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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 ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET MUNDIJONG ON MONDAY 25TH NOVEMBER, 2002. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 7.00PM AND WELCOMED MEMBERS OF THE PUBLIC PRESENT IN THE GALLERY, COUNCILLORS AND STAFF.

1. ATTENDANCES & APOLOGIES

PRESENT: Crs JC Star Presiding Member
DL Needham
WJ Kirkpatrick
AJ Simpson
JA Scott
JE Price
IJ Richards
KR Murphy
THJ Hoyer
A Wigg

APOLOGIES: Mr G Dougall..... Director Corporate Services

IN ATTENDANCE:

Mr D Price Chief Executive Officer
Mr R Harris Director Asset Services
Mr A Watson Director Sustainable Development
Mrs J Larke Acting Director Corporate Services
Mr M Beaverstock Manager Asset Services
Mr D Gossage Fire & Emergency Services Officer
Mr W Chant Principal Building Surveyor
Mrs S Langmair Minute Secretary

GALLERY: 12

2. PUBLIC QUESTION TIME

Public Question time commenced at 7.01pm

Mrs Bond – Stockmans Close

Q What is happening with the Blocks at Jarrahdale Heritage Park considering a very large loan has been taken out. What is happening with all that money that has been spent on those blocks? (ie 92 blocks, \$800,000 and the release of water)

A The Chief Executive Officer advised that Council had acquired a parcel of land in Jarrahdale. The President gave some background to the acquisition of the land at Jarrahdale and advised that in partnership with the National Trust WA, Council was undertaking steps to develop the Jarrahdale Heritage Park.

Public Question time concluded at 7.07pm.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. STATEMENTS, PETITIONS, MEMORIALS & DEPUTATIONS

Statement time commenced at 7.07pm

Mrs Bond, Stockmans Close

Regarding the use of off road bikes on small 5 acre blocks. These are a nuisance, pollutant and a major cause of fire. When are we going to put a stop to this, suggested sending them to designated bike riding areas (ie South West Highway and Jarrahdale Road) where they can ride these bikes in safety and without causing a fire hazard.

The Presiding Member advised that Council was looking into this matter and developing a strategy. A difficult issue and the Shire is combining resources with CALM, the Water Authority and the Police to get some measure of control.

Brahmali Bhikkhu – Buddhist Monestary

Statement regarding Planning Approval Lot 737 Firns Road. I take this opportunity to again remind Council of why the Buddhist Society of WA and why Bodhinyana Buddhist Monastery has objected and still does object to the renewal of Bristile's Planning approval. Again, there are two main reasons:

1. It has been established through independent expert noise studies that the noise from the proposed haulage of clay is well above the world health organisations recommended maximum limits. Clearly, such a noise impact constitutes a destruction of the amenity of Bodhinyana Monastery.
2. Several independent road safety studies have shown that Kinsbury Drive is not safe for the sort of haulage proposed by Bristile. Bristile's heavy haulage trucks increase the dangers on Kinsbury Drive and the level of risk becomes unacceptable. This has been shown unambiguously by Shwmac in their road safety and risk studies. If Council allows Bristile's cartage of clay on Kinsbury Drive, Council would in practice be allowing an unacceptable increase in road danger.

Chief Executive Officer left the meeting at 7.08pm.

Statement time concluded at 7.10pm.

5. ANNOUNCEMENTS BY PRESIDING MEMBER

- Shire President recently received on behalf of Council a Fire and Emergency Services Authority Award under the Community Safety Program in recognition of a recovery plan after the Serpentine Fire.

Congratulated the Buddhist Monestary for also receiving a similar award.

- Council also received a Certificate for our involvement in Water Campaign – working with Peel Harvey Catchment Council. This certificate was presented in Alice Springs at the Australian Local Government Association Conference.
- Armadale Senior High School Dux was again this year a student who lives in our Shire – Jamie Summerfield, daughter of Shire employee Richard Summerfield. Congratulations to Jamie.
- Bassendean Councillors and Staff workshop with SJ Councillors and Staff recently – successful workshop with a good exchange of ideas.

Cr Richards left the meeting at 7.16pm and returned at 7.17pm

Chief Executive Officer returned at 7.18pm.

- Cr Star and Cr Needham recently attended National General Assembly Conference in Alice Springs. The reports from each of the Councillors are in their final stages and will be distributed in the near future.

The President presented an aboriginal painting to the Chief Executive Officer for Council.

Following an incident with Mr Nield at the commencement of the meeting, the President asked the members of the gallery, if they wished to do so, give their details to Council, in case the matter develops any further and they may need to be contacted.

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

6.1 Ordinary Council Meeting 28th October, 2002

COUNCIL DECISION

Moved Cr Simpson seconded Cr Price

That the minutes of the Ordinary Council Meeting held on 28th October, 2002 be confirmed with the following correction: Leave of Absence for Cr Richards is from 29/11/02-17/12/02.

CARRIED 10/0

7. REPORTS OF COMMITTEES & OFFICERS

7.1 Corporate Services Committee Meeting – 11th November, 2002

COUNCIL DECISION

Moved Cr Simpson seconded Cr Hoyer
That the minutes of the Corporate Services Committee Meeting held on 11th November 2002 be received.
CARRIED 10/0

C052/11/02 KENNEL ESTABLISHMENT APPLICATION – 20 CHATFIELD ROAD SERPENTINE (P01654)		
Proponent	Mr Colin Scott	In Brief; Kennel Licence Application for 20 Chatfield Rd, Serpentine.
Officer	B. Owston - Senior Ranger	
Signatures - Author:		
Senior Officer:	G.R. Dougall - Director Corporate Services	
Date of Report	14 October 2002	
Previously		
Disclosure of Interest		
Delegation	Council	

Background

An application has been received from Mr C Scott of Lot 828 Utley Road, Serpentine for a new 20 dog kennel licence on a property with an existing 50 dog kennel licence, being 20 Chatfield Road, Serpentine. Mr Scott's property at Lot 828 Utley Road has a current kennel licence for 16 dogs. The existing 50 dog kennel licence for 20 Chatfield Road has been a long term existing land use and was approved and established prior to Council's Town Planning Scheme 2 and Council's Local Law relating to the Keeping of Dogs. The new application from Mr Scott relating to 20 Chatfield Road does not change the intent of the long term existing land use.

Comments

All adjoining and potentially effected landowners and occupiers were advised in writing of the application, in addition the application went for advertising, resulting in Council receiving 7 submissions relating to the new application and 2 letters relating to Mr Scott's current Kennel Establishment on Utley Road Serpentine. All 9 submissions objected to the application and requested that certain conditions be imposed if the application was successful. All conditions requested from the 9 objections (excluding the request to refuse the application) have been addressed in the conditions of approval in the recommendation. ***A copy of these submissions are included with the attachments and marked C052.1/11/02 – C052.9/11/02.***

Sustainability Statement

The existing kennel licence at 20 Chatfield Road, Serpentine for 50 dogs will be reduced to 20 dogs subject to approval. The applicants existing kennel licence at Lot 828 Utley Road, Serpentine was approved and established since the adoption and therefore subject to TPS2 and Council's Local Law relating to the Keeping of Dogs and will therefore reduce the number of current kennels within the Shire to seven.

Statutory Environment:

If approved, the new licence will be subject to the Dog Act 1976 as amended and Council's Law relating to the Keeping of Dogs as amended.

Policy Implications: Nil

Financial Implications: Nil

Strategic Implications: Nil

Community Consultation All adjoining and effected landowners and occupiers were advised in writing, details of the application were advertised as required by the relevant Acts. In total nine submissions were received.

Voting Requirements: Normal

Officer Recommended Resolution

It is recommended that the Kennel Licence application be approved subject to the following conditions being completed, implemented and complied with:

1. Compliance with Council's Local Law relating to the Keeping of Dogs (as amended);
2. Compliance with provisions of the Dog Act 1976 (as amended);
3. Applicant to submit a plan of the Kennel establishment.
4. Kennel fencing and enclosures to be upgraded by the applicant and to comply with the following requirements;
 - (a) At least 450 mm underground and secured.
 - (b) Self closing and locking gates.
 - (c) Fencing to be at least 2.4 metres high and constructed of chainlink or weldmesh.
 - (d) A net roofing is to be installed to the kennel enclosure area.
5. Screen planting to be carried out around the kennel complex in accordance with Council's Landscape and Revegetation Policy No 4 and to the satisfaction of Council's Environment Officer on or before 31 October 2003.
6. That a maximum of 20 dogs over the age of 3 months may be kept.
7. An effluent disposal system to be installed to the satisfaction of Council's Environmental Health Services.
8. The existing Property Boundary fence to be repaired and upgraded as per Council's Fencing Local Law.
9. Temporary screening is to be established with the use of shade cloth or such material until trees and shrubs are established.
10. The applicant is to supply a routine rodent / vermin control plan to Council.
11. Compliance with relevant noise and pollution provisions contained within the Health Act, Environmental Protection Act and related Council Local Law and Policy.

Advice Note:

- (1) That the applicant be advised in writing that Council may cancel or withdraw the Kennel Licence for failure to comply with the above conditions or any substantial breach of the Dog Act 1976 (as amended), Council's Local Law Relating to the Keeping of Dogs (as amended) or relevant Health or Environmental Legislation.
- (2) That conditions 3, 4, 7, 8, 9 and 10 be completed prior to issue of the kennel licence.
- (3) That conditions 1, 2, 5, 6, 10, and 11 will be enforced and randomly monitored.

Committee Recommended Resolution

Moved Cr seconded Cr the decision on the consideration of the Kennel licence application for 20 Chatfield Road, Serpentine be deferred to November Ordinary Council meeting, allowing time for the development application to be considered by the Planning Committee on 18 November, 2002.

Note: The recommendation was changed to allow Council to have the necessary Planning approval before making a decision.

CRC052 COUNCIL DECISION

Moved Cr Simpson seconded Cr Kirkpatrick
Council delegated authority to the Chief Executive Officer to approve or not approve the kennel licence application for 20 Chatfield Road subject to the Council Decision P175/11/02.
CARRIED 8/2

Note: The reason for the change to the Committee Recommendation was to enable Council to make a decision in relation to this matter following a determination by Council on the Development Application P175/11/02.

C054/11/02 KENNEL APPLICATION – 48 CUMMING ROAD, OAKFORD (P01185)		
Proponent	P & H Sayer	
Officer	Senior Ranger	
Signatures - Author:	In Brief Conditional approval of kennel application for 20 Dogs, 48 Cumming Road, Oakford.	
Senior Officer:		G.R. Dougall - Director Corporate Services
Date of Report		29 October 2002
Previously		
Disclosure of Interest		
Delegation		Council

Background

An application has been received from Mr & Mrs Sayer for a new 20 dog kennel licence on a property with an existing 20 dog licence, being 48 Cumming Road Oakford. The existing 20 dog licence has been a long term existing land use and was approved and established prior to Council's Town Planning Scheme 2 and Council's Local Law Relating to the Keeping of Dogs. The new licence application from Mr & Mrs Sayer does not change the intent of the long term existing land use.

Comments

All adjoining and potentially effected landowners and occupiers were advised in writing of the application, in addition the application went to advertising, resulting in 4 responses being received, of which one call of support was received verbally and will be accepted, two other calls of support were received verbally, however can not reasonably be accepted, there was one letter of objection received from an absentee landowner located in Melbourne, this particular property is three properties away from the subject property and has a 20 dog Kennel directly adjoining. No submission requested conditions other than the standard conditions which would be in place or covered by provisions of the Dog Act 1976 (as amended) and Council's Local Law relating to the Keeping of Dogs (as amended). **Copies of the transcripts of submissions are included with the attachments and marked C054/11/02.**

Sustainability Statement:

Additional screen planting to be carried out around the Kennel complex in accordance with Council's Landscape

and Revegetation Policy No 4 and to the satisfaction of Council's Environmental Officer.

Statutory Environment:

If approved, the new licence will be subject to the Dog Act 1976 (as amended) and Council's Local Law relating to the Keeping of Dogs (as amended).

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Community Consultation:

All adjoining and effected landowners and occupiers were advised in writing, details of the application were advertised as required by the relevant Acts.
In total 2 submissions were accepted, one supporting and one objecting to the application, 2 verbal submissions of support were not accepted as the identity of the caller could not be verified, the callers were requested to put their submission in writing.

Voting Requirements:

Normal

CRC054 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Price seconded Cr Simpson it is recommended that the Kennel Licence application be approved subject to the following conditions being completed, implemented and complied with:

1. Compliance with Council's Local Law relating to the Keeping of Dogs (as amended).
2. Compliance with the Dog Act 1976 (as amended).
3. Kennel fencing, enclosures and gates are required to be upgraded and maintained to a standard as to contain all dogs within the property boundary and are to include self closing and locking gates to all kennel accesses and all enclosure fencing is to be at least 1.8 metres in height and secured underground as to ensure dogs are unable to dig their way out.
4. That a maximum of 20 dogs over the age of 3 months may be kept.
5. Screen planting to be carried out around the kennel complex in accordance with Councils Landscape and Revegetation Policy No 4 and to the satisfaction of Council's Environmental Officer on or before 31 October 2003.
6. The existing effluent disposal system is to be checked and maintained on an annual basis prior to Licence renewal each year.
7. The applicant is to supply a routine rodent/vermin control plan to Council.
8. Compliance with relevant noise and pollution provisions contained within the Health Act, Environmental Protection Act, Dog Act and Council Local Law Relating to the Keeping of Dogs (as amended).

Advice Notes:

1. That the applicant be advised in writing that Council may cancel or withdraw the Kennel Licence for failure to comply with the above conditions or any substantial and substantiated breach of the Dog Act 1976 (as amended), Councils Local Law relating to the Keeping of Dogs (as amended) or relevant Health or Environmental Legislation.
2. That annual inspections will be carried out prior to renewal of the Kennel Licence, and whereby the above conditions will be enforced and randomly monitored.

CARRIED 7/3

C055/11/02 VARIATION OF LEASE – MUNDIJONG SALES YARD (LP00091)		
Proponent	Statewide Livestock	In Brief To adjust the lease fee for the lease of the Mundijong Sale Yard to amortise the interest costs of the loan to over the life of the lease.
Officer	G.R. Dougall – Director Corporate Services	
Signatures - Author:		
Senior Officer:		
Date of Report	01/11/02	
Previously	C083/01/02, C084/01/02	
Disclosure of Interest		
Delegation	Council	

Background

In January 2002 Council considered a request from Statewide Livestock to vary the lease charge for the sale yards. In his letter Mr Waddell advised, *“We feel with the experience gained over the past two years of operating the sales it is obvious that under the current lease arrangement the property is not commercially viable. We are aware of the enormous community and recreational benefits to many people involved and are prepared to continue operating the sales if the Shire of Serpentine-Jarrahdale meets an agreement of conditions!”*

- *Statewide Livestock will insure the property for Public Liability*
- *Statewide Livestock services will be responsible for water and electricity usage costs.*
- *Statewide Livestock services have sole right to the premises for a rental of \$200 per calendar month.*
- *The maintenance of amenities being – the canteen, toilets, fencing and water supply will be the responsibility of the Shire of Serpentine-Jarrahdale.*

If these conditions cannot be met, Statewide Livestock Services will cease operation as advised earlier in correspondence to your office on the afternoon of 16th January 2001 (sic).”

At a Special Meeting held on 12th April 1999 Mr Waddell advised he would be prepared to enter into a lease to operate a market if Council purchased the land (Mundijong Sale Yards). Based on the discussion at that meeting a resolution to not purchase the land was carried 5/3.

A second Special Meeting was held on 19th April 1999 where the Chief Executive Officer advised Council that the interest payment on the loan to purchase the land should be covered by the lease. As a result the Ordinary meeting held on 27th April 1999, Council resolved the following in relation to the purchase and subsequent lease of the Sale Yards located on lot 1 Galvin Road, Mundijong:

- “1. *A tender for \$165,000 be submitted and accompanied by 1% payment for the purchase of the ‘Mundijong Sale Yards’ and that the purchase of the property be the subject of a loan.*
2. *That a lease agreement be drawn up with Mr Ross Waddell as the lessee and that the lease agreement contain the following:*
 - *First twelve months lease rental be at \$400 per month.*
 - *Second 12 months rental be at \$700 per month.*
 - *A term of 5 years plus a five year option to review be included.*
 - *A review of the lease agreement be conducted after two years with any new lease figure being not less than \$700 per month.*
 - *Solicitors costs be the responsibility of the lessee.*

Subject to the consideration of the request Council resolved in resolution C084/01/02 to;

The lessee of Lot 1 Galvin Road, Mundijong be granted a reduced fee of \$300 per month for the period January 2002 to June 2002 on the basis that the lessee grant access to the financial records of operating the sale yards. A meeting be held between Council and Statewide Livestock in June 2002 to consider and discuss the terms of any variation to the lease conditions.

Comments

Despite several attempts Mr Waddell has only presented his financial statement for the six month period under review on 30 October 2002. **A copy of the financial statement is included with the attachments and marked C055/11/02.** These figures indicate a profit \$5,895 for the six month period under the \$300 per month lease payment arrangement. Sales are run twice a month on the first and third Wednesday, so the profit per day of sale is \$491. Three of the costs provided by Statewide are annual costs, these being Rates of \$543, Licencing of \$150 and insurance of \$1,745. By applying these costs for a six month period the profit per sale increases to \$593 or \$1,186 per month. The lease payment has been decreased by \$440 per month.

Loan number 79 has an outstanding balance of \$122,216 at 1 July 2002 and a repayment date of 1 April 2009. Repayments are made at \$22,375.24 per year with last year interest costs being \$8,272.37. The remaining year's payments are as follows;

YEAR	INTEREST	PRINCIPAL
2002/03	7,361.20	15,014.04
2003/04	6,391.16	15,984.08
2004/05	5,358.44	17,016.80
2005/06	4,259.01	18,116.23
2006/07	3,088.54	19,286.70
2007/08	1,842.46	20,532.78
2008/09	515.85	16,265.58

The reduced lease payment of \$300 per month will generate \$3,600 in revenue towards the cost of servicing this loan. This will require Council to contribute funds of \$18,775 pa until retirement of the loan.

The lease agreement is due to expire on 30 June 2004, there is an option for a five year extension. If the \$300 payment was to remain a total of \$13,200 income would be forgone for the remainder of the current agreement and \$39,600 in revenue would be forgone if the five year extension is taken up to June 2009 (which would coincide with the life of the loan).

The 2002/2003 budget allows for \$7,000 income from the sale yards in accordance with the lease agreement.

As the intention of the lease was to provide recovery of the interest costs on the loan it is proposed to aggregate the monthly rental by the total interest payable over the remaining life of the loan. This amount is \$28,816.66 over 82 months, or \$350 per month. Whilst this amount does not fully cover the interest cost in the current year, as the interest costs decrease the cost of the loan will be recovered.

Sustainability Statement

The Mundijong markets provides an excellent opportunity for locals to sell their animals or products. It is clear that the markets are not a significant financial operation but does provide a service to the local community that has historical reference.

Statutory Environment: Local Government Act 1995.

- Policy Implications:** No policy implications
- Financial Implications:** Loss in revenue of \$5,280 per annum
- Strategic Implications:** No strategic implications
- Community Consultation:** Not required.
- Voting Requirements:** **ABSOLUTE MAJORITY**

Officer Recommended Resolution

The lease of Lot 1 Galvin Road be granted a reduced lease fee of \$350 per month for the remainder of the lease agreement.

CRC055 COUNCIL DECISION/Committee Recommended Resolution

Moved Cr Simpson seconded Cr Price the lease of Lot 1 Galvin Road be granted at a reduced lease fee to a minimum of \$350 per month subject to:-

1. Council review the lease fee annually.
2. Submission by lessee of a copy of financial statements for annual review.

CARRIED 10/0 ABSOLUTE MAJORITY

Note: The Officer Recommendation was changed to provide an annual review of the lease fee arrangements.

C056/11/02 MAY 2003 ELECTIONS (A0047-02)		
Proponent	WA Electoral Commission	In Brief Appoint the WA Electoral Commissioner responsible for the 2003 biannual elections
Officer	G.R. Dougall – Director Corporate Services	
Signatures - Author:		
Senior Officer:		
Date of Report	04/11/02	
Previously		
Disclosure of Interest		
Delegation	Council	

Background

The Commissioner of the Western Australian Electoral Commission has written to the Shire of Serpentine-Jarrahdale stating that she is prepared to conduct the May 2003 ordinary election on Council's behalf. The Commissioner has recommended that in order for this process to occur Council advise of its intentions as soon as possible.

Comments

Prior to Council being able to declare a postal election the Electoral Commissioner's written agreement to conduct the election must first be sought.

Once this agreement is received, Council can declare that the Commissioner be responsible for the conduct of the election in accordance with section 4.20(4) (special majority required) and decide to conduct the election as a postal election in accordance with section 4.61(2) (special majority required).

There is \$20,000 set aside for the cost of the election in the 2002/03 budget. Provision is for a postal election as has been the case for the last four (4) years. All have been conducted

by the Electoral Commission as the Local Government Act 1995 does not provide for any other party to conduct postal elections. Response of electors has been above the 40% mark and is considered an excellent turnout.

The positions due for election are Crs Richards, Scott, Star, Kirkpatrick and Wigg

<u>Sustainability Statement</u>	Nil
<u>Statutory Environment:</u>	Local Government Act 1995
<u>Policy Implications:</u>	No Policy Implications
<u>Financial Implications:</u>	\$20,000 has been provided in the budget
<u>Strategic Implications:</u>	No Strategic Implications
<u>Community Consultation:</u>	Community Consultation not required
<u>Voting Requirements:</u>	NORMAL

CRC056 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Kirkpatrick seconded Cr Hoyer in accordance with section 4.20(4) of the Local Government Act 1995 the Western Australian Electoral Commissioner be requested to conduct the May 2003 Ordinary Elections.
CARRIED 10/0

C062/11/02 COUNCIL FINANCIAL PLEDGE TO BYFORD COMMUNITY BANK PROJECT (A0562) (A1117)		
Proponent	Chief Executive Officer	In Brief Council to pledge its support to the Byford Community Bank project.
Officer	D.E. Price - Chief Executive Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	08-11-2002	
Previously	SM061/04/02	
Disclosure of Interest		
Delegation	Council	

Background

Council has agreed to provide funding toward a feasibility study into a Bendigo Community Bank in Byford in the 2002-2003 budget. The Bendigo Bank requires that communities intending to establish a community bank must raise approximately \$450,000 in pledged support before a feasibility study should be undertaken.

Comments

The Byford Community Bank steering committee has been actively seeking pledges from within the community for several months and has to date had approximately 350 people pledge \$332,000 in support.

Council has at this stage not made a “pledge of support”, and it is appropriate that Council may like to give this matter consideration.

Advice from Mr Richard Grieve of the Bendigo Bank was requested on if there are any restrictions on Councils pledging support to the establishment of community banks, and has the following response was received by email:

There are no "ground rules". Bendigo Bank are happy for any individual / company / organisation or council to make an investment in a Community Bank. Bendigo Bank would want to see a community "buy in" to the local company. That is, we would want to see say 200+ shareholders (depending on size of community), this would then give us a confidence that there should be a reasonable customer base (from these people at least).

In the past we have had various responses from local councils, in the main very positive and supportive (financially and in other ways). On occasions they have preferred to not be involved, due mainly I think to that fact that other banks have still been in town and they did not want to risk "upsetting" them.

In summary, I think your support would be well received by your local community and, subject to council agreeing, think your indication of financial support should also be used in a press release as this may give confidence to others in your community.

The information provided in **Attachment marked "C062/11/02"** provides further information on what making a "pledge of support" entails.

Effectively, what Council would be doing if they choose to pledge their support to the Bendigo Bank would be purchasing shares in the Byford Community Bank. In this regard Cr Simpson who is a member of the steering group advises the following information, which needs to be considered by Council before any decision is made on this matter.

The shares cannot be sold for 1 year so that isn't long to tie them up although we are not expecting a return on the investment for about 3 years.

Sustainability Statement

Council's pledge for support would provide additional community support to reaching the milestone required to undertake a feasibility study on the viability of a Bendigo Community Bank in the Shire. The feasibility study will attempt, as best it can, to determine if it is feasible and sustainable to establish a Community Bank in Byford.

Statutory Environment: Local Government Act

Policy Implications: Council's Investment Policy

Financial Implications: Pledges are restricted to a maximum of \$10,000. It is proposed that Council's pledge of \$5,000 be funded from the Investment Reserve Account.

Strategic Implications: The introduction of a bank into the community fits within Council Strategic Plan 2001-2005 Key Result Areas of People and Community and Economic Development.

Community Consultation: It is considered appropriate that Council advertises its intention in a local public newspaper for 7 days to pledge support of \$5000 toward the Byford Community Bank project. The decision to proceed with the pledge would be then subject to no adverse reaction from the Community

Voting Requirements: **ABSOLUTE MAJORITY**

Officer Recommended Resolution

Subject to the following, Council agrees to a \$5,000 “pledge of support” from the Investment Reserve fund for the Byford Community Bank project:-

1. Compliance with Council’s Investment Policy.
2. No adverse reaction from the community following Council advertising its intention to pledge financial support for the Community Bank Project.

Committee Recommended Resolution

That subject to the following, Council agrees to a \$10,000 “pledge of support” from the Investment Reserve fund for the Byford Community Bank project:-

1. Compliance with Council’s Investment Policy.
2. No adverse reaction from the community following Council advertising its intention to pledge financial support for the Community Bank Project.

Note: The recommendation was changed as Committee saw the project being beneficial to the community.

CRC062 COUNCIL DECISION

Moved Cr Simpson seconded Cr Price that subject to the following, Council agrees to a \$10,000 “pledge of support” from the Investment Reserve fund for the Byford Community Bank project:-

1. Reference to Council’s Investment Policy.
2. No adverse reaction from the community following Council advertising its intention to pledge financial support for the Community Bank Project.

CARRIED 10/0 ABSOLUTE MAJORITY

Note: The Committee Recommendation was changed to provide the ability for Council to give consideration to Council’s Investment Policy, but not be restricted by the fact that the shares being purchased may not be shares listed on the Australian Stock Exchange.

7.2 Asset Services – 11th November, 2002

COUNCIL DECISION

Moved Cr Kirkpatrick seconded Cr Simpson

That the minutes of the Asset Services Committee Meeting held 11th November, 2002 be received.

CARRIED 10/0

AS022/11/02 QUARRY PARK COMMERCIAL FERRICRETE PRODUCTION ON COUNCIL GRAVEL RESERVE (RS0091)		
Proponent	Quarry Park Pty Ltd	In Brief Quarry Park Pty Ltd requests Council confirmation of the intention that an alternate site to Council Gravel Reserve 26080 Scrivener Road be secured for a commercial lease to Quarry Park for ferricrete production and supply to Council and the market.
Officer	Robert Harris Director Asset Services	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously	T10	
Disclosure of Interest		
Delegation	Council	

Background

In 1995-1996 Council conducted extensive consultations and negotiation with Quarry Park Pty Ltd on the company leasing Council's Scrivener Road gravel reserve to extract ferricrete for the Council's road construction and maintenance needs, and for commercial sale. It was intended Council would receive a commercial return on the lease and have access to its ferricrete needs at cost price. Upgrading of Scrivener Road by Quarry Park Pty Ltd, was also part of the lease agreement. Agreements for the lease proposal were obtained from the Department of Land Administration and the Minister for Local Government. The W.A. Planning Commission had granted consent to the proposed ferricrete extraction under the Metropolitan Regional Planning Scheme.

A number of environmental issues subsequently came to Council's notice and the Department of Conservation and Land Management sought to have the gravel reserve relinquished by the Shire for inclusion in the Serpentine National Park in exchange for an equivalent gravel reserve being provided to the Shire.

Council subsequently agreed to surrender the Scrivener Road reserve subject to the provision of an alternate reserve with equivalent resource to allow Council's needs and commercial objectives to be realized.

Negotiations have been ongoing with Department of Conservation and Land Management and other authorities since that time but have not been successful in Council securing an alternate equivalent gravel source. Negotiations remain ongoing and a substantially smaller site at Admiral Road may be ultimately granted as part of a land exchange. Other potential sites in the southern part of the Shire are being preliminarily assessed for suitability. In the interim ferricrete extraction from the Scrivener Road site has necessarily occurred to meet essential Council road needs.

With the slow and relatively unsuccessful progress toward securing an alternate site (or sites) providing equivalent resource, combined with the changes in Council officer and member representatives since the initial proposal was developed with Quarry Park, they have sought Council confirmation of the intention that Council seeks an alternate gravel source for Scrivener Road which would be the subject of a commercial lease to Quarry Park on terms similar to those initially contemplated at Scrivener Road.

Comments

The proposed agreement between the Council and Quarry Park provided for a ten year lease of Council's gravel reserve, allowing Quarry Park to win road base material for the Shire and other users (eg City of Rockingham, private sector etc) with a return to Council estimated at \$60,000 per annum. The Scrivener Road reserve has a resource estimated equivalent to approximately 90 years of Council needs. A 10 year lease allowing other users access was expected to diminish the resource available to Council by equivalent to approximately an additional 10 years supply (ie 70 years of Council needs would remain available at the lease expiry).

Both the Council and Quarry Park made a substantial investment in time and funds in pursuing the initial proposal which offered worthwhile benefits to both parties. Such a proposal remains meritorious at an appropriate alternate site.

Given the protracted nature of consultation and negotiation with Department of Conservation and Land Management and other authorities in securing an alternate reserve it would be advantageous for Council to have Quarry Park and other potential local governments likely to use the resource join with Council and become involved in negotiations.

Sustainability Statement

The use of crushed ferricrete from the escarpment area adjacent to the sites for use as road base for Shire roadworks provides a suitable material at low cost with relatively low environmental impact in extraction, crushing, hauling and placement in comparison with alternate road base materials available.

The establishment of a single medium scale quarrying operation on a Council reserve leased to Quarry Park is expected to deliver economic, social and environmental benefits to users in contrast to operations from multiple small scale sites.

The securing of an alternate site to Scrivener Road remains required to address social and environmental concerns at the continued use of the Scrivener Road site.

Statutory Environment:

Local Government Act 1995.

If Council proposes to enter into a lease on a future site with Quarry Park Pty Ltd the provisions of section 3.58 and 3.59 of the Act relating to "Disposing of Property" and "Commercial Enterprises by Local Governments" would be invoked requiring due process in accordance with the provisions set out.

Policy Implications:

Nil.

Financial Implications:

Potential benefits in road base supply costs for Council Works.

Strategic Implications:

Advantageous access to road base for medium term Council needs.

Community Consultation:

An identified potential reserve to replace Scrivener Road shall be subject to public consultation in accordance with Council policy and statutory requirements.

Voting Requirements:

Normal

CRAS022 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Richards seconded Cr Kirkpatrick Council affirms its in-principle support for an agreement with Quarry Park Pty Ltd for the securing of an alternate Shire Gravel Reserve to replace Reserve 26080 as a site for a commercial and Council ferricrete extraction joint operation.
LOST 2/8

7.3 Community & Recreation Development Meeting – 11th November, 2002

COUNCIL DECISION

Moved Cr Murphy seconded Cr Wigg
That the minutes of the Community & Recreation Development Committee Meeting held 11th November, 2002 be received.
CARRIED 10/0

CRD06/11/02 INFORMATION REPORT		<u>In Brief</u> <i>Information Report</i>
Proponent		
Officer	Carole McKee - Community Development Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	01.11.02	
Previously		
Disclosure of Interest		
Delegation	Council	

CRD06.1/11/02 YOUTH SURVEYS (A0164-02)

As part of his project brief, Youth Liaison Officer John Stewart is currently preparing youth surveys to ascertain base line information regarding youth facilities, activities and participation, as well as youth safety and security. The same survey will then be repeated towards the end of the 12 month project to ascertain whether targets have been met. The survey process also aims to raise awareness of what is available, as well as gathering contact details of youth in the area.

CRD06.2/11/02 YMCA MOBILE YOUTH SERVICE (A1140/01)

The YMCA Mobile Youth Service provided eight sessions of recreational activities to the Shire during the October school vacation. Two sessions, one in each week of the holiday period, were conducted in each of the following localities – Byford, Mundijong, Serpentine and Jarrahdale. Total attendances were 177 for the eight sessions with under 12's accounting for 41 participants, 12 - 14 had 53 attendances and 15 - 17 provided 16 participants. Gender breakdown was 87 males and 33 females. Attendances increased in all centres during the second session at all centres.

Jo, the YMCA bus co-ordinator, reported positive participation at all centres. She was particularly pleased with parent involvement at the second Mundijong session so we will work to build on parent participation during the next holiday visits. Participants at all centres indicated they would like large bike ramps installed in their localities to match interest and skill levels. Byford participants suggested Briggs Park as an alternative venue for the next visits; Jarrahdale participants raised the issue of their skate park loss; and both Serpentine and Jarrahdale participants expressed concerns over the recent mantrap scares.

Overall, the Mobile Youth Service's first visit was successful. The next visit will be promoted throughout the community prior to the end of the 2002 school year and in the lead up to the end of January sessions to encourage ongoing participation.

YMCA reports for each locality are with the attachments marked CRD6.2/11/02.1-4.

CRD06.3/11/02 ARMADALE HOME HELP SERVICE (A0173)

Reports from Armadale Home Help Service and Councillor Joan Scott are with the attachments marked CRD6.3/11/02.1-2.

CRD06.4/11/02 APPRECIATE ENQUIRY SEMINAR (A1122)

This was the second of the WA Centre for Leadership and Community Development Empowering Communities Seminar Series, and was attended on 18 September 2002 by Councillors Murphy and Scott and the Community Development Officer.

A summary report of the Appreciative Enquiry Seminar prepared by Councillor Scott is with the attachments marked CRD06.4/11/02.

CRD06.5/11/02 LOTTERIES COMMISSION FUNDING FOR CULTURAL HERITAGE GRANTS (A0094)

Information on the Lotteries Commission Funding for Cultural Heritage Grants is with the attachments marked CRD6.5/11/02.

CRD06.6/11/02 NIGHT NETBALL (RS0006)

A letter received from Serpentine Night Netball Association regarding its closure is with the attachments marked CRD06.6/11/02.

CRD06.7/11/02 CRIME PREVENTION IN WA PARTNERSHIP AGREEMENT & REVIEW (A0101)

The New Structures for Crime Prevention in WA Partnership Agreement and a Report of the Review of the Structure for Crime Prevention in WA are with the attachments marked CRD06.7/11/02.1-2.

Officer Recommended Resolution

That Council accepts the October 2002 Information Report.

CRCRD06 COUNCIL DECISION/Committee Recommended Resolution

Moved Cr Simpson seconded Cr Scott

- 1 That Council accepts the October 2002 Information Report.
- 2 That the possibility of booking Council's leased bus ahead of time for the two days a week that the Armadale Home Help Service needs it, be investigated.

CARRIED 10/0

Note: The Officer Recommended Resolution was changed to reflect Councillors' wish that the Armadale Home Help Service should be supported in their delivery of service within the Shire.

7.4 Strategic Management Committee Meeting – 18th November, 2002

COUNCIL DECISION

Moved Cr Hoyer seconded Cr Price

That the minutes of the Strategic Management Committee Meeting held 18th November, 2002 be received.

CARRIED 10/0

SM024/11/02 AUDIT REPORT 2001/2002 (A0001)		In Brief
Proponent	Grant Thornton	
Officer	G R Dougall – Director Corporate Services	To receive and note the Audit Report provided by Grant Thornton and include the report in the 2001/2002 Annual Report.
Signatures - Author:		
Senior Officer:		
Date of Report	11/11/02	
Previously	SM020/10/02	
Disclosure of Interest		
Delegation	Council	

Background

Section 5.54 of the Local Government Act 1995 requires the audit report to be included in the Annual Report each year. This year is the first such report since the appointment of Grant Thornton as Council's auditors for a period of 5 years.

Comments

The audit report was signed on Friday 8 November 2002, and has been forwarded to Council.

Mr Cyrus Patell will be in attendance at the meeting to discuss the audit with the Committee in accordance with the contract of audit. This will be an opportunity to discuss issues relating to the conduct of the audit for councillors.

The Audit Report and Financial Statements are with the attachments marked SM024.1/11/02.

Statutory Environment: Local Government Act 1995

Policy Implications: No policy implications

Financial Implications: No financial implications

Strategic Implications: No strategic implications

Community Consultation: Will be undertaken through the Annual Electors meeting to be held on Wednesday 4 December 2002.

Voting Requirements: Normal

A copy of the Audit report which was not included in the attachments was circulated. The scheduled delegation was unavailable to attend.

SM024 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Simpson, seconded Cr Price that the Audit Report for the period ending 30 June 2002, provided by Grant Thornton be received and noted.
CARRIED 10/0

SM025/11/02 INFORMATION REPORT		
Proponent	Chief Executive Officer	In Brief Information Report.
Officer	D.E Price – Chief Executive Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	8 November 2002	
Previously		
Disclosure of Interest		
Delegation	Council	

SM025.1/11/02 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION – PEEL ZONE MEETING MINUTES (A0163-06)

The minutes of the Peel Zone Meeting held on 23rd September 2002 are with the attachments marked SM025.1/11/02.

SM025.2/11/02 WESTERN AUSTRALIA LOCAL GOVERNMENT ASSOCIATION – STATE COUNCIL MEETING MINUTES (A0163-06)

The Summary Minutes of the State Council Meeting held on 7th August 2002 are with the attachments marked SM025.2/11/02.

SM025.3/11/02 PEEL ECONOMIC DEVELOPMENT UNIT (A0839-06)

The Minutes of the Peel Economic Development Meeting held on 12th September 2002 are with the attachments marked SM025.3/11/02.

SM025.4/11/02 LETTER FROM MINISTER FOR STATE DEVELOPMENT REGARDING COUNCIL'S POSITION ON SAND MINING (A0561-02)

In the attachments marked SM025.4/11/02 is a response to Council's letter dated 29th August 2002 to the Premier advising him of Council's position in relation to sand mining in the Shire.

SM025.5/11/02 WESTERN AUSTRALIA POLICE SERVICE 2002 ANNUAL REPORT (A0115)

The WA Police Service 2002 Annual Report is located in the Councillors Lounge Library. The report provides a whole-of-agency overview of the achievements of the Police Service during the year.

SM025.6/11/02 CITY OF SOUTH PERTH ANNUAL REPORT 2001-2002 (A0943)

The Annual Report for the City of South Perth is located in the Councillors Lounge Library.

SM025.7/11/02 COMMON SEAL REGISTER REPORT – OCTOBER, 2002 (A1128)

The Common Seal Register Report for the month of October 2002 as per Council Policy CSP30 Use of Shire of Serpentine Jarrahdale Common Seal is with the attachments marked SM025.7/11/02.

SM025.8/11/02 SUBMISSION TO INQUIRY INTO LOCAL GOVERNMENT BY THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS, FINANCE & PUBLIC ADMINISTRATION (A0163-06)

The submission by the Commonwealth Department of Transport & Regional Services to the House of Representatives Inquiry into Cost Shifting and Local Government is located in the Councillors Lounge Library.

SM025.9/11/02 PEEL BUSINESS ENTERPRISE CENTRE – TENTH ANNUAL REPORT (A0109-02)

The Peel Business Enterprise Centre's Annual Report for 2001-2002 contains statistics that indicate a substantial growth in new business across the Peel Region. The 10th Annual Report is located in the Councillors Lounge Library.

SM025.10/11/02 FORWARD FINANCIAL PLAN REVIEW – PLAN OF PRINCIPAL ACTIVITIES 2002-2007 (A0119/01)

Section 5.56 of the Local Government Act 1995 requires that each financial year a local government is to prepare a plan for the next four or more financial years. The plan is to contain details of:

- The principal activities that are proposed to be commenced or to be continued in each financial year effected by the plan,
- The objectives of each principal activity,
- The estimated cost of, and proposed means of funding, each principal activity,
- How the local government proposes to assess its performance in relation to each principal activity, and
- The estimated income and expenditure for each financial year affected by the plan.

The intention of the Act is for the plan to be adopted prior to the adoption of the annual budget.

The Forward Financial Plan for the Shire of Serpentine Jarrahdale is developed as a five year budget over the past two years. It has provided an indication of what resources are needed to fund both capital and operating requirements over the next five years.

A copy of the current Plan 2002-2007 is with the attachments marked SM025.10/11/02.

It is requested that Councillors now review this Plan and forward any suggestions for the final year, or amendments to the existing document. Any amendments to the existing document will also need to provide what current project may be changed to allow for the amendment. It would be appreciated if any comments could be forwarded to the Director Corporate Services by 20 December 2002. All information will then be forwarded to the relevant Director for costing before being placed into the draft Plan 2003-2008. This draft will then be presented to Council for consideration prior to advertising for public comment.

CRSM025 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Scott seconded Cr Richards that the Information Report to 13 November 2002 be received.

CARRIED 10/0

SM026/11/02 MUNDIJONG PRIMARY SCHOOL STAFFING LEVELS (P03122)		
Proponent	Mundijong Primary School	In Brief Councillor Price, Council's representative on the Mundijong Primary School Council has requested via General Business Council support by requesting a letter be forwarded to the Minister for Education; Sport and Recreation; Indigenous Affairs seeking additional staffing support at the Mundijong Primary School.
Officer	D.E Price – Chief Executive Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	18 November 2002	
Previously		
Disclosure of Interest		
Delegation	Council	

CRSM026 COUNCIL DECISION/Committee Recommended Resolution

Moved Cr Price seconded Cr Kirkpatrick
Council writes to the Minister for Education; Sport and Recreation; Indigenous Affairs seeking that he urgently address the formula for staffing levels at the Mundijong Primary School to enable extra children to be accommodated in the Kindergarten in 2003.
CARRIED 10/0

7.5 Planning Development & Environment Meeting – 18th November, 2002

COUNCIL DECISION

Moved Cr Murphy seconded Cr Hoyer
That the minutes of the Planning Development & Environment Committee Meeting held 18th November, 2002 be received.
CARRIED 10/0

BUILDING

B12/11/02 PROPOSED NEW BUILDING POLICY BP9 – INSPECTION OF BUILDINGS UNDER CONSTRUCTION (A0582, A1048/02)		
Proponent	A Watson – Director Sustainable Development	In Brief To adopt a new Council Policy in relation to inspection of buildings under construction
Officer	A Watson - Director Sustainable Development	
Signatures – Author:		
Senior Officer:		
Date of Report	01.11.02	
Previously	SM023/10/02	
Disclosure of Interest		
Delegation	Council	

Background

At its meeting of 28th October 2002 Council considered a report on Resourcing Requirements and Review of Workflow Distribution (SM023/10/02).

As part of the commitment to review workflow and process, a working group consisting of the Director Sustainable Development, Manager Sustainable Development, Principal Building Surveyor, Environmental Health Officer and Building/Health Support Officer has met on a number of occasions to test the veracity of workflow and procedures.

One area of work that is discretionary and resource hungry is that of inspection of buildings under construction.

Comments

In order to meet Council's expectations for improvement of building licence approval times, work practices need to be reviewed with a view to eliminating areas where no statutory obligation exists to provide a service and/or over-servicing. The inspection of building sites during construction is one area that has been identified for review.

The *Local Government (Miscellaneous Provisions) Act 1960* gives power to a Building Surveyor to, at reasonable times, enter into land or buildings (whether completed or not) for the purposes of the Act. The Act does not specify when or how often inspections should be carried out.

Current practice is that all major buildings and all new residential buildings are inspected prior to pouring of footings and at other times during construction. In terms of number of inspections, there were 137 building licence approvals for new dwellings last financial year and 44 in the current year to date.

A limited survey of inspection practices by surrounding Councils revealed none with an inspection regime as extensive as that practiced in Serpentine-Jarrahdale. Level of service ranged from none to full inspection. The variability of soil conditions has always been considered justification for extensive inspection regime, however, all building sites are classified by a structural engineer as part of preparation of a building licence application.

It should be noted that where Council does carry out a footing inspection it would, in the case of footing failure, be exposed to liability that would not arise where an inspection was not carried out.

It is proposed that major rural and commercial buildings would still be inspected at footing stage and other stages of construction as well as residential buildings being constructed by owner builders. Residential buildings being constructed by licensed builders will no longer be inspected.

Proposed Building Policy – BP 9 – Inspection of Buildings Under Construction appears as part of the Officer Recommended Resolution.

Sustainability Statement

- *Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?*

Not applicable.

- *Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?*

The proposed new policy is designed to reduce unnecessary and costly participation of Council staff in the building construction process while still providing an inspection service where required or on more complex projects.

- *Does the proposal/issue use locally available or produced resources?*

Not applicable.

- *Will the proposal/issue be economically viable in a way that incorporates its external costs?*

The proposal reduces the cost to the community of providing building inspection services. These are not currently part of building licence application fees and effectively subsidised from general revenue.

- *Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?*

Not applicable.

- *Does the proposal/issue disadvantage any social groups?*

Assistance is still available on an as need basis or where the building surveyor considers there exists a need to inspect a site in the exercise of his duties under the *Local Government (Miscellaneous Provisions) Act 1960*.

- *Does the proposal/issue create long-term employment or economic benefit to current and future residents of the shire?*

The proposal reduces the cost to the community of providing building inspection services. These are not currently part of building licence application fees and effectively subsidised from general revenue.

Statutory Environment: Local Government Act 1995 (as amended)
Local Government (Miscellaneous Provisions) Act 1960

Policy Implications: Proposed new Council Policy

Financial Implications: The proposal aims to streamline the delivery of building approval services by removing unnecessary work from work procedures

Strategic Implications: This proposal to adopt a new Policy on inspection of buildings under construction relates to Strategy 1.6 of Key Result Area People & Community and Strategy 3.5 of Key Result Area Economic Development in Council's Strategic Plan which are:
1.6 Implement the "People in Partnership" Organisational/Staff Development Program
3.5 Support the development of an Enterprise Culture

Community Consultation: Not applicable

Voting Requirements: Normal

CRB12 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Needham seconded Cr Richards that Council adopts policy BP9 – Inspection of Buildings Under Construction as follows:

BP9 INSPECTION OF BUILDINGS UNDER CONSTRUCTION

Original Date Adopted	(To Be Inserted)
Last Modified	Not applicable
Last Reviewed	Not applicable

Objectives

The objectives of this policy are:

To provide building inspection services on an as needs basis.
To reduce unnecessary duplication in the building construction process.
To make the best use of Council's human resources
To balance Council's responsibility to ensure good governance and potential exposure to liability.

Background

The *Local Government (Miscellaneous Provisions) Act 1960* gives power to a Building Surveyor to, at reasonable times, enter into land or buildings (whether completed or not) for the purposes of the Act. The Act does not specify when or how often inspections should be carried out.

Policy Statement

Inspection of building sites will be carried out in response to enquiries or complaints in relation to building activities which may not be lawful or in compliance with the *Local Government (Miscellaneous Provisions) Act 1960*, the Building Regulations, the Building Code of Australia or the Residential Planning Codes.

Inspection of new residential buildings will be carried out where the builder is an owner-builder.

Inspection of building sites may be carried out on a random basis by the Principal Building Surveyor.

CARRIED 10/0

B13/11/02 UNFENCED SWIMMING POOL – LOT 250 (#31) FISHER ROAD, SERPENTINE (P02745)		
Proponent	Shire of Serpentine-Jarrahdale	<u>In Brief</u>
Officer	W Chant - Principal Building Surveyor	Council is requested to consider commencing legal proceedings against the owner of Lot 250 Fisher Road for not providing a safety enclosure around a swimming pool installed on the property. It is recommended that the Chief Executive Officer be granted delegation to commence legal proceedings against the owner of this site and others for non-compliant swimming pool safety enclosures
Signatures - Author:		
Senior Officer:		
Date of Report	08.11.02	
Previously	N/A	
Disclosure of Interest		
Delegation	Council	

Owner: RJ Kelly
Owner's Address: PO Box 37, Serpentine
Lot Area: 27.6053ha
LA Zoning: Rural
MRS Zoning: Rural
Townscape/Heritage Precinct: N/A
Date of Inspection: 28.10.02

Background

The following chronological list of events is provided for Council's information:

31/01/01 Site inspection conducted by swimming pool inspector to determine compliance with Part 10 of the Building Regulations 1989. No fence was

	installed around the pool and inspection was left requesting a safety enclosure be installed within 21 days.
21/09/01	Site inspection conducted by Senior Building Surveyor to inspect swimming pool enclosure. No fence installed.
02/01/02	A further site inspection conducted by Relief Building Surveyor, still no fence installed. The site caretaker advised that quotes had been obtained for isolation fencing and the fence would be installed at the end of January.
09/08/02	Site inspection by Principal Building Surveyor. No fence installed. Approached owner who advised that pool would either be fenced or removed within the month.
27/09/02	Site inspection by Principal Building Surveyor confirmed no change.
14/10/02	Inspection Report 1261 issued requiring a safety enclosure to be installed by 23/10/02.
28/10/02	Site inspection undertaken by Principal Building Surveyor. No fence installed. Spoke with site caretaker who again advised that quotes for fencing had been received.

The owner of Lot 250 has been contacted on several occasions over the preceding 22 months and to date the swimming pool remains unfenced.

Whilst it is recognised that the pool is on a large farming property adjacent to the Dirk Brook and surrounded by 10 acres of landscaped gardens, the swimming pool is still required to be fenced in accordance with Section 245A of the Local Government (Miscellaneous Provisions) Act 1960 and Part 10 of the Building Regulations 1989.

Comments

The Principal Building Surveyor has discussed the matter with Council's Solicitors and their advice has been to initiate legal proceedings. No delegation currently exists for the Principal Building Surveyor to undertake this course of action. It is therefore recommended that the Chief Executive Officer be granted delegation to commence legal proceedings against the owner of Lot 250 Fisher Road for a non-compliant swimming pool enclosure. It is further recommended that a general delegation be granted to the Chief Executive Officer to enable the commencement of legal proceedings in similar cases in the future without the need for a prior report to Council.

Sustainability Statement

Not applicable

Statutory Environment: Local Government (Miscellaneous Provisions) Act 1960
Section 245A and the Building Regulations 1989 Part 10

Policy Implications: Council has no policy on prosecution for non-compliance with swimming pool enclosure requirements

Financial Implications: Unbudgeted legal costs

Strategic Implications: N/A

Community Consultation: N/A

Voting Requirements: **ABSOLUTE MAJORITY**

CRB13 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Price seconded Cr Scott that Council resolves to:

- 1 Grant delegated authority to the Chief Executive Officer to initiate legal proceedings against the owner of Lot 250 Fisher Road, Serpentine for a non-compliant swimming pool enclosure.
- 2 Grant delegated authority to the Chief Executive Officer to initiate legal proceedings against owners of properties with non-compliant swimming pool enclosures without the need for a prior report to Council.

CARRIED 10/0 ABSOLUTE MAJORITY

HEALTH

H05/11/02 INFORMATION REPORT		In Brief Information report
Proponent	N/A	
Officer	Joanne Abbiss	
Signatures - Author:		
Senior Officer:		
Date of Report	08.11.02	
Previously		
Disclosure of Interest		
Delegation	Council	

H05.1/11/02 DELEGATED AUTHORITY – OCTOBER 2002 (A0039-02)

CS1 – Section 26 (effluent approvals)

Lot 349 Old Dairy Court, Oakford
 Lot 210 Waterside Pass, Byford
 Lot 20 Lakeman Place, Cardup
 Lot 75 Paterson Street, Mundijong
 Lot 2 Bate Road, Serpentine
 Lot 9 Summerfield Road, Serpentine
 Lot 202 Blair Road, Oakford
 Lot 239 Abernethy Road, Byford
 Lot 4 Tranby Avenue, Serpentine
 Lot 212 Butter Gum Close, Serpentine
 Lot 15 Lefroy Street, Serpentine
 Lot 707 Wallace Street, Mundijong
 Lot 258 Warburton Court, Byford
 Lot 11 Tranby Avenue, Serpentine
 Lot 75 Marginata Parade, Jarrahdale
 Lot 502 Barip Place, Oakford
 Lot 68 Comic Court Circuit, Darling Downs
 Lot 252 Pethick Close, Byford

CS1 – Section 26 (permit to use apparatus)

Lot 559 Meadows Way, Oakford
 Lot 73 Alice Road, Cardup
 Lot 42 Bevis Court, Byford
 Lot 59 Hall Road, Serpentine
 Lot 30 Rowley Road, Darling Downs
 Lot 28 Kowin Court, Cardup

Lot 561 Cunningham Drive, Oakford
Lot 255 Pethick Close, Byford
Lot 886 Beenyup Road, Byford
Lot 322 Fieldview Chase, Oakford
Lot 224 Lazenby drive, Byford
Lot 127 Eileen Avenue, Whitby
Lot 17 Blair Road, Oakford
Lot 107 Hopkinson Road, Oakford
Lot 50 Rowley Road, Darling Downs
Lot 218 Lazenby Drive, Byford
Lot 565 Cunningham Drive, Oakford
Lot 254 Pethick Close, Byford
Lot 26 Gibson Top, Oakford
CS5 – Health Orders

Section 99 Sanitary Convenience
Section 135 House unfit

CRH05 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Wigg seconded Cr Richards that Council accepts the information report for October 2002.
CARRIED 10/0

P175/11/02 PROPOSED ALTERATIONS/ADDITIONS TO EXISTING KENNELS – LOT 64 CHATFIELD ROAD, SERPENTINE (P01654/01)		
Proponent	C & K Scott	In Brief For Council to consider an application to carry out alterations and additions to an existing kennel establishment at Lot 64 Chatfield Road, Serpentine. It is recommended that the proposal be conditionally approved.
Officer	David Spencer – Senior Planner	
Signatures - Author:		
Senior Officer:		
Date of Report	15 October 2002	
Previously		
Disclosure of Interest		
Delegation	Council	

Owner: F Nicholson
 Owner's Address: Lot 64 (20) Chatfield Road, Serpentine
 Applicant: C & K Scott
 Applicant's Address: Lot 828 Utley Road, Serpentine
 Date of Receipt: 2 September 2002
 Advertised: Yes. Surrounding landowners
 Submissions: Yes. Three (3) submissions received of which all objected to proposal
 Lot Area: 3.65 hectares
 L.A Zoning: Rural
 MRS Zoning: Rural
 Byford Structure Plan: Not applicable
 Rural Strategy Policy Area: Agricultural Protection
 Rural Strategy Overlay: Landscape Protection Policy Area
 Municipal Inventory: Not applicable
 Townscape/
 Heritage Precinct: Not applicable
 Bush Forever: Not applicable
 Date of Inspection: 15 October 2002

Background

Council is in receipt of an application to carry out alterations and additions to an existing dog kennel operation to house 20 dogs at the above property.

It should be noted that the intent and use of the subject land would remain unchanged as a result of this proposal. Essentially, the number of dogs to be kept on the property will be reduced from 50 to 20 dogs.

This application should be considered in conjunction with a separate report to the Corporate Services Committee on Kennel Establishment Application – 20 Chatfield Road, Serpentine which addresses the issue of a kennel licence application to keep 20 dogs.

The applicant has submitted a justification letter, a site plan depicting the existing development, as well as, a proposed site plan for the new 20 dog kennel operation: The applicant provides the following information in support of the proposal:

“We are the proprietors of Zanando Kennels situated on Lot 828 Utley Road, Serpentine. We currently hold a breeding licence for 15 dogs. We have held a breeding licence for thirty years, the last twelve have been held in this Shire.

... We wish to clarify that it is not our intention to maintain the licence for a fifty dog boarding kennel, or the boarding kennel business. We intend only to conduct our present business as a fifteen dog breeding kennel. The existing infrastructure on Lot 64 will be decommissioned and infrastructure constructed as per the attached plans. The property will be further developed as per local government environmental legislation relevant to the management of a breeding kennel.”

It should be noted that subsequent to discussions held between Council Officers and the applicant, approval for the keeping of 20 dogs instead of 15 is now sought. This is to take into account the keeping of puppies up to three (3) months old.

Existing Kennel Establishment

According to the owner/occupier of the subject land, the property has held a 50 dog licence since about 1976 in the name of “Czarzif” Kennels. Due to ill health, the owner is unable to operate the existing boarding kennels and is therefore required to sell the property.

The applicant currently has a kennel business elsewhere in the Shire and intends to relocate this venture to Lot 64. There is proposed to be a reduction in the number of dogs housed on the premises from 50 dogs to 20 dogs. Further, a check of Council’s records indicates that complaints have been received in recent years from nearby residents in relation to dog barking from the subject site. It should be noted that the breed or type of dog is not a determining factor in consideration of the proposal by Council.

Comments

Site and Surrounding Land use Description

Lot 64 is a ‘Rural’ property which has dual vehicular access from Chatfield Road (currently unconstructed) and via the battle-axe access leg extending from South Western Highway. The site has a total lot area of 3.65 hectares and currently contains an existing residence, outbuildings and a dog kennel establishment catering for up to 50 dogs. All abutting properties are also zoned ‘Rural’.

The subject site is well screened from view of South Western Highway and nearby residences. The closest dwellings to the proposed kennels are considered to be located on Lots 64 and 65 directly to the west and south, respectively.

Serpentine townsite which comprises various commercial, retail, community and recreational facilities is situated approximately one (1) kilometre due north-west of Lot 64.

Development Proposal

The applicant proposes to operate a kennel establishment for 20 dogs. Lot 64 currently has a licence to operate a 50 dog establishment, however the current residents are vacating the property and therefore the future prospective purchasers are applying for extensions and alterations to the site, as well as reducing the number of dogs on the premises by 30 dogs.

The applicant has submitted two (2) site plans with the application. The proposed kennels and residence plan depicts the proposed construction of ten (10) dog kennel quarters, with four (4) of these set aside for puppies.

A future proposed residence is also highlighted on the site plan being 10 metres away from the dog kennels.

The dog kennels are proposed to be 40m x 8m in area with the puppies being half the size at 20m x 8m. The kennels are proposed to be set back 35 metres from the northern property boundary, 75 metres from the eastern boundary, 40 metres from the southern boundary and approximately 94 metres from the western boundary fence.

Site Zoning Description

The subject property is zoned 'Rural' under the provisions of TPS 2. The land use activity of 'Kennels' is classified as an "SA" use within the zoning table of TPS 2. Kennels under the Scheme is defined as:

"... land and buildings used for the keeping or breeding of dogs or cats where such premises are registered or required to be registered."

It should be noted that Council's Ranger Services have received an application from the applicant for a new 20 dog kennel licence on the subject property. This proposal is being presented to the November 2002 Ordinary Council Meeting. Notwithstanding this, they are considered to be separate and distinct applications.

The purpose and intent of the 'Rural' Zone as identified in the TPS 2 is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme area.

Clause 5.10.2 of the Scheme states the following in regards to assessing Kennel applications in the Rural Zone:

"Where the Council grants approval to a Kennels use, the following provisions shall apply:

- a) The approval shall be personal to the applicant and shall not be transferred to or assigned to by any other person;*
- b) The approval shall not run with the land in respect of which it was granted;*
- c) The person to whom approval is given by the Council to carry on Kennels use shall not carry on that use at any premises other than the land in respect of which the Council's approval is granted; and*
- d) If a kennel use has been carried on with the approval of the Council and if in the opinion of the Council such use is causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood, the Council may withdraw its approval and after such withdrawal, no person shall upon the subject land carry on a kennel use unless a further approval to do so is granted by the Council."*

In view of the above, it is considered that items a), b) & c) are appropriate for inclusion as conditions, with item d) forming an advice note to the approval.

Environmental Protection Authority (EPA) Draft Policy No. 3

The Environmental Protection Authority Draft Policy No. 3 – “Policies, Guidelines and Criteria for Environmental Impact Assessment. Industrial – Residential Buffer Areas (Separation Distances)” states that a recommended buffer for kennels is 500m. There are a total of three (3) residences located within 200 metres of the subject property. Despite this, there is a substantial degree of mature vegetation located on the site as well as existing vegetation located within Chatfield Road reserve, which would assist in minimising the degree of noise emanating from the kennels.

Although a proposal such as this would be more suitable for a larger size ‘Rural’ property where the recommended EPA buffer distance for kennels could be achieved, it is considered that the proposal complies with the requirements of Dog Act 1976 (as amended) and with Council’s Local Law Relating to Dogs. Additionally, the subject land has held a licence to keep a maximum of 50 dogs for approximately 25 years. The proposal seeks approval to have only 20 dogs.

Public Consultation

The proposal was advertised to surrounding and nearby landowners for a period of 21 days. At the conclusion of the advertising period three (3) submissions were received (refer to submissions table). All submissions stated that there were concerns and objections raised in relation to the proposal. These included some of the following:

- Excessive noise from barking dogs.
- This area is not zoned for kennels.
- Dogs not been properly contained within the confines of the property.
- Property not large enough to house a kennel establishment.
- Depreciation of land values.
- Smell emanating from property

All the above issues are comprehensively addressed in the submissions table which is with the attachments marked P175.1/11/02.

Conclusion

The Shire of Serpentine-Jarrahdale does not have a designated Kennel zone. The Rural zone is the only zone where ‘Kennels’ may be approved at Council’s discretion.

It is considered that the proposed development will not have a detrimental or negative impact upon the amenity and landowners residing within the locality. The property has previously held a licence to keep 50 dogs on the premises since 1976.

There were objections received during the advertising period, however it is considered that concerns raised may be addressed via the placement of appropriate planning conditions.

In view of the above rationale, it is recommended that the proposal to undertake additions and alterations to the existing kennel establishment, to cater for 20 dogs at Lot 64 Chatfield Road, Serpentine, be approved subject to conditions.

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

The proposal is to reduce the number of dogs licenced on the property from 50 dogs to 20 dogs. The scale of the proposed operations is therefore smaller in nature than the present establishment.

Further, recommended conditions of approval will ensure that any possible environmental damage is minimised as a result of the proposed development.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

The development proposal seeks to upgrade and redevelop the existing infrastructure on-site. There will therefore be inherent benefits to local residents in terms of improved practices in terms of containing smell, odour, noise, etc.

Does the proposal/issue use locally available or produced resources?

It is uncertain whether that in the proposed construction of the kennels, locally available or produced resources will be used.

Will the proposal/issue be economically viable in a way that incorporates its external costs?

It is considered that the proposed development if approved will be economically viable that incorporates its external costs.

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

The proposal was referred to adjoining landowners inviting comment. Residents expressed issues of concern during the advertising period. These are addressed within the Schedule of Submissions table.

Does the proposal/issue disadvantage any social groups?

Concerns have been raised by abutting and nearby residents in relation to the proposal. Complaints have been received from surrounding landowners in the past in regards to dog barking.

Does the proposal/issue create long term employment or economic benefit to current and future residents of the shire?

The proposed development will provide the prospective landowners of the kennel property with a secure on-going form of financial benefit.

Statutory Environment: Town Planning and Development Act 1928 (as amended)
Town Planning Scheme No. 2

Policy Implications: Shire's Local Law – Regulation of Dog Kennels
EPA Draft Policy Industrial – Residential Buffer Areas (Separation Distances)

Financial Implications: There are no direct financial implications to Council arising from this proposal.

Strategic Implications: Strategy 2.1 of Council's Strategic Plan (2001-2005) is pertinent to the proposal:

“Encourage best practice environmental management”

Community Consultation: Proposal advertised to potential affected landowners for comment. Three (3) submissions received.

Voting Requirements: Normal

Committee/Officer Recommended Resolution

Council approves the application dated 2 September 2002 to undertake alterations and additions to the existing kennel establishment in order to accommodate 20 dogs at Lot 64 Chatfield Road, Serpentine, be approved subject to the following conditions:

1. Screen planting to be undertaken within the boundaries of the property (excluding the battle-axe access leg), in accordance with Council's Landscape and Revegetation Policy No. 3. The screen planting to be implemented and established by 31 October 2003 and from thereon be suitably maintained to the satisfaction of Council.
2. Applicant to submit a Waste Management Plan for approval by Council prior to commencement or construction of the kennels.
3. Shade-cloth shall be installed as a temporary measure in order to achieve screening of the proposed development from view of adjoining properties until the vegetation buffer has been established.
4. All property boundary fences are to be installed prior to construction of the new kennels in order to contain dogs within the boundaries of the property.
5. The approval shall be personal to the applicant and shall not be transferred to or assigned to by any other person.
6. The approval shall not run with the land in respect of which it was granted.
7. The person to whom approval is given by the Council to carry on Kennels use shall not carry on that use at any premises other than the land in respect of which the Council's approval is granted.
8. The existing kennel buildings are to be decommissioned and removed from the premises prior to use of the new kennels.

Advice Notes:

1. Relative to Condition 2 above, the applicant is advised to liaise with Council's Environmental Health Officer in regards to the information required for lodgement of the Waste Management Plan.
2. Compliance with the provisions of the Dog Act 1976 (as amended).
3. Compliance with Council's Local Law Relating to Dogs.
4. In accordance with Clause 5.10.2 of Town Planning Scheme No., Council may cancel or withdraw the Kennel Establishment licence for failure to comply with the above conditions of approval or substantial breach of the Dog Act 1976 (as amended).
5. If a kennel use has been carried on with the approval of the Council and if in the opinion of the Council such use is causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood, the Council may withdraw its approval and after such withdrawal, no person shall upon the subject land carry on a kennel use unless a further approval to do so is granted by the Council.
6. The development is to comply with the Environmental Protection (Noise) Regulations 1997.

ALTERNATIVE MOTION

Moved Cr Murphy seconded Cr Needham

Council refuses the application dated 2 September 2002 to undertake alterations and additions to the existing kennel establishment in order to accommodate 20 dogs at Lot 64 Chatfield Road, Serpentine for the following reasons:

- Size of property

- Number of complaints received
- Lack of buffer distance
- Precedent it sets with the increasing pressure as kennels move from the metropolitan area

LOST 3/7

CRP175 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Price seconded Cr Krikpatrick that Council approves the application dated 2 September 2002 to undertake alterations and additions to the existing kennel establishment in order to accommodate 20 dogs at Lot 64 Chatfield Road, Serpentine, be approved subject to the following conditions:

1. Screen planting to be undertaken within the boundaries of the property (excluding the battle-axe access leg), in accordance with Council's Landscape and Revegetation Policy No. 3. The screen planting to be implemented and established by 31 October 2003 and from thereon be suitably maintained to the satisfaction of Council.
2. Applicant to submit a Waste Management Plan for approval by Council prior to commencement or construction of the kennels.
3. Shade-cloth shall be installed as a temporary measure in order to achieve screening of the proposed development from view of adjoining properties until the vegetation buffer has been established.
4. All property boundary fences are to be installed prior to construction of the new kennels in order to contain dogs within the boundaries of the property.
5. The approval shall be personal to the applicant and shall not be transferred to or assigned to by any other person.
6. The approval shall not run with the land in respect of which it was granted.
7. The person to whom approval is given by the Council to carry on Kennels use shall not carry on that use at any premises other than the land in respect of which the Council's approval is granted.
8. The existing kennel buildings are to be decommissioned and removed from the premises prior to use of the new kennels.

Advice Notes:

1. Relative to Condition 2 above, the applicant is advised to liaise with Council's Environmental Health Officer in regards to the information required for lodgement of the Waste Management Plan.
2. Compliance with the provisions of the Dog Act 1976 (as amended).
3. Compliance with Council's Local Law Relating to Dogs.
4. In accordance with Clause 5.10.2 of Town Planning Scheme No., Council may cancel or withdraw the Kennel Establishment licence for failure to comply with the above conditions of approval or substantial breach of the Dog Act 1976 (as amended).
5. If a kennel use has been carried on with the approval of the Council and if in the opinion of the Council such use is causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood, the Council may withdraw its approval and after such withdrawal, no person shall upon the subject land carry on a kennel use unless a further approval to do so is granted by the Council.
6. The development is to comply with the Environmental Protection (Noise) Regulations 1997.

CARRIED 10/0

Cr Simpson declared an interest in Item P182/11/02 - proponent works for Cr Simpson. Cr Needham and Cr Richards also declared an interest as they are friends of proponent.

Councillors Simpson, Needham and Richards left the meeting at 8.16pm.

P182/11/02 PROPOSED SUBDIVISION - LOT 78 REDCLIFFE ROAD, CARDUP (S120235)		
Proponent	R R & W A Rice	In Brief It is recommended that the proposal to subdivide the subject land into 5 lots be refused.
Officer	Lilia Palermo – Planning Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	8 October 2002	
Previously		
Disclosure of Interest		
Delegation	Council	

Owner: R & W Rice
 Owner's Address: 42 Alice Road, Cardup
 Applicant: As above
 Applicant's Address: As above
 Date of Receipt: 23rd September 2002
 Advertised: N/A
 Submissions: N/A
 Lot Area: 2.6 ha
 L.A Zoning: Rural
 MRS Zoning: Rural
 Byford Structure Plan: N/A
 Rural Strategy Policy Area: Rural
 Rural Strategy Overlay: N/A
 Municipal Inventory: N/A
 Townscape/Heritage Precinct: N/A
 Bush Forever: N/A
 Date of Inspection: 1 October 2002

Background

The proposal is to subdivide the subject land into five lots: one lot being 2.5978 ha and four 2 000m² lots.

A copy of the proposed subdivision plan is with the attachments marked P182.1/11/02.

Comments

Town Planning Scheme No. 2

The subject property is zoned Rural under the Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2 (TPS No.2).

Clause 5.4.2 (b) and (c) of TPS No.2 states the following:

- “a) The Codes, where so specified, shall relate solely to the number of residential units which the Council may permit and not to the subdivision, inclusive of strata title, of the land, the subject of the application.*
- b) The subdivision of rural land in the Shire for lots ranging in area from 2000m² to 4ha hectares shall only occur on land that is appropriately zoned either Special Rural (Rural Living A and B Rural Living) or Special Residential under the Scheme as*

applicable and Clauses 5.8, 5.9 and 5.12 shall apply and be satisfied. This excludes all existing lots that are currently zoned Rural on the Scheme map that are between 2,000m² and 4 hectares in area or any one or two lots created because of particular circumstances.”

Proposed subdivision of the subject land into 5 lots, with 4 lots approximately 2000m² each in size, is not in accordance with the abovementioned clause of the TPS No.2.

Rural Strategy

The subject property is located within the Rural Policy area identified in the Shire's Rural Strategy 1994 (as amended).

The main objectives for the Rural Policy area as stated in the Rural Strategy are as follows:

- R1 *To retain and maintain the productive capacity of land and agricultural enterprise in close proximity to Perth and its markets;*
- R2. *To encourage, provide opportunities for, and control over, a mosaic of productive agricultural land uses;*
- R3. *To adopt pro-active and co-operative approaches with landowners and the wider community to address catchment management and land degradation problems;*
- R4 *To promote the objectives of the Environmental Repair Overlay in the Rural Policy Area;*
- R5 *To otherwise prevent the further fragmentation of land through subdivision for Farmlet development in the Policy area.*

It is stated in the Rural Strategy that the minimum lot size in the Rural Policy area is 40 hectares. The subject property is already under 40 ha in size. As stated above one of the main objectives of the Rural Strategy is to maintain the productive capacity of land in close proximity to Perth and its markets.

The subject property is over 3.5 ha in size, which still provides possibilities for a range of agricultural uses that might be accommodated on the land. If the property is further subdivided in accordance with the current subdivision proposal into 5 lots it reduces the potential for the subject property to be used for productive agricultural land uses, which is not in line with the objectives of the Rural Strategy.

Subdivision of the subject land also has a potential to create an undesirable precedent for the other similar size properties in the locality to apply for subdivision of their land.

Statement of Planning Policy No 11.

Recently gazetted Statement of Planning Policy No. 11 (SPP No. 11) Agricultural Rural Land Use Planning provides a framework for orderly and proper planning and development of Rural land.

SPP No. 11 has been prepared by the WA Planning Commission under Section 5AA of the Town Planning and Development Act 1928 Under Section 5AA of the Act, local government must have due regard to this policy in the preparation or amendment of Town Planning Schemes, strategies and policies, and when providing comment and advice on planning applications that deal with rural land.

As outlined in the SPP No.11 the main policy objectives are as follows:

- *The State's priority agricultural land resource should be protected.*
- *Rural settlement opportunities should be provided if sustainable and of benefit to the community.*
- *The potential for land use conflict should be minimized*
- *The state natural resources should be carefully managed.*

SPP No. 11 and Policy No. DC 3.4 Subdivision of Rural Land (2002) will be used by the Commission as the basis for determining applications for the subdivision of Rural land.

The proposal to subdivide the subject land, which is zoned Rural under the Shire's TPS No.2 and Metropolitan Region Scheme should be assessed against the SPP No.11 objectives.

The subject land is not identified as Priority Agriculture in the SPP No. 11, and it is not located within an Agriculture Protection Area in Shire's Rural Strategy 1994. The size of the land 3.5 ha could still accommodate some small-scale agricultural type uses, which would have an advantage of being in close proximity to Perth and its markets.

The subject land is surrounded by similar size Rural lots to the north and west and there is a Special Rural subdivision, serviced by Bushlark Close to the south. Subdivision of the subject land has a potential to create an undesirable precedent for the surrounding Rural zoned properties in the locality to subdivide into small lots.

The area directly to the east of the subject property, with some blocks fronting Soldiers Road, and serviced by Alice and Daisy Roads is zoned Rural with R5 coding assigned to it. The proposed subdivision would extend this existing area of small, residential size lots in the Rural Zone. Having small residential lots in the Rural Zone is considered ad-hoc and extending this original old subdivision would not be a desirable outcome for the locality.

It also should be taken into account that the subject land is in close proximity to the Byford Structure Plan area. The lots fronting Cardup Siding Road are designated as Rural Residential on the Byford Structure Plan, which would create a transition between the Base Residential R20 Development and larger Rural and Special Rural lots to the South.

Creating further residential 2000m² lots in the location between the Byford Structure Planning area and the Special Rural areas to the South would appear as ad-hoc unplanned subdivision, which is not in conformity with the surrounding lot sizes and Rural Zoning.

Proposed subdivision of the subject land into small 2000m² lots could create a potential land use conflict. Prospective purchases of the proposed lots might expect to be able to conduct various rural type activities on the land as it would be zoned Rural, which won't be possible as the small lot sizes would not be able to accommodate most of the Rural land use activities such as keeping of stock, stables etc.

In addition, the surrounding larger Rural lots to the south and east of the subject land could be affected by the existence of the 2000m² lots in the locality, as the type of Rural uses that might be permitted on those larger size Rural lots can be potentially restricted due to possible negative impact on the amenity of the proposed small blocks.

Subdivision of the subject land is not in accordance with the provisions of SPP No. 11 for the following reasons:

- the proposal has a potential to create a land use conflict in the locality;
- further subdivision of Rural land is not desirable;
- The current size of the subject property is in conformity with the surrounding lot sizes in the area, further subdivision of the subject land would not be sustainable or of any benefit to the community

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

The proposal to subdivide the subject land into 5 lots would not enhance built or natural environment. Creation of 2000m² lots in the Rural zone would detract from the amenity of the surrounding Rural lots to the east and south.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

Creation of additional 4 lots would potentially increase resource use as each additional residence on the proposed lots would require the use of power, water etc.

Does the proposal/issue use locally available or produced resources?

N/A

Will the proposal/issue be economically viable in a way that incorporates its external costs?

N/A

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

The subject land is zoned Rural. Creation of 2000m² lots in the locality is not in accordance with the Rural Zoning of the area. There is no statutory obligation to advertise subdivision proposals to surrounding landowners

Does the proposal/issue disadvantage any social groups?

The proposal has a potential to create a land use conflict in the locality, which would disadvantage the owners of the surrounding Rural lots as they might become restricted in the scope of Rural activities that they could carry out on their land.

Does the proposal/issue create long-term employment or economic benefit to current and future residents of the shire?

The proposal has a potential to create economic and financial benefit to the subdivider.

Statutory Environment: Town Planning and Development Act 1928
Shire of Serpentine-Jarrahdale Town Planning Scheme
No. 2

Policy Implications: Statement of Planning Policy No 11 – Agricultural and
Rural Land Use policy

Financial Implications: Nil

Strategic Implications: This proposal to subdivide the subject land into 5 lots relates to strategy 3.3 of the Economic Development key Result Area in the Council's Strategic Plan which is:

“Develop the potential for agricultural diversity and value adding”

Community Consultation: Not applicable

Voting Requirements: Normal

CRP182 COUNCIL DECISION/Committee/Officer Recommended Resolution

Moved Cr Price seconded Cr Wigg that Council advises the Department for Planning and Infrastructure that it does not support the application to subdivide Pt Lot 78 Redcliffe Avenue, Cardup into five (5) lots in accordance with the subdivision referral dated 19 September 2002 for the following reasons:

1. The proposal is not in accordance with requirements of Clause 5.4.2 of TPS No.2 which requires that subdivision of rural land only occurs where the land is appropriately zoned.
2. The proposal does not comply with the Shire's Rural Strategy 1994 (as amended), which prescribes a minimum lot size for lots in the Rural Policy Area of 40 ha;
3. The proposal for further subdivision of the Rural land is not in accordance with the provisions of Statement of Planning Policy No 11.
4. The proposal has a potential to create a Land Use conflict in the local area and negatively impact on the adjacent Rural land due to possible restrictions on allowable uses in the Rural Zone.
5. Approval of the subdivision of the subject lot would set an undesirable precedent for the further subdivision of surrounding lots in the locality.

CARRIED 7/0

Councillors Simpson, Needham and Richards did not vote and returned to the meeting at 8.17pm.

P177/11/02 PROPOSED (OVERSIZED) EXTENSION TO SHED – LOT 152 LIVESHEY STREET, MUNDIJONG (P03620)		In Brief
Proponent	Viggo Bendson	
Officer	Michael Davis – Planning Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	27/09/2002	
Previously		
Disclosure of Interest		
Delegation	Council	

Owner:	Viggo Bendsten
Owner's Address:	Lot 152 Livesey Street, Mundijong
Applicant:	Viggo Bendsen
Applicant's Address:	Lot 152 Livesey Street, Mundijong
Date of Receipt:	19 July 2002
Advertised:	Application advertised to surrounding landowners for comment.
Submissions:	No submissions received
Lot Area:	2.0234 ha.
L.A Zoning:	Urban Development
MRS Zoning:	Urban
Byford Structure Plan:	Not applicable
Rural Strategy Policy Area:	Not applicable
Rural Strategy Overlay:	Not applicable
Municipal Inventory:	Not applicable
Townscape/Heritage Precinct:	Not applicable
Bush Forever:	Nil

Date of Inspection: 9 September 2002

Background

Council has received an application for the extension of a shed. The shed is proposed to be used for the storage of farm machinery. A farm machinery hire business is currently being carried out on the land. No record of Council approving such use is evident.

Due to the proposed shed exceeding the provisions of council's maximum total floor area requirements for the urban development zone, the application requires a determination to be made by Council.

Land Use

Currently, the subject land is being used for the purposes of a rural machinery hire business. Upon a search of the property file for the subject land, there appears to be no approval issued for the machinery hire business.

The application for an extension to the existing shed is for the purposes of storage of machinery for the business. It is considered that the machinery hire business may not be compatible with future residential development proposed for the area.

A copy of the site plan is with the attachments marked P177.1/11/02.

Comments

Town Planning Scheme No 2

The subject land is zoned 'Urban Development' under Councils Scheme.

The Mundijong Urban Development zone requires significant planning in terms of infrastructure and service allocation such as roads, schools, public open spaces, community facilities etc.

Setback Requirements

The proposed shed will meet council's setback requirements applicable to sheds within the Urban Development zone being 7.5 meters from the front boundary and 1 metre from the side and rear boundaries of the property.

Outbuilding Floor Area

The proposed shed extension is to be 12 metres by 6 meters. The total area of the shed will be 72 metres square. The total floor area of the outbuilding, when including the existing shed area of 180 square metres and existing garage area of 90 square metres will be 342 square metres.

Council's Building Info Note relating to building setbacks set a maximum of 60 square metres for the floor area of outbuildings within the Urban Development Zone. The combined floor area, including the proposed shed extension, will exceed council's policy requirements for maximum area of outbuildings by 282 square. This area exceeds council's policy requirements by 470 percent.

It is recommended that the application be refused given the existing floor area of outbuildings located on the subject land and due to the proposal significantly exceeding council's policy requirements relating to the floor area of outbuildings.

It is considered that a shed of this size in a future residential area will have a detrimental impact on the amenity of the locality. Future proposed zoning of the Mundijong area will

most likely be set at R20 which will allow subdivisions of properties to a maximum lot size of 440 square metres. A shed of this size may impact upon future subdivision of the area.

Materials

The proposed shed is to be constructed of colourbond. The colour of the shed is proposed to be 'Wheat'.

Community Consultation

The application for the extension of the shed was referred to adjoining landowners for comment. Council did not receive any submissions in relation to the application.

Environment

The proposed shed will not involve the clearing of any native vegetation. The proposed shed extensions will not have any other significant impact on the environment.

Emergency Management

The proposed shed extension will not have a direct impact on emergency vehicle access or emergency management.

Conclusion

The proposed shed would exceed council's policy requirements relating to maximum floor area of the outbuildings in the Urban Development Zone. It is recommended that the proposed shed extension be refused.

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

The proposed shed extension will not involve the clearing of native vegetation. The proposed shed does not propose any measures to enhance the environment.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

It is considered that the proposed shed will not minimise resource use. The proposed shed will require the use of many resources in the construction.

Does the proposal/issue use locally available or produced resources.

It is uncertain whether locally available or produced resources will be used in the construction of the. shed

Will the proposal/issue be economically viable in a way that incorporates its external costs?

It is considered that the proposed shed will be economically viable in a way that incorporates its external costs.

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

The application has been referred to adjoining landowners for comment. No submissions have been received in relation to the application

Does the proposal/issue disadvantage any social groups?

It is considered that the proposed shed extension will not disadvantage any social groups.
Does the proposal/issue create long term employment or economic benefit to current and future residents of the shire?

The proposed shed extension is to be used for an existing agricultural use on the land. However, the existing Farm Machinery Hire business (Industry - Rural) is not appropriate in the future given that the land is zoned Urban Development.

Statutory Environment: Town Planning and Development Act 1928 (as amended)
Shire of Serpentine-Jarrahdale Town Planning Scheme No.2

Policy Implications: Size of area of shed extensions exceeds Council's Policy requirements for maximum area of Outbuildings within the Urban Development Zone.

Financial Implications: There will be no direct financial implications to Council as a result of this application.

Strategic Implications. This proposal relates to strategy 1.4 of key result Area – people and community in council's strategic plan, which is:

"Strengthen community groups and promote meaningful community input into council"

Community Consultation. The application was referred to surrounding landowners for comment. No submissions have been received.

Voting Requirements: Normal

Officer Recommended Resolution

Council refuses an application dated 19 July 2002 for an extension to a shed due to the following reasons:

1. The proposed shed exceeds Council's Policy requirements in respect of the maximum floor area of outbuilding in the Urban Development zone.
2. It is considered that the proposed extension to the shed will have a detrimental impact on the surrounding amenity given that the area may be subdivided into a minimum of 440 square metre residential lots in the future.
3. The proposed shed extension will set an undesirable precedent for further rural and agricultural use and development within the Mundijong Urban Development zone.

CRP177 COUNCIL DECISION/Committee Recommended Resolution

Moved Cr Price seconded Cr Simpson that Council approves an application dated 19 July 2002 for an extension to a shed at Lot 152 Livesey Street, Mundijong subject to the following conditions:-

1. A building licence to be obtained prior to the commencement of development..
2. The shed is to be constructed of new materials
3. The shed is not be located within 1.2 metres of a septic tank of 1.8 metres of a leach drain, or other such setbacks as required by Legislation. Please contact Council's Health Services for setbacks and requirements to other systems.

CARRIED 10/0

Note: The Officer Recommended Resolution was amended because detailed urban planning for Mundijong is five to ten years away.

P178/11/02 PROPOSED EXTENSION TO EXISTING POULTRY FARM – LOT 505 HENDERSON ROAD, SERPENTINE (P00194/01)		
Proponent	Henry Dykstra & Associates	In Brief That Council approves an application dated 18 April 2002 for the extension and upgrading of an existing broiler farm on Lot 505 Henderson Road, Serpentine subject to conditions.
Officer	Michael Davis – Planning Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	4/10/2002	
Previously		
Disclosure of Interest		
Delegation	Council	

Owner: Geyer Nominees Pty Ltd
 Owner's Address: 440 Henderson Road, Serpentine
 Applicant: Henry Dykstra & Associates
 Applicant's Address: 440 Henderson Road, Serpentine
 Date of Receipt: 29th April 2002
 Advertised: Application referred to surrounding landowners, WA Planning Commission and Department of Environmental protection (DEP) for comment.
 Submissions: One Letter of 'Objection', One Letter of 'No Objection' received
 Lot Area: 20.3109 ha.
 L.A Zoning: Rural
 MRS Zoning: Rural
 Byford Structure Plan: Not applicable
 Rural Strategy Policy Area: Rural Policy Area
 Rural Strategy Overlay: Not applicable
 Municipal Inventory: Not applicable
 Townscape/Heritage Precinct: Not applicable
 Bush Forever: Nil
 Date of Inspection: 23 October 2002

Background

Broiler Farm

Previous planning approval was granted on the 24th October 1996 for a broiler farm on the subject land. The following conditions were related to the approval:

- “ 1. *Perimeter landscaping required to screen use to the satisfaction of the Environmental Officer with a suitable bond.*
2. *Road access and drainage to the satisfaction of Manager of Technical Services.*
3. *Submission of a building licence application.*
4. *The drain should be streamlined, if not already done, to the satisfaction of the Environmental Officer. (This was a condition of subdivision to be completed by the subdivider – to be researched and implemented.)*
5. *Satisfactory arrangements being made for the disposal of litter.*
6. *Poultry sheds to be sited to enable protection of the remnant vegetation on the site and to retain the 1km distance to the proposed poultry sheds on Punrak Road.”*

The proponent has provided the following information in support of the application, which has been summarised under sub-headings:

Overview

“Succinctly, this application proposes the extension of the four (4) existing sheds from 101 m in length to 131 m in length, thereby upgrading these sheds to the new environmental control sheds. The proposal also includes construction of a fifth poultry shed. The proposed tunnel ventilated climate controlled sheds can hold approximately 60, 000 birds.”

Design and Layout

“The proposed shed extensions will extend from the western end of the existing four (4) sheds, which allow the tunnel ventilation to be directed towards the existing vegetation and beyond. The fifth shed will be constructed 100 m setback from the northern boundary and in line with the existing sheds to facilitate a continuation of the existing internal driveway system.”

Access

“The poultry farm will continue to be accessed from Henderson Road via a constructed reciprocal driveway access which is shared with adjoining lot 506.”

Poultry Farm Activity

“The proposed shed floors will be covered in a deep dry litter of 10 – 15 cms of sawdust or shavings, which will be cleaned out regularly and taken off site. Used litter will not be stored on site and dead birds are to be removed daily (except weekends) by contractors. If there are dead birds during non collection days, a coolroom will be located on site where the birds will be stored. Sheds will be swept with mobile industrial sweepers, washed and sprayed with disinfectant.”

“The main activities in this process occur only once every six (6) – eight (8) weeks (ie. Approximately eight (8) times per annum) and involve the removal of birds by trucks and the subsequent removal of the dry litter and cleaning of sheds. Removal of birds generally occurs at night time, and for five (5) sheds this could take up to five (5) nights during each cycle.”

Odour

“All of the sheds will ventilate towards the west of the property where the 100 m setback is almost entirely vegetated with bush, including native trees and shrubs. Additionally the regular sterilising of sheds prior to each new growing period will prevent unnecessary odours.”

Noise

“...any potential noise will be mitigated by many of the same attributes as those used to reduce any odour effects including the positioning of the sheds and the sheds ventilating towards 100 m vegetated buffer within the property.”

Poultry Policy Overlay

“...Council introduced a Poultry Policy Overlay in October 2002...Lot 505 Henderson Road accommodates an existing poultry farm and is located immediately adjacent to the Poultry Policy Overlay area.”

Landform and Soils

“The subject land is relatively flat, situated around 26 – 27 m above sea level. The land slopes very gently from east to west, and is traversed by a main drain...The subject land

comprises predominantly Bassendean sand which is white to pale grey at the surface, yellow at depth and of eolian origin.”

Comments

Town Planning Scheme No.2

The subject land is located within the ‘Rural’ Zone under Council’s Town Planning Scheme No.2. The Scheme states the following in respect to the ‘Rural’ Zone:

“The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.”

A Poultry Farm is an “AA” Use in the Rural Zone. Council may permit the use at its discretion.

A copy of the development plan is with the attachments marked P178.1/11/02.

Rural Strategy

The subject land is located within the Rural Policy Area under the Shire’s Rural Strategy. The following policy objectives relate to the use of the land:

- “R 1. To retain and maintain the productive capacity of land and agricultural enterprise in close proximity to Perth and its markets;*
- R 2. To encourage, provide opportunities for, and control over, a mosaic of productive agricultural land uses”.*

The proposed extension to the poultry farm would comply with the objectives of the Rural Policy Area.

Statement of Planning Policy No.5 (SPP No.5) – Poultry Farms Policy

SPP No.5 states the following:

“Applications to expand existing poultry farms located in a rural zone which is not identified for short or medium-term urban or rural-residential development may be permitted.”

At this stage, the Shire of Serpentine Jarrahdale Rural Strategy does not earmark any surrounding areas for more intensive development.

In accordance with Clause 5.7 of the Policy, it is a requirement that this application be determined by the Western Australian Planning Commission. The application has been referred to the Western Australian Planning Commission for separate approval.

SPP No.5 further requires:

“New sheds on an existing poultry farm should be no closer than 100 metres from the poultry farm boundary...In cases where there is an existing shed located closer than 100 metres from a poultry farm boundary a new shed should generally be located no closer than the existing shed from that boundary.”

The proposed extensions are in excess of 100 metres from the nearest boundaries. The proposed shed is located no closer than the existing sheds to the nearest boundary.

The following requirement of SPP No.5 should also be noted:

“A sign indicating the type of operation, hours of operation and possibility of undesirable environmental impacts on the surrounding areas should be required as a condition of approval to expand.”

A condition of approval of this application will require a sign that would satisfy the above requirements.

Environmental Protection Authority (EPA) Code of Practice

The operation of poultry farms is regulated by the EPA Code of Practice. In accordance with the EPA Code of Practice, the proposed poultry farm extensions will be:

- a) greater than 500 metres from an urban residential zone;
- b) greater than 300 metres from a rural residential zone with lots of 4 ha or less;
- c) greater than 100 metres from any single dwelling outside the poultry farm boundaries;
- d) greater than 50 metres from any road frontage; and
- e) greater than 30 metres from any side or rear boundary”

Department of Environmental Protection (DEP) Guidelines

The DEP have guidelines pertaining to the management and operation of poultry farms with particular reference to the management of manure and poultry litter. The document states the following:

“Farm management should take all practical action in order to maintain litter in a dry friable condition. Such action may include the rotary hoeing of litter in breeder sheds or the covering of litter with fresh litter materials”.

The following are DEP guidelines for the disposal of dead birds and unhatched eggs:

- A. *Dead birds or chickens should be removed from the sheds or brooders daily.*
- B. *Carcasses and unhatched eggs should be stored in a suitable container until disposal.*
- C. *Carcasses and unhatched eggs should be disposed of by incineration, by rendering at a byproduct plant or by any other procedure approved by the Environmental Protection Authority and the local authority.”*

The applicant has stated that the proposed shed floors will be covered in a deep dry litter, which will be cleaned out regularly and taken off site. Dead birds are proposed to be removed daily (except weekends).

Poultry Policy Overlay

The subject land is not located within the preferred area for future poultry farms as identified under Council’s Poultry Policy Overlay. The Policy states the following:

“All applications for poultry development within the Poultry Policy Overlay – Preferred Area for Future Poultry Farms (Plan 1) and/or on lot sizes less than 40 hectares will be determined by Council as “SA” uses under the provisions of Town Planning Scheme No.2.”

The application has been processed as an “SA” Use and as such the application is required to be referred to surrounding landowners for comment and requires determination by Council.

Statement of Planning Policy No.2 (SPP No.2)

SPP No.2 states the following in relation to intensive agriculture:

“Works approvals and licences will be required from the EPA where the proposal has a wastewater discharge...”

Consequently the application has been referred to the Department of Environment, Water and Catchment Protection for comment.

Comments received from Department of Environment, Water and Catchment Protection

The Department of Environment, Water and Catchment Protection has provided the following comments on the proposed development:

“This land is located within the proposed Karnup Dandalup Underground Water Pollution Control Area (UWPCA) and is managed for Priority 2 (P2) source protection.

*P2 source protection areas are defined to ensure that there is **no increased risk of pollution** to the water source...P2 areas are managed in accordance with the principle of **risk minimisation**. Therefore the Commission has no objection to the expansion subject to the following:*

- *The operations should be carried out in accordance with the attached Water Quality Protection Note Poultry Farms in Public Drinking Water Source Areas.*
- *...Licensing in these areas is an option available to the Water and Rivers Commission to manage water required for commercial purposes....”*

Public Comment

One letter of ‘Objection’ was received during the comment period. The Planning Group on behalf of the objector made the following comments regarding the application on behalf of one of the adjoining landowners:

- The information forming a part of the subject development application is considered to be deficient in that it fails to address any of the potential impacts associated with the expansion of the existing operation and does not provide details of a number of the operational aspects of the proposal, including increased traffic volumes or increased chicken stocking production volumes;
- The proposal has the potential to allow for a 62 percent increase in production/stock numbers. Any increase in bird numbers will result in an increase in odour, dust and noise emissions emanating from the poultry farm. The increase is likely to be in conflict with the surrounding land uses;
- A noise modelling report has not been submitted with the application in accordance with Section 4.2.4 of the Shire of Serpentine Jarrahdale’s 2000 Rural Strategy Review Poultry Policy Overlay;
- It is anticipated that there will be an increase in the number and/or frequency of trucks collecting chickens from the farm. Henderson Road is the only road servicing Lot 505 and is an under width single lane sealed road servicing a large number of rural properties, and is generally only utilised by local traffic;
- The Proposal may have an impact on the water table as the table is relatively close to the surface. As such it is essential that Council is satisfied that the additional production/stock numbers will not lead to any increases in nutrients, contaminants and faecal matter permeating into the ground water;
- Lot 505 is outside of the Preferred Area for Future Poultry Farms pursuant to the Shire’s Poultry Policy Overlay;
- Lot 505 is one of the smaller lots within the locality and the surrounding lots 504 and 506 are below a size that permits viable agricultural pursuits and as such are utilised for the purpose of rural living. The smaller size of these lots means that the impacts associated with development on any one lot is intensified on the surrounding lots;
- It is recommended that Council refuse the subject application.

The above comments are addressed below:

- a) It is acknowledged that the proposed extension to the existing poultry farm has the potential to increase poultry numbers and may increase the potential for an increase in odour, dust and noise emissions. These issues have not been addressed in the application;
- b) It is acknowledged that the applicant has not submitted a noise modelling report and thus does not meet the requirements of Section 4.2.4 of the Shire of Serpentine Jarrahdale's 2000 Rural Strategy Review Poultry Policy Overlay;
- c) Nutrient management is an issue and has not been addressed by the applicant;
- d) It is acknowledged that the subject land is not located within the preferred area for development of poultry farms;
- e) The argument that lot size will have an intensified impact on surrounding land is not considered a justified argument against the proposed extension/upgrade of the existing poultry farm.

Environment

The proposed poultry farm extensions will require the clearing of existing native vegetation located on the property. It is recommended that the clearing be limited to the area directly north of the sheds.

It is considered that the proponent be required to replant the subject land with native mixtures of plant species.

Further, the cleared trees should be mulched and spread over a remaining area of woodland to a minimum depth of 15 cm in order to suppress weeds. All remaining remnant trees should be fenced on the western side of the property and the mulched and unmulched areas should be fenced with a dividing fence. Local native ground covers and bushes should be planted within the woodland to reinstate the woodland structure. To prevent weed growth causing a fire hazard, crash grazing should be undertaken within the unmulched area once a year.

Emergency Management

It is considered that the proposed extension to the existing poultry farm will not have a direct impact on emergency vehicle access or emergency management. Current access to the property is via a 10 metre reciprocal driveway shared with adjoining lot 506.

Conclusion

It is considered that the above issues and concerns can be addressed through the appropriate conditioning of the approval. It is recommended that the application for the extension to the existing poultry farm on Lot 505 Henderson Road, Serpentine be conditionally approved.

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

The proposed extension to the existing poultry farm will require the clearing of native vegetation. The proposed development involves the replacement of the existing outdated poultry farm sheds with the new environment controlled sheds, which are in accordance with the Poultry Industry standards of best practice. The applicant has not proposed any additional screening of vegetation and as such a condition of approval will require additional screening to occur.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

The extension to the poultry farm may require an increase in ground water usage. Any increase in the use of the bore outside current licensing limits, will require an application to the Water and Rivers Commission to extend those limits.

Does the proposal/issue use locally available or produced resources?

It is uncertain whether the proposed sheds will be constructed from locally available resources.

Will the proposal/issue be economically viable in a way that incorporates its external costs?

The poultry farm has the potential to provide local employment to the Shire. It is considered that the proposed development will be economically viable in a way that incorporates its external costs.

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

The application was referred to surrounding landowners for comment. Concerns and issues raised by the community are addressed through the appropriate conditioning of the development.

Does the proposal/issue disadvantage any social groups?

The application for the extension of the poultry farm does not directly impact on any particular social group.

Does the proposal/issue create long term employment or economic benefit to current and future residents of the shire?

The proposal has the potential to generate long term employment within the Shire and also may provide the Shire with an economic benefit, as it is a local business.

Statutory Environment: Town Planning and Development Act 1928, Town Planning Scheme No.2

Policy Implications: Extensions greater than 100 metres square and requires separate determination by the WA Planning Commission as per Statement of Planning Policy No.11, Poultry Policy Overlay, Statement of Planning Policy No.2, Statement of Planning Policy No.5, Draft Environmental (Peel Harvey Estuarine System) Policy 1992

Financial Implications: There will be no direct financial implications to Council as a result of this application

Strategic Implications: This proposal relates to Strategy 1.4 of Key Result Area – People and Community in Council’s Strategic Plan, which is:

“Strengthen community groups and promote meaningful community input into Council decision.”

And Strategy 2.1, which is:

“Encourage best practice environmental management.”

And Strategy 3.5, which is:

“Support the development of an Enterprise Culture.”

Community Consultation:

Application referred to surrounding landowners for comment. One Letter of ‘Objection’, One Letter of ‘No Objection’ received

Voting Requirements:

Normal

Officer Recommended Resolution

- A. Council approves an application dated 18 April 2002 for the extension and upgrading of an existing broiler farm on Lot 505 Henderson Road, Serpentine subject to the following conditions:
1. A building licence being obtained prior to the commencement of development;
 2. All solid wastes (including poultry litter and spilt feed) should be contained in weather-proof conditions (on a covered hardstand) until removed from the site for disposal at an approved facility;
 3. Dead birds shall not be buried on site.
 4. Shed wash waters shall be kept to a minimum. The waste water is to be disposed of by solar evaporation in a pond with low permeability lining;
 5. Screening of the northern and eastern boundaries to be in accordance with Council’s Landscaping and Revegetation Policy to the satisfaction of Council. Landscaping to be implemented by 30 November 2003 and from thereon suitably maintained to Council’s satisfaction;
 6. A noise modeling report to be submitted by the applicant for approval of Council prior to beginning new shed and shed extension operations, which satisfactorily demonstrates through modelling of noise that there will be no amplification of adverse noise impact on neighbouring residences with the proposed development. In this respect, written notification is to be provided to Council upon commencement of operations;
 7. Notices indicating the type of operation, hours of operation and potential impacts of the poultry farm operation to be displayed adjacent to the usable entrances to the farm in accordance with the Western Australian Planning Commission’s Statement of Planning Policy No.5 - Poultry Farms Policy, to the satisfaction of Council;
 8. A separate application will need to be submitted for any proposed signage for the poultry farm (except that referred to in condition 8 above);
 9. All practicable measures being taken to ensure that commercial vehicle transport occurs during daylight hours including delivery of feed and collection of birds;
 10. An odour profile report to be submitted by the applicant for approval of Council prior to beginning new shed and shed extension operations, which satisfactorily demonstrates through modelling of odour movement that there will be no amplification of adverse odour impact on neighbouring residences with the proposed development. In this respect, written notification is to be provided to Council upon commencement of operations;
 11. Provision of a static water supply to the satisfaction of Council’s Fire and Emergency Services Officer;
 12. Cleared trees shall be mulched and spread over the remaining area of woodland to a minimum depth of 15 cm in order to suppress weeds;
 13. All remaining remnant trees shall be fenced on the western side of the property and the mulched and unmulched areas shall be fenced with a dividing fence;

14. Local native tubestock of ground covers, local native trees and bushes shall be planted within the woodland to reinstate the woodland structure;
15. Crash grazing of stock shall be undertaken within the unmulched area once a year in order to prevent weed growth causing a fire hazard;
16. All measures being taken to ensure clearing of native vegetation be limited to that required for the shed extensions and new shed and shall not exceed the total of one hectare in area without separate approval from Council;
17. The operations should be carried out in accordance with the document '*Water Quality Protection Note Poultry Farms in Public Drinking Water Source Areas*' produced by the Water and Rivers Commission;
18. The existing reciprocal internal property access road is to be maintained by the applicant to a standard which maintains a tightly bound surface to suppress dust and provide for safe vehicular traffic at all times;
19. Prior to the issue of a Building Licence the proponent shall pay to the Council a contribution toward the upgrading of the portion of Henderson Road that runs the length of the subject property boundary equal to 50% of the estimated cost of investigation, design and construction as determined by Councils Director Asset Services;
20. The applicant shall construct access crossings servicing the property with a pavement strength and asphalt surface able to safely accommodate the turning movements of the largest design vehicle intended to access the property.
21. Existing sheds, new shed and extensions are to be upgraded to the tunnel ventilated environmentally climate controlled sheds;
22. Applicant is to allow access to licenced seed collectors prior to clearance of bush for the purpose of this development and to advise the Shire of Serpentine-Jarrahdale Landcare Centre and also allow them access to collect the seed.

Advice Notes:

1. Separate approval may need to be obtained from the Water and Rivers Commission for a bore licence.
2. A works approval or licence may need to be obtained from the Environmental Protection Authority for the poultry farm development.
3. In relation to Condition 21, Council requires a fifty (50) percent monetary contribution towards the cost of upgrading Henderson Road.
4. Applicant is encouraged to contact Council's Environmental Officer with respect to establishing monitoring points for investigation of effectiveness of mulching and rehabilitation of the woodland area.
5. In respect to Condition 17, clearance of one hectare or greater requires the approval of the Soil Commissioner.

B. The Western Australian Planning Commission is to be advised of Council's decision.

Committee Recommended Resolution

That a supplementary report be prepared by Director Sustainable Development to the Ordinary Council Meeting of 25 November 2002 relating to compliance issues of the previous development approval for a Poultry Farm at Lot 505 Henderson Road, Serpentine and relocation of the fifth shed in the current proposal.

Note: The Officers Recommended Resolution was altered to allow a supplementary report to be prepared.

SUPPLEMENTARY REPORT

P178/11/02 PROPOSED POULTRY FARM – LOT 505 HENDERSON ROAD,
SERPENTINE (P00194/01)

A supplementary report is presented that addresses questions raised by the Planning Development and Environment Committee at its meeting held on 18 November 2002.

Previous planning approval was granted on the 24th October 1996 for a broiler farm on the subject land. The following conditions were imposed in respect to the approval:

- “ 1. *Perimeter landscaping required to screen use to the satisfaction of the Environmental Officer with a suitable bond.*
2. *Road access and drainage to the satisfaction of Manager of Technical Services.*
3. *Submission of a building licence application.*
4. *The drain should be streamlined, if not already done, to the satisfaction of the Environmental Officer. (This was a condition of subdivision to be completed by the subdivider – to be researched and implemented.)*
5. *Satisfactory arrangements being made for the disposal of litter.*
6. *Poultry sheds to be sited to enable protection of the remnant vegetation on the site and to retain the 1km distance to the proposed poultry sheds on Punrak Road.”*

The Planning Development and Environment Committee have requested that the above conditions be addressed to show in what manner the existing poultry farm operator is currently satisfying previous approval requirements. The above conditions are addressed below:

Condition 1

Perimeter landscaping has been implemented by the poultry farm owner to meet Condition 1. A Landscape Plan has been lodged and a bond for \$4 000 was requested at the time in order to implement the Landscape Plan.

The perimeter landscaping that was planted was done with care and attention so that most of the planting has survived to date. However, the species used in the landscaping lacked diversity and would not satisfy Council’s current Landscape and Revegetation Policy (PS03).

Condition 2

It is uncertain as to what discussions took place between the applicant and the former Manager of Technical Services regarding the requirement of Condition 2. However, on the site inspection undertaken on the 23 October 2002, road access appeared to be satisfactory in order to cater for large vehicle access such as the loading trucks required in the operation of the poultry farm.

Condition 3

A building licence was issued on the 11 December 1996 for one (1) shed and four (4) poultry sheds.

Condition 4

Revegetation has been planted along the drainage corridor and watercourse.

Condition 5

The applicant provided the following commitment with the original application for a poultry farm:

“We would like to assure Council that broiler farms are under contract to clean out and remove litter (approximately 60% of sawdust) from properties after each batch of chickens (i.e. 6 times per year). They are then washed and fumigated so that flies and unpleasant odours are not a problem with this industry. Mortalities are also collected daily.”

On a site inspection carried out 23 October 2002 by Council's Planning Officer and Environmental Officer, it was noted that the existing sheds were suitably maintained to minimise odour impacts on the surrounding land.

Condition 6

Previous correspondence from Council dated 13 March 1997 in response to a complaint regarding the poultry farm states:

"...the sheds were initially moved to protect as much vegetation as possible but had to be moved again in response to the concerns of a landowner. The total clearing amounts to less than 0.9 ha."

A copy of the proposed poultry and machinery sheds are with the attachments marked P178.2/11/02.

It is considered that at the time the original approval was issued, the sheds were sited in consultation with Council in order to minimise clearing of native vegetation as well as to address the concerns of surrounding landowners. At the time, advice was received from the Commissioner for Soil and Land Conservation which stated that the clearing may proceed, given that the proposal affects less than one hectare of vegetation.

In respect to part two of Condition 6, there is an 825 metre distance between the lot boundaries of the subject land and Lot 5 Punrak Road (Redmond Poultry Farm). The poultry sheds on Lot 5 Punrak Road are located a further 88 metres from the subject lot and the proposed additional shed on the subject land is located 100 metres from the lot boundary closest to the Redmond Poultry Farm. This creates a total buffer distance of 1 013 metres between the poultry farms. If the proposed fifth shed is located closer inwards towards the existing poultry shed there would be a greater distance between the poultry farms.

It is noted that the proposed distances between the poultry farm sheds will retain the one kilometre distance required in Condition 6 of the original approval. It is also noted that the one kilometre buffer distance between poultry farm sheds is a poultry industry requirement.

Relocation of Proposed Shed

In respect to the relocation of the fifth proposed poultry shed, Council's Planning Officer has discussed this matter with the applicant (Dykstra and Associates). The applicant will not submit revised plans. A condition of approval can require the relocation of the shed.

The recommended conditions are listed below, which includes the additional condition regarding the relocation of the shed:

Council approves an application dated 18 April 2002 for the extension and upgrading of an existing broiler farm on Lot 505 Henderson Road, Serpentine subject to the following conditions:

1. A building licence being obtained prior to the commencement of development.
2. All solid wastes (including poultry litter and spilt feed) should be contained in weather-proof conditions (on a covered hardstand) until removed from the site for disposal at an approved facility.
3. Dead birds should not be buried on site.
4. Shed wash waters should be kept to a minimum. The waste water is to be disposed of by solar evaporation in a pond with low permeability lining.
5. The applicant shall construct access crossings servicing the property with a pavement strength and asphalt surface able to safely accommodate the turning movements of the largest design vehicle intended to access the property.

6. Screening of the northern and eastern boundaries to be in accordance with Council's Landscaping and Revegetation Policy to the satisfaction of Council. Landscaping to be implemented by 30 November 2003 and from thereon suitably maintained to Council's satisfaction.
7. A noise modeling report to be submitted by the applicant for approval of Council prior to beginning new shed and shed extension operations, which satisfactorily demonstrates through modelling of noise that there will be no amplification of adverse noise impact on neighbouring residences with the proposed development. In this respect, written notification is to be provided to Council upon commencement of operations.
8. Notices indicating the type of operation, hours of operation and potential impacts of the poultry farm operation to be displayed adjacent to the usable entrances to the farm in accordance with the Western Australian Planning Commission's Statement of Planning Policy No.5 - Poultry Farms Policy, to the satisfaction of Council.
9. A separate application will need to be submitted for any proposed signage for the poultry farm (except that referred to in condition 8 above).
10. All practicable measures being taken to ensure that commercial vehicle transport occurs during daylight hours including delivery of feed and collection of birds.
11. An odour profile report to be submitted by the applicant for approval of Council prior to beginning new shed and shed extension operations, which satisfactorily demonstrates through modelling of odour movement that there will be no amplification of adverse odour impact on neighbouring residences with the proposed development. In this respect, written notification is to be provided to Council upon commencement of operations.
12. Provision of a static water supply to the satisfaction of Council's Fire and Emergency Services Officer.
13. Cleared trees shall be mulched and spread over the remaining area of woodland to a minimum depth of 15cm in order to suppress weeds.
14. All remaining remnant trees shall be fenced on the western side of the property and the mulched and unmulched areas shall be fenced with a dividing fence.
15. Local native ground covers and bushes shall be planted within the woodland to reinstate the woodland structure.
16. Crash grazing of stock shall be undertaken within the unmulched area once a year in order to prevent weed growth causing a fire hazard.
17. All measures being taken to ensure clearing of native vegetation be limited to that required for the shed extensions and new shed.
18. Proposed shed 5, as shown on the development plan submitted as part of the application dated 18 April 2002, be relocated in line with and approximately 20 metres north of existing shed number 4.

Advice Notes:

1. Separate approval may need to be obtained from the Water and Rivers Commission for a bore licence.
2. A works approval or licence may need to be obtained from the Environmental Protection Authority for the poultry farm development;
3. The operations should be carried out in accordance with the document '*Water Quality Protection Note Poultry Farms in Public Drinking Water Source Areas*' produced by the Water and Rivers Commission.

CRP178 COUNCIL DECISION

Moved Cr Needham seconded Cr Hoyer

This matter, P178/11/02 PROPOSED EXTENSION TO EXISTING POULTRY FARM – LOT 505 HENDERSON ROAD, SERPENTINE be referred back to Planning Committee for further consideration.
CARRIED 10/0

Note: The Committee Recommended Resolution was altered to allow issues arising from the supplementary report to be considered by committee.

P179/11/02 DEVELOPMENT APPLICATION UNDER THE METROPOLITAN REGION SCHEME FOR CLAY EXTRACTION – LOT 737 FIRNS ROAD, SERPENTINE (P01498/01)		
Proponent	Stawest Surveying and Planning Pty Ltd	In Brief Development application under the Metropolitan Region Scheme for clay extraction at Lot 737 Firns Road, Serpentine. That the WA Planning Commission be advised that Council has no objection to the Commission approving the application subject to conditions and that submissions received during public notification of the application be referred to the Commission for consideration.
Officer	A. Watson – Director Sustainable Development	
Signatures - Author:		
Senior Officer:		
Date of Report	7 October 2002	
Previously	P359/06/98; P030/08/99; P095/11/99; 9.1/12/99; P132/01/00; P163/02/00; P181/04/00; P125/06/00; P256/07/00; P257/07/00; P054/11/01, P137/08/02	
Disclosure of Interest		
Delegation	Council	

Owner: P Chapman
 Owner's Address: 311 Firns Road, Serpentine
 Applicant: Stawest Surveying and Planning Pty Ltd
 Applicant's Address: PO Box 1377, Midland
 Date of Receipt: 18 March 2002, Amended 2 April 2002 and 16 October 2002
 Advertised: Yes.
 Submissions: One (1) submission received during notification period
 Lot Area: 40.4686 hectares
 L.A Zoning: Rural
 MRS Zoning: Rural
 Byford Structure Plan: Not applicable
 Rural Strategy Policy Area: Not applicable
 Rural Strategy Overlay: Falls partly within the Landscape Protection Policy Area in 1994 Rural Strategy. Excluded from the Landscape Protection Policy Area in the current Rural Strategy Review
 Bush Forever: Not applicable
 Date of Inspection: 15th October 2002 (Director Sustainable Development, Director Asset Services, Mr. B. Nolan and Mr B. Clarke, Bristile and Mr. B Hunt, Stawest Surveying in attendance).

Background

Current Application for Planning Consent under the Metropolitan Region Scheme

Extractive industries require planning consent from the WA Planning Commission under the Metropolitan Region Scheme and may also be required from Council under the local planning scheme. Current planning consent from the WA Planning Commission was granted for a five year period only and is due to expire in September 2003.

The application is for clay extraction from Lot 737 Firns Road, Serpentine for a further period of five years. The development has been carried out with the consent of Council and the WA Planning Commission since 1998.

The applicant has provided the following information in support of the proposal (amended 2 April 2002):

1. *WA Planning Commission granted Approval to Commence Development in September 1998, for a period of 5 years (Ref 29-838-1).*
2. *Excavation and cartage of materials from the site has proceeded. Field mapping of the site in February 2002 is attached (Plan 1).*
3. *The approval granted in 1998 was for both sides of the creek line to date only excavation to the north has taken place.*
4. *Further excavation is planned for the north side of the creek in 2002/2003 at the rate of 50000m³/pa and this may complete that area (Plan 2).*
5. *Excavation will be initiated south of the creek in 2003/2004 at rates similar to previous years i.e, 50,000m³ pa. Work would begin at the western end. Progressive backfill utilising overburden will provide rehabilitation, along with a water body. The arrangement will be similar to that utilised in the northern area. Clearing of the excavation area will be by bulldozer and after clearing, the topsoil will be stockpiled in an area for future respreading. The overburden will be stockpiled in another area for use as backfill. Excavation will be with a tracked excavator, loading to trucks which will stockpile the wet clay for drying.*

The excavation will maintain a 30 metre clearance to the watercourse, and 20 metres to property boundaries. The depth of excavation will vary, but may reach 7- 10 metres.

The site will be managed to the requirements of the Local Authority and the Mines Department (see plan 3)

1. *Drying areas for the excavated clay from the south side will be provided to the west of the excavation area and on the backfilled areas.*
2. *Aerial photography for the area is January 2002, and this most recent available photography has been marked up to show the proposed excavation. (Plan 4)*
3. *Maps are attached which show the location of the site and demonstrate its remoteness from any buildings other than the landowner's residence. The general surrounding area is shown on an aerial photograph (Plan 5) and a topographic map (Plan 6)*
4. *As previously outlined (point 4) excavation will generally proceed at the rate of 50,000 m³/pa and will extend through the application period of 5 years.*
5. *There will on occasion, be the requirement for blasting of cap-rock. This will be done using nonel initiators which have minimal noise impact. There will be no screening, milling, sizing or separation of material on site.*
6. *The excavation area to the north is set back from the creek, and this principle will be retained for the area to the south.*

Runoff from the excavation works, and overflow from waterbodies will be channelled to settlement ponds before entering the watercourse. Water quality monitoring will continue at locations along the creekline.

1. *There are no issues of amenity that relate to the excavation area, and no aboriginal or European heritage sites.*
2. *The hours of operation to be 6.00am to 6.00pm Monday to Saturday, or as adjusted by written agreement with Council.*
3. *Truck movements will be limited to a 2-3 week period, involving semi-trailers only with 10-15 trucks. Approximately 1000 truck movements are anticipated over the cartage period.*
4. *The transport route from Kingsbury Drive to the excavation site is on unsealed roads, and a water cart will be in attendance to control dust.*
5. *The cartage route is south along Scarp Road and then west along Kingsbury Drive to the South West Highway and then north to the Metro Brick plants at Cardup and Armadale.*

6. *Rehabilitation will be to achieve pastured areas adjacent to the central water bodies. Drainage will be controlled to enter the water bodies and when overflow conditions arise, be channelled through settlement ponds.*

A site plan and aerial photograph are with the attachment marked P179.1/11/02.

The application has been referred to the Commission for determination under the Metropolitan Region Scheme. Council's only function in this matter is to provide a recommendation to the Commission to assist it in its deliberations.

Existing Council Planning Consent

Council issued a planning consent for clay extraction under Town Planning Scheme No. 2 dated 17th September 1998 subject to the following conditions:

1. *Compliance with the Mining Act 1978, Mining Regulations 1981, Mines Safety and Inspection Act and Councils local laws (Extractive Industry).*
2. *Hours of work to be 6.00 am to 6.00 pm Monday to Saturday, or as adjusted by written agreement with Council.*
3. *All loads to be covered to reduce dust nuisance.*
4. *Payment of an annual licence renewal fee 1st July each year, which is based on volumes of extraction.*
5. *Firns Road is not to be used.*
6. *All roads under the care and control of Council or CALM to be maintained in good condition by the applicant for the duration of the extraction operation to the satisfaction of the Manager of Technical Services and CALM as appropriate.*
7. *Additional signage on Scarp Road North/Scrivener Road as appropriate, to the satisfaction of the Manager of Technical Services.*
8. *Loads to be restricted to 42.5 tonnes GVM.*
9. *A Bank Guarantee or bond of \$10000 to be lodged with Council for the rehabilitation of the subject land to the satisfaction of Council.*
10. *The development, operation and rehabilitation of the quarry to be in accordance with the Environmental Management of Quarries' published by the Department of Minerals and Energy 1994.*
11. *Compliance with the WA Planning Commission conditions and Water and Rivers Commission guidelines for extractive industries.*
12. *That excavation areas and the sediment basins be separated from the Brook by at least 30 metres and that no ground disturbance occur within 25 metres of the Brook.*
13. *That the proponent prepare a site design, operation and rehabilitation plan to the satisfaction of Council and the Water and Rivers Commission prior to commencement of activity to include, but not be limited to:*
 - a) *Water Management Plan to contain water on site.*
 - b) *Water monitoring programme to ensure that water quality of Karnet Brook is maintained.*
 - c) *Contingency plan to protect the Brook in extreme storm events*
 - d) *Rehabilitation of the basins to provide slopes of 1:6 on basin peripheral zones*
 - e) *That flows be recorded at the point of discharge by the application for Karnet Creek for a 12 month period and supplies to Council*
14. *Clearing on site is to be minimised, and no clearing to occur for establishment of drying areas.*
15. *That access to the site through the State Forest be condoned subject to use of the existing forestry track to minimise clearing of forest and CALM's agreement.*
 - a) *The Manager Technical Services meet on site with Metro Brick and agree the extent of work and funding of those works.*
 - b) *The required works be completed prior to any cartage;*
 - c) *At the completion of the works the road be filmed by video camera to record its condition at completion of their cartage each year.*
 - d) *Metro Brick to provide a cash bond or bank guarantee to the value of \$20000 with this amount being reviewed annually in conjunction with license renewal.*

Council's planning consent in respect of clay extraction on the subject land is not time limited, i.e., it runs for the duration of the current clay extraction operation.

Existing WA Planning Commission Planning Consent

The WA Planning Commission granted approval to commence development for clay extraction on the land on 4 September 1998 subject to the following conditions:

1. *The excavation operations hereby granted are for a limited period of 5 years from the date of this approval.*
2. *The development, operation and rehabilitation of the quarry to be in accordance with the "Environmental Management Of Quarries" published by the Department of Minerals and Energy 1994 and to the satisfaction of the Shire of Serpentine – Jarrahdale.*
3. *Compliance with the Water and Rivers Commission "Guidelines for the Establishment of Extractive Industries" September 1997.*

This approval expires on 4 September 2003. It is in respect of this approval that the current application relates.

Comments

Notwithstanding that Council is not the consent authority in this matter and is required only to provide recommendations to the WA Planning Commission, the application has been dealt with as if it were one in which Council had a decision making function.

The application has been publicly notified in accordance with Clause 6.3.1 (a) of Town Planning Scheme No. 2 and referred to the Department of Environment, Water and Catchment Protection.

Clause 6.4.2 of Town Planning Scheme No. 2 sets out the matters for consideration by Council in determining an application for planning consent as follows:

6.4.2 *In determining an application for planning consent the Council shall have regard to such of the following as are appropriate:*

- (a) *the purpose for which the subject land is reserved, zoned or approved for use under the Scheme;*
- (b) *the purpose for which land in the locality is reserved, zoned or approved for use under the Scheme;*
- (c) *the size, shape and characteristics of the land, and whether it is subject to inundation by floodwaters;*
- (d) *the provisions of the Scheme and any Council policy affecting the land;*
- (e) *any comments received from any authority consulted by the Council;*
- (f) *any submissions received in response to giving public notice of the application;*
- (g) *the orderly and proper planning of the locality; and*
- (h) *the preservation of the amenity of the locality.*

The proposal will be addressed under those heads of consideration.

The purpose for which the subject land is reserved, zoned or approved for use under the Scheme.

Town Planning Scheme No. 2 defines *Industry Extractive* as follows:

Industry Extractive - means an industry which involves:

- “(i) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also the storage, treatment or manufacture of products from those materials when carried out on the land from which any of those materials is extracted or on land adjacent thereto; or
- (ii) the production of salt by the evaporation of sea water.

Extraction of clay falls within the definition of *Industry Extractive*.

Clause 5.10.1 of Town Planning Scheme No. 2 provides:

5.10.1 *The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.*

Industry Extractive is an AA use under Town Planning Scheme No. 2, and consequently falls within the meaning of the statement of intent for the Rural zone at clause 5.10.1 of the Scheme.

Town Planning Scheme No. 2 contains no special provisions or development standards relating to the operation of an *Industry Extractive*.

The purpose for which land in the locality is reserved, zoned or approved for use under the Scheme.

The subject site is located within the Darling Scarp. Land in the vicinity of the site generally forms part of the Darling Range Regional Park and is Reserved under the Metropolitan Region Scheme for the purposes of *State Forests* or *Parks and Recreation*. Land adjoining the subject site to the south west is zoned Rural under Town Planning Scheme No. 2.

Land abutting the cartage route between Lot 737 Firms Road and the South Western Highway is reserved under the Metropolitan Region Scheme for the purposes of *State Forests* (generally with a *Water Catchments* Reservation overlay in respect of land on the south side of Kingsbury Drive) or zoned Rural under Town Planning Scheme No. 2.

Land uses on private land in the locality include general agriculture and the monastery complex on Lot 1 Kingsbury Drive. The Buddhist Society has recently extended its land holdings on the north side of Kingsbury Drive near the existing monastery. Council has two gravel reserves to the north of the subject land on Scrivener Road (26080) and Firms Road (26079).

The size, shape and characteristics of the land, and whether it is subject to inundation by floodwaters.

Photographs of the sites are with the attachments marked P179.2a/11/02, P179.2b/11/02, P179.2c/11/02 & P179.2d/11/02.

The subject land has an area of 40.4686 hectares. Legal access to the land is via Firms Road. For the purposes of clay excavation, however, arrangements have been made for access to Scarp Road and Kingsbury Drive through State Forest 22.

The land is partly cleared to pasture with significant areas of remnant vegetation. This vegetation appears to be thinned, particularly in the understorey. An intermittent creek traverses the property generally from east to west. The subject land forms a gently sloping valley either side of this creek. The headwaters of this creek appear to be in the adjoining property to the east. The creek is a minor tributary of Karnet Brook. Riparian vegetation along the creek remains except where a crossing has been put in to access clay excavation areas on the north of the creek.

Post excavation, the land will be rehabilitated to pasture with large off stream dams to the north and south of the creek line. During the excavation period runoff from clay drying areas

and from excavation areas is directed through settlement ponds before entering the creek. The settlement ponds will be maintained post excavation to deal with overflow from the resultant farm dams.

Clay excavation has been carried out on the subject land since late 1998. The management and operation of the site has been satisfactory. It is only in respect of haulage that issues have arisen during the period of operation.

The provisions of the Scheme and any Council policy affecting the land.

Industry Extractive is an AA use under the provisions of Town Planning Scheme No. 2.

Town Planning Scheme No. 2 contains no special provisions or development standards relating to the operation of an *Industry Extractive*.

There are no Council local planning policies within the meaning of Part IX of Town Planning Scheme No. 2 that apply to the subject land or use.

At its meeting of 15th July 2002 Council's Planning Development and Environment Committee, under delegated authority of Council, adopted draft Local Planning Policy No. 8 – *Landscape Protection* for public comment. The draft policy is on public exhibition until 16 October 2002. The subject land is not included in the Landscape Protection Policy Area for the purposes of draft Local Planning Policy No. 8.

Any comments received from any authority consulted by the Council.

The Department of Environment, Water and Catchment Protection advised (letter dated 17 April 2002) that the Environmental Protection Authority (EPA) previously set the level of assessment for this proposal as Not Assessed – No Advice Given. The EPA remains of the view that this proposal can be managed by appropriate conditions of planning approval.

Conservation WA provided a response to Council's referral of the application to the National Parks and Nature Conservation Authority after the close of public notification of the application. No objection is raised to continuation of clay extraction (access to which is in part through State Forest 22).

A copy of a submission from Conservation WA is with the attachments marked P179.3/11/02.

Any submissions received in response to giving public notice of the application.

Industry – Extractive is an AA use under Town Planning Scheme No. 2. This means that the Council may, at its discretion, permit the use. Council is not obligated to give public notice of the application, however, clause 6.2.1 (c) of the scheme allows Council to publicly notify: "any application for planning consent of which the Council decides public notice should be given."

Given the public interest in this matter in the past, the application was publicly notified in accordance with Clause 6.3.1 (a) of Town Planning Scheme No. 2. The application was advertised for 21 days from 3rd April.

Only one submission was received from the giving of public notice of this application.

A copy of a submission from the Bodhinyana Buddhist Monastery is with the attachments marked P179.4/11/02.

A summary of the submission lodged by the Bodhinyana Buddhist Monastery during the advertising period is provided below. Officer comments in respect of the issues raised in the

submission are in italics. Foremost, it must be noted that the submission is written as if Council is the consent authority in this matter, which is not the case.

Road Safety and Traffic

The submission states the Council commissioned “Shawmac Road Safety Audit of November 1998 pointed out a number of safety hazards if heavy haulage traffic of the sort then proposed by Bristile were allowed on Kingsbury Drive.”

The submission points out that in March 2002 Council commissioned Shawmac to prepare the *Risk Assessment - Kingsbury Drive* and that this report generally confirms the issues raised in the initial report. The submission references various parts of the risk assessment report.

The submission refers to Statement of Planning Policy No. 10 – Basic Raw Materials, which establishes the effect of vehicular traffic and the availability of suitable access roads as matters for consideration when dealing with applications for extractive industry.

The submission makes the assertion that on the basis Council has refused to reissue extractive industry licence renewals on three occasions because of Kingsbury Drive being unsuitable for heavy haulage, it would be unreasonable for Council to approve the planning application.

Haulage and road safety issues and Statement of Planning Policy No. 10 – Basic Raw Materials are addressed elsewhere in this report.

Noise

The submission refers to an acoustics report prepared by Herring Storer Acoustics, commissioned by the Buddhist Society, which concludes, “although the noise levels when averaged over time are very low, they are well above the ambient noise level. Also, the average over a 1-hour period has increased by 5dB(A), greater than the 3 dB (A) recommendation of the EPA's -Version 2A criteria. Therefore, it is likely that the impact from the trucks is causing significant affect to the residents of the Monastery”.

The submission states “*[i]n November 2001 the Buddhist Society purchased Lot 1438 Kingsbury Drive, which is located less than 900 metres from the clay pit site on Loc 737 Firns Road. The Society expects that Bristile’s extractive industry operation will be clearly audible from the property and disruptive to anyone living there. Moreover the Society is concerned about Bristile’s proposal to blast cap-rock in new areas of extraction (see attachment G). The noise from such blasting is incompatible with the use for which Lot 1438 Kingsbury Drive is intended.*”

Noise is a relevant issue in determining the subject application, however, it should be noted that blasting will only be occasional and can be managed for least disruption. Airblast level, being noise resulting from blasting, is dealt with in the Environmental Protection (Noise) Regulations 1997. Any blasting of cap-rock is subject to these regulations (refer Regulation 11).

It is relevant that the Environmental Protection Authority (EPA) previously set the level of assessment for this proposal as Not Assessed – No Advice Given. It is also relevant that noise emissions from vehicles operating on roads (within the meaning of section 5(1) of the Road Traffic Act 1974) are exempt from the Noise Regulations.

Council has not approved the Society’s intended use of Lot 1438. It should be expected that some noise will accompany extractive industry and the Buddhist Society had knowledge of the approved clay pit prior to purchase of Lot 1438 in 2001.

Reference to Statement of Planning Policy No. 10 is, in this regard, a two sided issue. The policy states [t]here should be a presumption against the introduction of sensitive land uses which could be adversely affected by existing or potential future extractive industries unless appropriate measures can be taken to ameliorate the adverse impacts.” The buffer in this instance is 1000 metres, which includes part of Lot 1438.

Given the treatment of relevant noise issues in the Noise Regulations and the limited cartage period, it would be difficult to uphold an argument that the proposal should be refused from a noise and amenity viewpoint (either from traffic or blasting). Clay extraction itself will generate some noise. Again this is time limited and only uses earthmoving equipment.

Social Impacts of Closure of the Monastery

The submission refers to the social impacts of closure of the monastery on the Western Australian Buddhist Society.

There is no doubt that closure of the monastery, if this was to eventuate, would have a significant adverse impact on the Western Australian Buddhist community. As clay extraction and haulage in the area using Kingsbury Drive predated the establishment of the monastery, which has been successfully operating concurrent with the clay extraction and haulage, it is unclear whether the extended operation of a clay pit on the subject land with a short period of haulage annually would cause closure of the monastery.

Availability of White Clay

The submission states *“[c]losure of the pit at Lot 737 Firns Road would only have minimal impact on Bristile because white clay is a very common commodity in the Perth area (Refer attachment letter dated 6th Dec 1999 from Dept Min and Energy).”*

The submission over simplifies information provided by the Department of Minerals and Energy in regard to the availability of readily accessible economic deposits of white clay in various parts of the Metropolitan Region, in particular the South East Corridor. “Suitable” clays are less widely available than white clays. Council would be well aware from its own efforts to secure a viable and economic gravel source that mere availability is misleading. Areas of State forest, rather than being a resource of first resort, are in reality a resource of last resort. The approvals process for Crown Land is excessively cumbersome and the outcomes often unsatisfactory (reference Admiral Road Gravel Pit). This means that freehold land, which is itself relatively limited in the Hills in this Shire, is the subject of interest for basic raw materials extraction. It is also relevant that Council is obligated to consider this application on its merits. The purported availability of white clay in other locations is not a relevant consideration, particularly given the status of this site under Statement of Planning Policy No. 10.

Truck Movements

The submission by the Monastery questions the proponents statement that *“[t]ruck Movements will be limited to a 2-3 week period, involving semi trailers only with 10-15 trucks. Approximately 1,000 truck movements are anticipated over the cartage period.”*

To clarify this matter, the Monastery urges Council to request Bristile to present details of their cartage from Lot 737 Firns Road for the past 3½ years.

The information provided by the proponent is not questioned, however, clarification of this issue has been sought from the applicant.

Further submissions were received from the Bodhinyana Buddhist Monastery after the close of submissions. Matters raised in these submissions are not dealt with specifically in this report as arising from public notification of the application, they, however, broadly dealt with elsewhere in the course of discussion of relevant issues.

A copy of a submission from the Bodhinyana Buddhist Monastery received outside the public notification period is with the attachments marked P179.5/11/02.

A copy of a further submission from the Bodhinyana Buddhist Monastery received outside the public notification period is with the attachments marked P179.6/11/02.

A copy of a submission from the Royal Thai Embassy received outside the public notification period is with the attachments marked P179.7/11/02.

The orderly and proper planning of the locality

The proposed extraction of clay from the subject land falls within the definition of *Industry Extractive*.

Clause 5.10.1 of Town Planning Scheme No. 2 provides:

5.10.1 The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.

Industry Extractive is an AA use under Town Planning Scheme No. 2, and consequently falls within the meaning of the statement of intent for the Rural zone at clause 5.10.1 of the Scheme. An AA use is a use that Council may at its discretion permit. The use of the subject land for clay extraction is not prejudicial to the orderly and proper planning of the locality.

For reference purposes, a *Public Worship - Place of* is an SA use in the Rural zone, being a use that Council may, at its discretion, permit after notice of the application in accordance with Clause 6.3, i.e., there is a more rigorous approvals process for a place of public worship in a Rural zone than there is for an extractive industry. This does not mean, however, that a place of public worship is necessarily less desirable in a Rural zone than an extractive industry.

In terms of future planning for extractive industries, Council's Rural Strategy Review briefly addresses Statement of Planning Policy No. 10 and makes the following recommendation:

"Recommendation No. 3.

That Town Planning Scheme No. 3 reflects the Basic Raw Materials Statement of Planning Policy No. 10."

By implication, the Special Control Area provisions of Statement of Planning Policy No. 10, which place the buffer obligations of Statement of Planning Policy No. 4 – State Industrial Buffer Policy upon land uses adjacent to an *Extraction Area*, will form the basis of a review of Council's local planning scheme.

In the past, Kingsbury Drive has not been significant in the context of Council's broader road network. The proposal has, through continuous debate and conflict arising through the extractive industry licence renewal process (including the preparation of various road safety audits which raise issues relating to identified risks requiring attention on Kingsbury Drive), has served to cause increased weight to be placed upon the need for capital works to be carried out on Kingsbury Drive. This increased focus outside the context of other Shire road network needs could arguably be said to distort infrastructure provision needs relative to other priorities within the Shire's road network.

The preservation of the amenity of the locality

This head of consideration involves establishing both the existing amenity of a locality and the extent of the locality itself. Discussion is largely limited to noise, as other issues of amenity are not relevant or rendered insignificant by the simple isolation of the subject land.

In many respects amenity is a subjective construct. Residents of an area, in this case Buddhist monks residing in a forest retreat where meditation and reflection are significant pastimes, may define amenity differently. Despite the subject land being zoned Rural under Town Planning Scheme No. 2, the surrounding land is largely either Reserved for the purposes of *State Forest* or *Parks and Recreation* under the Metropolitan Region Scheme. Notwithstanding that large parts of State Forest 22 are potentially available for forestry operations, and noting Council's own gravel extraction nearby, the locality is best described as having the natural quietude of a bushland locality. Private lands in the locality are by and large heavily vegetated rather than actively managed as farming operations. Council's gravel extraction, as with clay extraction on the subject land, is discontinuous, with significant resource won and stockpiled well in advance with brief but intense haulage periods. In this context, it would be difficult to argue that the ordinary operations of clay extraction, which involve excavation, stockpiling, loading and haulage, do not generate a level of noise which is other than disruptive to the peace and quiet of the locality.

By any definition of the extent of the locality, the existing amenity is able to be described in similar terms, be it limited to the valley formation within which the subject land fits, a broader area defined by an arbitrary distance (say 1000 metres radius), or the broader scarp area accessed by Kingsbury Drive.

What is less clear, however, is whether the off-site amenity impacts of clay extraction, particularly noise, are unreasonable and/or unbearable. This applies in respect of existing nearby land uses and to a significantly diminished extent with respect to unapproved future land use contemplated by the Buddhist Society on Lot 1438. Given the relatively small nature of the operation, the discontinuous nature of both haulage and on-site operations, and the separation of the subject site from adjoining sensitive land uses, it is difficult to contemplate that ordinary operation of the site will have a significant adverse impact on the amenity of the locality such as to warrant a recommendation of refusal.

The same applies specifically to haulage, particularly if this is limited to the two to three week period and 1000 truck movements contemplated by the application, and site operations and haulage, to be 6.00am to 6.00pm Monday to Saturday. It is again necessary to point out that extracts of the acoustics report provided by the Buddhist Society do not mention that noise emissions from vehicles operating on roads are exempt from the Noise Regulations. Given that the Environmental Protection Authority previously set the level of assessment for this proposal as Not Assessed – No Advice Given, and is of the view that the proposal can be managed by appropriate conditions of planning approval, it is difficult to contemplate that a recommendation of refusal based on the issue of noise can be upheld.

Subject to sufficient advance notice being given to Council and neighbours of haulage and blasting operations, and compliance with the Noise Regulations in respect of the latter, the noise impacts of the proposal are not considered unreasonable.

In respect to the end landform resulting from rehabilitation after clay extraction, water storage and partial clearing to pasture is consistent with the existing use of the subject land and other private lands in the locality.

Other Matters for Consideration

Statement of Planning Policy No. 10 – Basic Raw Materials

Lot 737 Firms Road is identified in the Statement of Planning policy as an *Extraction Area*. *Extraction Areas* are "existing extractive industries operating under the Mining Act 1978, the Local Government Act 1996 (sic) a regional planning scheme or a town planning scheme. They should be protected in the short term but will eventually be replaced by other uses or reserves".

Statement of Planning Policy No. 10 provides:

“Before determining an application for an extractive industry operation the Commission and or local government should consider as appropriate:

- *the significance of the resource in terms of its positioning in a priority resource location, key extraction area, or extraction area;*
- *the effect of the proposed extractive industry on any native flora and fauna, the natural landscape, groundwater quality, quantity and use, surface drainage and surface water quality, and sites of cultural and historic significance on and near the land. An application in an environmentally significant area may require referral to the Department of Environmental Protection*
- *the effect of the proposed extractive industry on agricultural land;*
- *the effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area having regard to existing and future uses;*
- *the ability to rehabilitate the land to a form or for a use which is compatible with the long term planning for the site and surrounding area;*
- *the availability and suitability of road access;*
- *the ability to stage the extraction operations to avoid conflicts with adjacent land uses.”*

The proposal will be addressed under these heads of consideration.

The significance of the resource in terms of its positioning in a priority resource location, key extraction area, or extraction area.

The subject land is an extraction area as defined by Statement of Planning Policy No. 10 – Basic Raw Materials. The policy provides that extraction areas should be protected in the short term but will eventually be replaced by other uses or reserves.

The effect of the proposed extractive industry on any native flora and fauna, the natural landscape, groundwater quality, quantity and use, surface drainage and surface water quality, and sites of cultural and historic significance on and near the land. An application in an environmentally significant area may require referral to the Department of Environmental Protection.

The Department of Environment, Water and Catchment Protection advised (letter dated 17 April 2002) that the Environmental Protection Authority (EPA) previously set the level of assessment for this proposal as Not Assessed – No Advice Given. The EPA remains of the view that this proposal can be managed by appropriate conditions of planning approval.

The subject land is not a known site of cultural or historic significance.

The effect of the proposed extractive industry on agricultural land

The subject land is currently used as a grazing property in conjunction with an adjoining land holding. Post rehabilitation the subject land will continue to be used for grazing with enhanced on-site water storage resulting from the clay extraction. In this respect, it could be said that increased water storage on the land increases the potential range to agricultural uses to which the land may be put.

The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area having regard to existing and future uses.

These matters are addressed elsewhere in this report. As a general comment, however, Statement of Planning Policy No. 10 gives weight to identified *Priority Resource Locations*, *Key Extraction Areas* and *Extraction Areas* over other uses.

The ability to rehabilitate the land to a form or for a use which is compatible with the long term planning for the site and surrounding area.

Post excavation, the land will be rehabilitated to pasture with large off stream dams to the north and south of the creek line. This is considered compatible with the Rural zoning of the land.

The availability and suitability of road access

This matter is addressed elsewhere in this report.

The ability to stage the extraction operations to avoid conflicts with adjacent land uses

Conflict arises from the off-site impacts of heavy haulage on Kingsbury Drive rather than on-site operation and management of clay extraction. Excavation is already staged north and south of the creek line and within individual cells to minimise excavation areas, progressively backfill and provide clay drying areas.

Road Safety Audit and Risk Assessment

In late 1998 Council commissioned Shawmac to prepare the Stage 5 Road Safety Audit Kingsbury Drive, Serpentine – South Western Highway to Scarp Road North and Scarp Road North to Near Lot 737 Firms Road. The key issues identified by that report are:

- the existing horizontal geometry is substandard in places and poses hazards particularly for opposing vehicles
- existing sealed carriageway widths (in part) do not provide sufficient lane widths for two way heavy traffic as required by the contemporary recommendations of the Ausroad Guidelines
- the radii of some horizontal curves are inconsistent with the speed zoning and gradients along the route;
- there is no line marking or pavement markers installed and where guideposts are installed these are in poor condition and do not conform to Australian Standard AS 1742;
- sight distances around some curves are adversely affected by vegetation; and
- the intersection geometry at Kingsbury Drive and South Western Highway does not adequately accommodate some turning movements.

Subsequent to the report Main Roads has undertaken a review of speed zones and signage on the road and has introduced speed zones, upgraded signage and installed a centre line on the road pavement. The Asset Services Department has also implemented a more regular program of roadside vegetation management, bitumous pavement repairs and road shoulder maintenance.

In March 2002 Council commissioned Shawmac to prepare the *Risk Assessment - Kingsbury Drive*. This subsequent report generally confirms the issues raised in the initial report.

In respect of truck traffic, the risk assessment report states:

.....[i]t was considered that generally the risk profile would remain unaltered for the majority of risks assessed, with the expected increase in truck traffic. However the risk profile did increase with increased truck traffic with the number of risks as high or extreme increasing from 10.2% to 25.6%.

This shift in risk profile demands more detailed consideration of treatments that preferably eliminate the hazard or reduce the likelihood of the occurrence of an incident to an acceptable level.

Major issues of risk identified in the risk assessment report, but not the only issues identified in that report, are:

Opposing vehicles may be forced to partially travel on the gravel shoulder when passing. This may result in the driver losing control of the vehicle

The risk assessment report comments this is a “[m]oderate risk, treatment should ensure that shoulder maintenance is of sufficient rigour to ensure vehicles required to partially travel on the shoulder can do so safely.”

In respect of the impact of increased truck traffic, the risk assessment report goes on to state an “increase in truck traffic is likely to increase the probability of the risk event occurring sufficiently to force an increase in the likelihood rating from 2 to 3. The resulting risk rating (12) is high and treatment options may need to include consideration of widening the carriageways.”

Vehicles may be forced to partially travel on the gravel shoulder when passing. This may result in a driver losing control of the vehicle

The risk assessment report comments this is a “[h]igh risk, treatment should ideally aim to provide widening on curves, however if this is cost prohibitive and the cost benefit ratio does not support the widening of the carriageways, shoulder maintenance should be of sufficient rigour to ensure vehicles required to partially travel on the shoulder can do so safely.”

In respect of the impact of increased truck traffic, the risk assessment report goes on to state, “[g]iven the additional width of trucks, an increase in truck traffic is likely to increase the probability of the risk event occurring sufficiently to force an increase in the likelihood ranging from 3 to 4. The resulting risk rating (16) is rated as extreme. Curve widening may be required.”

There is, however, no increased truck traffic proposed, only the continuance of what has occurred for a lengthy period (Note the irregular cartage rates and periods of the last few years giving the limited period of extractive industry licences granted through various appeal processes).

Kingsbury Drive Suitability for Use

There have been a number of risk assessment/road safety type reports prepared by all parties to this matter over a number of years. They are all broadly consistent. Kingsbury Drive is not constructed to a standard suitable for the traffic volumes or the traffic profile now using the road. What is in dispute is whether or not risk associated with use of the road is unacceptable. In this respect it is worth noting that Council at its meeting of 23 September 2002 considered a report on a speed zone review of Kingsbury Drive. Council subsequently resolved:

COUNCIL DECISION EN BLOC RESOLUTION 02/09

Moved Cr Kirkpatrick seconded Cr Wigg

That Council adopts en bloc the recommendations of the Asset Services Committee of the 9th September 2002 in items AS011/09/02, AS013/09/02, AS014/09/02 and AS015/09/02.

CARRIED 10/0

CRAS011 COMMITTEE DECISION/Committee Recommended Resolution

- 1. Main Roads be advised that Council concurs with the proposed speed zoning of 70km/hr for general traffic and 40km/hr for trucks on Kingsbury Drive between South Western Highway and Scarp Road (east).*
- 2. Officers pursue avenues of upgrading Kingsbury Drive between South Western Highway and Scarp Road in consultation with the Buddhinyana (sic) Monastery to address deficiencies including pursuing funding opportunities from the State Government, Bristle and other stakeholders.*

CARRIED BY EN BLOC RESOLUTION 02/09

This decision reflects recognition from Council that for various reasons, the priority attached to addressing some of the deficiencies with Kingsbury Drive has altered. In this respect, the Director Asset Services and the Director Sustainable Development have had a number of discussions with Main Roads WA and Bristile to explore avenues of addressing the issues raised in the road safety audits. These discussions are ongoing.

The decision in *Bristile Limited –v- Shire of Serpentine-Jarrahdale (Plaint No. 25676 of 2001)* is discussed below, however it may be inferred from the Magistrate's reasons that the most appropriate manner for Council to deal with the deficiencies in Kingsbury Drive identified through the Shawmac Report (and others) is by acting on the recommendations of that report rather than by refusing extractive industry licence renewals.

It is noted that while Bristile is responsible for the majority of heavy traffic on Kingsbury Drive during clay haulage periods, the Bodhinyana Buddhist Monastery is responsible for a significant proportion of passenger vehicles.

The *Road Safety Audit – Kingsbury Drive* prepared by Sinclair Knight Merz in June 2002 states:

According to the Austroads publication Rural Road Design, Guide to Geometric Design of Rural Roads, 1993 a normal lane width of 3.0 metres (or 6.0m total seal width) should be provided for two way traffic flow for volumes between 150 and 500 vehicles per day. Where the heavy vehicle content is high (greater than say 8-10%) the lane width should be at least 3.5 m (or 7.0m total seal width). For Kingsbury Drive at present the measured proportion of heavy vehicles (Austroads Class 4 and above) is approximately 3%. With the introduction of eighty five 42.5 tonne GVM heavy vehicles travelling to and from the extraction pit this proportion would increase to approximately 27%.

In the case of Kingsbury Drive, the seal width varies from a maximum of approximately 6.0m down to a minimum of approximately 5.2 metres. These figures are less than the typical minimum widths for a rural road carrying heavy vehicles.

The March 2002 Shawmac Risk Assessment - Kingsbury Drive details traffic counts undertaken in the week commencing 26 October 1998. The average weekday traffic volume was 271 vehicles per day (VPD) with a significantly higher seven day average of 308 VPD affected by Sunday volumes of 522 vehicle movements. Monday to Saturday vehicle movements ranged from 215 to 324 vehicles. Referring back to the Sinclair Knight Merz *Road Safety Audit – Kingsbury Drive*, in 1998 Kingsbury Drive was already below Austroads requirements for a rural road with volumes between 150 and 500 vehicles per day. This is without any heavy vehicle content greater than the cited 8-10% threshold.

In respect of the proposition that the Bodhinyana Buddhist Monastery generates a significant proportion of passenger vehicle movements on Kingsbury Drive, the Buddhist Society indicate that about 10,000 people annually visit the monastery (and 25,000 the visitor centre at Nollamara). In documents submitted to Council in September 1983 in support of the initial monastery development, the Buddhist Society stated in respect of visitation numbers:

“The monastery will always be open to people wishing to visit and receive instructions in any aspects of Buddha’s Teaching. It is not expected that there will be many visitors during the week days. On the weekends it is likely that there will be visitors but not in great numbers. For special religious occasions of which there are only two or three a year there could be between fifty and one hundred people visiting for the day. Once the monastery is established and suitable facilities are available, the Society hopes to arrange weekend meditation retreats for groups of laypeople once every two months. The number of people participating in these retreats will be about twenty.”

When compared to initial expectations for visitation, current visitor numbers at the monastery significantly exceed initial expectations.

Legal Action/Appeals

Extractive industry licences in respect of the subject land have been the subject of a number of Supreme Court and local Court hearings and an appeal to the Minister for Local Government over the last four years. While not directly related to the matter of approval to commence development under either the local planning scheme or the Metropolitan Region Scheme, they do inform the question of the weight which should be given to the matter of road safety risk.

In its January 2001 Report on the appeal by Bristile Ltd against the Shire of Serpentine-Jarrahdale's refusal to renew an extractive industry licence in respect of Lot 737 Firns Road, Serpentine the Department of Local Government concluded:

The Shire's new Extractive Industries Local Laws have removed any doubt that previously existed about whether the Council could consider truck movements and road safety issues when deliberating on the grant or renewal of an EIL.

The Minister subsequently upheld Bristile's appeal.

The judgement of Full Court of the Supreme Court (CIV 1806 of 2001) in dealing with an application brought by the Buddhist Society of Western Australia for writs of certiorari and mandamus against the Minister for Local Government says:

It may be accepted that road safety considerations were relevant to the Minister's decision. That is because they were matters which, under the Extractive Industries Local Law, Bristile was required to address: and they were matters which formed the basis of the Council's decision. However, the local law said nothing about the weight to be attributed to the matters of road safety. It was therefore fully open to the Minister to decide that little or no weight should be given to the matters on which the Council relied.

In the more recent decision in the Local Court in the matter of *Bristile Limited –v- Shire of Serpentine-Jarrahdale (Plaint No. 25676 of 2001)* Magistrate Boothman determined that Council had exercised its discretion wrongly in refusing to renew an extractive industry licence for the 2000 calendar year. The Learned Magistrate makes the point that "[I]n this case the risk arises out of the ordinary use of the road by vehicles which have an 'as of right' passage on the highway". The implication of the determination is that while Council was entitled to consider traffic management issues in its consideration of the extractive industry licence renewal, the weight of such matters was insufficient to justify a refusal.

Two different appellate bodies have reached the conclusion that, notwithstanding the risks identified in the Shawmac Report, they were insufficient to justify a refusal to renew Bristiles extractive industry licence.

Conclusion

The Western Australian Planning Commission is the consent authority for the purposes of this application.

Given that this is an application in effect for an extension of development approval and that there have been no operational problems with the development to date, and given that the question of weight to be given to road safety has been widely canvassed at appeal, it is recommended that Council advise the Planning Commission that the proposed extraction of clay from Lot 737 Firns Road, Serpentine for a further five (5) years be approved subject to conditions. It is also appropriate to forward to the Planning Commission copies of submissions received from the Department of Environment, Water and Catchment Protection and the Bodhinyana Buddhist Monastery.

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

From the perspective of future use of the subject land, clay extraction has a positive lasting benefit in that on-site water storage capacity is significantly increased post clay rehabilitation. Clay extraction areas are off-stream, outside the zone of remnant riparian vegetation. Runoff and overflow from the water storages re-enters the stream system through settlement ponds. Water monitoring to date has not indicated any problems with water turbidity.

The most significant environmental impact of this proposal is the off-site impacts associated with haulage on local roads which are discussed elsewhere in this report.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

Resource extraction is fundamentally about use of resources, in this case non-renewable resources. Minimising haulage distances aims at reducing transport costs through time savings and lower fuel use. Any argument about transport economics would ordinarily also have to include discussion of the advantages of using larger haulage vehicles. In this case, however, haulage is restricted to vehicles of 42.5 tonnes GVM by virtue of conditions placed on the Council planning consent under Town Planning Scheme No. 2 dated 17th September 1998.

The end use of the subject site is consistent with current and future agricultural use of the land.

Does the proposal/issue use locally available or produced resources?

Fundamentally the issue is one of supplying a low value basic raw material to a local brick maker from a local clay pit. Statement of Planning Policy No. 10 recognises that basic raw materials have a proportionately high transport cost. Sourcing clay locally serves to minimise transport costs to the company.

Will the proposal/issue be economically viable in a way that incorporates its external costs?

Key to the broader debate about heavy haulage use of Kingsbury Drive is the standard of the road and the need for/status of upgrading in the context of Council's road maintenance program. Kingsbury Drive is not currently identified for significant works within Council's five year capital works program. While the standard of the road is not consistent with contemporary road design standards, it was not inconsistent with construction standards when it was first built. Irrespective of whether there is heavy haulage use of Kingsbury Drive, which should be expected given clay, timber and gravel resources in the Scarp, the Serpentine Dam and Karnet Prison, the numerous road safety and audit reports prepared by all parties in this matter are generally consistent. Kingsbury Drive, on the basis of contemporary road design criteria, is not built to a standard consistent with its use by ordinary passenger vehicles on a vehicles per day basis. Heavy haulage use by Bristile is limited to a number of relatively short but intense haulage periods with a minimal overall impact on the overall use of the road. While debate about Bristile's use of Kingsbury Drive has placed a focus on the standard to which Kingsbury Drive is constructed, it is perhaps unreasonable to attribute all the costs of upgrading the road significantly to Bristile.

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

Clay extraction from the subject land has been a five year legal battle involving the applicant, the Buddhist Society and Council. Management of the clay extraction itself has taken a back

seat to broader issues of road safety and the off-site impacts of heavy haulage noise on “sensitive” land uses abutting the haulage route. The issue has long since moved from one of community building through participation to one of adversarial conflict. The annual extractive industry licence process has been the vehicle for this conflict with the right of the community to participate in the decision making process offset against what two appellate bodies have now said is the legitimate expectation of the applicant to act on planning approval for clay extraction and the need for long term resource security to enable adequate cost planning.

Does the proposal/issue disadvantage any social groups?

The Bodhinyana Buddhist Monastery claims to be significantly disadvantaged by continued clay haulage on Kingsbury Drive. The claim has been made by the Buddhist Society that continuation and/or expansion of clay haulage (or other heavy haulage on Kingsbury Drive) may prejudice the fundamental attributes of monastic life to the point of closure of the Monastery is the only option available to the Buddhist Society. Closure of the monastery, if this were to occur, would have a significant impact on the Buddhist community within both the Shire and the State generally.

Similarly, continued lack of resource security may prejudice the long term future of not only clay extraction in the Darling Scarp, which is a resource of Metropolitan if not State significance, but also the future of brick making within the Shire.

Does the proposal/issue create long term employment or economic benefit to current and future residents of the shire?

Bristle’s Cardup Brickworks is recognised as one of the largest single employers in the Shire.

Clay extraction from the subject land provides high quality white clay for specialty brick making to a significant existing local business.

Closure of the pit will have economic and social impacts.

Statutory Environment: Town Planning and Development Act 1928 (as amended)
Town Planning Scheme No. 2
Statement of Planning Policy No. 10 – Basic Raw Materials

Policy Implications: Rural Strategy 1996 (as amended); and Basic Raw Materials Statement of Planning Policy No. 10

Financial Implications: Consideration to be given for Council contributions for maintenance of Firns Road.

Strategic Implications: A Key Result Area of the Shire’s Strategic Plan (2001-2005) applicable to the proposal is:

Strategy 1.3
“Encourage road design that is aesthetically pleasing, safe and multifunctional.”

Community Consultation: Publicly advertised inviting submissions. One (1) submission received.

Voting Requirements: Normal

Officer Recommended Resolution

- A. Council advises the Western Australian Planning Commission that planning consent pursuant to Town Planning Scheme No. 2 for the extraction of clay from Lot 737 Firms Road, Serpentine was issued on 17 September 1998 and is not time limited.
- B. Council refers copies of submissions made by the Bodhinyana Buddhist Monastery during the public notification period and subsequent to it, to the Western Australian Planning Commission for consideration in the Commissions determination of the application for the extraction of clay from Lot 737 Firms Road, Serpentine under the Metropolitan Region Scheme.
- C. Council requests the Western Australian Planning Commission, in the event the Commission is disposed to grant approval to commence development for the extraction of clay from Lot 737 Firms Road, Serpentine, to impose the following conditions on such development:
1. The excavation operations hereby granted are for a limited period of 5 years from the date of this approval.
 2. The applicant is to ensure that the development, operation and rehabilitation of the quarry are carried out in accordance with the publication "Environmental Management of Quarries" published by the Department of Minerals and Energy 1994.
 3. The applicant is to ensure that the quarry is operated in compliance with the Water and Rivers Commission "Guidelines for the Establishment of Extractive Industries" September 1997.
 4. Cartage from the site is limited to daylight hours only in not more than two periods not exceeding 20 working days in total in any calendar year.
 5. The applicant is to ensure that the Shire of Serpentine-Jarrahdale is given at least ten days advance noticed in writing of the intention to cart clay from the subject site and stating the intended dates of clay cartage.
 6. The applicant is to cause notice to be published in a newspaper circulating in the local area giving not less than 10 days advance noticed of the intended dates of clay cartage.
 7. The applicant is to cause landowners along the cartage route, (from Lot 737 Firms Road to South Western Highway only) to be notified in writing at least 10 days in advance of intended dates of clay cartage.
 8. The applicant is to cause signs to be erected on the cartage route to the South Western Highway displaying clearly the warning "Caution – Truck Using Road" during times of cartage. The signs are to be erected at the commencement and end of the cartage route and at any intersection.
 9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during and at the conclusion of each haulage period to the standard ordinarily stipulated by the Shire of Serpentine-Jarrahdale for rural roads carrying heavy haulage vehicles up to 42.5 gross vehicle mass.
 10. Haulage vehicles are restricted to "as of right" combination vehicles up to a maximum length of 19 metres and a maximum gross vehicle mass of 42.5 tonnes.

Advice Notes:

1. In relation to condition 1 (above) the Commissions attention is drawn to amended description of development submitted to Council on 16 October 2002 which states:
Brian Clark has asked us to amend the carting period from 2-3 weeks to two (2) periods of 3 weeks.
2. It is noted that blasting of cap rock forms part of the application and that blasting is not proposed for the 2003 year as part of the concurrent extractive industry licence. Conditions relating to blasting will be imposed on the 2004 calendar year extractive industry licence.

Committee Recommended Resolution

- A. Council advises the Western Australian Planning Commission that planning consent pursuant to Town Planning Scheme No. 2 for the extraction of clay from Lot 737 Firms Road, Serpentine was issued on 17 September 1998 and is not time limited.
- b. Council refers copies of submissions made by the Bodhinyana Buddhist Monastery during the public notification period and subsequent to it, to the Western Australian Planning Commission for consideration in the Commissions determination of the application for the extraction of clay from Lot 737 Firms Road, Serpentine under the Metropolitan Region Scheme.
- c. Council requests the Western Australian Planning Commission, in the event the Commission is disposed to grant approval to commence development for the extraction of clay from Lot 737 Firms Road, Serpentine, to impose the following conditions on such development:
1. The excavation operations hereby granted are for a limited period of 5 years from the date of this approval.
 2. The applicant is to ensure that the development, operation and rehabilitation of the quarry are carried out in accordance with the publication "Environmental Management of Quarries" published by the Department of Minerals and Energy 1994.
 3. The applicant is to ensure that the quarry is operated in compliance with the Water and Rivers Commission "Guidelines for the Establishment of Extractive Industries" September 1997.
 4. Cartage from the site is limited from 6.00am to 6.00pm only and is not to exceed 20 working days in total in any calendar year.
 5. The applicant is to ensure that the Shire of Serpentine-Jarrahdale is given at least ten days advance noticed in writing of the intention to cart clay from the subject site and stating the intended dates of clay cartage.
 6. The applicant is to cause notice to be published in a newspaper circulating in the local area giving not less than 10 days advance noticed of the intended dates of clay cartage.
 7. The applicant is to cause landowners along the cartage route, (from Lot 737 Firms Road to South Western Highway only) to be notified in writing at least 10 days in advance of intended dates of clay cartage.
 8. The applicant is to cause signs to be erected on the cartage route to the South Western Highway displaying clearly the warning "Caution – Truck Using Road" during times of cartage. The signs are to be erected at the commencement and end of the cartage route and at any intersection.
 9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during and at the conclusion of each haulage period to the standard ordinarily stipulated by the Shire of Serpentine-Jarrahdale for rural roads carrying heavy haulage vehicles up to 42.5 gross vehicle mass.
 10. Haulage vehicles are restricted to "as of right" combination vehicles up to a maximum length of 19 metres and a maximum gross vehicle mass of 42.5 tonnes.

Advice Note:

1. It is noted that blasting of cap rock forms part of the application and that blasting is not proposed for the 2003 year as part of the concurrent extractive industry licence. Conditions relating to blasting will be imposed on the 2004 calendar year extractive industry licence.

Note: The Officer Recommended Resolution was altered by removing advice note 1 and clarifying the hours of operation in condition 4.

Cr Richards left the meeting at 8.40pm and returned at 8.44pm

ALTERNATIVE MOTION

Moved Cr Murphy seconded Cr Hoyer that

- A. Council advises the Western Australian Planning Commission that planning consent pursuant to Town Planning Scheme No. 2 for the extraction of clay from Lot 737 Firms Road, Serpentine was issued on 17 September 1998 and is not time limited.
- B. The West Australian Planning Commission be advised that the Shire, for safety reasons, objects to and does not support the granting of a development approval to extract clay from Lot 737 Firms Road for five years, so long as the proposal includes the cartage of clay along Kingsbury Drive. It is the Shires long standing opinion supported by expert evidence that the use of Kingsbury Drive by heavily laden vehicles to descend from the scarp constitutes an unacceptable danger to the public.
- C. Council refers copies of submissions made by the Bodhinyana Buddhist Monastery during the public notification period and subsequent to it, to the Western Australian Planning Commission for consideration in the Commissions determination of the application for the extraction of clay from Lot 737 Firms Road, Serpentine under the Metropolitan Region Scheme.
- D. Council requests the Western Australian Planning Commission, in the event the Commission is disposed to grant approval to commence development for the extraction of clay from Lot 737 Firms Road, Serpentine, to impose the following conditions on such development:
 1. The excavation operations hereby granted are for a limited period of 5 years from the date of this approval.
 2. The applicant is to ensure that the development, operation and rehabilitation of the quarry are carried out in accordance with the publication "Environmental Management of Quarries" published by the Department of Minerals and Energy 1994.
 3. The applicant is to ensure that the quarry is operated in compliance with the Water and Rivers Commission "Guidelines for the Establishment of Extractive Industries" September 1997.
 4. Cartage from the site is limited from 6.00am to 6.00pm only and is not to exceed 20 working days in total in any calendar year.
 5. The applicant is to ensure that the Shire of Serpentine-Jarrahdale is given at least ten days advance noticed in writing of the intention to cart clay from the subject site and stating the intended dates of clay cartage.
 6. The applicant is to cause notice to be published in a newspaper circulating in the local area giving not less than 10 days advance noticed of the intended dates of clay cartage.
 7. The applicant is to cause landowners along the cartage route, (from Lot 737 Firms Road to South Western Highway only) to be notified in writing at least 10 days in advance of intended dates of clay cartage.
 8. The applicant is to cause signs to be erected on the cartage route to the South Western Highway displaying clearly the warning "Caution – Truck Using Road" during times of cartage. The signs are to be erected at the commencement and end of the cartage route and at any intersection.
 9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during and at the conclusion of each haulage period to the standard ordinarily stipulated by the Shire of Serpentine-Jarrahdale for rural roads carrying heavy haulage vehicles up to 42.5 gross vehicle mass.
 10. Haulage vehicles are restricted to "as of right" combination vehicles up to a maximum length of 19 metres and a maximum gross vehicle mass of 42.5 tonnes.

Advice Note:

1. It is noted that blasting of cap rock forms part of the application and that blasting is not proposed for the 2003 year as part of the concurrent extractive industry licence. Conditions relating to blasting will be imposed on the 2004 calendar year extractive industry licence.

LOST 2/8

CRP179 COUNCIL DECISION

Moved Cr Price seconded Cr Richards that

- A. Council advises the Western Australian Planning Commission that planning consent pursuant to Town Planning Scheme No. 2 for the extraction of clay from Lot 737 Firns Road, Serpentine was issued on 17 September 1998 and is not time limited.
- B. Council refers copies of submissions made by the Bodhinyana Buddhist Monastery during the public notification period and subsequent to it, to the Western Australian Planning Commission for consideration in the Commission's determination of the application for the extraction of clay from Lot 737 Firns Road, Serpentine under the Metropolitan Region Scheme.
- C. Council requests the Western Australian Planning Commission, in the event the Commission is disposed to grant approval to commence development for the extraction of clay from Lot 737 Firns Road, Serpentine, to impose the following conditions on such development:
 1. The excavation operations hereby granted are for a limited period of 5 years from the date of this approval.
 2. The applicant is to ensure that the development, operation and rehabilitation of the quarry are carried out in accordance with the publication "Environmental Management of Quarries" published by the Department of Minerals and Energy 1994.
 3. The applicant is to ensure that the quarry is operated in compliance with the Water and Rivers Commission "Guidelines for the Establishment of Extractive Industries" September 1997.
 4. Cartage from the site is limited from 6.00am to 6.00pm only and is not to exceed 20 working days in total in any calendar year.
 5. The applicant is to ensure that the Shire of Serpentine-Jarrahdale is given at least ten days advance notice in writing of the intention to cart clay from the subject site and stating the intended dates of clay cartage.
 6. The applicant is to cause notice to be published in a newspaper circulating in the local area giving not less than 10 days advance notice of the intended dates of clay cartage.
 7. The applicant is to cause landowners along the cartage route, (from Lot 737 Firns Road to South Western Highway only) to be notified in writing at least 10 days in advance of intended dates of clay cartage.
 8. The applicant is to cause signs to be erected on the cartage route to the South Western Highway displaying clearly the warning "Caution – Truck Using Road" during times of cartage. The signs are to be erected at the commencement and end of the cartage route and at any intersection.
 9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during and at the conclusion of each haulage period to the standard ordinarily stipulated by the Shire of Serpentine-Jarrahdale for rural roads carrying heavy haulage vehicles up to 42.5 gross vehicle mass.
 10. Haulage vehicles are restricted to "as of right" combination vehicles up to a maximum length of 19 metres and a maximum gross vehicle mass of 42.5 tonnes.

Advice Note:

1. It is noted that blasting of cap rock forms part of the application and that blasting is not proposed for the 2003 year as part of the concurrent extractive industry licence. Conditions relating to blasting will be imposed on the 2004 calendar year extractive industry licence.
2. The condition of Kingsbury Drive is such that any use by heavy vehicles between Scarp Road and South Western Highway requires drivers to exercise extreme caution and courtesy to other road users.

CARRIED 10/0

Note: The Committee Recommended Resolution was changed to include the addition of Part 2 in the advice note.

P181/11/02 FINAL ADOPTION OF LOCAL PLANNING POLICY NO. 8 - LANDSCAPE PROTECTION (A1028)		
Proponent	Shire of Serpentine-Jarrahdale	In Brief Council to finally adopt Local Planning Policy No. 8 – Landscape Protection following consideration of submissions made during advertising.
Officer	Andrew Watson – Director Sustainable Development	
Signatures - Author:		
Senior Officer:		
Date of Report	11 November 2002	
Previously	P014/07/02	
Disclosure of Interest		
Delegation	Council	

Background

At its meeting of 22nd July 2002 Council adopted draft Local Planning Policy No. 8- Landscape Protection for public advertising.

The draft local planning policy was advertised for twenty one (21) days in accordance with the provisions of Part IX of Town Planning Scheme No. 2.

Comments

No submissions were received during the exhibition period.

Concluding Remarks

Revised Local Planning Policy No.8 – Landscape Protection appears as part of the Officer Recommended Resolution.

Sustainability Statement

Does the proposal/issue enhance the environment (built and natural) or minimise environmental damage through best practice in its field?

The objectives of the policy are:

1. To preserve the amenity deriving from the scenic value of the Darling Scarp;
2. To maintain the integrity of landscapes within the Landscape Protection Area;
3. To protect and enhance the landscape, scenic and townscape values through control over design, building materials and siting of development and land uses rather than prohibition of development and land use as such;
4. To maintain the integrity of landscapes in the line of sight view corridor along identified scenic routes in the Shire, including but not limited to South West Highway, Nettleton Road, Jarrahdale Road, Admiral Road, Kingsbury Drive and both the North-South and East-West Railway lines and natural water courses;
5. To provide developers and landowners with a statement describing the requirements for the subdivision and development within the Landscape Protection Area.

Does the proposal/issue minimise resource use, eg. Energy, land, water, soil, compared to traditional development approaches?

The Local Planning Policy will provide Council with a tool to ensure protection of the integrity of the landscape of the Scarp from developments that will affect the amenity of the area.

Does the proposal/issue use locally available or produced resources?

Not applicable.

Will the proposal/issue be economically viable in a way that incorporates its external costs?

Not applicable.

Is the proposal/issue designed to be socially and environmentally responsible through building up the community and enabling full participation in its implementation?

The draft Local Planning Policy was publicly advertised in accordance with Council's statutory obligations. No submissions were received during the advertising period.

Does the proposal/issue disadvantage any social groups?

Not applicable.

Does the proposal/issue create long term employment or economic benefit to current and future residents of the shire?

Not applicable.

Statutory Environment:

Town Planning and Development Act 1928 (as amended)
Town Planning Scheme No. 2
Rural Strategy/Rural Strategy Review

Policy Implications:

Introduction of a new Local Planning Policy to protect significant landscapes in the Darling Scarp and foothills.

Financial Implications:

The implications to Council of adopting this policy are that development applications are required to be more rigorously assessed. The Directorate will monitor this issue for consideration as part of the next Service Level Accord review if appropriate.

Strategic Implications:

The specific issue of provision of subdivision within Byford relates to strategy 1.5 of Key Result Area People and Community and strategies 2.1 and 2.2 of Key Result Area Environmental in Council's Strategic Plan, which are:

- 1.5 Maintain the heritage character of the Shire and protect built and natural heritage for economic and cultural benefits.*
- 2.1 Encourage best practice environmental management.*
- 2.2 Make best practice environmental management a foundation of Shire business.*

Community Consultation:

Town Planning Scheme No. 2 provides the following process for consultation in the adoption of a local planning policy:

A Local Planning Policy shall become operative only after the following procedures have been completed:-

- a) *The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.*
- b) *The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.*
- c) *Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*
- d) *Where, in the opinion of the Council, the provisions of any Policy affects the interests of the WA Planning Commission, a copy of the policy shall be forwarded to the Commission*
- e) *The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.*
- f) *Any amendment or addition to a Policy shall follow the procedures set out in a) to d) above.*

Voting Requirements:

Normal

Committee/Officer Recommended Resolution

Council, pursuant to Part 9 of the Shire of Serpentine-Jarrahdale Town Planning Scheme No.2 resolves to adopt Local Planning Policy No.8 – Subdivision Within the Byford Structure Plan Area without alterations as follows in accordance with clause 9.3 (b) of Town Planning Scheme No. 2:

LPP8 LANDSCAPE PROTECTION

Adopted (Date to be inserted)

Objectives

The objectives of this policy are:

1. To preserve the amenity deriving from the scenic value of the Darling Scarp;
2. To maintain the integrity of landscapes within the Landscape Protection Area;
3. To protect and enhance the landscape, scenic and townscape values through control over design, building materials and siting of development and land uses rather than prohibition of development and land use as such;
4. To maintain the integrity of landscapes in the line of sight view corridor along identified scenic routes in the Shire, including but not limited to South West Highway,

- Nettleton Road, Jarrahdale Road, Admiral Road, Kingsbury Drive and both the North-South and East-West Railway lines and natural water courses;
5. To provide developers and landowners with a statement describing the requirements for the subdivision and development within the Landscape Protection Area.

Introduction

Every landscape has a different capacity to successfully absorb change such as new subdivision, development on existing subdivision, upgrading of roads and power lines, extractive industry and recreation developments. Some landscapes are more valued by the community and more sensitive to such change than others.

This policy targets areas of high landscape value and aims to maintain the integrity of significant landscape areas and features. In particular, such areas occur all along the escarpment between the railway line and the top of the escarpment in a line of sight (viewshed) from the South Western Highway and along some major watercourses.

The Local Planning Policy No.8 – Landscape Protection provides for the continued use and development of land but introduces important requirements and controls on development to ensure a high standard of visual appearance sympathetic to the qualities of the landscape.

Planning approval shall not be given by Council for the development of any allotment which lies wholly or partly within the Landscape Protection Area unless:

- Council is satisfied that the landscape value of the area is going to be protected;
- Any buildings or works are carefully designed and sited so as to blend with the landscape in the opinion of Council.

To protect the landscape quality of the Darling Scarp, Council may impose conditions relating to design, landscaping and screening, siting and construction of buildings and works.

Application of Policy

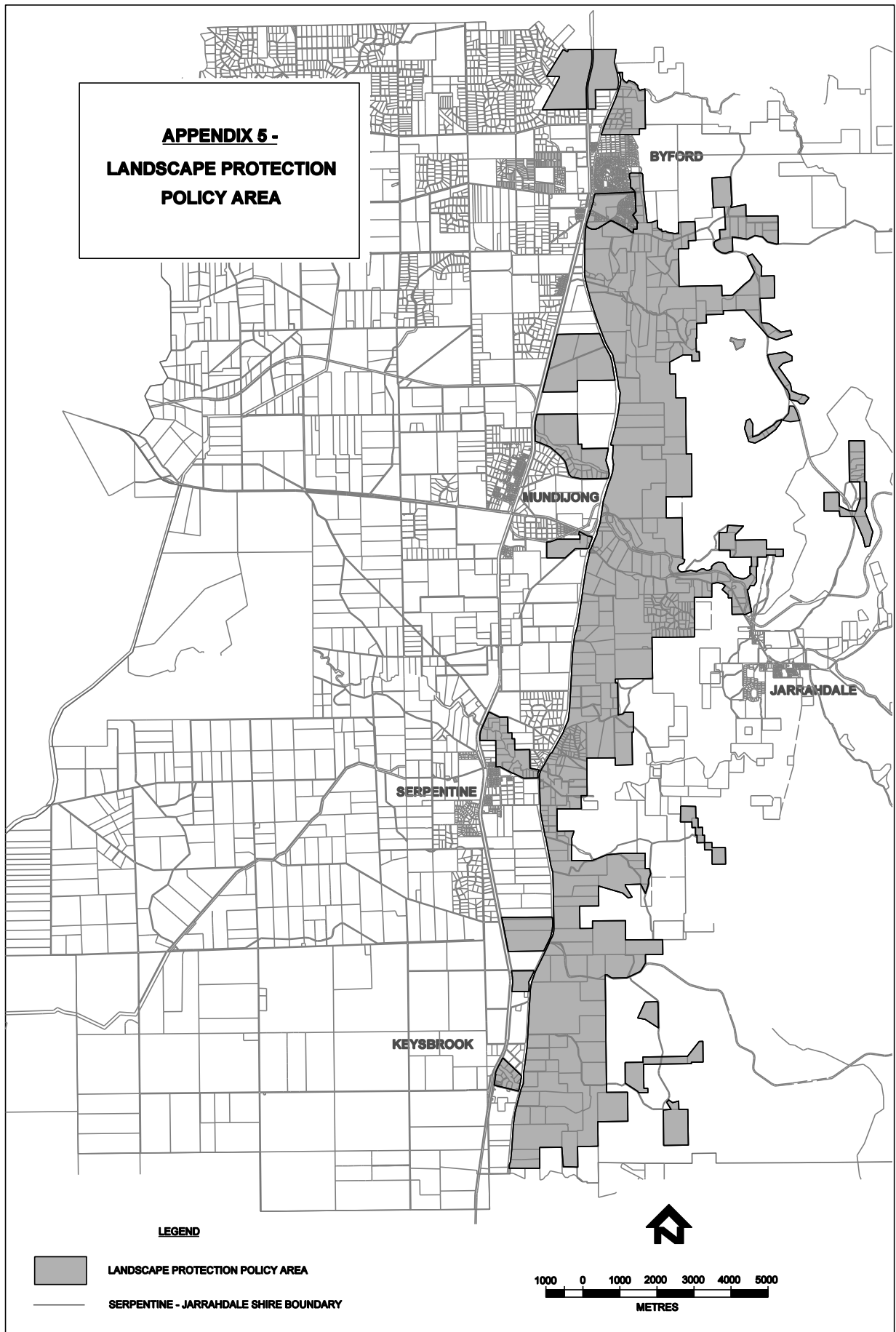
The policy applies to the area depicted in Map 1.

All developments in the Landscape Protection Policy Area require planning approval from Council.

Development Considerations

In addition to those issues listed in clause 6.4 of the Town Planning Scheme the following will also be considered when assessing a development application within the Landscape Protection Area:

Map 1



The 'seen area' of the development from the coastal plain, major roads and tourist routes, and major recreation areas;

- The visual intrusiveness of the development within the 'seen area';
- The landscape values of the area;
- The community attitudes to the proposed development;
- The colour schemes and materials of the proposed development; and
- The preservation and enhancement of the natural features and vegetation of the area.

Information to be lodged with planning application

A planning application must be lodged for all developments, including dwellings and outbuildings, in the Landscape Protection Area. The following additional information must be lodged with your planning application:

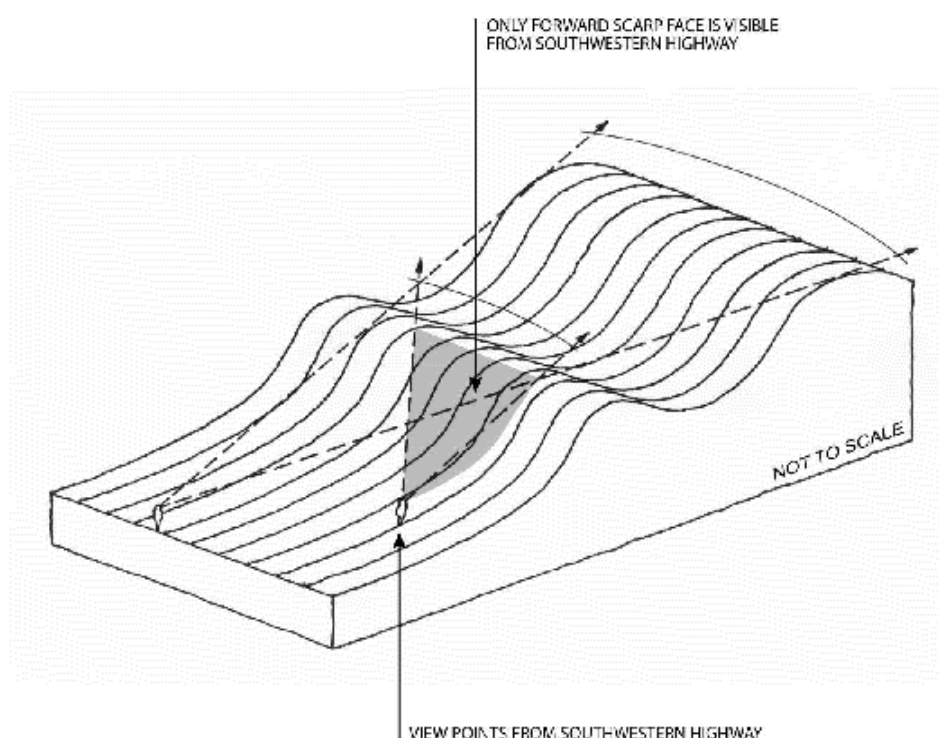
- A planting schedule detailing the provision of revegetation including the vegetation along any access roads. Council's PS03 – Landscape and Revegetation Policy may be of assistance when gathering this information;
- A schedule outlining colours and finishes of external materials and information addressing those issues raised in Buildings under *Development Guidelines* below. Other design criteria such as scale, proportion, texture and roof shape are to be addressed as part of the application;
- A plan showing access to the lot and proposed screening of this access;
- A plan showing any vegetation to be removed from the site as a result of the proposed development.

Development Guidelines

All development (including access roads) in the policy area shall not be permitted:

1. On ridge lines or spur, bluff or knoll, escarpments, hill tops or visually exposed areas. Buildings are to be located below the skyline (see Figure 1).
2. In areas having a generalised slope greater than 25 percent.

Figure 1



Buildings

The development of buildings within the policy area shall;

General

1. Be sited and constructed to take advantage of the topography and the vegetation to limit visual intrusion;
2. Created banks need to be stabilised for erosion control prior to any further works being undertaken on the site;
3. All buildings are to be constructed in accordance with Australian Standard and the Building Code of Australia and ensure that adequate bushfire prevention measures are employed to ensure fuel loadings within the property are maintained below 8 tonnes per hectare;
4. Access roads to any buildings within this Policy area are to be vegetated to prevent scarring of the Scarp.

Vegetation requirements

1. Be accompanied by such additional tree planting and landscaping as the Council considers necessary to achieve the objectives of this policy;
2. All trees and locally indigenous vegetation on the site are to be retained wherever possible;
3. Additional tree planting will be required in accordance with Council's Landscape and Revegetation Policy – PS03;
4. Clearing of existing native vegetation should be limited to 30 metres around buildings, and should be an absolute minimum necessary for the construction of roads and the installation of services;
5. Council may request that a Landscape Management Plan accompany the planning application;
6. Driveways are to be tree lined in order to remove the prominence of the works and to screen the passage of motor vehicles;

Building appearance

1. Any building shall not exceed 9 metres in height. This height is to be measured from natural ground level to the roof apex;
2. Buildings on land steeper than 1 in 7 should be of split level or pier construction to minimise the amount of cut and fill;
3. The use of zincalume or reflective glazing within this policy area will not be permitted unless measures are taken to prevent reflection. Such measures may include landscaping, and colour schemes that blend with the surrounding environment, roof pitch and tilt on glazing;
4. Reflective glazing used in a door, window or other component of a roof or external wall of any building must not –
 - i) cause glare or heat radiation that will have any undue adverse effect on the surrounding environment; and
 - ii) create any undue traffic hazard.
5. Be designed with suitable materials and colours complimentary to the locations and compatible with the landscape character of the site and locality. Such other design criteria as scale, proportion and texture and roof shape shall also be addressed as part of the application;
6. Outbuildings and tanks should form a unified group with the main building and should be of similar form, colour and materials;
7. All services shall be underground;

Developments

Screening around proposed extractive and industrial developments or operations will be required to minimise visual impacts. These types of developments are not to be seen from the coastal plain, major roads and tourists routes, and major recreation areas. Approval for

these types of development will not be given unless the visual impact of the proposal on the Darling Scarp has been addressed to Council's satisfaction.

Fencing

Fencing within the Policy area does not require planning approval unless fencing other than open form (wire, post and rail) or similar.

Post and rail fences are to be natural timber or are to be painted/stained with colours which blend with the surrounding landform/vegetation.

Any other form of fencing will require planning approval from Council.

Zincalume, white or colourbond fencing is not permitted

Refusal of development

Notwithstanding any of the provisions in this Policy or the Scheme, the Council may refuse to approve the construction of any building or structure if in Council's opinion the proposed building would have an adverse effect on the amenity of existing or future buildings in or landscape quality of the locality.

It is not Council's intention however to preclude the adoption of a particular design, nor to prevent the use of particular materials of construction, nor to enforce uniformity of appearance, but rather to ensure that design and construction will result in a building in keeping and in harmony with the surroundings.

Rezoning and Subdivision Guidelines

Rezoning of land and the subdivision of land within the policy area will not generally be supported where it is likely to result in an undesirable density of development visible from the South Western Highway or the coastal plain.

A Landscape Management Plan is to accompany all rezoning and subdivisions within this policy area. The Landscape Management Plan must include:

- An assessment of the visual impact and the visual intrusiveness on the 'seen area' of the development from the coastal plain, major roads and tourist routes, and major recreational areas;
- An assessment of the landscape values of the area;
- An outline of how any visual impacts will be addressed in the development;
- An analysis of the existing vegetation, detailing type, location and condition. Such report is to detail any requirements for preservation and enhancement of vegetation (particularly native trees) during subdivision and building;
- An assessment of the soils, landform, drainage and erosion potential of the development. A preliminary erosion and sediment control plan is also to be provided which addresses the following:
 - a) progressive mitigation/control of on-site erosion
 - b) analysis of soil stability and requirements in respect of subdivision, building, planting and road and driveway construction;
 - c) construction of soil conservation works to control sediment and erosion;
 - d) control of sediment;
 - e) rehabilitation/maintenance requirements;
 - f) erosion control of existing and proposed access tracks;
- Planning controls over key aspects of design and siting of subdivision and housing development will be introduced to minimise the impact on landscape values, eg Building materials and colour, road layout, siting of sheds and outbuildings;
- Design and siting guidelines will be developed to further encourage the planning of subdivision and housing development to minimise the impact on landscape values;

- Potential uses within the rezoning for subdivision to occur on the Scarp needs to be considered to ensure that land degradation does not occur.

The Landscape Management Plan must be prepared by an appropriately qualified practitioner. The Plan may include or be accompanied by a Revegetation Plan for the site.

Tree Preservation

The overall tree cover of the scarp it to be increased by:

- a) The retention of existing trees wherever possible and the sensitive siting of development to avoid tree loss;
- b) Additional tree planting being incorporated in every development application approved within the policy area; and
- c) The encouragement of the land owners within the policy area to continue to protect the landscape.

Council may require a land owner to take such action as it considers necessary to prevent damage to the existing tree cover.

Fire Control

This area is considered to be prone to bushfire. Council may require a number of provisions be put into place to ensure that property and the environment are protected from bushfire threats.

Council will take the following issues into consideration in relation to fire control and development within the Landscape Protection area:

- The likely bush fire threat affecting the site and what measures are in place/proposed to manage the fuel loading below 8 tonnes per hectare;
- Whether the siting of any building or design of any works or access comply with the performance criteria set out in *Planning for Bush Fire Protection* and the Australian Standards or Council policy relating to fire prevention;
- The effects of fire protection measures on the amenity of the locality, landscape values, loss of significant remnant vegetation and susceptibility to instability and erosion arising from loss of vegetation;
- The availability of an adequate fire service and water supplies, including access and egress.

Council will also consider the Department of Planning and Infrastructures Policy No.DC3.7 – Fire Planning when assessing developments and subdivisions within the Landscape Protection area.

The document *Planning for Bush Fire Protection* and *Policy No.DC3.7* maybe obtained from the Department of Planning and Infrastructures.

Definitions

Reflective glazing – means glass or other glazing material that for one, or a combination of two or more of the following reasons –

- i) the properties of the glass or material;
- ii) the application to glass or material of a reflective film or any other form of treatment;
or
the method of construction used in the building component of which the glass or material forms part,
- iii) has a light or heat reflective value that exceeds 16%

Reflective building material – means any material that has a high solar radiation or reflective value and includes, but is not limited to zincalume and colourbond colours/tones of 'Gull Grey', 'Smooth Cream', 'Surf Mist' and 'Off White'.

Seen area – see Figure 2 and 3.

Natural ground level – the contours of the land within a lot in existence at the time of the creation of that lot. Natural ground level of a site does not include any cut or fill that has been undertaken following the creation of a lot or not part of subdivisional works.

Whole of building or structure – any part of a building or structure excluding chimneys, flues, roof ventilators, air conditioners and antennae or any other similar attachments. The structure does not include any other building on the site which is not attached to that structure. Minor fixtures to structures such as awnings of other fixtures as determined by Council, may not be considered as being part of the whole building or structure.

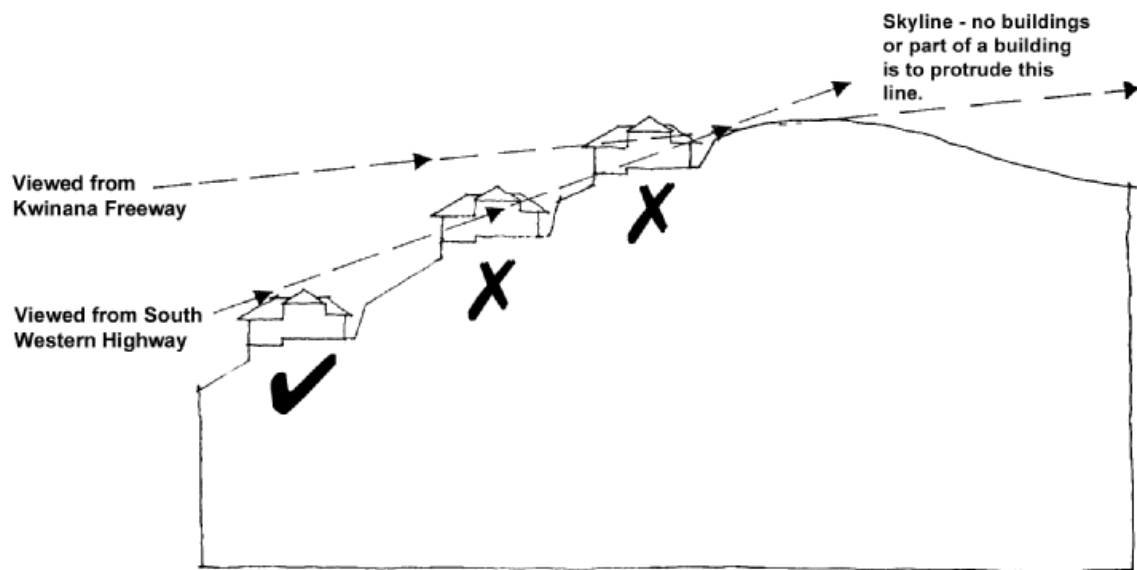
Building height – is to be measured from natural ground level to the apex of the roof.

Figure 2

The diagram is a 3D perspective view of a site's topography, represented by contour lines. It shows a valley with a 'forward scarp' on the left and a 'rear higher elevation' on the right. Dashed lines indicate 'view points from Kwinana Freeway' looking across the valley. A shaded area represents the 'view shadow in valley'. A note states 'NOT TO SCALE'.

Trim Reference No E02/8906

Figure 3



SKYLINE HEIGHT CONTROL

CRP181 COUNCIL DECISION

Moved Cr Needham seconded Cr Simpson
That the matter P181/11/02 FINAL ADOPTION OF LOCAL PLANNING POLICY NO. 8 -
LANDSCAPE PROTECTION be referred back to the Planning Committee for further
consideration.
CARRIED 10/0

- 8. MOTION OF WHICH NOTICE HAS BEEN GIVEN**
- 9. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING:**
- 9.1 INCLUDING CHIEF EXECUTIVE OFFICER/OFFICER REPORTS**
- 9.2 COUNCILLORS QUESTIONS**
- 10. INFORMATION REPORT – COMMITTEE DELEGATED AUTHORITY**
- 10.1 Corporate Services

C053/11/02 CONTROL OF OFF ROAD VEHICLES (A0002)		In Brief
Proponent	Chief Executive Officer	<i>Update Council on actions being undertaken to deal with increased off road vehicle activities in the Shire area.</i>
Officer	D.E Price – Chief Executive Officer	
Signatures - Author:		
Senior Officer:		
Date of Report	17.10.2002	
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC053 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Murphy Council notes the report on actions which are being undertaken to reduce the effects of illegal off road vehicles/motorcycles in the Shire and will consider this matter further when the draft Shire of Serpentine–Jarrahdale Off Road Vehicle Strategy has been completed.
CARRIED 5/0

C057/11/02 CONFIRMATION OF PAYMENT OF CREDITORS (A0917)		In Brief
Proponent	Director Corporate Services	To confirm the creditor payments made during October 2002.
Officer	P.I. Igglesden – Finance Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC057 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Kirkpatrick seconded Cr Hoyer Council notes the payments authorised and made by the Chief Executive Officer, exercising his delegated authority and detailed in the list of invoices for the month of October, presented to the Corporate Services Committee and to Council, per the summaries set out above include Creditors yet to be paid and in accordance with the Local Government (Financial Management) Regulations 1996.
CARRIED 5/0

C058/11/02 DEBTOR ACCOUNTS WITH A BALANCE IN EXCESS OF \$1,000 (A0917)		
Proponent	Director Corporate Services	<u>In Brief</u> To receive the statement of debtors over \$1,000 as at 31 October 2002
Officer	P.I. Igglesden – Finance Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC058 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Murphy Council receive and note the report on Debtors accounts with a balance in excess of \$1,000 outstanding for 90 days or greater as at 31 October 2002.
CARRIED 5/0

C059/11/02 SUNDRY DEBTOR OUTSTANDING ACCOUNTS (A0917)		
Proponent	Director Corporate Services	<u>In Brief</u> To receive the sundry debtor balances as at 31/10/02
Officer	P.I. Igglesden – Finance Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC059 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Kirkpatrick Council receive and note the report on Sundry Debtor Outstanding Accounts as at 31 October 2002.
CARRIED 5/0

C060/11/02 RATE DEBTORS REPORT (A0917)		
Proponent	Director Corporate Services	<u>In Brief</u> To receive the rates report as at 31 October 2002
Officer	Evan Parker – Senior Rates Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC060 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Murphy Council receives and note the report the Rate Debtors accounts as at 31 October 2002.
CARRIED 5/0

C061/11/02 INFORMATION REPORT		
Proponent	Director Corporate Services	<u>In Brief</u> To receive the information report to 31 October 2002
Officer	Various	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee - In accordance with Resolution SM065/05/02	

CRC061 COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Murphy the information report to 31 October 2002 be received subject to item being deleted.
CARRIED 5/0

10.2 Asset Services

AS023/11/02 TENDERS - ROAD PAVEMENT REPAIRS & CEMENT STABILISE C02/2002-03 (A0958)		
Proponent	Shire of Serpentine-Jarrahdale	<u>In Brief</u> Council is requested to approve the public tender for various pavement repairs within the Shire
Officer	Paul Bachman, Contract Administration Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee in accordance with resolution SM065/05/02	

CRAS023 COMMITTEE/Officer Recommended Resolution

Moved Cr Richards seconded Cr Simpson Council accept the tender submitted by Pavement Technology for Contract Number C02/2002-03 for the tendered sum of \$101,669.44 with provisions for gravel supply by the Shire.
CARRIED 5/0

AS024/11/02 INFORMATION REPORT			
Proponent	Director Asset Services		
Officer	Various	Date of Report	Various
Signatures	Author:	Senior Officer	
Previously			
Disclosure of Interest			
Delegation	Committee in accordance with resolution SM049/05/01		

CRAS024 COMMITTEE/Officer Recommended Resolution

Moved Cr Richards seconded Cr Simpson that the information report to the 31 October, 2002 be received .
CARRIED 5/0

10.3 Community & Recreation Development
Nil

10.4 Building Services

B14/11/02 PROPOSED RELOCATED RESIDENCE – LOT 109 LORENZ WAY, OAKFORD (P02566)		
Proponent	D Hodges & F Inglis	<u>In Brief</u> In accordance with an application received 30 October 2002 to relocate a house onto lot 109 Lorenz Way, Oakford, it is recommended that Council conditionally approve the proposal
Officer	Wayne Chant – Principal Building Surveyor	
Signatures - Author:		
Senior Officer:		
Date of Report	8.11.02	
Previously	N/A	
Disclosure of Interest		
Delegation	<u>Committee – in accordance with resolution SM065/05/02</u>	

COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Murphy seconded Cr Hoyer that Council approves the application submitted on 30 October 2002 to place a relocated residence on Lot 109 Lorenz Way, Oakford subject to compliance with the following conditions:

- 1 A building licence and effluent disposal application be submitted and approved prior to the residence being relocated onto Lot 109.
- 2 The siting of the residence is to be determined so that it is outside the 500m tip buffer affecting Lot 109.
- 3 A bond of \$5,000 to be paid prior to the issue of a building licence to ensure that the residence is relocated, re-established and painted to the satisfaction of Council.

CARRIED 5/0

B15/11/02 INFORMATION REPORT		
Proponent	N/A	<u>In Brief</u> Information report
Officer	Wayne Chant - Principal Building Surveyor	
Signatures - Author:		
Senior Officer:		
Date of Report	08.11.02	
Previously		
Disclosure of Interest		
Delegation	Committee – in accordance with resolution SM065/05/02	

COMMITTEE DECISION/Officer Recommended Resolution

Moved Cr Hoyer seconded Cr Needham that Council accepts the October 2002 Information Report.

CARRIED 5/0

10.5 Health Services
Nil

10.6 Planning Development & Environment

E009/11/02 INFORMATION REPORT		
Proponent	Environmental Officer	In Brief Information Report.
Officer	Dr Sue Osborne – Environmental Officer	
Signatures - Author:		
Senior Officer:		
Date of Report		
Previously		
Disclosure of Interest		
Delegation	Committee In Accordance With Resolution SM065/05/02	

CRE009 Committee Decision/Officer Recommended Resolution

Moved Cr Price, seconded Cr Murphy that the Information Report to 6 November 2002 be received.
CARRIED 5/0

P172/11/02 DISPOSAL OF PORTION OF "PUBLIC RECREATION" RESERVE 32045, BYFORD (RS0060)		
Proponent	Department of Land Administration	In Brief Council is in receipt of a request from the landowners of Lots 29 and 30 Binshaw Avenue and Lots 5 and 6 Larsen Road, to have adjoining portions of Reserve 32045 included in their respective properties. It is recommended that the Department of Land Administration (DOLA) be advised that Council is in support of the proposal.
Officer	David Spencer – Senior Planner	
Signatures - Author:		
Senior Officer:		
Date of Report	5 November 2002	
Previously		
Disclosure of Interest		
Delegation	Committee In Accordance With Resolution SM065/05/02	

CRP172 Committee Decision/Officer Recommended Resolution

Moved Cr Price, seconded Cr Murphy that the Department of Land Administration be advised that Council supports the proposal to dispose of offset portions of Reserve 32045 and amalgamate these with Lots 5 & 6 Larsen Road and Lots 29 & 30 Binshaw Avenue, Byford, subject to:

1. The proposal being referred to the Trails Working Group for comment and letters of 'No Objection' being received by Council from potentially affected landowners residing in the vicinity of Reserve 32045, as well as the WA Planning Commission.
2. The Department of Land Administration incurring all costs associated with disposal of the surplus reserve which will include survey costs, advertising in local newspaper, sign on-site.
3. Landowners directly affected by the proposal being advised of the administrative process that will be required in order to dispose of the reserve including costs associated as a result of the process and the purchase of the reserve.

CARRIED 5/0

P173/11/02		PROPOSED BED AND BREAKFAST – LOT 502 STEVENSON PLACE, BYFORD (P00770)	
Proponent	Chris Randall	In Brief It is recommended that Council approve an application dated 25 June 2002 for a bed and breakfast on Lot 502 Stevenson Place, Byford subject to conditions.	
Officer	Michael Davis – Planning Officer		
Signatures - Author:			
Senior Officer:			
Date of Report	28 June 2002		
Previously			
Disclosure of Interest			
Delegation	Committee In Accordance With Resolution SM065/05/02		

CRP173 Committee Decision/Officer Recommended Resolution

Moved Cr Price, seconded Cr Murphy that Council approves an application dated 25 June 2002 for a Bed and Breakfast on Lot 502 Stevenson Place, Byford subject to the following conditions:

1. Provision of a minimum of one car parking bay on site for guests and two car parking bays for the permanent residents;
2. Any signposting will be limited to completely within the property and shall not exceed 0.5m² on the property frontage. The height of the sign from ground level will not exceed 1.5 metres.
3. Hard wired smoke alarm and lighting to assist evacuation to be installed in accordance with the Building Code of Australia Part 3.7.2 in accordance with the provisions for Class 1B Buildings;
4. Compliance with Health and Building requirements of Council;
5. The operation of the kitchen and any catering must comply with the Australian Food Safety Standards. The kitchen, when used for the purposes of the approved use, shall be considered a food premises and during the times of such use shall comply with the provisions of the Australian New Zealand Food Safety Standards (as amended).

Advice Notes:

1. Premises will be subject to inspection by Council's Environmental Health Officer.
2. Any proposed new development, renovations etc to the subject site will require referral to the Water Corporation for relevant comment.

CARRIED 5/0

P174/11/02 PROPOSED KENNEL BREEDING AND DOG TRAINING FACILITY – LOT 5 BUTCHER ROAD, BYFORD (P04390/02)		
Proponent	R Waddell	In Brief For Council to consider an application for a dog kennel breeding and training facility for up to 100 dogs at Lot 5 Butcher Road, Byford. It is recommended that the proposal be refused.
Officer	David Spencer – Senior Planner	
Signatures - Author:		
Senior Officer:		
Date of Report	18 October 2002	
Previously		
Disclosure of Interest		
Delegation	Committee In Accordance With Resolution SM065/05/02	

CRP174 Committee Decision/Officer Recommended Resolution

Moved Cr Price, seconded Cr Hoyer that Council refuses development application received on 26 August 2002 to operate a kennel breeding and training facility for up to 100 dogs at Lot 5 Butcher Road, Byford, for the following reasons:

1. The proposal does not comply with the minimum recommended buffer distance of 500 metres to residential properties as stipulated in the EPA Draft Policy No. 3 – “Policies, Guidelines and Criteria for Environmental Impact Assessment.”
2. The proposal will have a detrimental and adverse impact on the amenity of the surrounding area and on nearby landowners residing within the Clairemorris Estate in terms of excessive noise and smell emanating from the subject land.
3. The proposed kennel breeding and training facility is inconsistent with the intent of the Farmlet Policy Area of the Shire’s Rural Strategy 1994 (as amended) which prescribes that adequate buffers are to be maintained between rural type land use activities and urban areas, in order to maintain landscape and natural values.

CARRIED 5/0

P176/11/02 PROPOSED BUS SHELTER - LOT 1 CLARA STREET, BYFORD (P04511/01)			
Proponent	Byford Volunteer Fire Brigade		In Brief It is recommended that the proposal to construct a bus shelter on Lot 1 Clara Street, Byford be conditionally approved.
Officer	Lilia Palermo - Planning Officer		
Signatures - Author:			
Senior Officer:			
Date of Report	8 th October 2002		
Previously			
Disclosure of Interest			
Delegation	Committee In Accordance With Resolution SM065/05/02		

CRP176 Committee Decision/Officer Recommended Resolution

Moved Cr Hoyer, seconded Cr Scott that Council approves the development application dated 22 August 2002 for construction of a bus shelter on Lot 1 Clara Street, Byford be approved subject to the following conditions:

1. A building licence to be obtained prior to commencement of development;
2. Bus Shelter is to be constructed of new materials;
3. Bus shelter is not to be located within 1.2 metres of a septic tank or 1.8 metres of a leach drain, or other such setbacks as required by Legislation. Please contact Council's Health Services for setbacks and requirements to other systems.

CARRIED 5/0

P180/11/02 EXTRACTIVE INDUSTRY LICENCE RENEWAL FOR 2003 CALENDAR YEAR FOR CLAY EXTRACTION – LOT 737 FIRNS ROAD, SERPENTINE (P01498/01)		
Proponent	Statewest Surveying and Planning Pty Ltd	In Brief Application for renewal of Extractive Industry Licence for clay extraction at Lot 737 Firns Road, Serpentine. It is recommended that Council issues an extractive industry licence in accordance with the Extractive Industries Local Law for the 2003 calendar year.
Officer	A. Watson – Director Sustainable Development	
Signatures - Author:		
Senior Officer:		
Date of Report	28 October 2002	
Previously	P359/06/98; P030/08/99; P095/11/99; 9.1/12/99; P132/01/00; P163/02/00; P181/04/00; P125/06/00; P256/07/00; P257/07/00; P054/11/01, P137/08/02	
Disclosure of Interest		
Delegation	Committee In Accordance With Resolution SM065/05/02	

Officer Recommended Resolution

Council, in accordance with the provisions of the Shire of Serpentine-Jarrahdale Extractive Industries Local Law and application by Statewest Surveying (on behalf of Bristile Limited) under cover of letter (from Metro Brick) dated 20 September 2002 and amended 16 October 2002, issues an extractive industry licence renewal for the excavation of 50,000 cubic metres of clay from Lot 737 Firns Road, Serpentine for the 2003 calendar year subject to the following conditions:

1. Payment of an annual Extractive Industries Licence fee is to be made by 31st December 2003.
2. Any fuel stored on-site is to be located in a fenced hardstand area, surrounded by a perimeter bund of sufficient height to contain 110% of the volume of stored fuel in the event of a leak.
3. Applicant to lodge with Council an annual report of on-site performance in respect to conditions attached to the licence and operation of the site by 30 November 2003, such report to include, among other things, details of water quality monitoring carried out the preceding twelve months.
4. Cartage from the site to be limited to daylight hours only in not more than two periods not exceeding 20 working days in total in any calendar year.
5. The applicant is to give the Shire of Serpentine-Jarrahdale at least 10 days advance noticed in writing of the intention to cart clay from the subject site.
6. The applicant is to cause notice to be published in a newspaper circulating in the local are of the intended dates of clay cartage, the first such noticed being published at least 10 days before commencement of carting.
7. The applicant is to give landowners along the cartage route (from Lot 737 Firns Road to South western Highway only) notice in writing at least 10 days in advance of the intended dates of clay cartage.
8. The applicant is to cause signs to be erected on the haulage road warning “Caution – Trucks using Road” during times of cartage, at least at the beginning and end of the haulage route to the South Western Highway, and at all intersections.
9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during the conclusion of each haulage period to the satisfaction of the Shire of Serpentine-Jarrahdale.
10. Haulage vehicles shall be restricted to “as of right” combination vehicles up to a maximum length of 19 metres and a maximum gross vehicle mass of 42.5 tonnes.

11. The applicant is to cause the existing dam spillway to be modified to divert overflow from the dam through existing settlement ponds.
12. The applicant is to submit a dieback management plan by 30 December 2002 to the Shire for approval by Council.
13. The applicant is to submit an altered rehabilitation plan by 30 December 2002 showing parkland revegetation of rehabilitated areas.

Advice Notes:

1. Dust Control – Dust generation may become a problem from the access road and any clay stockpile. Should such a problem occur these areas should be kept damp or treated with a surface binding agent.
2. Clearing – This should take place on a progressive basis with the minimum area cleared at any one time that will allow efficient working of the pit. This will reduce the potential for dust generation from exposed areas, and wind erosion of the topsoil resource.
3. Rehabilitation – This should be carried out on a progressive basis, both to utilise the top soil as early as possible, so as not to allow the soil quality to degrade and to revegetate worked out areas as soon as possible to stabilise them against erosion.
4. Approval from Agriculture WA is required for the clearing of existing remnant vegetation 1.0 hectare or greater on the subject site.
5. Management and excavation of the site shall be in accordance with the “Environmental Management of Quarries” Department of Minerals and Energy 1994.
6. Compliance with the Water and Rivers Commission “Water Quality Protection Notes Extractive Industries” February 1999 is required.

CRP180 COMMITTEE DECISION

Moved Cr Murphy, seconded Cr Athol that Council, in accordance with the provisions of the Shire of Serpentine-Jarrahdale Extractive Industries Local Law and application by Statwest Surveying (on behalf of Bristle Limited) under cover of letter (from Metro Brick) dated 20 September 2002 and amended 16 October 2002, issues an extractive industry licence renewal for the excavation of 50,000 cubic metres of clay from Lot 737 Firns Road, Serpentine for the 2003 calendar year subject to the following conditions:

1. Payment of an annual Extractive Industries Licence fee is to be made by 31st December 2003.
2. Any fuel stored on-site is to be located in a fenced hardstand area, surrounded by a perimeter bund of sufficient height to contain 110% of the volume of stored fuel in the event of a leak.
3. Applicant to lodge with Council an annual report of on-site performance in respect to conditions attached to the licence and operation of the site by 30 November 2003, such report to include, among other things, details of water quality monitoring carried out the preceding twelve months.
4. Cartage from the site to be limited from 6.00am to 6.00pm and is not to exceed 20 working days in total in any calendar year.
5. The applicant is to give the Shire of Serpentine-Jarrahdale at least 10 days advance noticed in writing of the intention to cart clay from the subject site.
6. The applicant is to cause notice to be published in a newspaper circulating in the local area of the intended dates of clay cartage, the first such notice being published at least 10 days before commencement of carting.
7. The applicant is to give landowners along the cartage route (from Lot 737 Firns Road to South western Highway only) notice in writing at least 10 days in advance of the intended dates of clay cartage.
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9. The applicant is to cause Scarp Road and Kingsbury Drive between the site and the South Western Highway to be prepared and maintained during the conclusion of each haulage period to the satisfaction of the Shire of Serpentine-Jarrahdale.

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6. Compliance with the Water and Rivers Commission “Water Quality Protection Notes Extractive Industries” February 1999 is required.

CARRIED 5/0

Note: The Officer Recommended Resolution was altered to add condition 13 and clarify hours of operation in condition 4. The Presiding Officer did not consider that this substantially altered the Officer Recommended Resolution.

P183/11/02 INFORMATION REPORT		
Proponent	Director Sustainable Development	In Brief Information Report.
Officer	Lisa Fletcher – Support Officer Sustainable Development	
Signatures - Author:		
Senior Officer:		
Date of Report	14 October 2002	
Previously		
Disclosure of Interest		
Delegation	Committee In Accordance With Resolution SM065/05/02	

CRP183 Committee Decision/Officer Recommended Resolution

Moved Cr Price, seconded Cr Wigg that the Information Report to 8 November 2002 be received.

CARRIED 5/0

11. CLOSE

There being no further business the meeting closed at 8.46 pm.

I certify that these minutes were confirmed at the
ordinary council meeting held on 23rd December, 2002

.....
Presiding Member

.....
Date