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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 FRIDAY, 29 JANUARY 2010. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 4.06PM AND WELCOMED COUNCILLORS AND STAFF.

1. ATTENDANCE & APOLOGIES:

IN ATTENDANCE:

COUNCILLORS: S Twine Presiding Member
WJ Kirkpatrick
K Murphy
C Buttfield
MJ Geurds (from 4.14pm)
E Brown
T Hoyer

OFFICERS: Mrs S van Aswegen Director Strategic Community Planning
Mr S Wilkes Acting Director Development Services
Ms B Robertson Co-ordinator Finance Services
Mr P Varelis Planning Officer
Mrs D Bridson Minute Secretary
Mrs L Fletcher PA to the Chief Executive Officer

APOLOGIES: C Randall
A Lowry
M Harris
Chief Executive Officer
Director Engineering
Director Corporate Services

GALLERY: Nil

2. PUBLIC QUESTION TIME:

Nil

3. PUBLIC STATEMENT TIME:

Nil

4. PETITIONS & DEPUTATIONS:

Nil

5. PRESIDENT'S REPORT:

Nil

6. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Nil

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

Nil

8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

The meeting was closed to members of the public at this point in accordance with S5.23.(2)(d) of the Local Government Act 1995 to allow Council to discuss confidential item SCM021/01/10.

Cr Geurds and Planning Officer entered the meeting at 4.14pm.
Planning Officer left the meeting at 4.35pm and returned at 4.40pm.

SCM021/01/10 CONFIDENTIAL ITEM - BYFORD DEVELOPMENT CONTRIBUTION ARRANGEMENT – CONSIDERATION OF REQUESTS FOR PARTIAL REFUNDS OF CONTRIBUTIONS PAID BY LANDOWNERS IN THE BYFORD EAST AREA (A1294)		
Proponent:	Not applicable	In Brief Council has received a number of requests to refund portions of contributions paid by landowners in the past as part of the Byford Development Contribution Arrangement. Providing a number of landowners with the opportunity to obtain a partial refund is recommended.
Owner:	Not applicable	
Officer:	Simon Wilkes – Acting Director Development Services	
Senior Officer:	Joanne Abbiss - Chief Executive Officer	
Date of Report	26 January 2010	
Previously	SCM018/12/09 SD088/12/09 OCM035/04/06	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

SCM021/01/10 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Hoyer, seconded Cr Kirkpatrick
That Council:

1. Notes the legal advice provided by McLeods at *Attachment SCM021.1/01/10*.
2. Notes the financial risks associated with the administration of development contribution arrangements and associated interim arrangements, as outlined in this report.
3. Acknowledges that the final amount payable by landowners can only be determined at the time of the contribution arrangement becoming operational, upon finalisation and gazettal of an Amendment to the Shire's Town Planning Scheme No. 2.
4. Acknowledges that landowners, in entering into legal agreements at the time of subdivision and development, have accepted the financial risks and uncertainty surrounding the Byford Development Contribution Arrangement.
5. Requires, as an interim position for the Byford east area from this date forward, that any interim arrangement that is entered between a landowner and Council shall require the payment of the estimated cost contribution in cash and additional security, to the value of not less than 50% of the estimated contribution in the form of a cash payment or bank guarantee. All cost associated with establishing an interim arrangement shall be borne by the proponent.
6. Acknowledges the need to treat all affected landowners in an open, transparent, consistent and fair manner.

7. Provides to those landowners to the east of South Western Highway, who have already entered into a legal agreement, with an update on the Byford Development Contribution Arrangement and invite those landowners to make arrangements with Officers of the Shire for a partial refund to be made to the extent to which the level of funds/security provided is not less than those landowners now wishing to proceed with subdivision and development, as outlined in part 5 of this resolution.
8. Acknowledges that all costs associated with establishing supplementary legal agreements to enable any adjustment to occur, estimated to be in the order of \$500 for each agreement shall be the responsibility of the relevant landowner and shall not be recoverable through the Byford Development Contribution Arrangement, either now or upon finalisation.
9. Notes that the resources allocated by Council to the finalisation of the Byford Development Contribution Arrangement are not unlimited and that these resources would be most effectively utilised in finalising the Contribution Arrangement at the earliest opportunity.
10. Notes that further reports will be presented to Council at the earliest opportunity in order to progress the Byford Development Contribution Arrangement towards finalisation.
11. Notes that a further report will be presented to Council at the earliest opportunity to formally consider a policy position for interim arrangements for development contribution arrangements.

CARRIED 7/0

Council Note: Cr Hoyer commended the Acting Director Development Services for his efforts in preparing this report.

COUNCIL DECISION

Moved Cr Kirkpatrick, seconded Cr Buttfield that the meeting be re-opened to members of the public at 4.41pm.

CARRIED 7/0

9. URGENT BUSINESS:

Nil

10. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:

Nil

11. CLOSURE:

There being no further business, the meeting closed at 4.43pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on 22 February 2010.

.....
Presiding Member

.....
Date