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

MINUTES OF THE SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET MUNDIJONG ON TUESDAY 13TH FEBRUARY, 2007. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 9.11AM AND WELCOMED MEMBERS OF THE PUBLIC PRESENT IN THE GALLERY, COUNCILLORS AND STAFF.

1. ATTENDANCE & APOLOGIES:

IN ATTENDANCE:

COUNCILLORS: DL Needham Presiding Member
JE Price
AW Wigg
JC Star
JA Scott
EE Brown
WJ Kirkpatrick
MJ Geurds
M Harris

OFFICERS: Ms J Abbiss Chief Executive Officer
Mr S Bell Director Engineering
Mr B Gleeson Executive Manager Planning & Regulatory Services
Ms S van Aswegen Executive Manager Strategic Community Planning
Mrs S Langmair Minute Secretary
Ms M Kenny Senior Planner
Mr M Daymond Planning Officer
Ms K Norrish Communications Officer
Ms C Rose Planning Assistant

APOLOGIES: Cr K Murphy
Mr D Long Director Corporate Services

GALLERY: 70

2. PUBLIC QUESTION TIME:

Public Question Time commenced at 9.11am

Mr Mann, 53 Gilwell Avenue, Kelmscott

Q Why the Neighbourhood Centre has now been relocated so far to the north on Doley Road, as shown on the revised Byford Structure Plan (BSP) 2005, from where it was originally located on the original BSP 2005, so depriving the eventual residents of the more southern area of such amenities, which will become most evident with the development of the more southern area at about Orton Road?

A The Executive Manager Planning and Regulatory Services (EMPRS) advised that the location of the neighbourhood centre is recommended to be moved north on Doley Road. It is the officer's opinion that this is a much better location, with better amenity being adjacent to the multiple use corridor. Another smaller centre is planned for the corner of Orton and Doley Road.

Q Why are the multiple use corridors so unnecessarily wide?

A The Shire President advised that these corridors are to be used for the people to recreate. We do need these large open spaces. The EMPRS advised that the principle use is for drainage and recreation. The Byford Urban Stormwater Study identified water courses and drainage uses within the multiple use corridors. The width was set a number of years ago. Under the proposed changes to the BSP there

have been no changes recommended in this regard. The Local Structure Plan will look at the finer issues/points.

- Q Why have all the development conditions which make land more attractive to a developer been moved out of area 10 and into area 7 which is owned by the single major developer?

The question was not put as the Presiding Member advised that the question was answered in the first question.

Pam Coughlin, 133 Doley Road, Byford

- Q Can the Neighbourhood Centre (Corner Doley Road and Orton Road) be enlarged to entice a developer to purchase the smaller landowners lots in the vicinity of Doley Road, Orton Road and Warrington Road?

A The EMPRS advised that the current BSP shows a small neighbourhood node on the corner of Doley Road and Orton Road. It has been recommended to enlarge the node however, Council is wary of increasing the size too much as it is necessary to strike the balance and not impact on the viability of the other centres. There is unlikely to be a supermarket situated in this location however there will be other uses that will evolve.

- Q Can the residents of the Doley Road area have increased densities put on their land?

A The EMPRS advised that the area is designated as R20 under the BSP but there are still opportunities within the Local Structure Plan to propose higher densities adjacent to the Multiple Use Corridors and Public Open Space and even a retirement village if it was well located.

Melody Simpson, 109 Doley Road, Byford

- Q What is Council's reason for moving the shopping centre north along Doley Road, closer to Abernethy Road and Public Open Space (POS). It will be closer and in competition with the existing shopping centre and the proposed Neighbourhood Centre in Malarkey near Thomas. On the 2005 Structure Plan the shopping centre has been placed in the middle of Urban Development which is bordered by POS. This follows Council's concept of a neighbourhood cell with shops and POS within walking distance. Is this the best position for the shopping centre to cater for the large area of future Urban Development?

A The EMPRS reiterated that the Neighbourhood Centre is recommended to be relocated to the north, adjacent to the multiple use corridor, rather than in an area totally surrounded by houses. Council's own studies had shown there would be no impact on the existing town centre by moving the Neighbourhood Centre.

Mr John Deliu, 23 Warburton Court, Byford

- Q What is the plan for Warburton Court regarding home sites in our street. If there is we would like to see street lighting, drains done, speed bumps, trees planted as buffers, resurface the road and 50km signs.

Mr Deliu also enquired about the issue of dust when development occurs.

A The EMPRS advised that land adjacent to the east will be developed and a Local Structure Plan will need to be provided. Residents in the area will have the

opportunity to comment on this plan. Council will be carefully planning how the new development will interact with the existing area.

The EMPRS advised that dust is a major problem in the Byford area, with some success with some developers but with little to no success with others. Council will continue to work with the developers to put measurements in place to make sure the dust problems do not continue, the best we can, using the legal options available to us.

Mr Rabey (JP)

Q Regarding the relocation of fill for new housing estates, how much more control can Council put on the fill that is trucked into new developments? There are currently trucks travelling without covers, exceeding speed limits, when they are empty they are using vacuum brakes. Also where fill is trucked in and water used for dust suppression, is the water being used piped from water hydrants?

A The Director Engineering (DE) gave some background regarding as of right vehicles. He advised that Police and Main Roads have been notified about the issues with speeding and over loading. There is little that Council can do regarding as of right vehicles, however we can place conditions on the developers regarding where they access their site. The developers generally do the right thing. With regard to B doubles and road trains, Council do have some control over this type of vehicle and can condition these vehicles on local roads.

The DE advised that developers generally have to pay for the use of the water from hydrants.

Mr Rabey then advised that a street sweeper sweeps his street, however sweeps the sand down into the drains which then block the drains.

The DE advised that he would take this on board.

Darren Bonker representing the John Calvin School.

Q Regarding the proposed railway crossing which is close to the John Calvin School, Mr Bonker believes there is no room for a truck to fit between the railway line and the highway and the notation should not even be on the Plan.

A The EMPRS advised that it was Councils intention to place a notation on the plan advising that this crossing would require "further investigation". He advised that this may never happen however Council was leaving its options open.

Jenny Bosma

Q Regarding the new set of traffic lights in Byford which were supposed to be installed in 2006?

A The DE advised that Main Roads are handling this installation. Council have been advised that this will not happen until later this year.

Mr Leno Tabia, 144 Larsen Road Byford

Q Proposed new Bridle Path which runs from Briggs to the creek along Larsen Road passes through properties including mine – Who compensates for land? How do I access my land?

A The EMPRS advised that on the original Byford Structure Plan a group of properties zoned rural residential, had a line running through them and this is indicated as a bridle path. The land owners will give up some pieces of their land through the subdivision process. The width of the bridle path will be 20 metres wide. This is a complex issue and officers will need to meet each owner individually to address this.

Craig & Julie Prosser, 1 Pinebrook Road, Byford

Mr Prosser advised that their question has already been asked and responded to.

Public Question Time concluded at 9.38am

3. PUBLIC STATEMENT TIME:

Public Statement Time commenced at 9.38am

Mr Mann, 53 Gilwell Avenue, Kelmscott

It certainly appears from the outside that the SJ Shire and the Byford Structure Plan per se, has been hijacked by the major developer.

We feel that the individual land owners in area 10 and the eventual residents of this area have been discriminated against in favour of the major developer with the removal of all higher density development and the neighbourhood centre.

We feel that the eventual future community at large would be far better served with the neighbourhood centre relocated further to the south and perhaps at about the more southern multiple use corridor, rather than at the more northern multiple use corridor close to Abernethy Road.

We feel further that the multiple use corridors should be reduced in width to an absolute minimum of say 50 metres for reasons of: the forever, ongoing maintenance cost to Council/ratepayers; the immense social problems which are destined to result from this seemingly horrendous wasted area in much the same way as that which has resulted from walkways in earlier subdivisions in other shires/towns/cities over many years but we all fear that this is destined to become far worse; due to the obviously drying climate, the fire hazard which this immense squandered area of land will create with natural vegetation just adding fuel to the fire – just take a look at Dwellingup for instance; with society at large becoming increasingly more and more litigious when a fire does happen causing considerable loss, injury and or loss of life and it will be shown that council was negligent in creating this extremely high risk situation which then resulted in the fire, just how immense is the litigious implications upon council, with inevitable cost born by the ratepayer? And all of the foregoing is not with standing the immense unnecessary cost to the current land owner/developer.

Frank Avangio, Town Planning Consultant representing Peet & Co..

Issue for his client is that the town centre distributor road has been realigned. He would like to work with Council as it gets closer to the town centre. Would like to be part of that process.

Matt Zuvela, Koltasz Smith and Partners, representing the northern landowners of Area 4.

We support the westerly relocation of the deviation of Thomas Road but would like Council to record that we object to any unfair distribution of regional drainage requirements onto one landowner as recommended in the second dot point of the Council report.

Darren Bonker

Would like Council to push the infrastructure for the town as a priority.

Public Statement Time concluded at 9.45am

4. PETITIONS & DEPUTATIONS:

Petitions and Deputations commenced at 9.45am.

Mr Martin Flint from Lavan Legal representing DevX – Corner South West Highway and Larsen Road.

Under Clause 5.18.3.7 of the Council's TPS we expected our submission to receive full analysis and consideration and the merits determined by Council – leading on to the reporting of such submissions and Councils response to them under Clause 5.18.3.9(a) to the WAPC.

At this very late stage, having advertised the 2006 Structure Plan Review under the process envisaged in Clause 5.18.3 of the TPS, it is now being recommended to Council that they abandon this whole proper process and implement the changes foreshadowed in the Review under the "minor change" provisions under Clause 4.18.4 of the TPS. The fact that the Council did not initially adopt the sweeping changes proposed in 2006 Structure Plan Review as minor changes under Clause 5.18.4 from the outset and chose to process the Review under Clause 5.18.3 and advertised it, convinces us that the Council itself saw the changes proposed in the Review as not being minor.

We therefore regard this reversal of process a cynical attempt by Council staff to advise Council to bypass the appropriate structure planning processes embodied in Clause 5.18.3 of its TPS – which it itself instituted. The only reason for this advice to Council that we can see is that Council, or Council staff, see the proper processes as being too arduous.

In our experience a minor change as contemplated under Clause 5.18.4 is where a proponent proposes a change within the area covered by an approved structure plan where the changes occur on the proponents land and do not impact on land outside where adjacent owners have not had the benefits of seeing and responding to the proposals as envisaged under Clause 5.18.3 – which is the correct procedure followed up until now with the 2006 Structure Plan Review. In the review, major changes are proposed to road alignments and the locations, shape and extent of key land use elements, which in our opinion materially affect the intent of the approved 2005 Plan.

We note in passing that the Supreme court sanctioned the WAPC over use of the minor MRS amendment process as a way of circumventing the more arduous, rigorous and consultative processes in the major amendment process.

The proposed changes are not minor and they do materially alter the intent of the 2005 BSP. Two things arising – undermines public confidence, 2005 submissions have not been properly considered in this process. Some submissions have some degree of acceptance. Changes proposed today cannot be addressed today as they are not of minor amendment

nature and they need to go through a proper process. Feels that Council are not following the proper process.

The EMPRS acknowledged the deputation and advised that officers have considered the submissions carefully and thoroughly. The officers are of the view that the amendments are of a minor nature and will be sent to the Dept of Planning and Infrastructure. Regarding the advertising of the BSP 2006, when Council went to public advertising. The EMPRS acknowledged that parts were not done correctly under the town planning scheme. These amendments may be re-visited and would need to go to public consultation and that is why the officers put the recommendation as in place today.

Joe Algeri, Director Property Planning & Appeals Consultants on behalf of CM & RM Borich.

I speak on behalf of CM & RM Borich the owners of Lot 4 (No 829) South Western Highway Byford. This area can be more commonly described as the “empty block” on the northern side of Pitman Way opposite the Bendigo Bank and the new shops.

Firstly, it is pleasing that Council’s administration has conceded in their report that the nature and scale of the changes proposed in the 2006 BDSP were simply not workable given the history of the adopted 2005 BDSP and the implications to many landowners.

Unfortunately, my clients land seems to be one of the few exceptions.

The adopted 2005 BDSP illustrates the subject land as being wholly for “highway commercial” development whereas the current recommended changes show half of the 2941m² lot, on what appears to be on the south of the creek that dissects the property, being nominated as a “local park”. There has been no documentary detail to support this change.

Acting within the guidelines of the then approved BDSP 2005 my clients were in the process of negotiation and planning, with a joint venture partner, to develop the “highway commercial” potential of their land.

As a town planner, I am at a loss to understand how a local park could be nominated without any justification. To me it appears that simply because the lot is undeveloped someone thinks it would make a nice park.

In my mind, the designation of a park or a greenspace should occur with detailed investigation that occurs with local structure planning.

I make the following points as to why this site is currently not suitable for a local park and should be removed from the currently recommended changes to the 2005 BDSP.

- i) I reiterate, there is no justification from Council’s administration as to why part of the subject land should be a local park. There is no floral assessment, nor any strategic concept or assessment of POS in Byford or the town centre.
- ii) This park would not be part of a direct or strategic link to any other nominated open space. I note that such a POS corridor is recommended to link the town centre to the trotting complex, for example, but this does not connect to that in any way.
- iii) even if a local park on the subject site were to be passive rather than active POS, the site is not particularly accessible given that it is bordered by the highway on the eastern side and the Perth to Bunbury rail line on the western side. Indeed, this raises not only accessibility issues, but also safety concerns.

iv) there is no remanent vegetation that is necessarily worthy of retention or protection on the site. The larger marri eucalyptus trees that are mostly on the perimeter of the site could be retained as part of the development.

v) There is a creek that dissects the property from east to west and my clients readily accept that the creek is a feature that would be retained as part of any future development insofar as it could be creatively incorporated and managed as an open space feature.

To sum up, I understand that there is urgency to now deal with the structure plan and this is not suggesting any further delays, I am just asking for one dot point to be removed from the current recommendation. If Council has deferred many other elements introduced in the 2006 BDSP subject to further investigation, why can't it do so in this instance?

It is my opinion that the local park on the subject site should be removed from the suggested changes, the designation of POS should be investigated when the local structure plan is prepared for the town centre precinct. Landowners like my clients should not be expected to accept such a designation when such a move significantly impacts on the value and the development potential of the land and there is no indication as the when or who will acquire it.

Petitions and Deputations concluded at 9.57am

5. PRESIDENT'S REPORT:

Nil

6. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Cr Geurds declared an interest of impartiality as he lives and works in the Byford Structure area but does not have any other interests.

Cr Harris declared an interest of impartiality as she lives and works in the Byford Structure area but does not have any other interests

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

| SCM07/02/07 REVIEW OF BYFORD STRUCTURE PLAN (A1320) | | |
|---|--|---|
| Proponent: | Serpentine Jarrahdale Shire | <p>In Brief</p> <p>To acknowledge the submissions received on the draft Byford District Structure Plan 2006 (BDSP 2006).</p> <p>It is recommended that the BDSP 2006 not be proceeded with. It is recommended that minor changes be made to the Byford Structure Plan 2005 (BSP) as outlined in this report.</p> |
| Owner: | Various | |
| Officer: | Brad Gleeson – Executive Manager Planning and Regulatory Services and Suzette van Aswegen – Executive Manager Strategic Community Planning | |
| Signatures Author: | | |
| Senior Officer: | | |
| Date of Report | 12 January 2007 | |
| Previously | SCM01/09/06; OCM04/08/06; SD114/03/06 | |
| Disclosure of Interest | No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act | |
| Delegation | Council | |

Advertised: 19 September to 18 October 2006
 Submissions: 76
 L.A Zoning: Various
 MRS Zoning: Urban, Urban Deferred and Rural

Background

The Byford Structure Plan 2005 (BSP) was adopted by the Council in March 2005 after eight years of work by the Council. The BSP was adopted by the Western Australian Planning Commission (WAPC) in September 2005.

A copy of the BSP 2005 is with attachments marked SCM07a/02/07.

Subsequently, a number of Local Structure Plans (LSPs) were prepared and submitted to the Shire. A number of these LSPs have been approved by the Council and WAPC (Byford Central and Redgum Brook estate). A number of other LSPs have been lodged with the Shire but have not been assessed or finalised to date.

Commencement of Review

As a result of community comment, questions from landowners and developers and review by Council officers, it was identified that a number of components of the BSP needed to be reviewed and changed. In addition, a Local Structure Plan was submitted that was not in accordance with the BSP which caused the Shire to undertake further planning studies to determine the broader implications of the proposal, particularly whether the relocation of a neighbourhood node would have any adverse effect on the Town Centre. Council resolved:

“SD114/03/06 COUNCIL DECISION/Committee/Officer Recommended Resolution:

*Moved Cr Richards seconded Cr Murphy
 The Shire considers the request to advertise the Byford Main Precinct Local Structure Plan for public comment and resolves:*

1. To defer consideration of the Local Structure Plan until traffic and retail modelling has been undertaken and used to review the Byford Structure Plan.
2. To advise Taylor Burrell Barnett planning consultants that their submitted plan does not conform to the adopted Byford Structure Plan. This proposed redesign of the Main Precinct causes Council to undertake further urban planning with respect to traffic, retail and stormwater management to provide the necessary basis for assessing implications of this local structure plan for the whole Byford Structure Plan. It is anticipated that once the review is completed the submitted Main Precinct Structure Plan can be assessed and if considered acceptable, advertised for public comment along with any other modifications necessary to update the Byford Structure Plan.
3. To advise the Department for Planning and Infrastructure of this resolution and undertake to liaise regarding the progress of the review of the Byford Structure Plan.

CARRIED 9/0”

The additional planning studies were undertaken and resulted in the preparation of the draft Byford District Structure Plan 2006 (BDSP 2006).

Council at its meeting held on 1 September 2006 resolved:

“SCM01/09/06 COUNCIL DECISION

Moved Cr Star seconded Cr Murphy

1. In accordance with clauses 5.18.3.1 and 5.18.3.2, Council determines that the Byford District Structure Plan 2006 with the addition of a small park east of the South Western Highway at SCM01.2/09/06 (dated 01.09.06 revision 1) is satisfactory for advertising for a period of 28 days.
2. Council authorises the Chief Executive Officer to convene a public meeting be held in Byford to present BDSP2006 to the community. Convene a public meeting on Tuesday 19th September, 2006 at the Community Recreation Centre commencing at 7.30pm.
3. Council officers prepare a Briefing Paper and a Media Release for the WA Planning Commission and Hon Minister for Planning and Infrastructure explaining the updated plan, its importance for sustainable urban development in Byford and its key benefits.
4. Following completion of advertising of the Byford District Structure Plan 2006, a further report be presented to Council to consider all submissions and adoption of the Byford District Structure Plan 2006.
5. Council adopts the draft plan as its policy position with respect to urban development and subdivision in Byford.

CARRIED 6/0”

Sustainability Statement

Effect on Environment: Minor amendments to the BSP 2005 will have positive effects on the environment in the following manner:

- The water study currently in progress by the Department of Water will provide certainty and clarification as to the quantities of water and area of land required to adequately drain the development area.
- The original piped drainage system through the Byford Town Centre will be reviewed to determine if a more natural drainage system in line with Water Sensitive Urban Design principles is possible. This will be considered at the LSP stage.

Use of local, renewable or recycled resources: Minor amendments to the Multiple Use Corridors in the BSP 2005 will result in a more effective use of open space and natural drainage systems, especially in conjunction with the Neighbourhood Centre in Area 7. The

clarification of drainage requirements and locations of detention basins will ensure that detention of water occurs locally within sub-catchments.

Economic Viability: Minor amendments to the BSP 2005 ensure economic viability in that public investments made after adoption of the BSP in 2005 are protected and any further delays to the development assessment process are curtailed. In addition to that, it will result in a more efficient use of human resources, as unnecessary and frequent State Administrative Tribunal (SAT) appeals will be reduced.

An increase in employment generation activities will provide and enhance the opportunity for a self sustained and vibrant community with reduced travel times to a place of work. It will also result in the enhancement of the local economy, by keeping investment in the district.

Social – Quality of Life: As mentioned above the minor amendments to the BSP 2005, especially more detailed planning of the Town Centre and within the 800 metre catchment area will ensure a vibrant and liveable community with its own identity. The realignment of roads will ensure enhanced traffic flows and safety and will increase connectivity. The final alignment of Orton Road is subject to further studies by WAPC (DPI) and Main Roads and should act as a distributor of regional traffic between Tonkin Highway and the South Western Highway. A notation on the Plan to require the development of a Bicycle and Pedestrian Plan will encourage cycle and pedestrian safety and as a result will enhance the quality of life of all residents.

A notation shall be placed on the Plan to clarify that Abernethy Road/Tonkin Highway may interact by means of grade separation. The grade separation will provide an opportunity for residents on the western side of the Tonkin Highway to frequent and enjoy the activity centres in the eastern side of the cell.

Extensions of R5 zoned buffers around the Trotting Complex and adjacent to the Tonkin Highway will protect the quality of life of those residents, will provide a sense of place for the residents living within the cell and will protect the rural character of the Development Area.

Statutory Environment

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

Relevant parts of the Shire's Town Planning Scheme No. 2 which relate to minor amendments or departures to an existing Structure Plan are outlined below:

“5.18.4.1 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.

5.18.4.2(a) The local government is to forward a copy of the minor change or departure to the Commission within 10 days from the date of adopting the minor change or departure.

(b) If the Commission considers that the change or departure adopted by the local government under clause 5.18.4.1 materially alters the intent of the Structure Plan, then the Commission:

(i) may require the local government to follow the procedures set out in clause 5.18.3 in relation to the change or departure; and

(ii) is to notify the local government of this requirement within 10 days.

5.18.4.3 Any change to or departure from a Structure Plan that is not within clause 5.18.4.1 is to follow the procedures set out in clause 5.18.3.”

**Policy/Work Procedure
Implications**

Byford District Structure Plan 2006

Financial Implications

Additional costs will include updating of the map and public advertising.

Strategic Implications

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

1. People and Community

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

Strategies:

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

2. Environment

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

Strategies:

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

3. Economic

Objective 1: A vibrant local community

Strategies:

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

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

Strategies:

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

Objective 3: Effective management of Shire growth

Strategies:

1. Enhance economic futures for Shire communities.

4. Governance

Objective 3: Compliance to necessary legislation

Strategies:

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

Community Consultation

The draft BDSP 2006 was advertised for comment in local newspapers and on the Council's website.

The Council also held a meeting with the community on 19 September 2006 at the Serpentine Jarrahdale Recreation Centre and a large number of people (98) attended this meeting. Questionnaires and information sheets were distributed at the meeting to allow

individual enquiries to be lodged with the Council from community members and landowners.

The plan was also referred to a range of Government departments and other agencies for their comment.

A total number of 76 submissions and 16 completed questionnaires were received during the public consultation period.

An electronic copy of all submissions received is provided for viewing at the Shire's Administration Office (Trim Ref A1320/01).

Council officers have reviewed all the submissions received on the draft BDSP 2006. The majority of submissions objected to the proposed BDSP 2006. Other submissions offer some form of support subject to further amendments to improve the BDSP 2006. Other submissions identified mapping errors in the BDSP 2006.

The major issues with the BDSP 2006, as identified through the public consultation process, can be summarised as follows:

- Distributor Roads - Abernethy Road/Mead Street/Nettleton Road; Orton Road alignment and its connection with South Western Highway; Abernethy Road/Tonkin Highway grade separation; and Town Centre Distributor Road alignment and intersections with Thomas Road and Abernethy Road respectively.
- Town Centre – role, size and location; retail, mixed uses and commercial activities; road layout, connectivity and permeability; urban design and built form; drainage; and traffic and railway crossings.
- Neighbourhood Centres – role and location.
- School sites - primary and secondary schools; number required and provided and location.
- Public open space/multiple use corridors, reserves and drainage.
- Residential densities.
- Pedestrian and bicycle safety.
- Lack of consultation.

Notwithstanding the submissions received, concerns regarding the BDSP 2006 and its implementation were also consistently raised by developers, landowners, members of the public/community and Government departments, in particular the WAPC and the Minister of Planning and Infrastructure's Urban Land Release Coordinator. The perceived delay to development and the slow release of land onto a strong market, where demand outstrips supply were the primary concerns raised, particularly when large investments had been made based on the BSP 2005 (that was less than a year old when the review began) and that Local Structure Plans had been approved or lodged in accordance with that Plan.

Comment

It would appear that both the BSP 2005 and BDSP 2006 as they currently stand, have deficiencies and shortcomings that remain as obstacles to the creation of a liveable, vibrant and sustainable community that all stakeholders desire.

However, it is considered that the BSP 2005 was prepared with considerable research and consultation and with a few minor changes still provides Council with an excellent and robust strategic level plan for the sustainable development of the Byford Urban Cell.

However, it is recognised that some further detailed planning is still required to implement the BSP 2005 effectively, in particular within the Byford Town Centre, including the 800 metre walkable catchment area. For example, the BDSP 2006 review identified flaws in the BSP 2005 in terms of the role, nature, size and location of different activities within the

centre; the lack of a strong employment base; the lack of a sense of place and identity; lack of diversity in residential densities coupled with the lack of transit oriented urban design. It is reiterated and stressed that additional work on the Byford Town Centre is required in order to achieve the desired outcome, especially more detailed local structure planning. Without this detailed local structure planning there is a very high probability that the Key Result Areas, as stated in the Council's Strategic Plan, will not be able to be met. It is furthermore considered of utmost importance that this local structure planning work is commenced immediately.

Given the opposing nature of submissions received that affected the majority of the Development Area, the delay to land release, the level of investment that has occurred in relation to the BSP 2005 and the continued relevance and ability of the BSP 2005 to serve the needs of the Shire in creating a sustainable Byford community, it is therefore considered in the best interest of the Shire, all stakeholders and the Development Area, to continue with the BSP 2005, subject to a few minor amendments. This would prevent any further delays to development and would enable Council to investigate and initiate further changes (minor or major) on an "as and when required" basis. It should however be pointed out that the work done on the BDSP 2006 was not done in vain and some components of the BDSP 2006 could still continue, albeit under separate processes, as individual, stand alone amendments to the BSP 2005.

A map showing the areas referred to below is with the attachments marked SCM07.1/02/07.

A map showing the recommended changes to the Byford Structure Plan 2005 is with the attachments marked SCM07.2/02/07.

It is recommended that the following modifications be approved by Council as minor amendments to the BSP 2005. These are:

Area 1 – Redgum Brook Estate

- The approved Local Structure Plan for land south of the multiple use corridor finally adopted on 17 June 2005 to be reflected on the BSP 2005 subject to modification of the alignment of the Town Centre Distributor Road to provide a T junction with Thomas Road and a redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.
- The land on the corner of Thomas Road and Tonkin Highway (north of the multiple use corridor) to be subject to further detailed local structure planning and drainage investigations before any further development occurs and that a notation be placed on the Plan to this effect. (as per BDSP 2006)

Area 2 – Lot 7 Briggs Road

- A notation be placed on the BSP 2005 requiring the existing homestead building and land upon which it stands be set aside for community purposes and addressed as part of the Local Structure Plan for this area.
- A redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.
- A notation on the Plan to state that the exact location of the Primary School within Lot 7 Briggs Road is to be determined at the Local Structure Plan stage.

Area 3 – Byford Central

- The Local Structure Plan adopted by the WAPC on 8th January, 2007 to be reflected on the BSP 2005.

Area 4 – South of Larsen Road/North of Town Centre Zone

- Realign the Town Centre Distributor Road further westwards to enable an intersection with Abernethy Road along the western edge of the Town Centre Zone.

- Insert a waterway/drainage basin immediately west of the new Town Centre Distributor Road alignment and next to the Trotting Complex adjacent to Binshaw Avenue to increase drainage capacity.

Area 5 – Land North of Abernethy Road / Town Centre Zone

- Realign the Town Centre Distributor Road further westwards to enable an intersection with Abernethy Road along the western edge of the Town Centre zone.
- Retain the Town Centre Zone and size as per BSP 2005, however include a notation on the Plan to require the preparation and completion of a Local Structure Plan, complete with Detailed Area Plans and Design Guidelines. The Local Structure Plan to include, inter alia, an investigation into increased residential densities within the 800 metre walkable catchment and its relation with transit oriented urban design; the location, nature, role, relationship and distribution of different activities within the Town Centre including the 800 metre walkable catchment area.
- Any change to residential densities or uses within the 800m walkable catchment of the Town Centre will be subject to a separate modification to the BSP 2005 and community consultation.
- Show a Public Open Space corridor green belt/Town Centre park between the railway line to the east and the Trotting Complex to the west. A notation be placed on the Plan stating that a water sensitive design waterway may be possible but will be subject to detailed engineering design at the Local Structure Plan stage.

Area 6 – Land South of Abernethy Road/Town Centre Zone

- Retain the Town Centre Zone and size as per BSP 2005, however include a notation on the Plan to require the preparation and completion of a Local Structure Plan, complete with Detailed Area Plans and Design Guidelines. The Local Structure Plan to include, inter alia, an investigation into increased residential densities within the 800 metre walkable catchment and its relation with transit oriented urban design; the location, nature, role, relationship and distribution of different activities within the Town Centre including the 800 metre walkable catchment area.
- Any changes to residential densities or uses within the 800 metre walkable catchment of the Town Centre will be subject to a separate modification to the BSP 2005 and community consultation.
- Add a notation on the Plan to include the High School site as a prominent landmark site and to investigate the possibility of combining the school with other community facilities such as a public library and that an area of land to accommodate this community building be set aside on the northeastern corner of the High School site on Abernethy Road. Design Guidelines are to be prepared for the community purposes site as part of the Local Structure Plan for the Town Centre.
- Include a notation to highlight the potential for a rail crossing linking Mead Street and South Western Highway. However, this would be a long term option and subject to consultation with the Public Transport Authority.

Area 7 – LWP Main Precinct

- Introduce an R5 Zone along Abernethy Road opposite the Trotting Complex up to the High School (as per BDSP 2006).
- Relocate the Neighbourhood Centre on Doley Road further north adjacent to the Multiple Use Corridor.
- Delete the diagonal road connecting the Neighbourhood Centre with Abernethy Road and provide for all roads to connect with the Neighbourhood Centre at perpendicular angles.
- Insert a new Mixed Business area on Orton Road to the west of Doley Road.
- Provide an enlarged Neighbourhood Node on the corner of Doley Road/Orton Road to service the new Mixed Business area on Orton Road.
- Insert an R5 Zone, adjacent to and for the full length of the Tonkin Highway in accordance with the Draft State Planning Policy Road and Rail Noise.

Area 8 – Byford West and Land through to Tonkin Highway

- Insert an R5 Zone, adjacent to and for the full length of the Tonkin Highway in accordance with the Draft State Planning Policy Road and Rail Noise.

Area 9 – Lot 9 Abernethy Road (North of Abernethy Road and west of the Trotting Complex)

- Relocate the Primary School northwards adjacent to and immediately south of the District Recreation/Public Open Space.
- Extend the Rural Residential zone adjacent to the Trotting Complex to create a buffer.
- Insert an R5 Zone, adjacent to and for the full length of the Tonkin Highway in accordance with the Draft State Planning Policy Road and Rail Noise.

Area 10 – Multiple ownerships (south of Abernethy Road)

- Include a notation on the Plan requiring the preparation of Local Structure Plans for portions of the Doley Road/Warrington Road Precinct as determined by the Shire. The Local Structure Plan submitted for the area adjacent to the western edge of Brickwood Reserve is to show a road reserve adjacent to Brickwood Reserve separating it from the residential area. The Local Structure Plan shall also include a public open space link between Brickwood Reserve and the multiple use corridor on Turner Road. The notation is to state that the location of drainage within the Doley Road/Warrington Road Precinct in the BSP 2005 (as amended) is indicative only and will be refined at the Local Structure Plan stage.

General – West of Railway

- Place a notation on the Plan to require Abernethy Road to be 40 metres wide as per the original BSP 2005 text.
- A notation on the Plan clarifying that Abernethy Road/Tonkin Highway may interact by means of a grade separation.

General – East of Railway

- Retain the Town Centre Zone and size as per BSP 2005, however include a notation on the Plan to require the preparation and completion of a Local Structure Plan, complete with Detailed Area Plans and Design Guidelines. The Local Structure Plan to include, inter alia, an investigation into increased residential densities within the 800 metre walkable catchment and its relation with transit oriented urban design; the location, nature, role, relationship and distribution of different activities within the Town Centre including the 800 metre walkable catchment area.
- Any changes to residential densities or uses within the 800 metre walkable catchment of the Town Centre will be subject to a separate modification to the BSP 2005 and community consultation.
- Insert a local park on the corner of Pitman Way and South Western Highway (on the southern portion of the northern lot).
- Insert a local park opposite the Byford Primary School on the northern side of South Crescent.
- Update the BSP 2005 to reflect the adopted Byford Townsite Detailed Area Plan with regard to zoning changes.

General

- Include a notation on the Plan to require the preparation and implementation of a Bicycle and Pedestrian Plan for each Local Structure Plan in accordance with the Shire's Bicycle and Pedestrian Master Plan.
- Include a notation on the Plan requiring Local Structure Plans to be prepared, approved and adopted across the entire Development Area.
- Include a notation on the Plan to require the provision of land for community purposes in accordance with Council's Community Services and Facilities Plan.
- A notation be added to state that retail and non-retail floor area within the Neighbourhood Centres and Town Centre is to be as per the "Retail Analysis and Design Review" prepared by Taktics 4 (June 2006).
- Prior to the completion of the Department of Water Regional Drainage study and the review of the Parsons Brinkerhoff Byford Urban Stormwater Management Strategy,

areas of land are to be set aside in each subcatchment for drainage in accordance with the Water Corporation's requirements.

- Detailed Area Plans are required for land abutting major distributor roads, public open space, reserves, multiple use corridors and arterial roads to ensure the built form reflects the rural character of the area.

Conclusion

It would appear that both the BSP 2005 and BDSP 2006, as they currently stand, have deficiencies and shortcomings. It is furthermore arguable as to which Structure Plan constitutes the best planning outcome for the development area, since planning is not an exact science but a dynamic and ever evolving discipline based on overarching planning principles yet subjective interpretations due to different schools of thought.

To this end, Council now has the difficult and arduous task to decide on a way forward in terms of which of the two Structure Plans should guide further development within the Byford Development Area.

As a direct result of the current boom the State is experiencing in the resources industry, coupled with the sometimes unreasonable demand to release land for development to provide for this unforeseen growth, subdivision and urban development have caught up with the strategic planning exercise in relation to the Byford Development Area.

Although the continuation of the BDSP 2006 is still an option available to Council, it is not recommended given the opposing nature of submissions received that affected the majority of the Development Area, the delay to land release, the level of investment that has occurred in relation to the BSP 2005 and the continued relevance and ability of the BSP 2005 to serve the needs of the Shire in creating a sustainable Byford community subject to a few minor amendments. In fact, the opportunity to effect some parts of the BDSP 2006 may already have been lost, or compromised to a certain extent, as a result of previously approved development. Hence, it is anticipated that the most likely outcome of pursuing the BDSP 2006 would be that the Council and WAPC will be faced with numerous SAT appeals, which is not considered an efficient use of resources already stretched to the limit.

Finally, and from the point of view of orderly and proper planning, it is considered necessary and prudent to immediately continue with the BSP 2005 and to rather focus on areas of that plan which need urgent attention; albeit more detailed planning, clarification of, or minor amendments to the existing framework.

On the above basis, Council is requested to acknowledge the submissions received on the BDSP 2006, to resolve not to proceed with the BDSP 2006 at this juncture and to resolve to continue with the BSP 2005, subject to the minor amendments as outlined in this report.

Voting Requirements: ABSOLUTE MAJORITY

SCM07/02/07 Officer Recommended Resolution:

It is recommended that:

Part A:

1. Council acknowledges the submissions received.
2. Council not proceed with the Byford District Structure Plan 2006 (BDSP 2006) review.
3. Council adopts the following changes as minor modifications to the Byford Structure Plan 2005 (BSP 2005) pursuant to clause 5.18.4.1 of Town Planning Scheme No. 2:

Area 1 – Redgum Brook Estate

- The approved Local Structure Plan for land south of the multiple use corridor finally adopted on 17 June 2005 to be reflected on the BSP 2005 subject to modification of the alignment of the Town Centre Distributor Road to provide a T junction with Thomas Road and a redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.
- The land on the corner of Thomas Road and Tonkin Highway (north of the multiple use corridor) to be subject to further detailed local structure planning and drainage investigations before any further development occurs and that a notation be placed on the Plan to this effect. (as per BDSP 2006)

Area 2 – Lot 7 Briggs Road

- A notation be placed on the BSP 2005 requiring the existing homestead building and land upon which it stands be set aside for community purposes and addressed as part of the Local Structure Plan for this area.
- A redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.
- A notation on the Plan to state that the exact location of the Primary School within Lot 7 Briggs Road is to be determined at the Local Structure Plan stage.

Area 3 – Byford Central

- The Local Structure Plan adopted by the WAPC on 8th January, 2007 to be reflected on the BSP 2005.

Area 4 – South of Larsen Road/North of Town Centre Zone

- Realign the Town Centre Distributor Road further westwards to enable an intersection with Abernethy Road along the western edge of the Town Centre Zone.
- Insert a waterway/drainage basin immediately west of the new Town Centre Distributor Road alignment and next to the Trotting Complex adjacent to Binshaw Avenue to increase drainage capacity.

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- Realign the Town Centre Distributor Road further westwards to enable an intersection with Abernethy Road along the western edge of the Town Centre zone.
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- Add a notation on the Plan to include the High School site as a prominent landmark site and to investigate the possibility of combining the school with other community facilities such as a public library and that an area of land to accommodate this community building be set aside on the northeastern corner of the High School site on Abernethy Road. Design Guidelines are to be prepared for the community purposes site as part of the Local Structure Plan for the Town Centre.
- Include a notation to highlight the potential for a rail crossing linking Mead Street and South Western Highway. However, this would be a long term option and subject to consultation with the Public Transport Authority.

Area 7 – LWP Main Precinct

- Introduce an R5 Zone along Abernethy Road opposite the Trotting Complex up to the High School (as per BDSP 2006).
- Relocate the Neighbourhood Centre on Doley Road further north adjacent to the Multiple Use Corridor.
- Delete the diagonal road connecting the Neighbourhood Centre with Abernethy Road and provide for all roads to connect with the Neighbourhood Centre at perpendicular angles.
- Insert a new Mixed Business area on Orton Road to the west of Doley Road.
- Provide an enlarged Neighbourhood Node on the corner of Doley Road/Orton Road to service the new Mixed Business area on Orton Road.
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Area 9 – Lot 9 Abernethy Road (North of Abernethy Road and west of the Trotting Complex)

- Relocate the Primary School northwards adjacent to and immediately south of the District Recreation/Public Open Space.
- Extend the Rural Residential zone adjacent to the Trotting Complex to create a buffer.
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General – West of Railway

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with Detailed Area Plans and Design Guidelines. The Local Structure Plan to include, inter alia, an investigation into increased residential densities within the 800 metre walkable catchment and its relation with transit oriented urban design; the location, nature, role, relationship and distribution of different activities within the Town Centre including the 800 metre walkable catchment area.

- Any changes to residential densities or uses within the 800 metre walkable catchment of the Town Centre will be subject to a separate modification to the BSP 2005 and community consultation.
- Insert a local park on the corner of Pitman Way and South Western Highway (on the southern portion of the northern lot).
- Insert a local park opposite the Byford Primary School on the northern side of South Crescent.
- Update the BSP 2005 to reflect the adopted Byford Townsite Detailed Area Plan with regard to zoning changes.

General

- Include a notation on the Plan to require the preparation and implementation of a Bicycle and Pedestrian Plan for each Local Structure Plan in accordance with the Shire's Bicycle and Pedestrian Master Plan.
 - Include a notation on the Plan requiring Local Structure Plans to be prepared, approved and adopted across the entire Development Area.
 - Include a notation on the Plan to require the provision of land for community purposes in accordance with Council's Community Services and Facilities Plan.
 - A notation be added to state that retail and non-retail floor area within the Neighbourhood Centres and Town Centre is to be as per the "Retail Analysis and Design Review" prepared by Taktics 4 (June 2006).
 - Prior to the completion of the Department of Water Regional Drainage study and the review of the Parsons Brinkerhoff Byford Urban Stormwater Management Strategy, areas of land are to be set aside in each subcatchment for drainage in accordance with the Water Corporation's requirements.
 - Detailed Area Plans are required for land abutting major distributor roads, public open space, reserves, multiple use corridors and arterial roads to ensure the built form reflects the rural character of the area.
4. The Executive Manager Planning and Regulatory Services and Executive Manager Strategic Community Planning be authorised to modify and finalise the Byford Structure Plan 2005 map in accordance with Council's resolution.
 5. The WA Planning Commission be advised of Council's decision as per Clause 5.18.4.2(a) of Town Planning Scheme No. 2.
 6. Council requests the WA Planning Commission to urgently advise in writing, pursuant to clause 5.18.4.2(b) of the Town Planning Scheme No. 2, as to whether the proposed minor amendments are accepted as amendments that do not materially alter the intent of the Structure Plan.
 7. All landowners affected by the modifications to the Byford Structure Plan 2005 be advised of Council's decision in writing.
 8. All submitters be thanked in writing for providing comment on the draft Byford District Structure Plan 2006.
 9. A public notice be placed in the local newspaper to advise of Council's decision.
 10. Council resolves that the Byford Structure Plan 2005, with the exception of Redgum Brook Estate and Byford Central, be subject to more detailed structure planning pursuant to clause 5.18.1.3 of the Town Planning Scheme No. 2.
 11. Council immediately commences the Local Structure Planning for the Byford Town Centre, with the Council taking the leading role and working in collaboration and partnership with the affected landowners.
 12. The Executive Manager Planning and Regulatory Services and Executive Manager Strategic Community Planning be authorised to progressively update the Byford Structure Plan 2005 map to reflect all approved Local Structure Plans, pursuant to clause 5.18.4.1 of the Town Planning Scheme No.2.

Part B:

Council revokes the decision to adopt the draft Byford District Structure Plan 2006 as its policy position with respect to urban development and subdivision in the Byford Development Area.

SCM07A/02/07 COUNCIL DECISION

Moved Cr Price seconded Cr Star

Part A:

- 1. Council acknowledges the submissions received.**
- 2. Council not proceed with the Byford District Structure Plan 2006 (BDSP 2006) review.**
- 3. Council adopts the following changes as minor modifications to the Byford Structure Plan 2005 (BSP 2005) pursuant to clause 5.18.4.1 of Town Planning Scheme No. 2:**

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- **The approved Local Structure Plan for land south of the multiple use corridor finally adopted on 17 June 2005 to be reflected on the BSP 2005 subject to modification of the alignment of the Town Centre Distributor Road to provide a T junction with Thomas Road and a redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.**
- **The land on the corner of Thomas Road and Tonkin Highway (north of the multiple use corridor) to be subject to further detailed local structure planning and drainage investigations before any further development occurs and that a notation be placed on the Plan to this effect. (as per BDSP 2006)**

Area 2 – Lot 7 Briggs Road

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- **A redesign of the shape of the Neighbourhood Centre to reflect and compliment the new road alignment and located as per the BSP 2005.**
- **A notation on the Plan to state that the exact location of the Primary School within Lot 7 Briggs Road is to be determined at the Local Structure Plan stage.**

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Local Structure Plan to include, inter alia, an investigation into increased residential densities within the 800 metre walkable catchment and its relation with transit oriented urban design; the location, nature, role, relationship and distribution of different activities within the Town Centre including the 800 metre walkable catchment area.

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- **Delete the diagonal road connecting the Neighbourhood Centre with Abernethy Road and provide for all roads to connect with the Neighbourhood Centre at perpendicular angles.**
- **Insert a new Mixed Business area on Orton Road to the west of Doley Road.**
- **Provide an enlarged Neighbourhood Node on the corner of Doley Road/Orton Road to service the new Mixed Business area on Orton Road.**
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- Insert a local park on the corner of Pitman Way and South Western Highway (on the southern portion of the northern lot).
- Insert a local park opposite the Byford Primary School on the northern side of South Crescent (land owned by the Education Department).
- Update the BSP 2005 to reflect the adopted Byford Townsite Detailed Area Plan with regard to zoning changes.

General

- Include a notation on the Plan to require the preparation and implementation of a Bicycle and Pedestrian Plan for each Local Structure Plan in accordance with the Shire's Bicycle and Pedestrian Master Plan.
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- 5. The WA Planning Commission be advised of Council’s decision as per Clause 5.18.4.2(a) of Town Planning Scheme No. 2.
- 6. Council requests the WA Planning Commission to urgently advise in writing, pursuant to clause 5.18.4.2(b) of the Town Planning Scheme No. 2, as to whether the proposed minor amendments are accepted as amendments that do not materially alter the intent of the Structure Plan.
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- 10. Council resolves that the Byford Structure Plan 2005, with the exception of Redgum Brook Estate and Byford Central, be subject to more detailed structure planning pursuant to clause 5.18.1.3 of the Town Planning Scheme No. 2.
- 11. Council immediately commences the Local Structure Planning for the Byford Town Centre, with the Council taking the leading role and working in collaboration and partnership with the affected landowners.
- 12. The Executive Manager Planning and Regulatory Services and Executive Manager Strategic Community Planning be authorised to progressively update the Byford Structure Plan 2005 map to reflect all approved Local Structure Plans, pursuant to clause 5.18.4.1 of the Town Planning Scheme No.2.

CARRIED 9/0 ABSOLUTE MAJORITY

SCM07B/02/07 COUNCIL DECISION

Moved Cr Kirkpatrick seconded Cr Price, Brown, Wigg

Council seeks to revoke Part 5 of Council Decision SCM01/09/06 from the Special Council Meeting held on 1st September, 2006 pursuant to Regulation 10 of the Local Government (Administration) Regulations 1996.

CARRIED 9/0 ABSOLUTE MAJORITY

Moved Cr Star seconded Cr Kirkpatrick, Scott, Harris

Council revokes the decision to adopt the draft Byford District Structure Plan 2006 as its policy position with respect to urban development and subdivision in the Byford Development Area.

CARRIED 9/0 ABSOLUTE MAJORITY

Council Note: The Officer Recommended Resolution was changed in “Area 5”, last dot point to make mention of the width and in “General – West of Railway” first dot point to clarify the final width of Abernethy Road.

8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

9. CHIEF EXECUTIVE OFFICER’S REPORT

Nil

10. URGENT BUSINESS:

Nil

11. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:

Nil

12. CLOSURE:

There being no further business, the Presiding Member closed the meeting at 10.15am.