a structure plan, clause 5.18.7.3 of TPS 2 states the following:

“Council may approve the development or use for other than a single house within the ‘Urban Development’ zone subject to Council being satisfied that the nature or scale of such development or use will not have an adverse effect on:

- a) the preparation of a Structure Plan for, or*
- b) the orderly and proper planning of, or*
- c) the health, amenity, safety or convenience of the future occupants of,*

the area intended for the preparation of a Structure Plan, and subject to the proposed development or use being advertised for public inspection in accordance with Clause 6.3”.

Clause 5.18.7.3 of TPS 2 gives the Council the power to approve developments or uses other than a single house within the Urban Development zone as long as they are satisfied that specific criteria can be met. Whilst an approval of the proposed development is unlikely to adversely impact the health and amenity of the community, consideration is required in terms of whether an approval will adversely impact on the finalisation of the BTCLSP and in turn the orderly and proper planning of the Byford Town Centre. This issue is addressed further within the ‘key issues’ section of this report.

TPS 2 Requirements

Car Parking

The parking requirements under TPS 2 for the proposed development are detailed in the table below. For the purpose of the calculation it has been interpreted that the ‘shopping centre’ incorporates the supermarket, discount department store and specialty shops.

Use Class	Total GLA (m²)	Ratio (TPS 2)	Car bays required	Car Bays provided
Shopping Centre	11,910	1 per 12.5m ² GLA	953	812
		Ratio (BTCLSP)		
Shopping centre	11,910	1 per 20m ² GLA	596	812

Based on the requirements of both TPS 2 and the BTCLSP, the proposal exceeds the number of bays required under the BTCLSP. The oversupply of car parking particularly in relation to the requirements of BTCLSP is considered to be contrary to the objectives of transit oriented development.

Landscaping

The proposed development includes the provision of 10% landscaping as per the requirements of TPS 2. In addition, it is proposed to provide one tree for every six car bays.

BSP

The BSP was adopted by the Council in accordance with the provisions of clause 5.18.3.15 of TPS 2 on 22 August 2005 to provide a framework for the development of the Byford urban area. Council at its meeting of 17 February 2007 progressed a number of minor modifications to the BDSP, including placing notation 17 on the plan that states:

“Town centre requires the preparation and completion of a Local Structure Plan, complete with Detailed Area Plans and Design Guidelines. Local Structure Plan is to include an investigation with Transit Oriented Urban Design: the location, nature, role, relationship and distribution of different activities within the town centre including 800 metre walkable catchment area...”

The proposed modification to the BSP was subsequently endorsed by the WAPC.

BTCLSP

Within the WAPC approved BTCLSP, the site is identified as having the following elements:

- Highway Commercial;
- Residential R60 area;
- Public open space; and
- Resource enhancement wetland.

With respect to land use permissibility within these zones, guidance is taken from LPP 19 Byford Structure Plan Area Development Requirements. The objective of LPP 19 is to clearly define the permissibility of various land uses within the zones contained in the BTCLSP.

LPP 19 identifies the land use of ‘shopping centre’ as a use not listed in both Highway Commercial and residential zoned areas. In accordance with LPP 19 and TPS 2 ‘where no symbol appears in the cross reference of a use class against a zone in the zoning / land use table a use of that class is not permitted in that zone’.

Therefore, the development as proposed is not consistent with the BTCLSP, requirements of LPP 19 or TPS 2. This issue is addressed further within the ‘key issues’ section of this report.

WAPC SPP 4.2 Metropolitan Centres Policy

Applications for retail developments which are consistent with any approved structure plan, town planning scheme or planning policy are able to be determined under both TPS 2 and the MRS by the local authority.

In SPP 4.2, Byford is designated as a district level centre. This status has been addressed in the BSP through the designation of the Town Centre zone. The Town Centre zone aims to build upon and consolidate the existing retail centre of Byford. The subject development is considered to be consistent with this aim.

KEY ISSUES

There are a number of key issues that need to be considered in the context of the current application. These relate to:

1. BSP;
2. The status (legal standing) of the BTCLSP and proceedings before the State Administrative Tribunal (SAT);

3. Compliance with the Shire's adopted BTCLSP and the WAPC's approved BTCLSP and Compliance with LPP 31 (draft) Town Centre Design Guidelines;
4. Loss of Resource Enhancement Wetland;
5. Water Management;
6. Transport and traffic; and
7. Noise.

Each of these issues is discussed in detail below.

1. BSP

The subject site is identified as Town Centre on the BSP map. The BSP annotation requires the preparation and completion of a Local Structure Plan (LSP). District Structure Plans (DSPs) provide an overarching framework for the preparation of a LSP, with DSPs providing information in a greater level of generality. The intent of the BSP is to set out the broad planning framework and is to be supplemented by an LSP to provide further finer detail to the specific zonings of the area.

The applicant has advised that in their opinion, the development is in accordance with the zoning of the BSP and this is the document against which an assessment should be made. However, the purpose of the BSP is not to establish the specific zonings of individual parcels of land as this is addressed through subsequent planning processes such as LSPs. In view of this in order to assess the application consideration must be given to the WAPC adopted BTCLSP.

2. BTCLSP

The BTCLSP has been adopted by the Shire and approved by the WAPC. It has not completed the statutory process due to the Shire's appeal to the SAT against the WAPC's decision.

SAT Proceedings

In February 2012, Council considered the WAPC determination and resolved to reject modifications to the Shire's BTCLSP that were approved by the Western WAPC and subsequently lodged an application for review, an appeal, with the SAT against the WAPC's decision. Since the lodgement of the appeal the following has occurred:

1. The DoP have bought into question the Shire's jurisdiction to appeal the WAPC's decision. As a result the issues surrounding specific modifications to the BTCLSP have not been explored and will not be explored until such time as the SAT have determined the preliminary issue surrounding the Shire's jurisdiction to appeal the decision.
2. The hearing for the preliminary matter concerning the Shire's jurisdiction to appeal the WAPC have concluded and the Shire is awaiting the decision from the SAT.

Legal Advice

Due to the issues surrounding the status of the BTCLSP and the current appeal proceedings, it was considered prudent to obtain legal advice with respect to which version of the BTCLSP the development application should be assessed against. As both the Shire's adopted version, and the WAPC's approved version of the plan vary in a number of key areas, it is important to understand which plan holds more weight and which plan the development should comply with. In this regard, key extracts from the legal advice is provided below:

“The Shire of Serpentine Jarrahdale (Shire) has prepared a Local Structure Plan (LSP) for the Byford Town Centre, and has advanced that process to the point where the Town Centre LSP has been advertised for public submissions and approved by the WAPC with modifications, and is only awaiting adoption by the Shire, a final step which is being delayed by an appeal process in the SAT.

Clause 5.18.7.1 of TPS 2 provides:

Except as provided in sub-clauses 5.18.7.2 and 5.18.7.3 hereof, no new development or use of land shall be commenced or carried out within the Urban Development zone until a Structure Plan has been approved for the relevant part of the zone.

Clause 5.18.7.1 only talks about a Structure Plan having been approved for the relevant part of the zone. In fact there are two Structure Plans which can be said to have been approved for the Byford Town Centre, namely the District Structure Plan, and the Byford Town Centre LSP, of which the Shire is the proponent.

TPS 2 does not make any distinction between District Structure Plans and Local Structure Plans. Therefore, where clause 5.18.7.1 speaks of a Structure Plan having been approved for the relevant part of the zone, the clause is open to interpretation that its requirements would be satisfied by the approval of the District Structure Plan.

In any event, the Shire’s own Byford Town Centre LSP has been approved by the WAPC, albeit with a requirement for modifications, but nevertheless is has been approved in the sense recognised by TPS 2. The Byford Town Centre LSP has not completed its promulgation process because the adoption of the Shire has not occurred, but clause 5.18.7.1 does not speak of adoption of a Structure Plan, but rather speaks of approval. The WAPC’s involvement is the approval process under TPS 2”.

When looking at the statutory process that LSPs are required to go through, as per TPS 2, it is acknowledged that the Shire’s BTCLSP has been adopted in accordance with clause 5.18.3.7 and approved by the WAPC in accordance with clause 5.18.3.10 of TPS 2. However, the approval under 5.18.3.10 of TPS 2, subject to a number of modifications being undertaken. Therefore, BTCLSP as approved by the WAPC, with modifications, is the version of the LSP that the current application should be assessed against.

3. Compliance with the BTCLSP and LPP 31

The proposed development is not consistent with the approved BTCLSP as detailed below:

Provision	Comment
1.3 Contents of the LSP	Does not generally accord with the provision as the development does not address any of the aspects of the BTCLSP.
1.5 Byford Town Centre Concept Plan	The proposal does not accord with the correct plan which indicates Highway Commercial and Residential R60, neither of which are proposed by the development.
1.6 Relationship with the BSP	Accords to some extent by virtue of facilitating development within the DSP area.
1.8 Objectives	The proposal: <ul style="list-style-type: none"> • Facilitates only retail development and does not include an appropriate mix of commercial, mixed use or residential; • Does not provide land for public purposes such as a town square;

	<ul style="list-style-type: none"> • Does not provide an appropriate distribution of active and passive public open space; • Does not provide for a permeable, efficient and effective movement network throughout the LSP area; • Does not facilitate the development of street blocks to provide for appropriate lot orientation and accessibility. It provides for two isolated shopping centre blocks that directly oppose the ideals for the specific property in the BTCLSP; • Does not provide efficient and effective urban water management addressing water quality and quantity; • Does facilitate the development of land in the LSP area; • Does not provide a ‘Main Street’ that creates the environment for mixed use, day and night activity but is designed as a stand alone shopping complex; • Does not generally provide for a transition of land use over time, including robust and durable building design and site planning to accommodate change in future use, density and form. It is designed as a shopping centre that does not really integrate with the surrounding environment in a meaningful way; • Does not provide for sensitive incorporation of cultural heritage and rural character elements. The REW is generally ignored and the character of the shopping centre is generally not in tune with the character that is advocated in the BTCLSP; • Does not specifically provide a framework to coordinate the adequate and timely provision of common infrastructure of the LSP and provide for the reasonable and equitable sharing of costs of common infrastructure between landowners; • Does not specifically create a residential and mixed use, well defined Town Centre but does offer facilities of local and perhaps to some extent district wide value; • Does not provide a range of dwelling types and densities accommodating a diverse residential community as it only addressed the shopping centre component.
1.9.2 Highway Commercial and Town Centre provisions	The proposal does not accord with these provisions.
1.10 Residential densities	The proposal does not accord with this as there is no residential element.
1.12 Town Centre	The proposal does not accord with the provision as it shows a shopping centre and parking area in the area identified for highway commercial and residential. It is also clear that the proposal attempts to move the retail core southwards out

	of the designated Town Centre area contrary to the LSP.
1.13 LPP31 – Byford Town Centre Design Guidelines	The application has generally not addressed the majority of these elements.
1.14 Detailed Area Plans	The proposal has not provided a Detailed Area Plan as required by the LSP.
1.17 Retail Net Lettable Area	The proposal is in accordance with this.
1.18 Priority frontages for Activated and Sleeved Development	The proposal does not conform to this as the development is a stand alone shopping centre located at the southern side of the property surrounded by car parking. No future provisions to facilitate this have been given.
1.19 Parking	The proposal has not provided a Parking and Access Management Strategy and does not conform to this requirement.
1.20 Park and ride	The proposal has not attempted to facilitate the provisions of Park and Ride.

The above issues are considered to be significant in terms of non compliance with the zoning of the land under the BTCLSP and also the finer details of the objectives of the BTCLSP. The land use is not consistent with the envisaged uses under the LSP and design guidelines. It ignores the residential and highway commercial components and proposes a shopping centre and large car park. Given the extent of the variations it is considered that the proposal is fundamentally different to the BTCLSP and the issues could not be addressed through conditions of approval and as such the development cannot be supported.

4. Loss of Resource Enhancement Wetland

Consideration of the significance of the REW was undertaken by the Shire and the WAPC in development of with the BTCLSP, which resulted in the REW being identified for retention in both the Shire's adopted LSP and the WAPC's approved LSP and includes an element of public open space in line with Liveable Neighbourhoods. The proposed development is contrary to these provisions and the development application has not provided sufficient justification as to why the loss of the REW would not be significant or measures to address the consequences.

The proposed development is inconsistent with EPA Guidance Statement 33 (chapter B4, P15) which states:

“Ultimate objective is to manage, restore and protect towards improving their conservation value. These wetlands have the potential to be restored to Conservation category. This can be achieved by restoring wetland function, structure and biodiversity. Protection is recommended through a number of mechanisms.”

The submission by the DEC makes reference to the requirement for adequate buffers for urban development adjacent to wetland areas. Whilst the applicant has identified that there is no reason for the presence of the REW to prevent development taking place, it is not considered that sufficient details have been submitted to address the concerns of the DEC.

Management of the wetland and the impacts of its loss have not been fully investigated. The buffer provisions incorporated into the BTCLSP in the form of public open space have not been taken into consideration and therefore justification for varying this and alternative solutions has also not been provided.

The extent of the issues which have not been addressed in relation to this application are considered to be too significant to be dealt with by conditions. Furthermore, should the

application be approved it is considered that the JDAP may consider referral to the Environmental Protection Authority (EPA) for further assessment under s38 of the *Environmental Protection Act*.

5. Water Management

There are a number of issues relating to the management of water within the proposed development. Water quality and quantity management has not been adequately addressed. The proponent has not adequately demonstrated compliance with the following:

- Byford Townsite Drainage and Water Management Plan (GHD, 2008); and
- Byford Town Centre Local Water Management Strategy (GHD, 2010).

Stormwater Storage Requirements

The development application does not clearly indicate how stormwater storage is to be provided on site. The Byford Townsite Drainage and Water Management Plan (GHD, 2008) determines the catchment boundaries and stormwater storage volumes required to be managed on site and considered as part of the development application. No catchment or stormwater storage information has been provided.

The top water levels for the 1-Year, 5-Year and 100-Year Average Recurrence Interval (ARI) storm events have not been provided. The required stormwater storage may be achieved through underground storage below the proposed outside car park. However the proponent has not indicated such an approach will be taken.

Groundwater

Where a perched groundwater table exists or the predicted Maximum Groundwater Level (MGL) is at or within 1.2 metres of natural ground level, the importation of clean fill and/or the provision of subsurface drainage will be required. The proponent is required to achieve an 800mm separation between the phreatic line for perched groundwater between subsoil pipes and finished lot level. An underground car park is proposed for the site yet it has not been demonstrated how clearance from groundwater will be achieved. Discharge from a subsoil drainage system is required to be treated before discharge to the receiving environment. The proponent has not provided any information to demonstrate how the subsoil drainage system will work or how subsoil drainage discharge water will be managed on site.

Water Quality

The proponent is required to retain the 1-Year 1-Hour rainfall event on site to comply with the requirements of the Byford Townsite Drainage and Water Management Plan (GHD, 2008). The applicant has not clearly demonstrated how the 1-Year 1-Hour storm event is to be retained on site. The applicant has not demonstrated how the surface runoff from the car park will be treated before discharge to the receiving environment. It is highly recommended the car park is redesigned to take advantage of landscaped areas for stormwater retention. Additional landscape area within the car park will be required for bio-retention treatment areas for stormwater runoff.

Urban Water Management Plan (UWMP)

The proponent has yet to adequately demonstrate that water management can be achieved on the proposed development site. It is required that an UWMP be prepared prior to any ground disturbing activities. The proposed development's layout and configuration may need to change as a result of the drainage requirements and solutions identified in an UWMP required as a condition of planning approval.

6. Transport and Traffic

The primary concern relates to the fact that the proposed development will potentially have a significant impact on the traffic being generated than the land use as identified in the BTCLSP. The road layout and intersections have been designed based on a different land use and this therefore has the potential to have significant negative impact on the surrounding road network.

The potential for vehicle stacking on Abernethy Road for vehicles trying to enter the site is considered to be significant and has not been adequately addressed in the application. There are numerous entrances to the site, including two onto Abernethy Road which are not anticipated by the BTCLSP. There are two accesses indicated in the western side of the site, one of which cannot be implemented due to the fact that it will need to cross an area of designated Public Open Space (POS). In addition, the second western access anticipates the movement of delivery vehicles and trucks onto a road which has not been designed for this purpose. Furthermore that Gordin Way facilitates access to the High School and provides on street parking bays and cycle lanes, all of which are potentially incompatible high vehicle movements and delivery vehicles movements.

No allowance has been made in the proposal for the resumption of land to accommodate the widening of Abernethy Road. This needs to be addressed and the parking calculations adjusted accordingly.

The BTCLSP identifies a road on the southern boundary of the site, north of the existing Primary School. The application does not reflect this road, rather it incorporates the land into the development site and utilises it for delivery vehicles and car parking. The combination of these two uses is also considered to be incompatible and a strategy addressing how they can successfully be integrated has not been provided.

Pedestrian Access

Pedestrian access has not been adequately addressed. Street lighting requirements have not been considered in the application. Appropriate street lighting standards should be applied to the development.

Traffic and Parking Assessment

The transport assessment submitted with the application has been assessed, with a number of concerns being raised by the DoT and MRWA.

Through further discussions with the DoT, it has been suggested that if the application is approved, the issues could be addressed subject to a condition being imposed that requires an updated Transport Assessment to be prepared and approved by the Shire, upon advice from the DoT and MRWA. The updated Transport Assessment would need to be prepared in accordance with the WAPC Transport Assessment Guidelines for Developments and account for development up to the year 2031.

MRWA have advised that caution should be exercised if considering approval of the development prior to an updated Transport Assessment being prepared and approved. MRWA do not support this issue being addressed via a condition of approval as they deem that it is fundamental to the entire operation of the site. The updated Transport Assessment should ideally identify all the applicable road works that need to be undertaken to facilitate the safe movement of traffic in to and out of the development, and will also identify the infrastructure that is to be constructed by the developer and the infrastructure that will fall with the Shire to construct.

7. Noise

There are a number of issues relating to the potential noise impacts from the development on adjoining sensitive land uses that needed to be examined. The proposed site plan shows the location of the loading bays and bin area to the south of the lot adjacent to the existing primary school. The modified BTCLSP indicates future R60 residential development in this location which would be a compatible land use adjacent to the school.

There is the potential for significant noise impacts from the off loading of delivery trucks and pick up of refuse during bin collections, particularly if these activities occur prior to 7.00am. The proponent has not provided any acoustic report and it is difficult to make an informed decision regarding the potential noise impacts from delivery vehicles and refuse pickup trucks on existing sensitive land use. It is normal practice that a proponent appoints a suitably qualified person to undertake a noise impact assessment.

Options

There are two options available to Council with respect to this application as follows:

Option 1: Recommend to the JDAP that the application be approved, subject to conditions;
or

Option 2: Recommended to the JDAP that the application be refused, providing reasons.

Option 2 is recommended.

Conclusion

The applicant is seeking approval for the development of a shopping centre by virtue of the indicative provisions of the BSP and states that there is no reason to have regard to any other document.

Given the provisions of the BSP and TPS 2, the above argument is not considered valid. The BTCLSP has been approved by the WAPC and this satisfies the requirements of TPS 2. The BTCLSP is a seriously entertained document the provisions of which are relevant to the consideration of this development application.

The development application does not comply with the provisions of the BTCLSP, Liveable Neighbourhoods, LPP 19 Byford Town Centre Development Requirements, LPP 31 Byford Town Centre Design Guidelines and provisions of a number of LPPs.

In view of this it is not considered that the application can be supported and accordingly it is recommended that the application is refused.

ATTACHMENTS

- [OCM045.1/09/12](#) - Location plan and aerial photograph
- [OCM045.2/09/12](#) - Development plans and elevations (drawing No.s DA02, DA04, DA01, DA05 colour, DA05, DA06-(a).
- [OCM045.3/09/12](#) - Schedule of public submissions.
- [OCM045.4/09/12](#) - Schedule of Government Agency submissions.
- [OCM045.5/09/12](#) - Byford District Structure Plan text and map.
- [OCM045.6/09/12](#) - BTCLSP (approved by WAPC).
- [OCM045.7/09/12](#) - BTCLSP (adopted by Shire) and Concept Plan

VOTING REQUIREMENTS

Simple Majority

OCM045/09/12 COUNCIL DECISION/Officer Recommendation

**Moved Cr Moore, seconded Cr Urban
That Council:**

- A) Note that the application for the proposed Shopping Centre at Lot 15 Abernethy Road, Byford will be determined by the Metropolitan East Joint Development Assessment Panel.**
- B) Recommend to the Metropolitan East Joint Development Assessment Panel that the proposed Shopping Centre, at Lot 15 Abernethy Road, Byford not be approved for the following reasons:**
- a) The proposed development is not in accordance with the zoning of the Western Australian Planning Commission approved Byford Town Centre Local Structure Plan.
 - b) The proposed development is not in accordance with the zoning of the Shire's adopted Byford Town Centre Local Structure Plan.
 - c) Approval of the development would result in fragmentation of the Byford Town Centre contrary to the objectives of the Byford Town Centre Local Structure Plan.
 - d) The application fails to demonstrate compliance with the provisions of LPP31 (draft) – Byford Town Centre Design Guidelines, which facilitates and coordinates development within the Byford Town Centre LSP area.
 - e) Approval of the development would be contrary to the orderly and proper planning of the area.
 - f) Approval of the development would result in the loss of an area of resource enhancement wetland, which could potentially have a significant detrimental impact on the environment and drainage within the locality.

CARRIED 7/0

OCM046/09/12	COUNCIL MEETINGS AND SERVICES OVER THE CHRISTMAS AND NEW YEAR PERIOD (A0023-02)
Author:	Trish Kursar - Personal Assistant to the Acting Chief Executive Officer
Senior Officers:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	5 September 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

The following dates have previously been advertised for Council meetings for the month of December 2012:

- 10 December 2012; and
- 17 December 2012

It is proposed that Council advertise the date for one Council meeting to be held on 10 December 2012 to accommodate the Christmas and New Year period.

Office Hours over the Christmas and New Year Period

This year the Christmas and New Year Public Holidays will be Tuesday 25 December 2012, Wednesday 26 December 2012 and Tuesday 1 January 2013.

With regard to the Shire Administration Centre, Operations Centre and the Mundijong Library, in 2011 all offices were closed from 2.00pm on Friday 23 December 2011 to Monday 2 January 2012, inclusive.

It is suggested that this year the office close over the Christmas and New Year period from 5.00pm Friday 21 December 2012 to Tuesday 1 January 2013, inclusive, with staff taking accrued leave entitlements for these four days and that Council advertise the closure of the office for this period.

Council's endorsement of closing the Shire Administration Centre, Operations Centre and the Mundijong Library during this period is sought.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

- OCM014/09/11
- OCM013/09/10

COMMUNITY / STAKEHOLDER CONSULTATION

Dates are to be advertised in accordance with the *Local Government Act* at the Shire Administration Centre, Library and in a local newspaper. The office closure dates and meeting dates will also be advertised on the Shire website.

REPORT

Ordinary Council Meetings

The December 2012 Ordinary Council meeting date will be advertised as Monday 10 December 2012.

The January 2013 Ordinary Council meeting date will be advertised as Tuesday 29 January due to the public holiday being on Monday 28 January 2013.

Christmas and New Year Period

The Serpentine Jarrahdale Shire normally closes over the Christmas and New Year period with staff accessing accrued rostered days off, annual leave or leave without pay for those days other than the specified public holidays. It is not anticipated that customer service will be unduly impacted by the proposed closure as this period has been very quiet historically. Enquiries have been made with five neighbouring local authorities and three of the five are closing on Friday 21 December 2012 and re-open on Wednesday 3 January 2013. One will close at 12 noon on Monday 24 December and the remaining local authority anticipates an early closure on Monday 24 December at the Chief Executive Officer's discretion.

Serpentine Jarrahdale Shire closure calendar would be as follows:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Dec 17 Open	Dec 18 Open	Dec 19 Open	Dec 20 Open	Dec 21 Open	Dec 22	Dec 23
Dec 24 Christmas Eve Closed	Dec 25 Christmas Day Public Hol	Dec 26 Boxing Day Public Hol	Dec 27 Closed	Dec 28 Closed	Dec 29	Dec 30
Dec 31 Closed	Jan 1 New Year's Day Public Hol	Jan 2 Open	Jan 3 Open	Jan 4 Open	Jan 5	Jan 6

With the office open until Friday 21 December 2012, this will allow residents to complete any last minute business prior to the Christmas break. It is believed that this closure will be an active demonstration to staff of the family friendly workplace and recognition of their efforts during another year of hyper-growth.

It is intended that the variations to opening hours for the Shire Administration Centre, Operations Centre and Mundijong Library will be advertised and the offices will be well signed to indicate the closure over this period.

Over the Christmas period, as per previous years, it will be the responsibility of the Acting Chief Executive Officer to ensure that staff coverage is in place over this period in the case of an emergency.

ATTACHMENTS

- [OCM046.1/09/12](#) - Ordinary Council Meeting Dates 2013

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

Council's Plan for the Future has placed an emphasis on Serpentine Jarrahdale Shire being a great place to work and in turn recognises that our people are our most important asset. The Plan for the Future also focuses on retaining our funky, fun, flexible, friendly and family feeling in the workplace. This office closure proposal supports the intent of these focus areas.

STATUTORY ENVIRONMENT

- *Local Government Act*

FINANCIAL IMPLICATIONS

Staff leave has been included in the 2012/2013 budget.

VOTING REQUIREMENTS Simple Majority

OCM046/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Moore
That Council:

- 1. Agrees to the following meeting and administrative arrangements over the month of December 2012 and January 2013 and that they be advertised accordingly to the public:**
 - a) The Ordinary Council Meeting for December 2012 will be held on Monday 10 December 2012.**
 - b) The Shire Administration Centre, Operations Centre and Mundijong Library to be closed from 5.00pm Friday 21 December 2012 to Tuesday 1 January 2013, inclusive.**
 - c) The Ordinary Council Meeting for January 2013 will be held on Tuesday 29 January 2013.**
- 2. Notes that over the Christmas and New Year period it will be the responsibility of the Acting Chief Executive Officer to ensure that staff coverage is in place in the case of an emergency.**

CARRIED 7/0

OCM047/09/12	MONTHLY FINANCIAL REPORT - AUGUST 2012 (A2092)
Author:	Kelli Hayward - Acting Executive Manager Finance
Senior Officer:	Alan Hart - Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

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

COMMUNITY / STAKEHOLDER CONSULTATION

No community consultation was undertaken / required.

REPORT

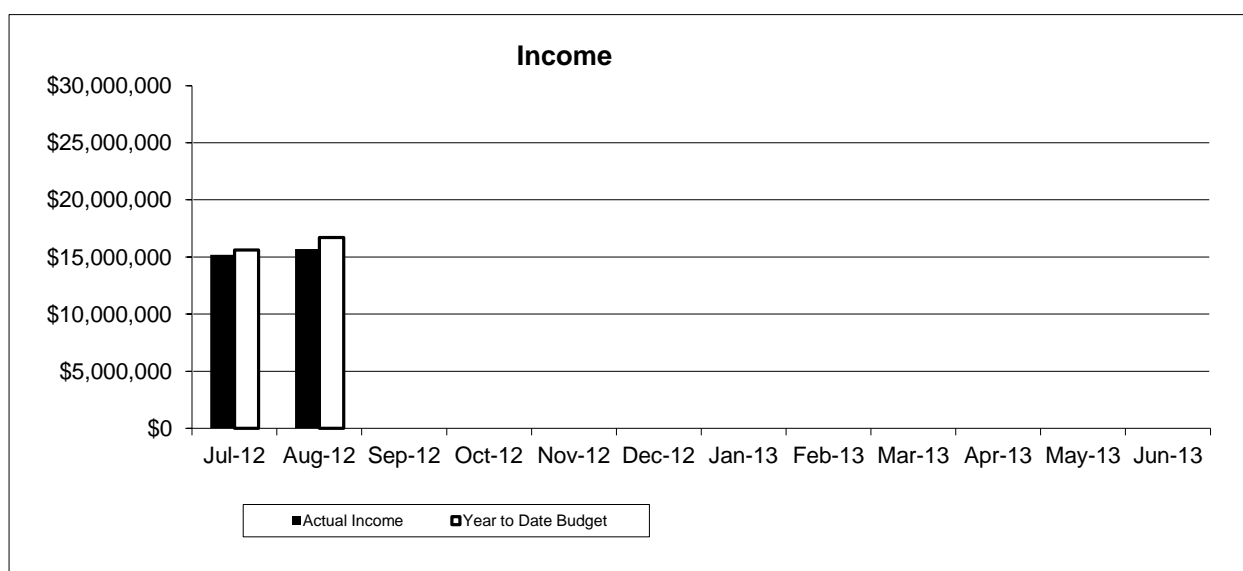
Council adopted the 2012/13 Budget at the Ordinary Council Meeting held on 25 June 2012. The figures provided in this report are compared to the year to date budget.

The period of review is August 2012. The municipal surplus for this period is \$14,234,999 compared to a budget position of \$11,867,242. This is considered a satisfactory result for the Shire for this time of the year.

Income for the August 2012 period, year to date is \$15,699,548. The budget estimated \$16,716,810 would be received for the same period. The variance to budget is (\$1,011,262).

Currently all budgets have been spread equally over 12 months. Cash flow predictions will be completed by Managers for the September 2012 monthly report and variance analysis can be completed.

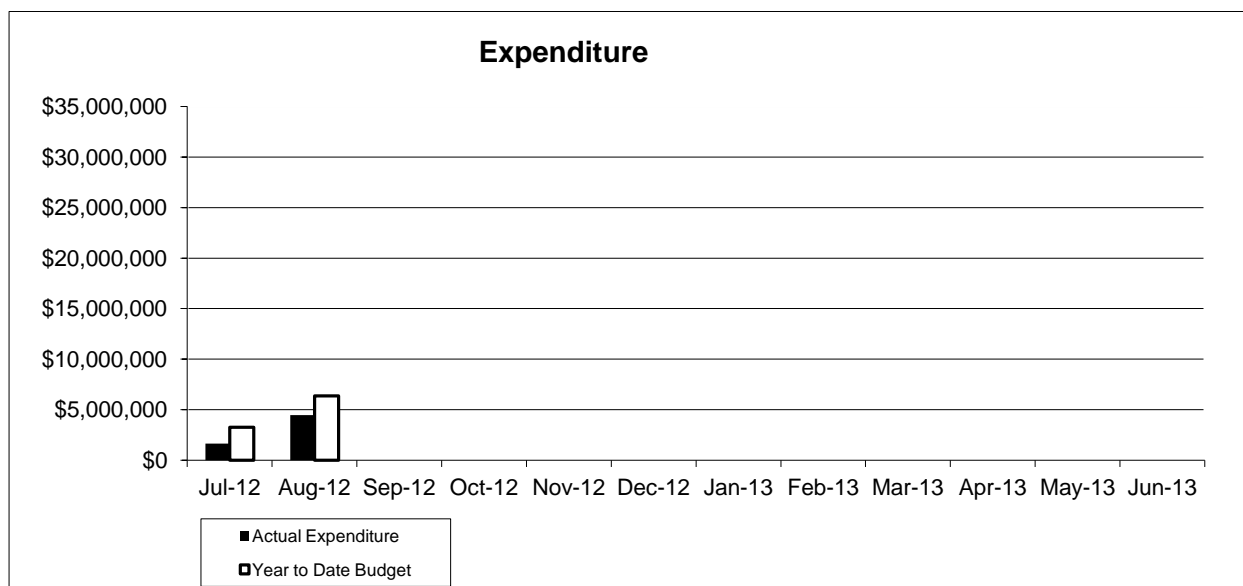
The following graph illustrates actual income to date compared to the year to date budget.



Expenditure for the August 2012 period, year to date is \$4,481,251. The budget estimated \$6,332,169 would be spent for the same period. The variance to budget is \$1,850,918, details of all significant variances are provided in the detailed business unit reports.

Currently all budgets have been spread equally over 12 months. Cash flow predictions will be completed by Managers for the September 2012 monthly report and variance analysis can be completed.

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



ATTACHMENTS

- [OCM047.1/09/12](#) - Monthly Financial Report (E12/6295)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

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

STATUTORY ENVIRONMENT

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial statement for the preceding year and other financial reports as are prescribed.

Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the local government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

FINANCIAL IMPLICATIONS

There are no financial implications relating to the preparation of the report. Any material variances that have an impact on the outcome of the annual budget are detailed in this report.

VOTING REQUIREMENTS

Simple Majority

OCM047/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Moore

That Council receives the Monthly Financial Report for August 2012, in accordance with Section 6.4 of the *Local Government Act 1995*.

CARRIED 7/0

OCM048/09/12	CONFIRMATION OF PAYMENT OF CREDITORS (A0917)
Author:	Erin Noble - Finance Officer
Senior Officer:	Alan Hart - Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

The *Local Government (Financial Management) Regulations 1996* requires the Local Government to prepare a list of accounts paid by the Chief Executive Officer each month.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

There is no previous Council decision relating to this issue.

COMMUNITY / STAKEHOLDER CONSULTATION

No community consultation was required.

REPORT

Proposal

In accordance with the *Local Government (Financial Management) Regulations 1996* 13(1), Schedules of all payments made through the Council's bank accounts are presented to Council for their inspection. The list includes details for each account paid incorporating:

- a) Payees name;
- b) The amount of the payment;
- c) The date of the payment; and
- d) Sufficient information to identify the transaction.

Invoices supporting all payments are available for the inspection of Council. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and that the amounts shown were due for payment, is attached and relevant invoices are available for inspection.

Conclusion

It is recommended that Council receives the payments authorised under delegated authority and detailed in the list of invoices for period of 1 August 2012 to 31 August 2012, as per attachment OCM048.1/09/12 - Creditor List of Accounts 1 August 2012 to 31 August 2012 including Creditors that have been paid and in accordance with the *Local Government (Financial Management) Regulations 1996*.

ATTACHMENTS

- [OCM048.1/09/12](#) - A copy of the vouchers numbered Cheque 42655 to Cheque 42740 and EFT27668 TO EFT28060 totalling \$2,286,683.13 for the period of 1 August 2012 to 31 August 2012. (E12/6175)

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

Council's Plan for the Future has placed an emphasis on exercising responsible financial management.

STATUTORY ENVIRONMENT

Section 5.42 and 5.45(2) of the *Local Government Act 1995* states that the Local Government may delegate some of its powers to the Chief Executive Officer. Council have granted the Chief Executive Officer Delegated Authority CG07 - Payments from Municipal and Trust Fund.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* as amended requires the Local Government to prepare a list of accounts paid by the Chief Executive Officer each month, showing:

- (a) The payee's name;
- (b) The amount of the payment;
- (c) The date of the payment; and
- (d) Sufficient information to identify the transaction.

FINANCIAL IMPLICATIONS

All payments that have been made are in accordance with the purchasing policy and within the approved budget, and where applicable budget amendments, that have been adopted by Council.

VOTING REQUIREMENTS Simple Majority

OCM048/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Wilson

That Council receives the payments authorised under delegated authority and detailed in the list of invoices for period of 1 August 2012 to 31 August 2012, as per attachment OCM048.1/09/12 - Creditor List of Accounts 1 August 2012 to 31 August 2012 including Creditors that have been paid and in accordance with the *Local Government (Financial Management) Regulations 1996*.

CARRIED 7/0

10. INFORMATION REPORTS:

OCM049/09/12	ACTING CHIEF EXECUTIVE OFFICER INFORMATION REPORT
Author:	Trish Kursar - Personal Assistant to the Acting Chief Executive Officer
Senior Officer:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	27 August 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only.

ATTACHMENTS

- [OCM049.1/09/12](#) - Policy Forum Agenda August 2012 (E12/3440)
- [OCM049.2/09/12](#) - Seal Register Report July 2012 (E02/5614)
- [OCM049.3/09/12](#) - Agenda of the Western Australian Local Government Association (WALGA) South East Metropolitan Zone Meeting for 29 August 2012 (IN12/13425)
- [OCM049.4/09/12](#) - Agenda of the Western Australian Local Government Association (WALGA) Peel Zone Meeting for 29 August 2012 (IN12/13463)
- [OCM049.5/09/12](#) - Agenda of the Western Australian Local Government Association (WALGA) State Council Meeting for 5 September 2012 (IN12/12989)

VOTING REQUIREMENTS Simple Majority

OCM049/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Piipponen

That Council accept the Acting Chief Executive Officer Information Report to 27 August 2012.

CARRIED 7/0

OCM050/09/12	DEVELOPMENT SERVICES INFORMATION REPORT
Author:	Jodie Evans - Personal Assistant to the Director Development Services
Senior Officers:	Tony Turner - Manager Health, Rangers and Compliance Louise Hughes - Manager Statutory Planning Brad Gleeson - Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only.

ATTACHMENTS

- [OCM050.1/09/12](#) - Building - Delegated Authority (E12/5937)
- [OCM050.2/09/12](#) - Health, Rangers and Development Compliance - Delegated Authority (E12/5865)



- [OCM050.3/09/12](#) - Planning - Delegated Authority (E12/5969)
- [OCM050.4/09/12](#) - Statutory Planning Report tabling Scheme Amendments, Local Planning Policies and Local Structure Plans (E12/3985)

VOTING REQUIREMENTS Simple Majority

OCM050/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Harris, seconded Cr Piipponen

That Council accept the Development Services Information Report for September 2012.

CARRIED 7/0

OCM051/09/12	ENGINEERING SERVICES INFORMATION REPORT
Author:	Mary-Ann Toner - Personal Assistant to the Acting Director Engineering
Senior Officers:	Craig Wansbrough - Project Manager, Water Sensitive Urban Design Strini Govender - Manager Infrastructure and Design Dave Gossage - Manager Emergency Services Uwe Striepe - Acting Director Engineering
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only.

ATTACHMENTS

- [OCM051.1/09/12](#) - South Western Highway Through Byford Townsite meeting summary (E12/6132)

VOTING REQUIREMENTS Simple Majority

OCM051/09/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Piipponen

That Council accept the Engineering Services Information Report for August 2012.

CARRIED 7/0

OCM052/09/12	CORPORATE SERVICES INFORMATION REPORT
Author:	Erin Noble - Finance Officer (Accounts Payable) Kathleen Duncan - Finance Officer (Payroll) Melissa Armitage - Finance Officer (Special Projects)
Senior Officers:	Alan Hart - Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

DELEGATED AUTHORITY (A0039-02)

01/08/2012	CG19	Reinvestment of Investment Account	501,974.94	AH & SVA
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		Number 9700-16134 for the purpose of Municipal Funds		
02/08/2012	CG07	Payment of EFT27668 to EFT27755	361,011.87	KH & AH
02/08/2012	CG07	Payment of Cheque 42655 to 42660	9,297.55	AH & BG
02/08/2012	CG19	Investment of Investment Account Number 750026 for the purpose of Municipal Funds	500,000.00	AH & BG
03/08/2012	CG07	Payroll	232,985.61	KH & AH
06/08/2012	CG07	Payment of EFT27756 to EFT27757	1,253.69	KH & AH
06/08/2012	CG07	Payment of EFT2758	79.70	KH & AH
06/08/2012	CG19	Reinvestment of Investment Account Number 145266714 for the purpose of Municipal Funds	511,949.28	AH & SVA
07/08/2012	CG07	Payment of EFT27759	5,704.41	AH & KH
08/08/2012	CG19	Investment of Investment Account Number 9991-61028 for the purpose of Municipal Funds	500,000.00	AH & SVA
09/08/2012	CG19	Investment of Investment Account Number 9991-76588 for the purpose of Municipal Funds	500,000.00	AH & SVA
10/08/2012	CG07	Payment of EFT27760 to EFT27837	676,641.45	KH & AH
10/08/2012	CG07	Payment of Cheque 42661 to 42695	21,753.20	RG & AH
13/08/2012	CG19	Reinvestment of Investment Account Number 9699-44697 for the purpose of Municipal Funds	502,995.89	AH & SVA
13/08/2012	CG19	Reinvestment of Investment Account Number 146159538 for the purpose of Restricted Funds - L3 Alexander Road Byford Stage 3	57,582.57	AH & SVA
14/08/2012	CG07	Payment of EFT27838	159.22	KH & AH
14/08/2012	CG19	Investment of Investment Account Number 756273 for the purpose of Municipal Funds	500,000.00	AH & BG
15/08/2012	CG19	Investment of Investment Account Number 757168 & 757167 for the purpose of Municipal Funds	1,000,000.00	AH & BG
15/08/2012	CG19	Investment of Investment Account Number 9991-97848 & 9991-98138 for the purpose of Municipal Funds	1,000,000.00	AH & BG
16/08/2012	CG19	Reinvestment of Investment Account Number 9700-16142 for the purpose of Municipal Funds	503,008.21	AH & SVA
16/08/2012	CG07	Payment of EFT27839 to EFT27912	566,176.46	KH & BG
16/08/2012	CG07	Payment of Cheque 42696 to 42707	67,277.81	BG & SvA
17/08/2012	CG07	Payment of EFT27913	51.04	KH & AH
17/08/2012	CG07	Payment of EFT27914	50.00	KH & AH
17/08/2012	CG07	Payment of EFT27915	7,537.76	KH & AH
17/08/2012	CG07	Payroll	392,501.37	KH & AH
20/08/2012	CG07	Payment of EFT27916	50.00	KH & AH
20/08/2012	CG19	Reinvestment of Investment Account Number 9981-78872 for the purpose of Restricted Funds - 17 Clifton Street, Byford Laneway Contribution	20,443.38	AH & BG
21/08/2012	CG19	Investment of Investment Account Number # 9992-31612 for the purpose of Municipal Funds	500,000.00	AH & BG

21/08/2012	CG19	Reinvestment of Investment Account Number 145276184 for the purpose of Restricted Funds – L3 George Street Byford Road Upgrade	71,900.03	AH & BG
17/08/2012	CG07	Payment of EFT27917 to EFT27918	21,267.37	KH & AH
23/08/2012	CG07	Payment of EFT27919 to EFT27977	113,711.44	KH & AH
23/08/2012	CG07	Payment of Cheque 42708 to 42727	16,733.37	AH & BG
23/08/2012	CG19	Reinvestment of Investment Account Number 9973-95795 for the purpose of Restricted Funds – L3 Thomas Rd Byford Maintenance of Landscaping (Goldlight Holdings)	24,812.72	AH & BG
23/08/2012	CG19	Reinvestment of Investment Account Number 9973-95832 for the purpose of Restricted Funds – L3 Thomas Rd Byford Water Quality (Goldlight Holdings)	64,137.57	AH & BG
24/08/2012	CG07	Payment of EFT27978	820.60	AH & KH
28/08/2012	CG07	Payment of EFT27979 to EFT27980	3,607.49	AH & KH
28/08/2012	CG19	Reinvestment of Investment Account Number 143432698 for the purpose of Restricted Funds – Byford Central Stage 6A Outstanding Street Trees	13,495.19	AH & SVA
28/08/2012	CG19	Reinvestment of Investment Account Number 143432748 for the purpose of Restricted Funds – Byford Central Stage 6A Road Works Road Intersection Roads 43&48	11,808.30	AH & SVA
30/08/2012	CG07	Payroll	240,033.99	KH & SVA
30/08/2012	CG07	Payment of EFT27981 to EFT28059	401,488.06	AH & KH
30/08/2012	CG07	Payment of Cheque 42728 to 42740	7,917.98	SvA & AH
31/08/2012	CG07	Payment of EFT28060	50.00	AH & KH

VOTING REQUIREMENTS Simple Majority**OCM052/09/12 COUNCIL DECISION/Officer Recommendation**

Moved Cr Harris, seconded Cr Wilson
That Council receive the Information Report for August 2012.
CARRIED 7/0

**11. URGENT BUSINESS:****COUNCIL DECISION**

**Moved Cr Wilson, seconded Cr Urban
That Council receive urgent business item OCM053/09/12.
CARRIED 7/0**

OCM053/09/12	REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR SAM PIIPPONEN (SJ1001)
Author:	Councillor Sam Piipponen
Senior Officer:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	24 September 2012
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act.

EXECUTIVE SUMMARY

Councillor Sam Piipponen has requested a leave of absence from 2 October to 12 October 2012.

VOTING REQUIREMENTS Simple Majority

OCM053/09/12 COUNCIL DECISION/Officer Recommendation

**Moved Cr Moore, seconded Cr Wilson
That Council grant Cr Piipponen leave of absence from 2 October to 12 October 2012.
CARRIED 6/0
Cr Piipponen did not vote.**

12. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:

Nil.

13. CLOSURE:

There being no further business the meeting closed at 8.24pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on 8 October 2012.

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Presiding Member

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Date