



SPECIAL COUNCIL MEETING MINUTES

29 September 2011

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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 THURSDAY 29 SEPTEMBER 2011. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 6.02PM AND WELCOMED COUNCILLORS, STAFF AND THE MEMBERS OF THE GALLERY.

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

IN ATTENDANCE:

COUNCILLORS: S Twine Presiding Member
 M Harris
 C Buttfeld
 C Randall
 T Hoyer
 M J Geurds
 A Lowry (arrived 6.18pm)

OFFICERS: Ms J Abbiss Chief Executive Officer
 Mr R Gorbunow Director Engineering
 Mr A Hart Director Corporate Services
 Mr B Gleeson Director Development Services
 Mr S Wilkes Executive Manager Planning
 Mr P Varelis Project Officer Development Contribution Arrangements
 Mr L Mann Senior Planner
 Mrs C McKee Manager Community Development
 Mr C Wansbrough Project Manager, Water Sensitive Urban Design
 Mr S Govender Manager Infrastructure & Design
 Mr M Vermeulen Special Projects/Assets Officer
 Mr L Tressler Community Planning Officer
 Ms P Kursar Minute Secretary

APOLOGIES: Cr K Petersen
 Cr A Ellis
 Cr B Brown
 S van Aswegen

Members of the public – 3
 Members of the press – 0

2. PUBLIC QUESTION TIME:

Nil

3. PUBLIC STATEMENT TIME:

Terence Goff – 1387 Orton Road, Byford

I would like to complain about the late notice of meeting. The letter received by another resident was dated 26th September and the meeting was scheduled for 29th September. No notification was forwarded to me. I have written to council previously regarding Orton Road and requested meetings with the Shire President & the Chief Executive Officer in regards to the realignment of Orton Road. At a previous meeting I asked if Council had legal advice in direct relationship to questions asked for the widening of the road. I asked for this to be confirmed in writing and it has not been done. \$8 million has been wasted with the realignment and I would like it to be investigated.

I would also ask that Council conduct business with the Sovereignty of Australian Constitutional Law. Decision making processes are not in respect of Australian constitutional law or acts of parliament.

4. PETITIONS & DEPUTATIONS:

Nil

5. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Cr Harris declared an interest in common with all of the items relating to the developer contributions arrangements and plans - SCM001/09/11, SCM002/09/11, SCM003/09/11, SCM004/09/11 and SCM005/09/11 as a resident of Byford. This will not affect the way she votes on the matter.

Cr Randall declared a financial interest in all of the items relating to the developer contributions arrangements and plans - SCM001/09/11, SCM002/09/11, SCM003/09/11, SCM004/09/11 and SCM005/09/11 as she owns land in Byford. This will not affect the way she votes on the matter.

COUNCIL DECISION

Moved Cr Buttfield, seconded Cr Hoyer

Council considers that the items are common to residents in Byford and Council will allow Cr Randall to remain in the room and be entitled to vote.

CARRIED 6/0

Cr Randall did not vote.

6. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN:

SCM001/09/11	ESTABLISHING A FRAMEWORK FOR DEVELOPER CONTRIBUTIONS TOWARDS COMMUNITY INFRASTRUCTURE IN THE BYFORD STRUCTURE PLAN AREA (A1862)	
Owner:	N/A	In Brief For Council to consider: 1) Options in progressing Community Infrastructure in the Byford Structure Plan area. 2) Endorse the recommended option to include District Open Space into the Traditional Development Contribution Arrangement and Plan; 3) Note that a further report will be presented to Council by December 2011 on a Community Infrastructure Development Contribution Arrangement for the Byford Area; and 4) Undertake a Shire-wide Community Infrastructure Development Contribution Arrangement and Plan in 2012.
Author:	C. Mihovilovich - Executive Manager Financial Services C. McKee - Manager Community Development S. Wilkes - Executive Manager Planning	
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	26 September 2011	
Previously	August 2006 (CFSP) February 2009 (CFSP)	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

The Shire is currently experiencing significant growth. Byford currently has a population of approximately 8,400 people which is expected to increase to 29,091 by 2031 (ABS, 2006; id. forecast, 2011).

Community facilities and services are essential to the health, wellbeing and long term sustainability of communities. Local Government is looked upon as a key provider and manager of community and sporting facilities. While there are expectations for Local Government to respond to this growth, there are significant resource implications.

In an effort to achieve a coordinated and responsible approach to planning for the Shire's future growth, the Community Facilities and Services Plan to 2020 (CFSP) was developed through extensive stakeholder engagement and adopted in February 2009 as the principal guide for facilities and services provision for a population of approximately 50,000.

In parallel with the formulation and finalisation of the CFSP, subdivision and development has been progressing in the Byford area. Since 2005, when the Byford District Structure Plan (BDSP) was adopted, Byford has grown to approximately 4,000 residential lots. In accordance with work undertaken by id. forecast and the figures for lot calculations from

subdivision and development applications, an approximate additional 9,000 residential lots are anticipated by the year 2031.

The Shire has substantially progressed a contribution arrangement for the provision of 'traditional infrastructure' for the BDSP Area, having been advertised for stakeholder comment in late-2010/early-2011. A number of submissions were received during the advertising period of the Traditional Byford Development Contribution Arrangement (DCA), which included the associated Development Contribution Plan (DCP) Report and Amendment 168 to Town Planning Scheme No.2 (TPS2). The progression of the traditional DCA for the BDSP Area is the subject of a separate report to Council – *SCM003/09/11*.

As part of the State Government's planning framework, State Planning Policy 3.6 (SPP3.6) was progressed in conjunction with industry stakeholders over a number of years and was gazetted in November 2009. The gazettal of SPP 3.6 effectively provided a statutory basis for the collection of funds from subdivision and development toward the provision of 'community infrastructure'.

It is now a critical phase in the Shire's planning for future growth. There is a need to establish funding and delivery mechanisms for community infrastructure, not only within the locality of Byford but also a clear path forward for communities facilities Shire-wide. There are a number of options available that the Shire could pursue based on the work previously completed as part of the CFSP. Options include but are not limited to continued negotiation with the private sector, applications for grant funding, utilisation of municipal funds, loans, and the establishment of development contribution arrangements.

With the anticipated growth in Byford, it is important that a direction be determined for community infrastructure funding and delivery as quickly as possible for the benefit of the community and all stakeholders. To not make a timely decision, would have serious implications for the Shire's ability to deliver community infrastructure.

This report provides Council with the opportunity to consider a number of different options for the delivery of community infrastructure and establish a path forward that can be progressed in conjunction with relevant stakeholders.

Sustainability Statement

Effect on Environment: The CFSP is underpinned by sustainability principles and local cultural values. It aims to enhance the built and social environment without being detrimental to the natural environment.

Resource Implications: The CFSP aims to strategically plan for the future through a staged and sustainable approach to resource allocation.

Use of Local, renewable or recycled Resources: The CFSP considers local facilities and services, and will allow local businesses to tender for future works.

Economic Viability: The CFSP aims to ensure value for money. The proposed strategic and sustainable provision and maintenance of community facilities and services, in partnership with land developers, other agencies and the community will enable the projects to be economically viable. Further investigations into the standards of provision and costings since the adoption of the CFSP have also helped to ensure costings are up to date.

Economic Benefits: The CFSP stages the provision of facilities and services which will generate employment opportunities, enhance tourist opportunities and provide local resources that would otherwise not be available.

Social – Quality of Life: The CFSP, for the sustainable provision of community facilities and services for the Shire to 2020, aims to meet the needs of a strongly connected community, preparing for rapid growth. It is underpinned by local cultural values, strong community engagement principles, a wide view of what constitutes future facilities and services and aims to enhance the quality of life for residents.

Social and Environmental Responsibility: The CFSP is based on partnerships and its implementation will broker further partnerships. The community continue to be involved in the feasibility, implementation & monitoring stages.

Social Diversity: The CFSP aims to provide for the social diversity of a rapidly growing and changing population.

Statutory Environment: TPS2
SPP 3.6

Policy/Work Procedure Implications:

No work procedures/policy implications directly related to this application/issue.

Financial Implications:

Significant financial implications associated with the different options for the delivery of community infrastructure within the locality of Byford and across the whole municipality. The financial implications are discussed in greater detail later in this report.

Strategic Implications:

This proposal relates to the following Focus Areas:-

Vision Category	Focus Area	Objective Summary	Objective
BUILT ENVIRONMENT			
	Land Use Planning		
		Rural Villages	Preserve the distinct character and lifestyle of our rural villages and sensitively plan for their growth.
			Ensure land use planning accommodates a vibrant and diverse range of activities and employment opportunities.
		Buildings	Invest upfront in the creation of vibrant, interactive public places and spaces that demonstrate the type of development envisaged by the community.
			Plan for the creation and preservation of iconic buildings and places that add to our sense of identity.
		Landscape	Provide a variety of affordable passive and active public open spaces that are well connected with a high level of amenity.
		General	Facilitate the development of a variety of well planned and connected activity centres and corridors.
			Ensure land use planning accommodates a diverse range of lifestyle and employment opportunities and activities.
			Rationalise existing, and responsibly plan new, public open spaces to ensure the sustainable

Vision Category	Focus Area	Objective Summary	Objective
			provision of recreation sites.
			Collaborate in the development of State planning proposals and lobby for the protection of Serpentine Jarrahdale's unique attributes.
			Encourage innovative solutions, technology and design.
	Infrastructure		
		Asset management	Continually improve the accuracy of the long term financial Plan for the Future by accommodating asset management plans that are developed.
			Ensure all decisions are consistent with the long term financial Plan for the Future.
			Ensure asset management plans extend to whole of life costings of assets and reflect the level of service determined by Council.
		Water Management	Minimise the use of piped and artificial drainage and its impact on the landscape.
			Promote, implement and celebrate best practice integrated water cycle management.
			Create low maintenance living streams and ephemeral wetlands.
			Where appropriate, create road side swales that add to the visual amenity, habitat, water quality and recreational enjoyment of the urban environment.
			Ensure infrastructure planning and design protects the community from flooding.
		Partnerships	Develop partnerships with the community, business, government agencies and politicians to facilitate the achievement of the Shire's vision and innovative concepts.
			Proactively and positively negotiate mutually beneficial outcomes with the development industry.
			Continue to work with funding agencies to secure grants for projects.
			Interact with professional and industry bodies to keep abreast of best practice.
			Establish, implement and maintain effective developer contribution schemes.
OUR COUNCIL AT WORK			
	Leadership		
		Leadership throughout the organisation	Elected members and staff have ownership and are accountable for decisions that are made.
			Our structure, processes, systems and policies are aligned with the Plan for the Future.
			Our structure, processes, systems and policies are based on the "keep it simple" principle.
			We are realistic about our capacity to deliver.
			All decisions by staff and elected members are evidence based, open and transparent.
			The elected members and staff operate from a common understanding of sustainability.
			The Shire will further establish itself as an

Vision Category	Focus Area	Objective Summary	Objective
			innovative leader.
			The Shire will set policy direction in the best interests of the community.
		Society, community and environmental responsibility	The elected members provide bold and visible leadership.
			The Shire will further establish itself as an innovative leader in social, community and environmental responsibility.
			The Shire will lead regional cooperation and resource sharing.
			The Shire is focussed on building relationships of respect with stakeholders.
	Strategy and Planning		
		Strategic Direction	Prepare effectively for future development.
			Position the Shire to be responsive and resilient to changes in State or Federal policy direction.
			Create innovative solutions and manage responsibly to aid our long term financial sustainability.
			Consider the regional delivery of services in the acquisition of compatible infrastructure and assets.
		The Planning Process	Develop comprehensive governance policies and strategies.
			Prioritise and integrate the financial implications of policy and strategy into the fully costed Plan for the Future.
			Create dynamic, adaptable policy and processes to aid rigour, currency and relevance.
		Achieving Sustainability	Ensure that elected members and staff are outcome focussed.
			The Shire will exercise responsible financial and asset management cognisant of being a hyper-growth council.
			Position the Shire to be responsive and resilient to changes in State or Federal policy direction.
			Develop a clear, robust, well researched evidence base which demonstrates our uniqueness and sustainability.
			Address the barriers to doing business in a positive way.
PEOPLE AND COMMUNITY	Knowledge and Information		
		Generating, collecting and analysing the right data to	Ensure the full costs are known before decisions are made.

Vision Category	Focus Area	Objective Summary	Objective
		inform decision making	
			Understand current and future costs of service delivery.
			Understand the needs of stakeholders.
			Develop systems for data capture and analysis.
		Creating value through applying knowledge	Ensure evidence based decision making
PEOPLE AND COMMUNITY			
	Wellbeing		
		Healthy	Promote a variety of recreation and leisure activities.
			Enable the provision of a range of facilities and services for families and children.
		Happy	Encourage youth participation in community activities, groups and networks.
			Achieve a sense of belonging through active networks and community groups.
			Build the community's capacity to create vibrant places through activities and events. Develop well connected neighbourhood hubs and activity centres.
			Empower people to represent their community of interest.
			Foster positive working relationships with and between volunteers.
	Relationships	Empower	Build strong relationships that are resilient to the pressures and challenges of growth and "breaking new ground".
			Ensure community spaces and places are accessible and inviting.
	Places	Vibrant	Plan and facilitate the provision of a range of facilities and services that meet community needs.
			Ensure community spaces and places are accessible and inviting.
			Build the community's capacity to create vibrant places through activities and events.
			Enable a diverse range of places that accommodate a variety of active and passive recreational pursuits.
			Plan and facilitate the provision of a range of facilities and services that meet community needs
			Ensure community spaces and places are accessible and inviting.
		Innovative	Enable and develop sustainable, multipurpose facilities where duplication is minimised. Promote and encourage the development of affordable and appropriate lifelong living environments.
		Distinctive	Recognise, preserve and enhance the distinct characteristics of each locality.
			Encourage the use of the arts to express our cultural identity.
			Enable and develop sustainable, multipurpose facilities where duplication is minimised.

Community Consultation

The formulation of the CFSP incorporated extensive stakeholder engagement as indicated in the section following. Whichever direction and path forward that Council may choose to pursue, effective stakeholder engagement will be critical and will be undertaken on an ongoing basis. Critical phases include feasibility, design, funding, delivery and maintenance.

Comment

In considering the planning for community infrastructure the Byford area, there are a number of matters that need to be explored, as follows:

1. General history of planning for community facilities and services within the Shire;
2. Formulation of the Shire's Community Facilities and Services Plan;
3. Lessons from the experiences of other local governments;
4. Evolution of SPP 3.6;
5. Anticipated expectations of the community for moving forward from here;
6. Anticipated expectations of the development industry for moving forward from here;
7. Standards of provision;
8. Financial capacity for the delivery of CFSP in a timely manner;
9. Potential range of different opportunities for funding;
10. Role of partnerships;
11. Discussion paper evaluation of different options;
12. Fully Costed Scenarios Associated with the Development of Options outlined in the Discussion Paper;
13. Preferred Option and steps involved in formulating and finalising a 'development contribution plan';
14. The historical approach incorporated into Amendment 150; and
15. Cost apportionment methodology for proportional contributions.

Each of these are matters are explored in greater detail in the following sections.

1. General History of planning for community facilities and services within the Shire.

There is an extensive history of planning for facilities and services within the Shire, dating back over the last 20 years, which is outlined in Report 1 of the CFSP. The studies have included, but are not limited to the *Serpentine Jarrahdale Shire Sport and Recreation Needs Study (1995)*, the Shire's Trails Masterplan (1999), the *Disability Services Plan (2000)*, and the *Serpentine Jarrahdale Shire Youth Advisory Council Strategic Plan (2007-2009)*.

2. Formulation of the Shire's Community Facilities and Services Plan.

In 2006, the Shire appointed *CCS Strategic Management* in conjunction with *Geografia*, as follows:

SD014.2/08/06 COUNCIL DECISION

Council awards the tender to CCS Strategic Management in association with Geografia, for a total fee of \$93,301.91 (ex GST), for the Serpentine Jarrahdale Shire Community Facilities and Services Plan to 2020.

The overarching objective of the CFSP was to provide a co-ordinated approach to the delivery of facilities and services to meet the needs of both existing and future communities. The CFSP recognised the traditional and emerging local government responsibilities, the value of developer contributions to community infrastructure and documented facilities anticipated to be provide by the State Government. In a departure from other approaches, the CFSP also considered private sector services (e.g. retail, personal services, and

professions and their relationship to the wider suite of required services and facilities needs within the Shire.

The CFSP evolved from an intensive 18 month process that involved extensive community and stakeholder consultation, demographic analysis, policy and literature review, needs assessment and financial modelling. The consultation process included:

- Ten locality based community workshops
- Telephone, online and community organisation surveys
- Shire and government agency staff workshops
- Councillor workshops/information sessions
- Workshop/information sessions with land developers
- One-on-one meetings with key stakeholders and community groups

A key aspect of the study methodology was an analysis of likely population growth scenarios. This was used as the basis for determining high and low growth revenue scenarios for the Shire. In addition a detailed audit of existing facilities was undertaken and refurbishment requirements identified. This was accompanied by a review of relevant literature to determine previously discussed needs and appropriate provision standards.

Based on this information a series of needs were determined and prioritised. Cost estimates were provided in 2007 values and escalated against an implementation schedule to 2020. Using a cost-sharing funding model developed by the Western Australian Local Government Association (WALGA) and the Urban Development Institute of Australia (UDIA), cash flow scenarios have been determined to 2020. This is accompanied by revenue and loans capacity scenarios for the Shire.

Based on this process a series of reports (available on the Shire website) were prepared comprising of:

- Report 1 - Literature Review, Trends and Values, Demographic, Facilities and Services Audit
- Report 2 - Consultation Outcomes and Demand Analysis
- Reports 3 & 4 - Needs Assessment, Costs and Funding
- Report 5 – Community Engagement, Access, and Inclusion
- Report 6 – Executive Summary

While the time horizon adopted for this plan is 2020, it takes into account the estimated full build out population. Although estimates of future needs and costs have been made on the best available information at the present time, with such long time horizons, alternative solutions will emerge and additional needs will be identified as the area evolves. Based on the latest information it is recognised that there are differences between the population projections as outlined in the CFSP and what has actually occurred.

As such, the plan has been developed as a guide for future planning based on population thresholds. Ideas and proposals were identified as needing to be justified on their individual merits and at times through more detailed feasibility assessments and consultative processes. The plan was also identified as being needed to be reviewed on a regular basis. Council at its meeting of February 2009 considered the CFSP, and passed the following resolution:

"SD071/02/09 COUNCIL DECISION

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

1. *Endorse the Serpentine Jarrahdale Community Facilities and Services Plan to 2020 (as per electronic attachments marked SD071.1/02/09 to SD071.9/02/09) as a guide for future financial, strategic land use and community planning decisions. The following ten recommendations from CFSP Report 6 are to be considered through the Plan for the Future process:*
 - (a) *Adopt the notional themes for the main localities developed in the CFSP 2020 as the basis for future facilities and services planning*
 - (b) *Adopt the list of facilities and services and the proposed timing outlined in Sections 6 and 7 of the CFSP 2020 (Report 6) to guide ongoing planning and development decisions*
 - (c) *Expedite negotiations with land developers to finalise the proposed funding model outlined in Section 8 of the CFSP 2020 (Report 6)*
 - (d) *Establish the proposed governance structure outlined in Section 9 of the CFSP 2020 (Report 6) to oversee its implementation*
 - (e) *Seek appropriate advice and Council support for loan funding to assist finance the CFSP 2020 (Report 6)*
 - (f) *Ensure that relevant state and federal government agencies are aware of the unique financial and resource constraints faced by the Shire*
 - (g) *Establish the proposed Futures Office as soon as practically possible to take carriage of the implementation of the infrastructure and economic development components of the CFSP 2020*
 - (h) *Appropriately resource the Shire's Community Development section to assist with the implementation of the CFSP 2020*
 - (i) *Develop project briefs for a suite of additional studies and plans to ensure that the 'hard infrastructure' components of the CFSP 2020 are supported by well developed 'soft infrastructure' programs and activities*
 - (j) *Continue to work with the community and other stakeholders to refine and implement the central findings and recommendations of the CFSP 2020.*
2. *Forward a copy of the Plan to the relevant government agencies, organisations and developers."*

The specific needs of the Byford Area were identified in Reports 3 and 4 of the CFSP.

A relevant extract from the CFSP for the Byford Area is provided as an attachment marked [SCM001.01/09/11](#)

Based on work completed by a quantity surveyor, projected costs per facility were identified in reports 3 and 4.

The projected costs, in 2007 dollars, is with attachments marked [SCM001.02/09/11](#)

Since the finalisation of the CFSP, the Shire has continuously sought to integrate the recommendations and actions into its corporate strategic planning, such as the *Plan for the Future 2009-2014* and the '*Fully Costed Plan for the Plan 2011/12 to 2014/15*'. In addition, the CFSP has been used as a basis for land use planning decisions, including the preparation and finalisation of local structure plans in the Byford area and the District Structure Plan for Mundijong/Whitby.

The various options and cost estimates that have been referenced in the discussion paper have been based on the CFSP combined with new information that has since come to light through updated population projections, site specific cost estimates, stakeholder feedback and other feasibility work.

These options and cost estimates are provided later in the agenda item.

3. Lessons from the experiences of other local governments

A number of other local governments have been heading down the path of preparing contribution arrangements based on documents similar to the CFSP for community infrastructure delivery. It is understood that at the time of writing this report:

- The gazettal of a DCA arrangement for the City of Cockburn is imminent;
- The WAPC is currently reviewing a DCA for the Town of Kwinana;
- The City of Wanneroo is progressing a DCA for future growth in the Alkimos-Eglinton Area;
- The City of Armadale/Armadale Redevelopment Authority have had approved and gazetted a DCA; and
- The City of Swan has prepared a DCA for the West Swan area.

From liaison with both local government practitioners and stakeholders within the development industry, a number of key messages have been shared as follows:

- Keep community and traditional infrastructure separate where possible;
- The importance of working with industry in a transparent manner; and
- The importance of understanding both community needs and aspirations.

Cost estimates and standards of infrastructure provision have been considered in the light of a number of factors including other local government provision. Significant variations are evident across Local Government areas. The Shire is proposing a reasonable approach that would be of a generally accepted standard of provision in Western Australia. This is further discussed later in the report with respect to standards and cost estimates.

It has to be acknowledged that information received from other local governments may have a particular perspective and/or relevance to a particular situation and naturally are not binding on the Shire in any way. It is important however, that stakeholders remain mindful of the broader context for any contribution arrangement that may be progressed for areas within the Shire, and where possible avoid any obvious potential difficulties.

4. Evolution of State Planning Policy 3.6

SPP 3.6 was partly prepared in recognition of the fact that the capacity of local governments to provide the additional infrastructure and facilities necessary to accommodate future growth and change is limited. As a result, local governments have been increasingly seeking to apply development contributions for the construction of infrastructure and facilities beyond the standard requirements. These include items such as car parking, community centres, recreation centres, sporting facilities, libraries, and other such facilities.

Local governments indicated that they need more guidance on the scope and framework for development contributions of this nature. The development industry also pointed to the need for greater consistency and transparency in charging developers because of the potential impact on housing affordability and to avoid inequity arising from new residents subsidising existing residents.

SPP3.6 followed a joint study into development contributions undertaken by the Urban Development Institute of Australia (UDIA), Western Australia Local Government Association (WALGA) and the Department of Planning (DoP) to address these issues.

A copy of State Planning Policy 3.6 is with attachments marked [SCM001.03/09/11](#)

Development contributions have historically been sought for items of infrastructure that are required to support the orderly development of an area. Standard requirements include

roads, water and sewerage facilities, utilities, public open space and other items that are listed in Appendix 1 to SPP 3.6. These standard requirements and the practice of requesting them remain unaffected by the new provisions of the policy.

Development contributions for infrastructure items may only be requested in accordance with the terms of SPP 3.6. That is, contributions may only be sought for such items to the extent that they have been identified in a development contribution plan which has been incorporated into a local planning scheme, or otherwise through voluntary agreement with the relevant developer/s. Community infrastructure is defined as:

“the structures and facilities which help communities and neighbourhoods to function effectively, including:

- *sporting and 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 the policy”.*

Based on SPP 3.6 development contributions can be sought for:

- a new item of infrastructure;
- land for infrastructure;
- an upgrade in the standard of provision of an existing item of infrastructure;
- an extension to existing infrastructure;
- the total replacement of infrastructure once it has reached the end of its economic life;
- other costs reasonably associated with the preparation, implementation and administration of a development contribution plan.

The Shire’s CFSP was developed in parallel with SPP 3.6 and has sought to provide recommendations for both infrastructure funding and delivery on the principles outlined in SPP 3.6

SPP3.6 states the following:

“A development contribution plan does not have effect until it is incorporated into a local planning scheme. As it forms part of the scheme, the Town Planning Regulation 1967, including advertising procedures and the requirement for ministerial approval, will apply to the making or amendment of a development contribution plan.”

Development contribution plans require that:

- *there is a clear and sound basis with linkages to the local government’s strategic and financial planning processes;*
- *there is justification for the infrastructure identified in the development contribution plan;*
- *the costs of infrastructure are appropriate;*
- *there is a commitment to providing the infrastructure in a reasonable period;*
- *the development contribution area to which the development contribution plan applies is appropriate;*
- *cost-sharing arrangements between owners in the development contribution area are fair and reasonable; and*
- *there is consultation with the owners affected by the development contribution plan.*

It is understood that SPP 3.6 is currently under review by the Western Australian Planning Commission (WAPC).

5. Anticipated expectations of the community for moving forward from here

In 2010, Serpentine Jarrahdale Shire conducted a Community Perceptions Survey with 400 residents to evaluate and monitor performance across a range of services & facilities. The survey was conducted by CATALYSE® Pty Ltd and provides the Shire with valid performance measures that can be benchmarked and consistently monitored over time.

The survey outcomes demonstrated that:

- Satisfaction remains low in terms of services and facilities for youth with 30% respondents satisfied and 49% of respondents dissatisfied;
- For access to services and facilities for people with disabilities, the level of satisfaction is also low with 53% of respondents dissatisfied and 28% of respondents satisfied;
- In terms of facilities and services available for seniors, 35% of respondents were satisfied and 46% of respondents were dissatisfied;
- The respondents also communicated that 35% were satisfied and 46% dissatisfied in how the community is being developed. It is noted that the survey results indicate that there is greatest room to improve satisfaction among those living in the South, Byford and Central Wards, and among empty nesters and families with younger children;
- In relation to community building halls and toilets; 56% of respondents were satisfied and 26% of respondents dissatisfied, while for sporting grounds, reserves and ovals, 59% were satisfied and 29% were dissatisfied, with satisfaction being highest among seniors and those living in the Central Ward, and greatest room to improve being with those who have children;
- In terms of parks; 46% of respondents were satisfied and 39% of respondents were dissatisfied; and
- For the way in which the Byford Town Centre is being developed, 35% of respondents were satisfied and 53% were dissatisfied, with there being greatest room to improve satisfaction amongst empty nesters and those living in Byford Ward.

6. Anticipated expectations of the development industry for moving forward from here

Based on submissions received from the development industry via the local governments, it is understood that there is the expectation that any developer contribution plan will adhere to the governing principles of SPP 3.6. In addition, the development industry expects that any impact on housing affordability will be taken into consideration and that any process should be robust and open.

Land developers were actively engaged in the development of the CFSP, with a number of developers contributing to the project and the majority of developers at that time participating in a series of workshops.

Developers have also been actively engaged in the traditional DCP process through a number of discussions from the early 2000's and were also provided with a submission opportunity through the 2010 advertising period.

A number of stakeholders would have the expectation that traditional and community infrastructure contribution arrangements would be kept separate.

To combine some or all of the different elements of a potential traditional DCA with a community DCA, would constitute a change in direction by the Shire. Should this occur, it is recommended that the Shire should explicitly outline any change in direction and provide a clear rationale and explanation accordingly. The Shire recognises that a key principle for any contribution arrangement is openness and transparency.

Existing stakeholder expectations will in part be based on past resolutions of Council, including the initiation of Amendment 150 in 2006, and the initiation of Amendments 167 and 168 in 2009. In addition, expectations may be based on the report presented to Council when the CFSP was presented for adoption in 2009. Relevant extracts from the report to Council are presented below.

"What is not being locked in at this stage is the detail of individual items in terms of design, timing and costings. The recommendations, which are all underwritten with a specific recommendation to undertake a detailed feasibility study, aim to provide the starting point from which feasibility studies and debate can work out the detail of each project. The Byford Hall and the Mundijong Changerooms feasibility studies are the first two examples of how this could work. The CFSP recommendation is considered as part of the feasibility study, but the final design and finances required are likely to be different to the notional figure in the CFSP report, as it was in both these cases.

The implementation process comprises two main outcomes that together create a continuous evaluation loop within the overall PFF process. One outcome is the consideration and approval of the feasibility studies which are to be programmed to be undertaken the following year. The other outcome is the consideration and endorsement of projects to be implemented, based on the results of the feasibility studies already undertaken.

Once SPP 3.6 has received final approval by the Minister for Planning, contributions towards community infrastructure need to be considered as part of any future Developer Contribution Plans. In the interim, contributions towards any community facilities will need to be negotiated with developers, as is currently the case for Byford."

There is the expectation from the development industry that the Shire will make all reasonable endeavours to finalise the existing development contribution arrangement for the Byford Structure Plan Area at the earliest opportunities.

7. Standards of provision

Cost estimates for all infrastructure and standards of infrastructure provision have been considered in the light of a number of factors including industry and other local government provision. Significant variations are evident across Local Government areas. The Shire is proposing a reasonable approach that would be of a generally accepted standard of provision in Western Australia. This approach considers the basic elements of:

- Land size;
- That the facilities are constructed so that they function in all conditions; and
- Where grassed areas are proposed that they will be able to be effectively irrigated.

The following cost estimates at this stage are a guide for discussion. Unit rates are primarily based on Rawlinsons Australian Construction Handbook and similar projects planned by other local government authorities. More accurate costings will be provided as part of the actioning of a Scheme Amendment pending the outcome of this Special Council Meeting.

Detail needs pertaining to community facilities were based on the following documents and standards:

- Department of Education standards;
- Advice from the Department of Sport and Recreation;
- National AFL guidelines;
- Victorian AFL standards;
- Wanneroo Local Planning Policy for Public Open Space; and
- Other Local Government examples.

To provide guideline cost estimates for ovals, the following assumptions have been made:

- Each site will have 1.5m gradient across the site which will be required for clear, cut and fill;
- Provision is for training level lighting for different sports (with the ability to be upgraded to competition level pending external funding);
- Car parking and access roads are bitumen;
- Subsoil drainage and irrigation for select areas are included;
- Landscaping with playground area;
- Provision for stolons which include soil preparation and loam for playground and buffer areas;
- A senior oval is based on 5ha (50,000m²);
- A junior oval is based on 3ha (30,000m²);
- Provision for bore and pump; and
- Services and other utilities having not been provided to the site.

It is noted that some of the above elements were not included in the original costings in the CFSP.

Ongoing discussions are underway in order to ensure benchmarking against other local governments as their DCAs progress. This will further assist the provision of more accurate costings beyond the estimates currently provided as a guide and with more accurate detail in regards to service provision.

8. Financial capacity for the delivery of CFSP in a timely manner

The CFSP, in 2007 dollar terms, outlines a capital cost total of \$66 million as being required to adequately meet the community facilities and service needs of the Shire to 2020.

Together with costs for specialist staff and ongoing maintenance of facilities created to meet community need, and escalated costs through to 2020, the total CFSP implementation requires \$208 million comprising capital costs of \$163 million (escalated from \$66 million in 2007), specialist staffing costs of \$15 million and additional maintenance costs for new infrastructure of \$30 million.

As identified in the cash flow analysis within the CFSP, it is anticipated that there would be a cash flow related shortfall of \$43 million in order to enable the plan to be fully implemented.

A copy of Report 3 and 4 detailing Cash Flow Analysis is with attachments marked [SCM001.4/09/11](#)

It is noted within the CFSP that a number of assumptions have been made including the rate of the Shire's development and the Shire's ability to allocate proportions of borrowing capacity or revenue to community infrastructure due to many other competing demands. Other assumptions include land acquisition, unknown contingencies, maintenance of current

facilities and services and replacement funds for new and existing infrastructure which are not catered for.

To meet the community's facilities and services needs, funding for community infrastructure through rates alone will be inadequate and the Shire will need to pursue all possible funding avenues. These include:

- Loans
- Partnerships
- Property Sales
- State and Federal Grants
- Developer Contributions

Complementing the pursuit of alternative funding mechanisms, the Shire may consider a reduction in the extent of facilities, exploring options for private sector provision (e.g. Swim School) and/or flat-lining (selected deferment of projects) the construction schedule. Due to new development data indicating slower land development within Byford, the timing of most of the items in the CFSP will be postponed to a later date.

9. Potential range of different opportunities for funding

As outlined in Report 5 of the CFSP, there are a range of funding and grant opportunities available to the Shire. Detailed below is a list of potential partners for identified facility needs. Appendix 1 also provides a list of funding sources for events, activities and other services the Shire may develop over time.

A copy of Report 5 details a list of potential funding partners identified in the CFSP is with attachments marked [SCM001.05/09/11](#)

Some obvious options for the Shire to submit applications to include:

- Department of Sport and Recreation
- Arts WA
- Healthway
- Department of Local Government and Regional Development
- Department of Housing and Works
- Department of Education and Training
- Sustainable Energy Office
- Office of Crime Prevention
- Peel Development Commission
- Federal Funding Programs including, DOTARS Regional Partnerships
- Lotterywest
- Heritage Council
- National Trust
- Peel Community Fund
- Local Industry, businesses & philanthropists
- Fire and Emergency Services Association (FESA)

There is also a raft of private sector institutions that have established funding programs. It needs to be acknowledged that while there are a range of external funding opportunities available, there is:

- No guarantee that any particular funding will be secured, making the development of forward financial plans and capital works plans difficult to prepare and implement

- There are significant resource implications associated with securing, managing and reporting on external funds.

It will be important for Council to establish a formal policy position in the future with respect to handling of grant funding with relation to developer contribution arrangements.

10. Role of partnerships

Partnerships with the private sector, not for profit sector, state and federal government will be critical to the implementation of the CFSP. The nature of these partnerships will need to be multi-faceted. They may include formal memorandums of understanding, funding agreements and a general exchange of information.

Community Groups are vital for engaging the wider community in a range of areas, and fostering a sense of pride in the community, and play a vital role in the implementation of the Community Facilities and Services Plan to 2020.

Positive relationships with the private sector will be critical to meeting the aspirations of the local community, particularly since the majority of their needs are non-government services. Core relationships in this regard will be those with land developers relating to urban design, facilities provision and community development activities.

11. Discussion paper evaluation of different options

There are a number of different options available to Council. In order to provide Council and other stakeholders with an open, transparent and comprehensive evaluation of the different options, a discussion paper has been prepared.

A copy of the discussion paper is with attachments marked [SCM001.6/09/11](#)

12. Fully Costed Scenarios Associated with the Development of Options outlined in the Discussion Paper

As identified within Part 8 of this Agenda Item, *Financial capacity for the delivery of CFSP in a timely manner*, further work has been undertaken to prepare cost scenarios associated with each Option presented as identified within the Community Infrastructure Discussion Paper.

A copy of the summary table for each community infrastructure delivery model is provided in attachment marked [SCM001.7/09/11](#)

Based on 2011 calculations, the cost estimates anticipated for the provision of community infrastructure within the Shire is anticipated is to the total of \$75,306,293. Forming part of this calculation, it is anticipated that the development of district open space ovals and sporting fields is to the valued of \$12,564,908.

As identified within the summary table, the costs attributed to Developers, Shire and Other stakeholders are projected. Costs for all community infrastructure is divided into Whole of Shire community infrastructure items and those relating directly to Byford. Please note that cost estimates are provided in good faith based on estimates and best available information.

13. Preferred Option and the steps involved in formulating and finalising a developer contribution arrangement

As identified in the community discussion paper, the accompany risk assessment matrix and fully costed scenarios for each development option, *Option 7 – Traditional DCA with*

District Open Space and Community Infrastructure for DCA for Balance of Byford Area Specifically as the preferred option.

This option will involve the inclusion of District Open Space within the Traditional DCA and for the preparation of a separate Community Infrastructure Developer Contribution Arrangement for the Byford area and an additional Community Infrastructure Developer Contribution Arrangement for the balance of the Shire.

A DCA shall only come into full effect once it has been incorporated into a Town Planning Scheme, by way of a Scheme Amendment.

In accordance with SPP 3.6, a local government is required to:

- Identify infrastructure needs, through a community infrastructure plan.
- Determine catchment for each item of infrastructure, again through a community infrastructure plan.
- Determine cost of providing infrastructure, through a capital expenditure plan.
- Apportion costs using demand analysis and portion of demand attributable to existing and new areas.
- Incorporate development contribution “contributions area” and plans into local planning schemes.

In the instance that Council elects to head down the path of establishing a new DCA for community infrastructure in the Byford area, the following will need to occur:

1. Preliminary cost estimates for infrastructure and cost apportionment methodology will need to be finalised.
2. A formal TPS amendment document will need to be developed.
3. A formal ‘Development Contribution Plan Report’ will need to be developed.

14. Historical approach incorporated into Amendment 150

Council in 2006 resolved to initiate Amendment 150, as follows:

OCM035/04/06

- A. *Council notes the decision of the Minister for Planning and Infrastructure in relation to Amendment 113 to TPS 2.*
- "2. *Introducing a Byford Development Contribution Plan into Appendix 16 of the Scheme Text as follows:*

16.1 Byford Development Contribution Plan

- (a) *The Byford Development Contribution Plan is to operate for a period of five (5) years, commencing on the date which notice of the Hon. Minister’s approval of the amendment is published in the Government Gazette. The period of operation may be extended and the Development Contribution Plan may be amended accordingly as provided for by clause 5.19.2.2(b) of the Scheme.*
- (b) *Owners within the Byford A precinct shall make a proportional Contribution to Costs in accordance with the Byford Development Contribution Plan to reflect the proportion of their land being subdivided. Owners within the Byford B, Byford C*

and Byford D precincts shall make the full Cost Contribution in accordance with the Byford Development Contribution Plan at the time of approval of the subdivision of their land and prior to clearance of diagrams of survey.

<u>Area</u> (see clause 5.18 of Scheme and clause 15.2 of Appendix 15)	<u>Common Infrastructure</u> (see clause 5.18.9)	<u>Details of Contribution Arrangement for Area</u> (see clause 5.18.9)
<i>Byford A</i>	1. Multi Use Corridors - Land Acquisition - Development 2. District Public Open Space - Land Acquisition - Development - Maintenance 3. District Road System - Land Acquisition 4. Administration	<i>The Cost Contribution is to be based upon the proportion that the value of each Owner's land bears to the total value of land within the Contribution Area</i>
<i>Byford B</i>	1. Multi Use Corridors - Land Acquisition - Development 2. Administration	<i>The Cost Contribution is to be based upon the proportion that the area of each Owner's land bears to the total area of land within the Contribution Area</i>
<i>Byford C</i>	1. Drainage and Road Improvements 2. Administration	<i>The Cost Contribution is to be based upon the proportion that the area of each Owner's land bears to the total area of land within the Contribution Area</i>
<i>Byford D</i>	1. Administration	<i>The Cost Contribution is to be based upon the proportion that the area of each Owner's land bears to the total area of land within the Contribution Area</i>

When Council considered the Byford DCA in 2009 and again in 2010, the Traditional DCA did not incorporate District Open Space (DOS). The reasons for this included, but were not limited to:

- The assumption that developers would continue improving their DOS areas as part of their subdivision and development process
- Developers have historically improved areas of open space within their estate in order to meet the expectations of the community and be commercially competitive
- Areas of DOS were geographically dispersed across the Byford Structure Plan area.
- Minimise the cost liability for developers under the DCA
- Minimise the financial risk to Council, in underwriting the DCA
- Uncertainty about the future improvement opportunities to DOS area

As a result of submissions received during the advertising period, further investigations to each DOS area, and the reluctance of developers to improve DOS without recognition under the DCA, it is open to Council to consider an alternative path forward.

As such, the recommended path forward is not inconsistent with that previously incorporated within Amendment 150, i.e. DOS has previously been incorporated in the Byford Traditional DCA. This method represents a reintroduction of a previous requirement.

15. Cost apportionment methodology for proportional contributions

SPP 3.6 requires local governments to establish a cost apportionment methodology for each DCP. It is required that consideration be given to the proportional growth having regard to both the future and existing populations.

The cost estimates and recommendation incorporated in this agenda item for the inclusion of DOS within the Traditional Infrastructure DCA are based on the following principles:

- There are existing recreational facilities that have historically met the needs of the existing community.
- The demand for new infrastructure directly stems from new development that is currently being experienced and expected to continue to occur.
- With respect to infrastructure proposed to be included in a future DCA for Community Infrastructure, consideration will need to be given to proportional demand from previous and existing communities.

The CFSP has historically assumed an 80/20 (Developer/Shire) split, however this may need to be updated to take into consideration anticipated development scenarios and current delivery of projects on the ground. An initial estimate of 70/30 as outlined in the Discussion Paper is considered reasonable at this time.

Conclusion

There is much to consider in relation to community infrastructure and no option presented for consideration is inherently without challenge and with resource implications. It is important, however, that a direction be established, actively pursued and communicated to all stakeholders.

On balance, having had regard to all manner of considerations presented within this item, it is recommended that *Option 7 – Traditional DCA with District Open Space and Community Infrastructure for DCA for Balance of Byford Area Specifically* as detailed within the Discussion Paper on Community Infrastructure in Byford be selected to progress the matter.

It is based on this information that Council is asked to recognise the various options presented and provide direction for a path forwards for Community Infrastructure.

Voting Requirements: Simple Majority

Minute Taker left the room at 6.30pm and returned at 6.32pm

SCM001/09/11/11 COUNCIL DECISION/Officer Recommended Resolution:

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

A) Note the discussion paper marked SCM001.6/09/11.

B) Endorse the inclusion of District Open Space within the Byford Traditional Development Contribution Arrangement to be dealt with in a further report within this Agenda.

C) Endorse the preparation of a Community Infrastructure Developer Contribution Arrangement for the Byford area in accordance with State Planning Policy 3.6 and by way of a new Scheme Amendment and Developer Contribution Plan by December 2011.

D) Endorse Option 7, as outlined in the Discussion Paper Attachment marked SCM001.6/09/11 in order to progress the establishment of a framework for developer contributions towards community infrastructure in the locality of Byford.

E) Note that, in 2012, a Shire wide development contributions arrangement will be prepared for progressing with the establishment of a framework for developer contributions towards community infrastructure across the Shire.

CARRIED 7/0

COUNCIL DECISION

Moved Cr Harris, seconded Cr Lowry

Move item SCM002/09/11 out of order to enable the gallery to hear all the non-confidential items before the doors are closed to the public.

CARRIED 7/0

SCM003/09/11 AMENDMENT 168: BYFORD TRADITIONAL INFRASTRUCTURE DEVELOPMENT CONTRIBUTION PLAN AND BYFORD DEVELOPMENT CONTRIBUTION PLAN REPORT (A1862)		
Author:	Peter Varelis – Project Officer: Development Contribution Arrangements	In Brief In September 2010, Council determined that a Development Contribution Plan (DCP) Report and associated Amendment 168 for Byford was satisfactory for advertising. The advertising period has concluded and numerous submissions have been received. This report provides Council with the opportunity to consider
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	22 September 2011	
Previously	OCM035/04/06 SCM018/12/09 SCM004/09/10	
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	
		<p>the submissions received and a number of key issues and recommended modifications to the DCP Report.</p> <p>It is recommended that Council:</p> <ol style="list-style-type: none"> 1. Note the submissions received during the advertising of Amendment 168 and the DCP Report; 2. Advertise the modified DCP Report; and 3. Advertise a series of proposed modifications to Amendment No. 168 to reflect the modified DCP Report.

Background

For many years, Council has been seeking to finalise a Development Contribution Arrangement (DCA) for Byford. The finalisation of the DCA is a desirable outcome in terms of providing infrastructure to support urban growth, but also to provide certainty for the community and all stakeholders. The following sections provide a summary of the progress of the Byford DCA:

Amendment No. 113

In parallel with preparing and progressing the Byford District Structure Plan (DSP), the Shire in 2000 initiated Amendment No. 113 to Town Planning Scheme No. 2 (TPS 2). The purpose of Amendment No. 113 was to establish a DCA for the Byford DSP area, as well as to rezone most of the Byford DSP area to Urban Development and insert appropriate provisions into the Scheme for a Byford Development Area.

Amendment No. 113 was adopted for final approval by Council in April 2001, and subsequently forwarded to the Western Australian Planning Commission (WAPC) and Minister for Planning for consideration. Final approval of Amendment No. 113 was deferred by the WAPC in September 2001, pending modifications to and finalisation of the Byford DSP.

After final approval of the Byford DSP was granted in March 2005, Council made changes to Amendment No. 113 and forwarded it to the WAPC and Minister. The Amendment was considered and the Shire was advised that the Minister had decided not to approve the Amendment until several modifications were made, which essentially saw the removal of DCA components of the Amendment.

The Shire was advised by the Minister that it should proceed with a separate Amendment to insert a DCA and Development Contribution Plan (DCP) into TPS 2. More general advice was also provided in terms of the DCA including:

- The type of infrastructure and costs which could be included;
- The need to establish a nexus between the infrastructure and costs included and development proposed;
- The provision of appropriate levels of detail to allow for costing to be undertaken;
- The exclusion of certain infrastructure and cost items proposed under Amendment No. 113;
- The need for cost apportionment to accord with the overall method for determining costs and the costs and items identified for specific precincts; and
- The need to establish a clear nexus in the instance of developers in one precinct being required to contribute towards costs and/or infrastructure in another precinct.

Previous Developer Contribution Plan for Byford

In 2004, the Shire commissioned consultants Worley Parsons to prepare a DCP for the Byford DSP area, including costs for the provision of infrastructure. The DCP was endorsed by Council and forwarded to the WAPC for review. In conjunction with Amendment No. 113, a number of concerns were raised including that:

- The DCP identified additional infrastructure costs which were not included in Amendment No. 113 as advertised by the Shire in 2001;
- The DCP was not included in the Amendment and was therefore not advertised and has not been considered by the Department of Planning or WAPC;
- Additional clarification was required in terms of the inclusion of certain infrastructure items and the inclusion of the existing Byford Townsite within the arrangement, given its limited potential for redevelopment;
- There were discrepancies evident in terms of the definition of some infrastructure items and costs, the inclusion or absence of certain infrastructure in certain precincts and departure from the principles of cost allocation set out in the WAPCs Planning Bulletin No. 18 – Developer Contributions for Infrastructure. Note: Planning Bulletin No. 18 has since been replaced by State Planning Policy 3.6 – Development Contributions for Infrastructure (SPP 3.6);
- Certain parts of the arrangement were not considered fair and equitable and that in certain parts, the nexus between cost contributions from individual landowners and the common infrastructure to which the contributions are to be applied was not demonstrated; and
- The collection of contributions for the Shire to reimburse itself for administration costs was outside of the definition of infrastructure as contained within TPS 2.

Amendment No. 150

In response to the feedback received from the Department of Planning, WAPC and Minister for Planning, the Shire prepared Amendment No. 150 to TPS 2 to re-establish a DCA for the Byford DSP area. Amendment No. 150 was initiated by Council in April 2006, but was not progressed due to the subsequent detailed review of the Byford DSP that was occurring at the time. As the proposals of the DSP are fundamental in determining the infrastructure and

costs required, it was considered prudent at the time to defer progression of Amendment No. 150 and the DCA more generally.

Given the initiation of Amendment No. 168 by the Shire in September 2010, Council at its Ordinary Meeting held 25 October 2010 resolved to revoke Amendment No.150 on the basis that Amendment No. 168 had superseded it.

Legal Agreements

In the absence of a finalised DCA for Byford, subdividers have proceeded with subdivision by entering into legal agreements, paying provisional sums and in some instances, providing infrastructure envisaged to be included in the DCA. There are approximately forty legal agreements with the Shire and individual landowners, including major developers pertaining to DCAs, these legal agreements all contain adjusting provisions binding all subdividers and subdivision to the finalised DCA once gazetted. In light of numerous subdivisions proceeding ahead of finalisation of the DCA, certain assumptions were made against DCAs compiled around 2005. Significant changes in the methodology and items of infrastructure included in the DCA over time have resulted in adjustments requiring some subdividers having to pay a large shortfall upon finalisation of the DCA.

Issues relating to adjustments are currently scheduled before the State Administrative Tribunal with involvement from the Department of Planning staff and the State Solicitors Office. It has been made evident in discussions that the adjustment processes with individual will have to be dealt with as a separate issue to the progression of the DCA. The interim arrangements are not to setback the general progression of the DCA.

There is a clear need to finalise a DCA for Byford. This will avoid additional legal agreements being entered into and will allow for the closure of existing agreements. The continued interim collection of development contributions on this basis is not beneficial to developers, the Shire or operation of the DCA.

Current Draft Byford Developer Contribution Arrangement

Finalisation of the Byford DSP review, as well as the progression of numerous local structure plans and subdivision and development in Byford has resulted in a renewed focus on the Byford DCA. Council in December 2009 resolved to adopt numerous guiding principles for the preparation and finalisation of a DCA for Byford. Based on this guidance, Shire staff and consultants prepared two Town Planning Scheme Amendments (167 & 168) and a DCP Report.

Since then, the following has occurred:

- Amendment No. 168 was deemed satisfactory for advertising by Council and the WAPC.
- Amendment No. 168 and the Byford DCP Report were advertised concurrently for public and agency comment.
- Amendment No. 167 was considered in detail by the WAPC. The WAPC have proposed some modifications to the Amendment and it has not yet been advertised. It is expected that consent to advertise Amendment No. 167 will occur in the short-term.
- Shire staff have reviewed the submissions received on Amendment No. 168 and the DCP Report and propose some modifications to the two documents (the primary subject of this report to Council).

This report provides Council with the opportunity to consider the submissions received during the advertising period and a number of key issues. Shire staff propose some modifications to Amendment No. 168 and the DCP Report. Based on the nature of the modifications, Shire staff believe that the revised documentation should be re-advertised for public and agency comment.

DCAs and the documentation required to bring about a DCA is complex by its nature. As such, the following brief summary of Amendment No. 168, the DCP and associated Amendment No. 167.

Amendment No. 167

The State Government has prepared State Planning Policy (SPP) No. 3.6 to guide local governments in the preparation of DCA's. The Policy provides a set of standard DCA provisions for insertion into local government planning schemes to guide the preparation, operation and implementation of DCA's.

Amendment No. 167 to the Shire's TPS 2 seeks to:

- Update the existing TPS 2 provisions relating to development contributions generally in accordance with the model provisions of SPP 3.6. Broadly, Amendment No. 167:
- Deleted the existing provisions under Part 5.19 of TPS 2 relating to development contribution arrangements (DCAs) and inserted new provisions based on the model provisions contained in SPP 3.6.
- Deleted the existing textual content of Appendix 16 of TPS 2 and replace it with a new format based on SPP3.6.
- Made several related minor administrative changes to TPS 2.

A copy of proposed draft Scheme Amendment No.167 is with attachments marked [SCM003.1/09/11](#).

Amendment No. 168

Amendment No. 168 establishes the statutory framework for a DCA for Byford and generally sets out the infrastructure, cost, other items included, the contribution methodology and various other operational matters. It is not intended to explain the detail of the DCA but rather provide a broad outline of what the DCA is to consist of and its general methodology. The Scheme Amendment establishes the legal head of power to collect development contributions in Byford.

A copy of Scheme Amendment No.168 & DCP Report (as originally advertised) is with attachments marked [SCM003.2/09/11](#).

Developer Contribution Plan Report

A DCP report was prepared to accompany Amendment No. 168, setting out in detail the calculation of the cost contributions for landowners in the DCA area. Calculation is based upon the methodology and items identified within Amendment No. 168.

The DCP report has been prepared to set out in detail:

- The infrastructure, land and other items for which development contributions are to be collected.
- How land values are calculated and the valuation methodology applied.
- The cost estimates of infrastructure and other items.
- The cost contribution rates applicable to individual precincts within the Byford DCA.

- The methodology to calculate development contributions applicable to landowners/developers and the operational aspects of the methodology.
- Principles for the priority and timing of infrastructure provision and land acquisition.
- The period of operation and review of the DCA.
- Various other operational matters.
- Examples of how development contributions will be calculated.

Sustainability Statement

Effect on Environment: DCAs are generally established to provide a framework for the timely and equitable provision of infrastructure and associated costs, in areas of fragmented land ownership. Indirectly, however, DCAs can assist in the timely delivery of infrastructure, land and associated technical investigations that can provide significant benefits to the natural environment. Equally, the infrastructure that may be funded from a DCA may have a significant impact on the environment; for example the construction of drainage infrastructure, the upgrading of regional road networks and the provision of public open space/drainage.

Resource Implications: DCAs can provide a suitable framework for the timely, efficient and coordinated delivery of infrastructure for new urban areas. Compared to ad-hoc delivery, a coordinated approach may enable the Shire's natural, human and financial resources to be efficiently and effectively used.

Economic Viability: DCAs have the potential to have a very significant impact on the financial position of a wide range of stakeholders and the viability of development projects. Interim and ultimate financial contributions to DCAs have a significant impact on cash-flows for developers and ultimately on the pricing structures for residential development. The financial implications (and risks) for Council are very significant. Local Governments are required to effectively 'underwrite' contribution arrangements and from time to time, make good short-falls that have resulted from the operation of a DCA.

Economic Benefits: DCAs, as a basic principle, are not intended to deliver infrastructure, services or similar that would not ordinarily be provided through subdivision and development processes; as such, a DCP does not offer any direct economic benefits to an area. DCAs can, however, assist in the timely, efficient and equitable provision of infrastructure that may in turn facilitate economic growth and employment creation.

Social – Quality of Life: The provision of infrastructure in a timely, coordinated and responsible manner can have a significant impact on the quality of life for both existing and future residents. Impacts on the quality of life need to be considered at both a micro and macro level, with infrastructure planning needing to deliver net community benefits and recognising that the expectations of not every single landowner will be able to be satisfied.

Social and Environmental Responsibility: It is important that DCAs are easily understandable by all stakeholders in terms of what they are and what they are not. Infrastructure needs to be carefully designed, costed and ultimately delivered to ensure that social and environmental impacts are minimised and that benefits are maximised.

Social Diversity: A timely and coordinated approach to the delivery of infrastructure can assist with meeting the needs of a diverse community, both existing and into the future.

Statutory Environment:

Planning and Development Act 2005
Local Government Act 1995

TPS 2
SPP No.3.6
Byford DSP
Various approved Local Structure Plans
Local Planning Policy No.52
Local Planning Policy No.55

Policy/Work Procedure

Implications:

A number of policies and work procedures will need to be developed and implemented to support the finalisation of the DCP.

Financial Implications:

There are significant financial implications associated with DCAs. The financial impacts of DCAs on all stakeholders should not be underestimated. The financial risks associated with establishing and implementing DCAs needs to be carefully considered. Should Council have to invest significant funds into a DCA (for example, to pre-fund infrastructure or to make good a loss), its ability to meet other social and environmental obligations may be compromised.

Strategic Implications:

This proposal relates to the following Focus Areas:-

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
NATURAL ENVIRONMENT				
	Infrastructure			
		37		Develop and adequately fund a functional road network and bridges based on the level of service set by Council.
OUR COUNCIL AT WORK	Strategy and Planning			
		27	Strategic Direction	Prepare effectively for future development.
		28		Position the Shire to be responsive and resilient to changes in State or Federal policy direction.
		29		Create innovative solutions and manage responsibly to aid our long term financial sustainability.
		30		Consider the regional delivery of services in the acquisition of compatible infrastructure and assets.
		31	The Planning	Develop comprehensive governance policies and strategies.

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
			Process	
		32		Prioritise and integrate the financial implications of policy and strategy into the fully costed Plan for the Future.
		33		Create dynamic, adaptable policy and processes to aid rigour, currency and relevance.

Statutory Process and Consultation

Amendment No. 168 and the DCP were advertised for forty three days in November and December 2010. Numerous submissions were received during the advertising period; and Council is requested to consider the implications of these submissions when appraising the proposed modifications.

A copy of the Schedule of Submissions is with attachments marked [SCM003.3/09/11](#).

Below is a summary of the key issues raised during the advertising process:

- Retrospectivity of the Byford DCA;
- The inclusion of Bridle Paths (Multiple Use Trails);
- Request for the inclusion of District Open Space(DOS);
- Request to re-assess the methodology for levying contributions from private education establishments and life style villages/aged care establishments; and
- Englobo land rate for compensation.

Comment

A series of modifications are proposed to the DCP report documentation in light of the submissions and feedback received throughout the advertising period. The following sections discuss each item in detail, and identify options to address each issue. A path forward for each issue and associated modifications to the DCP Report are recommended:

A copy of the Schedule of Modifications to the DCP Report is with attachments marked [SCM003.4/09/11](#)

A copy of the Schedule of Modifications to the DCA Amendment is with attachments marked [SCM003.5/09/11](#).

District Open Space

District Open Space is identified on the Byford DSP to provide the area with suitable recreation facilities to support the future population. DOS plays an important role in the development of well planned suburbs and provides areas for people to play sport, exercise, develop community sporting teams and interact with the natural environment.

Briggs Park has two ovals, which currently serves the needs of the existing Byford population and surrounding rural areas. These facilities are at capacity and cannot accommodate more sporting teams. Population increases in Byford due to the Byford DSP, necessitate more DOS.

The Byford DSP proposes a total of seven new district playing fields making up the DOS for Byford, located as follows:

- The Glades – collocated with a Primary School
- Kalimna Estate – collocated with a Primary School
- Byford Central ; and
- High School Sites – collocated with the Government and Private high school (four ovals).

The draft Byford DCA as advertised did not include the landscaping or development component for DOS, however it included the land component. Several submissions were received requesting that the development and landscaping of DOS be included in the DCA.

The primary purpose of the Byford DCA is to ensure the orderly development of district-level infrastructure to service the population and development envisaged by the Byford DSP. Matters regarding joint use sporting facilities, the development of shared DOS / school ovals and other associated matters are currently being progressed with the Department of Education and Training (DET), Developers and Catholic Education Office. Given the district function of DOS and the need for it in Byford, there is an urgent need to plan for and fund these facilities. Subdivision approvals and Liveable Neighbourhoods do not provide statutory provisions for the development and/or maintenance of DOS. Subdividers are expected to landscape and provide local open space but not DOS, as it services a much wider catchment and should be shared amongst a greater area.

The construction and landscaping component of DOS throughout the Byford DSP was a proposed infrastructure item in the previous DCA for Byford, and it is now proposed that this item be re-introduced through modifications to the DCP report.

The primary purpose for re-introducing DOS is to:

- Ensure the orderly development and timely provision of DOS;
- Provide for viable joint use facilities, in the primary and high school sites; and
- Share the cost of DOS the whole development area, DET and Catholic Education Office.

SPP3.6 Context

SPP3.6 states that the contributions outlined in a DCP need to be based on the need for infrastructure generated by the additional development. In this instance the need for DOS has been necessitated by the population and development in Byford.

Other Metropolitan Growth Councils

The following section summarises how various local government's deal with the issue of DOS through DCA's:

- Armadale Redevelopment Authority and City of Armadale: Include the construction and landscaping component of DOS in DCA's.
- Town of Kwinana: Include the construction and landscaping component of DOS.

Implications for inclusion:

The introduction of any new infrastructure into a DCA inherently attracts additional financial and operational risks to the administering organisation, in this instance the Shire. In a financial sense it is estimated that the inclusion of the landscaping component of DOS.

Based on the best available information at this time, it is estimated that the cost to develop DOS AFL senior size oval is \$2,388,924 and for a junior AFL size oval is \$1,303,112.

Implications for not including:

DOS in Byford are regional facilities that serve a greater catchment than standard localised Public Open Space and on this basis Liveable Neighbourhoods does not provide for its provision through the subdivision process. This means that there is no statutory requirement for subdividers to provide DOS as part of their subdivision. If DOS was to be excluded from the DCA the Shire would be expected to provide this facility through alternative revenue sources (i.e. municipal funds) and as part of the general responsibilities of a local government. This would mean lengthy delays in the provision of such facilities due to the major capital cost of such facilities and limited funding opportunities, even though the demand for such facilities is increasing.

Council's Community Perception Survey (2010) surveyed the community on a number of issues, including their views on sporting grounds, reserves and ovals. The survey identified a moderate level of satisfaction in this area, with the greatest room for improvement in satisfaction is to address the needs of families that have children. There is clear evidence from the community of the need for the early planning and development of areas of DOS in Byford.

Numerous subdivisions and developments have proceeded in the absence of a finalised DCA. On this basis subdividers have paid nominal contributions against the latest DCA of the time of subdivision and entered into legal agreements requiring an adjustment upon gazettal of the DCA. Further to this there have also been a number of assumptions made by subdividers over the years relating to DOS and the Byford DCA. Byford Central has constructed DOS through the submission process and they have assumed that they would be compensated for this infrastructure through its inclusion in a DCA.

Developer / Community Expectations

Specifying infrastructure within a DCA means that the Shire will oversee and ultimately facilitate the items construction or provision. Community and stakeholder expectations arise when infrastructure is included within a DCA because there is an inherent responsibility by the administrator (the Shire) to ensure the provision of that item. It is important for Council to consider these expectations when making a determination on the inclusion of infrastructure items.

Department of Planning (DoP)

The DoP advise that there are a number of local governments with DCA's that have taken the approach of including the land and associated infrastructure for DOS, however there are others that have not done so. The DoP are not opposed to the inclusion of DOS infrastructure, however state that community buildings and change rooms cannot be included into the traditional Byford DCA.

DoP have noted that as Council is considering further consultation on the DCA with the community and development industry, that this will give Council a good indication of the level of community support for the inclusion on DOS. The DoP have supported Council's DCA/DCA which has factored in the existing population, as well as the future projected population for the Byford DSP.

Options

There are primarily three options available to Council:

Option 1

Include the development and landscaping component of DOS in the traditional Byford DCA;

Option 2

Do not include DOS in the traditional Byford DCA; and

Option 3

Propose a different approach such as inclusion in a Shire wide DCA.

Recommendation for DOS

In keeping consistent with neighbouring local authorities and taking into consideration the district service that this infrastructure provides, Option 1 is recommended.

Non-Standard Residential Subdivision or Development (ie. Retirement Villages, Lifestyle Villages, Park Home Parks, Caravan Parks and similar)

What is non-standard residential subdivision or development?

Most of the Byford area is proposed to be developed for low to medium density residential development encompassing single, grouped and multiple dwellings. Portions of land within the Byford area are however expected and proposed to be developed for what is termed, for the purposes of the DCA, “non-standard residential subdivision or development”. This includes retirement villages, lifestyle villages, park home parks, caravan parks or similar styles of development.

The advertised DCP Report states:

‘Development contributions will be required from such forms of non-standard residential development on a per dwelling/residential unit or similar basis as they are considered to place the same or similar demands on infrastructure and public open space as per standard residential subdivision/development.’

Shire staff adopted the position that all forms of residential development, regardless of dwelling/unit size, style, function or nature would result in demand on infrastructure. The level of demand for and access to infrastructure and public open space from such forms of development cannot be controlled or restricted (ie. residents of a lifestyle village cannot be prevented from driving on DCA funded roads, or using DCA funded public open space). Therefore, it was deemed inappropriate to propose a different methodology which would result in a lower development contribution rate.

A number of submissions were made during the advertising of the DCA commenting on the calculation methodology for non-standard residential subdivision or development. All of these submissions were from landowners/developers who have existing approvals or proposals for retirement villages, aged care accommodation, lifestyle villages and park home parks. Generally speaking, all of these submitters argued against the advertised per lot/dwelling contribution methodology, and proposed that contributions be levied based on the R20 subdivision/development potential of the site (ie. generally speaking, the site area divided by 500m², regardless of the number of lots/dwellings/units being created).

The main reasoning provided by the submitters in support of the revised methodology is that the existing per lot/dwelling/unit methodology will make their proposed developments financially unfeasible. The following comments were also made:

- The Shire wants to offer innovative and affordable housing, and the current methodology will not allow for this.
- A revised methodology will be an incentive to provide a mix of housing forms and types.
- The current methodology will be a disincentive to achieving a mix of housing.
- Smaller lots have far greater development costs than larger lots due to the need for retaining walls, rear access, streetscape improvements, fencing and drainage.
- Housing costs are far greater for smaller lots as opposed to larger lots as housing design needs to be customised. Larger lots have standard specification housing designs and greater competition from builders.
- Larger lots sell for a greater profit margin than smaller lots.
- The DCA's assumption that non-standard residential subdivision or development place similar demands on infrastructure and public open space is not correct.
- Lifestyle villages offer a range of internal facilities such as open space and leisure facilities, which the landowner will develop and maintain at their cost. This will therefore place less demand on public infrastructure as facilities are provided for the exclusive use of residents.
- Facilities in the villages will reduce the Shire's obligations to provide the same facilities for the lifestyle village residents; it will free up Shire resources.
- There will be less demand on drainage infrastructure (due to innovative design that can be achieved and recharge of aquifers through swales).
- Future redevelopment of these sites to a standard R20 subdivision or development would allow for additional contributions to be collected at that time.
- Aged residents will not burden infrastructure to the same extent as R20 development, which will house families with children.
- Aged care facilities will be an asset to the Shire and will address a need in Byford at no cost to the Shire (as it will be fully self-maintained).

There are three common themes presented in the submitter's arguments for the revised methodology:

- Financial feasibility.
- Demand and use.
- Housing affordability, diversity and mix.

These themes are examined in further detail below.

Financial Feasibility

The submitters have identified that the advertised methodology of a contribution rate per lot/dwelling/unit will make their proposed developments financially unfeasible. They argue that an R20 equivalent calculation will allow for their developments to proceed. It should be noted that no quantifiable evidence was provided from any of the submitters that the advertised methodology would make their developments unfeasible, or that a revised methodology would make them feasible.

In making a determination on the methodology, Council needs to consider, at a strategic level, as to whether the purpose of a DCA is to allow for a certain form of development to be financially feasible. Developers generally make commercial decisions regarding the form of development which they propose, and generally base this decision on the ability to make a profit.

Demand and Use

The submitters have argued that non-standard forms of subdivision and development will not place as much demand on infrastructure and public open space as compared to standard residential subdivision and development. Again, it should be noted that no quantifiable evidence was provided from any of the submitters in support of these claims.

Shire staff have undertaken some research into the matter. Given that a significant portion of the DCA costs are for road construction, Shire staff investigated road usage data. The New South Wales Road Transport Authority's Guide to Traffic Generating Developments, published in 2002, provides an indication of the number of vehicle trips generated from various types of residential development. These are summarised below:

- Standard dwelling/house = 9 daily vehicle trips per day.
- Medium density residential flat = 4 to 5 daily vehicle trips per day.
- Housing for aged and disabled persons = 1 to 2 daily vehicle trips per day.

These figures seem to indicate that higher densities of development and aged persons and retirement villages generally have a lower trip generation than single dwellings.

The submitters also argue that due to the provision of internal facilities for lifestyle villages and retirement villages, that residents will place little or no burden on similar facilities outside of their developments. On this basis, they argue for a reduced contribution rate. Shire staff accept the "face value" reasoning behind this statement, however, consideration needs to be given to the public nature (not exclusive) of infrastructure and public open space provided by the DCA. The level of demand for and access to infrastructure and public open space from such forms of development cannot be controlled or restricted (ie. residents of a lifestyle village cannot be prevented from driving on DCA funded roads, or using DCA funded public open space).

Housing Affordability, Diversity and Mix

Housing affordability, diversity and mix are key planning considerations promoted by the State Government through various policies, strategies and plans, and implemented through local government planning frameworks. The benefits of affordability, diversity and mix are well documented and generally supported.

Several submitters have argued that the imposition of a per lot/dwelling/unit contribution rate for non-standard residential subdivision or development will make these projects financially unfeasible. They have stated that their developments will defer to standard R20 residential development should the advertised methodology be adopted, and that opportunities to facilitate affordability, diversity and mix will not be achieved in Byford.

Shire staff support the principles of housing affordability, diversify and mix, especially in an areas such as Byford where the majority of the urban area will be developed for low density residential purposes. In reviewing the submitter's arguments however, broader strategic matters need to be considered – Principally what is the role of a DCA? In this regard, Shire staff refer to SPP 3.6 Development Contributions for Infrastructure, which sets the State Government's framework for the collection of development contributions and, importantly in the context of this matter, the preparation of development contribution plans.

The objectives of SPP 3.6 are:

- *'To promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;*

- *To ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;*
- *To ensure consistency and transparency in the system for apportioning, collecting and spending development contributions;*
- *To ensure the social well-being of communities arising from, or affected by, development.'*

The Policy sets a number of principles which development contributions must be levied in accordance with:

- *'1. Need and the nexus
The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).*
- *2. 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.*
- *3. Equity
Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.*
- *4. Certainty
All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.*
- *5. 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.*
- *6. Consistency
Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.*
- *7. Right of consultation and arbitration
Land owners and developers 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 that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text in appendix 2.*
- *8. Accountable
There must be accountability in the manner in which development contributions are determined and expended.'*

The Policy also sets out model provisions which should be inserted into local government town planning schemes, addressing development contributions. The Shire is currently updating its existing development contribution scheme provisions through Amendment No. 167 to ensure general consistency with the model provisions of the Policy.

Provision 6.3.2 of the model provisions, and reflected in Amendment No. 167, sets out the purpose of having development contribution areas:

'6.3.2 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.'*

Shire staff consider that these Policy objectives and Scheme provisions form the strategic basis for the collection of development contributions and preparation of DCA's, and should therefore form the basis for all decision making regarding development contributions and DCA's. Specifically relating to the issue at hand, it is noted that there is no mention in the objectives and provisions of the Policy relating to the achievement of planning objectives such as housing affordability, diversity and mix. In this regard, arguing that a planning objective can be achieved through the adaption of a DCA methodology may not be valid nor supported by State Policy.

Methodology Options

There are several options available relating to the development contribution calculation methodology for non-standard residential subdivision or development:

Option 1

Retain the existing and advertised methodology based on a per lot/dwelling/unit contribution.

Option 2

Modify the DCA and impose a revised methodology based on a calculation of the R20 subdivision/development potential of the site.

Option 3

Based on quantitative data, devise a methodology related to the relative demand and use of infrastructure and open space.

Option 4

An alternative methodology.

Implications – Cost Distribution

The submitters are seeking Option 2, which will calculate contributions based on the R20 subdivision/development potential of the site. Based on statements made by the submitters, it is assumed that this method will essentially result in lower development contributions for non-standard residential subdivision/development.

As the total cost of the DCA will not change (ie. infrastructure, land and administration costs will not go up or down depending on the methodology chosen), this means that additional cost burdens will likely be worn by landowners and developers who provide standard residential subdivision/development. This is likely to be objected to by these landowners/developers. The DCA would essentially be purposely providing a “feasibility support” or “subsidisation” mechanism to a certain type of development at the expense of another type.

Implications – Consistency with State Policy

The DCA, as advertised was considered to be consistent with the principles of SPP 3.6. This was achieved through applying a relatively consistent methodology for all forms of residential development (ie. the per lot/dwelling contribution rate). This approach was deemed to provide for:

- Equity – all forms of residential development contribute to the need for DCA infrastructure and land.

- Consistency – it would provide for a consistent calculation methodology.
- Accountability – in the absence of any quantitative data to the contrary, the methodology is accountable.

Shire staff have undertaken an assessment of the submitters proposed methodology of an R20 calculation against relevant SPP 3.6 principles:

- Need and nexus – submitters have identified that non-standard subdivision/development will place less demand on infrastructure. However, no quantifiable data has been provided in support of these claims.
- Equity – in the absence of quantifiable data provided by the submitters, Shire staff it is not possible to determine whether non-standard subdivision/development places a different level of demand on infrastructure.
- Consistency – the adoption of a revised contribution method for non-standard subdivision/development will result in different calculation methods being applied to different forms of residential development. This could be viewed as inconsistent with the SPP 3.6 principle of “consistency”.
- Accountable – in the absence of quantifiable data regarding infrastructure use, it is not considered that the application of an alternative methodology for certain types of residential development would be accountable.

Pragmatism

The submitters have argued that their development, and residents within, will place less or no demand on DCA funded infrastructure and land by virtue of internal facilities being provided or the type of residents which they will attract.

Shire staff consider that similar arguments could apply to other forms of residential development. For example:

- Smaller dwellings will potentially house less people, and therefore place a lower demand on infrastructure than larger dwellings.
- Dwellings in proximity to bus routes or train stations are provided with public transport and hence, there will be less vehicle trips.
- Mixed use dwellings are located in town centre areas, and hence residents will undertake less vehicle trips to access facilities.
- Large lot developments are provided with backyards, and hence, residents will not use public open space to the same extent.

Clearly, there are an endless number of scenarios which could necessitate a varied contribution methodology. It is not possible to factor in every possible scenario; and thus a level of generality is required to provide for a practical and operational DCA. A key principle which has been incorporated into SPP 3.6 and adopted by the Shire in preparing the Byford DCA is simplicity and ease of implementation. The administration of a highly complex and convoluted DCA based on differing methodologies is beyond the scope of the Shire and would be inconsistent with State Policy.

Other Local Government Approaches

In providing a fair consideration of the submitters proposal for a revised methodology based on the R20 subdivision/development potential of the site, Shire staff have reviewed the approaches adopted by other local governments for non-standard residential subdivision/development:

- City of Wanneroo – non-standard residential subdivision/development is levied at an R20 equivalent.

- City of Armadale – non-standard residential subdivision/development is levied at an R25 equivalent.

The submitters proposed methodology is applied to other DCA's in similar outer metropolitan growth local governments.

Consultation Process

Shire staff are recommending a series of modifications to the advertised Byford DCA, and propose that it be re-advertised for public comment.

Whilst Shire staff have concerns regarding the implications of the submitters proposed methodology and question whether it is consistent with SPP 3.6, it is considered that the DCA could be modified to reflect the proposed methodology. Other local governments have taken a similar approach to non-standard residential subdivision/development and therefore, there is a precedent to consider the method.

This would allow the opportunity for comment on the revised methodology, especially in terms of giving submitters the opportunity to provide quantifiable data in support of their various claims of feasibility and infrastructure demand levels. It will also be necessary to seek comment from the broader Byford area, as the approach may pass costs onto standard residential subdivision and development. Post-advertising, Council will be able to consider the matter and make a determination on whether to retain the revised methodology or revert to the originally proposed methodology.

This consultative method is considered to address the SPP 3.6 principle of transparency. Importantly, during advertising, it will be necessary to discuss this methodology with the Department of Planning and seek their input in terms of compliance with SPP 3.6.

Recommendation for Retirement Villages, Lifestyle Villages, Part Home Parks, Caravan Parks or similar

Shire staff propose to modify the development contribution calculation methodology for non-standard residential subdivision/development. This will involve removing the per unit/dwelling calculation and replacing it with a calculation based on the R20 subdivision/development potential of the site. The revised method can be considered through the consultation process and a determination made when the matter is presented back to Council post-advertising.

Non Residential Subdivision or Development (private educational establishments)

Portions of land within the Byford area are expected to be developed for non-residential purposes, including retail/commercial, community purpose (or similar) and private schools. All forms of development contribute toward a need for new and improved infrastructure and non-residential development is no different in this regard.

Development contributions for non-residential subdivision or development, as advertised were proposed to be calculated based upon the number of dwellings/lots that could have been created/developed at an R20 equivalent. This approach was adopted by Council for a number of reasons, including the guidance provided by the Byford DSP, the status of various local structure plans at that time, historical approaches taken by some other local governments and the desire to adhere to the principles of SPP 3.6 as follows:

- Need / Nexus: The need for new and improved infrastructure has a direct correlation between the development and the demand generated.
- Equity: All forms of development should contribute towards to the need for new and improved infrastructure.

- Consistency: Development contributions are being applied uniformly and the methodology for applying contributions is consistently applied.

From a technical perspective, schools (private or public) are one of the highest vehicle trip generating land uses.

Since December 2010, further detailed planning has progressed in the Byford area, including the finalisation of the Byford Main Precinct Local Structure and the progression of the Byford Town Centre Local Structure Plan. Combined these two local structure plans have confirmed the appropriateness of allocating land for a future government high school site and a private K-12 education facility.

The importance of planning for both government and non-government school sites has long been recognised, with guidance provided by documents such as the WAPC *Development Control Policy 2.3 – School Sites* and more recently *Liveable Neighbourhoods*.

This report provides Council with the opportunity to consider whether it wishes to continue with the established methodology, as outlined in the ‘as advertised’ DCA, or whether to head down a different path for the next stage of the process – which is envisaged to be readvertising for stakeholder comment, ahead of further consideration by Council and ultimately a determination by the WAPC/Minister for Planning.

In considering the matter, there are wide range of different matters that Council is recommended to Council including, but not limited, to the following:

- SPP3.6 fails to provide specific guidance on the matter.
- State government schools are ordinarily exempt from being required to provide contributions.
- Local governments have historically taken a range of different approaches, ranging from full contributions, to partial contributions and potentially fully exempted from contributions altogether.
- Trips are significant trip generators, creating associated demands on infrastructure.
- The importance of providing adequate educational opportunities within communities, in terms of both quantity and diversity.
- There are existing expectations within the community that a minimum of two new high schools will be established in the Byford Area.
- There are significant opportunities, largely through negotiation, to establish an effective sharing of community facilities.

Specific concerns/comments

Concerns have been raised by the LWP Property Group and the Catholic Education Office in respect of the proposed K-12 education facility on Abernethy Road. At the time of writing this report, the subject land remains in the ownership of the LWP Property Group, though it is under contract to the Catholic Education Office.

In consultation with the Catholic Education Office, the following concerns and comments have been offered:

- That the levying of a ‘residential-equivalent contribution’ would compromise the viability of the school facility and as a result, the school is unlikely to proceed.
- The school will be essential to meeting the educational demands of the future Byford community.
- There is not the opportunity to ‘absorb’ additional costs, through increased school fees, as fees are determined through a different funding model that takes into account a range of factors, including the demographic characteristics of the relevant community.

- The expected contribution obligations under the Byford DCA have changed over time and now significantly exceed previous expectations.
- The opportunity to establish effective recreation facilities, in a joint use manner with the Shire, will not eventuate.
- An established 'financial model' has been developed in the North Forestdale area, which was ultimately incorporated into the City of Armadale Town Planning Scheme.

A copy of correspondence from the Catholic Education Office is within attachments marked [SCM003.6-09-11](#)

There are a range of different options available to Council to consider, which are outlined in the following sections.

Subdivider Concerns / Comment

Concerns were not raised relating to the methodology for levying development contributions from commercial development, community purpose or private schools during the November / December 2010 advertising period. The Catholic Education Office at the time of advertising the Byford DCA was not a land owner in the Byford area. However, in March 2011 the Catholic Education Office purchased Lot 51 Warrington Road, Byford, this land falls within Precinct A of the Byford DCA. It is also envisaged that the Catholic Education Office will be purchasing further land from LWP for the creation of the private school in accordance with The Glades: Local Structure Plan.

Although no submissions were received relating to this matter during the formal submission process it has been made apparent through correspondence and discussions with LWP post advertising that Council should re-assess the manner in which specifically private schools are levied. The following reasons for re-assessing this section were provided by LWP:

- The Catholic Education Office would not be able to absorb the cost of an R20 equivalent contribution.
- The private school proposes to share sporting facilities with the broader community through a future joint use agreement.
- The social benefit of private schools needs to be taken into consideration.
- Catholic schools are not run as commercial enterprises.

SPP3.6 Context

SPP3.6 states that the contributions outlined in a DCP need to be based on the need for infrastructure generated by the additional development. In this context majority of the methodologies would levy some contributions for the needs they create. The further particulars of addressing this situation are not specifically outlined within SPP3.6 and each case should be assessed on its merits taking into account its context.

Other Metropolitan Growth Councils

In assessing the approach taken by other local authorities it is important to note that not all development areas are to be treated the same. Each case should be assessed on its merits and against the best information available at that point in time.

- City of Armadale: Levy contributions from private schools at 0.3% of the development cost of the establishment. This methodology was established with no precise computation but rather considered a reasonable contribution given the social benefits and service provided to the community.

- Town of Kwinana: No proposed private schools within their greenfield developments, only public.
- City of Gosnells: The City of Gosnells levy contributions from private schools in one of their DCA precincts at an R20 equivalent. However, the DCA for the area was already established outlining this methodology before the private school was proposed in the area. This is in contrast to Byford where the available planning for the area had always included a private school.

Options

Option 1

Levy private schools as per non-residential subdivision and development.

In practise:

R20 Equivalent =

10ha (100,000m²) / 500m² = 200 lots

200 lots x \$12, 728.08 (as per draft DCA Sept 2010) = \$2,545,616.00

This approach deals with private schools in the same manner as commercial development and primarily takes into consideration the commercial nature of private education establishments and the high demand the land use creates on external infrastructure (i.e. roads). LWP have made evident that this cost cannot be absorbed by the Catholic Education Office.

Option 2

Levy private schools at 0.3% of the development cost of the establishment, subject to a joint use agreement being in place.

In practise:

0.3% of estimated DA cost =

\$45,000 (assume \$15,000,000.00 value)

This approach considers the social benefits and broader services to the community that the land use provides and in this context allows for a heavily discounted nominal contribution. This approach is consistent with previously approved Development Contribution Plans in the City of Armadale with respect to the North Forrestdale Development Contribution Plan and the Carey Baptist College. Any reduction in contributions resulting from this site would result in increased liabilities for the balance of the Byford development area

Option 3

Levy private schools as per non-residential development for infrastructure costs only and not public open space / drainage as on site drainage disposal will be a requirement of development approval. Further to this an additional discount to the rate will apply as a reflection of the percentage of the site area that is available for public use in accordance with the agreed joint use agreement.

In practise:

R20 Equivalent =

10ha (100,000m²) / 500m² = 200 lots

200 lots x \$5,774.44 (as per draft DCA Sept 2010) = \$1,154,888.00

\$1,154,888.00 – 40% (assume 40% of site area) = \$692,932.80

This approach takes into account the fact that the site will be required to retain its own on-site drainage and thus is exempt from POS and drainage contributions and further to this is awarded a discounted rate based on the percentage of the site accessible for public use.

Option 4

Exempt private schools.

This approach treats private schools in the same manner as public schools and would exempt them from any development contributions.

Recommendation for private educational facilities

Option 2 is recommended.

In keeping consistent with neighbouring local authorities and taking a pragmatic outlook at the primary considerations option 2 is recommended, as outlined in the schedule of modifications. As outlined, it is envisaged that the next stage in the process will be further advertising for stakeholder comment. It is understood that there is the opportunity for Council to determine an appropriate 'model' for moving forward and to ultimately be presented to the WAPC/Minister for Planning for determination.

On balance, it is recommended that Option 2 be pursued, in the context of:

- An approved local structure plan
- The potential to establish a legally binding agreement for the joint use of facilities, and therefore community benefit,
- A contribution arrangement that has not yet been finalised and is capable of further stakeholder review.
-

It is also considered appropriate for a request to be put forward to the WAPC for this matter to be incorporated into any future review of SPP3.6.

Priority and Timing of Provision

The DCA as advertised outlined only broad underlying principles for the priority and timing of provision for infrastructure under the DCA. The specific changes recommended to this provision of the DCP report provide for its functionality within the broader pre-funding and crediting process.

The modifications recommended prioritise primarily pre-funded items of infrastructure, roads and specific intersections with high demands and associated community pressures. It is important to note that items of infrastructure should only be provided in the priority list when sufficient funds have become available in the DCA reserve. Including items within the priority list gives Council the capability to draw down on monies and reimburse either Council for providing the infrastructure or a developer where the value of the infrastructure provided exceeds the required liability.

Shire Officers have appraised the infrastructure included in the originally advertised DCA. Based on technical information such as regional traffic modelling and knowledge of the urban expansion of Byford, items have been prioritised. It is important to note that items listed as a priority are restricted to those outlined in the DCA.

The primary considerations for Council are:

- Minimising financial risk to the Shire – This can be achieved through the early acquisition of land required for public purposes (public open space, roads etc.).
- Ensuring a constant turnover of funds – By ensuring the continuous spending of development contributions collected, the Shire minimises the negative consequences of inflation.
- Prioritising the purchase of land identified for public purposes which encompasses all of, or a substantial portion of one landholding – Many of these landholdings are essentially “quarantined” from subdivision and/or development and would be difficult to sell to a private buyer.
- Constructing infrastructure on an “as needs” basis – This is especially apparent in the context of road upgrades.
- Undertaking works and land acquisition in areas of fragmented ownership – This assists in the successful and coordinated development of these areas. In areas of consolidated ownership, most infrastructure and land is provided by the developer in lieu of providing cost contributions.

Subdivider Concerns / Comment

Below is a summary of the concerns and comments raised:

- It is suggested that the priority and timing section of the DCP be updated to make reference to the actual demand for infrastructure, taking into consideration the pace of development and fair and reasonable reimbursement timeframes.
- Requests that Abernethy Road be elevated as a priority, the condition of the road is substandard for the projected traffic volumes that will be generated by the Byford DSP.

SPP3.6 Context

SPP3.6 recommends that DCPs include information relating to the priority and timing of infrastructure provision. The further particulars relating to the priority of infrastructure is not explicitly outlined within SPP3.6 and as such each DCA area should be assessed on its merits taking into account its context, pace of development and associated demands.

Other Metropolitan Growth Councils

It is difficult to compare the timing and priorities of infrastructure to other grow Councils in the metropolitan area as the rate of infrastructure delivery is dependent upon the clearance of lots (dictated by market demand) and thus the collection of DCA funds. The Byford area in the current market has slowed down significantly over the past 24 months. On this basis the cash flow coming into the DCA only allows the Shire to prioritise items of infrastructure where sufficient funds are available. The spikes and dips in the rate of development in Byford make it difficult to compare to other growth areas.

Options

Option 1

Accept the officer assessment and recommended modifications as outlined in Section 4 of the Schedule of Modifications.

Option 2

Request officers to re-appraise the infrastructure priorities, with additional guidance and justification as to why alternative infrastructure items or methodologies should be considered.

Recommendation for priority and timing of provision

Option 1 is recommended.

Shire officers have appraised the infrastructure included in the DCA and based on technical information such as regional traffic modelling and technical knowledge of the urban expansion of Byford, have identified priority infrastructure items. These are:

1. Abernethy Road – Hopkinson Road to Doley Road; and
2. Plaistowe Boulevard intersection with Thomas Road.

Operational Matters – Pre-funding / Crediting

Operational matters are more general functioning mechanisms of a DCA; they deal with the pre-funding, crediting and offsetting of infrastructure along with various other operational type matters (i.e. contribution exemptions). The DCA as advertised outlined very generalised principles and provisions for operational mechanisms.

This specific section has been recommended to be modified to outline the process for pre-funding infrastructure items and crediting infrastructure claims to be included in the DCA. Work procedures and Council Policies will have to be developed outside of the statutory process to ensure the orderly functionality of this provision. This modification delineates the process for crediting infrastructure and applying for contribution offsets.

It also outlines when subdividers will be eligible for credit claims and monetary reimbursement. Infrastructure items that have been listed in accordance with the recommended modifications regarding the priority of infrastructure may, upon completion, be eligible for monetary reimbursement under the DCA. The balance of items listed in the DCA that are not prioritised are held as a credit and offset against liabilities until such time as the priorities in the DCA are reviewed to include the DCA item and thus enable monetary reimbursement.

The primary considerations for Council are:

- To retain control over DCA priorities thus controlling the expenditure of funds from the DCA;
- To ensure a constant turnover of funds; and
- To ensure providers are compensated for the provision of infrastructure under the DCA when sufficient funds are available.

Subdivider Concerns / Comments

Concerns and comments were raised by subdividers relating to the details of offsetting and crediting infrastructure. Officers have now developed operational provisions to suit the Byford DCA and have recommended amendments.

SPP3.6 Context

SPP3.6 recommends the following negotiated outcomes:

- Where a developer has other land holdings in the area, the credit is held by the local government until it is required to be used by the developer to offset future contributions.
- Where a developer has no further holdings in the area, the amount is held by the local government as a credit to the developer until payments into the development contribution plan are received from subsequent developers. The credit is then reimbursed to the developer.
- Where the development contribution plan is in credit from developer contributions already received, the credit should be reimbursed on completion of the works/ceding of land.

The recommended modifications reflect the principles outlined in SPP3.6 and are reflective of the Shire's current policy position reflected in Local Planning Policies No. 52 & 55: Interim Development Contributions.

Options

Option 1

Accept the officer assessment and modifications for crediting / off-setting infrastructure, which is reflective of the Shire's current policy position as outlined in Local Planning Policies No. 52 & 55: Interim Development Contributions.

Option 2

Re-appraise the infrastructure offsetting and crediting process with additional guidance and justification as to why an alternative should be considered.

Recommendation for operational matters – Prefunding/Crediting

Option 1 is recommended.

The recommended modifications have been tested and are considered functional, fair and accord with the recommendations outlined in SPP3.6.

Administration Costs

Incurred to date

The Shire has pre-funded a number of planning, drainage and engineering studies for the Byford area before the DCA has been finalised. These studies have benefited all landowners in the Byford area and documents include the creation and implementation of the Byford DSP, Byford Town Centre LSP and drainage investigations. Council has prefunded these works from either Municipal or loan funds, accordingly it is considered fair and reasonable for the Shire to be reimbursed by the DCA.

Future Costs

Once the DCA becomes operational, resources will be required to ensure a successful implementation. As DCA's are complex, specialist resources will be required within planning, engineering and finance disciplines. The Shire has included these estimated costs in the DCA.

Roads

There are several arterial roads identified within the Byford DSP area, including Thomas Road, Abernethy Road, Orton Road and other various distributor roads. In accordance with SPP 3.6, these types of roads can be considered for inclusion in the Byford DCA as they play a district function within the Byford DSP area. The draft Byford DCA identified the following roads as infrastructure items:

- Thomas Road;
- Abernethy Road;
- Orton Road;
- Kardan Boulevard;
- San Simeon Boulevard;
- Doley Road; and
- Warrington Road.

Subdivider Concerns / Comment

The advertising process saw a general acceptance of the roads included within the Byford DCA. Some issues were raised relating to the costs of some specific infrastructure items, these matters are dealt with in further detail in the submissions table.

Infrastructure Cost Amendments

Since the advertising of the Byford DCA, a number of developers have proceeded to design and in some instances construct portions of the roads listed in the Byford DCA. Some of these roads include Kardan Boulevard, Abernethy Road, Doley Road and San Simeon Boulevard. Through this process and in working closely with the developers engineering consultants the Shire has been able to receive more detailed costing information. The original cost estimates utilised for the purposes of advertising in November and December 2010 we based upon the best information available at that point in time. Now that design has progressed on some items the Shire has revised the cost estimates for roads in the following areas:

Preliminaries / Establishments:

Preliminary establishments have been amended to reflect industry standards and recently appointed market tenders. The originally advertised DCA outlined a nominal 7.5% of the cost of infrastructure for preliminary establishments. Through discussions with developers and their consultants it has been made apparent that 15% is required due to the staging of road works at different phases of development, this is also consistent with recently appointed market tenders. Following discussion with subdivisional consultants, it is recommended that this section be modified to reflect 15% of the cost of infrastructure.

Earthworks:

Earthworks have been amended to reflect updated information made evident to the Shire by consultants through the detailed design of some of the designated roads. The originally advertised DCA outlined broad cost estimates that were based on an indicative cross-section. Now that developers and their consultants have progressed through to detailed engineering design with some of the DCA roads it has helped to inform officers on the actual

cost of some infrastructure items. Through this process the Shire has refined the costing for earthworks.

Drainage:

Byford soils are generally associated with the Forrestfield and Guildford soil types. Forrestfield soils are typically located towards the eastern boundary of the Byford urban cell and comprise of gravelly clays. Guildford soils typically make up a vast proportion of the urban cell and are characterised by sand over clay or coffee rock. The clay and coffee rock located within the soil profiles results in a perched groundwater system which can sometimes express itself at ground surface. Road and drainage construction must take hydrogeological matters into consideration to prevent infrastructure failure. More detailed design of some of the roads has identified the need to amend construction costs due to these hydrogeological site conditions and the need to provide additional piping to overcome drainage problem areas.

Pavements & Surfacing:

Pavements and surfacing have been amended to reflect updated information made evident to the Shire by consultants through the detailed design of some of the roads. The originally advertised DCA outlined broad cost estimates that were based on an indicative cross-section. Now that developers and their consultants have progressed through to detailed engineering design with some of the DCA roads it has helped to inform officers on the actual cost of some infrastructure items. Through this process the Shire has refined the costing for pavements & surfacing.

Traffic Facilities:

Traffic Management has been amended to reflect additional traffic management costs to secure work sites and manage traffic movements. Upgrading existing roads requires significant resources to maintain the flow of traffic movement. Costs have now been increased to reflect the actual cost for predicted traffic management needs.

Regional Culvert Installation:

The Department of Water's 2008 Byford Townsite Drainage and Water Management Plan (DWMP) identified numerous post-development flood routes throughout the Byford urban cell. These flood routes form part of the Multiple Use Corridor network. Sections of road intersect these flood routes and existing culverts require upgrade to increase capacity and prevent upstream flooding and overtopping of the roads. Proposed roads will also need to include culverts that meet the size requirements identified in the Byford Townsite DWMP.

Thomas Road

Thomas Road bounds the Byford DSP to the north and provides an important east west connection between the proposed Tonkin Highway extension and South Western Highway. Thomas Road also serves a freight function, in addition to catering for local traffic generated from urban development and therefore SPP3.6 only permits Council to collect a partial contribution toward the upgrade of this road. This means that Council can require a contribution toward the full construction of a single carriageway only, however SPP3.6 does allow Council to collect a contribution for the earthworks for the second carriageway. Thus only one carriageway would be built and the earthworks for the second carriageway completed utilising funds from the contribution arrangement. It is envisaged that contributions will also be collected for four intersection treatments to be constructed to facilitate a dual carriageway configuration given that the urban developments create this need.

Thomas Road / Kardan Boulevard Intersection

The intersection at Thomas Road/Kardan Boulevard is an existing intersection and was constructed in 2007; there were a number of significant unknown variables during this time including the availability of verified regional traffic modelling and a final design for Thomas Road. The intersection was originally proposed to be upgraded to its ultimate function to retain the capability of linking the intersection into Thomas Road when it is ultimately upgraded. This endeavour made it difficult to construct the intersection in accordance with Main Roads WA line marking specifications. For this reason and on this basis the intersection was modified to link into the existing Thomas Road.

The Main Roads WA & SJ Shire 2031 Mundijong-Whitby / Byford Regional Traffic Model (Oct 2010) utilises land use data and population generation to predict traffic volumes on arterial roads. The data is then used to determine the form and function of arterial roads as well as to inform other high level planning and engineering decision making. The intersection at Thomas Road/Kardan Boulevard is projected to facilitate the functionality of over 28, 200 vehicles per day on Thomas Road and 11,000 vehicles per day on Kardan Boulevard. Given the significant number of vehicle movements on Thomas Road and Kardan Boulevard, the channelisation at the intersection of these roads is considered an infrastructure item within the draft Byford DCA.

The channelisation of this intersection proposed through the DCA would sufficiently facilitate district level traffic generated by urbanisation across the Byford DSP holistically. If detailed planning at the localised level proposes to intensify land uses at this intersection it would not constitute becoming a part of the DCA, as urbanisation only necessitates channelisation with traffic lights being required as a direct impact of localised land use intensification. On this basis it is recommended that the cost difference between channelisation and traffic lights be imposed as a condition of development approval on the landowner of the commercial land at this intersection. Development contributions would still be collected from subdividers at large for the channelisation of this intersection; however, the balance of funds for traffic lights would be contributed by the landowners of the commercial sites.

Thomas Road / Malarkey Road Intersection

The intersection at Thomas Road/Malarkey Road is an existing rural intersection that facilitates traffic movements to the rural lifestyle developments north of the Byford DSP. The intersection at Thomas Road/Masters Road is projected to facilitate the functionality of over 12800 vehicles per day on Thomas Road and 9300 vehicles per day on Malarkey Road. Further to this the subject intersection is in close proximity to the proposed northern local centre and as a result the intersection is proposed to facilitate general vehicle movements to and fro the local centre. Given the significant number of vehicle movements and commercial nature of the intensified land uses surrounding the intersection the full cost of the signalisation of this intersection is considered an infrastructure item within the draft Byford DCA.

Thomas Road / Plaistowe Boulevard

The intersection at Thomas Road / Plaistowe Boulevard is currently unconstructed and has been in the current state since issuing clearance in 2007. The intersection remained unconstructed due to a number of unknown factors at the time including the ultimate future form and function of Thomas Road. Detailed designs could therefore not be progressed at the time of clearance. Since then, there have been numerous changes to the functionality of this intersection including Public Transport Authority (PTA) approving a bus route that would utilise this intersection.

With this intersection being the initial entry of the bus route, which will serve the greater Byford community west of the railway line, it has become imperative that this intersection be

constructed to a full movement intersection treatment. Furthermore, the construction of the intersection provides the residents of the Byford Central Estate an alternative point of ingress and egress. Currently, all access is off Larsen Road. Should any unforeseen event occur on Larsen Road, there is the potential that the residents of Byford Central may be unable to get access to and from the suburb.

Thomas Road / Portwine Avenue

The intersection of Thomas Road and Portwine Avenue currently remains unconstructed. The intersection as it stands is currently a temporary cul-de-sac. Although initially proposed by the Local Structure Plan for Byford Central as a full movement intersection, this proposal was not approved by Main Roads due to its close proximity to the railway line. If constructed, any stacking of traffic could create serious traffic hazards if the stacking extended beyond the railway line.

Regional Drainage

Due to the use of multiple use corridors and onsite drainage in Byford there is estimated to be in excess of 131 ha of Public Open Space (POS) / drainage. As much of the POS in Byford is being used as flood storage or conveyance in a 1:100 year rain fall event, all land required for POS and drainage has been included as an infrastructure item within the DCA.

Officers and the Department of Water have investigated the drainage requirements in Byford over the many years of development since the early 2000's. It has been very difficult to differentiate between what land is used as purely POS and what land is used or required for drainage. The main reasons for this difficulty are the following:

- Local Structure Plans in Byford have been compiled on the basis on two different versions of Liveable Neighbourhoods with different drainage and POS crediting methodologies.
- Byford has been the subject of two district level water management strategies and thus land has been vested to the Crown on the basis of both.
- Approved Local Structure Plans and Local Water Management Strategies do not provide sufficient information to differentiate what is local and district level drainage. Further to this in most instances district level drainage makes up localised POS contributions.

In light of these difficulties officers believe the most fair and equitable means of sharing district level drainage is to include all land required for POS and drainage as a credit in the DCA. It is also apparent that the distribution of multiple use corridors is generally evenly spread over the Byford DSP and on this basis most developers have over provided the standard 10% contribution.

Estimation of Lot/Dwelling Potential

A significant portion of Byford has already undergone subdivision and thus numerous legal agreements have been entered into that bind subdividers to the finalised DCA. Throughout this processes a number of assumptions have been made, one being that the DCA would be based on a per lot or similar basis. For this reason and for the sake of simplicity when having to shift from legal agreements to the ultimate DCA, a per lot basis has been proposed. A significant portion of Byford has under gone detailed structure planning, thus providing a reasonable amount of certainty with regard to lot/dwelling yields.

Multiple Use Trails

The continuation and extension of the existing bridle trail network in close proximity to the Byford Trotting Complex is proposed pursuant to the Byford DSP. The trails provide an important role in facilitating a safe and accessible movement network for horses and riders in close proximity to the Trotting Complex, where semi-rural development abuts future or existing urban development. The trails also provide an appropriate interface between semi rural and urban development. A breakdown and detailed costing of the proposed bridle trails is under section 2.4 of the DCP for Byford.

Land Value

It is important to note that the DCP for Byford as presented to Council in September 2010 did not contain a formal land valuation. Officers considered it appropriate to defer the formal appointment of a land valuer at that stage as the methodology for land valuation and appointment was to change during advertising and by the time of gazettal.

The Shire has now undertaken a formal englobo land valuation for compensatory amounts for land for infrastructure under the Byford DCA. The land value as of September 2011 is \$500,000 per hectare.

Land values will be reviewed at least annually. For the purposes of TPS 2, the Scheme DCA for Byford and the Byford DCP report, one englobo land value will apply to the entire Byford DCA, irrespective of precinct or structure plan classification or similar. This approach is considered to be the simplest, effective and equitable method of addressing land valuation. Other methods are available however, in keeping in line with the principles and approach adopted by Council this method is considered most appropriate.

Precinct Based Approach / Cost Appointment Methodology

Precinct Based Approach

A portion of the Byford DCA has already been established in the Shire's TPS 2, this being the identification of the Byford DCA in Appendix 16. This was inserted into the Scheme as part of previous Amendment No. 113. The DCA is split up into four precincts and identifies portions of land which are excluded from the DCA.

Under previous drafts of the Byford DCA, each precinct had a different range of infrastructure and cost items for which development contributions were to be collected. Due to the size of the DSP area and the relative isolation of some of the infrastructure and cost items to specific precincts, this was considered the most appropriate approach. Under this model, the contribution rate would vary from precinct to precinct. Given that developments within specific areas of the Byford DSP would utilize certain items of infrastructure, officers are of the opinion that the precinct allocation as outlined in section 3.1 of the DCP for Byford is most appropriate.

The precinct based approach was supported, in-principle, by the WAPC in their approval of Amendment No. 113, resulting in the insertion of the Byford DCA Map into TPS 2.

Although most of Byford is in consolidated ownership, significant development areas to the east and west of the railway remain highly fragmented. For descriptive purposes, these areas are identified as:

- The Doley Road precinct;
- The existing Byford Townsite precinct; and
- The Stanley Road precinct.

In such fragmented areas, infrastructure provisions are often unevenly distributed between numerous small landowners. Therefore, to ensure the infrastructure is provided and that the

landowners burdened by infrastructure items for the benefit of other landowners are compensated, it is considered necessary to include additional site-specific items within a DCA. This approach accords with the equity principle outlined in SPP3.6 and endorsed by Council through Amendment No. 167.

Development/Subdivision Specific Methodology

Given the variety of land use denoted by the DSP for Byford, various types of residential and non-residential subdivision and development will occur. Section 3.4 of the DCP for Byford outlines in detail the methodology applied to the various forms of development.

It is important to note that land within the Byford area may be developed at a density lower than that envisaged by the Byford DSP or relevant LSP. As such the development outcome achieved may also provide for future subdivision or development. The methodology proposed equates contributions for development or subdivision at the time the additional lots / dwellings are created and thus accounts for any future subdivision or development as contributions will be paid at the time maximum potential is reached.

Options for progressing Amendment 168

Given the significance of amendments recommended post advertising the DCA and DCP in November 2010, it is considered appropriate to re-advertise the Byford DCP report. The amendments recommended in this report provide greater clarity with regard to the timing and provision of infrastructure, crediting and offsetting methodologies, infrastructure costs and cost apportionment methodologies. These amendments will have a direct impact on the financial modelling, infrastructure provision and staging of individual subdividers. In this light and in maintaining an open and transparent process it is considered prudent to re-advertise the documentation.

Should Council resolve to accept the modifications and determine the DCP report satisfactory for advertising, the Shire will then advertise the DCP report concurrently for a period of not less than twenty one (21) days.

On completion of the re-advertising period, Council will be required to consider the submissions received on the DCP report and resolve to adopt, with or without modifications, or refuse to proceed with the Amendment and DCP report and subsequently forwarded to the WAPC and Minister for Planning for a determination.

Options are:

Option 1

Adopt Amendment 168 and the DCP as is and forward to WAPC;

Option 2

Adopt a modified version of the DCP and suggest modifications to the Amendment and forward to the WAPC;

Option 3

Adopt Option 2, but advertise the revised DCP and proposed modifications to Amendment 168; or

Option 4

Resolve to not adopt the Amendment and forward it to the WAPC, and not adopt the DCP report.

Option 3 is recommended.

There is no formal statutory process established for the advertising of a DCP report. However, given the vital importance of the document in setting out the costings and methods of the DCA, it is considered that the DCP report should be re-advertised.

The Planning and Development Act and Town Planning Regulations set out the processes for dealing with Scheme Amendments. The processes do not specifically provide for a Local Government to modify and re-advertise a proposed Scheme Amendment. Shire staff do however see merit in seeking comment on a schedule of proposed modifications to Amendment No. 168 prior to it being forwarded to the WAPC for consideration. This advertising process is not part of the statutory process, but is considered appropriate in the interests of openness and transparency.

Conclusion

The proposed Scheme Amendment and DCP report will facilitate the provision of certain items of common infrastructure within the Byford DCA and an appropriate sharing of the costs of such infrastructure, as well as land and other administrative costs.

The finalisation of a DCA for Byford will formalise a contribution arrangement which has been operating on the basis of individual interim agreements for an extended period of time. This has taken up a significant amount of officer time and prolonged the process for finalising the ultimate DCA for Byford. On this basis, it is requested that Council resolve to re-advertise the DCP report and proposed modifications to Amendment No.168.

Voting Requirements: Simple Majority

SCM003/09/11 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Randall, seconded Cr Buttfeld

That:

1. Council notes the submissions received during the advertising of Scheme Amendment No. 168: Byford Development Contribution Arrangement pursuant to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and endorses the Shire's staff responses to those submissions as outlined in the attachment marked *SCM003.3/09/11*.
2. Council notes the submissions received during the advertising of the Byford Development Contribution Plan Report pursuant to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and endorses the Shire's staff responses to those submissions as outlined in the attachment marked *SCM003.3/09/11*.
3. The Byford Development Contribution Plan Report be modified in accordance with the modifications recommended in attachment marked *SCM003.4/09/11*.
4. Subject to 3 above, Council advertise the modified Byford Development Contribution Plan Report for a period of not less than twenty one (21) days.
5. Advertise the proposed modifications as outlined in attachment *SCM003.5/09/11* to Scheme Amendment No. 168: Byford Development Contribution Arrangement concurrently for a period of not less than twenty one (21) days.

CARRIED 7/0

SCM004/09/11	ABERNETHY ROAD - PROPOSED FUNDING ARRANGEMENT FOR ROAD REHABILITATION FROM HOPKINSON ROAD TO RENAUD WAY AND INTERSECTION UPGRADES AT HOPKINSON AND BRIGGS ROAD (R0133 & A2005)	
Proponent:	Serpentine Jarrahdale Shire	In Brief This report provides Council with the opportunity to consider the proposed funding arrangement for Abernethy Road rehabilitation and intersection upgrades at Hopkinson and Briggs Roads.
Author:	Strini Govender – Manager Infrastructure & Design	
Senior Officer:	Richard Gorbunow – Director Engineering Services	
Date of Report	14 September 2011	
Previously	CGAM011/08/05 SD011/07/09	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

It was previously intended that Abernethy Road, from Hopkinson Road to Warrington Road, be designed and constructed to its ultimate form and function at the earliest opportunity. The purpose of this approach was to maximise on the State Government grants received for:-

- Briggs Road Intersection (Roundabout Construction);
- Hopkinson Road to Renaud Way (Road Rehabilitation); and
- Abernethy Road/Hopkinson Road Intersection Upgrade.

However, due to limited funding in the Byford Development Contribution Arrangement (DCA) restricted cash account and the fact that Council needs to retire loans, it was considered prudent that in order to meet grant funding obligations, that existing grant funded projects be progressed with instead.

The purpose of this report is to:-

1. Seek Council approval to allocate \$176,333.00 from the Byford DCA restricted cash account to account RRG113 to match Regional Road Group funding requirements for rehabilitation works on Abernethy Road between Hopkinson Road and Renaud Way.
2. Inform Council of the financial implications associated with the design and construction of Abernethy Road under the Byford DCA.

Sustainability Statement

Effect on Environment:

The future form of Abernethy Road needs to be carefully considered in terms of potential environmental impacts. Relevant considerations include the retention of existing vegetation.

Resource Implications:

A considerable amount of resources will be required for both the upgrading and on-going maintenance of arterial roads such as Abernethy Road; such matters will need to be carefully considered during the design and construction process.

Use of Local, renewable or recycled Resources:

There will be opportunities to consider the use of local, renewable or recycled resources through the design, construction and on-going maintenance of Abernethy Road.

Economic Viability:

Establishing a clear direction forward for Abernethy Road will create greater certainty and ultimately reduce financial risk for a number of stakeholders, including Council and developers.

Economic Benefits:

Abernethy Road provides an important linkage between different land uses, including new/existing residential areas, the Byford Town Centre, educational establishments, local centres and the regional road network.

Social – Quality of Life:

Transport networks have a significant impact on the quality of life for both existing and future residents. Key considerations include potential light and air pollution, accessibility for travel movements, visual impact and noise.

Social and Environmental Responsibility:

At the time of detailed design, careful consideration will need to be given to the protection of vegetation.

Social Diversity:

Having an effective and efficient transport network will ensure access for a diverse range of people, with different travel requirements.

Statutory Environment:

Local Government Act 1995
Draft Byford DCA
TPS 2

Policy/Work Procedure

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

Financial Implications

There are no additional financial implications to Council. The costs and funding were included in the 2011/2012 budget that was adopted by Council at the June Ordinary Council Meeting.

Grant Funding

Given the significant cost and district function of Abernethy Road the Shire’s officers sought State grant funding to assist in its rehabilitation to improve its current form and function. Officers were successful in obtaining three major grants to be acquitted in the 2011/2012 financial year.

It is proposed to Council that the Shire expend funds collected through the draft DCA to match the Abernethy Road grant funding contributions and combine these sources to fund the rehabilitation of Abernethy Road.

A breakdown of costs of the Municipal, DCA and Grants for the design and construction of the various projects for Abernethy Road is outlined in the table below;

<u>Abernethy Road - Grant Funded Projects:</u>	
<u>Briggs Road Intersection (Roundabout Construction)</u>	

Pre-Construction	\$20,000.00
Construction Works	\$156,000.00
Road Safety Audit Cost	\$4,000.00
Total Construction Cost	\$180,000.00
Funding Split	
Grant funding	\$120,000.00
Municipal Funding (1/3 Contribution)	\$60,000.00
TOTAL	\$180,000.00

Hopkinson Road to Renaud Way, Byford (Rehabilitation)	
Pre-Construction	\$50,000.00
Construction Works	\$471,000.00
Road Safety Audit Cost	\$8,000.00
Other	\$0,000.00
Total Construction Cost	\$529,000.00
Funding Split	
Grant funding	\$352,667.00
DCA restricted account (1/3 Contribution)	\$176,333.00
TOTAL	\$529,000.00

Abernethy Road/Hopkinson Road Intersection	
Pre-Construction	\$6,000.00
Construction Works	\$54,000.00
Road Safety Audit Cost	\$0,000.00
Other	\$0,000.00
Total Construction Cost	\$60,000.00
Funding Split	
Grant funding	\$60,000.00
TOTAL	\$60,000.00

Draft Byford Developer Contribution Arrangement

The draft Byford DCA, as advertised, includes Abernethy Road as a shared infrastructure item. In accordance with State Planning Policy 3.6 – Development Contributions for Infrastructure, the following elements are included in the DCA for the construction of Abernethy Road:

- Land required to achieve the proposed 30m road reserve;
- Earthworks for the whole road reserve;
- Complete road construction based on a single lane split carriageway with central median;
- Associated drainage works including water sensitive measures;
- Traffic control devices including two sets of traffic lights and four roundabouts;
- Shared paths;
- Utility removal, relocation and insertion; and
- Associated costs including design, administration, and management.

Expending Contribution Funds before Gazettal

Where development has proceeded ahead of finalisation of a DCA, developers are required to pay infrastructure requirements and enter into legal agreements with the Shire that ultimately bind developers to an adjustment upon finalisation of the DCA. The Shire has collected approximately \$4,900,000 of funds for infrastructure included in the DCA.

It has been proposed in the 2011/2012 budget, and recommended in this report, that the Shire expends \$176,333 of DCA funds to match successful grants obtained for funding the rehabilitation of Abernethy Road from Hopkinson Road to Renaud Way. Money spent from the DCA fund should only be spent on infrastructure that it is part of the DCA (i.e. Abernethy Road).

Financial Risk

Officers and the Shire’s solicitor have assessed the Shire’s Town Planning Scheme 2 (TPS 2), as well as State Planning Policy 3.6, and also the Local Government Act 1995, and have found no provision or clause in such documents that would prevent the Shire from utilising the interim contributions to fund the upgrade of Abernethy Road. However, there are a number of inherit risks associated with spending DCA money prior to finalisation of the DCA. Officers have assessed these risks based on the best available information and legal advice from the Shire’s solicitor. These obvious risks are provided for Council’s consideration:

Major Risks 1:

Abernethy Road does not form part of the finalised and gazetted Byford DCA. Funds expended from the DCA before gazettal would have to be replaced by the Shire. Any offsets awarded to developers in the interim will be voided in accordance with relevant adjustment provisions under legal agreements between the Shire, developers and the Byford DCA.

Comment:

Informal discussions with the Department of Planning have indicated a strong likelihood for the inclusion of Abernethy Road as a cost item in the DCA. On this basis this risk is not considered significant. This is validated by the vehicle movements projected on Abernethy Road as outlined by the Main Roads WA & Serpentine Jarrahdale Shire 2021 & 2031 Mundijong-Whitby and Byford Regional Traffic Modelling.

Major Risk 2:

The Byford DCA does not become an operational DCA.

Comment:

This is a significant risk and should be carefully considered by Council. In 2001 the Shire initiated Amendment No.113 which endeavoured to create a DCA for the Byford area. It is vital that Council ensure that the DCA is at the forefront of organizational goals and operational objectives. The current DCA has been substantially advanced for finalization.

Strategic Implications:

This proposal relates to the following Focus Areas:-

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
BUILT				

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
ENVIRONMENT				
	Land Use Planning			
		1	Rural Villages	Preserve the distinct character and lifestyle of our rural villages and sensitively plan for their growth.
		9	Rural Land	Ensure the built form complements and enhances the rural environment.
		14		Encourage built form that positively contributes to streetscape amenity.
		20	Landscape	Prioritize the preservation of landscape, landform and natural systems through the land development process.
		22		Continue the development of low maintenance multiple use corridors to accommodate water quality and quantity outcomes and a diversity of community uses.
		23		Protect the landscape and environmental values of natural reserves and areas from the impacts of development.
		31		Encourage innovative solutions, technology and design.
	Infrastructure			
		36		Preserve the amenity and biodiversity of scenic drives and flora roads and create further interest through the incorporation of public art.
		43		Ensure infrastructure planning and design protects the community from flooding.
		48	Vegetation management	Acknowledge the future economic value of natural vegetation and landform.
NATURAL ENVIRONMENT	Landscape			
		1	Safeguard	Restore and preserve the visual amenity of our landscapes.
		2		Defend our scarp and forest from inappropriate uses.
		3		Maximise the preservation of existing trees and vegetation.
		4		Incorporate environmental protection in land use planning.
		12	Biodiversity	Prevent the further loss of "local natural areas"
		13		Protect specific ecological features and processes including rare species,

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
				threatened ecological communities, wetland vegetation and ecological linkages throughout the Shire
		15	Restore	Manage and restore local natural areas and revegetate new areas to increase native fauna habitat.

Community Consultation

The community and all other stakeholders are to be informed via the Councils website and in the print media when tenders are advertised.

Comment:

Planned Projects

The proposed projects for Abernethy Road will entail the following brief scope:-

Abernethy Road/Hopkinson Road Intersection

- Installation of raised and painted islands to reinforce priority sign;
- Minor road widening to improve turning movements;
- Surface treatments; and
- Minor drainage works.

Hopkinson Road to Renaud Way, Byford (Rehabilitation)

- Road pavement rehabilitation;
- New asphalt surfacing
- Minor drainage works; and
- Signs and road markings,

Briggs Road Intersection (Roundabout Construction)

- Reconstructing existing T-intersection into a roundabout;
- Kerbed centre island and road edges;
- Minor road widening;
- Installation of service ducts;
- Minor drainage works; and
- Road markings

Intention to Tender

When Council adopted the 2011/12 Annual Budget, approval was given to invite tenders for all projects included in the Budget. The Director Engineering will advertise this project and call for tenders for appointment of a contractor for construction works.

Proposed Timeline

The proposed timeline indicated hereunder is only indicative of the proposed works planned for Abernethy Road:-

Task	Start	End
Council Approval	24 Oct 2011	24 Oct 2011
Consultant Appointment	24 Oct 2011	30 Nov 2011
Geotechnical Investigations + Reporting	30 Nov 2011	31 Jan 2012
Detailed Designs	30 Nov 2011	29 Feb 2012
Tender Documentation	01 Feb 2012	29 Feb 2012
Tender Advertising	03 March 2012	17 March 2012
Tender Adjudication and Award	20 March 2012	30 April 2012
Construction Period	01 May 2012	31 Jul 2012
Close-up	31 Jul 2012	31 Jul 2012

As indicated above, the Shire proposes that all detailed engineering designs, drawings and construction are to be completed by July 2012.

Conclusion

In progressing the three grant funded projects on Abernethy Road, Council needs to ensure that its obligations to state funding authorities are met. This will reinforce Council's standing for future grant funding request.

Voting Requirements: Simple Majority

SCM004/09/11 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Randall, seconded Cr Harris

That Council amend the 2011/12 Annual Budget for RRG-113 Abernethy Road – Hopkinson Road to Renaud Way (\$529,000) by increasing the Grant Funding from the Regional Road Group to \$352,667 and fund the balance of the cost of the project (\$176,333) from the Byford DCA.

CARRIED 7/0

SCM005/09/11	BYFORD CENTRAL DEVELOPMENT – PROPOSED FUNDING ARRANGEMENT FOR THE CONSTRUCTION OF PLAISTOWE BOULEVARD INTERSECTION WITH THOMAS ROAD, PORTWINE AVENUE CUL-DE-SAC AND A PORTION OF THOMAS ROAD SWALE (S130563)	
Proponent:	Serpentine Jarrahdale Shire	In Brief To; 1. Transfer \$362,000.00 from the Byford DCA restricted cash account to account DSC200; and 2. Utilise the bank guarantee of \$243,000.00 held in the restricted cash account as:- Contributions towards the construction of Plaistowe Boulevard, with Thomas Road, Portwine Avenue cul-de-sac and a portion of Thomas Road swale.
Author:	Strini Govender – Manager: Infrastructure & Design	
Senior Officer:	Richard Gorbunow – Director Engineering Services	
Date of Report	4 August 2011	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

Local Structure Plan

The Byford Central estate has developed primarily over the last seven years. This development has progressed during the finalisation of the Byford District Structure Plan (DSP) and formulation of the Byford Development Contribution Arrangement (DCA). The Local Structure Plan for Byford Central was approved in 2005.

Stage 5 Subdivision

In July 2007 the subdivider sought clearance for conditions pertaining to subdivision approval granted by the Western Australian Planning Commission (WAPC) No. 131901. Specifically condition 3 of the approval required the following:

“Street intersections, including those with Thomas Road and the new town centre district distributor road, being designed and constructed to the satisfaction of the Western Australian Planning. (Local Government)”

The DCA and associated infrastructure at the time of clearance (July 2007) was not progressed by Council to the level that it is today. As detailed designs had not been finalised for these intersections to Thomas Road, the Engineering Department collected a bank guarantee in lieu of the performance of the condition. The bank guarantee was provided to permit the Shire to clear the above condition and construct the intersections at a future date.

A copy of the subdivision stage and the location of the intersection are with attachments marked [SCM005.1/09/11](#).

Outcome since 2007

Since the Shire collected the bank guarantee in 2007:-

- The intersections have not been built;
- The design for Thomas Road has not been finalised;
- Monetary contributions have been collected from subdividers for infrastructure provision through the DCA;
- The subject intersections and Thomas Road itself have become part of the current advertised draft DCA;
- Costs associated with the infrastructure item have increased significantly;
- The Byford Central Estate has created approximately 550 lots, with a result and high demand from the community for the intersections;
- Intersectional drawings of Plaistowe Boulevard and Thomas Road have been progressed by the developer, Shire and Main Roads WA, with in principle approval granted;
- Main Roads have made evident that in the current context only Plaistowe Boulevard is capable of being constructed onto Thomas Road as a full movement intersection. In contrast Portwine Avenue is too close to the existing railway crossing and cannot be connected to Thomas Road as a full movement intersection treatment. Therefore, in the interim, Portwine Avenue will remain a cul-de-sac and will be reviewed at a later stage when Thomas Road is designed and constructed to its ultimate form and function; and
- The Public Transport Authority has advised of a requirement for a proposed Byford bus route.

History and current status of intersection design

In January 2010, Byford Central Pty Ltd appointed engineering consultants Cardno (WA) Pty Ltd, to design the Plaistowe Boulevard and Thomas Road intersection. The purpose of the design was to gain approval and consensus from the Shire and Main Roads WA on the type of intersection treatment that will be acceptable for the intersection to function.

During the course of 2010, the design went through a process of refinement due to comments from the Shire and Main Roads. In March 2011, a final meeting was held with Main Roads WA and Shire officials to finalise the design. The comments were forwarded to the consultant to prepare the final approved plans. It was agreed that Portwine Avenue could not be considered as a full movement intersection due to its proximity to the rail reserve. In the interim therefore, Portwine Avenue will remain a cul-de-sac and will be reviewed at a later stage when Thomas Road is designed and constructed to its ultimate form and function;

Byford Central Pty Ltd advised that they were not willing to paying for any further modifications to the design. The matter has since been taken to SAT.

The result is that, Plaistowe Boulevard and Portwine Avenue intersections with Thomas Road, still remain unconstructed.

History of DCA

Development Contribution History – Byford Central

The Shire in 2000 initiated Amendment No. 113 to TPS 2. The purpose of Amendment No. 113 was to establish a DCA for the Byford DSP area, as well as to rezone most of the Byford DSP area to 'Urban Development' and insert appropriate provisions into TPS 2 for a Byford Development Area.

Amendment No. 113 was adopted for final approval by Council in April 2001, and subsequently forwarded to the WAPC and the Minister for Planning for consideration. Final approval of Amendment No. 113 was deferred by the WAPC in September 2001, pending modifications to and finalisation of the Byford DSP. After final approval of the Byford DSP was granted in March 2005, Council made changes to Amendment No. 113 and forwarded it to the WAPC and Minister. The Amendment was considered and the Shire was advised that the Minister had decided not to approve the Amendment until several modifications were made, which essentially saw the removal of DCA components of the Amendment.

The Shire was advised by the Minister that it should proceed with a separate Amendment to insert a Development Contribution area and DCP into TPS 2. In 2004, the Shire commissioned Worley Parsons to prepare a DCP for the Byford DSP area, including costs for the provision of infrastructure. The DCP was endorsed by Council and forwarded to the WAPC for review. The DCP was not approved for a number of reasons including the absence of detailed cost estimates.

Initial cost contributions and feasibility modelling for the estate was undertaken by the developer pursuant to the Worley Parsons DCP.

In accordance with the items and methodology behind the Worley Parsons DCP, assumptions made both by Byford Central and the Shire that the development was developer contribution cost neutral, with the Shire potentially having to pay an amount back for the provision of infrastructure (refer to Gray & Lewis Submission on Amendment No. 168 attached).

However, given that the Minister's did not approve the DCP compiled by Worley Parsons and the need for infrastructure in Byford, the Shire undertook the preparation of a new DCP and accompanying Amendment to supersede the work previously undertaken. The new DCP

(managed and compiled internally) was deemed satisfactory for advertising by Council on 7 September 2010.

The current DCP differs substantially with regard to infrastructure crediting methodology in comparison to the DCP previously compiled by Worley Parsons. It also differs substantially in terms of the infrastructure included in the DCP.

Developer Contribution Arrangements relationship to intersections:

The intersections are currently proposed items within the draft Byford DCA. Should Council decide to construct the intersection utilising the existing bank guarantee, the monies expended on the intersections would then become a credit to Byford Central. In accordance with the Shire’s policy position this could then be used to offset contribution liabilities, essentially reducing the amount due to the Shire upon the DCA being gazetted. The reduction in liabilities is only the amount provided by virtue of the bank guarantee.

This report provides Council with the opportunity to establish a suitable path forward for the expenditure of the bank design and construction of the intersection.

Final Stages of Subdivision & State Administrative Tribunal Proceedings

The Shire is currently mediating issues regarding outstanding cost contribution liabilities with Byford Central through the State Administrative Tribunal. The matter is likely to be programmed before the Supreme Court, as the matter is not likely to be able to be dealt with by the SAT. Issues pertaining to this specific adjustment will have to be progressed in parallel with the Byford Development Contribution Arrangement and matters raised in this report.

WAPC approval

This report provides Council with the opportunity to establish a suitable path forward to achieve an outcome for the design and construction of the Plaistowe Boulevard intersection to Thomas Road, Portwine Avenue cul-de-sac and portion of Thomas Road swale.

A copy of Advice from McLeods about the drawing down on DCA funds prior to gazettal is with attachments marked [SCM005.2/09/11](#)

A copy of the Submission on Amendment No. 168 by Gray Lewis on behalf of Byford Central is with attachments marked [SCM005.3/09/11](#)

Resource Implications

BYFORD CENTRAL INTERSECTIONS	2007 Cost Estimates	2011 Cost Estimates	Cost Difference
Plaistowe Boulevard (full intersection)	\$147,000	\$500,000	\$353,000
Portwine Avenue (full intersection) (cul-de-sac) required for Portwine 2011	\$98,000	\$50,000	(-\$48,000)
Thomas Road Swale (50m)	Not provided	\$55,000.00	\$55,000.00
Total	\$245,000	\$605,000	\$360,000

Bank Guarantee Held	\$243,000	Required DCA Portion	\$362,000
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Total Difference between estimated costs and bank guarantee \$362,000

The costings of the above projects have been based on the assumption that all construction works will be undertaken during the day. No provisions have been made for night works.

Byford Traditional Infrastructure Development Contribution Arrangement Reserve Account:
\$4.7 million

Bank Guarantee held for the performance of condition 3 of WAPC approval 131901:
\$243,000. The developer will only receive a credit for that portion of the guarantee that will be used for the construction of Plaistowe Boulevard. The portion used for Portwine Avenue, will not constitute a credit since it should have been constructed as part of the development.

Sustainability Statement

Effect on Environment: The future form of Thomas Road needs to be carefully considered in terms of potential environmental impacts. Relevant considerations include the retention of native vegetation, treatment of stormwater and management of regional flows.

Resource Implications: A considerable amount of resources will be required for both the upgrading and on-going maintenance of arterial roads such as Thomas Road.

Use of Local, renewable or recycled Resources: There will be opportunities to consider the use of local, renewable or recycled resources through the detained design, construction of the Plaistowe Boulevard / Thomas Road Intersection, Portwine Avenue cul-de-sac and a portion of the swale along Thomas Road and the on-going maintenance of Thomas Road.

Economic Viability: Establishing a clear direction forward for Thomas Road will create greater certainty and ultimately reduce financial risk for a number of stakeholders, including Council and developers. This report to Council is not intended to directly 'lock in' funding arrangements and ultimately roles and responsibilities. A further report to Council will be required in that respect, in the context of the developer contribution arrangement for the BSP area.

Economic Benefits: Thomas Road will provide an important linkage between different land uses, including new/existing residential areas, connections to the proposed Town Centre Distributor Road, in addition to continuing to provide an east-west linkage between South Western Highway and the Tonkin Highway.

Social – Quality of Life: Transport networks have a significant impact on the quality of life for both existing and future residents. Key considerations include potential light and air pollution, accessibility for travel movements, visual impact and noise.

Social and Environmental Responsibility: At the time of detailed design, careful consideration will need to be given to the protection of vegetation. Based on the preliminary concepts, Thomas Road will be able to accommodate key principles including the delivery of a pedestrian and cycle friendly environment, landscaping treatment and water sensitive urban design.

Social Diversity: Having an effective and efficient transport network will ensure access for a diverse range of people, with different travel requirements.

Statutory Environment:

Local Government Act 1995
Planning & Development Act 2005
Shire of Serpentine Jarrahdale TPS No. 2
SPP 3.6
Byford Structure Plan
Draft Byford DCA

Policy/Work Procedure

Local Planning Policy 1 – Bank Guarantees
LPP52 & 53

Financial Implications:

There are financial implications to Council related to this issue. An amendment to the 2011/2012 budget is required as this project was not identified in the budget that was approved by Council in June 2011. Council need to authorize a budget adjustment of **\$605,000** and this will be funded through the DCA restricted cash account of **\$362,000** and the bank guarantee of **\$243,000** from Byford Central. There is no municipal funding required in this resolution.

The following financial implications apply to this issue:

- Funding Tender
- Funding Works

Strategic Implications:

This proposal relates to the following Focus Areas:-

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
BUILT ENVIRONMENT	Land Use Planning	20	Landscape	Prioritise the preservation of landscape, landform and natural systems through the land development process.
		24	Transport	Ensure safe and efficient freight and transport linkages within the Shire and region.
	25		Ensure future public transport needs and infrastructures are incorporated into the land use planning process within the Shire and region.	
	Infrastructure	33	Asset Management	Ensure all decisions are consistent with the long term financial Plan for the Future.
		37	Roads and Bridges	Develop and adequately fund a functional road network and bridges based on the level of service set by Council.
		39	Water Management	Minimise the use of piped and artificial drainage and its impact on the landscape.
		41		Create low maintenance living streams and ephemeral wetlands.
		44	Utilities	Press for minimal environmental and social impact and maximum preservation and enhancement of visual amenity, in the installation of utilities.
		49	Vegetation Management	Ensure local native, low maintenance and water wise trees and plants are incorporated in streetscapes and public

Vision Category	Focus Area	Objective Number	Objective Summary	Objective
				spaces.
		61	Partnerships	Form strategic alliances for the more effective resolution and achievement of regional land use planning and infrastructure delivery.
NATURAL ENVIRONMENT				
	Integrated Water Cycle Management			
		20	Quality	Improve and maintain surface and ground water quality.
OUR COUNCIL AT WORK				
	Strategy and Planning			
		27	Strategic Direction	Prepare effectively for future development.
	Knowledge and Information			
		45	Generating, collecting and analysing the right data to inform decision making	Ensure the full costs are known before decisions are made.

Community Consultation:

Prior to work commencing at intersection of Thomas Road / Plaistowe Boulevard, local residents will be consulted. There is no requirement for formal consultation at this time.

Comment:

Need for intersection

Currently, the residents of Byford Central only have ingress and egress from Larsen Road. Access to Thomas Road is only via Briggs Road and South Western Highway. When San Simon Boulevard is being constructed, access through to Briggs Road will be temporarily closed for construction purposes.

The possible dangers to the above situation if Larsen Road is not accessible for whatever reasons are:-

- Residents of Byford Central will have no vehicular ingress or egress;
- In the event of an emergency evacuation, the residents will be trapped and;
- Access to emergency vehicles into the Developments will be restricted.

Further to the above, Perth Transport Authority (PTA) have approved Route 254 for Byford residents, west of the railway line, which will become operational in June 2012. However, the critical link to ensure that this service becomes operational is the Plaistowe Boulevard / Thomas Road intersection.

Discussion with Shire officials, Member of Parliament (Tony Simpson) and PTA officials have already commenced. PTA has indicated that access off Thomas Road via Plaistowe Boulevard is non-negotiable. If the access is not provided, the service will be deferred until such time that the intersection is constructed. PTA is not willing to operate on a temporary route as they will potentially face the backlash of the community when the service is discontinued in the future, to operate on the permanent route.

Time to finalise DCA

Legal advice

Officers and the Shire's solicitor have assessed the Shire's TPS 2, State Planning Policy 3.6, and the Local Government Act 1995, and have found no provision or clause that would prevent the Shire from utilising the interim contributions to fund the upgrade of the Byford Central / Thomas Road intersections.

However, there are a number of inherit risks associated with spending DCA money prior to finalisation of the DCA. Officers have assessed these risks based on the best available information and legal advice from the Shire's solicitor. These obvious risks are provided for Council's consideration:

Risks

Major Risks 1:

That Thomas Road does not form part of the finalized and gazetted Byford DCA. Funds expended from the DCA before gazettal would have to be replaced by the Shire and any offsets awarded to developers in the interim voided in accordance with relevant adjustment provisions under legal agreements between the Shire, developers and the Byford DCA.

Comment:

Informal discussions with the Department of Planning have indicated a strong likelihood for the inclusion of Thomas Road as a cost item in the DCA. On this basis, this risk is not considered significant and this is verified by the vehicle movements projected on Thomas Road as outlined by the Main Roads WA & Serpentine Jarrahdale Shire 2031 Mundijong-Whitby and Byford Regional Traffic Modelling.

Major Risk 2:

That the Byford DCA does not become an operational DCA.

Comment:

This presents a significant risk and should be carefully considered by Council. In 2001 the Shire initiated Amendment No.168 which endeavoured to create a DCA for the Byford area. It is vital that Council ensures that the DCA is at the forefront of organizational goals and operational objectives. The DCA in its current format, has been substantially advanced to include current day infrastructure cost and cost apportionment methodologies that are consistent with surrounding Council approved DCA's.

Major Risk 3:

That should Council will not agree that the Byford Central intersections with Thomas Road are the second priority of works (with the first being repayment of debentures), and that the funds have already been drawn down on for other infrastructure provisioning.

Comment:

A small amount of funds has been collected for the Byford DCA. Should Council decide on a priority of works that goes against the officer's recommendation then Council will be acting inconsistently. This would be because funds have been used for a project that falls within the projects that should be completed based on the Council approved priority of works.

Council has also collected a bank guarantee of \$243,000 from the developer as contribution towards the construction of Plaistowe Boulevard and Portwine Avenue with Thomas Road.

Funding Options

The only available funding option that is considered feasible and advisable is:-

- Use the \$243,000 collected from the developer in the form of a bank guarantee for the construction of the intersections with Thomas Road and together with a further amount of \$362,000 transferred from the Byford DCA restricted cash account to cover the shortfall for the construction of the intersections and swales.

Timing of Construction

The construction of the Plaistowe Boulevard and Thomas Road intersection is imperative to the operation of the proposed future Bus Route (Route 254), which is planned to go into operation in June 2012.

It is therefore prudent that the intersection be completed before June 2012, to ensure that the resident's of Byford received this much awaited service. The PTA has indicated that they prefer to have the buses on its ultimate route with the intersection in question being the critical link. If the intersection is not constructed, PTA has indicated that they will defer / delay the operations until Council has constructed the intersection.

To take full advantage of the PTA's service, and to provide the residents of Byford of this much needed services, Council needs to ensure that the timing of the construction is in line with PTA's forward planning for Route 254.

Intersection Design (Cardno)

The proposed unsignalised intersection design is to ensure the interim functionality of the intersection. The design provides connectivity between Plaistowe Boulevard and Thomas Road. The design is intended to facilitate safe turning movements from Thomas Road into Plaistowe Boulevard and vice versa. All intersection treatments including signs & line marking are all in line with Main Roads specifications.

A copy of the intersection design is with attachments marked [SCM005.4/09/11](#).

Thomas Road Swale adjoining Byford Central Section of Swale

The Shire originally proposed that two separate drainage systems would be constructed along the northern boundary of Byford Central Estate. One drainage system would convey stormwater generated from Byford Central towards the Stage 6C Public Open Space. A parallel drainage system would also be constructed to manage stormwater generated from

Thomas Road and from the regional flow that was originally proposed to be directed under the railway line through the installation of new culverts.

Preliminary design suggested that two separate drainage systems would require considerably steeper battering to maintain hydraulic separation. A considerable constraint for this site was the available land width. This would prevent a natural meandering stream from being achieved (in effect two very steep sided table drains would have been the outcome). This would also have led to maintenance difficulties due to access constraints.

To address these issues the Shire consulted with GHD Pty Ltd to determine the options for managing the 100 Year ARI Flood Event to prevent floodwaters from overtopping Thomas Road east of the railway. Advice from GHD in February 2009 provided two options to achieve flood protection. The preferred option was to upgrade the Thomas Road culverts to 4 x 1200 mm box culverts with approximately 8,000m³ of online storage to the north of Thomas Road. This would alleviate the need for regional flow to be conveyed through the Thomas Road swale. The Shire discussed this design approach with Byford Central and Cardno (WA) Pty Ltd at its monthly developer coordination meetings throughout the latter part of 2009 and this led to Cardno (WA) Pty Ltd preparing modified design drawings for the Thomas Road Swale design in January 2010.

A copy of the design drawings for the Byford Central Thomas Road swale is with attachments marked [SCM005.5/09/11](#).

The proposed single drainage system in the form of a living stream would provide a much better design outcome. By combining Thomas Road drainage with the stormwater discharged from Byford Central it was possible to fit a 'living stream' with rock riffles and local native landscaping along the entire boundary of Byford Central.

The landscape design for the Thomas Road swale has not yet been prepared. However it is anticipated that the design will consider similar landscape elements used for the 'living stream' constructed in the Byford Central District Open Space. Local native plants will be required to stabilize the creek line and ensure water quality targets are met.

Regional drainage currently flows through St Thomas Estate and flows along the southern boundary of Thomas Road Reserve from east to west. This regional flow eventually meets the railway line, where it flows under Thomas Road and discharges into the railway reserve on the northern side of Thomas Road. This water eventually flows under the railway line and enters the rural properties of Darling Downs. It eventually discharges into the Oaklands Main Drain at the eastern boundary of Redgum Brook Estate. The culverts under Thomas Road near the railway line are undersized and consequently Thomas Road floods during a major flood event. The Byford Townsite DWMP recommended that the culverts be upgraded to prevent Thomas Road from flooding. To achieve this outcome, additional culverts could be placed under the railway so that a portion of the regional flow could discharge along the northern boundary of Byford Central and the remainder discharge into the railway reserve as it currently does. However the Shire and Byford Central considered it more appropriate to keep the regional flow away from Thomas Road and to maximize the available detention storage available to Byford Central in the Thomas Road/Byford Central swale. This would allow Byford Central to meet its flood storage requirements.

Options

The following options are available:

Option 1

Utilise the bank guarantee with the short fall of funding to come from the Byford DCA restricted cash account for:-

- a. Construct Plaistowe Boulevard intersection to a full movement intersection with Thomas Road and ultimately rectify its finalisation as part of the ultimate upgrade of Thomas Road.
- b. Construct Portwine Avenue in the interim into a formal Cul-de-sac and ultimately rectify its finalisation as part of the ultimate upgrade of Thomas Road to a left in – left out configuration.
- c. Construct a portion of the Thomas Road Swale under Plaistowe Boulevard and ultimately rectify its finalisation as part of the ultimate upgrade of Thomas Road.

Positives:

- Intersections and a portion of the swale is built and completed in 2011/2012 financial year.
- Good outcome for community.
- The portion of the bank guarantee utilised for the construction of Plaistowe Boulevard intersections only, then becomes a credit to Byford Central. In accordance with the Shire's policy position this could then be used to offset contribution liabilities, essentially reducing the amount due to the Shire upon the DCA being gazetted. The reduction in liabilities is only the amount provided by virtue of the bank guarantee.

Negatives:

- If the intersection to Thomas Road is not included in the DCA when gazetted, Council would have to replace the DCA funds from alternative revenue sources.

Option 2

Do not build the intersection and return the bank guarantee.

Positives:

- No risk associated with replacing bank guarantee.
- No obligation on the Shire to build the intersections as the guarantee will be returned.

Negatives:

- Lose the bank guarantee for the performance of condition 3 of WAPC approval 131901.
- No intersections built.
- PTA does not provide a bus service for the community of Byford West.
- Dangers and risks associated with emergency evacuations still exist.
- Traffic impacts on Larsen Road increases affecting the social structure of the community.
- Council may have to fully fund the intersections completely from the DCA or other alternative revenue source.

Conclusion

Option 1 is recommended for the following reasons:-

- The longer the intersections are left unconstructed, the higher the cost of construction will become in the future;
- The value of the bank guarantee will become less relevant with time and increased cost;
- There is a high community and technical demand for the construction of the intersections;
- The bank guarantee becomes a credit due to the Byford Central which will effectively reduce the amount of money needed for the adjustment upon gazettal of the Byford DCA;
- A bus service to the Byford community is provided by PTA;
- Improved traffic connectivity and redistribution of traffic thereby reducing impacts;
- Alternative accesses is provided for in the event of emergencies and road closures;
- The intersections in question are much needed infrastructure items which are included within the Draft Byford Development Contribution Arrangement.

Voting Requirements: Absolute Majority

SCM005/09/11 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Geurds, seconded Cr Randall
That Council:

1. Amend the 2011/12 Budget to authorize expenditure of \$605,000 and approve the transfer of \$362,000 from the Byford DCA restricted cash account to account DCS200 as follows;

Project	Total funding	Funding splits
<u>Plaistowe Boulevard intersection</u>	\$500,000	
Funded from		
- Bank Guarantee held by council from Byford Central		\$93,000
- Byford DCA		\$307,000
<u>Portwine Avenue cul-de-sac</u>	\$50,000	
Funded from		
- Bank Guarantee held by council from Byford Central		\$50,000
<u>Thomas Road Swale at the intersection of Plaistowe Boulevard</u>		
Funded from		
- Byford DCA	\$55,000	\$55,000
Total	\$605,000	\$605,000

2. Authorise the Director Engineering to advertise tenders for the design and construction of the Plaistowe Boulevard intersection with Thomas Road, Portwine Avenue cul-de-sac and a portion of the Thomas Road swale.

CARRIED 7/0

Council Note: Cr Harris congratulated officers in their creative way of meeting the needs of the community.

Cr Geurds left the room at 6.53pm.

COUNCIL DECISION

Moved Cr Lowry, seconded Cr Buttfeld

That the meeting be closed to members of the public at 6.54pm to allow Council to discuss confidential item SCM002/09/11 as per the Local Government Act 1995 section 5.23(2)(d).

CARRIED 6/0

Cr Geurds was not present and did not vote.

SCM002/09/11	CONFIDENTIAL ITEM – BYFORD CENTRAL ESTATE: STATE ADMINISTRATIVE TRIBUNAL PROCEEDINGS RELATING TO DEVELOPMENT COST CONTRIBUTIONS (A1658)	
Proponent:	Shire of Serpentine Jarrahdale	In Brief
Author:	Simon Wilkes – Executive Manager Planning	To provide direction to Officers during State Administrative Tribunal proceedings relating to the outstanding Development Cost Contributions required from Byford Central Pty Ltd upon gazettal of Scheme Amendment No. 168 – Byford Development Contribution Arrangement.
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	22 September 2011	
Previously	Nil.	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Cr Geurds returned to the room at 6.55pm

SCM002/09/11 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Randall, seconded Cr Geurds pro forma

That Council:

1. Note that there is the opportunity for Council to consider the potential inclusion of District Open Space in the Byford traditional DCA, which is the subject of a separate report to Council, incorporating a recommendation for re-advertising of the DCA prior to finalisation.
2. Note that the recognition of public open space and drainage credits under the Byford Traditional DCA may be the subject of comprehensive review, prior to finalisation of the DCA.
3. Advise the proponents that based on the information currently available, that the inclusion of additional roads in the Byford Traditional DCA may be difficult to support, due to the potential for establishing a precedent of other infrastructure items in the Byford Area.
4. Note that any increase in infrastructure included within the Byford traditional DCA has the potential to increase liabilities/per-lot contributions required at the time of subdivision and development.

CARRIED 7/0

COUNCIL DECISION

Moved Cr Hoyer, seconded Cr Geurds

That the meeting was re-opened to the public at 7.10 pm

CARRIED 7/0

Project Officer Development Contribution Arrangements, Senior Planner, Executive Manager Planning, Manager Infrastructure & Design, Project Manager, Water Sensitive Urban Design, Manager Community Development, Special Projects/Asset Officer and Community Planning Officer left the meeting at 7.11pm

COUNCIL DECISION

Moved Cr Harris, seconded Cr Hoyer

That the meeting be closed to members of the public at 7.11pm to allow Council to discuss confidential item SCM006/09/11 as per the Local Government Act 1995 section 5.23(2)(a).

CARRIED 7/0

SCM006/09/11	CONFIDENTIAL – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (H0053)	
Proponent:	Not applicable	In Brief This report relates to the review of the Chief Executive Officer's performance and related matters.
Owner:	Not applicable	
Author:	John Phillips - Western Australian Local Government Association	
Senior Officer:	Not applicable	
Date of Report	22 nd September 2011	
Previously		
Disclosure of Interest	The author is paid a consultancy fee for this review process. The Chief Executive Officer declares a Financial Interest in this item in accordance with the Local Government Act 1995.	
Delegation	Council	

Cr Lowry left the room at 7.14pm and returned at 7.15pm

SCM006/09/11 COUNCIL DECISION/Consultant Recommended Resolution:

Moved Cr Harris, seconded Cr Randall

That Council:

1. **Receives the Performance Review report for the CEO's appraisal for the period March 2010 to 30 June 2011;**
2. **Endorses the overall performance rating for Ms Abbiss as 'meets performance requirements';**
3. **Adopts the performance criteria for 2011/2012 as drafted;**
4. **Schedules the next review of performance so as to be commenced by 1st July 2012;**
5. **Adopts the recommendation of the remuneration review.**
6. **Requests the CEO to convene a workshop with Council in December 2011 to discuss any additional Performance Criteria that may be mutually agreed.**

CARRIED 6/1

Cr Geurds foreshadowed a new motion:

That Council:

1. Receives the Performance Review report for the CEO’s appraisal for the period March 2010 to 30 June 2011;
2. Endorses the overall performance rating for Ms Abbiss as ‘meets performance requirements’;
3. Schedules the next review of performance so as to be commenced by 1st July 2012;
4. Adopts the recommendation of the remuneration review.
5. Defer adoption of the Performance Criteria for 2011/12 until November Ordinary Council Meeting;

if the motion under debate is defeated.

Cr Geurds withdrew his foreshadowed motion.

COUNCIL DECISION

Moved Cr Lowry, seconded Cr Buttfeld
That standing orders 9.5, 9.6, 10.7 and 10.13 be suspended at 7.24pm.
CARRIED 7/0

Director Engineering left the room at 7.43pm and returned at 7.47pm

COUNCIL DECISION

Moved Cr Harris, seconded Cr Hoyer
That standing orders 9.5, 9.6, 10.7 and 10.13 be reinstated at 7.57pm .
CARRIED 7/0

COUNCIL DECISION

Moved Cr Hoyer, seconded Cr Buttfeld
That the meeting was re-opened to the public at 7.59pm
CARRIED 9/0

7. URGENT BUSINESS:

8. CLOSURE:

There being no further business, the meeting closed at 7.59pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 28 November 2011.

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Presiding Member

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Date