

## TABLE OF CONTENTS

<b>1.</b>	<b>ATTENDANCES &amp; APOLOGIES (including Leave of Absence):</b>	<b>2</b>
<b>2.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:</b>	<b>2</b>
<b>3.</b>	<b>PUBLIC QUESTION TIME:</b>	<b>2</b>
<b>4.</b>	<b>PUBLIC STATEMENT TIME:</b>	<b>6</b>
<b>5.</b>	<b>PETITIONS &amp; DEPUTATIONS:</b>	<b>6</b>
<b>6.</b>	<b>PRESIDENT’S REPORT:</b>	<b>6</b>
<b>7.</b>	<b>DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:</b>	<b>6</b>
<b>8.</b>	<b>RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:</b>	<b>6</b>
<b>9.</b>	<b>MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:</b>	<b>7</b>
OCM093/11/12	LOCALITY FUNDING PROGRAM (SJ423)	7
OCM094/11/12	PROPOSED MODIFICATION NO. 4 TO BYFORD MAIN PRECINCT LOCAL STRUCTURE PLAN (SJ1413)	11
OCM095/11/12	LOCAL EMERGENCY MANAGEMENT COMMITTEE (SJ716)	15
OCM096/11/12	FINAL ADOPTION OF LOCAL STRUCTURE PLAN – MARRI PARK ESTATE (SJ1051)	17
OCM097/11/12	CONSIDERATION OF SUBMISSIONS FOR THE SHIRE OF SERPENTINE JARRAHDAL TOWN PLANNING SCHEME No. 2 – PROPOSED AMENDMENT 167 – REVISED SCHEME PROVISIONS FOR DEVELOPMENT CONTRIBUTION PLANS (SJ611)	22
OCM098/11/12	MONTHLY FINANCIAL REPORT - OCTOBER 2012 (A2092)	35
OCM099/11/12	CONFIRMATION OF PAYMENT OF CREDITORS (A0917)	37
<b>10.</b>	<b>INFORMATION REPORTS:</b>	<b>39</b>
OCM100/11/12	ACTING CHIEF EXECUTIVE OFFICER INFORMATION REPORT	39
OCM101/11/12	DEVELOPMENT SERVICES INFORMATION REPORT	39
OCM102/11/12	CORPORATE SERVICES INFORMATION REPORT	40
<b>11.</b>	<b>URGENT BUSINESS:</b>	<b>42</b>
<b>12.</b>	<b>COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:</b>	<b>42</b>
<b>13.</b>	<b>CLOSURE:</b>	<b>47</b>

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET, MUNDIJONG ON MONDAY, 26 NOVEMBER 2012. THE DEPUTY 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:** M Harris ..... Presiding Member  
D Atwell  
S Piipponen  
M Ricketts  
B Urban  
G Wilson

**OFFICERS:** Mr A Hart ..... Acting Chief Executive Officer  
Mr B Gleeson ..... Director Development Services  
Mr Uwe Striepe ..... Acting Director Engineering  
Mrs S van Aswegen ..... Director Strategic Community Planning  
Mrs D Bridson ..... Agendas and Minutes Officer

**APOLOGIES:** Cr C Randall (leave of absence)  
Cr B Moore (leave of absence)  
Cr J Kirkpatrick  
Mr R Gorbunow ..... Acting Chief Executive Officer

Members of the Public - 7  
Members of the Press - 1

## 2. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:

Nil.

## 3. PUBLIC QUESTION TIME:

*Public question time commenced at 7.02pm.*

David Houseman, Clifton Street, Byford

At the last Ordinary Council Meeting I asked the following question and was provided with response as listed below:

*'Q3. Will the Shire spend some of my neighbours and my \$40,000 on this project as an interim measure until all properties are subdivided?'*

*A3. The Shire will give due consideration to sealing the laneway from Mary St up to a point in line with the end of your neighbour's property.'*

My questions today are:

Q1. Who in the Shire will be responsible for considering this matter?

Q2. When will this be done?

The Deputy President advised that these questions are taken on notice and will be responded to in writing.

Michelle Rich, 155 Firns Road, Serpentine

It was identified in the report on Recreation Planning for Serpentine Jarrahdale Shire 2002 and the Byford Community Development Link (CIP) Draft Action Plan 2005, that Briggs Park lower oval needed to be upgraded for competition and again in the Shire's Community Facilities and Services Plan in the 2008/2009 financial year. It is now November 2012.

Q1. How much longer will the Shire keep pushing back this upgrade?

A1. The Deputy President advised that this question is taken on notice and will be responded to in writing. The Deputy President also stated that she believed this matter has been resolved.

Q2. Who are the Shire officers accountable to?

A2. The Deputy President advised that Shire officers are accountable to the Chief Executive Officer.

Q3. How much longer do the communities in this Shire have to put up with the lip service from paid officers?

A3. The Deputy President advised that this question is taken on notice and will be responded to in writing.

The following is an extract from the Community Facilities and Services Plan:

***'6.11 Sport and Recreation Facilities and Services Plan***

*Major gaps exist in the provision of sport and recreation facilities in the new growth areas of Byford and Mundijong. The population growth will also trigger new schools to be developed and an opportunity exists to meet many of the playing field needs through joint provision and joint use facilities. A swimming pool is expected to be provided in the Shire in the near future and this is shown in Byford as an extension to the Community Recreation Centre complex. It is also possible that a commercial operator could be encouraged to establish a learn to swim and hydrotherapy facility in Mundijong.*

*It should also be noted that a number of the existing facilities in place are of poor quality or outdated design and will require upgrading or replacement. This is particularly true of skate facilities in Mundijong, Jarrahdale and Byford. Some social clubrooms and toilet changeroom complexes are also of questionable quality and will warrant refurbishment or replacement. The public toilet and team change facilities at Mundijong Oval require replacement (or significant upgrade) and Jarrahdale Oval facilities, whilst in worse condition, are not in current demand.*

*The most significant element in the table below is the requirement for active open space. Briggs Park in Byford and Mundijong Oval offer the equivalent of 3 playing fields. Projections show Byford nearing 30,000 and Mundijong achieving 20,000 by 2020. These two townships will each require a total of 6 playing fields (Australian football oval size) when fully established. The recommended strategy is to develop 2 or 3 field district size complexes with shared amenities (such as Briggs Park) rather than single field areas (such as Mundijong Oval). Opportunities to develop in conjunction with the Department of Education or other school providers should be aggressively pursued. Note also that in line with the Liveable Neighbourhoods policy on access to open space, there will be a need for an additional 23 neighbourhood parks by 2020, all of which will have a community expectation for some level of playground infrastructure.*

### **6.13 Bushland and Park Areas**

*In line with the Shire's natural bushland feel and the desire to retain a small town country ambience, the presence of parks and bushland are highly regarded. The number of local parks is aimed at reflecting the requirements of liveable neighbourhoods of having a park within 400m of each residence. District parks that are passive or conservation in nature are largely determined by geography and topography and National Parks are for the most part already determined. The large number of local parks (usually passive focus) that will be required needs to be considered in conjunction with the need for active playing fields and ideally developed as a collective unit with both types of space available within the one area. This calls for larger rather than smaller land allocations and must be addressed at the time of subdivision and structure planning.'*

The major catch-cry that the community hears from the Shire is that there is not enough money.

Q4. Why is it that when pushed into action the only areas they come up with for a sporting precinct are private land that needs to be purchased or bush forever land that they know there is no hope in hell of obtaining?

A4. The Deputy President advised that this question is taken on notice and will be responded to in writing.

Further along in the report it states:

#### **'Sporting and Community Group Survey**

*The shire needs to act upon many of the recommendations that have been put forward over the last 5 - 10 years by members attending many different forums to bring their concerns to their attention. People lose interest when nothing is being achieved - or the Shire ultimately decides and still nothing is put in place. No results are ever disclosed from these forums / workshops etc.'*

Q5. When is the Shire going to be accountable and start listening to and working with the people?

A5. The Deputy President advised that this question is taken on notice and will be responded to in writing.

Q6. With regards to the Regional Development Australia Fund (RDAF) – Rounds 3 and 4, is the Shire aware of this funding?

A6. The Deputy President advised that yes it is.

The following information is from the Department of Regional Australia, Local Government, Arts and Sport website:

*'On October 23<sup>rd</sup> the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, launched Rounds Three and Four of the Regional Development Australia Fund (RDAF).*

*"Round three will see \$50 million dedicated specifically to projects in small towns, while round four will distribute \$175 million to support strategic infrastructure projects," Mr Crean said.*

*"Both rounds will be rolled out at the same time – so \$225 million is available now for partnership projects right across Australia."*

*RDA committees will again play a key role in the RDAF rounds, assessing Expressions of Interest (EOI) to progress to the full application stage.*

*Improvements to the Guidelines for Rounds Three and Four make it easier to apply and broaden the scope of projects which can be supported by RDAF.*

*The Government is also aiming to allocate at least \$40 million to arts and culture projects in Rounds Three and Four – the same amount provided to the sector in Rounds One and Two.*

*The guidelines will be available from Thursday 25 October 2012, with the EOI process closing on Thursday, 6 December 2012. Applicants can submit one EOI for round three and one for round four – for different projects.*

*For further details of the rounds, revised guidelines and to access an EOI form, visit:*

*<http://www.regional.gov.au/regional/programs/rdaf.aspx>*

*More information: Contact John Lambrecht, Executive Officer, RDA Peel on 9586 3400 or email [john.lambrecht@rdapeel.org.au](mailto:john.lambrecht@rdapeel.org.au)*

### Round Three Overview

*Round Three will provide \$50 million for priority infrastructure in towns with a population of 30,000 people or less. Grants of between \$50,000 and \$500,000 are available to eligible applicants.*

*Local governments and not-for-profit organisations with an annual income of at least \$500,000 (averaged over the most recent two years) are eligible to apply for Regional Development Australia Fund Round Three. Other organisations may participate in the program as a member of a consortium led by an eligible applicant.*

### Round Four Overview

*Round Four will provide \$175 million for infrastructure projects that address the identified priorities of Regional Development Australia committees and have a strong regional impact. Grants of between \$500,000 and \$15 million are available to eligible applicants.*

*Local governments and not-for-profit organisations with an annual income of at least \$1 million (averaged over the most recent two years) are eligible to apply for Regional Development Australia Fund Round Four. Other organisations may participate in the program as a member of a consortium led by an eligible applicant.'*

Q7. Does the Shire plan on applying for any of these fifteen million dollar plus grants? If not, why?

A7. The Deputy President advised that this question is taken on notice and will be responded to in writing.

The Shire cries poor all the time and many of the things asked for by community groups meet the criteria for these grants.

Q8. Why will the Shire officers not work with the community volunteers that the Shire say they value so highly?

A8. The Deputy President advised that is a function of Council.

*Public question time concluded at 7.14pm.*

#### 4. PUBLIC STATEMENT TIME:

*Public statement time commenced at 7.14pm.*

Mike Geurds, Byford

With reference to item OCM096/11/12 on tonight's agenda, I would like to make the point that I was involved in the WAPC decision on this matter and thought the whole process was an absolute joke. The whole problem with the set up is, the process we have, is that whatever the request, it is up against a brick wall when it leaves these chambers. You have Council making decisions on what is in this area that we live in and you have the WAPC making decisions on what is in the book. From what I understand, the WAPC ruling will stand irrespective of what comes out of this Council. The system we are facing particularly with the WAPC is so flawed; it is not being run the way it was originally set up. There is nothing we can do about it unfortunately.

David Houseman, Clifton Street, Byford

I am irritated by the time span that the Shire has taken to resolve this matter and am also frustrated when I receive rates notices for my lot which is unmarketable until the Shire acts on this matter. Can the Shire cease issuing rates notices until the matter of naming and sealing the laneway is achieved?

*Public statement time concluded at 7.17pm.*

#### 5. PETITIONS & DEPUTATIONS:

Nil.

#### 6. PRESIDENT'S REPORT:

Nil.

#### 7. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Nil.

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

##### 8.1 Ordinary Council Meeting – 12 November 2012

**Moved Cr Urban, seconded Cr Piipponen**

**The attached minutes of the Ordinary Council Meeting held on 12 November 2012 be confirmed. ([E12/8013](#))**

**Cr Harris requested that the minutes of the Ordinary Council Meeting held on 12 November 2012 be amended in the response to question 8 asked by Michelle Rich that should have read "This is a confidential technical report for officers' comment and Council does not need to see the report at this stage."**

**CARRIED 6/0**

**9. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:**

OCM093/11/12	LOCALITY FUNDING PROGRAM (SJ423)
Author:	Julie Sansom - Community Development Officer
Senior Officers:	Carole McKee - Manager Community Development Suzette van Aswegen - Director Strategic Community Planning
Date of Report:	18 October 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 Locality Funding Program (LFP) benefits the six localities of Oakford, Byford, Mundijong, Jarrahdale, Serpentine and Keysbrook with funding for townscape projects. In December 2010, Council amended Policy G914 - Locality Funding Policy for Townscape Projects, Policy G914, to allocate funds to the respective localities based on the locality's classification and size as shown in the table below.

<b>Locality:</b>	<b>Classification:</b>	<b>Nominal Provision/Annum</b>	<b>Accumulation Limit (Cap)</b>	<b>Current Accumulated Funds at 1 July 2012</b>
<i>Byford</i>	<i>Urban Village</i>	\$30,000*	\$90,000	\$38,759
<i>Mundijong</i>	<i>Urban Village</i>	\$30,000*	\$90,000	\$43,074**
<i>Jarrahdale</i>	<i>Rural Village</i>	\$20,000*	\$60,000	\$11,695***
<i>Serpentine</i>	<i>Rural Village</i>	\$20,000*	\$60,000	\$22,322
<i>Keysbrook</i>	<i>Rural Settlement</i>	\$10,000*	\$30,000	\$30,015
<i>Oakford</i>	<i>Rural Settlement (to become a Rural Village)</i>	\$10,000*	\$30,000	\$30,014

\*Council will determine the actual budget provisions in the annual budget process.

\*\* The Mundijong Community Association was approved \$39,000 of this accumulated balance and is included in the Council resolution. The committed accumulated funds balance is \$4,074.

\*\*\* The Jarrahdale Skate Park was approved \$9,475 of this accumulated balance and this is included in the Council resolution. The committed accumulated funds balance is \$2,220.

Any funds not allocated in any financial year remain in the relevant localities' townscape reserve fund and accumulate until the accumulation limit is reached. No funding will be allocated once the accumulation limit is reached.

Six funding applications requesting a total of \$108,196 were received for the 2012/2013 LFP and assessed by the LFP Working Group (LFPWG) in line with the assessment criteria outlined in Policy G914 and Work Procedure PCWP5. This system allows for consistent assessment of applications for funding townscape projects, based on an agreed set of criteria linked to Council's Plan for the Future.

It is recommended that Council endorses the recommendations of the LFPWG in relation to the 2012/13 Budget allocation for the LFP and that Policy G914 reflect the change from four Shire wards to three and therefore reduce the required Elected Members from four to three.

**RELEVANT PREVIOUS DECISIONS OF COUNCIL**

Nil.

## COMMUNITY / STAKEHOLDER CONSULTATION

Although all community groups in Serpentine Jarrahdale Shire were notified of this funding program when first launched in 2010, it has been found that due to the nature of this funding program, not all community groups in the Shire have the capacity to undertake townscape projects for the benefit of the community. Although information about the LFP is distributed through many outlets, including the Shire's website, SJ Update and other media, the application forms are now distributed to specific community groups. These include, but are not exclusive to; progress and community associations, church groups, service groups, environment groups and heritage or historical committees. These community groups represent the interest of their membership community and were deemed to have a greater capacity than smaller groups, such as book clubs and exercise groups, to project manage the type of beautification projects that is the intent of the LFP.

This year, local volunteer bushfire brigades have been included where either no other community association exists, or where capacity is limited for groups in some localities. Community groups who did not receive a postal application initially were forwarded an application on request. It was a compulsory requirement that all community groups consult with a Community Development Officer prior to submitting their written application. This has ensured groups were not disadvantaged by submitting an application for which a grant could not be considered.

### REPORT

#### Proposal

The LFP is now in its third year. It benefits the six localities of Oakford, Byford, Mundijong, Jarrahdale, Serpentine and Keysbrook with funding for townscape projects.

Six funding applications requesting a total of \$108,196 were received for the 2012/2013 LFP and assessed by the LFPWG in line with Policy G914. This compares to nine funding applications, requesting a total of \$257,420 received for the 2011/2012 LFP.

The LFPWG recommendations are in accordance with the guidelines in Work Procedure PCWP5 – Locality Funding for Place Making in Serpentine Jarrahdale Shire (Guidelines and Criteria).

Council Policy G914 currently states:

*“Application rounds are open annually from January to 30 June. In order to be considered for funding, all applications should be submitted to the Shire before 5:00pm on June 30<sup>th</sup>. All applications will be considered by a Locality Funding Program Working Group, consisting of four Elected Members representing each ward and at least two Strategic Community Planning Officers, and three Engineering Department Officers (one from Operations, one from Design and the Reserves Officer). All successful applications will be considered by Council for final approval.”*

Three Elected Members from separate wards were nominated to be part of the 2012/13 working group for the LFP. Policy G914 requires four Councillors, from four wards, to be represented. However, the ward system has changed from four wards to three. It is recommended to formalise this alteration to the policy.

#### Benefits

The benefit to the community is that the \$77,900 funding will enable approximately \$666,600 worth of projects to be accomplished across the local community. Many of the projects utilise local resources, businesses and/or attract visitors to the Shire who then spend money locally.



The Council contribution will enable projects to be accomplished across the community far in excess of the requested amount, as most community groups have embraced the concept of using the contribution for seed funding or leveraging and contributing in-kind or their own funds. It should also be noted that both project proposals for Jarrahdale Community Association (Forest Green and Skate Park) are part of ongoing and larger projects and Mundijong Community Association's Paterson Street Beautification Project is also an ongoing and staged project. For the first time, the Oakford and Keysbrook communities have submitted applications on behalf of their localities. Oakford does not have either a town centre or a community association. The Oakford Volunteer Bushfire Brigade is seen as a community hub and is seeking to create a more inviting outdoor space for the Oakford community to utilise for social events. A community meeting and survey prompted Keysbrook Volunteer Bushfire Brigade's proposed project, as this locality does not have a community association to represent it. Although Byford Progress Association's proposal is not recommended for this funding round, this project continues on from the foundation of an Art Plan that was funded in 2010/2011 and is also an ongoing townscape and public art project. It is recommended that the group defers their application to 2013/2014.

As with the Community Funding Program, the LFP works through a capacity building model that encourages partnerships and use of local and regional resources, including volunteer labour. The LFP is only available to local groups and all proposed projects will mostly use local resources both human and material and may include renewable or recycled resources to achieve project outcomes. Each project aims to minimise resource use.

#### Options and Implications

The proposed projects seek to provide more opportunities for recreation in and beautification of the Shire. This program aims to build the capacity of the community to apply for funding from other sources and use this grant as seed funding or leveraging to attract further funds to beautify the six localities. Contributions of cash or in-kind are also encouraged to increase the chances of drawing more funds to this community. Each of the applicants has aimed to achieve these conditions.

#### Conclusion

It is recommended that Council endorses the recommendations of the LFPWG in relation to the 2012/13 budget allocation for the LFP. Council is also asked to change Policy G914 to reflect the change from four shire wards to three and therefore reduce the required Elected Members from four to three.

#### **ATTACHMENTS**

- [OCM093.1/11/12](#) - Policy G914 (E12/3355)
- [OCM093.2/11/12](#) - Working Group Table of Recommendations (E12/7522)
- [OCM093.3/11/12](#) - Working Group Table of Projects not Recommended (E12/7523)

#### **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

This program aligns with Council's Plan for the Future by preserving the distinct character and lifestyle of our rural villages and sensitively plans for their growth. It also encourages built form that positively contributes to streetscape amenity. The program also promotes a variety of recreation and leisure activities to enable optimal physical and mental health, while also enabling the provision of a range of facilities and services for families and children. Furthermore, it ensures community spaces and places are accessible and inviting.

#### **STATUTORY ENVIRONMENT**

- Council Policy G914

## FINANCIAL IMPLICATIONS

An amount of \$120,000 is allocated in each year's budget. There are sufficient funds in the relevant reserve accounts to enable the recommendations of the working group.

The table below indicates current balances of each locality, as well as the projected balance at June 2013 should the officer recommendations be endorsed by Council.

2012/2013 Financial Year						
Locality	Opening Balance at 1 July 2012	12/13 Allocated	12/13 Recommendations	Projects approved in 11/12 but not commenced	Balance at 30 June 2013	Cap
Byford	\$ 38,759	\$ 30,000	Project not recommended – defer until 13/14	-	\$ 68,759	\$ 90,000
Mundijong	\$ 43,074	\$ 30,000	(\$34,074)	(\$39,000)	\$0	\$ 90,000
Serpentine	\$ 22,322	\$ 20,000	No application received	-	\$ 42,322	\$ 60,000
Oakford	\$ 30,014	\$ 10,000	(\$13,826)	-	\$ 26,188	\$ 30,000
Keysbrook	\$ 30,015	\$ 10,000	(\$10,000)	-	\$ 30,015	\$ 30,000
Jarrahdale	\$ 11,695	\$ 20,000	(\$20,000)	(\$ 9,475)	\$ 2,220	\$ 60,000
Serpentine Jarrahdale	\$ 29,027			-	\$29,494	
Millbrace Bridge	\$ 11,459			-	\$ 11,459	
	\$216,365	\$120,000	(\$77,900)	(\$48,475)	<b>\$210,457</b>	<b>\$360,000</b>

## VOTING REQUIREMENTS

ABSOLUTE MAJORITY

### OCM093/11/12 COUNCIL DECISION/Officer Recommendation

Moved Cr Urban, seconded Cr Atwell

That Council:

1. Adopt the recommendations of the Locality Funding Program Working Group in relation to the 2012/2013 Budget allocation for the Locality Funding Program, including deferring Byford Progress Association's application to 2013/2014.
2. Changes Policy G914 to reflect the change from four Shire wards to three and therefore reduce the required Councillor representatives from four to three.
3. Adopt the inclusion of the Jarrahdale Skate Park Project in the 2012/2013 operating budget expenditure which was held over in the Jarrahdale Townscape Reserve Fund from the 2011/2012 Locality Funding Program to the value of \$9,475.
4. Adopt the inclusion of the Mundijong Community Association Paterson Street Beautification Project in the 2012/2013 operating budget expenditure which was held over in the Mundijong Townscape Reserve Fund from the 2011/2012 Locality Funding Program to the value of \$39,000.

LOST BY ABSOLUTE MAJORITY 0/6

Cr Atwell foreshadowed a new motion that the item under debate be deferred until the Ordinary Council Meeting on 10 December to allow the working group to discuss the funding for the Mundijong Community Association.

### **OCM093/11/12 COUNCIL DECISION/Councillor Recommendation**

**Moved Cr Atwell, seconded Cr Piipponen**

**That Council defer this item until the Ordinary Council Meeting on 10 December to allow the working group to discuss the funding for the Mundijong Community Association.**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

**COUNCIL NOTE: Item deferred until the Ordinary Council Meeting on 10 December to allow the working group to discuss the funding for the Mundijong Community Association.**

OCM094/11/12	PROPOSED MODIFICATION NO. 4 TO BYFORD MAIN PRECINCT LOCAL STRUCTURE PLAN (SJ1413)
Author:	Michael Daymond - Senior Planner
Senior Officers:	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.

Proponent: Taylor Burrell Barnett  
 Owner: LWP Property Group  
 Date of Receipt: 27 September 2012  
 Town Planning Scheme No. 2 Zoning: Urban Development  
 Metropolitan Region Scheme Zoning: Urban

### **EXECUTIVE SUMMARY**

A modification to the adopted Byford Main Precinct Local Structure Plan (LSP) has been proposed, which seeks to remove a local access road that traverses one of the east-west Multiple Use Corridors (MUC) within the Glades Estate and to replace this with 'public open space and drainage'. In addition, a small portion of 'Residential R25' zoned land adjacent to the subject road is proposed to be changed to 'public open space and drainage'.

In the opinion of officers, the proposed modification is considered to not alter the material intent of the LSP. Accordingly, it is recommended that Council adopt the proposed modification and advise both the applicant and the Western Australian Planning Commission (WAPC).

### **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

- June 2012 Ordinary Council Meeting – Item OCM168/06/12 – consideration of minor modification to the LSP.

### **COMMUNITY / STAKEHOLDER CONSULTATION**

The LSP was advertised extensively during its original progression, prior to adoption by Council and approval by the WAPC. No community consultation has been progressed for the current proposal. It is open to Council to determine that the proposed modification 'alters the material intent' of the LSP and therefore requires the modification to be progressed as a 'major modification', including a requirement for public advertising, adoption by Council and approval by the WAPC. Advertising is not recommended for this proposal.

### **REPORT**

This report provides Council with the opportunity to consider a modification to the adopted Byford Main Precinct LSP. The proposed modification seeks to remove a local access road that traverses one of the east-west MUCs, to the west of Doley Road, and to replace this with 'public open space and drainage'. In addition, a small portion of 'Residential R25' zoned land adjacent to the subject road is proposed to be changed to 'public open space and drainage', which reflects the previously approved subdivision layout. The additional areas of public open space and drainage will be shown as a 'Reserve for Recreation and Drainage' on any future deposited plan.

As part of the application, the proponent has provided the following justification for the proposed minor modifications:

#### "Traffic Network Considerations"

*It is our position that the subject road is not required for traffic network connectivity requirements, as it is effectively a local access road. It is noted that the road does not connect north to Abernethy Road or south to Orton Road on the approved LSP. There is a spacing distance of approximately 400 metres between Doley Road and the westernmost north-south road (Road 2 on the Revised Plan of Subdivision) and it is likely that the majority of north-south movements in the immediate residential catchment will occur on Doley Road and Road 2, given their status as Neighbourhood Connectors in the approved LSP. Furthermore, vehicle trips to and from the Village Centre and the Primary School from the surrounding district are likely to use Doley Road and Road 2, as both are located abutting each of these roads.*

*Jonathon Riley (Glades Project Traffic Consultant) has undertaken an assessment of the proposed road removal in the context of the traffic modelling reporting that accompanied the approved Glades LSP. The Traffic Note considers the likely redistribution of traffic as a result of this proposed change and indicates that the removal of the road across the MUC will have no significant impact on local connectivity.*

#### Pedestrian Connection

*Whilst we do not believe that a road crossing of the MUC is required, we strongly believe that a north-south pedestrian and cyclist connection should be provided in this location. LWP has committed to the provision of a shared path and creek crossing in this location, in place of the vehicle connection that is currently identified on the LSP. In this way, the proposed removal of the subject road across the MUC will not have an adverse effect on the pedestrian and cyclist movement system.*

#### Construction Cost Implications

*Wood and Grieve Engineers (Glades Project Engineering Consultant) have undertaken a preliminary, order-of-magnitude comparison of the relative costs of constructing the subject road against the construction of a shared path pedestrian connection. The cost to construct the road is estimated to be approximately \$300,000, compared with the construction of a pedestrian and cyclist creek crossing at approximately \$50,000.*

*This preliminary cost difference of \$250,000 is very significant, and particularly so in this circumstance where the road does not service any residential lots (which, when provided, would be sold to offset the construction cost) and does not serve a local or district traffic movement function. The removal of this road would assist in reducing construction costs in the delivery of the lots proposed in Application 146082 and would further facilitate LWP's release of affordable housing products to market, in accordance with the objectives of the Shire and Department of Planning.*

#### Public Open Space Consolidation

*The removal of the road across the MUC, and its replacement as a ‘Reserve for Recreation and Drainage’, will see the total POS provision increase by approximately 1900m<sup>2</sup>. The local drainage requirements for the surrounding area remain static, so the additional open space will contribute to the provision of additional unrestricted active space in this location. Furthermore, in its current alignment, the road across the MUC acts to divide the POS. The proposed removal of this road will therefore facilitate the creation of a larger, consolidated Reserve for Recreation and Drainage, with increased usability.*

#### Implementation

*It is noted that the subject road intersects with a roundabout proposed in Subdivision Application 142531. This roundabout, including the southern road stub, has been constructed as part of the Stage 8 works to facilitate the creation of the lots in the vicinity of Doley Road in Application 142531. Deposited Plan No. 74069 has been approved and new titles have been issued for the creation of these lots and the roundabout and road stub, in accordance with the approved Plan of Subdivision for Application 142531.*

*Should this Minor Amendment request to remove the road across the MUC be supported by the Shire and the Department, then it would be LWP’s intention to convert the existing four-way roundabout (including southern stub) into a three way roundabout with the southern stub removed. LWP would be responsible for these remediation works. As part of this process, it is likely that a portion of the road reserve dedicated for the southern stub of the roundabout as part of the approval of DP No. 74069 will then need to be closed and converted to a Reserve for Recreation and Drainage. LWP and the Glades Consultant Team will lodge a closure request with the Shire and facilitate the closure and reserve conversion process, should the removal of this road be supported.*

*A brief summary of the proposed process is outlined below:*

- 1. Roundabout and southern road stub constructed and dedicated as part of Stage 8 works (complete);*
- 2. Shire and Department of Planning to consider removal of the subject road, via consideration and determination of Minor Amendment No.4;*
- 3. Assuming support for the modification is provided, the constructed southern roundabout stub road pavement is to be removed, the affected land remediated and the four-way roundabout converted to a three-way roundabout (by LWP); and Portion of dedicated road reserve for southern road pavement stub to be closed and converted to a Reserve for Recreation and Drainage (by LWP and the Shire).”*

#### Town Planning Scheme No. 2 (TPS 2)

The power for Council to adopt a minor modification to a LSP is conferred in clause 5.18.4.1 of TPS 2 as follows:

*“The local government may adopt a minor change to or departure from a Structure Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Structure Plan”.*

A key consideration for Council is whether the modifications proposed to the LSP are deemed to be minor or major in nature. The WAPC’s ‘Structure Plan Preparation Guidelines’ (the guidelines) provides guidance in this matter.

#### Structure Plan Guidelines

In terms of what constitutes a minor or major modification, the guidelines state the following:

*“A ‘minor’ modification to a structure plan is a change or departure that does not materially alter the intent of the structure plan.*

*A major modification to a structure plan is any change or departure not defined as a minor modification.*

*A modification designated ‘major’ or ‘minor’ depends on whether the proposed modification adversely impacts on the amenity of adjoining landowner’s and occupiers, restricts the use and development of adjoining land or impacts upon environmental areas.*

The guidelines provide examples as to what may be considered to be a minor modification. One of the examples provided is as follows:

*“Realignment of neighbourhood connector roads (or below in the road hierarchy) that do not negatively affect the connectivity of the movement network or accessibility to activity centres.*

In the opinion of officers, the proposed modification does not alter the material intent of the original LSP. Accordingly, adoption of the proposed modification is recommended. The WAPC may subsequently determine that the modification does materially alter the intent of the LSP and require the modification to be advertised.

### Options and Implications

There are two primary options available to Council, as follows:

- Option 1: Resolve to adopt the proposed modification as a ‘minor modification’; or
- Option 2: Resolve that the proposed modification alters the material intent of the LSP and require the proposed modification to be progressed as a ‘major modification’ including formal advertising, adoption by Council and approval by the WAPC.

Option 1 is recommended.

### Conclusion

The proposed modification is considered to not alter the material intent of the LSP and is considered beneficial for four main reasons:

1. The likely redistribution of traffic as a result of this proposed change will have no significant impact on local connectivity;
2. The proposed removal of the subject road will not have an adverse effect on the pedestrian and cyclist movement system;
3. The removal of this road would assist in reducing construction costs in the delivery of the lots and would further facilitate LWP’s release of affordable housing products to market, in accordance with the objectives of the Shire and Department of Planning (DoP); and
4. The proposed removal of this road will facilitate the creation of a larger, consolidated ‘Reserve for Recreation and Drainage’, with increased usability.

It is recommended that Council adopt the proposed modification.

### **ATTACHMENTS**

- [OCM094.1/11/12](#) - Proposed modification to LSP (IN12/15853)
- [OCM094.2/11/12](#) - Proposed Revised Plan of Subdivision (IN12/15853)
- [OCM094.3/11/12](#) - Figure 19, Movement & Path Network Plan, from approved LSP (IN12/16444)

- [OCM094.4/11/12](#) - Traffic Note (IN12/16444)

## ALIGNMENT WITH OUR PLAN FOR THE FUTURE

The Council's Plan for the Future seeks to create residential development that incorporates well connected access ways and suitable areas for active recreation, as depicted within the approved LSP. The proposed modification maintains these objectives.

## STATUTORY ENVIRONMENT

- Byford Main Precinct LSP, adopted 27 April 2011
- TPS 2
- *Planning and Development Act 2005*

## FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the progression of the proposed modification to the LSP.

**VOTING REQUIREMENTS**                      Simple Majority

### **OCM094/11/12 COUNCIL DECISION/Officer Recommendation**

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

- 1. Adopt the proposed modification to the Byford Main Precinct Local Structure Plan as shown on attachment OCM094.1/11/12 pursuant to Clause 5.18.4.1 of the Serpentine Jarrahdale Shire Town Planning Scheme No. 2.**
- 2. Forward the proposed modification to the Western Australian Planning Commission for consideration in accordance with clause 5.18.4.2 of the Serpentine Jarrahdale Shire Town Planning Scheme No. 2.**

**CARRIED 6/0**

OCM095/11/12	LOCAL EMERGENCY MANAGEMENT COMMITTEE (SJ716)
Author:	Dave Gossage - Manager Emergency Services
Senior Officers:	Uwe Striepe - Acting Director Engineering
Date of Report:	26 October 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, at its Ordinary meeting on 22 October 2012, resolved:

*“That the Local Emergency Management Committee meeting minute recommendations as per attachment OCM073.1/10/11 be presented to Council at the 26 November 2012 Council Meeting.”*

The Local Emergency Management Committee (LEMC) resolutions are as follows:

*‘Committee resolved that;*

- 1. Local Emergency Management Committee writes a letter to Council seeking their support to send a letter under the hand of the Shire President, to the Minister for*

*Environment, seeking urgent lifting of the embargo that is preventing fire prevention mitigation burning from occurring and expressing strong concern at the exposure and extra risk this is posing on the community of Serpentine Jarrahdale.*

- 2. Local Emergency Management Committee to write a letter to the Minister for Environment expressing strong concerns that prescribed burns have been postponed since the major fire and that this is contributing to a high risk and threat to our communities.*
- 3. Local Emergency Management Committee write to council and ask that investigations be undertaken in relation to the water supply infrastructure failures in Serpentine and the new estate in Byford.*
- 4. Local Emergency Management Committee to write a letter to the Minister for Water expressing strong concerns at the failures of the water mains infrastructures in Serpentine and Byford and seek support in having the matter investigated and a report being provided.'*

## **REPORT**

The following actions have been undertaken in reference to the resolutions listed above:

Resolution 1: Letter forwarded to Acting Chief Executive Officer on 26 October 2012. The Minister for Environment has since lifted the embargo on fire prevention mitigation burning.

Resolution 2: Letter posted to the Minister for Environment on 26 October 2012.

Resolution 3: Letter forwarded to Acting Chief Executive Officer on 26 October 2012.

Resolution 4: Letter posted to the Minister for Water on 26 October 2012.

At the time of the LEMC meeting there was still an embargo in relation to controlled burning which was preventing critical community protection burns from being undertaken. On 27 September 2012 the Minister for Environment lifted the embargo for prescribed burning. With this in mind, whilst it has not been confirmed with the LEMC, it would be appropriate that Council still write to the Minister for Environment and seek clarification as to how the State Government is intending to address the lack of prescribed burning and the backlog of outstanding mitigation works as a consequence of the embargo.

It would also be appropriate to ask for the actual allocation of on ground funding and physical resources that have been allocated to the Department of Environment and Conservation and Local Government to deal with the issues highlighted in the Keely enquires.

As these are also state wide issues for Local Government, the issues should be pursued by the Western Australian Local Government Association (WALGA).

## **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

OCM072/10/12 Council Decision as follows:

'OCM073/10/12 COUNCIL DECISION/Council Recommendation

*Moved Cr Harris, seconded Cr Wilson*

*That the Local Emergency Management Committee meeting minute recommendations as per attachment OCM073.1/10/11 be presented to Council at the 26 November 2012 Council Meeting.*

*CARRIED 9/0*



*COUNCIL NOTE: Officer Recommendation lost as Local Emergency Management Committee meeting minutes provided in attachment OCM073.1/10/12 included actions that are required to be brought to Council.'*

## ATTACHMENTS

- [OCM095.1/11/12](#) – Media release from The Minister for Environment (E12/7593)
- [OCM095.2/11/12](#) – LEMC minutes (E12/7514)

**VOTING REQUIREMENTS**          Simple Majority

### OCM095/11/ COUNCIL DECISION/Officer Recommendation

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

1. Write to the Minister for Environment and request clarification on how the State Government is intending to address the lack of prescribed burning and the backlog of outstanding mitigation works as a consequence of the embargo.
2. Write to the Minister for Environment and request what actual allocations of human resources and funding the government has made to the Department of Environment and Conservation and Local Government to deal with the issues highlighted in the Keelty enquires.
3. Write to Western Australian Local Government Association and request them to actively pursue these Council resolutions as they have a state wide impact on all Local Governments and community safety.
4. Write a letter to the Minister for Water in support of the Local Emergency Management Committee expressing strong concerns at the failures of the water mains infrastructures in Serpentine and Byford and seek support in having the matter investigated and a report being provided.

**CARRIED 6/0**

OCM096/11/12	FINAL ADOPTION OF LOCAL STRUCTURE PLAN – MARRI PARK ESTATE (SJ1051)
Author:	Louise Hughes - Manager Statutory Planning
Senior Officers:	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.

Proponent:	RPS
Owner:	Goldtune Investments Pty Ltd
Date of Receipt:	8 December 2011
Lot Area:	28.85 hectares
Town Planning Scheme No. 2 Zoning:	Urban Development
Metropolitan Region Scheme Zoning:	Urban, Urban Deferred
Byford Structure Plan:	Residential R20 and R30, Rural-Residential, Multiple Use Corridor, Local Park, Drainage Basin, Neighbourhood Node, Roads

## EXECUTIVE SUMMARY

The Local Structure Plan (LSP) for Marri Park Estate has an extensive background since its initial consideration in August 2005. An alteration was lodged in June 2009 but not formally adopted due to ongoing discussions relating to Multiple Use Corridors (MUC) and regional drainage requirements. A revised draft LSP was submitted for the land and presented to Council in May 2011 and determined that it was satisfactory for advertising subject to a series of modifications. On 25 October 2011, Council was advised by the Proponent that they were aggrieved by the determination of Council and requested to be forwarded to the Western Australian Planning Commission (WAPC) for consideration and consent to advertise. On 8 December 2011, consent to advertise was granted by the WAPC with a revised schedule of modifications attached.

A key difference between the requested modifications of the Council and the WAPC was Council's resolution for the area west of the "to be constructed" San Simeon Boulevard to be reduced from a density of Residential R30 and R40 to a density of Residential R5. This Council decision had sought for lot size requirements to be changed from an average of 270m<sup>2</sup> and 300m<sup>2</sup> to a minimum of 2000m<sup>2</sup>. The revised schedule of modifications prepared by the WAPC sought to modify the proposed lots to the west of the future San Simeon Boulevard to a density of Residential R20. This had the effect of meaning that lots to the west of the future San Simeon Boulevard would be required to achieve an average size of 500m<sup>2</sup>.

The LSP was advertised for stakeholder comment. The matter was subsequently considered by Council at its meeting on 25 June 2012, at which time Council resolved to adopt the LSP subject to a single modification, being again, a reduction in the density of the lots west of the 'to be constructed San Simeon Boulevard' to a density of Residential R5 from the 'as advertised' density of Residential R20. The LSP was considered by the Statutory Planning Committee of the WAPC at its meeting on 26 June 2012. The WAPC resolved to approve the LSP with a residential density of Residential R20, as advertised and without further modification.

In accordance with the provisions of the Shire's Town Planning Scheme No. 2 (TPS 2), Council is now required to adopt the LSP and enable the LSP to commence formal operation. This is the only option available to Council in accordance with the provisions of TPS. 2, representing the final step in the statutory processes for the LSP.

## **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

SD106/05/11 - Consideration of LSP for Purposes of Advertising.  
OCM 162/06/12 - Adoption of the LSP, post-advertising.

## **COMMUNITY / STAKEHOLDER CONSULTATION**

The LSP was deemed satisfactory for advertising by the WAPC subject to modifications. Council undertook advertising of the LSP accompanying documents. A total of 38 submissions were received as part of the advertising process. The submissions were forwarded to the WAPC for consideration as part of its determination on the LSP.

In accordance with CI 5.18.3.15 of TPS 2, Council is required to forward a copy of the structure plan to any person or public authority which the local government thinks fit. Accordingly, it is proposed that all government agencies be notified, in addition to all persons who lodged a submission during the advertising period.

Council is also required pursuant to CI 5.18.3.16 of TPS 2, to make available a copy of the LSP by any member of the public during office hours. Accordingly, a copy of the LSP will be made available at the Shire's administration centre and established on the Shire's internet website.

## **BACKGROUND**

A draft LSP for the subject site was first lodged with Serpentine Jarrahdale Shire in 2005, but was not advertised due to a review of the Byford District Structure Plan (DSP) and issues associated with water management. A revised draft LSP was then lodged with the Shire in 2009, but again was not formally adopted due to ongoing discussions regarding MUC design in light of revised regional drainage requirements. Notwithstanding the lack of an approved LSP over the subject area, subdivision approvals have been granted over the years for most of the site by the WAPC.

A revised draft LSP was submitted for the land and presented to Council for its consideration in May 2011. Whilst much of the site already has subdivision approval, progressing the draft LSP provides Council with the opportunity to address a number of key issues relating to the final stages of subdivision as well as broader considerations for the land. Importantly, finalisation of the LSP will provide clarity on the zoning of land which will assist with future planning and building approvals and enquiries, and facilitate a path forward for the subdivision of the remaining stages.

Council, in 2011, considered the draft LSP and determined that it was satisfactory for advertising subject to a series of modifications as detailed in Council's resolution. In October 2011, Council was advised by the Proponent that they were aggrieved by the determination of Council and requested under TPS 2 for the LSP to be forwarded to the WAPC for consideration and consent to advertise. Following the consideration by the WAPC, on 8 December 2011, consent to advertise was granted and subject to a revised series of modifications.

The matter was considered by Council at its meeting on 25 June 2012, at which time Council resolved to adopt the LSP subject to one modification being a reduction in density of the lots west of the 'to be constructed' San Simeon Boulevard from the advertised Residential R20 density to a density of Residential R5. The LSP was considered by the Statutory Planning Committee of the WAPC and it was resolved to approve the LSP with the density of the land west of the 'to be constructed' San Simeon Boulevard of R20.

Council is required to adopt the LSP, pursuant to Clause 5.18.3.15 of TPS 2. This is the final step in the statutory processes for the LSP.

## **REPORT**

The LSP to be adopted is consistent with the LSP that was advertised for public comment and subsequently approved by the WAPC.

Throughout the Council meetings of May 2011 and June 2012, Council has historically given consideration to a number of different relevant matters including, but not limited to:

- The statutory content of the LSP, to ensure clarity in operation and consistency with both LPP61 and the then draft WAPC structure plan guidelines;
- Residential densities to the west of the proposed San Simeon Boulevard, with a range of different options including R5, R20 and R30/40;
- Setback distances between proposed residential development and the existing Byford trotting complex;
- The requirement for memorials to be placed on certificates of title for proposed residential lots within 200 metres of the Byford Trotting Complex, due to potential amenity impacts;
- Traffic and access arrangements, including the potential for Larsen Road to be disconnected, upon the future construction of San Simeon Boulevard;
- The requirement for a DAP to be prepared for the 'neighbourhood node'; and
- The requirement for a landscape master plan to be prepared and approved by the Shire.

With the exception of the second dot point, relating to density, all of the modifications requested by Council in respect of the above matters have been supported by the WAPC and incorporated into the LSP documentation.

### Residential Density

The LSP that was lodged with Council proposed a residential density of R30/R40 for the land to the west of the proposed San Simeon Boulevard. The LSP was subsequently considered by Council, with a density of R5 recommended. The matter was ultimately determined by the WAPC, with density of R20 deemed satisfactory for advertising. Council, in June 2012, again considered the LSP, in light of the submissions received during the advertising period. Council again determined that a density of R5 was considered appropriate for the finalisation of the LSP.

The matter was ultimately determined by the WAPC, through its decision on 26 June 2012. A copy of the full report is available from the WAPC website, however a relevant extract from the officer report is provided below

*“Directions 2031 and Beyond (Directions 2031) and Liveable Neighbourhoods (LN) promote 15 dwellings per gross hectare as the ‘standard’ density for new greenfields developments in urban area. This typically equates to a density of Residential R20 – 25. Medium residential densities are generally considered to be appropriate adjacent to public open space and MUC’s as these areas offer a high level of amenity and convenience. Medium densities also provide increased opportunity for passive surveillance and capitalise on the amenity values of such open space areas.*

*The applicant proposed to apply this common planning principle to the LSP area by originally proposing R30 and R40 residential development on the land in closest proximity to the MUC. While medium density development would typically be supported in this location in accordance with the principles and targets of LN and Directions 2031, a reduced density of R20 is considered more appropriate. A balance between the applicant’s proposal for Residential R30 and R40, and the Shire’s modification required Residential R5 was applied by the Commission for advertising purposes, being Residential R20.*

*A number of submissions were received during advertising from surrounding landowners and representatives of the equine industry, which reiterated their concerns with respect to the proposed density of Residential R20. The WAPC was aware of the importance of the Byford Trotting Complex to the equine community and that that a level of separation between the Trotting Complex and residential development is considered essential to minimise potential land use conflict. However, the density of Residential R20 and notification on titles created over the subject land is consistent with the densities and treatment of other subdivisions and estates surrounding the Byford Trotting Complex and should be supported.*

*The density of Residential R20 more accurately reflects the objectives identified in Directions 2031, released in August 2010, compared to the rural-residential coding identified under the BSP which was endorsed by the Commission in 2005. The Marri Park Estate LSP will facilitate adequate and affordable housing supply in an area identified for urban growth within Directions 2031 and the design and densities of the LSP alignment with those anticipated within State Planning documents such as State Planning Policy 3.0 – ‘Urban Growth and Settlement’ (SPP3.0) and LN.*

*Residential R20 is considered appropriate for the subject land as it meets the growth and density targets established by the WAPC, whilst having regard for the existing activities in the locality. The Residential R20 coding allocated to the land west of San Simeon Boulevard on the LSP should remain applicable.”*

It is acknowledged that the decision of the WAPC would not have met the expectations of a number of stakeholders and nor was it consistent with the position of Council.

In accordance with Section 5.18, there is the ability for a proponent to lodge an application for review against the decision of the WAPC. Such an application for review is required to be lodged with the State Administrative Tribunal (SAT) within 28 days of the decision of the WAPC. No application for review was lodged and accordingly the decision of the WAPC is considered to be final and not capable of further review.

#### Next step

Clause 5.18.3.15 of TPS 2 states the following:

*“As soon as practicable after receiving notice of the approval of the Proposed Structure Plan by the Commission, the local government is to adopt the Proposed Structure Plan and forward a copy of the Structure Plan to:*

- (a) the Proponent;*
- (b) the Commission; and*
- (c) any other appropriate person or public authority which the local government thinks fit.”*

Council is now required to adopt the LSP.

#### **ATTACHMENTS**

- [OCM096.1/11/12](#) – LSP, as advertised for public comment and approved by the WAPC (IN12/17200)

#### **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

The LSP has been previously assessed against the Plan for the Future. The LSP provides for the development of urban land that is within close proximity to a town centre.

#### **STATUTORY ENVIRONMENT**

- TPS 2
- Local Planning Policy (LPP) No. 22 - Water Sensitive Urban Design
- LPP 24 - Designing Out Crime
- LPP 26 - Biodiversity Planning
- LPP 43 - Hazards and Natural Disasters
- LPP 60 - Public Open Space
- LPP 61 - Structure Plans (draft)
- LPP 62 - Urban Water Management (draft)
- LPP 63 - Integrated Transport and Land Use (draft)
- LPP 67 - Landscape and Vegetation (draft)
- LPP 68 - Sustainability Assessment

#### **FINANCIAL IMPLICATIONS**

Urbanisation and development within the Shire will result in indirect financial implications for Council. The implementation of the proposed LSP will result in increased demand for the provision of services provided by the Shire.

#### **VOTING REQUIREMENTS**          Simple Majority

#### **OCM096/11/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Wilson, seconded Cr Urban**

**That Council:**

1. **Acknowledge the decision of the Statutory Planning Committee of the Western Australian Planning Commission on 26 June 2012 with respect to the approval of the Local Structure Plan for the Marri Park Estate in Byford.**
2. **Adopt the Local Structure Plan for the Marri Park Estate, dated 26 June 2012 and provided as attachment OCM096.1/11/12 pursuant to Clause 5.18.3.15 of Town Planning Scheme No. 2.**
3. **Advise the proponent, the Western Australian Planning Commission, all government agencies and persons who lodged a submission during the advertising period of the decision of Council, pursuant to Clause 5.18.3.15 of Town Planning Scheme No. 2.**
4. **Acknowledge that arrangements will be made for the Local Structure Plan to be made publicly available pursuant to Clause 5.18.3.16 of Town Planning Scheme No. 2 by way of availability for viewing through the Shire's Administration Centre during normal business hours and publishing a copy of the Local Structure Plan on the Shire's website.**

**CARRIED 5/1****Cr Harris voted against the motion.**

OCM097/11/12	CONSIDERATION OF SUBMISSIONS FOR THE SHIRE OF SERPENTINE JARRAHDAL TOWN PLANNING SCHEME No. 2 – PROPOSED AMENDMENT 167 – REVISED SCHEME PROVISIONS FOR DEVELOPMENT CONTRIBUTION PLANS (SJ611)
Author:	Brad Gleeson - Director Development Services
Senior Officers:	Richard Gorbunow - Acting Chief Executive Officer
Date of Report:	1 November 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.

Proponent: Serpentine Jarrahdale Shire  
 Area of Influence: All areas subject to current and future Development Contribution Arrangements

**EXECUTIVE SUMMARY**

Council at its 23 April 2012 Ordinary Council Meeting agreed to proceed with the advertising of Amendment 167 for a period of not less than 42 days. The Western Australian Planning Commission (WAPC) had required modifications to the amendment prior to advertising. By letter dated 29 August 2012, the WAPC consented to the advertising of Amendment 167 having satisfied itself that its required modifications had been included in the revised Amendment.

Amendment 167 seeks to generally align provisions in the Town Planning Scheme No. 2 (TPS 2) relating to Development Contribution Plans (DCPs) with the State Planning Policy 3.6 - Development Contributions for Infrastructure (SPP 3.6). SPP 3.6 covers development contributions for infrastructure. The current TPS 2 provisions for DCPs pre-date the gazettal in November 2009 of SPP 3.6. The advertised Amendment 167 included several variations from SPP 3.6, namely:

- A revised definition of “administrative costs” and “administrative items”;
- An additional provision clarifying the status of land subject to a draft DCP; and

- An additional provision setting a framework for the collection of interim development contributions.

Based on the submissions received from the public notification of Amendment 167, a table of modifications has been drafted for Council endorsement. It is recommended that Amendment 167 be adopted subject to a number of modifications.

## **RELEVANT PREVIOUS DECISIONS OF COUNCIL**

- OCM001/07/10 – Proposed Amendment No.167 to Shire of Serpentine Jarrahdale TPS 2 – Revised Scheme Provisions for Development Contribution Arrangements (DCA)
- OCM123/04/12 – Proposed Amendment No. 167 Shire of Serpentine Jarrahdale TPS 2 – General Scheme Provisions for DCAs – Consideration of Proposed Modifications.

## **COMMUNITY / STAKEHOLDER CONSULTATION**

The statutory 42 day advertising period for Amendment 167 finished on 19 October 2012. 13 submissions were received.

Amendment 167 also was distributed to Byford Infrastructure Reference Group (BIRG) members.

### Submissions

Key issues raised in submissions are outlined below:

- Valuation methodology – the SPP 3.6 valuation methodology required by the WAPC to be incorporated in the amendment has subsequently been accepted as being flawed. An alternative approach has been proposed;
- Interim Development Deeds – it was noted finalisation of the deeds is not affected by the amendment other than the valuation methodology;
- Principle of allocating contributions – notes the approach of linking contributions to infrastructure needs rather than just area of lots;
- Recoupment of Deed Credits – request to include clause requiring recoupment of credits within 90 days of scheme amendment being finalised;
- Administrative costs include cost of preparation and implementation of Structure Plans – opposition to including costs of Local Structure Plans;
- DCP to apply prior to final gazettal – the requirement to be liable for DCP contributions following approval to advertise, or otherwise seriously entertain, a DCP prior to gazettal of the DCP was opposed;
- Modifications requested by the WAPC – the modifications were supported by reference to the individual items and asking for their removal/revision;
- Exemption of Private Schools – it was requested that private schools be exempted from contribution liability;
- Greater detail for works in Appendix 16 – it was requested that additional detail of DCP works be included in Appendix 16 over and above that required by SPP 3.6; and
- Expand scope of administrative items – request to include all structure plans in DCP costs.

## **REPORT**

### Background

DCPs are becoming a common tool for local government to facilitate urban and industrial development where there are a number of landowners and where there are common items

of infrastructure to be jointly funded. DCPs can deal with traditional development infrastructure and community infrastructure.

The State Government, through the WAPC, has gazetted SPP 3.6 (November 2009). This policy lays down the form and content of DCPs for traditional and community infrastructure. Implementation of a DCP requires the WAPC to set the payment of contributions as a condition of subdivision.

The head of power for a DCP is provided through a town planning scheme. Amendment 167 seeks to introduce the framework for DCPs into the Shire's TPS 2 and thus provides the head of power for individual DCPs such as the Byford Traditional Infrastructure DCP. Individual DCPs are required to be included in an appendix to TPS 2. Amendment 168 included the Byford Traditional Infrastructure DCP as Appendix 16A of TPS 2.

### Intent

The intent of Amendment 167 is to amend the TPS 2 to provide a statutory head of power for DCPs within the Shire. The amendment, in terms of DCPs, brings TPS 2 up to best practice standard and ensures it meets state planning policy requirements.

The gazettal of Amendment 167 will allow the Byford Traditional Infrastructure DCP, the Byford Community Infrastructure DCP and the Mundijong - Whitby DCP to be implemented.

### Previous Consideration By Council

Amendment 167 was initiated by Council at its July 2010 Ordinary Council Meeting. The amendment was then referred to the WAPC for comment. In February 2012 the WAPC responded to the referral and requested removal of two modifications to the standard SPP 3.6 wording. These modifications were:

- Deletion of risk minimisation as a guiding principle; and
- A revised land valuation methodology.

At the Ordinary Meeting of Council on 23 April 2012, Council endorsed the revisions to Amendment 167 and requested it to be advertised for a minimum of 42 days following confirmation from the WAPC that the revisions were satisfactory. The consent to advertise from the WAPC was received on 29 August 2012.

### Modifications to Amendment 167

A number of the submissions related to the Byford Traditional Infrastructure DCP and related Amendment 168 to TPS 2. While issues can be elevated to the more generic model provided by Amendment 167, the fact that Amendment 167 provides head of power for all DCPs requires it to avoid focus on Byford specific issues.

Some other submissions sought to use the Amendment as a platform for more extensive changes to the WAPC SPP 3.6. To follow this course would have raised the possibility of re-advertising the amendment. Given the context of the Serpentine Jarrahdale Shire current planning and development status and its likely DCPs, the following modifications to Amendment 167 are proposed:

- Clause 10.3.1 Interpretation – remove implementation of structure plans as a cost item and ensure eligible structure plans have a district benefit;
- Clause 10.3.5.2 Initiation of DCP – update wording for recognition of timing when DCP liability can be recognised; and



- Clause 10.3.12 Valuation – modify clause to rectify error in current SPP 3.6 methodology and ensure value for transfer is net of general selling costs and DCP liability. Delete reference to Byford DCA as having a different valuation methodology.

### Conclusion

The proposed modifications to Amendment 167 are in response to submissions and do not entail major departures from the advertised version of Amendment 167.

The amendment will then be forwarded to the WAPC for endorsement and recommendation to the Minister and BIRG and all submitters notified of the Shire's determination.

### **ATTACHMENTS**

- [OCM097.1/11/12](#) – Schedule of Submissions (E12/7860)
- [OCM097.2/11/12](#) – Amendment 167 as advertised (E12/7861)
- [OCM097.3/11/12](#) – Schedule of Modifications (E12/7862)

### **ALIGNMENT WITH OUR PLAN FOR THE FUTURE**

The Shire's Plan for the Future is its Strategic Plan which outlines the vision and objectives it seeks to achieve by 2025. A critical component of this is the delivery of key strategic actions, which are financed by a variety of funding streams. A key funding stream for the Shire is DCAs. The successful establishment and delivery of DCAs as funding sources will have implications upon the annual budget and the delivery of day to day activities and initiatives. DCAs as such form a critical part in the success of the Plan for the Future and its delivery of the Vision 2025.

### **STATUTORY ENVIRONMENT**

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- TPS 2
- SPP 3.6

### **FINANCIAL IMPLICATIONS**

It is noted that the operation of the DCAs has been integrated into the Shire's Forward Financial Plans and will have implications for the short and medium term financial capabilities of the Shire. Failure to initiate DCAs will result in the Shire seeking funds from other projects to enable community infrastructure to be developed with implications Shire wide over the long term. There are also financial, and legal, implications associated with the finalisation of interim legal agreements if development contribution arrangements are not in place and guided by an appropriate statutory framework.

### **VOTING REQUIREMENTS**          Simple Majority

### **OCM097/11/12 COUNCIL DECISION/Officer Recommendation**

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

- 1. Pursuant to Regulation 17(1) of the Town Planning Regulations (1967) (as amended), note the submissions received regarding Amendment No. 167 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and endorse the**

response to those submissions as contained in attachment marked OCM097.1/11/12.

2. Update Amendment 167 in accordance with the modifications set out in the Schedule of Modifications in attachment marked OCM097.3/11/12.
3. 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 Amendment No. 167 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, with modifications, as follows:

(a) Removing Clause 5.19 Development Contribution Areas from the Scheme.

(b) Removing the following definitions from Appendix 1 – Interpretations of the Scheme:

*‘Common Infrastructure – means any components or services jointly required by all owners of land within a Structure Plan, which are, in the opinion of Council, essential to facilitate the subdivision or development of that land, and which are generally in accordance with the Commission’s Policy on Developer Contributions for Infrastructure.’*

*‘Common Infrastructure Cost – means the cost of a common infrastructure item of any area required to be contributed by the owner’s subdividing or otherwise developing land within that area;’*

*‘Contribution Agreement – means a set of provisions defining the common infrastructure costs applicable to an area and the method of apportioning those costs between owner’s in the area, incorporated in the Appendix 16 as an amendment to the Scheme;’*

*‘Cost Contribution – means the contribution to the cost of Infrastructure payable by an Owner under clause 5.19 and the applicable Development Contribution Plan;’*

*‘Infrastructure – means services and facilities which, in accordance with the Commission’s policy, it is reasonable for owners to make a Cost Contribution towards;’*

*‘Owner – means an owner of land that is located within a Development Contribution Area;’*

(c) Renumbering Clause 5.20 of the Scheme to:

*‘5.19’*

(d) Renumbering Clause 5.20.1 of the Scheme to:

*‘5.19.1’*

(e) Renumbering Clause 5.20.2 of the Scheme to:

*‘5.19.2’*

(f) Renumbering Clause 5.20.3 of the Scheme to:

*‘5.19.3’*

(g) Renumber the reference to Clauses 5.20.1 in the text notes of Table 1 – Zoning Table to:

*‘5.19.1’*

- (h) Renumber the reference to Clauses 5.20.3 in the text notes of Table 1 – Zoning Table to:  
***‘5.19.3’***
- (i) Adding the symbol (a) prior to the text Poultry Farm Special Control Area under Clause 10.1.1 of the Scheme, to read:  
***‘(a) Poultry Farm Special Control Area’***
- (j) Adding the following text into sub-clause 10.1.1 of the Scheme after sub-clause 10.1.1(a) Poultry Farm Special Control Area:  
***‘(b) development contribution areas shown on the scheme map as DCA with a number and included in Appendix 16.’***
- (k) Adding the following text into the Scheme following Clause 10.2 Poultry Farm Special Control Area:  
***‘10.3 Development contribution areas***
- 10.3.1 Interpretation***
- In clause 10.3, unless the context otherwise requires:***
- ‘Administrative costs’ means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan and such costs as are reasonably incurred by the local government for the preparation of any structure plan applicable to across the development contribution area.***
- ‘Administrative items’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice, and the administrative matters required to be carried out by or on behalf of the local government in order to prepare any structure plan applicable across the development contribution area.***
- ‘Cost apportionment schedule’ means a schedule prepared and distributed in accordance with clause 10.3.10.***
- ‘Cost contribution’ means the contribution to the cost of infrastructure and administrative costs.***
- ‘Development contribution area’ means an area shown on the scheme map as DCA with a number and included in Appendix 16.***
- ‘Development contribution plan’ means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 10 of the scheme (as incorporated in Appendix 16 to this scheme).***
- ‘Development contribution plan report’ means a report prepared and distributed in accordance with clause 10.3.10.***
- ‘Infrastructure’ means the standard infrastructure items (services and facilities set out in appendix 1 of State Planning Policy 3.6 Development Contributions for Infrastructure) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development***

**contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy.**

**‘Infrastructure costs’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.**

**‘Local government’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.**

**‘Owner’ means an owner of land that is located within a development contribution area.**

### **10.3.2 Purpose**

**The purpose of having development contribution areas is to:**

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;**
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and**
- (c) coordinate the timely provision of Infrastructure.**

### **10.3.3 Development contribution plan required**

**A development contribution plan is required to be prepared for each development contribution area.**

### **10.3.4 Development contribution plan part of scheme**

**The development contribution plan is incorporated in Appendix 16 as part of this scheme.**

### **10.3.5 Subdivision, strata subdivision and development**

**10.3.5.1 The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner’s contribution towards the provision of community infrastructure.**

**10.3.5.2 Where a local government has initiated an amendment for, or received consent to advertise a development contribution plan, land within that development contribution area will be considered to be subject to a development contribution plan.**

**10.3.5.3 Where a development contribution plan is required but not yet in effect or a local government has received consent to advertise a development contribution plan, the local government may recommend conditions of subdivision or strata subdivision approval or impose conditions of a development approval requiring the owner to make other interim arrangements, satisfactory to the local government, with respect to the owner’s contribution toward the provision of infrastructure, land and administrative items and costs in a development contribution area.**

### **10.3.6 Guiding principles for development contribution plans**

**The development contribution plan for any development contribution area is to be prepared in accordance with the following principles:**

**(a) Need and the nexus**

**The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).**

**(b) Transparency**

**Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.**

**(c) Equity**

**Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.**

**(d) Certainty**

**All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.**

**(e) Efficiency**

**Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs**

**(f) Consistency**

**Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.**

**(g) Right of consultation and review**

**Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.**

**(h) Accountable**

**There must be accountability in the manner in which development contributions are determined and expended.**

### **10.3.7 Recommended content of development contribution plans**

#### **10.3.7.1 The development contribution plan is to specify:**

- (a) the development contribution area to which the development contribution plan applies;**
- (b) the infrastructure and administrative items to be funded through the development contribution plan;**
- (c) the method of determining the cost contribution of each owner; and**
- (d) the priority and timing for the provision of infrastructure.**

### **10.3.8 Period of development contribution plan**

***A development contribution plan shall specify the period during which it is to operate.***

#### ***10.3.9 Land excluded***

***In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for:***

- (a) roads designated under the Metropolitan Region Scheme as primary regional roads and other regional roads;***
- (b) existing public open space;***
- (c) existing government primary and secondary schools; and***
- (d) such other land as is set out in the development contribution plan, is to be excluded.***

#### ***10.3.10 Development contribution plan report and cost apportionment schedule***

***10.3.10.1 Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.***

***10.3.10.2 The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.***

***10.3.10.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 10.3.11.***

#### ***10.3.11 Cost contributions based on estimates***

***10.3.11.1 The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.***

***10.3.11.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government:***

- (a) in the case of land to be acquired, in accordance with clause 10.3.12; and***
- (b) in all other cases, in accordance with the best and latest information available to the local government, until the expenditure on the relevant item of infrastructure or administrative costs has occurred.***

***10.3.11.3 The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner when requested to do so.***

***10.3.11.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government:***

- (a) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and**
- (b) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.**

**10.3.11.5 Where an owner's cost contribution is adjusted under clause 10.3.11.4, the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.**

**10.3.11.6 If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person ('independent expert') agreed by the local government and the owner at the owner's expense, within 28 days after being informed of the cost contribution.**

**10.3.11.7 If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined:**

- (a) by any method agreed between the local government and the owner; or**
- (b) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the Commercial Arbitration Act 1985, with the costs to be shared equally between the local government and owner.**

#### **10.3.12 Valuation**

**10.3.12.1 Clause 10.3.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.**

**10.3.12.2 In clause 10.3.12:**

**In all cases, 'value' means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.**

**The net land value is to be determined in accordance with the definition of "value" above and having general regard to the International Valuation Standards Committee's definition of market value as adopted by the Australian Property Institute. To account for the direct transfer of land, the fair market value should be discounted by standard marketing costs including fees, commissions and advertising costs and by the prevailing Development Contribution Plan contribution liability which otherwise would have applied to the land**

**'Valuer' means a licensed valuer agreed by the local government and the owner, or, where the local government and the owner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.**

**10.3.12.3 If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owners expense, within 28 days after being informed of the value.**



**10.3.12.4 If, following a review, the valuer's determination of the value of the land is still not a figure acceptable to the owner, the value is to be determined:**

- (a) by any method agreed between the local government and the owner; or**
- (b) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the Planning and Development Act 2005.**

#### **10.3.13 Liability for cost contributions**

**10.3.13.1 An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 10.3.**

**10.3.13.2 An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of:**

- (a) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;**
- (b) the commencement of any development on the owner's land within the development contribution area;**
- (c) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or**
- (d) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.**

**The liability arises only once upon the earliest of the above listed events.**

**10.3.13.3 Notwithstanding clause 10.3.13.2, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of:**

- (a) the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan;**
- (b) a single dwelling on a single lot and associated outbuildings;**
- (c) a change of use where no development is proposed;**
- (d) a development which is defined as 'public works' under the Public Works Act 1902;**
- (e) a fence;**
- (f) a home business;**
- (g) a home occupation;**
- (h) a home office; or**
- (i) any development which is permitted and excluded from the requirement for planning consent pursuant to clause 5.1.2.**

**10.3.13.4 Where a development contribution plan expires in accordance with clause 10.3.8, an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.**

#### **10.3.14 Payment of cost contribution**



**10.3.14.1 The owner, with the agreement of the local government, is to pay the owner's cost contribution by:**

- (a) cheque or cash;**
- (b) transferring to the local government or a public authority land in satisfaction of the cost contribution;**
- (c) the provision of physical infrastructure;**
- (d) some other method acceptable to the local government; or**
- (e) any combination of these methods.**

**10.3.14.2 The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to the local government.**

**10.3.14.3 Payment by an owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.**

#### **10.3.15 Charge on land**

**10.3.15.1 The amount of any cost contribution for which an owner is liable under clause 10.3.13, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.**

**10.3.15.2 The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 10.3.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.**

**10.3.15.3 If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 10.3.15.**

#### **10.3.16 Administration of funds**

**10.3.16.1 The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.**

**10.3.16.2 Interest earned on cost contributions credited to a reserve account in accordance with clause 10.3.16.1 is to be applied in the development contribution area to which the reserve account relates.**

**10.3.16.3 The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.**

### **10.3.17 Shortfall or excess in cost contributions**

**10.3.17.1 If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may:**

- (a) make good the shortfall;**
- (b) enter into agreements with owners to fund the shortfall; or**
- (c) raise loans or borrow from a financial institution,**

**but nothing in paragraph 10.3.17.1(a) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.**

**10.3.17.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.**

### **10.3.18 Powers of the local government**

**The local government in implementing the development contribution plan has the power to:**

- (a) acquire any land or buildings within the scheme area under the provisions of the Planning and Development Act 2005; and**
- (b) deal with or dispose of any land which it has acquired under the provisions of the Planning and Development Act 2005 in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.**

### **10.3.19 Arbitration**

**Subject to clauses 10.3.12.3 and 10.3.12.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.'**

- (l) Deleting the following text from Appendix 16 of the Scheme:**

<u>'Area</u>	<u>Common Infrastructure</u>	<u>Details of Contribution</u>
(see clause 5.19 and Appendix 16	(see clause 5.19	Arrangement for Area (see clause 5.19)'

- 4. Authorise the Shire President and the Chief Executive Officer to execute the Amendment No. 167 documentation pursuant to Regulation 22(1) of the Town Planning Regulations (1967) (as amended).**
- 5. Forward the Schedule of Submissions and Schedule of Modifications to the Western Australian Planning Commission together with three copies of the signed**

**and sealed Amendment documents for endorsement pursuant to Regulation 22(2) of the *Town Planning Regulations (1967)* (as amended).**

**6. Request the Western Australian Planning Commission and the Honourable Minister for Planning to grant final approval to Amendment No. 167 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.**

**7. Inform all persons and parties who made a submission on Amendment No. 167 of its decision.**

**CARRIED 6/0**

OCM098/11/12	MONTHLY FINANCIAL REPORT - OCTOBER 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 item.

**COMMUNITY / STAKEHOLDER CONSULTATION**

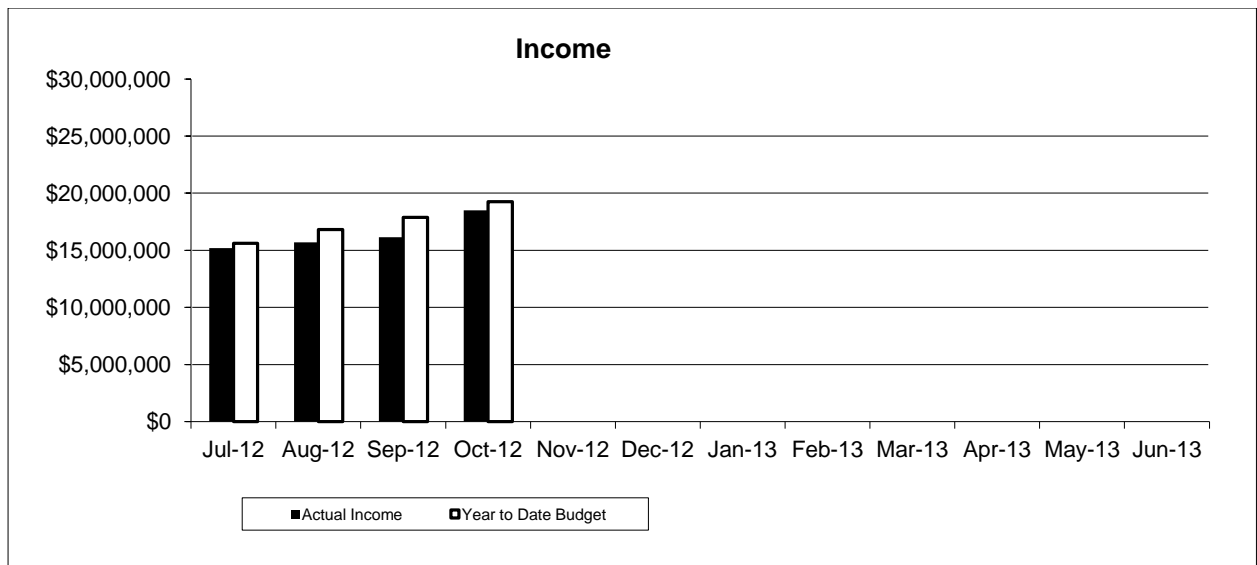
No community consultation was required.

**REPORT**

The period of review is October 2012. The municipal surplus for this period is \$12,564,454 compared to a budget position of \$8,170,366. This is considered a satisfactory result for the Shire for this time of the year.

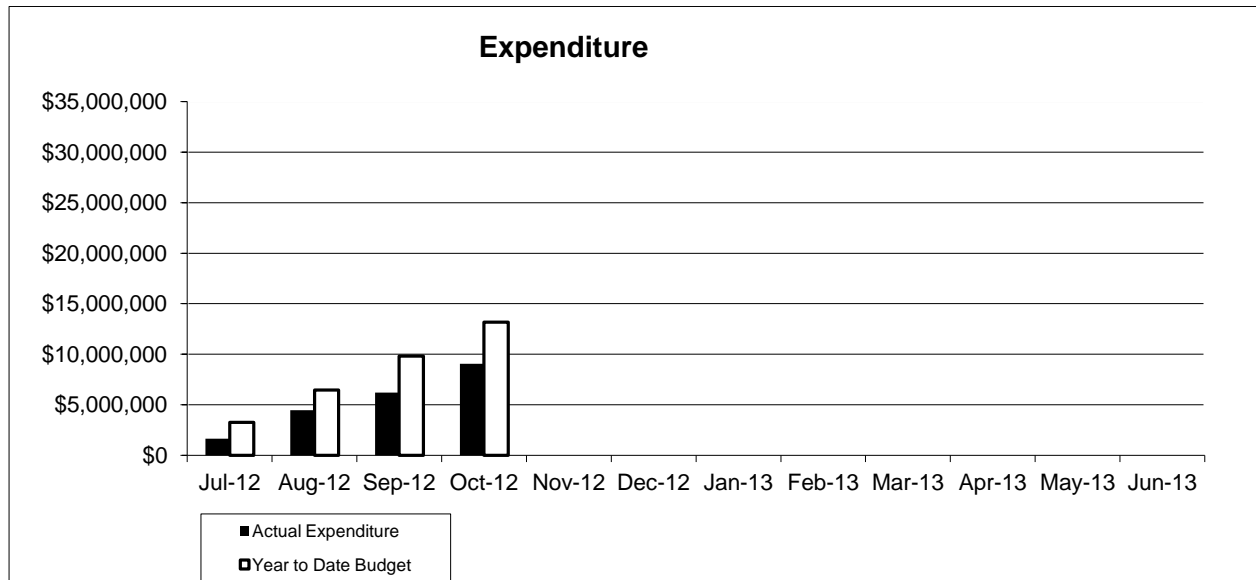
Income for the October 2012 period, year-to-date is \$18,503,131. The budget estimated \$19,252,002 would be received for the same period. The variance to budget is (\$748,871).

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



Expenditure for the October 2012 period, year-to-date is \$9,052,728. The budget estimated \$13,129,933 would be spent for the same period. The variance to budget is \$4,077,205, details of all significant variances are provided in the detailed business unit reports.

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



## ATTACHMENTS

- [OCM098.1/11/12](#) - Monthly Financial Report (E12/7670)

## ALIGNMENT WITH OUR PLAN FOR THE FUTURE

This report is a tool for evaluating performance against recognized 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

## OCM098/11/12 COUNCIL DECISION/Officer Recommendation

**Moved Cr Urban, seconded Cr Ricketts**

**That Council receives the Monthly Financial Report for October 2012, in accordance with Section 6.4 of the *Local Government Act 1995*.  
CARRIED 6/0**

OCM099/11/12	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 item.

### 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 October 2012 to 31 October 2012, as per attachment OCM099.1/11/12 - Creditor List of Accounts 1 October 2012 to 31 October 2012 including Creditors that have been paid and in accordance with the *Local Government (Financial Management) Regulations 1996*.

### ATTACHMENTS

- [OCM099.1/11/12](#) - A copy of the vouchers numbered Cheque 42812 to Cheque 42883 and EFT28323 TO EFT28614 totalling \$2,492,238.48 for the period of 1 October 2012 to 31 October 2012.

## **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

### **OCM099/11/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Urban, seconded Cr Piipponen**

**That Council receives the payments authorised under delegated authority and detailed in the list of invoices for period of 1 October 2012 to 31 October 2012, as per attachment OCM099.1/11/12 - Creditor List of Accounts 1 October 2012 to 31 October 2012 including Creditors that have been paid and in accordance with the *Local Government (Financial Management) Regulations 1996*.**

**CARRIED 6/0**

**10. INFORMATION REPORTS:**

OCM100/11/12	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:	25 October 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**

- [OCM100.1/11/12](#) - Policy Forum Agenda October 2012 (E12/5648)
- [OCM100.2/11/12](#) – Common Seal Register Report September 2012 (E02/5614)
- [OCM100.3/11/12](#) - Tonkin Highway Extension Community Working Group meeting minutes - 21 August 2012 (IN12/18008)
- [OCM100.4/11/12](#) - Tonkin Highway Extension Community Working Group meeting minutes - 2 October 2012 (IN12/18010)
- [OCM100.5/11/12](#) - Tonkin Highway Extension Community Working Group meeting minutes - 23 October 2012 (IN12/18011)
- [OCM100.6/11/12](#) - State Council Meeting Agenda, 5 December 2012 - (IN12/18678)

**VOTING REQUIREMENTS**                  Simple Majority

**OCM100/11/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Urban, seconded Cr Ricketts**

**That Council accept the Acting Chief Executive Officer Information Report to 25 October 2012.**

**CARRIED 6/0**

**COUNCIL NOTE: The agenda for the State Council meeting scheduled for 5 December 2012 was included as a late attachment to this report because it was not issued in time for this agenda.**

OCM101/11/12	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**

- [OCM101.1/11/12](#) - Building - Delegated Authority (E12/7138)
- [OCM101.2/11/12](#) - Health, Rangers and Development Compliance - Delegated Authority (E12/6748)
- [OCM101.3/11/12](#) - Planning - Delegated Authority (E12/7515)
- [OCM101.4/11/12](#) - Statutory Planning Report tabling Scheme Amendments, Local Planning Policies and Local Structure Plans (E12/3985)

**VOTING REQUIREMENTS**      Simple Majority**OCM101/11/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Wilson, seconded Cr Urban**  
**That Council accept the Development Services Information Report for November 2012.**  
**CARRIED 6/0**

OCM102/11/12		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)

02/10/2012	CG19	Reinvestment of Investment Account Number 9700-16134 for the purpose of Municipal Funds	505,809.50	BG & SVA
02/10/2012	CG19	Reinvestment of Investment Account Number 9700-16142 for the purpose of Municipal Funds	505,922.90	BG & SVA
02/10/2012	CG19	Reinvestment of Investment Account Number 144306511 for the purpose of Restricted Funds – Grange Meadows	16,862.77	BG & SVA
02/10/2012	CG07	Payment of EFT28323 to EFT28325	8,784.68	KH & SvA
02/10/2012	CG07	Payment of EFT28326	79.70	KH & SvA
03/10/2012	CG07	Payment of Cheque 42812	1,000	KH & SvA
03/10/2012	CG19	Investment of Investment Account Number 784514 for the purpose of Municipal Funds	500,000.00	BG & SVA
03/10/2012	CG19	Investment of Investment Account Number 784517 for the purpose of Municipal Funds	500,000.00	BG & SVA
03/10/2012	CG07	Payment of Cheque 42812	1,000.00	KH & SvA
04/10/2012	CG07	Payment of Cheque 42813 to 42836	12,059.29	KH & SvA
04/10/2012	CG07	Payment of EFT28327 to EFT28377	162,092.60	KH & SvA
08/10/2012	CG07	Payment of EFT28379 to EFT28380	33,633.63	KH & SvA
08/10/2012	CG07	Payment of Cheque 42813 to 42836	12,059.29	KH & SvA
08/10/2012	CG19	Reinvestment of Investment Account Number 9991-61028 for the purpose of	504,167.12	BG & SVA



		Municipal Funds		
08/10/2012	CG19	Reinvestment of Investment Account Number 9991-76588 for the purpose of Municipal Funds	504,175.34	BG & SVA
09/10/2012	CG07	Payment of EFT28381	36,472.41	KH & SvA
10/10/2012	CG19	Reinvestment of Investment Account Number 144244092 for the purpose of Special Services Investments	36,646.55	BG & SVA
10/10/2012	CG19	Reinvestment of Investment Account Number 144244100 for the purpose of Reserves Funds	2,155,943.90	BG & SVA
11/10/2012	CG07	Payment of EFT28382	537.31	KH & SvA
11/10/2012	CG07	Payroll	249,468.19	KH & SVA
11/10/2012	CG07	Payment of EFT28383 to EFT28447	834,166.90	KH & SvA
11/10/2012	CG07	Payment of Cheque 42837 to 42846	10,853.96	KH & SvA
12/10/2012	CG07	Payment of EFT28448	159.22	CM & AH
15/10/2012	CG19	Reinvestment of Investment Account Number 756273 for the purpose of Municipal Funds	504,034.25	AH & BG
15/10/2012	CG19	Reinvestment of Investment Account Number 9991-97848 for the purpose of Municipal Funds	504,019.17	AH & BG
17/10/2012	CG07	Payment of EFT28449	6,129.00	BG & SvA
17/10/2012	CG07	Payment of EFT28450	38.68	CM & AH
18/10/2012	CG07	Payment of EFT28451	9,984.04	CM & AH
18/10/2012	CG07	Payment of Cheque 42847 to 42877	26,800.06	RG & AH
18/10/2012	CG07	Payment of EFT28452 to EFT28551	907,719.90	CM & AH
22/10/2012	CG19	Reinvestment of Investment Account Number 9992-31612 for the purpose of Municipal Funds	503,986.30	AH & BG
22/10/2012	CG19	Withdrawal of Municipal Investment Account Number 9976-49134	958,117.70	AH & BG
10/09/2012	CG07	Payment from Municipal Bank Account to Trust Bank Account for the Month of June	3,067.86	AH & BG
23/10/2012	CG07	Payment of EFT2828552 to EFT28553	21,287.15	KH & AH
23/10/2012	CG19	Investment of Investment Account Number 795376 for the purpose of Municipal Funds	500,000.00	AH & BG
23/10/2012	CG19	Investment of Investment Account Number 795379 for the purpose of Municipal Funds	400,000.00	AH & BG
25/10/2012	CG07	Payment of cheque 42878 to 42883	7,381.95	KH & AH
25/10/2012	CG07	Payment of EFT28554 to EFT28612	378,613.77	KH & AH
25/10/2012	CG07	Payroll	228,332.10	KH & AH
29/10/2012	CG07	Payment of EFT28613	954.04	KH & AH
29/10/2012	CG07	Payment of EFT28614	3,902.67	KH & AH
29/10/2012	CG19	Withdrawal of Municipal Investment Account Number 9981-43928	307,216.10	AH & BG
29/10/2012	CG19	Reinvestment of Investment Account Number 144306511 for the purpose of Restricted Funds – Grange Meadows	16,921.51	AH & BG
31/10/2012	CG19	Withdrawal of Municipal Investment Account Number 750026	506,287.67	AH & BG

**VOTING REQUIREMENTS**

Simple Majority

**OCM102/11/12 COUNCIL DECISION/Officer Recommendation**

**Moved Cr Wilson, seconded Cr Urban  
That Council receive the Corporate Services Information Report for October 2012.  
CARRIED 6/0**

**11. URGENT BUSINESS:**

Nil.

**12. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:****COUNCIL DECISION**

**Moved Cr Urban, seconded Cr Wilson  
That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.49pm.  
CARRIED 6/0**

The following questions were received from Cr Urban on 26 November 2012:

Q1. Over the past 13 months there have been many questions raised as part of the planning and housing of the Jarrahdale Men's Shed. In December 2011, I was advised by Council that they were waiting for the Hester report that was waiting to be finalised. I was told that this was presented to Council officers over the Christmas period and an answer would be provided soon after.

Q1a. When was the Hester report presented to Council officers?

Q1b. Was this report presented to council at that time or in fact an earlier date? What date?

Councillors were later advised, and went to press, that they are waiting on Western Power and the Water Corporation to price the supply to the proposed land.

Q1c. Was this done at the time of press release?

Q1d. Has this been done as of today?

We were told that the land that has been identified by the Men's Shed and Council needs to be subject to a local structure plan.

Q1e. Has this been costed?

Q1f. Has this been put into action?

I am aware that Engineering staff were in direct contact with the Men's Shed, these officers have now left the shire.

Q1g. Is there any other officer taking over this role?

Q2. I have received a number of complaints over the past 13 months regarding Planning and Building.

Q2.a. How many planning applications are in the Shire system?

Q2.b. When were these submitted to the Shire?

Q2.c. What percentage are allocated to officers?

Q2.d. What percentage are not?

Q2.e. How many building applications are in the Shire system?

Q2.f. When were these submitted to Shire?

Q2.g. What percentage are allocated to officers?

Q2.h. What percentage are not?

Q2.i. Have we got a Compliance Officer to monitor construction at all stages?

Q3. With regards to the compliance of the extractive industries and land fill. These are Austral, north and south, SITA Land Fill, Hanson, WA Bluemetal and ROCLA (Cooke Minerals) on King Road.

- Q3.a. Can I have a copy of the past 5 years audits that the Shire have done on each of the sites?
- Q3.b. Can I have a copy of the past 5 years self audits by the companies?
- Q3.c. Could I have a copy of the past 5 years audits on remedial work that has been identified?
- Q3.d. Could I have a copy of the past 5 years audits carried out by external agencies, namely DEC, EPA, DOW and Department of Mines and Minerals?
- Q3.e. Has the Shire got the suitable officers to adequately compliance this sector?
- Q3.f. Has the Shire got the relevant skills to compliance this sector?
- Q3.g. Does the Shire feel we need to assess the need to employ the right person to carry out the compliance role?
- Q3.h. When are we going to update and tighten the old extractive industry policy so we can avoid replication?

Q4. Bush Forever sites.

- Q4.a. There has been talk and nobody has answered the question. In 1998 to 2000 many sites in this area were identified as Bush Forever. Could I have the answer to how were these placed on private sites? Bush Forever Office at the WAPC also would not answer this question.

Q5. Vehicles

- Q5.a. How many vehicles (not plant) are owned by the Shire?
- Q5.b. Who are the vehicles allocated to and the uses of them?
- Q5.c. If the vehicles are used by officers, are they completing a log book? If so, can these be sighted?
- Q5.d. What did the Shire pay in Fringe Benefit Tax (FBT) last financial year?

Q6. Public open space

- Q6.a. The use of multiple use corridors as active public open space has reduced the developers' need to place larger parks in their development. Why is this allowed?
- Q6.b. Why were Councillors told to 'keep out' of the informing stage of the Sporting and Rec group? I believe we all should be informed.
- Q6.c. Why do we allow WAPC strike off ovals and district open space? We appear to be worse off than 1982.

Q7. Local Government

- Q7.a. It has been rumoured that there has been a number of Local Government investigators attending the Shire. Why is this?
- Q7.b. Is there an officer within the Shire complaining at the direction of Council to warrant this?
- Q7.c. Is there a Councillor who is aggrieved at the information within OCM motions set by officers?
- Q7.d. Are there any complaints made by any officer or Councillor that is bringing adverse attention to this Shire? If so why?

Q8. Grants

- Q8.a. Over the past 2 years, what applications have been applied for within the Shire?
- Q8.b. Could I have a list of the grant source, who applied for them and who acquitted the grant?

## Q9. Other

- Q9.a. There has been an excessive amount of money spent on the CFSP over a number of years. Can I have a break down why it is so much?
- Q9.b. I have requested a look at the DSR draft copy of the Active Public Open Space and was told I couldn't see it, why?
- Q9.c. Why are there so many Councillor requests and resolutions still outstanding?

## Q10. Serpentine Tennis club

- Q10.a. When did the Tennis Club hand the club over to the Shire?
- Q10.b. What are the reasons the club handed it's books and keys to the Shire?
- Q10.c. Officers have stated to me they have not heard from the group for over a year. I have received forwarded emails that prove contrary to this. Why was I informed of this?
- Q10.d. Why couldn't an officer assist the community member and get this project over the line some months ago?
- Q10.e. This group would be good to obtain National grant funding in round three. Has this been looked into to help them?
- Q10.e. Why is everything so hard to get community groups assistance?
- Q10.g. Can a Club Development Officer or Community Services Officer help this group to start hitting balls over the net?

## Q11 Byford BMX

- Q11.a. Can a Club Development Officer or Community Services Officer help this group?
- Q11.b. This group would be good to obtain National grant assistance. Has this been looked at to assist them?

## Q12. Chestnuts Drainage

- Q12.a. There was a Council resolution to seek legal advice at the likelihood of pursuing the water engineers for this development as the system is flawed. Has this been done? When was the advice sought and what is the result?
- Q12.b. The Special Area Rates for the Chestnuts Estate was going to be reviewed, has this been done? What is the outcome?

Finally:

## Q13. Officers' Reports.

I can only speak for myself on this. There have been a number of reports that have been put before Council, more so Austral Extractive Industries.

- Q13.a. Why do the reports that are presented to council not have the full information and are only presented to Councillors when specifically requested?
- Q13.b. Why do officers' reports, at times, tend to give the opinion of the author and not the balanced report based on fact and figures?
- Q13.c. With the pleasure of hindsight, it is frightening that Council have made some important decisions based on little information given by officers, why is this?

I forward these hard hitting questions as I personally feel the council are going to be made a scape goat similar to Canning, when in fact there are far deeper issues we have here in this Shire and the fact the officers need to stand up and be counted. I make no apologies for the wording of the questions and comments I have made.

These questions have been burning from prior to being elected on Council and all I seek is the community having a fair go. I have to ask. I have tried through Councillor requests but

there are a number of avoided answers. We may not be happy with some answers, but feel they deserve to be aired.

The Deputy President advised that Cr Urban's questions are taken on notice and will be responded to in writing.

The following question was received from Cr Ricketts on 26 November 2012:

Now that it has been shown that Austral Bricks are not complying with regards to discharge from the sedimentation pond, distance from discharge to the creek and the lack of vegetated channel, what action will be taken against them?

The Director Development Services advised that Shire officers are currently doing a full audit of the Austral Bricks with regards to compliance. An investigation is under way.

#### **COUNCIL DECISION**

**Moved Cr Wilson, seconded Cr Urban  
That standing orders 9.5, 9.6, 10.7 and 10.13 be reinstated at 8.06pm.  
CARRIED 6/0**

#### **COUNCIL DECISION**

**Moved Cr Wilson, seconded Cr Urban  
That council accept the questions listed above.  
CARRIED 6/0**

Cr Harris discussed the State Council Meeting agenda. The agenda for the State Council meeting scheduled for 5 December 2012 was included as a late attachment to the Acting Chief Executive Officer's Information Report because it was not issued in time for this agenda.

#### **COUNCIL DECISION**

**Moved Cr Piipponen, seconded Cr Urban  
That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 8.09pm.  
CARRIED 6/0**

The State Council meeting is scheduled for 5 December and there are important items on the agenda that we need to vote on. Please review the items listed below and provide feedback to the Acting Chief Executive Officer, Alan Hart, by close of business Tuesday 27 November 2012. The main items for Councillors review are:

#### 5. MATTERS FOR DECISION

##### 5.1 Metropolitan Local Government Review (05-034-01-018 TL)

###### Recommendation

That the Association's draft submission to the Metropolitan Local Government Review Panel's Final Report be considered by Zones and State Council during the March 2013 State Council meeting process.

Please review the table on pages 9, 10, 11, 12, 13 and 14.

#### 5.4 Productivity Commission Final Report – The Role of Local Government as Regulator (05-099-03-0001 PS)

##### Recommendation

That:

1. The Productivity Commission's final report on The Role of Local Government as Regulator be noted;
2. The Association seek the support of the Minister for Local Government for a review of the Local Government fee and charge setting regime; and
3. If the Association does not receive the Minister's support, then the Association will seek an inquiry on Local Government's fee and charge setting regime by the Western Australian Economic Regulation Authority

#### 5.7 Draft Forest Management Plan 2014-2023 (05-038-01-0002 JB)

##### Recommendation

That the Association's interim submission to the Draft Forest Management Plan 2014 – 2023 be endorsed.

#### 5.9 Development Assessment Panels: Local Government Survey 2012 (05-047-01-0016CG)

##### Recommendation

1. That the results of the Development Assessment Panels: Local Government Survey; be noted; and
2. WALGA advocate to the State Government to consider amendments to the Development Assessment Panels (DAPs) eligibility assessment criteria, as follows;
  - a) Focus mandatory determination by DAPs on applications that have State or regional significance, applications that are located within more than one Local Government area or applications that require dual approvals from Local Government and the Western Australian Planning Commission (WAPC);
  - b) Make the DAP's system optional rather than a mandatory system for all other types of application; and
  - c) Increase the monetary threshold at which a development application can be referred to a DAP's for determination.

#### **COUNCIL DECISION**

**Moved Cr Urban, seconded Cr Piipponen**

**That standing orders 9.5, 9.6, 10.7 and 10.13 be re-instated at 8.21pm.**

**CARRIED 6/0**

#### **COUNCIL DECISION**

**Moved Cr Urban, seconded Cr Piipponen**

**That Council accept the questions that Cr Harris raised from the State Council Meeting Agenda.**

**CARRIED 6/0**

**13. CLOSURE:**

There being no further business the meeting closed at 8.22pm.

I certify that these minutes were confirmed at the  
Ordinary Council Meeting held on 10 December 2012.

.....  
Presiding Member

.....  
Date