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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, 28th JULY 2008. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 7.02PM AND WELCOMED COUNCILLORS, STAFF AND MEMBERS OF THE GALLERY.

1. ATTENDANCE & APOLOGIES:

IN ATTENDANCE:

COUNCILLORS: DL Needham Presiding Member
JE Price
MJ Geurds
M Harris
WJ Kirkpatrick
EE Brown
C Randall
S Twine
K Murphy
C Buttfield

OFFICERS: Ms J Abbiss Chief Executive Officer
Mr A Hart Director Corporate Services
Mrs S van Aswegen Director Strategic Community Planning
Mr B Gleeson Director Development Services
Mrs A Nolan Manager Executive Services
Mrs C McKee..... Manager Community Development
Mrs L Fletcher Minute Secretary

APOLOGIES: Nil

GALLERY: 15

2. PUBLIC QUESTION TIME:

Public Question Time commenced at 7.03pm

Pam Story – 5 Middleton Close, Serpentine

It has been reported to the Council Ranger that in Mundijong (just off the South Western Highway at the end of Riley Road near the Manjedal Brook reserve), there are alot of feral sheep in a paddock. The sheep are currently lambing and there are dead carcasses in the paddock. Other people also keep their sheep in this paddock and the grass is very long. Can something be done regarding this?

The Shire President advised that the matter would be investigated.

2.1 Response To Previous Public Questions Taken On Notice

Sandra Hawkins on behalf of Byford by the Scarp Residents Association

Question A - Does Council intend to, as stated in the Examiner Newspaper on 3 July 2008 in the Council News section, consult with the residents of Byford by the Scarp prior to consultation sessions with other outside groups including the RSL regarding "Percy's Place."

Answer A - Once a Community Planning Officer is appointed they will work with the newly formed Byford by the Scarp Residents Association to consult with Byford by the Scarp residents. This is likely to happen in September/October 2008.

Question B - With consideration for the environment, safety, access and feasibility of the development that has been proposed, why is Council trying to push ahead with a project that is not in keeping with the local area?

Answer B - The RSL proposal has not been approved by Council.

Based on Council's October 2005 resolution to retain the facility as a community centre, the draft Serpentine Jarrahdale Community Facilities and Services Plan to 2020 (CFSP) recommends that detailed feasibility studies be carried out for all proposed facilities. The draft CFSP recommends the development of a community centre in the Byford by the Scarp area and suggests consideration of Percy's Place, however this is still subject to such a feasibility study in which the issues detailed above would be considered.

Comments to assist with Questions:

Q1 - Why is there no mention of the history or need to protect or develop the dilapidated structure located on the Cardup Brook foreshore reserve?

A1 - There is no record of Percy's Place being mentioned in the early planning reports submitted by the landowner when the land was rezoned.

Q2 - Given that the EPA Report and Minister Statement requires a 50 metre buffer vegetation protection area adjacent to Cardup Brook and makes no mention of the dilapidated structure on the reserve, why has Council refused demolition and is proposing development of a community facility?

A2 - Council refused demolition of Percy's Place as it was deemed that that the building had local heritage values that should be protected and that it be used as a community facility.

Q3 - Why is there no mention of the history or need to protect or develop the dilapidated structure located on the Cardup Brook foreshore reserve?

A3 - Refer to answer in Q1 above.

Q4 - Why is there no mention of the history or need to protect or develop the dilapidated structure located on the Cardup Brook foreshore reserve?

A4 - Refer to Answer in A1 above.

Q5 - Why is there no mention of the history or need to protect or develop the dilapidated structure located on the Cardup Brook foreshore reserve?

A5 - Refer to Answer in A1 above.

Q6 - Why is there no reference to the dilapidated structure located on the Cardup Brook foreshore reserve in the Municipal Inventory?

A6 - The dwelling is not listed on the Shire's Municipal Inventory. It is most likely that the dwelling was not known about at the time the Shire's Municipal Inventory was prepared.

Q7 - Given that there is no mention of the existence of the house in the Shire's Municipal Inventory or acknowledgement of the house in any of the documentation prepared over the last 15-20 years relating to the rezoning and development of the former Royal Australian Naval Armaments depot, why hasn't the dilapidated structure been demolished.

A7 – Council's Planning officers and Council have deemed that the former residence has local heritage values.

Q8a - Given that the dilapidated structure on the Cardup Brook Foreshore Reserve is not listed in Schedule 13 of the Shire's Town Planning Scheme, why is Council refusing to demolish the structure?

A8a - Refer to answer in A7 above.

Q8b - Given that the structure is not listed in Schedule 13 of the Shire's Town Planning Scheme, on what legal grounds can Council refuse the demolition of the structure?

A8b - The Shire is legally able to refuse the demolition of the dwelling, under the powers conferred to the Council in Town Planning Scheme No. 2. The Town Planning Scheme has been prepared and approved under the State Government's planning legislation.

Q9 - Given the Officer report which states that the demolition of the structure "will increase the quality of life of nearby residents" and "the Shire will meet its social and environmental responsibilities by allowing removal of the house and clean up of the site" why is Council not supporting residents of Byford by the Scarp by approving demolition?

A9 - In the previous report to Council relating to the demolition of the dwelling, Council officers believed that an appropriate community use of the building would improve the quality of life for local residents. The decision to retain the building will allow the site to be tidied up and the building restored.

Q10 - Given the Officer Recommended Resolution and Committee Recommended Resolution, supporting the demolition of the dilapidated structure on the Cardup Brook Foreshore Reserve (Byford by the Scarp) why did Council not support demolition?

A10 - At the time the report was presented to Council for a decision on the demolition, further heritage and historical information was presented to Council about the building. Based on this new information, it was deemed that the building has strong local heritage values and therefore should be retained.

Q11 - Given the Shire's Heritage Officer's report relating to the demolition of the dilapidated structure on the Cardup Brook Foreshore Reserve (Byford by the Scarp) why is Council not supporting demolition?

A11 - Refer to Answer in A10 above.

Q12 - Can the Council confirm from any evidence, building licence or aerial photographs that support the year that the dilapidated structure was actually constructed?

A12 - The estimated age of the dwelling was ascertained from discussions with local residents and family members who are decedents of the original owner.

Q13 - Given that the Community Facilities and Services Plan had not been completed at the time of the Council's decision, does Council agree that Council's refusal on this ground was based on an assumption and not on fact?

A13 - The intent of the phrase "considered as part of the Community Facilities and Services Plan" was that it "be considered in the preparation of the Community Facilities and Services Plan."

Council's decision to retain the building was based on heritage principals and accurate historical information that was obtained from research of the history of the dwelling.

Q14 - Has Council conducted a business case study or impact assessment of the likely social, economic and environmental impact on the residents of Byford by the Scarp and wider community.

A14 – Not at this time. Refer to Answer B.

Q15 - Given the evidence which has since emerged that the site has no historical significance, that the structure does not date from 1914, misleading statements and assumptions contained within the Officer report and objections by residents of Byford by the Scarp, why does Council continue to encourage RSL development and not support residents with the demolition of the structure?

A15 - Planning officers are not aware of any evidence presented by the community that the site has no historical significance. Planning officers maintain their opinion that this building has local heritage values. The estimated date of construction of the house was based on advice from local residents who are related to the dwellings' original occupant. Also refer to the answer in B above.

Q16 - Given that this is the case, why is Council considering the development of a community facility on this site?

A16 - Refer to Answer in A15 above.

Q17 - If so, why is the Shire claiming that the dilapidated structure now has historical significance given that previous Council records, minutes and Municipal Inventory (pre-2005) makes no mention of this structure:

A17 - Refer to Answer in A2 above.

Q18 - Given that this is the case, why is Council considering the development of a community facility on this site?

A18 - Council has resolved to see the building restored and made available for community use.

Q19 - Given that the residents of Byford by the Scarp would be affected by any proposed development of the Cardup Brook Foreshore Reserve, why have residents not been consulted?

A19 - This is answered in Answer A above.

Q20 - Why has the Shire consulted with the RSL and not the residents of Byford by the Scarp who would be directly affected by any proposed development?

A20 - This is answered in A above.

Public Question Time concluded at 7.05pm

3. PUBLIC STATEMENT TIME:

Public Statement Time commenced at 7.05pm

Sandra Hawkins – 27 Burgess Drive, Byford

In light of further information received I wish to clarify on behalf of the residents of Byford by the Scarp the following:

We as a community are disappointed of being accused of selfishness as regards to the fate of the dilapidated building now known as Percy's Place but to say that monies that are supposedly earmarked by the Federal Government for the Byford community should be of a wider public benefit. It would be an unwise decision to channel Federal and ratepayers funds to this particular area of the Byford by the Scarp.

An assessment of the proposed usage of the building has not been carried out properly, the refusal of the demolition license for the building was based on uninformed information and not fact.

There has been a total absence of Public Consultation also there seems to be confusion amongst the Councillors as to the eventual usage of the building.

If I am correct a motion was passed some time ago to hold Public Consultation prior to any decisions being made that affected the electorate.

The residents are unanimous with the opposition to usage of the building of any type due to the proximity to their homes and to the sensitivity of the Cardup Brook area.

The cost to the ratepayers does not justify any refurbishment, re-building (as is more likely) or any additional extension of Percy's Place as per the proposed plan submitted by the R.S.L. Branch in Byford. To consult with them only is wrong.

I would foresee the aim of Council, should the funds be available, to centralise a community centre within the town site not on a residential estate where great care has been shown to protect the environment and a Bush Forever site on the Byford Scarp.

The vision of the residents is to have walkways, seats and maybe a gazebo dedicated to Percy Nairn utilising suitable materials e.g. bricks and tiles from the old house plus a plaque explaining the significance of the site.

The maintenance of such a project could be undertaken by the residents association with Aspen indicating a willingness to assist. This would then free the Shire of any costs and allow monies to be redirected to other council projects.

I thank you for the time given to me to present this statement.

Public Question Time concluded at 7.08pm

4. PETITIONS & DEPUTATIONS:

Petitions & Deputations commenced at 7.08pm.

Cr Buttfield tabled a petition in support of Steel Kit Homes continuing to operate at Lot 3621 Railway Reserve, Richardson Street, Serpentine.

COUNCIL DECISION

Moved Cr Buttfield, seconded Cr Murphy that the petition tabled by Cr Buttfield be accepted.

CARRIED 10/0

Petitions & Deputations concluded at 7.09pm.

5. PRESIDENT'S REPORT:

Nil

6. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:

Cr Harris declared an interest of impartiality in items SD003/07/08 and SD006/07/08 as she has family members that belong to or do business with these organisations.

Cr Harris declared an interest of impartiality in item SD011/07/08 as one of the proponent's is a client of hers.

Cr Twine and Cr Kirkpatrick declared an interest of impartiality in item SD008/07/08 as they have made a financial donation to the Serpentine Jarrahdale Grammar School.

7. RECEIPT OF MINUTES OR REPORTS AND CONSIDERATION OF ADOPTION OF RECOMMENDATIONS FROM COMMITTEE MEETINGS HELD SINCE THE PREVIOUS COUNCIL MEETINGS:

7.1 Ordinary Council Meeting - 23 June 2008

COUNCIL DECISION

Moved Cr Price, seconded Cr Harris
That the minutes of the Ordinary Council Meeting held on 23 June 2008 be confirmed.
CARRIED 10/0

7.2 Special Council Meeting - 18 July 2008

COUNCIL DECISION

Moved Cr Brown, seconded Cr Twine
That the minutes of the Special Council Meeting held on 18 July 2008 be confirmed.
CARRIED 10/0

REPORTS OF COMMITTEES:

CGAM004/07/08		WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION 2008 ANNUAL GENERAL MEETING (A1164)	
Proponent:	Western Australian Local Government Association	In Brief Council delegates voting requirements for the 2008 Annual General Meeting of the Western Australian Local Government Association.	
Owner:	As above		
Officer:	Lisa Fletcher – PA to the Chief Executive Officer		
Signatures Author:			
Senior Officer:			
Date of Report	7 July 2008		
Previously	OCM001/07/07		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act		
Delegation	Council		

Background

Agendas for the Western Australian Local Government Association (WALGA) Annual General Meeting to be held on 2 August 2008 have been distributed.

A copy of the WALGA Agenda is included with the attachments and marked CGAM004.1/07/08 (IN08/7980).

Sustainability Statement Not applicable

Statutory Environment: Individual Association constitutions

Policy/Work Procedure Implications: There are no work procedures/policy implications directly related to this application/issue.

Financial Implications: There will be a cost associated with Councillors attending the Local Government Week Conference. Officers have provided, in the draft budget for 2008/2009, funds to enable interested Councillors to attend the 2008 Local Government Week.

Strategic Implications: There are no strategic implications related to this matter.

Community Consultation:

Required: No

Comment:

The Serpentine Jarrahdale Shire under the single association structure has voting rights as a member of the South East Metropolitan Zone, Council's voting delegates (Councillors Needham and Price) will attend the 2008 Annual General Meeting on Saturday, 2 August 2008 at 1.00pm.

The Annual General Meeting of WALGA has a number of Agenda Items, which Council will need to provide direction to their nominated delegates on. These items are as follows:

- 3.1 Endorsement of “The Journey” – Sustainability into the Future – Draft Paper
- 3.2 Systematic Sustainability Study Report
- 3.3 Closing of Regional Partnerships and the Area Consultative Committees
- 3.4 Australian Bureau of Statistics – Census 2011 Fly-In, Fly-Out
- 3.5 Wheatbelt Drainage Council
- 3.6 Binding the Crown – Risk Prevention and Mitigation
- 3.7 Enquiry into Fire and Emergency Services Legislation
- 3.8 Funding to the Royal Flying Doctor Service
- 3.9 Withdrawal State Government Services
- 3.10 Private Members Bill to Secure Third Party Review Rights
- 3.11 Third Party Appeal Rights for the City of Albany
- 3.12 Elected Member Allowances
- 3.13 Local Government (Official Conduct) Amendment Act 2007
- 3.14 Elected Member Legal Representation
- 3.15 Rate Exemption Charitable Bodies
- 3.16 Capital Improved Value – Basis of Rating

Voting Requirements: Simple Majority

Officer Recommended Resolution:

Council delegates are to vote the following way on items on the 2008 Local Government Association Annual General Meeting Agenda:

- A. 3.1 Endorsement of “The Journey” – Sustainability into the Future – Draft Paper – Support or Not Support
- 3.2 Systematic Sustainability Study Report – Support or Not Support
- 3.3 Closing of Regional Partnerships and the Area Consultative Committees – Support or Not Support
- 3.4 Australian Bureau of Statistics – Census 2011 Fly-In, Fly-Out – Support or Not Support
- 3.5 Wheatbelt Drainage Council – Support or Not Support
- 3.6 Binding the Crown – Risk Prevention and Mitigation – Support or Not Support
- 3.7 Enquiry into Fire and Emergency Services Legislation – Support or Not Support

- 3.8 funding to the Royal Flying Doctor Service – Support or Not Support
 - 3.9 Withdrawal State Government Services – Support or Not Support
 - 3.10 Private Members Bill to Secure Third Party Review Rights – Support or Not Support
 - 3.11 Third Party Appeal Rights for the City of Albany – Support or Not Support
 - 3.12 Elected Member Allowances – Support or Not Support
 - 3.13 Local Government (Official Conduct) Amendment Act 2007 – Support or Not Support
 - 3.14 Elected Member Legal Representation – Support or Not Support
 - 3.15 Rate Exemption Charitable Bodies – Support or Not Support
 - 3.16 Capital Improved Value – Basis of Rating – Support or Not Support
- B. Items that have not been given an indication of voting direction are to be left to the discretion of the delegates.

CGAM004/07/08 COUNCIL DECISION/Committee Recommended Resolution:

Moved Cr Price, seconded Cr Harris

Council delegates are to vote the following way on items on the 2008 Local Government Association Annual General Meeting Agenda:

- A. 3.1 Endorsement of “The Journey” – Sustainability into the Future – Draft Paper – Support**
- 3.2 Systematic Sustainability Study Report – Not Support**
- 3.3 Closing of Regional Partnerships and the Area Consultative Committees**
- 3.4 Australian Bureau of Statistics – Census 2011 Fly-In, Fly-Out – Support**
- 3.5 Wheatbelt Drainage Council – Support**
- 3.6 Binding the Crown – Risk Prevention and Mitigation – Support**
- 3.7 Enquiry into Fire and Emergency Services Legislation – Support**
- 3.8 Funding to the Royal Flying Doctor Service – Support**
- 3.9 Withdrawal State Government Services – Support**
- 3.10 Private Members Bill to Secure Third Party Review Rights – Not Support**
- 3.11 Third Party Appeal Rights for the City of Albany – Support**
- 3.12 Elected Member Allowances – Support**
- 3.13 Local Government (Official Conduct) Amendment Act 2007 – Support**
- 3.14 Elected Member Legal Representation – Not Support**
- 3.15 Rate Exemption Charitable Bodies – Support**

3.16 Capital Improved Value – Basis of Rating – Not Support

B. Items that have not been given an indication of voting direction are to be left to the discretion of the delegates.

CARRIED 10/0

CGAM005/07/08		AGREEMENT NUMBER 2035/35 CONSERVATION AND LAND MANAGEMENT AND SERPENTINE JARRAHDAL SHIRE – LEASE OF COMMUNICATIONS TOWER IN JARRAHDAL NATIONAL PARK (A0563)
Proponent:	Serpentine Jarrahdale Shire	In Brief For Council to approve an agreement with Conservation and Land Management (CALM) to use the communications facility situated at the Department of Environment and Conservation Depot, located in the Serpentine National Park, for the purposes of housing communications equipment.
Owner:	Conservation and Land Management (CALM)	
Officer:	Alan Hart - Director Corporate Services	
Signatures Author:		
Senior Officer:		
Date of Report	25 June 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

The Shire has, located at the Department of Environment and Conservation depot, radio communications equipment, which is part of the radio network used by Fire and Emergency Services. The equipment was installed at this location in 1993 and has continually remained on this site. The agreed annual rental at the time was \$180.00 per annum. This was never paid by the Shire.

The Department of Conservation and Land Management are seeking to formalise this arrangement by entering into an agreement with the Shire to use this facility. The period of this agreement will be from December 2004 for a period of five (5) years, with a renewal option of a further five (5) years.

The agreement has been retrospectively applied (from December 2004) as it was then that the department became aware equipment was being housed on the site and the Department has been seeking an agreement from Shire since then.

A copy of the proposed agreement is with attachments marked CGAM005.1/07/08 (E08/3287)

Sustainability Statement

Economic Viability:

The agreement to utilise an existing facility is the most cost effective method of being able to provide radio communications services to the Bush Fire Brigades in the Shire.

Social – Quality of Life

The provision of radio communications equipment in this location assists the Bush Fire Brigades in the protection to property and life in the event of a Fire.

Statutory Environment: N/A

Policy/Work Procedure Implications:

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

Financial Implications:

The annual rental will be \$670.00 (adjusted for CPI) and will be funded from the Fire and Emergency Services Budget. As a goodwill measure, the department have offered a reduced rental of \$50.00 per year from 1993 to 2004. From then, rentals will apply as per the departments fee schedule. The outstanding rent due from 1993 to 2007 is \$3,088,84. This will also be funded from the Fire and Emergency Services Budget.

Strategic Implications:

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

1. People and Community

Objective 1: Good quality of life for all residents

Strategies:

6. Ensure a safe and secure community.

2. Environment

Objective 1: Protect and repair natural resources and processes throughout the Shire

Strategies:

3. Encourage protection and rehabilitation of natural resources.

6. Value, protect and develop biodiversity.

4. Governance

Objective 2: Formation of Active Partnerships to progress key programs and projects

Strategies

1. Improve coordination between Shire, community and other partners.

2. Improve customer relations service.

3. Develop specific partnerships to effectively use and leverage additional resources.

Objective 3: Compliance to necessary legislation

Strategies:

2. Develop a risk management plan.

3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

Required: No

Comment:

The agreement will provide tenure for the Shire in allowing the equipment to remain in this site. As stated earlier in the report, the equipment located on this tower provides an essential service to the shire as it forms part of the radio network used by the local Bush Fire Brigades.

Emergency Services have been consulted in relation to this agreement and have confirmed that the site is currently being used to house radio communications equipment and that this is an essential part of the overall radio network of this Shire. There are no suitable alternative sites to the Shire to house the equipment in this particular area.

It is recommended that Council endorse this agreement.

Voting Requirements: ABSOLUTE MAJORITY

CGAM005/07/08 COUNCIL DECISION/Committee/Officer Recommended Resolution:

Moved Cr Brown, seconded Cr Kirkpatrick

That;

- 1. Council endorse agreement 2035/35 (as per attachment CGAM005.1/07/08) between Conservation and Land Management and the Serpentine Jarrahdale Shire for the period 1 December 2004 to 13 November 2009,**
- 2. Council formally request that the renewal option from 13 November 2009 for a further five (5) years be granted.**
- 3. The CEO be authorised to sign the agreement on behalf of the Serpentine Jarrahdale Shire.**

CARRIED 10/0

SD003/07/08 STEEL KIT HOMES - LEASE AREA L3621 RAILWAY RESERVE, RICHARDSON STREET, SERPENTINE (A0922)		
Proponent:	Serpentine Jarrahdale Shire	In Brief Council to enter into a Legal Agreement between the Shire and Melking Holdings Pty Ltd trading as Steel Kit Homes to allow the business to remain operating on the land for a maximum period of up to twelve months as determined by Council.
Owner:	Public Transport Authority of Western Australia (Lessor) & Steel Kit Homes (Lessee)	
Officer:	Brendon Braithwaite – Planning Development Compliance Officer	
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	28 June 2008	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act 1995	
Delegation	Council	

Submissions: Yes
L.A Zoning: Railway Reserve
MRS Zoning: Railway Reserve

Background

Steel Kit Homes have occupied land known as the Serpentine Railway Reserve (Richardson Street, Serpentine) since 1990. They have leased the land from the Public Transport Authority of Western Australia (PTA). Steel Kit Homes still holds a valid lease with the PTA for a further 8 years until 2016.

Records show that a Mixed Produce Store was approved under the Metropolitan Region Scheme (MRS) by the Metropolitan Region Planning Authority on 3 July 1981 and a

subsequent approval for a steel shed located on the same parcel of land was issued by the same authority on 10 September 1981. Two Building Permits were also issued in 1981. These are the only records that the Shire holds in respect to any use or development on the land occupied by Steel Kit Homes.

Complaints have been received from the general public in respect to noise and associated business activity by Steel Kit Homes. Complainants have stated that the business is disrupting the environment with noise emissions emanating from the site as well as alleging that business activity has been conducted on Sundays. A signed petition comprising seventeen (17) signatures from local residents within reasonable proximity of the site was received by the Shire on 29 April 2008 objecting to the continued presence of the business on the land for the reasons stated above.

A copy of the petition is contained in the attachments marked SD003.1/07/08.

A meeting took place between Shire officers and Steel Kit Homes on 21 April 2008 following which, both Steel Kit Homes and the PTA were advised in writing of the nature of the complaints as well as the unauthorised land use issues identified in respect to the property.

Given the absence of any approvals or applications for approval for the business to operate on the land, a further meeting was held on 6 May 2008 which resulted in Shire officers discussing a generous time frame of between eighteen (18) months and two (2) years for the business to seek a more suitable site and relocate. This relocation plan was accepted and agreed to by Steel Kit Homes. The plan also required the business to modify their operational practices to assist in reducing noise emanating from the current site until such time as the relocation occurred.

A further complaint was received by the Shire on 9 June 2008 in regard to Sunday trading on 8 June 2008. Another meeting was held with Steel Kit Homes on 12 June 2008 where they were advised of the nature of this latest complaint and admitted that they had been trading on Sunday 8 June 2008 due to the workload the company had. It was then explained to Steel Kit Homes that in light of the continued offences and the ongoing complaints received by the Shire in relation to noise and associated business activities, the timeframe discussed for the relocation plan would need to be reduced from eighteen (18) months to six (6) months.

It was further explained that the relocation plan would need to be in the form of a legal agreement held with the Shire, whereby Steel Kit Homes agree to vacate the premises in a prescribed timeframe and to operate in accordance with agreed conditions in the interim period. The legal agreement would be subject to the endorsement of Council. This was agreed to by Steel Kit Homes. It was suggested that Steel Kit Homes should pay 50% of legal expenses for this agreement to be drafted, however, no response was given to the Shire by Steel Kit Homes in relation to this request.

Locality and site plans are contained in the attachments marked SD003.2/07/08

Sustainability Statement:

Effect on Environment: Existing vegetation on site has not been impacted upon by this business to date. Significant stormwater runoff would occur from the roofs of the sheds and the hardstand area. At present this disperses to existing drains on site and the drainage gullies on Richardson Street and Karnup Road.

Use of local, renewable or recycled Resources: The proposal could use regionally available businesses for servicing, fuelling and wash down of vehicles.

Economic Benefits: The proposal does have economic benefits for the Shire by providing locally based employment and use of local services such as fuel.

Social – Quality of Life: The amenity of the surrounding area is being adversely affected by noise and traffic generated by the business.

Statutory Environment: Shire of Serpentine Jarrahdale’s Standing Orders Local Law 2002 Section 3.6 Petitions.
Shire of Serpentine Jarrahdale’s Town Planning Scheme No 2 (TPS 2).
Planning and Development Act 2005.
Local Government (Miscellaneous) Provisions Act 1960.
Environmental Protection (Noise) Regulations 1997.

Policy/Work Procedure Implications: There are work procedure implications directly related to this issue including: Delegated Authority (Prosecution and Legal Proceedings) CG04.

Financial Implications: There are financial implications to Council related to this issue. Legal expenditure would be incurred should the Shire choose to prosecute for legislative breaches or enter into any legal agreement with Steel Kit Homes.

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

4. Governance

Objective 3: Compliance to necessary legislation

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Develop a risk management plan.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

Not required.

Comment:

In reaching a decision on this matter it is necessary to clearly separate the issues relating to the site into two areas, one being the current breaches and how they are dealt with and the second being an investigation of the potential to issue any approvals on the site for the current use.

Current Breaches

1. Planning Breaches

Steel Kit Homes are currently operating at the site without planning approval. Planning approval is required for the development under the Shire’s Town Planning Scheme No.2 and the Planning and Development Act 2005. The relevant provisions are quoted below.

Town Planning Scheme No 2

Clause 5.1.1. Subject to Clause 5.1.2 a person shall not within the Scheme Area carry out development of any land without first having applied for and obtained the planning consent of the Council under the Scheme.

Planning and Development Act 2005

'development' means the development or use of any land, including —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
- (b) the carrying out on the land of any excavation or other works;
- (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —
 - (i) is likely to change the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration of the fabric of any building;

162. Development requires approval

- (1) Subject to this Act, where a planning scheme or interim development order provides that development referred to in the planning scheme or interim development order is not to be commenced or carried out without approval being obtained upon the making of a development application, a person must not commence or carry out that development on land to which the planning scheme or interim development order applies unless —
 - (a) the approval has been obtained and is in force under the planning scheme or interim development order; and
 - (b) the development is carried out in accordance with the conditions subject to which the approval was granted.
- (2) Nothing in this section limits or otherwise affects a right or entitlement under any other written law.

2. Building Breaches

Shire records indicate that the large commercial shed located to the south western portion of the land does not have an approved building license and therefore is in breach of Section 401(c) of the Local Government (Miscellaneous) Provisions Act 1960.

- (1) A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building —
 - (a) which tends to render the building unsafe or prejudicial to the public interest;
 - (b) which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specifications the approval of the local government has been obtained as required by this Act, or which is a contravention of this Act; or
 - (c) which, where permission of the local government is required for carrying it out, has been carried out without that permission;

Options for Resolution of Breaches

In relation to dealing with the current breaches on site the Council has three options as outlined below:

Option 1 – Prosecution

A direction pursuant to section 214 subsection (2) and (3) of the Planning and Development Act 2005 could be served against Steel Kit Homes for the commencement of development contrary to the provisions of the Shire's Town Planning Scheme No 2. A direction may require the development to stop and not recommence and could even require the occupant to pull down the unauthorised development.

The Chief Executive Officer could also be authorised by the Council to proceed with a prosecution under the following legislation;

- *Planning and Development Act 2005; and*
- *Local Government Miscellaneous Provisions Act 1960.*

for the unauthorised development of the Railway Reserve and all non-compliant buildings on the land.

Option 2 – Legal Agreement

Under the Shire's Town Planning Scheme it is possible for the Shire to enter into a legal agreement with Steel Kit Homes regarding their relocation. Clause 8.1 of TPS 2 states:

8.1 Powers of the Scheme

The Council in implementing the Scheme has, in addition to all other powers vested in it, the power:

- (a) *to enter into any agreement with any owner, occupier or other person having an interest in the land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme;*

Option 3 – Request PTA to terminate the lease

The Shire could request from the PTA that the lease agreement held with Melking Holdings Pty Ltd, trading as Steel Kit Homes, be terminated for the breaches contained within this report. This would have the effect of stopping the business from operating and negate the need for Council to enter into any prosecutions or legal agreements. This is an option over which Council has no control as it is at the discretion of the PTA.

Investigate Potential for Approvals

The only development approval that has been issued for the site is for a Mixed Produce Store. No approval exists for a use of the nature of Steel Kit Homes' current operation. Steel Kit Homes' current use of the site is probably best described under TPS2 as 'Light Industry' or 'General Industry' and to date no application has been received by the Shire for such use.

Planning Officer's advise that the current use may not fit the definition of Industry – Light by virtue of the fact that the processes carried out adversely affect the amenity of the adjacent residential locality through noise emissions. Therefore, the use is deemed to probably best fit within the classification of Industry – General.

Unfortunately, there is not any appropriately zoned land within the Shire on which Industry – General can occur. This highlights the urgent need for land to be identified and zoned for this purpose somewhere in the Shire.

The property is currently categorised as Metropolitan Regional Scheme Reserve "Railway" in the Shire's Town Planning Scheme No. 2. Reserves do not form part of the zoning and landuse table in TPS 2 which sets out what uses may be considered in which zones. It is not clear whether an industrial use can be considered with such a reserve.

Given the non-standard nature of the Steel Kit Homes industrial operation on a MRS Railway Reserve, officers have not had sufficient time to explore the legalities of whether it is possible for the Western Australian Planning Commission and/or the Shire to consider such a use within a MRS reserve.

Should it be possible to consider such a use within the reserve, the assessment of whether such a use adjacent to a residential area should be approved or refused would need to be undertaken.

In summary, it needs to be established:

- (a) which land use definition within the Scheme applies to the activities conducted by Steel Kit Homes;
- (b) can that land use be considered within the MRS Railway Reserve;
- (c) what approvals are required from relevant state and local authorities; and
- (d) if the land use can be considered, whether it should be approved or refused.

All planning matters pertinent to the Serpentine Railway Reserve that Steel Kit Homes occupy need to be explored in conjunction with all encompassing authorities that govern such a use on the land.

If the use could be considered and a planning application is received and approved the legal agreement can contain a clause that states that in this event, the agreement becomes null and void.

Conclusion

The Directors of Steel Kit Homes have been working with Shire officers to address issues raised by residents by making adjustments to some of their work practices. It is noted that the business brings valued economic benefit to the community and contributes to the community through employment of local people as well as through provision of apprenticeship schemes providing career paths for the youth in the Shire. The longevity of the operation within Serpentine is also of importance and the Shire wishes to remain supportive of local business.

It is unfortunate that due to its growth and expansion over the years the business has virtually outgrown the site from which they operate and this is no doubt a contributing factor to the problems they are currently confronted with.

The approach by the Shire Officers has been one of understanding the issues faced by both the business as well as the community in general and the Shire recognises it has an obligation to support local business whilst protecting the lifestyle and amenity of the area.

The use of a legal agreement allows Council to achieve a balance between supporting a local industry by providing them with a reasonable timeframe within which to relocate and also placing conditions on Steel Kit Homes to reduce the impact on community amenity. Officers have suggested a relocation timeframe of between 6 and 12 months but it would be open to Council to determine a longer or shorter timeframe. In order to protect the amenity of the area, the legal agreement would allow for operating conditions to be placed on Steel Kit Homes that would need to be complied with. If Steel Kit Homes were found to be in breach of the operating conditions, the agreement would contain a clause that stated that in this event the agreement then becomes null and void and Council would then exercise their right to progress a prosecution under Option 1.

The following recommendation is considered appropriate given Steel Kit Homes' contribution to the community and local economy, as well as taking into account the non-compliant aspects of their conduct with respect to the provisions of the Shire's Town Planning Scheme No 2 and the impact on community amenity.

It is recommended that Council pursue Option 2 and enter into a legal agreement with Steel Kit Homes regarding their relocation and interim operating conditions as this provides the greatest opportunity for Council to balance the interests of the community and the local economy. Council would still retain the right to prosecute should the terms of the agreement

not be met or pursue Option 3 if that was deemed to be a more effective way of ceasing the operation.

Voting Requirements: ABSOLUTE MAJORITY

Officer Recommended Resolution:

That:

1. In accordance with Clause 8.1 of Town Planning Scheme No. 2, The Chief Executive Officer is authorized to negotiate and sign on behalf of the Shire a Legal Agreement with Melking Holdings Pty Ltd to effect the following outcomes from Steel Kit Homes:
 - a) To vacate the premises within a six (6) to twelve (12) month period as determined by Council from this date being 28 July 2008.
 - b) Detail appropriate noise reduction methods and techniques for their continued occupancy of the site with 60 days of the date being 28 July 2008 in order to achieve compliance with the Environmental Protection (Noise) Regulations 1997.
 - c) Limit hours of operation to the following days and times:

Monday	8.00am – 5.00pm
Tuesday	8.00am – 5.00pm
Wednesday	8.00am – 5.00pm
Thursday	8.00am – 5.00pm
Friday	8.00am – 5.00pm
Saturday	8.00am – 12.00pm
Sunday	No Trading or Operation
Public Holidays in Western Australia only, No Trading or Operation.	
 - d) Restrict all commercial and delivery vehicles servicing Steel Kit Homes to the site and not extend beyond the western side of Richardson Street immediately adjacent to the entrance points of the premise at all times of operation.
 - e) Any other conditions that are deemed appropriate to reduce the impact on the amenity of the locality
 - f) The agreement being null and void in the event of a non-compliance with the conditions of the agreement.
 - g) The agreement being null and void in the event of appropriate approvals being obtained by Steel Kit Homes for the use of the land.
2. A retrospective building license application for all unauthorised outbuildings constructed on the land by Steel Kit Homes is to be submitted to the Shire of Serpentine Jarrahdale within two (2) months of this date being 28 July 2008.
3. The Legal Agreement is to be drafted by the Shire of Serpentine Jarrahdale's contracted lawyers. The Legal Agreement is to be finalized within 21 days of this date being 28 July 2008.
4. All legal expenditure incurred by the Shire of Serpentine Jarrahdale in respect to the Legal Agreement is to be fully paid for by Steel Kit Homes.
5. Should Steel Kit Homes decline to enter into the Legal Agreement with the Shire or comply with any part of this resolution, the Chief Executive Officer be authorized to commence legal proceedings.
6. Shire Officers explore the planning matters detailed in this report with regard to the Serpentine Railway Reserve that Steel Kit Homes occupy in conjunction with all encompassing authorities that govern such a use on the land and advise Council at the earliest opportunity of the outcomes.

Committee Recommended Resolution:

Item SD003/07/08 be deferred to the July Ordinary Council Meeting in order for additional information to be sought from Council officers.

CARRIED 7/0

Committee Note: A site visit is to be arranged involving Councillors, staff and Steel Kit Homes at a time to be confirmed.

SUPPLEMENTARY INFORMATION

The subject land is reserved for the purpose of Railways under the Metropolitan Region Scheme (MRS). The use being carried out on the land is not consistent with the reservation purpose. As such an application for approval to commence development for the use being carried out on the land requires determination by the Western Australian Planning Commission (WAPC) rather than the Council. Applications for development under the MRS are required to be submitted to the local government who then is required to refer the application on to the WAPC within seven days of receipt. The local government then has 42 days to forward a recommendation with regard to the application to the WAPC.

Application needs to be made on a Metropolitan Region Scheme Form 1 (as opposed to a Shire application form) and is required to be signed by the landowner or someone with delegated authority to sign such applications on behalf of the landowner as the land is Crown land.

It is recommended that the best way forward with this matter is to invite the lessee to submit an application for retrospective planning approval for the land use and the unauthorised building. The application should be required to be accompanied by an Acoustic Consultant's assessment and relevant plans and other information (see recommendation below).

If the application process does not result in an approval then the matter can be referred back to the Council for consideration of a way forward to both address the areas of non-compliance and to assist the business to remain in the Shire (ie through rezoning of land elsewhere in the Shire).

The land use being carried out does not comply with the interpretation of Industry-Light contained in Town Planning Scheme No. 2 as follows:

Industry Light - means an industry:

- (i) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (ii) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any like services.

The use is currently affecting the amenity of the area by virtue of noise. Accordingly, the use cannot be considered to fit the definition of Industry-Light and instead is considered to constitute Industry-General.

Voting Requirements: **ABSOLUTE MAJORITY**

Modified Officer Recommended Resolution:

That:

1. In accordance with Clause 8.1 of Town Planning Scheme No. 2, the Chief Executive Officer is authorised to negotiate and sign on behalf of the Shire a Legal Agreement with Melking Holdings Pty Ltd to effect the following outcomes from Steel Kit Homes:

- a) To vacate the premises within a six (6) to twelve (12) month period as determined by Council from this date being 28 July 2008.
 - b) Detail appropriate noise reduction methods and techniques for their continued occupancy of the site with 60 days of the date being 28 July 2008 in order to achieve compliance with the Environmental Protection (Noise) Regulations 1997.
 - c) Limit hours of operation to the following days and times:

Monday	8.00am – 5.00pm
Tuesday	8.00am – 5.00pm
Wednesday	8.00am – 5.00pm
Thursday	8.00am – 5.00pm
Friday	8.00am – 5.00pm
Saturday	8.00am – 12.00pm
Sunday	No Trading or Operation

Public Holidays in Western Australia only, no Trading or Operation.
 - d) Restrict all commercial and delivery vehicles servicing Steel Kit Homes to the site and not extend beyond the western side of Richardson Street immediately adjacent to the entrance points of the premise at all times of operation.
 - e) Any other conditions that are deemed appropriate to reduce the impact on the amenity of the locality.
 - f) The agreement being null and void in the event of a non-compliance with the conditions of the agreement.
 - g) The agreement being null and void in the event of appropriate approvals being obtained by Steel Kit Homes for the use of the land.
2. The Legal Agreement is to be drafted by the Shire of Serpentine Jarrahdale's contracted lawyers. The Legal Agreement is to be finalised within 21 days of this date being 28 July 2008.
 3. All legal expenditure incurred by the Shire of Serpentine Jarrahdale in respect to the Legal Agreement is to be fully paid for by Steel Kit Homes.
 4. Should Steel Kit Homes decline to enter into the Legal Agreement with the Shire or comply with any part of this resolution, the Chief Executive Officer be authorised to commence legal proceedings.
 5. Melking Holdings Pty Ltd is invited to submit a formal retrospective application for approval to commence development under the Metropolitan Region Scheme for the currently unauthorised land use of Industry – General and the unauthorised building work that has been carried out.
 6. Application for approval to commence development to be made using Metropolitan Region Scheme Form 1, is to be signed by the landowner (Public Transport Authority or Department for Planning and Infrastructure State Land Branch) and is to be accompanied by:
 - a) Four copies of site plan showing, as a minimum, all existing and proposed buildings, car parking areas, materials storage areas, loading areas, drainage, vehicle accessways and crossovers.
 - b) Four copies of floor and elevation plans for all buildings including the use of the various areas inside the buildings.
 - c) Application Fee: \$246 change of use fee plus \$492 prescribed penalty fee for retrospective applications – Total: \$738 [as per Planning and Development (Local Government Planning Fees) Regulations].
 - d) Details of:
 - i. Number of employees;

- ii. Hours and days of operation;
 - iii. All processes carried out on site and equipment used; and
 - iv. Number of commercial vehicle movements into and out of the site per day and week and details of vehicle types and sizes.
- e) Acoustic Consultant's assessment of the development including noise modelling/mapping and measures to be put in place to ameliorate noise to comply with Environmental Protection (Noise) Regulations.
7. Melking Holdings Pty Ltd is also advised that a Retrospective Acknowledgement will also need to be obtained from the Shire's Building Services for the unauthorised building and such application must be accompanied by certification from a Structural Engineer as to the structural integrity of the building.
8. If the application for approval to commence development is refused by the Western Australian Planning Commission, the matter will be referred back to the Council for consideration. The applicant be advised that Council is keen to assist in investigating avenues for the retention of the business within the Shire including rezoning of land.

COUNCIL DECISION:

Moved Cr Murphy, seconded Cr Brown that standing orders 9.5, 9.6, 10.7 and 10.13 be suspended.

LOST 6/5

The Presiding Member used her casting vote.

SD003/07/08 COUNCIL DECISION:

Moved Cr Buttfield, seconded Cr Kirkpatrick

That:

1. **In accordance with Clause 8.1 of Town Planning Scheme No. 2, the Chief Executive Officer is authorised to negotiate and sign on behalf of the Shire a Legal Agreement with Melking Holdings Pty Ltd to effect the following outcomes from Steel Kit Homes:**
 - a) **To vacate the premises within an eighteen (18) to twenty four (24) month period as determined by Council from this date being 28 July 2008.**
 - b) **Detail appropriate noise reduction methods and techniques for their continued occupancy of the site with 60 days of the date being 28 July 2008 in order to achieve compliance with the Environmental Protection (Noise) Regulations 1997.**
 - c) **Limit hours of operation to the following days and times:**

Monday	7.00am – 6.00pm
Tuesday	7.00am – 6.00pm
Wednesday	7.00am – 6.00pm
Thursday	7.00am – 6.00pm
Friday	7.00am – 6.00pm
Saturday	7.00am – 6.00pm
Sunday	No Trading or Operation without prior approval in writing from Council

Public Holidays in Western Australia only, No Trading or Operation.
 - d) **Restrict all commercial and delivery vehicles servicing Steel Kit Homes to the site and not extend beyond the western side of Richardson Street immediately adjacent to the entrance points of the premise at all times of operation.**

- e) Any other conditions that are deemed appropriate to reduce the impact on the amenity of the locality.
 - f) The agreement being null and void in the event of a non-compliance with the conditions of the agreement.
 - g) The agreement being null and void in the event of appropriate approvals being obtained by Steel Kit Homes for the use of the land.
2. The Legal Agreement is to be drafted by the Shire of Serpentine Jarrahdale's contracted lawyers. The Legal Agreement is to be finalised within 21 days of this date being 28 July 2008.
 3. All legal expenditure incurred by the Shire of Serpentine Jarrahdale in respect to the Legal Agreement is to be fully paid for by Steel Kit Homes.
 4. Should Steel Kit Homes decline to enter into the Legal Agreement with the Shire or comply with any part of this resolution, the Chief Executive Officer be authorized to commence legal proceedings.
 5. Melking Holdings Pty Ltd is invited to submit a formal retrospective application for approval to commence development under the Metropolitan Region Scheme for the currently unauthorised land use of Industry – General and the unauthorised building work that has been carried out.
 6. Application for approval to commence development to be made using Metropolitan Region Scheme Form 1, is to be signed by the landowner (Public Transport Authority or Department for Planning and Infrastructure State Land Branch) and is to be accompanied by:
 - a) Four copies of site plan showing, as a minimum, all existing and proposed buildings, car parking areas, materials storage areas, loading areas, drainage, vehicle accessways and crossovers.
 - b) Four copies of floor and elevation plans for all buildings including the use of the various areas inside the buildings.
 - c) Application Fee: \$246 change of use fee plus \$492 prescribed penalty fee for retrospective applications – Total: \$738 [as per Planning and Development (Local Government Planning Fees) Regulations].
 - d) Details of:
 - i. Number of employees;
 - ii. Hours and days of operation;
 - iii. All processes carried out on site and equipment used; and
 - iv. Number of commercial vehicle movements into and out of the site per day and week and details of vehicle types and sizes.
 - e) Acoustic Consultant's assessment of the development including noise modelling/mapping and measures to be put in place to ameliorate noise to comply with Environmental Protection (Noise) Regulations.
 7. Melking Holdings Pty Ltd is also advised that a Retrospective Acknowledgement will also need to be obtained from the Shire's Building Services for the unauthorised building and such application must be accompanied by certification from a Structural Engineer as to the structural integrity of the building.
 8. If the application for approval to commence development is refused by the Western Australian Planning Commission, the matter will be referred back to the Council for consideration. The applicant be advised that Council is keen to assist in investigating avenues for the retention of the business within the Shire including rezoning of land.

CARRIED 9/1

Cr Murphy voted against the motion

Council note: The modified Officer Recommended Resolution was changed to extend the time for Steel Kit Homes to vacate and increase their operating hours.

SD004/07/08 DRAFT LOCAL PLANNING POLICY – WATER SENSITIVE URBAN DESIGN (A0972)		
Proponent:	Shire of Serpentine Jarrahdale	In Brief
Officer:	Chris Portlock - Manager Environmental Services	That the Draft Water Sensitive Urban Design Local Planning Policy (LPP 22) be adopted by Council for advertising in accordance with Town Planning Scheme No.2
Signatures Author:		
Senior Officer:	Suzette van Aswegen – Director Strategic Community Planning	The Draft LPP 22 has been developed to achieve better water sensitive urban design (WSUD) outcomes in urban areas as part of the planning approvals process. It contains information to assist Local Government to determine strategic and statutory proposals within the Environmental Protection Policy (EPP) Area of the Peel-Harvey Coastal Catchment.
Date of Report	6 June 2008	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

The Peel-Harvey Coastal Catchments Initiative (CCI) is a Federally funded program that aims to improve the water quality of the Peel-Harvey Estuary. It comprises a suite of eight projects which investigate the impacts on the estuary from agricultural and urban land uses.

The major deliverable of the CCI project is the Peel-Harvey Water Quality Improvement Plan (WQIP), which will outline phosphorous targets for the 17 sub-catchments. The WQIP will also make recommendations for best practice management for agricultural and urban areas. In order to meet the targets of the WQIP, any new development in the Peel-Harvey coastal catchment will be required to demonstrate consistency with WSUD principles.

WSUD was introduced in Western Australia in the 1980s to guide urban planning and design, and provides a framework for minimising the impact of urbanisation on the natural water cycle. It addresses water quality, water quantity and water conservation, together with broader social and environmental objectives which are expressed as design objectives and criteria.

The draft LPP 22 provides a planning framework for Local Government that aims to integrate catchment management objectives as set out in the Peel-Harvey WQIP into Local Government strategic planning and statutory decision making. The framework will assist the integration of land and water resource planning in urban landscapes, through the implementation of WSUD principles and practices. The consideration of water matters should be founded on sustainability principles, where a comprehensive range of issues is assessed using a triple-bottom-line approach.

The draft LPP 22 identifies broad objectives against which strategic and statutory proposals can be assessed. It is supported by the Peel-Harvey Coastal Catchment WSUD Technical Guidelines (October 2006) which provides information on appropriate technical solutions, assessment tools and implementation methodologies including planning and design of developments.

The proposed Draft LPP 22 is contained in the attachments marked SD004.1/07/08.

Sustainability Statement

Effect on Environment: The Draft LPP 22 will enhance both the built and natural environment through its focus on achieving WSUD outcomes. One of the key principles of WSUD is to enhance natural systems. This will ensure that biodiversity values are acknowledged and all efforts taken to protect environmentally sensitive areas.

Another WSUD principle is to minimise the hydrological disturbance to the system. This aims to ensure minimal disturbance to the site during construction, however, this may be difficult in areas where the water table is high.

The adaptive management approach which supports the Draft LPP 22 also focuses on ensuring actions are consistent with best management practice and current knowledge.

Water efficiency measures are encouraged in the Draft LPP 22. The design criteria will result in conservation of drinking water and maximization of opportunities for fit-for-purpose water use.

Resource Implications: The draft LPP 22 will result in better water management outcomes, particularly when compared to traditional development. This potentially includes rainwater tanks, stormwater tanks, swales, increased infiltration, reduced areas of lawn, reuse of water where possible and protection of vegetated land with biodiversity values.

Use of Local, renewable or recycled Resources: This policy does not address local provenance but does support reuse of water.

Economic Viability: Implementation of the LPP 22 will reduce external costs in relation to water resources, biodiversity and water (groundwater and waterway) pollution, community focus.

Social – Quality of Life: WSUD is also about developing public open spaces with multiple uses. This results in better opportunities to develop areas of community focus, enabling better opportunities for active and passive recreation. The draft LPP 22 framework encourages development consistent with the principles of Liveable Neighbourhoods, which promote good design for crime prevention, retention of existing vegetation, access to services eg local shops, public transport, noise.

Social Diversity: The policy does not disadvantage any social groups. The utilisation of design objectives provides opportunity for diverse outcomes and variations in urban form and WSUD technical solutions, should they be desired.

Statutory Environment: Town Planning Scheme No. 2 (TPS 2).
Western Australia Planning Commission (WAPC)
Statement of Planning Policy 2. and 2.9.

Policy/Work Procedure Implications: There are no work procedures/policy implications directly related to this issue.

Financial Implications: Costs of approximately \$300 to advertise the draft LPP 22.

Strategic Implications: This proposal relates to the following Key Sustainability Result Areas:-
1. People and Community
Objective 1: Good quality of life for all residents
Strategies:
1. Provide recreational opportunities (through promotion of multiple use corridors).

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

Strategies:

1. Increase information and awareness of key activities around the Shire and principles of sustainability.

2. Environment

Objective 1: Protect and repair natural resources and processes throughout the Shire

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
2. Develop partnerships with community, academia and other management agencies to implement projects in line with Shire objectives.
3. Encourage protection and rehabilitation of natural resources.
4. Reduce water consumption.
6. Value, protect and develop biodiversity.

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

Strategies:

1. Implement known best practice sustainable natural resource management.
3. Reduce waste and improve recycling processes

3. Economic

Objective 3: Effective management of Shire growth

Strategies:

2. Represent the interests of the Shire in State and Regional planning processes.
3. Integrate and balance town and rural planning to maximise economic potential.

4. Governance

Objective 1: An effective continuous improvement program

Strategies:

1. Identify and implement best practice in all areas of operation.
2. Promote best practice through demonstration and innovation.

Objective 2: Formation of Active Partnerships to progress key programs and projects

Strategies

1. Improve coordination between Shire, community and other partners.
3. Develop specific partnerships to effectively use and leverage additional resources.

Objective 3: Compliance to necessary legislation

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

This will occur for a minimum period of 21 days and may involve workshops with the development industry.

Comment

The State Water Strategy (Government of WA, 2003) identifies the need for an increased focus on total water cycle management and WSUD to improve the management of stormwater and increase the efficiency of the use of water.

This is supported by *Statement of Planning Policy No 2: Environment and Natural Resources* (Government of WA, 2003). Policy measure 5.2(iii) notes the need for planning proposals to:

“Encourage urban water management through water sensitive design approaches that better manage stormwater quality and quantity; that reduce the impact of stormwater flows to streams, wetlands and coastal waters; and that control or remove pollutants and nutrients so as to improve water quality, retain habitats, conserve water and provide for recreational opportunities and conservation functions through multiple use drainage systems.”

This is further expanded in a *Statement of Planning Policy 2.9: Water Resources* (Govt. of WA, 2006), which notes that achievement of integrated water cycle management may be facilitated through the use of WSUD techniques employed during planning, design and construction of urban developments.

Further information (principles, guidelines and technical information) is provided by the Department of Water, in its *Stormwater Management Manual for Western Australia* (DoW, 2007). Draft LPP 22 will bring WSUD principles in the Shire in line with the above requirements.

It is recommended that the draft LPP 22 be adopted by Council for the purpose of public advertising prior to final adoption.

Voting Requirements: Simple Majority

SD004/07/08 COUNCIL DECISION/Committee/Officer Recommended Resolution:

Moved Cr Harris, seconded Cr Randall
That Council adopt the Draft Local Planning Policy (LPP 22) Water Sensitive Urban Design for public comment for a minimum period of 21 days in accordance with Clause 9.3 (a) of Town Planning Scheme No. 2.
CARRIED 10/0

SD005/07/08 BULK EARTHWORKS AND IMPORTATION OF FILL – LOT 3 ALEXANDER ROAD, BYFORD (P04679/02)		
Proponent:	RPS Koltasz Smith	In Brief
Owner:	Westmark Assets Pty Ltd	
Officer:	M Daymond – Senior Planner	To consider the approval of bulk earthworks on Lot 3 Alexander Road, Byford following completion of public advertising.
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	1 July 2008	
Previously	SD097/05/08	It is recommended that the application be conditionally approved.
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Date of Receipt: 29 January 2008
Advertised: NA
Submissions: NA
Lot Area: 6.117 ha
L.A Zoning: Urban Development
MRS Zoning: Urban
Byford Structure Plan: Residential R20

Background

The application for proposed Bulk Earthworks on Lot 3 Alexander Road, Byford was previously considered by Council at its Ordinary Meeting held on 26 May 2008. At this meeting it was resolved as follows:

“SD097/05/08 COUNCIL DECISION:

Moved Cr Harris, seconded Cr Randall

- A. *That the Council determines that the filling and bulk earthworks is a use not listed in the Zoning Table of Town Planning Scheme No. 2.*
- B. *Council determines in accordance with Clause 3.2.5 of Town Planning Scheme No. 2 that the filling and undertaking of bulk earthworks on Lot 3 Alexander Road, Byford as proposed on plan E689-E1 is a use consistent with the objectives and purposes of the Residential zone.*
- C. *If no objections are received, the Director of Development Services is granted delegated authority to approve the proposed filling of land and bulk earthworks on Lot 3 Alexander Road, Byford, subject toconditions.
CARRIED 9/0”*

Objections have been received to the proposal and the application is therefore presented back to Council.

Sustainability Statement

Effect on Environment: Potential impacts include impacts on natural drainage, and potential dust and noise nuisance. These impacts for housing can be minimized by vigilant control of site conditions by contractors and enforcement of conditions.

Use of Local, Renewable or Recycled Resources: Local cartage contractors may be used to transport the sand to the site. Sand may be sourced from local sand mining operations within the Shire.

Economic Viability: The filling of the land itself aims to reduce the holding cost of the development by aiming to achieve a more efficient timeframe for subdivisional development. Timely filling of the site can potentially reduce development costs and such savings may be passed down to the eventual lot purchasers.

Social – Quality of Life: Truck movements, on site works and potential for dust will bring a reduction to the quality of life for nearby residents. Appropriate conditions shall be imposed to limit these potential impacts and the site regularly inspected by Shire officers to ensure compliance with the development conditions.

Statutory Environment: Town Planning Scheme No. 2 (TPS 2)

Policy/Work Procedure Implications: PWP3 Landfill Guidelines

Financial Implications:

There maybe financial implications to Council related to monitoring compliance for this proposal.

Strategic Implications:

The proposal will facilitate residential development which will relate to the following Key Sustainability Result Areas:-

4. Governance

Objective 3: Compliance to necessary legislation

Strategy:

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

Community Consultation:

The application was referred to adjoining residents for a period of 21 days. As a result of the advertising, 3 objections were received. As the objections cover similar issues, these are summarised below. A number of the issues raised relate to the filling and development occurring on the adjoining Lot 3 Larsen Road which is under the control of the same developer.

1. Stormwater Management

- The high stockpiles of sand on Lot 3 Larsen Road have been allowed to silt up the creek bed and drains and in no way represents good management.

2. Dust Control

- The proposed methods to contain the dust on Lot 3 Larsen Road have not yet been undertaken.
- Our homes inside and out have suffered damage with the invasion of dust, the health of people and their animals have also incurred problems.
- Overall, the dust suppression on Lot 3 Larsen Road is a failure and the proposed measures for Lot 3 Alexander Road are inadequate.
- Developers have made living in Byford extremely unpleasant in the past 2 years with dust generated by earthworks and the health problems that come with it.
- The stockpiling of sand has caused numerous problems on Lot 3 Larsen Road. Any stockpiling on Lot 3 Alexander Road is likely to cause similar dust issues.

3. Traffic Management

- Larsen Road and the houses facing it have been subjected to many years of heavy trucks constantly hauling sand back and forth.
- These trucks create a constant noise and dust nuisance. We do not want another convoy of trucks passing our home.

4. Site Maintenance

- The current site at Lot 3 Larsen Road has not been maintained nor have inspections been carried out to ensure compliance with required standards. As this is the same developer for Lot 3 Alexander Road, the same problems will be encountered.

Officer Response

Comments noted. Many of the points and concerns raised by surrounding landowners relate to the issues that have been experienced with Lot 3 Larsen Road. As it is the same developer for both lots, residents are concerned that the same issues relating to storm water management, dust suppression, traffic management and site maintenance will occur for this application.

A number of conditions can be imposed on the approval addressing these concerns. It is acknowledged that in the past it has been hard for the Shire to monitor these sites to ensure compliance with conditions of approval. However, as the Shire now has specific staff to deal with compliance issues, it is believed that tighter controls can be put on these development sites with more regular inspections.

In addition, as the existing stockpiles of sand on Lot 3 Larsen Road will be used as fill on Lot 3 Alexander Road, issues relating to stockpiling on the Larsen Road site will be lessened. Furthermore, by filling the land in the next couple of months, while the weather conditions are favourable, many of the issues relating to dust are reduced. Dust could again become an issue in the warmer months if the site is not adequately managed and conditions complied with as soon as possible.

Comments from Adjoining Developer

A letter of objection was also received from another developer to the south that owns adjoining land. The reasons for objection are as follows:

- The locking in of the northern edge of the Multiple Use Corridor (MUC) is not supported. The MUC divides Lot 2 Abernethy Road and the subject application area. If the draft Byford Town site Drainage and Water Management Plan indicates that the MUC has to be widened to accommodate greater volumes of water than what was originally identified in the Byford Urban Stormwater Management Strategy, all the required widening would occur on Lot 2 Abernethy Road. This would not be a fair or equitable arrangement.
- The suggestion that the plan of subdivision is in accordance with the Byford Structure Plan is challenged. The proposed east-west road between Lot 2 Abernethy Road and the subject site sits slightly to the north of the existing Evans Road reserve to ensure the protection of existing vegetation. The proposed plan of subdivision essentially utilises the existing Evans Road reserve entirely for the purposes of creating this east-west connection.

Officer Response

The above comments relate to the draft local structure plan and to the subdivision plan on this land, and are not the bulk earthworks application. As the subdivision application has recently been approved by the Western Australian Planning Commission (WAPC), any widening of the MUC (if required by the Department of Water) would need to occur entirely on Lot 2 Abernethy Road. Any required widening will be identified when the draft Byford Town site Drainage and Water Management Plan is finalised at the end of July. There is no scope to amend the subdivision layout on Lot 3 Alexander Road as it has been approved by the WAPC.

The northern boundary of the future east-west road has been approved under the subdivision approval. Through the detailed design stage of the subdivision, the future east-west road may be able to be designed to minimise impacts on existing vegetation where possible.

Comment:

The development application has been lodged in order that bulk earthworks of approximately 6.0 ha may be undertaken to prepare the site for the approved subdivision of Lot 3 Alexander Road, Byford. The proposed works have been broken into two stages, each approximately 3.0 ha in area, to minimise the extent of exposed earthworks at any given time.

A copy of the locality plan, earthworks plan and draft local structure plan is contained in the attachments marked SD005.1/07/08.

A draft Local Structure Plan (LSP) was submitted for the subject land in August 2005, and was put on hold pending investigation into a number of issues, most importantly relating to district drainage. In addition, a subdivision application was referred to Council by the WAPC on 27 November 2007. Subdivision approval was subsequently issued by the WAPC on 11 June 2008. It is noted that since the application was lodged with the Shire, subdivision approval has been granted by the WAPC. The approval of this subdivision therefore negates the need for separate planning approval under the TPS 2.

The applicant has requested approval for bulk earthworks to facilitate the future development of Lot 3 Alexander Road, Byford prior to the winter months when the site becomes water logged and unworkable. The final levels will be determined at the subdivision stage where further refining of the earthworks will be undertaken as well as the installation of the required drainage regime in accordance with the requirements of the Byford Urban Stormwater Management Strategy (BUSMS) recommendations and the Department of Water's Byford Townsite Drainage and Water Management Plan (Draft February 2008).

The applicant has submitted a Construction and Environmental Management Plan (CEMP) which details how the land will be appropriately managed. A major issue identified within the CEMP is in relation to the management of dust. The works are proposed to be broken into two stages to minimise the extent of exposed earth at any given time.

Statutory Requirements

The act of clearing, filling and undertaking earthworks constitutes 'development' under TPS 2 and accordingly requires development approval. Further, the proposed filling and bulk earthworks is deemed to be a use that is not listed within Council's TPS 2. With respect to uses not listed, clause 3.2.5 of the scheme states:

3.2.5 If the use of land for a particular purpose is not specifically mentioned in the zoning table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

- a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or*
- b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 6.3 in considering an application for planning consent.*

The application was advertised as required by clause 3.2.5(b) above.

Site Conditions

The application area has a slight fall from south-east to north-west and naturally drains in a westerly direction across the site. As part of the CEMP Plan, a temporary sediment basin is proposed in the north-western corner of the site to cater for water runoff. This will address temporary drainage issues as specific drainage details will be worked out during the assessment of technical engineering drawings.

The subject site is proposed to be filled to a general depth of between 1.0 to 1.4 metres. This accords with the requirements under the BUSMS. The highest level of fill is located in the lowest portion of the site, being the north-western corner. The final fill levels can be rectified at the refining of earthworks at the subdivision stage.

Access

As trucking movements in Byford have caused a number of concerns in Byford, it is considered that access to Lot 3 Alexander Road should only be via South Western Highway into Larsen Road and then into Alexander Road. This will remove the need for any trucks to

drive past Marri Grove Primary School or use Evans Way which is frequented by parents dropping off and picking up their children from school. This route is considered the best option and is included as a condition of approval.

Conclusion

It is acknowledged that a number of problems have existed in the past with respect to bulk earthworks applications. However, with respect to this application it is considered that the timing is ideal to allow for the filling of the land whilst dust issues are reduced. Officers will continue a more active role in ensuring that developers are complying with the conditions of approval and relevant management plans for the area to ensure impacts on residents are reduced. Appropriate conditions have been imposed to limit the impact on neighbouring residents from traffic, dust and noise. Through the imposition of these conditions, it is considered that there is no impediment towards allowing the application area to be filled and earth worked as per the application plan.

Voting Requirements: Simple Majority

Officer Recommended Resolution:

- A. That Council determines that the filling and bulk earthworks is a use not listed in the Zoning Table of Town Planning Scheme No. 2.
- B. Council determines in accordance with Clause 3.2.5 of Town Planning Scheme No. 2 that the filling and undertaking of bulk earthworks on Lot 3 Alexander Road, Byford as proposed on plan E689-E1 is a use consistent with the objectives and purposes of the Residential zone.
- C. The proposed filling of land and bulk earthworks on Lot 3 Alexander Road, Byford, be approved subject to the following conditions:
 1. This approval relates only to the bulk earthworks and clearing within the application area as shown on the approved plans. No retaining walls or any other structures shall be constructed without prior approval to the Shire. Maximum fill levels are to comply with the approved plans.
 2. The developer is to erect a sign on the site for the duration of the development, visible from Alexander Road and Evans Way to the satisfaction of the Director Development Services. The signs are to advise the public of the existence of heavy vehicle traffic, proposed duration of earthworks and the phone contact details of the principal contractor and supervising engineer.
 3. Earthworks are to meet all adjoining land at natural ground level and any earthworks batter is to be no greater than 1:6 (18%).
 4. Certification from a NATA Registered and Certified practicing Geotechnical Engineering organisation at the completion of the filling confirming that earthworks, filling and compaction are completed and controlled in such a manner that results in a suitable building platform for the intended land use, shall be submitted to the Shire to the satisfaction of the Director Engineering.
 5. All works shall be conducted in accordance with Council's policies, Engineering standards and specifications.
 6. Hours for site and construction work shall be limited to the following hours:

Monday to Friday	7.00am to 6.00pm only
Saturday	7.30am to 5.00pm only
Sunday and Public Holidays	No works permitted without prior written approval from the Shire.
 7. No earthworks (including batters) shall intrude into any other land which abuts the site.
 8. The applicant shall be responsible for any changes and alterations to earthworks on-site resulting from future development approvals and/or

- subdivision approval(s) issued by the Western Australian Planning Commission.
9. All stormwater shall be contained on-site, to the satisfaction of the Director Engineering. Erosion shall be controlled so as not to result in sand runoff into the road reserves, multiple use corridor, public open space areas and any adjoining land.
 10. A Construction and Environment Management Plan shall be prepared by the proponent and approved by the Shire prior to the commencement of works. All measures identified in the plan to control soil and water movement are to be implemented prior to, during the course of, and after completion of the bulk earthworks until such time as the land is approved for subdivision and/or sold to another party. Approval must be obtained prior to the commencement of earthworks.”
 11. The emission of airborne dust and sand drift must not cause a nuisance to neighbours during subdivision works. Prior to commencement of any site works, a Dust Management Plan is to be developed in accordance with the Environmental Protection Authority’s “Guidelines for the prevention of dust and smoke pollution from land development sites in Western Australia” and submitted to the Shire for approval. Approval must be obtained prior to the commencement of works and thereafter the Dust Management Plan shall be implemented at all times.
 12. The proponent and the contractor shall be responsible for dust and sand drift control in accordance with the Department of Environment and Conservation guidelines. Disturbed areas shall be stabilised as soon as practicable and thereafter implemented to the satisfaction of the Director Engineering.
 13. No burning of cleared vegetation shall be permitted.
 14. Only clean fill, certified as being dieback free and not sourced from an acid sulphate soil moderate or high risk area, shall be used on site in accordance with relevant Department of Environment and Conservation Guidelines and the specifications outlined in the Local Government Guidelines for Subdivisional Developments. Compaction and Stabilization must be carried out to the satisfaction of the Director Engineering.
 15. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.
 16. Site works and construction noise levels shall be in accordance with the provisions of the Environmental Protection (Noise) Regulations 1997.
 17. A traffic management plan shall be prepared by the proponent and approved by the Shire and subsequently implemented prior to the commencement of and during any work. All access to the site shall be from Alexander Road only. Access from Evans Way by construction machinery or trucks is not permitted. Trucks and machinery are not permitted to drive past the northern side of the Marri Grove Primary School and shall access the site via South Western Highway into Larsen Road and then into Alexander Road.
 18. Larsen Road and Alexander Road, including the entry to the property, shall be maintained at the existing standards to the satisfaction of the Director Engineering. Any damage caused to the road by the proponent or its contractors shall be immediately repaired to the satisfaction of the Director Engineering.
 19. All sand batters shall be constructed to a minimum slope of 1:6 to natural surface and stabilized to address erosion and sand drift.
 20. Stockpiling of spoil material shall only occur in accordance with approved plans. This area is to be appropriately fenced (including the provision of filter material to a height of 1.5 metres) and stabilised regularly. Maximum allowable height of stockpiles for topsoil and vegetation is 3.0 metres above natural ground level and is not to exceed the boundaries of the approved plan.
 21. Stockpiling of fill material shall be in a location separated from the spoil stockpile by at least 20.0 metres. Maximum allowable height of stockpiles for fill is 3.0 metres above natural ground level.

22. Gradings, scrapings or excavated materials from this site are not to be used for fill unless prior approval for that use is specified in a comprehensive geotechnical report prepared by a NATA certified practicing geotechnical engineering organization that includes soil testing, groundwater and Acid Sulfate Soil investigations. This is to be provided prior to works commencing if any material from the site is intended to be used for fill.
23. A suitable water truck is to be on site at all times to undertake stabilisation works as and when required or when requested by the Shire.
24. Engineering drawings detailing the proposed earthworks as well as internal access tracks for trucks and machinery are to be approved by the Shire prior to the commencement of site earthworks. The drawings are to include details of the construction specifications for the access tracks.
25. Fencing shall be constructed along the northern boundary of the site, between Marri Grove Primary School and the development area, to screen the works from view to the satisfaction of the Director Development Services.

Advice Notes:

1. This approval should not be construed as support for any future subdivision of the land. Final fill levels will be determined at the subdivision stage.
2. In respect to Condition 1 this approval does not negate the need for further earthworks to be undertaken subject to approval of engineering drawings in relation to a future subdivision approval.
3. The applicant is requested to ensure truck operators comply with the conditions of approval and ensure that their operations do not adversely impact on the community by way of truck speeds, control of litter and following designated truck routes.
4. With regard to Conditions 10 and 11 above, the applicant is advised that the requirements of the two documents can be combined into one overall submission to satisfy the two conditions, provided that all relevant information to satisfy both conditions is included in that document.

SD005/07/08 COUNCIL DECISION/Committee Recommended Resolution:

Moved Cr Randall, seconded Cr Buttfeld

- A. **That Council determines that the filling and bulk earthworks is a use not listed in the Zoning Table of Town Planning Scheme No. 2.**
- B. **Council determines in accordance with Clause 3.2.5 of Town Planning Scheme No. 2 that the filling and undertaking of bulk earthworks on Lot 3 Alexander Road, Byford as proposed on plan E689-E1 is a use consistent with the objectives and purposes of the Residential zone.**
- C. **The proposed filling of land and bulk earthworks on Lot 3 Alexander Road, Byford, be approved subject to the following conditions:**
 1. **This approval relates only to the bulk earthworks and clearing within the application area as shown on the approved plans. No retaining walls or any other structures shall be constructed without prior approval to the Shire. Maximum fill levels are to comply with the approved plans.**
 2. **The developer is to erect a sign on the site for the duration of the development, visible from Alexander Road and Evans Way to the satisfaction of the Director Development Services. The signs are to advise the public of the existence of heavy vehicle traffic, proposed duration of earthworks and the phone contact details of the principal contractor and supervising engineer.**
 3. **Earthworks are to meet all adjoining land at natural ground level and any earthworks batter is to be no greater than 1:6 (18%).**

4. Certification from a NATA Registered and Certified practicing Geotechnical Engineering organisation at the completion of the filling confirming that earthworks, filling and compaction are completed and controlled in such a manner that results in a suitable building platform for the intended land use, shall be submitted to the Shire to the satisfaction of the Director Engineering.
5. All works shall be conducted in accordance with Council's policies, Engineering standards and specifications.
6. Hours for site and construction work shall be limited to the following hours:

Monday to Friday	7.00am to 6.00pm only
Saturday	7.30am to 5.00pm only
Sunday and Public Holidays	No works permitted without prior written approval from the Shire.
7. No earthworks (including batters) shall intrude into any other land which abuts the site.
8. The applicant shall be responsible for any changes and alterations to earthworks on-site resulting from future development approvals and/or subdivision approval(s) issued by the Western Australian Planning Commission.
9. All stormwater shall be contained on-site, to the satisfaction of the Director Engineering. Erosion shall be controlled so as not to result in sand runoff into the road reserves, multiple use corridor, public open space areas and any adjoining land.
10. A Construction and Environment Management Plan shall be prepared by the proponent and approved by the Shire prior to the commencement of works. All measures identified in the plan to control soil and water movement are to be implemented prior to, during the course of, and after completion of the bulk earthworks until such time as the land is approved for subdivision and/or sold to another party. Approval must be obtained prior to the commencement of earthworks."
11. The emission of airborne dust and sand drift must not cause a nuisance to neighbours during subdivision works. Prior to commencement of any site works, a Dust Management Plan is to be developed in accordance with the Environmental Protection Authority's "Guidelines for the prevention of dust and smoke pollution from land development sites in Western Australia" and submitted to the Shire for approval. Approval must be obtained prior to the commencement of works and thereafter the Dust Management Plan shall be implemented at all times.
12. The proponent and the contractor shall be responsible for dust and sand drift control in accordance with the Department of Environment and Conservation guidelines. Disturbed areas shall be stabilised as soon as practicable and thereafter implemented to the satisfaction of the Director Engineering.
13. All cleared vegetation to be removed or mulched onsite within 28 days.
14. Only clean fill, certified as being dieback free and not sourced from an acid sulphate soil moderate or high risk area, shall be used on site in accordance with relevant Department of Environment and Conservation Guidelines and the specifications outlined in the Local Government Guidelines for Subdivisional Developments. Compaction and Stabilization must be carried out to the satisfaction of the Director Engineering.
15. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.
16. Site works and construction noise levels will be in accordance with the provisions of the Environmental Protection (Noise) Regulations 1997.
17. A traffic management plan will be prepared by the proponent and approved by the Shire and subsequently implemented prior to the

commencement of and during any work. All access to the site will be from Alexander Road only. Access from Evans Way by construction machinery or trucks is not permitted. Trucks and machinery are not permitted to drive past the northern side of the Marri Grove Primary School and will access the site via South Western Highway into Larsen Road and then into Alexander Road.

18. Larsen Road and Alexander Road, including the entry to the property, will be maintained at the existing standards to the satisfaction of the Director Engineering. Any damage caused to the road by the proponent or its contractors shall be immediately repaired to the satisfaction of the Director Engineering.
19. All sand batters shall be constructed to a minimum slope of 1:6 to natural surface and stabilized to address erosion and sand drift.
20. Stockpiling of spoil material shall only occur in accordance with approved plans. This area is to be appropriately fenced (including the provision of filter material to a height of 1.5 metres) and stabilised regularly. Maximum allowable height of stockpiles for topsoil and vegetation is 3.0 metres above natural ground level and is not to exceed the boundaries of the approved plan.
21. Stockpiling of fill material shall be in a location separated from the spoil stockpile by at least 20.0 metres. Maximum allowable height of stockpiles for fill is 3.0 metres above natural ground level.
22. Gradings, scrapings or excavated materials from this site are not to be used for fill unless prior approval for that use is specified in a comprehensive geotechnical report prepared by a NATA certified practicing geotechnical engineering organization that includes soil testing, groundwater and Acid Sulfate Soil investigations. This is to be provided prior to works commencing if any material from the site is intended to be used for fill.
23. A suitable water truck is to be on site at all times to undertake stabilisation works as and when required or when requested by the Shire.
24. Engineering drawings detailing the proposed earthworks as well as internal access tracks for trucks and machinery are to be approved by the Shire prior to the commencement of site earthworks. The drawings are to include details of the construction specifications for the access tracks.
25. Fencing shall be constructed along the northern boundary of the site, between Marri Grove Primary School and the development area, to screen the works from view to the satisfaction of the Director Development Services.

Advice Notes

1. This approval should not be construed as support for any future subdivision of the land. Final fill levels will be determined at the subdivision stage.
2. In respect to Condition 1 this approval does not negate the need for further earthworks to be undertaken subject to approval of engineering drawings in relation to a future subdivision approval.
3. The applicant will ensure truck operators comply with the conditions of approval and ensure that their operations do not adversely impact on the community by way of truck speeds, control of litter and following designated truck routes.
4. With regard to Conditions 10 and 11 above, the applicant is advised that the requirements of the two documents can be combined into one overall submission to satisfy the two conditions, provided that all relevant information to satisfy both conditions is included in that document.

CARRIED 10/0

Committee Note: The Officer Recommended Resolution was amended by replacing the word 'shall' with 'will' in Conditions 16, 17 and 18. Condition 13 was reworded to include cleared vegetation to be removed or mulched on site within 28 days and Advice Note 3 was changed by replacing the word 'requested' with 'will'.

SD006/07/08 PROPOSED CLEARING OF VEGETATION – RESERVE 25911, LOT 164 (286) YANGEDI ROAD, HOPELAND (P02909/15)		
Proponent:	Sports Aircraft Builders Club of WA Inc	In Brief The applicant seeks approval to clear approximately 0.5 ha of vegetation at the Serpentine Airfield. It is recommended the application be conditionally approved.
Owner:	Serpentine Jarrahdale Shire	
Officer:	M Daymond – Senior Planner	
Signatures Author:		
Senior Officer:	B Gleeson – Director Development Services	
Date of Report	30 June 2008	
Previously	NA	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Date of Receipt: 27 October 2005
 Advertised: Yes
 Submissions: Yes
 Lot Area: 64.7421 ha
 L.A Zoning: Public Open Space
 MRS Zoning: Rural
 Rural Strategy Policy Area: Rural
 Bush Forever: Site No.378

Background

An application was lodged with Council in October 2005 for the clearing of two separate plots of vegetation at the Serpentine Airfield site on Yangedi Road, Hopeland. The purpose of the clearing was to allow for additional land to be provided for the construction of new aircraft hangars. The application was put on hold pending the preparation of a reserve management plan and the issuing of a Clearing Permit as per advice from the Department of Planning and Infrastructure's Bush Forever Office (DPI) and the Department of Environment and Conservation (DEC).

In respect of the clearing permit, Council in March 2006 resolved as follows:

“CGAM112/03/06 COUNCIL DECISION

*That Council grants delegated authority to the Chief Executive Officer to lodge a clearing application with the Department of Environment and a planning application with the Western Australian Planning Commission for development on Crown Reserve 25911. Where further development is required it should be subject to a reserve management plan prepared in conjunction with the Serpentine Jarrahdale Landcare Centre.
 CARRIED 9/0”*

Both matters relating to the clearing permit and the reserve management plan have progressed sufficiently for the development application to now be considered by Council.

Sustainability Statement

Effect on Environment: The proposal will result in the clearing of two separate plots of vegetation on the subject site. The requirement for a reserve management plan to be prepared, in conjunction with the Shire, the DPI and the DEC will ensure that the significant environmental issues of the site are managed appropriately.

Economic Viability: The proposal will result in the removal of some biodiversity from the property, but is considered essential if the airfield is to expand. This removal may be partially off set by the preparation and implementation of a reserve management plan that will ensure that the significant environmental issues of the site are managed.

Social – Quality of Life: It is considered that the application will not impact on any adjoining land owner.

Statutory Environment:

Town Planning Scheme No.2 (TPS 2)
Planning & Development Act 2005
Environmental Protection Act 1986

Policy/Work Procedure Implications:

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

Financial Implications:

There are no financial implications to Council related to this application/issue.

Strategic Implications:

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

1. People and Community

Objective 1: Good quality of life for all residents

Strategies:

1. Provide recreational opportunities.

2. Environment

Objective 1: Protect and repair natural resources and processes throughout the Shire

Strategies:

3. Encourage protection and rehabilitation of natural resources.
6. Value, protect and develop biodiversity.

3. Economic

Objective 1: A vibrant local community

Strategies:

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

4. Governance

Objective 3: Compliance to necessary legislation

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Develop a risk management plan.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

The application was not referred to the community for comment.

As the subject site contains a Conservation Category Wetland and Bush Forever Site No.378, the application was referred to the DPI, DEC and the SJ Reserves Advisory Committee.

Comment from Government Agencies

DPI Bush Forever Office

The DPI provided the following comment:

It is considered that the proposal will have an adverse impact on the regionally significant bushland and with reference to policy measure 5.1 (iii) of the Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy 2.8 and the disturbed nature of the bushland, that impact be minimal. Minimal impacts require the following information from the proponent that has not been adequately provided in the proposal:

- *A description of the proposal, including the identification of likely adverse impacts (eg extent of clearing);*
- *Demonstration that all reasonable steps have been taken to avoid or minimise any likely impacts and details of any bushland sensitive measures adopted; and*
- *Details of proposed long-term protection, management and offset commitments.*

The Bush Forever office does not object in principle to the proposal but does not support the application until such time as the above requirements are considered and a reserve management plan developed.

DEC

The DEC advised that an assessment of the vegetation against the clearing principles contained in schedule 5 of the Environmental Protection Act 1986 (EP Act) has been conducted. The DEC further advised that while it is likely that they will grant a clearing permit, it will be subject to a condition requiring dieback and weed prevention. A decision on the clearing permit application has been deferred until the Shire are able to provide additional documentation confirming that development approval has been issued.

Comment:

The application advises:

The Sport Aircraft Builder Club was established in 1972 with a membership of 42 people. By 1998 (26 years) the membership had grown to 121 people and 47 hangars had been constructed on the field. Form 1998 to 2005 (at the time of application) our growth rate has increased dramatically and our membership has reached 217. In the same period of time the number of hangars has more than doubled to 101. In the last 3 years the membership has increased by more than 37% and the predicted membership by the end of this year (2005) is 250 plus. This growth has led to increased demand for more hangars. At this time we have reached a point where there is not enough hangar space to accommodate the needs of our members.

The applicant seeks approval to clear existing vegetation within the Serpentine Airfield reserve. Lot 164 Yangedi Road, Hopeland (crown reserve 25911) covers a total of 64.7 hectares and is vested to the Shire of Serpentine Jarrahdale for the purpose of recreation. This reserve is also part of Bush Forever site No.378. The site is leased to the Sports Aircraft Builders Club of WA Inc, an organisation that is registered with the Civil Aviation Safety Authority.

The Sports Builders Club of WA Inc. has leased the reserve since 1973 with the current lease expiring in 2012. The club's lease was renewed in 2002 without adequate environmental conditions including fire management specifications being attached to the

lease. During the time the club has leased the land, it has been developed to establish a private airfield with infrastructure including 67 hangars, 3 km of runway and a clubhouse.

The area proposed to be cleared is divided into two plots situated on the south side of the taxiway between the taxiway and the underground power line. The first plot is situated to the east of the existing hangars and is 128 metres long by 22 metres wide (2816m²). The second plot is situated to the west of the existing hangars and is 86 metres long by 22 metres wide (1892m²). The combined area to be cleared is 4708m².

A copy of the site plan and aerial photo indicating the proposed areas to be cleared are contained in the attachments marked SD006.1/07/08.

Since the application was received in 2005, the applicant has been working with the Shire to address the requirements from the DPI, DEC and the Shire's Reserves and Advisory Committee.

Clearing Permit

In September 2006, the Shire lodged an 'Application to Clear Native Vegetation' with the DEC as required under the EP Act. In December 2007, the DEC granted an in-principle agreement for the clearing of the vegetation pending the development application being approved by Council. More recently, the DPI has advised that they are satisfied with the proposal in relation to the clearing application that has been lodged. Furthermore, the clearing permit application has been addressed by the Shire's Reserves Advisory Committee and they are satisfied with the proposed development application being presented to Council for approval.

Management Plan

In respect to the Management Plan as required by the DPI, the applicant has been working with the Shire to obtain funding to allow for the required management plan to be prepared. The DEC has also offered to be available to assist or comment during the development and implementation of this management plan.

Native title claimants have been notified of the clearing proposal and the South West Aboriginal Land and Sea Council advise that a heritage survey should be conducted prior to clearing to determine the potential impacts on any areas of significance and that a Native Title representative should be present during any clearing of vegetation.

A Spring Flora Assessment has been undertaken for the entire Yangedi Reserve area. This ecological assessment is consistent with both Environmental Protection Authority (EPA) Guidelines as well as South West Biodiversity Project Guidelines and will form the foundation for a management plan which will address environmental, social and economic goals. The Shire's Landcare Centre is proposed to be contracted to prepare the management plan with the appropriate level of consultation including the Shire's Reserves Advisory Committee. The Aircraft Club have also expressed an interest in attending Reserve Advisory Committee Meetings when the management plan is being reviewed.

Conclusion

The area intended to be cleared and developed is approximately 0.5 hectares of the reserve, is fragmented by infrastructure and is degraded. A clearing application has been lodged by the Shire, with the issuing of the permit pending approval of the development application by Council. In addition, the Shire is committed to providing assistance to the club in producing a Reserve Management Plan for the site and accordingly has allocated funds in the draft 2008/09 budget for this purpose. It is recommended that the proposed clearing be approved.

Voting Requirements:

ABSOLUTE MAJORITY

Committee/Officer Recommended Resolution:

- A. That the application for clearing of vegetation on Reserve 25911 Lot 164 Yangedi Road, Hopeland be approved subject to the following condition:
 - 1. The area to be cleared to be in accordance with the site plan attached to and forming part of this approval.
- B. That the applicant enter into a Memorandum of Understanding with the Shire of Serpentine Jarrahdale regarding the preparation and implementation of the Reserve Management Plan prior to the commencement of clearing works.
- C. That the Department of Environment and Conservation be advised of Council's resolution for the purpose of issuing Clearing Permit 1531/1.

Amendment

- D. A supplementary report be provided to the Ordinary Council Meeting clarifying the advice received from the Reserves Advisory Group when they considered this application.

Committee Note: The Officer Recommended Resolution was changed by adding Part D.

SUPPLEMENTARY INFORMATION

At the Sustainable Development Committee held 15 July 2008, discussion was held regarding the statement in the Officer's report that approval of the application had been given by the Shire's Reserves Advisory Committee. This was incorrect as the Officer was quoting the outcomes of the Reserves Working Group. ***A copy of the Reserve Working Group determination is with the attachments marked SD006.2/07/08.***

However, the matter has been considered by the Reserves Advisory Group (RAG). A site visit to the Yangedi Airfield was held in March 2008. The matter was discussed by the RAG at the meeting on 17 June 2008. The minutes do not record that the RAG was opposed to the application. It is noted in the minutes that the matter will be presented to Council for a decision on the application. ***A copy of the Reserve Advisory Group minutes are with the attachments marked SD006.3/07/08.***

The Sports Aircraft Builders Club has agreed to contribute \$5,000 per year for the next three years towards the cost of the Management Plan.

Vegetation

A revised site plan is attached that shows the boundaries of the vegetation to be cleared.

A copy of the revised site plan showing the boundaries of the proposed clearing is with attachments marked SD006.4/07/08.

The area to be cleared has had several Vegetation and Flora Surveys undertaken and these were used to describe the specific site details in the Bush Forever document. In 2007, the Shire engaged ENV Environmental Consultants to conduct a vegetation survey of the entire reserve. The structural units affected by this clearing are as follows:

Uplands: Banksia attenuate and B.menziesii Low open woodland to Low woodland at times with scattered Eucalyptus marginata, Banksia ilicifolia and/or Allocasuarina fraseriana, Banksia attenuate, B. menziesii and B. ilicifolia Low Woodland.

The vegetation condition of the areas is categorised as good to completely degraded with areas of severe localised disturbance. No significant flora is recorded at the site and the significant mammal species in the area are Quenda (Southern Brown Bandicoot).

SD006/07/08 COUNCIL DECISION:

Moved Cr Murphy, seconded Cr Kirkpatrick

- A. That the application for clearing of vegetation on Reserve 25911 Lot 164 Yangedi Road, Hopeland be approved subject to the following condition:**
- 1. The area to be cleared to be in accordance with the site plan attached to and forming part of this approval.**
- B. That the applicant enter into a Memorandum of Understanding with the Shire of Serpentine Jarrahdale regarding the preparation and implementation of the Reserve Management Plan prior to the commencement of clearing works.**
- C. That the Department of Environment and Conservation be advised of Council's resolution for the purpose of issuing Clearing Permit 1531/1.**

CARRIED 9/1

Cr Randall voted against the motion

Council Note: Cr Randall advised that the Reserves Advisory Group voted against this development at their April 2006 meeting.

SD008/07/08		REQUEST FOR APPROVAL OF MODIFIED MASTER PLAN FOR HIGH SCHOOL - LOT 1 BISHOP ROAD (CORNER SOLDIERS ROAD), MUNDIJONG (P07536/01)
Proponent:	Serpentine Jarrahdale Grammar School Inc.	In Brief Applicant requests approval for modifications to the approved master plan for the High School including relocation of some buildings and facilities. It is recommended that the modified master plan be approved subject to the same conditions previously imposed on the development by the Council.
Owner:	As above	
Officer:	Meredith Kenny - Co-ordinator Planning Services	
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	2 July 2008	
Previously	OCM030/04/08; OCM018/01/08	
Disclosure of Interest	The Manager Community Emergency Management (MCEM) declared an interest of association in relation to this report as his son will be attending the School from 2008 and the MCEM provided comment with regard to Emergency Management requirements for the school.	
Delegation	Council	

Date of Receipt: 29 May 2008
 Lot Area: 7 hectares
 L.A Zoning: Urban Development
 MRS Zoning: Urban
 Municipal Inventory: Not listed
 Date of Inspection: 9 October 2007

Background

Council granted conditional planning approval for the High School at the meeting held on 29 January 2008. At the meeting held on 28 April 2008 the Council approved an amendment to

Condition 22 of the planning approval with regard to the specifications for the noise attenuation bund.

Review of plans submitted for the purpose of obtaining Building Licences for the various buildings revealed that modifications were proposed to the site layout. As this was not compliant with the plans approved by the Council, the school was advised that it would be necessary to submit an application to the Council for approval of a revised master plan.

The Proposal

The modifications to the master plan include:

1. Relocation of hard courts (basketball, netball) from the centre of the site to a location abutting the Bishop Road frontage.
2. Modification of the layout of year 7, 8 and 9 villages' buildings.
3. Year 9 village and junior art and science building now to comprise relocation of existing transportable buildings from Shire's administration centre site instead of new buildings.
4. Larger kiosk and toilet building and construction of freestanding undercover pavilions on the south side of the playing fields. Kiosk building is proposed to be a transportable building relocated from the existing school site.
5. Addition of the footpath along the Soldier's Road frontage of the site.
6. Modification of internal service road to provide vehicle access to the junior school playground as required (ie emergency and maintenance vehicle access).
7. Modifications to the entry road design as required by Engineering Services.
8. Modification to the type of fencing on site.

A copy of the previously approved master plan, amended master plan, associated amended building plans and request for approval of the modified master plan are contained in the attachments marked SD008.1/07/08.

A copy of the current Form 2 Planning Approval for the school dated 5 May 2008 is contained in the attachments marked SD008.2/07/08.

Sustainability Statement

Effect on Environment: The placement of the Soldiers Road footpath on the inside of the existing Soldiers Road drain will enable the retention of existing significant trees and other vegetation within the road reserve.

The transportable buildings proposed to be relocated to the site from the existing school site will be almost totally screened from public view from outside the site by the earth bund, existing vegetation and new buildings.

The relocation of the hard courts will not result in the loss of any existing trees.

Resource Implications and Use of local, renewable or recycled Resources: The re-use of the transportable buildings from the existing site to the new site reduces the demand for construction materials which will result in resource and cost savings. This is an economically viable outcome in terms of sustainable development and financial viability.

Social – Quality of Life: It is not considered that the modifications proposed will have any negative impacts on the quality of life of any nearby residents or the school community.

Statutory Environment:

Planning and Development Act
Town Planning Scheme No. 2 (TPS 2)
Metropolitan Region Scheme
Western Australian Planning Commission's (WAPC)
Development Control Policy DC 2.4 School Sites.

WAPC's Liveable Neighbourhoods Operational Policy

Strategic Implications:

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

2. Environment

Objective 1: Protect and repair natural resources and processes throughout the Shire

Strategies:

1. Increase awareness of the value of environmental requirements towards sustainability.
2. Reduce water consumption.
3. Reduce green house gas emissions.

4. Governance

Objective 3: Compliance to necessary legislation

Strategy:

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

Community Consultation:

Not required.

Comment

The modifications proposed to the master plan will not result in the loss of any additional vegetation from the site and in the case of the relocated pedestrian path, will help to retain verge vegetation that is an important element of the character and amenity of the local area.

The relocation of the hard courts abutting the Bishop Road parking area will provide a good outcome in terms of accessibility. Although such facilities always have high wire mesh fencing around them, the length of this fencing that will face Bishop Road comprises a very small proportion of the frontage of the lot and could be screened by increased verge planting along Bishop Road.

The re-use of the school's existing transportable buildings on the new school site will provide cost savings that can be used in other elements of the development and the centrality of the proposed location of these transportable buildings means they will be almost totally screened from public view. Therefore, the fact that these buildings differ from the proposed new buildings will not be visually intrusive.

Modifications to Fencing

At the time of compiling this report the assessment of the request to modify the fencing at the school had not been completed.

It is recommended that the modified master plan be approved subject to the same conditions imposed on the development by the current Form 2 Planning Approval dated 5 May 2008.

Voting Requirements:

Simple Majority

SD008/07/08 COUNCIL DECISION/Committee/Officer Recommended Resolution:

Moved Cr Kirkpatrick, seconded Cr Geurds

That Council approves the Revised School Site Master Plan (SK67) for the Serpentine Jarrahdale Grammar School subject to the conditions imposed on the amended planning approval issued by the Council dated 5 May 2008.

CARRIED 10/0

SD011/07/08 PROPOSED AMENDMENT TO SUBDIVISION GUIDE PLAN FOR FORMER LOT 41 & PORTION LOT 40 ABERNETHY ROAD, BYFORD (P04140)		
Proponent:	Dykstra Planning	In Brief
Owner:	Various	
Officer:	Michael Daymond – Senior Planner	Request for Council to support an amendment to the Subdivision Guide Plan for Amendment No 20 to Council's Town Planning Scheme No 2.
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	The purpose of the amendment is to correct the discrepancies between the current Subdivision Guide Plan and cadastral boundaries and allow for the future subdivision of two existing properties.
Date of Report	1 July 2008	
Previously	OCM 22/07/91	It is recommended that the amendment be supported subject to modification.
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Date of Receipt: 20 November 2008
 Advertised: Yes
 Submissions: Yes
 L.A Zoning: Special Residential
 MRS Zoning: Rural
 Rural Strategy Policy Area: Residential & Stable

Background

A locality plan is contained in the attachments marked SD011.1/07/08.

Amendment No 20

Council in 22 July 1991, granted final approval for Amendment No 20 to Council's Town Planning Scheme No 2 (TPS 2). The amendment covered Lot 41 and a portion of Lot 40 Abernethy Road, Byford. These lots were rezoned from 'Rural' to 'Special Residential'. The amendment was subsequently granted final approval by the Western Australian Planning Commission (WAPC) on 29 June 1992.

Current Adopted Subdivision Guide Plan (SGP)

As part of both amendments, a SGP was adopted to show how the land could be subdivided. However, the subdivision that eventually followed did not match the adopted SGP. The specific reasons for this have not been found. Based on the numerous irregularities between the adopted SGP and the existing cadastral boundaries of the properties (as a result of the subdivision that followed) the proposed amendment to the SGP has two main aims. These are:

1. To correct the discrepancies between the adopted SGP and the existing cadastral boundaries of the lots; and
2. To allow for the future subdivision of existing Lots 161 and 166 Racy Prince Court.

Further subdivision of the lots is the primary reason for this application. The applicant is requesting Council to support an amendment to the current adopted SGP.

A copy of the current adopted SGP for Amendment No 20 is with the attachments marked SD011.2/07/08.

A copy of the existing pattern of subdivision (cadastral boundaries) is with the attachments marked SD011.3/07/08.

A copy of the proposed modified SGP for Amendment No 20 is with attachments marked SD011.4/07/08.

Sustainability Statement

Effect on Environment: The proposed change to the SGP is unlikely to impact on existing vegetation. Although the proposed future boundaries for Lots 161 and 166 are shown to go through the 'Tree Planting Area' as shown on the original SGP, any future subdivision will necessitate the need for a new Landscape and Revegetation Plan to be prepared. There is the possibility that the existing environment will be enhanced through the modification of the SGP.

Economic Viability: Existing special provisions within TPS 2 for this estate will help to ensure that any future subdivision will preserve and enhance biodiversity (through revegetation and vegetation management) and reduce land and waterway pollution (through better drainage management, the use of ATU's for effluent disposal and the implementation of land use controls).

Social – Quality of Life & Social Diversity: The proposed amendment to the SGP will enable the current owners of Lots 161 and 166 Racy Prince Court to subdivide their properties in due course consistent with the pattern of subdivision and lot sizes of surrounding lots in Racy Prince Court.

Statutory Environment: Planning & Development Act 2005
Town Planning Regulations 1967
TPS 2

Policy/Work Procedure Implications: State Planning Policy 2.1 – The Peel Harvey Coastal Plain Catchment
WAPC's DC Policy 2.5 – Special Residential Zones

Financial Implications: There are no financial implications to Council related to this application.

Strategic Implications: This proposal relates to the following Key Sustainability Result Areas:-
4. Governance
Objective 1: An effective continuous improvement program
Strategies:
1. Identify and implement best practice in all areas of operation.
Objective 3: Compliance to necessary legislation
Strategies:
1. Ensure development and use of infrastructure and land complies with required standards.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

The proposed amendment to the SGP was referred to landowners within Racy Prince Court and Malarkey Road for comment. As a result, 4 letters of objection were received.

Affected Property	Summary of Submission	Officer's Comment	Action
A202925	<p>Objects for the following reasons:</p> <p>Serious flooding problems already exist on our property due to the restrictions of water flow through the easements across the bridle path. This has been blocked off by not having any pipes to facilitate the water flow to Lot 161, which in turn has no easement to continue drainage across to Lot 161. The construction of an additional dwelling at the rear of Lot 166 will compound this problem.</p> <p>Increasing the number of lots in this area is contrary to the original concept of this subdivision and why we chose to move into this location.</p>	<p>Any future subdivision that follows the modified SGP are likely to have strict conditions placed on it regarding drainage and storm water management, subject to the WAPC including these as conditions. The specific drainage solutions for this area can be resolved when considering plans at the subdivision stage.</p> <p>Although the total number of lots within the estate will be increased by two under the revised plan, the sizes of these new lots are generally in accordance with the prevailing lot sizes that already exist within this area.</p>	<p>Comments noted.</p> <p>Comments noted.</p>
A202938	<p>Objects for the following reasons:</p> <p>We purchased land here on the idea that there would be large blocks with plenty of space between neighbours.</p> <p>Our northern boundary will abut the new access driveway to the rear of Lot 166, exposing our backyard to the new property owner. A screen of native vegetation should be required along the southern fence line of Lot 166 to provide privacy to our backyard. This would then reduce the width of the proposed driveway considerably, making it unacceptable.</p> <p>A major concern is the restriction of stormwater along the easement drain. Over the</p>	<p>Comment noted.</p> <p>Through any subdivision application that follows, specific conditions regarding landscaping and screening can be imposed to address these concerns.</p> <p>Refer above officer comment.</p>	<p>Comments noted.</p>

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>years there has been flooding onto surrounding land from this easement. Additional development will only compound this.</p> <p>The financial gain for the owners of Lots 161 and 166 will be at the detriment of Racy Prince Court.</p>	<p>This issue is not a valid planning matter.</p>	
A202931	<p>Objects for the following reasons:</p> <p>With all the other development around the fringe of the estate, drainage is a concern.</p> <p>The proposed subdivision takes away our privacy by placing a house in the backyard of Lot 161.</p> <p>It will take away the rural environment that exists by more traffic using the cul-de-sac and there is the possibility truck drivers will purchase the land as they have done in other parts of the estate turning it into a transport yard.</p>	<p>Comment noted.</p> <p>Refer above officer comment.</p> <p>Increase in traffic as a result of two additional lots is considered negligible. Commercial vehicle parking is a discretionary use under the Special Residential zoning, and therefore commercial vehicles can be considered on all lots within this estate subject to a planning approval from Council</p>	<p>Comments noted.</p>
A202939	<p>Objects for the following reasons:</p> <p>The reduction on block sizes decreases the aesthetic appeal of the area and defeats the purpose of buying within the existing subdivision in the first place.</p> <p>The financial gain for the owners of Lots 161 and 166 will be at the detriment of Racy Prince Court.</p> <p>The proposed modification is based around a discrepancy which exists between the</p>	<p>Noted. The reduction in size of Lot 166 and the creation of a battleaxe leg may impact on the residents perceived opinion of amenity of the area. The reduction is size of Lot 161 is unlikely to impact on the area and is supported.</p> <p>Refer above officer comment.</p> <p>Yes. The discrepancies apply to all lots within the Special Residential</p>	<p>Comments noted.</p>

Affected Property	Summary of Submission	Officer's Comment	Action
	<p>original SGP and what was ultimately developed. Do these discrepancies apply to other lots within the Special Residential Area No.5?</p> <p>If the 6m battleaxe leg to the rear of Lot 166 is developed, trees would need to be removed along this access. This is not noted in the proposal.</p> <p>The culvert required to cross the existing drain for access to the rear of Lot 166 needs to allow sufficient water to flow. In the past, this culvert in Racy Prince Court has twice been unable to cope with the flow of water from the existing drain. This problem will therefore increase.</p>	<p>Area No.5.</p> <p>Through any subdivision application that follows, specific conditions regarding landscaping, access construction and minimising impacts on vegetation can be imposed to address these concerns.</p> <p>Refer above officer comment.</p>	

Comment:

TPS 2

Contains provisions that allow for adopted SGPs to be modified. With respect to SGPs within the Special Residential zone, clause 5.8.5 states:

5.8.5 There shall be a plan of subdivision for all land included in the Special Rural Zone endorsed by the Shire Clerk and approved by the Commission.

The plan of subdivision referred to in the above clause refers to the SGP adopted as part of the scheme amendment. With respect to the potential for modifying adopted SGPs, clause 5.8.6(a) states:

5.8.6(a) Subdivision shall be in accordance with the plan of subdivision endorsed by the Shire clerk but minor amendments to the plan of subdivision may be permitted subject to the approval of the Commission and Council, however, lot sizes will not generally be permitted to be reduced.

Amendment No 26

Through the investigation of this proposal, it was discovered that it is not only the SGP adopted under Amendment No 20 to the scheme that varies with the cadastral boundaries, but also the SGP that was adopted under Amendment No 26.

At the Ordinary Council Meeting held 23 May 1994, Council granted final approval for Amendment No 26 to Council's TPS 2. The amendment covered the southern portion of Lot 40 Abernethy Road, Byford. This southern portion is the area of land that was excluded from Amendment No 20. The amendment was subsequently granted final approval by the Western Australian Planning Commission (WAPC) on 2 July 1994. The purpose of this

amendment was to effectively round off Amendment No 20 by including this southern portion of land in a similar 'Special Residential' zone and to apply a similar type of development to that proposed under Amendment No 20.

A copy of the current adopted SGP for Amendment No 26 is contained in the attachments marked SD011.5/07/08.

This adopted SGP varies substantially to the cadastral boundaries. Firstly, Renaud Way is not shown on the SGP, although Renaud Way was eventually constructed to link Racy Prince Court with Abernethy Road. Secondly, the adopted SGP shows two battleaxe lots off Abernethy Road. These lots were never created.

Existing Subdivision Guide Plans

The existing Special Residential zones No 5 and No 6 (which effectively form this Special Residential Estate) under the scheme are currently covered by two separate SGPs. The first plan, adopted in 1991 under Amendment No 20, covered Lot 41 Abernethy Road and the northern portion of Lot 40. The second plan, adopted in 1994 under Amendment No 26 and included within appendix 3 of the scheme, covered the southern portion of Lot 40 Abernethy Road.

As both existing SGPs do not match up exactly, it is difficult to ascertain the exact lot yield that was envisaged for this entire Special Residential area.

Existing Lot Yield

By combining both SGPs under Amendments No 20 and No 26, it is ascertained that a total of 39 lots were intended to be created within the Special Residential zones No.5 and No.6.

A copy of the plan showing this combined lot yield is with the attachments marked SD011.6/07/08.

As a result of the subdivisions that followed, 42 lots in total have been created within this Special Residential area. The lot yield breakdown is shown in the table below.

Amendment No.	Applicable Special Residential zone under TPS2	Proposed Lot Yield under adopted SGP	Lots Created
20	No.5	32	36
26	No.6	7	6
Total		39	42

Proposed Subdivision Guide Plan

The proposed modified SGP shows a total of 38 lots. Obviously, the difference between the existing cadastral lot yield of 36 lots and the proposed 38 lots is that the revised SGP shows the potential for Lots 161 and 166 to both be subdivided.

The reduction in the existing lot sizes and subsequent increase in lot yield technically does not comply with clause 5.8.6(a) of the scheme. However, an additional 4 lots were created in between final approval of the original SGP for Amendment No 20 being granted and approval of the subdivision that followed. As mentioned previously, the reason for this discrepancy in lot yield has not been found.

As clause 5.8.6(a) of the scheme has not been adhered to for previous development within this estate, it is considered that the proposal to amend the existing SGP by virtue of including an additional two lots is relatively minor and can be considered by Council.

As discussed above, a number of important aspects do not match up when examining the previous SGPs for this area and the cadastral boundaries of the lots. The important part of

the proposal to amend the SGP is that these obvious discrepancies will be tidied up and Council will eventually have a SGP that matches what has been created out on the ground

Subdivision Design

In relation to subdivision design, the applicant states:

The revised SGP has been designed to facilitate the subdivision of Lot 161 and 166 Racy Prince Court in a way that represents the existing physical landform and features taking into account the location of existing dwelling and development on the properties.

The revised SGP provides for the subdivision of Lot 161 into two lots with each lot having frontage to Racy Prince Court. The revised SGP also provided for the subdivision of Lot 166 into two lots.

Due to the location of the existing house and drainage easement on Lot 166, a battleaxe configuration is proposed. Access to the proposed rear lot will be via a 6m wide battleaxe leg located between the drainage easement and the southern boundary of the lot. It will necessitate that the access driveway to the proposed rear lot cross the drainage easement, however no trees will require removal.

Servicing

The proposed new lots are already provided with road access. The provision of water, power and adequate effluent disposal methods are requirements under the scheme and will be enforced at the subdivision stage.

Officer Comment

The proposal to correct the current discrepancies between the cadastral boundaries and the previous SGPs are supported. It is preferable that Council have an accurate plan which actually resembles what has been created out on site. However, there are concerns with the proposed new overlay boundaries through Lot 161 and 166 which, if supported, will allow for the future subdivision of these two lots.

DC Control Policy 2.5 – Special Residential Zones

The Western Australian Planning Commission's *Development Control Policy 2.5 – Special Residential Zones* states that the purpose of the Special Residential zone is to allow for lots of a size that will offer a style of spacious living at densities lower than those characteristic of traditional single residential developments but higher than those found in Special Rural zones.

The existing lot sizes of Lots 161 and 166 are in excess of the one hectare which is the upper limit of the recommended lot size range of between 2000m² and one hectare for Special Residential zones with DC Policy 2.5. The revised SGP will therefore allow for subdivision of the lots down to a size compatible with the surrounding area and more consistent with the objectives of DC Policy 2.5.

Lot 161

Lot 161 is currently the largest block within Special Residential Zone No. 5 at a size of 1.22 ha. A majority of lots within Racy Prince Court are between 6200m² and 8000m². The proposal to subdivide Lot 161 into two lots of 6117m² and 6082m² is considered to be in keeping with the prevailing lot size of the locality. In addition, as each lot is to be provided with frontage to Racy Prince Court of approximately 30 metres, this matches with surrounding properties in this area. Therefore from an amenity and planning point of view, the subdivision of Lot 161 is unlikely to impact on the existing area or on surrounding landowners.

As such, the proposed overlay shown on Lot 161 under the revised SGP is supported.

Lot 166

As discussed previously, the new lot at the rear of Lot 166 is proposed to be accessed via a narrow 6 metre access leg across the existing drainage reserve. This is not supported. Firstly, there are no other lots within this estate that are serviced by a battleaxe leg. Each existing lot has frontage of a least 12 metres to Racy Prince Court. From an amenity point of view, the construction of this battleaxe leg will not fit in with the existing form of subdivision at all.

Secondly, the proposed subdivision of Lot 166 will result in a lot of 5052m² in size. Although this complies with the sizes under DC Policy 2.5, it is not in keeping with the prevailing lot size in that locality. The proposed lot size of 5052m² is approximately 1200m² less than the smallest lot size in the area.

Thirdly, vehicle access over the existing drainage reserve to access the rear lot is not supported. Although appropriate conditions may be able to be imposed at the subdivision stage to address this issue, and potential development that is likely to result in the increase of drainage problems within this estate is not supported.

As such, the proposed overlay shown on Lot 166 under the revised SGP is not supported and is therefore recommended that this overlay be removed from the plan.

Conclusion

It is generally considered that the proposed modifications to the SGP under Amendment No 20 represents a better outcome for the estate. The opportunity to amend the existing SGP and adopt a revised SGP that represents the form of subdivision that has been created should be embraced and fully supported. Although the proposal is strictly to amend the SGP under Amendment No 20, Council should take this opportunity to amend the SGP under Amendment No 26 as well. Although all the land under Amendment No 26 has been developed, it is preferable to have a SGP that represents the cadastral boundaries and specifically show the Renaud Way road reserve. It is therefore recommended that the land under Amendment No 26 be included under the revised SGP as submitted by the applicant.

Although the proposal to amend the SGP to reflect the cadastral boundaries of the area is supported, the second part of the proposal, being to allow for the future subdivision of Lots 161 and Lots 166 should be considered carefully. The proposed overlay on Lot 161 is supported as it will eventually result in a subdivision that is in keeping with the prevailing lot sizes in the area. The proposed lot sizes and orientation are in keeping with the existing area and should be supported.

With respect to the proposed overlay on Lot 166, it is recommended that this not be supported. The proposed battleaxe configuration and reduction in lot size does not fit in with the existing area at all. Access over the drainage reserve will potentially cause increased drainage issues if not constructed or managed effectively.

As the proposed modified SGP generally represents a much better planning outcome for the Shire and the locality, it is recommended that the proposed modified SGP be adopted by Council subject to modification.

Voting Requirements: ABSOLUTE MAJORITY

Officer Recommended Resolution:

- A. The proposed amended Subdivision Guide Plan for Amendment No 20 being modified to:

1. Include the land the subject of Amendment No 26 under Town Planning Scheme No.2; and
 2. Remove the proposed subdivision overlay from Lot 166 Racy Prince Court.
- B. Subject to part A. above being undertaken to the satisfaction of the Director Development Services:
1. Council endorse the partial modification to the existing Subdivision Guide Plan for Amendment No 20 and Amendment No 26 in accordance with Clause 5.8.6(a) Council's Town Planning Scheme No 2,
 2. The Western Australian Planning Commission be advised of Council's decision and be requested to adopt the modified Subdivision Guide Plan for Amendment No 20 and Amendment No 26 to Town Planning Scheme No 2.

LOST 5/2

Committee Recommended Resolution:

That Item SD011/07/08 be deferred to the July Ordinary Council Meeting to allow discussions between the applicant and Shire Officers on the proposal.

CARRIED 7/0

Committee Note: The Officer Recommended Resolution was changed in order that the item be presented to the July Ordinary Council meeting to allow discussions between the applicant and Shire Officers on the proposal.

SUPPLEMENTARY INFORMATION

On the 14 July 2008, correspondence was received from the applicant requesting that the current agenda report be withdrawn and deferred to allow for an alternative design solution to be presented to Council which addresses the design concerns regarding Lot 166 Racy Prince Court.

The Officer report recommends that the proposed overlay boundary as submitted by the applicant from Lot 166 be removed due to drainage and amenity impact concerns. It is considered that no revised design proposal will address these issues, nor is there any scope for the proposal to be amended to achieve a favourable outcome.

The new lot proposed at the rear of Lot 166 is accessed via a 6.0 metre battleaxe leg which is not supported by Council Officers. The only design alternative that could be achieved conceptually would be to increase the width of the battleaxe leg to approximately 14 metres. This layout is shown on the attached plan.

A copy of the site plan showing the comparison between the proposed and potential overlay boundary is with attachments marked SD011.7/07/08.

There is a drainage easement which traverses Lot 166 and abuts the proposed 6.0 metre battleaxe leg and cannot be used as a driveway. The proposed rear lot is still not supported as it impacts on the amenity of the existing area.

In the recent correspondence, the applicant also suggests that Council staff did not relay these concerns to them prior to the report being written to allow for an alternative solution to be suggested. Planning staff did liaise with the applicant and advised that the proposed overlay for Lot 166 is unlikely to be supported.

Although the applicant has requested that the item be deferred to allow for a revised design proposal to be presented, it is considered that no design alternative could be achieved for this lot due to the reasons outlined above. As such, the current Officer Recommendation remains the preferred course of action.

SD011/07/08 COUNCIL DECISION:

Moved Cr Price, seconded Cr Harris

- A. The proposed amended Subdivision Guide Plan for Amendment No 20 being modified to:**
1. Include the land the subject of Amendment No 26 under Town Planning Scheme No. 2; and
 2. Remove the proposed subdivision overlay from Lot 166 Racy Prince Court.
- B. Subject to part A. above being undertaken to the satisfaction of the Director Development Services:**
1. Council endorse the partial modification to the existing Subdivision Guide Plan for Amendment No 20 and Amendment No 26 in accordance with Clause 5.8.6(a) Council’s Town Planning Scheme No 2,
 2. The Western Australian Planning Commission be advised of Council’s decision and be requested to adopt the modified Subdivision Guide Plan for Amendment No 20 and Amendment No 26 to Town Planning Scheme No 2.

CARRIED 9/1

During debate Cr Geurds foreshadowed that he would move that the application for subdivision be refused and the required overlays that are currently not correct are rectified, if the motion under debate was defeated.

8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

OCM001/07/08 PROPOSED RESIDENTIAL SUBDIVISION – BYFORD BY THE GLADES (STAGES 2-5) – LOTS 5, 6 AND 7 WARRINGTON ROAD, LOTS 22 AND 132 DOLEY ROAD, LOTS 1 AND 21 ABERNETHY ROAD AND LOT 5 LAWRENCE WAY, BYFORD (S136679)		
Proponent:	Taylor Burrell Barnett	In Brief To consider a residential subdivision for the creation of 529 residential lots (including medium density housing lots), neighbourhood centre lots and public open space. It is recommended that Council advise the Western Australian Planning Commission that: (1) it does not support the current application in its present form; and (2) It is prepared to support a revised proposal incorporating the southern portions of the land that Council is satisfied can be developed now, in advance of completion of the Department of Water study, completion of local drainage studies and finalization of the local structure plan for this development.
Owner:	Byford Syndicate Pty Ltd	
Officer:	Brad Gleeson - Director Development Services	
Signatures Author:		
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	7 July 2008	
Previously	Not applicable	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Date of Receipt: 14 January 2008
 Lot Area: 67.2 hectares

L.A Zoning: Urban Development
MRS Zoning: Urban and Urban Deferred
Byford Structure Plan: Residential R20 - R60, Drainage, Public Open Space, Neighbourhood Centre.
Date of Inspection: June 2008

Background

The Byford area and in particular this property, has been the subject of detailed land use planning and drainage investigations by the Shire and landowners for many years. This includes:

- Byford Urban Stormwater Management Strategy (BUSMS) - Serpentine Jarrahdale Shire
- Byford Structure Plan 2005 - Serpentine Jarrahdale Shire
- Byford Main Precinct Local Structure Plan 2005/2006 - LWP / Taylor Burrell Barnett
- Byford District Structure Plan 2006 review - Serpentine Jarrahdale Shire
- Byford Flood Plain Management Study – Department of Water
- Byford Townsite Drainage and Water Management Plan – Department of Water

Byford Structure Plan 2005 (BSP2005)

This plan was adopted for the Byford urban cell in March 2005 by Council and the Western Australian Planning Commission (WAPC) in September 2005. The plan provided the broad spatial detail for the development of the Byford area eg major roads, multiple use corridors, drainage areas, public open space, school sites, town / neighbourhood centres, employment zones and residential areas at various densities.

Byford Structure Plan review

In September 2006, Council undertook a review of the adopted BSP2005. A draft plan, the Byford District Structure Plan 2006 (BSP2006), was prepared and made available for public comment.

A Special Council meeting was held on 13 February 2007 where it was resolved that:

1. *Council acknowledges the submissions received.*
2. *Council not proceed with the Byford District Structure Plan 2006 review.*
3. *Council adopts the following changes as minor modifications to the Byford Structure Plan 2005 pursuant to clause 5.18.4.1 of Town Planning Scheme No. 2.*
4. *Council revokes the decision to adopt the draft Byford District Structure Plan 2006 as its policy position with respect to urban development and subdivision in the Byford Development Area.*

The minor modifications to the BSP 2005 were referred to the WAPC and received final approval in November 2007. The BSP 2007 has been updated and will soon be made available to the public. This plan supercedes the 2005 plan.

A copy of the current Byford Structure Plan (2007) is with attachments marked OCM001.1/07/08.

Local Structure Plan (LSP)

A Local Structure Plan (LSP) was lodged with the Shire in late 2005, within the area designated as the Main Precinct. The LSP covered the land owned by LWP south of Abernethy Road and an area of land north of Abernethy Road (west of the railway line) and excluded land not owned by the LWP.

The LSP area is 330 hectares, includes approximately 4000 residential lots and has a forecast population for this development of approximately 12,000 people. This development alone will almost double the current population of the Shire.

A copy of the location plan of the LSP and the LSP (concept plan) is with the attachments marked OCM001.2/07/08.

The LSP was assessed and considered by Council at a Special Council Meeting held on 1 September 2006 at which time it was resolved as follows:-

“SCM02/09/06 COUNCIL DECISION

Moved Cr Kirkpatrick, seconded Cr Brown

1. *The Shire receive the revised Local Structure Plan for the Byford Main Precinct tabled at the Special Council Meeting on 1st September, 2006.*
2. *The applicant be required to submit an updated Local Structure Plan report reflecting the revised Plan received on 1st September 2006 for review by the Executive Manager Planning and Regulatory Services.*
3. *Subject to 2 above, to the satisfaction of the Executive Manager Planning and Regulatory Services, that pursuant to Clause 5.18.3.2, Council determine that the revised Local Structure Plan is satisfactory for advertising.*
4. *The Western Australian Planning Commission be advised of this decision.”*

CARRIED 6/0”

The LSP was advertised for public comment in October 2006.

Although the BSP2005 review was finalised and considered by Council in February 2007, the LSP has not be progressed to final approval for a number of reasons including:

- The WAPC had not considered the changes to the BSP 2005 as recommended by Council in February 2007 (Note: The WAPC considered the BSP in November 2007) which contained the relocation of the neighbourhood centre, a major part of the LSP proposal; and
- The Department of Water (DoW) had commenced a comprehensive review of drainage in the Byford area in November 2006 with the engagement of Sinclair Knight Mertz to prepare the Byford Flood Plain Management Study and then GHD with the Byford Townsite Drainage and Water Management Plan. The GHD study is not due to be finalised until August 2008. The direction, speed and volume of flows along Abernethy Road and across the LSP area have been the subject of much conjecture and investigation as a result of these studies.

Previous Subdivision application

The first stage of subdivision of the LWP landholdings was considered by Council in December 2006. Council recommended that this subdivision be approved subject to conditions. This subdivision created 153 residential lots and was located on the corner of Abernethy Road and Warrington Road. This subdivision was approved by the WAPC in February 2007. Site works have commenced on this subdivision, however the final Engineering Design and the required Urban Water Management Plan have yet to meet with Shire specifications and approval.

A copy of the Stage 1 subdivision application is with attachments marked OCM001.3/07/08.

Sustainability Statement

Effect on Environment: Although the property is generally cleared of vegetation, there are a significant number of mature trees on some of the properties. It is proposed to protect many of these trees and include them within road reserves and public open space areas.

The development will require the filling of the land consistent with other developments in the Byford area.

Stormwater management information submitted to date in the form of a Local Water Management Strategy for the Structure Plan area has failed to meet with the specifications and approval of either the Shire's Engineering Directorate or the Department of Water. Revised documentation is expected to be submitted within coming weeks for review by Shire and Department of Water Officers.

The subdivision provides a substantial number of lots orientated in an east-west direction. This allows maximum benefits to be obtained from designing dwellings that utilise solar energy efficient principles.

Resource Implications and Use of Local, renewable or recycled Resources: The land will need to be substantially filled, therefore requiring sand to be imported to the site from within and/or outside the Shire. The introduction of new public open space areas and a multiple use corridor will impact on the Shire with a need to manage and maintain these facilities in the future.

Economic Viability, Economic Benefits and Social – Quality of Life: The development, as with all other subdivisions in Byford, will provide a continued ongoing economic boost to the Shire with the creation of jobs and new residents moving to the area. A major commercial area is proposed within this development in the neighbourhood centre on Doley Road. This will provide direct economic benefits during the construction stage and new jobs as businesses are established.

Social and Environmental Responsibility and Social Diversity: The subdivision contains a wide range of residential lot sizes. Although many of the lots are single residential lots, there are many smaller cottage lots/ grouped housing sites in close proximity to the neighbourhood centre. Large areas of public open space are provided in the subdivision, particularly along the multiple use corridor.

Statutory Environment:

Planning and Development Act 2005
Town Planning Scheme No. 2
Byford Structure Plan 2007
Byford Urban Stormwater Management Strategy
Department of Water – Byford Townsite Drainage and
Water Management Plan (Draft)

**Policy/Work Procedure
Implications:**

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

Financial Implications:

There are financial implications to the Shire as a result of approving this subdivision. These are long-term and permanent and include the maintenance costs of the POS and MUC areas, as well as all roads, paths and drainage infrastructure. All of these assets need to be registered in the Shire's Asset Management System and their maintenance and renewal costs incorporated in the Shire's Forward Financial Plan. If the applicant lodged an appeal with the State Administrative Tribunal against the decision or conditions imposed by the WAPC, Council would incur costs in responding to local issues.

Under the State Government's Local Government Assistance Program, funding was allocated to the Shire

to undertake a number of statutory and strategic planning and engineering projects. One of these projects, was to engage consultants to assist the Shire in progressing and finalizing a number of outstanding LSP's in the Byford area. Upon the appointment of consultants by the Department for Planning and Infrastructure (DPI), this will allow the LSP for the Byford Main Precinct to be finalised.

Strategic Implications:

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

1. People and Community

Objective 1: Good quality of life for all residents

Strategies:

1. Provide recreational opportunities.
3. Retain seniors and youth within the community.
4. Respect diversity within the community.
6. Ensure a safe and secure community.

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

Strategies:

2. Develop compatible mixed uses and local employment opportunities in neighbourhoods.
3. Design and develop clustered neighbourhoods in order to minimise car dependency.
4. Foster a strong sense of community, place and belonging.

2. Environment

Objective 1: Protect and repair natural resources and processes throughout the Shire

Strategies:

3. Encourage protection and rehabilitation of natural resources.
4. Reduce water consumption.
5. Reduce green house gas emissions.
6. Value, protect and develop biodiversity.

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

Strategies:

1. Implement known best practice sustainable natural resource management.

3. Economic

Objective 1: A vibrant local community

Strategies:

1. Attract and facilitate appropriate industries, commercial activities and employment.
4. Promote info-technology and telecommuting opportunities.

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

Strategies:

1. Improved freight, private and public transport networks.
2. Consider specific sites appropriate for industry /commercial development.

Objective 3: Effective management of Shire growth

Strategies:

1. Enhance economic futures for Shire communities.

2. Represent the interests of the Shire in State and Regional planning processes.
3. Integrate and balance town and rural planning to maximise economic potential.

4. Governance

Objective 2: Formation of Active Partnerships to progress key programs and projects

Strategies

1. Improve coordination between Shire, community and other partners.

Objective 3: Compliance to necessary legislation

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

Community Consultation:

This is not required for subdivision applications. Community consultation has occurred to date with the preparation of the BSP 2005, the review of the BSP in 2006 and during the advertising of the LSP for this development.

Comment:

A copy of the subdivision plan (Stages 2-5) and a plan showing the subdivision overlaid on an aerial photo is with attachments marked OCM001.4/07/08.

Details of the proposed subdivision are outlined below:

1. Lots

Provision of 525 residential lots incorporating:

- R10 size lots of around 1,000m² fronting Abernethy Road;
- R20 lots; and
- R30 and R40 lots around the neighbourhood centre and public open space areas. There are a large number of these smaller lots (approximately 200).

2. Neighbourhood Centre

A neighbourhood centre is provided along Doley Road immediately south of the multiple use corridor, in accordance with the BSP 2007. The plan shows a series of large lots (super lots).

The applicant advises that detailed designs for the neighbourhood centre are being undertaken by the consultant team and the landowner. It is proposed that a Detailed Area Plan (DAP) or some other form of statutory mechanism would be established to control development of the neighbourhood centre. A main street is provided through the neighbourhood centre.

A copy of the draft plan for the Neighbourhood Centre (concept plan) is with attachments marked OCM001.5/07/08.

3. Public open space (POS)

- A significant length of one of the major multiple use corridors (MUC) in Byford is provided with this application (between Doley and Warrington Road). The MUC incorporates the

32 metre drainage corridor, functional active and passive open spaces and pedestrian linkages as well as a proposed permanent water body.

- One small local park is provided in the southern edge of the subdivision. This POS contains a significant stand of trees.
- Total POS provided is 9.94 hectares, or 16.75% of the application area.

4. Layout

The applicant advises that the subdivision has been prepared to address the principles of Liveable Neighbourhoods, incorporating:

- Legible street networks based on a modified grid to maximise permeability and walkability;
- Establishing walkable catchments based on a five minute (400 m) radius;
- Providing good access to the neighbourhood centre and surrounding residential areas;
- Provision of smaller lots along POS areas; and
- The retention of as many healthy, mature trees as possible.

5. Movement systems

- Doley Road is the main north-south distributor road and is included in a 30 m wide reservation. Existing mature trees along this road will be protected in the design of this road.
- Mead Street is extended from the east through to the neighbourhood centre and Doley Road.
- Roundabouts are provided at key four way intersections.

6. DAP's

DAPs are to be provided in many areas of the subdivision including Abernethy Road, lots abutting POS, lots siding onto swales and lots with rear laneway access. The residential/mixed use lots in the village centre will also have DAPs.

7. Urban water management

The applicant advises that the subdivision will incorporate a piped and swale / basin drainage system. Large swales are included in major roads to retain the more frequent storm events and to assist in improved water quality outcomes. The MUC will accommodate the larger, less frequent storm event.

Engineering Services no longer supports the principle of incorporating drainage swales in medians of major roads. Experience in nearby subdivisions in Byford indicates that they are not functioning appropriately and lead to flood risk for the roads and adjoining properties.

Internal Team comments:

Environmental Health Services

- Further information on potential noise impacts to residential lots around the neighbourhood centre is required.

Building Services

- Built Structures to be compliant with the Shire's Energy and Water Efficiency Policy.
- Stormwater details required as part of DAPs.

Strategic Community Planning

- The neighbourhood centre is too large.
- There has been no justification provided for an area this large.
- Subdivision should not be supported until the Department of Water study is finalised and approved.

Statutory Planning

- Abernethy Road widening of 20 metres to accommodate a 40 metre wide road reserve is not shown.
- Abernethy Road detailed road and drainage design is not finalised.
- Lots with direct frontage to Abernethy Road are not supported. A redesign will be required to ensure these lots either have frontage to an internal road and face southwards or an internal road will be provided parallel to Abernethy Road as a service road. This will necessitate a redesign of the subdivision in this area and further discussion with the applicant.
- Subdivision layout is not consistent with the BSP 2007.
- The LSP for this development has not been finalised or adopted by Council or the WAPC.
- Extensive use of laneway lots with some designs providing corners and long lengths of laneways is not generally supported.

Environmental Services

- Shire's Energy and Water Efficiency Policy has been adopted by Council and these principles should be addressed by the developer eg solar orientation of lots/ roads etc.
- Ensure suitable areas of POS are provided throughout the subdivision at regular intervals for residents.
- POS areas should incorporate art, nature and aboriginal interpretations and themes to make them more attractive and a point of difference to other residential areas.

Engineering Services / Emergency Management team

- Mead Street to be 25 metres in width and Warrington Road supported at 20 metres in width (as agreed for Stage 1 subdivision).
- The proposed layout is significantly different to that depicted in the LSP submitted for approval (but still under review and which may change following release of the final Byford Townsite Drainage and Water Management Plan by DoW).
- Excessive use of cottage / smaller lots with laneways is not supported.
- The road layout is not considered safe, as it includes a large number of bends and changes in horizontal alignment that impact on safe travel speeds, sight distance and provide too many potential conflict points. This is further substantiated in the Road Safety Audit report recently undertaken by a consultant (Donald Veale Consulting) engaged by the landowner.
- There are insufficient traffic calming devices in the layout to control speed issues. Note this can be rectified with some changes to intersections and increased provision of roundabouts to control traffic flows.
- The layout includes a number of very long lengths of laneways which will not be able to be provided with appropriate street lighting to maintain safety and security for residents.
- The drainage information shown on the plan of subdivision and other information so far provided is insufficient to make a qualified judgment on the adequacy of the provision for stormwater detention and treatment.
- The inclusion of a permanent water body presents challenges relating to initial and future maintenance responsibilities. This should be dealt with through a Local Planning Policy or other Council Policy to ensure the water body is appropriately designed, constructed, landscaped and then managed in terms of maintenance requirements. Engineering services proposes that as a minimum:

1. The body be carefully considered in terms of its functions (i.e. whether it contributes to either the treatment of stormwater run-off and/or provides a drainage detention function) before Council accepts its inclusion in this development.
2. Water abstraction and licensing requirements should be outlined by the applicant prior to acceptance of the Permanent Water Body.
3. The developers be requested to prepare for Council approval a “Permanent Water Body Management Plan” which outlines:
 - The sizing of the lake and justification for this;
 - The source of the water for the lake (at this time it is believed that an aquifer will be used to source the water. This will have impacts on future groundwater availability for nearby rural properties) and the licenses required for this (e.g. bore licence);
 - A fully detailed landscape plan for the area to be set aside for both the water body itself and the “park” areas surrounding it. This should include all planting details (species lists and planting locations and densities), reticulation (requirements and maintenance), and the future maintenance regime (if the body will ever pass to the Local Government’s responsibility);
 - Details of the proposed methods to ensure safety of the public in and around the lake (during and after construction);
 - Detailed costings of the lake’s construction and maintenance (to enable any required bonds to be calculated); and
 - A ten-year maintenance plan that includes responsibilities of various authorities.

If the inclusion of a Permanent Water Body is approved by Council, then the area should be subject to a minimum five-year maintenance period.

- Road Reserves are shown variously at 13, 14, 15, 16, 18, 20, 22, 24 and 25 metres. The Traffic Report says the minimum road reserve is 16 metres. The Shire commissioned Connell Wagner Structure Plan Review (August 2007) states the minimum road reserve width should be 15 metres.
- The Connell Wagner Structure Plan Review states:
 - a) Direct lot frontage onto Abernethy Road is discouraged. Given the plans for Abernethy Road to act as an emergency access route in the 100-year storm event, and the need for it to cater for district drainage requirements (the width of which is still unknown), it is recommended that the road not provide direct frontage within the BSP area.
 - b) Drainage storage for the 10 and 100 year post-development capacities must be achieved outside the 100-year ARI conveyance floodplain.
 - c) The proposed bio-filtration system on the edge of the MUC is a concern as it may not deliver the desired nutrient reduction performance without an unsaturated soil horizon of adequate depth/length as this becomes harder to maintain when the bio-filtration systems are sited too low in the landscape (and are subject to extended seasonal water-logging).
 - d) That Council should accept handover of landscaping and POS after a five year maintenance period and only after it has been demonstrated that the MUC’s satisfactorily meet drainage requirements of the precinct.
 - e) That the permanent water bodies will be managed by the developer for the life of the water body.
- Various technical and detailed comments and concerns about road reserve widths, designs, traffic calming matters etc.
- Lots fronting Abernethy Road should be excluded from consideration until such time as the final cross-sectional design, drainage service requirements and future traffic uses for Abernethy have been established. This work is currently under way and should be resolved by the Department of Water and the Shire.

Given the above concerns, Engineering Services would only be willing to approve a small section of subdivision proceeding at this time. This would include the furthest

south area shown in the proposed plan of subdivision, east of the Public Open Space area “F” and south of Road 28. Notwithstanding the advice from Connell Wagner, it is recommended that the road reserve widths in the Structure Plan area should be a minimum of 16 metres (excluding laneways).

There is potential for the acceptance of additional lots north of Road 28 provided that Road 25 is continued west to intersect Doley Road and thereby shorten the lengths of the proposed north-south laneways and the east-west laneways are eliminated (lots to front directly onto Road 18).

Drainage

The DoW has advised that the draft Byford Townsite Drainage and Water Management Plan (DWMP) has been completed and advertised for comment. The DoW has established an external panel to review the submissions received on the draft DWMP.

As a result of the external panel’s review, consideration is being given to a possible revision of some of the catchment parameters. This may result in a decrease in regional flood water storage for major events. The final DWMP is anticipated to be completed by August 2008.

Since the June 2008 Ordinary Council meeting, a meeting of the Byford Technical Officers Working Group was held and the Shire negotiated with the DPI and DoW an agreed matrix for the assessment of Structure Plans and subdivisions in the Byford area. The objective of the matrix was to facilitate progression of development prior to the finalisation of the DoW DWMP and ensure consistency between all of the relevant agencies. In relation to this application, the matrix recommends progression of a subdivision that complies with the draft DoW document as the draft DWMP is likely to be more conservative than the finalised DWMP and hence present a reduced risk in terms of flooding and other drainage matters.

The DoW has advised the WAPC that it has some concerns with the proposal in its current form. The DoW advises that the application should not be proceeded with until a LSP and a Local Water Management Strategy (LWMS) has been prepared and approved. The LWMS will address predevelopment surface water and groundwater regimes and provide a detailed strategy for stormwater management and water quality protection.

Further examination of the width of MUC is required to address issues of sizing and configuration. The MUC and adjacent residential lots along the MUC should be excluded from the subdivision proposal at this time.

Conclusion

Options

The Shire had previously advised the WAPC that it did not support the subdivision at the present time. This was principally due to the fact that the LSP for the Byford Main Precinct had not been finalised and the drainage studies being undertaken by the DoW had not been finalised.

Shire officers have been in extensive and lengthy discussions with the DPI, DoW, the landowner and their consultants to discuss this proposal. Given the preparation and agreement of a matrix for the assessment of subdivisions prior to the finalisation of the DoW DWMP, the Shire is now in a position to make a recommendation to the WAPC on this subdivision.

Officers therefore, present the following options for Council’s consideration:

Option 1 – Refusal

If the application is not supported by the WAPC, then there is likelihood that the landowner would lodge an appeal with the State Administrative Tribunal. If such an appeal was lodged, the Shire would be extensively involved in the appeal and providing technical advice and support to the WAPC.

Such a scenario is not desirable, especially for the Shire. This is in view of the fact that the Shire's Leadership Team and technical officers are working very hard to build relationships with developers and facilitate development in an orderly manner.

Option 2 – Approval

That Council recommend to the WAPC that the subdivision be approved, with conditions. However, the risk would be that significant issues are not resolved up front, including resolution of major regional drainage and design issues.

Option 3 – Part Approval

That the Shire recommends to the WAPC that portions of the subdivision be approved, in areas that do not have significant issues or provide a low level of risk to Council.

A copy of the subdivision plan showing the recommended exclusion areas is with attachments marked OCM001.6/07/08.

This option would exclude areas A, B, C and D from the approval at the present time. These areas have major issues that need to be resolved including road widening of Abernethy Road, subdivision layout and redesign issues, concerns about regional drainage and width of the MUC and the lack of detailed planning in the neighbourhood centre.

Area E on the above mentioned plan is supported, subject to further design changes. These discussions would occur with all parties, prior to a decision being made by the WAPC. DPI officers have indicated their in principle support for this option.

Consideration of Areas A, B, C and D would occur in the near future once major issues are addressed by the applicant and other issues resolved with the DoW, DPI and the Shire.

Conclusion

This project has had a long history and been the subject of a number of complex planning and drainage matters. The delays that have been experienced in relation to this proposal have been in part outside the Shire's control. All parties have been working hard to progress the proposal and in light of the agreed matrix it is recommended that Council support Option 3 as outlined above.

Voting Requirements: ABSOLUTE MAJORITY

Officer Recommended Resolution:

- A. The Western Australian Planning Commission be advised:
1. That the Shire does not support the complete subdivision as submitted (136679) for the following reasons:
 - a) The Department of Water has not finalised the Byford Townsite Drainage and Water and Management Plan; and
 - b) The Local Structure Plan for the Byford Main Precinct has not been finalised by the Shire or the Western Australian Planning Commission, and

- c) There are number of major issues with this plan that need to resolved including the size/ design on the Neighbourhood Centre, subdivision layout and design, and width of the Multiple Use Corridor.
2. That the Shire is prepared to support approval of the southern portion of the application area (Area E) as shown on the Shire's Plan at *Attachment OCM001.6/07/08*; subject to:
 - a) redesign of the subdivision to address the Shire's concerns about some of the laneways (length, designs).
 - b) conditions being imposed to the satisfaction of the Shire.
 3. That the Shire is prepared to consider further stages of the subdivision (136679) in the near future, subject to:
 - a) Finalisation of the Department of Water drainage study for Byford; and
 - b) Satisfactory progression of the Local Structure Plan for the Byford Main Precinct and key issues being resolved to the satisfaction of the Shire
- B. The Director Development Services be authorised to negotiate the imposition of subdivision conditions with the Department for Planning and Infrastructure.

SUPPLEMENTARY INFORMATION

A copy of the officer's report and recommendation was recently provided to the applicant. In response to the report, a meeting was held on 21 July 2008 with the Chief Executive Officer, Director Development Services and representatives from the landowner and their planning consultant team.

The landowner advised that although they welcomed the approval of the southern portion of the application area (identified as Area E), that from a staging and servicing perspective, it is not considered a viable development option. The landowner was strongly of the opinion that in addition to Area E, Council should also approve Area B.

Further to the concerns raised by officers regarding some design aspects of Area B, the applicant provided the following additional information:

1. Movement network:

The applicant considers that the laneway just east of Doley Road should be supported. This laneway has only a short length of 90 metres, and will be appropriately lit. The laneway is also accessed at each end by a road reserve, has adequate visual surveillance and provides appropriate sightlines.

The applicant also strongly supports the proposal to include the provision of small clusters of cottage lots backing onto the multiple use corridor (MUC). The applicant advises that this design will not impact on the public amenity of the MUC and can improve public surveillance over public open space areas.

Engineering staff had raised concern about the design of intersections in this area. The applicant advises that they believe these intersections will provide a greater traffic calming function than conventional stop signs. However, the applicant is prepared to have this matter dealt with as a subdivision condition.

Officer comment

Based on further information submitted, the laneway east of Doley Road and the cluster of cottage lots backing onto the MUC are now supported. In relation to the cottage lots backing onto the MUC, this would be similar to the cottage lots that back onto public open space in

the Byford by the Scarp subdivision. Through the use of Detailed Area Plan provisions, design controls can be imposed over the land to ensure that dwellings have visual surveillance over the MUC and that open style fences are installed on the rear boundary.

2. Urban Water Management Requirements

One of the reasons that Area B was recommended for exclusion, was that it would lock in the shape and size of the northern edge of the MUC. This would occur in the absence of an approved Local Water Management Strategy and finalisation of the Department of Water (DoW) regional drainage study for Byford.

The applicant advises that their drainage consultants have confirmed that the MUC and storage areas in the plan, can accommodate the volumes anticipated and remain separate from the 32 metre wide flood conveyance path. They consider that by only approving one half of the MUC and locking in the northern edge, this would still give Council and the DoW the confidence that should the MUC need to be widened for flood storage purposes, this could be accommodated on the southern side.

Officer comment

The DoW study will soon be issued and will confirm the necessary width of the MUC in this area. Officers are satisfied with the applicant's drainage experts advice, however, if it is determined by the DoW that the MUC needs to be widened, then there will still be room for this occur on the southern side of the MUC.

3. Abernethy Road

There were a number of concerns in relation to the proposal to allow residential lots to front Abernethy Road (Area A). This includes the proposed road widening that had not been provided and the lot sizes are smaller in size and depth than those lots to the immediate east of this subdivision in Stage 1.

The applicant advises that they are prepared to exclude the lots in the street block along Abernethy Road (Area A). Upon the release of the drainage study for Byford by the DoW, the width of the proposed median drainage swale in Abernethy Road, and ultimately the width required for Abernethy Road, can then be determined. The applicant advises that larger homestead style lots can still be provided fronting Abernethy Road, without any design implications on Area B. Further information and discussion will need to occur to consider a revised plan for Area A.

Officer comment

The proposal to leave out Area A at this time is still supported.

Conclusion

Officers have considered the request to include Area B into the subdivision approval and this is supported. It is recommended that Council authorize officers to negotiate an appropriate planning outcome to allow Areas B and E to be initially approved by the WAPC.

OCM001/07/08 COUNCIL DECISION/Revised Officer Recommended Resolution:

Moved Cr Price, seconded Cr Twine

A. The Western Australian Planning Commission be advised:

- 1. That the Shire does not support the complete subdivision as submitted (136679) for the following reasons:**

- a) The Department of Water has not finalised the Byford Townsite Drainage and Water Management Plan; and
- b) The Local Structure Plan for the Byford Main Precinct has not been finalised by the Shire or the Western Australian Planning Commission, and
- c) There are number of major issues with this plan that need to be resolved including the size/design on the Neighbourhood Centre, subdivision layout and design, and width of the Multiple Use Corridor.

2. That the Shire is prepared to support approval of the southern portion of the application area (Area E) as shown on the Shire’s Plan at *Attachment OCM001.6/07/08*; subject to:

- a) redesign of the subdivision to address the Shire’s concerns about some of the laneways (length, designs).
- b) conditions being imposed to the satisfaction of the Shire.

3. That the Shire is prepared to support approval of the northern portion of the application area (Area B) as shown on the Shire’s Plan at *Attachment OCM001.6/07/08*; subject to:

- a) Intersections being redesigned to the satisfaction of the Shire.
- b) Conditions being imposed to the satisfaction of the Shire.

4. That the Shire is prepared to consider further stages of the subdivision (136679) in the near future, subject to:

- a) Finalisation of the Department of Water drainage study for Byford; and
- b) Satisfactory progression of the Local Structure Plan for the Byford Main Precinct and key issues being resolved to the satisfaction of the Shire

B. The Director Development Services be authorised to negotiate the imposition of subdivision conditions with the Department for Planning and Infrastructure.
CARRIED 9/1

9. CHIEF EXECUTIVE OFFICER’S REPORT

OCM002/07/08		INFORMATION REPORT
Proponent	Joanne Abbiss - Chief Executive Officer	In Brief Information Report.
Officer	Lisa Fletcher – Personal Assistant to the Chief Executive Officer	
Signatures - Author:		
Senior Officer:	Joanne Abbiss - Chief Executive Officer	
Date of Report	8 July 2008	
Previously		
Disclosure of Interest		
Delegation	Council	

OCM002.1/07/08 COMMON SEAL REGISTER REPORT – JUNE 2008

The Common Seal Register Report for the month of May 2008 as per Council Policy CSP30 Use of Shire of Serpentine Jarrahdale Common Seal is with the **attachments marked OCM002.1/07/08 (E02/5614)**.

OCM002.2/07/08 POLICY FORUM – JULY 2008

The following items were discussed at the 1 July 2008 Policy Forum:

ITEMS FOR PRELIMINARY DISCUSSION	
1.	Briefing with Councillors
2.	Farmland Concession Policy

OCM002.3/07/08 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION SOUTH EAST METROPOLITAN ZONE MEETING AGENDA - 23 JULY 2008 (A1164)

In the attachments marked OCM002.3/07/08 (IN08/8863) is the Agenda for the WALGA South East Metropolitan Zone Meeting to be held on 25 July 2008.

OCM002.4/07/08 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION PEEL ZONE MEETING AGENDA – 29 JULY 2008 (A1164)

In the attachments marked OCM002.4/07/08 (IN08/9214) is the Agenda and attachment OCM002.4a/07/08 (IN08/9215) for the WALGA Peel Zone Meeting to be held on 29 July 2008.

OCM002.5/07/08 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION STATE COUNCIL AGENDA – 3 AUGUST 2008 (A1164)

In the electronic attachments marked OCM002.5/07/08 (IN08/8636) and OCM002.5a/07/08 (IN08/8638) is the Agenda and Appendices for the State Council Meeting Agenda to be held on 3 August 2008.

OCM002.6/07/08 LOCAL GOVERNMENT NOMINATIONS TO PEEL DEVELOPMENT COMMISSION BOARD (A0109-02)

A copy of the correspondence dated 7 July 2008 from the Peel Development Commission advising of a ballot to be conducted is with the attachments marked OCM002.6/07/08 (IN08/9250).

Local Governments in the Peel Region have agreed to rotate representatives on the Peel Development Commission Board. The Shire is asked to nominate the preferred representative from the two Shire of Waroona candidates. The two candidates are Councillor Larry Scott and Councillor Noel Dew.

OCM002/07/08 COUNCIL DECISION/Officer Recommended Resolution:

Moved Cr Brown, seconded Cr Harris

- 1. The Information Report to 25 July 2008 is received.**
- 2. That Council nominates Councillor Larry Scott from the Shire of Waroona as the preferred nominee as the Local Government representative on the Board of the Peel Development Commission in accordance with the rotating representation model.**

CARRIED 10/0

10. URGENT BUSINESS:

OCM003/07/08		RECISION OF COMMITTEE DECISION - RETROSPECTIVE APPLICATION FOR GAZEBO - LOT 604 BRUNS DRIVE, DARLING DOWNS (P06032/05)
Proponent:	Serpentine Jarrahdale Shire	In Brief It is recommended that the decision made at the Sustainable Development Committee meeting of 15 July 2008 be rescinded due to a typographical error stating Lot 609 Bruns Drive which should have stated Lot 604 Bruns Drive, Darling Downs
Owner:		
Officer:	Lisa Fletcher – PA to the Chief Executive Officer	
Signatures Author:		
Senior Officer:		
Date of Report	28 July 2008	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Council	

Background

At the Sustainable Development Committee meeting of 15 July 2008, the following was resolved:

“SD009/07/08 Committee Decision/Officer Recommended Resolution:

That the retrospective application for approval to commence development of a Gazebo on Lot 609 Bruns Drive, Darling Downs be approved subject to the following conditions:

1. *The Gazebo 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 relevant Legislation for other types of effluent disposal systems. Please contact Council’s Health Services for setbacks and requirements to other systems.*
2. *All stormwater to be disposed of within the property. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is prohibited.*

CARRIED 7/0”

Comment

Due to a typographical error the property in question was stated as Lot 609 Bruns Drive. The correct address is Lot 604 Bruns Drive, Darling Downs.

It is recommended that Council rescind resolution SD009/07/08 in order for a new decision to be made stating the correct lot number.

Voting Requirements: **ABSOLUTE MAJORITY**

Pursuant to the Regulation 10 of the Local Government Administration Regulations 1996, motion SD009/07/08 made on 15 July 2008 be revoked.

OCM003/07/08 COUNCIL DECISION

**Moved Cr Murphy, seconded Crs Brown, Kirkpatrick, Geurds
That Council seeks to rescind Committee Decision SD009/07/08 from the Committee Meeting held on 15 July 2008.
CARRIED 10/0**

OCM003A/07/08 COUNCIL DECISION

Moved Cr Murphy, seconded Crs Brown, Kirkpatrick, Geurds
That Committee Decision SD009/07/08 from the Committee Meeting held on 15 July 2008 be rescinded.
CARRIED 10/0

OCM003B/07/08 COUNCIL DECISION:

Moved Cr Brown, seconded Cr Price
That the retrospective application for approval to commence development of a Gazebo on Lot 604 Bruns Drive, Darling Downs be approved subject to the following conditions:

1. The Gazebo 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 relevant Legislation for other types of effluent disposal systems. Please contact Council's Health Services for setbacks and requirements to other systems.
2. All stormwater to be disposed of within the property. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is prohibited.

CARRIED 10/0

Council Note: The Committee Decision/Officer Recommended Resolution was amended to reflect the correct lot number being Lot 604 instead of Lot 609.

11. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:

Cr Harris

- Q. Could the Director of Planning, or the Compliance Officer, please explain the status of the actions regarding Lot 3 Thatcher Road.

Could the Director of Planning, or the Compliance Officer, please elucidate on the exact requirements of the Bulk Earthworks and importation of fill requirements for this lot particularly as it pertains to the MUC and creek line, the containment of stormwater and the requirement for control of sand drift and whether the developer has followed the approval condition in regard to the exclusion area around the creekline.

Could the Director of Planning, or the Compliance Officer, please view the attached photographs and elucidate as to whether these conditions contravene the development approval

- A. Council officers are currently investigating the property to ensure compliance with the conditions of the planning approval and other Acts and legislation. An inspection has been scheduled to occur on 9 July 2008. Further information will be provided to Councillors at the Sustainable Development Committee meeting.

Further to this response, the Director Development Services advised Cr Harris that he would liaise with the Development Compliance Officer further to the site visit conducted on 9 July 2008. Council will then prepare correspondence to affected residents advising them of actions to date.

SUPPLEMENTARY INFORMATION

The Development Compliance Officer will be sending correspondence to the owner of the land being, Goldtune Investments Pty Ltd. This letter will instruct Goldtune Investments Pty Ltd to comply with the conditions below. They will be given 21 days to achieve this. Failure

to do so will either result in a Notice to be served against them or prosecution to be considered.

Condition 2

Area's hatched in red on the approved plans are excluded from this approval and any works within those area's will require a separate development application or be covered under a subdivision approval issued by the Western Australian Planning Commission.

Condition 7

All works shall be conducted in accordance with Councils Policy Standards and specifications pertaining to earthworks.

Condition 11

All stormwater shall be contained on site, to the satisfaction of the Director Engineering. Erosion shall be controlled so as not to result in sand runoff into the road reserve.

Condition 12

The proponent and the contractor shall be responsible for the dust and sand drift control in accordance with the Department of Environmental Protection (DEP) guideline. Disturbed areas shall be stabilised as soon as practicable and thereafter maintained to the satisfaction of the Director Engineering.

12. CLOSURE:

There being no further business the meeting closed at 8.36pm.

I certify that these minutes were confirmed at the Ordinary Council meeting held on 25 August 2008.

.....
Presiding Member

.....
Date

13. INFORMATION REPORT – COMMITTEE DELEGATED AUTHORITY:

CGAM001/07/08		CONFIRMATION OF PAYMENT OF CREDITORS (A0917)
Proponent:	Director Corporate Services	In Brief To confirm the creditor payments made during June 2008.
Owner:	N/A	
Officer:	Donna Colum – Finance Officer	
Signatures Author:		
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	2 July 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee in accordance with resolution CGAM064/02/08	

CGAM001/07/08 Committee Decision/Officer Recommended Resolution:

That Council notes the payments authorised under delegated authority and detailed in the list of invoices for the month of June 2008, presented per the summaries set out above include Creditors yet to be paid and in accordance with the Local Government (Financial Management) Regulations 1996.
CARRIED 7/0

CGAM002/07/08		SUNDRY DEBTOR OUTSTANDING ACCOUNTS (A0917)
Proponent:	Director Corporate Services	In Brief To receive the sundry debtor balances as at June 2008.
Owner:	Not Applicable	
Officer:	Melissa Armitage - Finance Officer (Debtors)	
Signatures Author:		
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	1 July 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee in accordance with resolution CGAM064/02/08	

CGAM002/07/08 Committee Decision/Officer Recommended Resolution:

That Council receive and note the report on Sundry Debtor Outstanding Accounts as at 30 June 2008.
CARRIED 7/0

CGAM003/07/08 RATE DEBTORS REPORT (A0917)		
Proponent:	Director Corporate Services	In Brief To receive the rates report as at 30 June 2008.
Owner:	Not Applicable	
Officer:	Kellie Bartley – Rates Officer	
Signatures Author:		
Senior Officer:	Alan Hart – Director Corporate Services	
Date of Report	4 July 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee in accordance with resolution CGAM064/02/08	

CGAM003/07/08 Committee Decision/Officer Recommended Resolution:

**That Council receive and note the report on the Rate Debtors accounts as at 30 June 2008.
CARRIED 7/0**

CGAM006/07/08 INFORMATION REPORT		
Proponent:	Director Corporate Services	In Brief To receive the information report to June 2008.
Owner:	Not Applicable	
Officer:	Various	
Signatures Author:		
Senior Officer:	Director Corporate Services	
Date of Report	2 June 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee in accordance with resolution CGAM064/02/08	

CGAM006/07/08 Committee Decision/Officer Recommended Resolution:

**The Information Report to 30 June 2008 be received.
CARRIED 7/0**

SD001/07/08 BUILDING INFORMATION REPORT		
Proponent:	N/A	In Brief
Owner:	N/A	
Officer:	Jason Robertson - Manager Building Services	Information report
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	2 July 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD001/07/08 Committee Decision/ Officer Recommended Resolution

**That Council accepts the June 2008 Building Information Report.
CARRIED 7/0**

SD002/07/08 HEALTH INFORMATION REPORT		
Proponent:	N/A	In Brief
Owner:	N/A	
Officer:	Tony Turner – Manager Health & Ranger Services	Information report
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	2 July 2008	
Previously		
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD002/07/08 Committee Decision/Officer Recommended Resolution

**That Council accepts the Health Information Report.
CARRIED 7/0**

SD007/07/08 PROPOSED CHILD MINDING CENTRE (BEFORE AND AFTER SCHOOL & VACATION CARE) – LOT 23 (45) CLIFTON STREET, BYFORD (P04441/01)		
Proponent:	Byford Property Trust	In Brief Proposal for the establishment of a child minding centre on Clifton Street, Byford for up to 52 children. It is recommended that the application be refused.
Owner:	Peter Dejonge	
Officer:	Michael Daymond – Senior Planner	
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	1 July 2008	
Previously	NA	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD007/07/08 Committee Decision/Officer Recommended Resolution:

That the Application for Approval to Commence Development of a proposed Child Care Centre (Before and After School and Vacation Care) on Lot 23 (45) Clifton Street, Byford be refused for the following reasons:

- 1. It would not be appropriate in the interests of orderly and proper planning and preservation of the residential character and amenity of the area to grant approval for a Child Care Centre (Before and After School and Vacation Care) on the subject property.**
- 2. The proposal is considered detrimental to the amenity of the occupiers of adjacent properties, by reason of visual amenity impacts, noise and traffic nuisance arising from the proposed use of the land.**
- 3. The proposal does not comply with Council’s Town Planning Scheme No.2 relating to setback requirements, landscaping requirements and provision of car parking bays.**

Advice Notes

- 1. The applicant is advised that the Shire would be willing to consider a similar proposal on a more suitable lot within the Byford area.**

CARRIED 7/0

SD009/07/08 RETROSPECTIVE APPLICATION FOR GAZEBO LOT 609 BRUNS DRIVE, DARLING DOWNS (P06032/05)		
Proponent:	Brad Richardson	In Brief The applicant seeks retrospective planning approval for a gazebo partly outside the building envelope in a Landscape Protection Area. It is recommended that the application be conditionally approved.
Owner:	As above	
Officer:	Helen Maruta - Contract Planning Officer	
Signatures Author:		
Senior Officer:	Brad Gleeson - Director Development Services	
Date of Report	1 July 2008	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD009/07/08 Committee Decision/Officer Recommended Resolution:

That the retrospective application for approval to commence development of a Gazebo on Lot 609 Bruns Drive, Darling Downs be approved subject to the following conditions:

1. The Gazebo 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 relevant Legislation for other types of effluent disposal systems. Please contact Council's Health Services for setbacks and requirements to other systems.
2. All stormwater to be disposed of within the property. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is prohibited.

CARRIED 7/0

Should be lot 604

SD010/07/08 PROPOSED OVERHEIGHT AND OVERSIZE GARAGE WITH REDUCED SIDE AND REAR SETBACKS FOR LOT 33 (4) RIGOLL COURT, MUNDIJONG (P03883/02)		
Proponent:	Coastline Sheds	In Brief The applicant seeks planning approval for an overheight and oversize shed with reduced rear and side setbacks. It is recommended that the application be refused.
Owner:	Nathan Robertson	
Officer:	Helen Maruta – Contract Planning Officer	
Signatures Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	30 June 2008	
Previously	Nil	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD010/07/08 Committee Decision/Officer Recommended Resolution:

That Council refuses the application for approval to commence development of an Outbuilding on Lot 33 Rigoll Court, Mundijong for the following reasons:

1. The proposed outbuilding by virtue of its size and height is not consistent with the existing character and amenity of the neighborhood.
2. The proposed shed exceeds the maximum floor area and wall and roof height limits for outbuildings in the urban development zone as contained in Local Planning Policy LPP17 Residential and Incidental Development and the Residential Design Codes of Western Australia 2008.
3. The proposed shed exceeds the minimum side and rear setbacks required as of right under the Residential Design Codes of Western Australia 2008.
4. Approval of the proposed shed would set an undesirable precedent for the locality.

CARRIED 7/0

SD012/07/08 PLANNING INFORMATION REPORT		
Proponent	Director Development Services	In Brief Information Report.
Officer	Jodie Evans – Planning Services Support Officer	
Signatures – Author:		
Senior Officer:	Brad Gleeson – Director Development Services	
Date of Report	2 July 2008	
Previously		
Disclosure of Interest		
Delegation	Committee – in accordance with resolution CGAM064/02/08	

SD012/07/08 Committee Decision/Officer Recommended Resolution

**That Council accepts the Planning Information Report.
CARRIED 7/0**