
Shire of Kalamunda

General Services Committee

Minutes for 6 June 2006



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Minutes
General Services Committee Meeting Held in the
Council Chambers, 2 Railway Road, Kalamunda
6 June 2006

1.0 OFFICIAL OPENING

The Presiding Member opened the meeting at 7.00 pm and welcomed Councillors, staff and members of the public present in the gallery.

2.0 APOLOGIES AND LEAVE OF ABSENCE

PRESENT

Councillors

N Sadler	(DEPUTY SHIRE PRESIDENT) (Presiding)	SOUTH WEST WARD
E Taylor	(SHIRE PRESIDENT)	NORTH WARD
D McKechnie		NORTH WARD
S Blair		NORTH WARD
M Casey		NORTH WEST WARD
P Tonkin		SOUTH WARD
S Bilich		SOUTH WARD
J Giardina		SOUTH WARD
D Sadler		SOUTH WEST WARD
A Morton		SOUTH WEST WARD

Officials

D E Vaughan		CHIEF EXECUTIVE OFFICER
G Parslow		EXECUTIVE MANAGER CORPORATE SERVICES
D Tomlinson	ACTING EXECUTIVE MANAGER	PLANNING & DEVELOPMENT SERVICES
K O'Connor		EXECUTIVE MANAGER RESIDENTS' SERVICES
M Singh		EXECUTIVE MANAGER ENGINEERING SERVICES
D Elkins		MANAGER ENGINEERING SERVICES
J Smith		MANAGER HEALTH SERVICES
N Townsend		MINUTE SECRETARY

Apologies

J Winterhalder		EAST WARD
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Absent

M Cresswell

NORTH WEST WARD

GuestsGavin Watters - EMRC
Steven Fitzpatrick – EMRC
John King – Cardno BSD**Observers**

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NewspapersThe Echo
Community Newspaper**3.0 PUBLIC QUESTION TIME**

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this Committee. For the purposes of minuting, these questions and answers are summarised.

There were no questions from the public.

4.0 PETITIONS**Presentation by the EMRC in respect to Financial Modelling options for the proposed Resource Recovery Facility RRF.**

The Presiding Member advised there were officers from the EMRC present to conduct this presentation and requested a motion to suspend Standing Orders to facilitate debate at the end of the presentation.

SUSPENSION OF STANDING ORDERS**RESOLVED GS1/06/06**

That so much of Standing Orders be suspended so as to allow free debate.

Moved Cr Casey**Seconded Cr Taylor****Cr McKechnie voted against the motion as he felt the time allocated for this presentation did not do justice to the importance of the matter****FOR THE MOTION**Cr Taylor
Cr Blair
Cr Casey
Cr Tonkin
Cr Giardina
Cr D Sadler
Cr Morton
Cr N Sadler**AGAINST THE MOTION**Cr McKechnie
Cr Bilich

CARRIED

The Presiding Member invited Mr Gavin Watters to address the Committee, which he did with some preliminary comments relating to what the Resource Recovery Facility involved, the contribution by member Councils; and then introduced Mr John King from Cardno BSD who provided a visual presentation for Committee members. A copy of his presentation is available from the Council office.

The Presentation covered the Business Plan, the Project Plan and Members Participation Agreement. He also covered the three different payment options available, and additional issues to be considered.

At the conclusion of the presentation Mr King invited comments.

Councillors did comment they would be interested in learning more about the financial implications and agreed that a further briefing in the future could be necessary.

The Presiding Member thanked Mr King for his very in-depth presentation, and the officers from the EMRC for their attendance.

RESUMPTION OF STANDING ORDERS**RESOLVED GS2/06/06**

That Standing Orders be resumed.

Moved Cr McKechnie Seconded Cr Bilich

CARRIED UNANIMOUSLY

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the General Services Committee Meeting held 1 May 2006.

RESOLVED GS3/06/06

That the Minutes of the General Services Committee Meeting held in the Council Chambers on the 1 May 2006 be confirmed.

Moved Cr Taylor Seconded Cr Casey

CARRIED UNANIMOUSLY

6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

8.0 DISCLOSURE OF INTERESTS

Disclosure of Financial and Proximity Interests

- (a) Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the Local Government Act 1995)
- (b) Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the Local Government Act 1995).

Item 65 - Draft Final Report of The Railway Road Community Precinct Feasibility Study

Cr Taylor declared financial interest in this item as she owns a commercial property in Haynes Street.

Disclosure of Interest Affecting Impartiality

- (a) Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee has given or will give advice.

Item 65 - Draft Final Report of The Railway Road Community Precinct Feasibility Study

Cr Bilich declared an interest affecting impartiality as a family member runs a business in the Town Centre, which may give a perception that her impartiality on this item may be affected. She declared that he will put aside this association and consider the matter on its merits

9.0 REPORTS TO COUNCIL

Please Note that Strategic and Policy related items are bolded and will be dealt with as the first items of business.

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

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REPORTS

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

52. Financial Statements For The Month Ending 30 April 2006

File Ref: (FI-SRR-006) (Corporate Services)

Refer Item:

Applicant:

Owner:

Purpose of Report

1. To receive financial and operating statements.

Background

2. Attached ([Attachment 1](#)) is the summary of the financial statements for the period ending 30 April 2006. In accordance with Section 34 (1) (e) of the Local Government (Financial Management) Regulations 1996 a statement showing net assets is included.
3. Additionally, in accordance with the Local Government (Financial Management) Regulations 1996, an operating statement ([Attachment 2](#)) is included for the same period.

Comments

4. Nil.

COMMITTEE RECOMMENDATION TO COUNCIL

GS 52/2006

1. That financial statements and the accompanying operating statement for the period 30 April 2006 be received.

Moved Cr Taylor

Seconded Cr Giardina

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

53. Creditors Accounts Paid - May 2006

File Ref: (FI-CRS-002) (Corporate Services)

Refer Item:

Applicant:

Owner:

Purpose of Report

1. To receive creditors' accounts paid for the month of May 2006.

Background

2. It is a requirement of the Local Government (Financial Management) Regulations 1996 (Regulation 12) that a list of Creditors' Accounts Paid be compiled each month.
3. This list is required to show the payee's name, amount of payment, provided sufficient information to identify the transaction and the date of the meeting of Council to which it is to be presented.

Comments

4. Accordingly, the list of Creditors' paid from 4 May 2006 to 26 May 2006 is attached. ([Attachment 1](#)).

COMMITTEE RECOMMENDATION TO COUNCIL

GS 53/2006

1. That the list of Creditors' Paid from 4 May 2006 to 26 May 2006 as per attached (Attachment 1) be received by Council in accordance with the requirements of Regulation 12 of the Local Government (Financial Management) Regulations 1996.

Moved Cr Giardina

Seconded Cr Tonkin

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

54. Parking On Shared Crossover Between 22 & 24 Francis Road, Kalamunda

File Ref: (FR-10/022) (Engineering Services)

Refer Item: N/A

Applicant: N Schofield

Owner: Crown

Purpose of Report

1. To consider a request to place 'No Parking' restrictions on the joint crossover for 22 & 24 Francis Road, Kalamunda.

Background

2. Mr & Mrs Schofield live at 22 Francis Road, Kalamunda, as shown at ([Attachment 1.](#)).
3. The property owners of numbers 22 & 24 Francis Road share an 8m wide bitumen crossover, which separates into two individual driveways to the properties. Number 1 Patricia Road has a concrete crossover which also joins the crossover to 22 & 24 Francis Road. Refer ([Attachment 2.](#)) for details.
4. In May 2004 Mr Schofield raised the issue of his neighbour's cars being parked in the subject crossover. After a site meeting in the presence of then Ward Councillor Geoff Stallard, and detailed consultation with the two neighbours, line marking was installed as shown at ([Attachment 2.](#)). Mr Schofield's side of the crossover was marked with the wording "Keep Clear".
5. Although neither of the neighbours was satisfied with the above solution they both accepted it.
6. Shortly after marking the dividing line Mr Schofield complained that he was unable to reverse his trailer, whilst travelling from Patricia Road, and requested that 'no parking' restrictions be placed on the whole of the crossover. Mr Schofield was advised that Council's local laws do allow for parking restrictions to be placed on road pavement and/or verges, but does not include crossovers.
7. Mr Schofield has since complained several times in relation to parking on the crossover by his neighbours guests. He has now requested that the matter be considered by Council.

Comments

8. It is common practice for visitors of residents to park vehicles in their driveways. Staff are not aware of any local government enforcing parking restrictions on driveways

9. Mr Schofield's crossover cuts across the verge in front of his neighbour's property thereby limiting his neighbour's ability to relocate their driveway. Mr Schofield has the choice to relocate his driveway to access the road at a different point. Should Mr Schofield choose to relocate the driveway the slope of the driveway will be similar or marginally greater.

COMMITTEE RECOMMENDATION TO COUNCIL**GS 54/2006**

1. That no further action be taken in relation to the crossover at 22 & 24 Francis Road, Kalamunda and Mr Schofield be advised accordingly.

Moved Cr Giardina**Seconded Cr Tonkin****CARRIED UNANIMOUSLY**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

55. Roads to Recovery Supplementary Funds

File Ref: (FI-FAG-027) (Engineering Services)
Refer Item: N/A
Applicant: N/A
Owner: N/A

Purpose of Report

1. To accept conditions associated with the Roads to Recovery Grant.

Background

2. The second Roads to Recovery Programme, commonly known as R2R2, commenced in the 2005-06 financial year. The Shire of Kalamunda will receive \$406,700 per annum for the 4 year term of the programme ending 2008/09.
3. Following the 2006/07 budget announcement, the Federal Minister for Local Government, Territories and Roads has advised that local government will receive additional supplementary funds equivalent to one year's payment.
4. A programme of works will need to be submitted to the Federal Department of Transport and Regional Services by 30 September 2006, although the funds could be spent by 2008/09.
5. The supplementary funds are subject to a number of conditions similar to the original R2R2 Programme. These conditions appear at ([Attachment 1.](#))
6. The programme also has strict requirements including an annual CEO's Report with an audited financial statement to include a certification to the effect that:
 - (i) the Programme funds have been used for roads expenditure;
 - (ii) the Council has maintained expenditure on roads from its own sources;
 - (iii) signs have been erected in accordance with the Guidelines; and
 - (iv) other conditions set out in the Conditions and Guidelines have been complied with.

Comments

7. The Shire has already been complying with the Roads to Recovery Programme conditions for the last five years.
8. This one off payment is aimed at expediting the maintenance of aging transport infrastructure in the country.

COMMITTEE RECOMMENDATION TO COUNCIL

GS 55/2006

1. That Council expresses its appreciation to the Federal Minister for Local Government, Territories and Roads for the supplementary Roads to Recovery Funds.
2. That Council accepts the conditions attached with the Roads to Recovery Programme.

Moved Cr Blair

Seconded Cr Taylor

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

56. Award of Tender - Mowing of Turf Grass on Reserves T0601
File Ref: (AD-TEN-004) (Engineering Services)
Refer Item: PS 119\05
Applicant: N/A
Owner: N/A

Purpose of Report

1. To consider the awarding of Tender T0601 Mowing of Turf Grass on Reserves.

Background

2. Council previously considered awarding of Tender T0507 Mowing of Turf Grass on Reserves at its November 2005 Ordinary Council Meeting and resolved:

That due to inconsistencies in the tender documentation and advice for tender T0507 that Council does not accept any tender.

That following the appropriate amendment of documentation new tenders be called for Mowing of Turf Grass on Reserves.

3. Accordingly, Tenders were recalled and closed on the Wednesday 15 February 2006.
4. Eight companies submitted Tenders with a summary of the prices for the various tendered activities shown at ([Attachment 1.](#))
5. Tenderers were required to include information in relation to selection criteria and a summary of those responses and contact information for each of the Tenderers is shown at ([Attachment 2.](#))

Comments

6. The price submitted by Gro-Turf is the lowest at \$4838.92 (excluding GST) being the total cost of a single mowing attendance at all 32 reserves.
7. Gro-Turf Pty Ltd has successfully conducted mowing for the Shire since 2002.
8. 29 of the 35 'Category 2' Reserves and 3 of the 31 'Category 3' Reserves will be mowed under this Contract. Aside from one very small Reserve at Currawong Drive in Gooseberry Hill, which is costed to General Reserves, the cost of mowing each of the Reserves is included in their respective Maintenance Budget allocation.

COMMITTEE RECOMMENDATION TO COUNCIL GS 56/2006

1. That T0601, Mowing of Turf Grass on Reserves, be awarded to Gro-Turf Pty Ltd based on their rates appearing at (Attachment 1.) with a total cost of a single mowing attendance of all 32 reserve sites being \$4838.92 (excluding GST).

Moved Cr Giardina Seconded Cr D Sadler

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

57. Chemical Control of Unwanted Vegetation T0602

File Ref: AD-TEN-004) (Engineering Services)
Refer Item: N/A
Applicant: N/A
Owner: N/A

Purpose of Report

1. To consider the awarding of Tender T0602 Chemical Treatment of Unwanted Vegetation.

Background

2. The existing Tender for the Chemical Control of Unwanted Vegetation and Pests (T0202) expires in July 2006.
3. Tenders were called for the Chemical Control of Unwanted Vegetation, T0602 and closed on the 20 April 2006.
4. Six companies submitted Tenders with a summary of the prices for the various tendered activities shown at ([Attachment 1.](#))
5. Tenderers were required to include information in relation to selection criteria and a summary of those responses and contact information for each of the Tenderers is shown at ([Attachment 2.](#))
6. ([Attachment 3.](#)) is an annual estimate of the cost to the Shire, for each of the Tenderers completing the tasks required.

Comments

7. The lowest price is from Ausmic Environmental Industries at \$89,060 with the second lowest price from Website Weed and Pest at \$90,805 a potential difference of \$1,745 per annum.
8. In view of the superior reference checks for Website Weed and Pest Pty Ltd, it considered that their Tender will more advantageous to the Shire.
9. Given the relatively small potential differential in the prices for a year of operations it is recommended that the Tender 0602 for the Chemical Control of Unwanted Vegetation be awarded to Website Weed and Pest Pty Ltd.

COMMITTEE RECOMMENDATION TO COUNCIL GS 57/2006

1. That Tender T0602, Chemical Treatment of Unwanted Vegetation, be awarded to Website Weed and Pest Pty Ltd on the basis of the following price schedule;

Activity	\$ Rate (ex.GST)
Single person crew spraying	\$60 per hour
Two person crew spraying	\$80 per hour
Kerbs, adjoining footpaths and median islands spraying	\$20 per kilometre
Ant and termite treatment	\$80 per site
Road verge spraying	\$40 per kilometre
Boom spraying	\$25 per hectare

Moved Cr Casey

Seconded Cr Blair

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

58. Widening of Road Reserve & Construction of Roundabout
Lot 178 (51) Lawnbrook Road West, Walliston
File Ref: (EG – RDM/004) (Engineering Services)
Refer Item: N/A
Applicant: N/A
Owner: Department of Planning and Infrastructure

Purpose of Report

1. To consider the widening of road reserve adjoining Lot 178 (51) Lawnbrook Road West, Walliston, for the purpose of constructing a roundabout.

Background

2. As part of the State Black Spot Project Programme, Council has been allocated funds for the construction of a roundabout at the intersection of Lawnbrook Road East and Grove Road, near the Walliston Primary School.
3. The roundabout has been designed to accommodate articulated buses which has resulted in a need to widen the road reserve by approximately 130m² in accordance with ([Attachment 1.](#)).
4. To achieve this outcome, it is proposed that the existing road reserve be widened (truncation of the street corner), by acquiring a portion of land from Lot 178 (51) Lawnbrook Road West, which is a reserve vested in the former Department of Land Administration (Department of Land Information).
5. The Land Asset Management Services of the Department for Planning and Infrastructure has provided an 'In Principle' agreement to the proposal on the basis that there is compliance with the requirements of the *Land Administration Act 1997 (Act)*.
6. Pursuant to the Act, for the subject land to be dedicated as road reserve, the Council must resolve to make a request to the Minister to dedicate the land, and the Council must indemnify the Minister against any costs associated with the dedication.

Comments

7. The subject portion of land is currently located on Crown land under the management of the Department of Land Administration (Department of Land Information). As such, there has been no indication that compensation will be required for the dedication of a portion of the land as road reserve.
8. It is normal to notify service providers of the intent to change the status of road reserve, in order to identify any issues with service locations. While a request for comment is being lodged with all appropriate service authorities, with the location

of the subject land on a road reserve corner, at the location of the normal road 'truncation', it is not expected that any services will be affected.

9. It is recommended that Council resolve to make a request to the Minister to dedicate the land as shown in ([Attachment 1.](#)) as road reserve, and to indemnify the Minister against any costs associated with the dedication process.
10. As the proposed widening is on a Crown Reserve there will be no requirement for compensation for the land acquired and also potential for liability against the Minister is minimal.

COMMITTEE RECOMMENDATION TO COUNCIL GS 58/2006

1. That pursuant to Section 56 of the Land Administration Act 1997 a request be made to the Minister to dedicate a portion of Lot 178 (51) Lawnbrook Road as road reserve in accordance with ([Attachment 1.](#)) and to indemnify the Minister against any costs associated with the dedication.

Moved Cr Tonkin

Seconded Cr Giardina

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

59. Revesting of Reserve 24657 Alpine Road and Amalgamation into Adjoining Reserve 23076, Kalamunda
File Ref: (AL-12/040) (Planning & Development Services)
Refer Item: N/A
Applicant: Department for Planning and Infrastructure
Owner: Crown

Purpose of Report

1. To determine whether to support the vesting of the above reserve with the Department of Conservation and Land Management (CALM) with an appropriate purpose and possible amalgamation of the reserve into the adjoining Reserve 23076 which is also managed by CALM for the purpose of "Conservation of Flora and Fauna". ([Attachment 1.](#))

Background

2. The Department of Planning and Infrastructure has requested comment in respect to the changing the reservation purpose for Reserve 24657 and amalgamation with adjoining Reserve 23076. CALM has advised that it will accept the change in purpose and amalgamation of the reserves. The Reserve would then be managed by CALM.
3. Reserve 24657 is currently reserved for the purpose of "Hospital and Allied Purposes". Adjoining Reserve 23076 is reserved for the purpose of "Conservation of Flora and Fauna" and is under the care, control and management responsibility of CALM.
4. Both sites are reserved "Parks and Recreation" under the Metropolitan Regional Scheme and District Town Planning Scheme No. 2.

Comments

5. It is considered that Reserve 24657 has a high conservation value and should be protected.
6. It is recommended that support be given to the Management Order over the Reserve 24657 being transferred to CALM either as a separate reserve with the appropriate purpose, or amalgamated into the adjoining Reserve 23076.

COMMITTEE RECOMMENDATION TO COUNCIL**GS 59/2006**

1. That the Department for Planning and Infrastructure be advised that the Shire of Kalamunda considers that Reserve 24657 has a high conservation value and therefore recommends that Reserve 24657 be under the care, control and management of CALM either as a separate Reserve with the appropriate purpose or amalgamated into the adjoining Reserve 23076.

Moved Cr Taylor**Seconded Cr Tonkin****CARRIED UNANIMOUSLY**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

60. Right of Way Closure between Alpine Road and Boree Road, Kalamunda

File Ref: (AL-12/GEN)
Refer Item: N/A
Applicant: D Rampono
Owner: WA Planning Commission

Purpose of Report

1. To consider whether to support a request to close a Right of Way (ROW) between Alpine Road and Boree Road in Kalamunda. ([Attachment 1.](#))

Background

2. Council has received a request from adjoining land owners to close the above ROW. The adjoining owners cite issues such as anti social behaviour and that the ROW connects to dead end roads with no community amenities.

Comments

3. The subject land was originally designated as a Right of Way (ROW) which would provide alternate vehicle access to the adjoining lots. It would appear that over time this use became redundant and the ROW was reduced in width so as to only allow pedestrian access. Whilst the ROW designation still applies, the land now functions as a Pedestrian Access Way (PAW).
4. The ROW connects from Alpine Road through Boree Road and Holly Way West to Holly Way East and further to Betti Road. Although the ROW does not serve as a connection towards a specific destination point, such as a bus stop, shops or school, it does form part of an overall pedestrian network giving access to the Regional Open Space (National Park). ([Attachment 2](#))
5. The ROW is 3.75 metres wide with a gravel base and is in a good condition with no sign of anti social behaviour, such as graffiti, vandalism or litter.
6. Preliminary investigations indicate that Alinta gas has a service within the ROW.
7. If the ROW were closed the maximum additional walking time for some residents would be 9 minutes or 700 m, depending on the origin. Closure of the ROW would require pedestrian and cyclist traffic to be diverted to Betti and Cotherstone Roads. Both roads are higher volume traffic roads, and both have foot pavements with very good surveillance from surrounding residential properties.
8. Should the Council decide to support a request for closure of the above ROW two other factors will have to be considered:
 - Level of antisocial behaviour and incidences of crime in the ROW.

- Community impact of the potential closure.
9. The final decision on any ROW closure lies with Department for Planning and Infrastructure and it is commonly made on the basis of planning assessment of the importance of the ROW in the pedestrian/cyclist network. It is considered that pedestrian/cyclist traffic forms part of an important pedestrian/cyclist network, including access to the nearby regional park.
 10. On the basis of the above community consultation has not been undertaken, however if Council considers that there is scope for in principle support for the closure it is recommended that broader community consultation is undertaken.
 11. It is recommended that the closure procedure for the Right of Way not be initiated.
 12. **Mr Rampono addressed the Committee in terms of speaking against the recommendation to not close the ROW. He advised that there had been many instances of unruly behaviour in the ROW particularly late at night and early in the morning, and there had been a number of break-ins of vehicles located in close proximity to the ROW.**
 13. **As this matter had not been referred to adjoining landowners for comment, the Committee agreed that the previous method of consulting with landowners first before referring the matter to Committee should prevail, and therefore felt that this procedure should also occur on this occasion.**

RECOMMENDATION**GS 60/2006**

1. That the request to initiate a closure procedure of the Right of way between Alpine Road and Boree Road, Kalamunda not be supported for the following reasons:
 1. The pedestrian/cyclist traffic diversion to alternative routes could cause inconvenience for the broader community.
 2. The ROW forms an important part of local pedestrian/cyclist network.

Moved Cr Taylor**The motion lapsed for the want of a Seconder.****COMMITTEE RECOMMENDATION TO COUNCIL****GS 60/2006**

1. **That the request to initiate a closure procedure of the Right of Way between Alpine Road and Boree Road, be referred to adjoining landowners for comment and return to Council for final decision.**

Moved Cr Giardina**Seconded Cr Tonkin****CARRIED UNANIMOUSLY**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

61. Proposed Street Names for Subdivision of Lot 121 Worrell Avenue, High Wycombe

File Ref: (129132) (Planning & Development Services)

Refer Item: N/A

Applicant: SAS Global High Wycombe Pty Ltd

Owner: SAS Global High Wycombe Pty Ltd

Purpose of Report

1. To consider street names for subdivision of Lot 121 Worrell Avenue, High Wycombe. The Council recommendation is forwarded to the Geographic Names Committee (GNC) of the Department of Land Information for approval.

Background

2. An application for subdivision of Lot 121 Worrell Avenue, High Wycombe was approved in February 2006.
3. Street names are required to be shown on survey plans before submission for clearance of the subdivision.

Comments

4. There are five new street names required for the subdivision. ([Attachment 1](#)) The developer proposed the theme of airplanes because of the proximity to the Perth Airport. The selected names are:
 - Concorde Drive;
 - Hornet Fairway;
 - Aurora Entrance;
 - Cessna Way; and
 - Mustang Court.
5. Preliminary liaison with the GNC has indicated their acceptance of the proposed names and it is recommended that the Council endorse the use of the above names.

COMMITTEE RECOMMENDATION TO COUNCIL

GS 61/2006

1. That the Council support the new names Concorde Drive, Hornet Fairway, Aurora Entrance, Cessna Way and Mustang Court and request the Geographic Names Committee to approve the names.

Moved Cr Tonkin

Seconded Cr Casey

CARRIED UNANIMOUSLY

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

62. Proposed Street Names for Subdivision of Lots 57, 59 and 60
St John Road, Wattle Grove
File Ref: (ST-03/31, 128727)
(Planning & Development Services)
Refer Item: GS 42/2006
Applicant: Natlan Investments Pty Ltd
Owner: Natlan Investments Pty Ltd

Purpose of Report

1. To consider street names for a subdivision in Wattle Grove ([Attachment 1.](#))
Council's recommendation is forwarded to the Geographic Names Committee (GNC) of the Department of Land Information for approval.

Background

2. Council, at its April 2006 meeting, considered the following road names for the above subdivision:
 - Kardar Street,
 - Kwilena Avenue,
 - Kwoka Street and
 - Kelang Road.
3. At the meeting concern was expressed over two of the proposed names; Kardar and Kwoka. Further investigation has been undertaken and the following road names are proposed:
 - Karadong Street instead of Kardar Street and
 - Quokka Street instead of Kwoka Street.
4. Karadong is a Nyoongar word for a small animal. Quokka is proposed as it is a more common spelling of Kwoka.

Comments

5. Preliminary liaison with the GNC has indicated its acceptance of these names and it is recommended that the Council endorse the use of the following names as shown on ([Attachment 2.](#))
 - Karadong Street,
 - Kwilena Avenue,
 - Quokka Street and
 - Kelang Road.

COMMITTEE RECOMMENDATION TO COUNCIL**GS 62/2006**

1. That the Council support the new names of Karadong Street, Kwilena Avenue, Quokka Street and Kelang Road and the extension of The Promenade as shown on ([Attachment 2.](#)) and request the Geographic Names Committee of the Department of Land Information to approve these names.

Moved Cr Tonkin**Seconded Cr Morton****CARRIED UNANIMOUSLY**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

63. Tender Lease of Portion of Reserve 26843 (38) Collins Road, Kalamunda. (TO 609)
File Ref: (CL-11/038)
(Planning & Development Services)
Refer Item: GS 43/2003, GS 15/04, GS 120/04
Applicant: N/A
Owner: N/A

Purpose of Report

1. To consider tenders for the lease of portion of Reserve 26843 (30) Collins Road, Kalamunda (former Roller Skating Rink). See ([Attachment 1.](#)) Site plan.

Background

2. Council has placed the use of this building out for tender on two previous occasions where either no tenders or no complying tenders were received.
3. Council resolved at the meeting of 20 March 2006 that tender documents be prepared for the maintenance and repair of the building and tenders be invited for the lease of the building within 28 days, specifying the works that may be undertaken by the Council.
4. Furthermore it was resolved that once Council has agreed to enter into the lease, the specified works shall be undertaken immediately. Refer ([Attachment 2.](#)) Specification of repair and maintenance works.
5. The tender period closed at 4.00 pm on Friday 12th May 2006.

Comments

6. One tender has been received from Kalajos School of Gymnastics and Fit 2 Cheer. Kalajos Gymnastics provides fitness and gymnastics for children of all ages and are currently located in Walliston. At present, Kalajos operates 6 days a week from 9.00 am to 7.30 pm. Kalajos gymnasts have competed for 28 years in State, National and International competitions and have earned the title of Elite National Champion Units. Fit 2 Cheer is a community based cheer leading club affiliated with Gymnastics Western Australia. Fit 2 Cheer began in 2001 and now has over 200 students with 95% of its members from the Shire of Kalamunda. They currently operate from the Lesmurdie Senior High School gymnasium and have won state, national and international titles.
7. In accordance with the selection criteria for this tender, the following is proposed:
 - a. Rental - 5 years @ \$25,000 per annum (with 5 year options) to renew for a further period of 5 years, inclusive of GST and insurance of building and Shire rates, payable monthly.

- b. Proposed use of premises (must be consistent with the purpose of Reserve 26843 namely Recreation) – Recreational Gymnastics and Cheer Leading.
 - c. Details of any proposal for refurbishment or other improvements of premises during the term of the lease, including timetable for such works:
 - Prepared to provide the labour to carry out some of the items in the building maintenance specifications with the Shire and the builder. (items not specified).
 - Request existing carpet of the upper section be retained. Tenderer proposes to clean the carpet and glue any loose areas and at a later date lay additional carpet over the existing carpet. This matter will be dealt within the maintenance and repair specifications.
 - Prepared to carry labour portion of servicing of air conditioners and installation of smoke detectors and Residual Current Devices. This matter will be dealt with in the maintenance and repair specifications.
 - Tenderer requires to be allowed to drill holes as necessary for the installation of equipment necessary for the Tenderer's operations.
 - The tenderer agrees to provide spectator facilities.
8. Letters of support and references have been also supplied along with certificates on Insurance/ Currency.
9. The tender submitted proposes a use that is considered to be consistent with the purpose of the management order of "Recreation". In regard to rent, the tenderer proposes to pay \$25,000 per year which will include GST, the building insurance and Shire rates [i.e., \$22, 727 less insurance (\$1,272) and rates (\$2,709) being a net rental of \$18,746]. The tenderer has noted that they wish to pay the rent monthly. The lease agreement refers to an annual rent. The tender conditions allow for a minor variation to the lease and the payment of rent monthly is considered to be a minor variation. Rent will be reviewed annually in accordance with CPI.
10. In regard to proposals for refurbishments, the tenderer is prepared to carry out items of building maintenance subject to discussions and negotiations with the Shire. This item cannot be assessed based on the information provided and having regard to the tender set for the Maintenance and Repair of the building to be considered as a latter item in this agenda, which lists some of the works the tenderer wishes to carry out. The tenderer has provided a sketch concept for the layout use of the building. See ([Attachment 3.](#)) and has requested early consideration of this submission due to time constraints.
11. In October 2002, the Shire obtained a valuation for rental review purposes which at that time assessed the rental value at \$37,000 pa. Based on the information provided above, the Council has the option of accepting the tender or rejecting the tender if considered unacceptable. In accordance with the tender regulations if the tender is considered unacceptable, the Local Government may within 6

months of no tender being accepted negotiate with any party without having to fulfil the requirements of section 3.58 of the Local Government Act.

12. It is recommended that the tender for the lease of the building be awarded to Kalajos School of Gymnastics and Fit 2 Cheer subject to the Terms of lease and the tender submission for payment of rent to be on a monthly basis and payment of insurance of the building and Shire rates to be considered as part of the rental figure and the lease modified to reflect this variation.
13. **The Presiding Member advised those persons in the gallery that if anyone was involved in this tender they should not speak on the matter as it was contrary to the tender regulations.**
14. **The Committee discussed several points relating to this tender, including an explanatory address given by the CEO, and the anticipated commencement date for the lease.**

COMMITTEE RECOMMENDATION TO COUNCIL

GS 63/2006

1. That the tender for the lease of building on portion of Reserve 26843 (former Roller Skating rink) 38 Collins Road, Kalamunda be awarded to Kalajos School of Gymnastics and Fit 2 Cheer for the amount of \$25,000 including GST, building insurance and Shire rates.
2. That the preparation of the lease be forwarded for signing with variation to reflect the change with respect to payment of the building insurance and Shire rates.
3. That once Council has agreed to enter into this lease, the specified maintenance and repair works be undertaken immediately.

Moved Cr McKechnie

Seconded Cr Giardina

CARRIED

THOSE FOR THE MOTION

Cr Bilich
Cr Giardina
Cr Tonkin
Cr Morton
Cr Taylor
Cr Blair
Cr McKechnie
Cr N Sadler

THOSE AGAINST THE MOTION

Cr D Sadler
Cr Casey

8.00 pm Cr Casey left the Council Chambers.

8.08 pm Cr Casey returned to the Council Chambers.

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

64. Tender for Maintenance and Repair of Portion of Reserve 26843 (38 Collins Road, Kalamunda – Former Roller Skating Rink) (T0608)

File Ref: (CL-11/038) (Community Services)

Refer Item:

Applicant:

Owner:

Purpose of Report

1. To consider the assessment of Tenders received for the maintenance and repair of the former roller-skating rink building.

Background

2. The former roller-skating rink building has been vacant for some three (3) years and the general condition is not good. Both internally and externally works are required to bring the building up to a tenatable standard.
3. Council resolved at the meeting of 20 March 2006:
 1. *That specifications be prepared to bring the building up to a tenatable condition, with these costs then listed for consideration in the 2006/07 Budget.*
 2. *And that on completion of the specifications, Tenders be invited for the lease of the building, specifying the works that will be undertaken by the Council.*
 3. *That once Council has agreed to enter into a lease, Tenders be invited to upgrade the building.*
4. Mr Harold McKenzie, specialist consultant, in association with Shire Officers prepared the Tender documents. The Tender was advertised on 15 April 2006.
5. The Tender period closed at 2:00pm on Wednesday 3 May 2006. Two (2) Tenders for specified maintenance and repair works were received, these being from:

Chris Brook Builder of 9 Wharton Road, Kewdale, WA \$118,472.00
(inc GST)

Ross Stuart Contracting of 111 Old York Road, Greenmount, WA \$119,592.00
(inc GST)

Comments

6. These two Tenders were assessed by Mr Harold McKenzie, in accordance with the Selection Criteria and Scoring Scale as detailed in the Tender documents. Refer to (Attachment 1.) Schedule 1,2 and 3 for the outcomes of this assessment.
7. The Tender from Chris Brook did not include some attachments containing details of insurances and information required under Qualitative Criteria. A request was made to provide this information which was provided within the agreed time frame.
8. The referees provided by Chris Brook when contacted provided complimentary responses.
9. Generally both Tenders submitted were of reasonably high standard and matched the size of their business and experience.
10. It is envisaged that the proposed works, which cover many trades will be organised and undertaken by the Contractor in a timely and efficient manner. The work is to commence within seven (7) days of a Letter of Acceptance being issued, and to be completed within thirteen (13) weeks. Subject, however, to Council agreeing to enter into a lease for the use of the building.
11. It is recommended that subject to adequate budget provisions, the Contract for the Maintenance and Repair of the former roller-skating rink building (Tender Number T0608) be awarded to Chris Brook Builder of Kewdale for the amount of \$118,472.02 including GST.
12. It is recommended that a contingency for the amount of \$11,000 be provided to allow for any unexpected matters that may arise and require immediate attention in fulfilling this Contract.
13. Project funding could be provided either by drawing from the Building Construction Reserve Account or by the provision of funds in the 2006/07 Budget.

COMMITTEE RECOMMENDATION TO COUNCIL**GS 64/2006**

1. That subject to Council's agreement to enter into a lease to use this building, the Contract for the Maintenance and Repair of the former roller-skating rink (Tender Number T0608) be awarded to Chris Brook Builder of Kewdale for the amount of \$118,472.02 including GST.
2. That project funding can be provided either by drawing from the Building Construction Reserve Account or by the provision of funds in the 2006/2007 Budget, and a contingency of \$11,000 be provided to allow for any unexpected matters that may arise and require immediate attention in fulfilling this Contract

Moved Cr McKechnie**Seconded Cr Bilich****CARRIED WITH AN ABSOLUTE MAJORITY - UNANIMOUSLY**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

Cr Taylor declared financial interest in this item as she owns a commercial property in Haynes Street.

8.25pm Cr Taylor left the Council Chambers.

Cr Bilich declared an interest affecting impartiality as a family member runs a business in the Town Centre, which may give a perception that her impartiality on this item may be affected. She declared that she will put aside this association and consider the matter on its merits.

65. Draft Final Report of The Railway Road Community Precinct Feasibility Study

File Ref: (CO-INF-007) (Community Services)

Refer Item:

Applicant:

Owner:

Purpose of Report

3. To consider the draft final report of the Railway Road Community Precinct Feasibility Study and determine if the project should proceed to the next stage.

Background

4. Evolve Solutions were appointed in December 2005 to prepare a feasibility study in accordance with the project brief adopted by Council.
5. The study was undertaken between January and May 2006 and followed a project methodology that included the following main task:
 - Site Assessment
 - Research and Consultation
 - Development and Design Concepts
 - Management and Operational Options
 - Financial Funding and Business Strategies
 - Final design Concepts and Cost Estimates
6. A copy of the Evolve Solutions Interim Draft Feasibility Study was circulated to Councillors in early April 2006, which was the completion of the Needs Assessment stage of the study. The consultant's recommendation at this time was "that the development of a multi-purpose community visitor facility be further investigated by determining the feasibility of providing such a facility. The need and support as outlined in this report is significant and can be expected to bring benefit to Kalamunda residents, businesses and Shire."

Comments

- a. The executive summary shown at ([Attachment 1.](#)) and its recommendations provide the basis for which to consider the overall impacts of this proposal.
7. The detailed draft feasibility study and concept plans (separately distributed to Councillors) have fulfilled the project brief's objectives and were designed to enable the Council to make an informed decision on the proposal.
8. Staff have reviewed the draft final report and will advise Evolve Solutions of the following amendments that are considered necessary:
 - i. Page 44, Programme and Procurement; amend Appendix & Page Numbers also funding approvals date to read December 2006. Project completion date to read May 2008.
 - ii. Programme Timeline Table – amend to suit above Programme and Procurement timelines.
 - iii. Grant Schemes Table – amend to include reference to the AusIndustry, Australian Tourism Development Programme Funding.
- b. The Multi-Purpose Visitor Facility project has been identified as a new initiative in the Shire's Plan for the Future of the District, however, the proposed programme timelines for the significant capital contribution required from Council, and the grant approvals, will need detailed consideration and planning.
9. It is recommended that Council adopt the draft final report and advise Evolve Solutions of the amendments that are considered necessary prior to completion of the report.
10. It is proposed that Shire staff will prepare a draft capital funding and grant approval timeline for Council to consider.
11. **The consultant, Mr Backshall joined Councillors at the table and answered their questions.**

COMMITTEE RECOMMENDATION TO COUNCIL

GS 65/2006

1. That Council adopt the draft final report and advise Evolve Solutions of the following amendments that are considered necessary prior to completion of the report –
 - i. Page 44, Programme and Procurement; amend Appendix & Page Numbers also funding approvals date to read December 2006. Project completion date to read May 2008.
 - ii. Programme Timeline Table – amend to suit above Programme and Procurement timelines.

- iii. Grant Schemes Table – amend to include reference to the AusIndustry, Australian Tourism Development Programme Funding.

Moved Cr Giardina

Seconded Cr Tonkin

CARRIED UNANIMOUSLY

8.35 pm Cr Taylor returned to the Council Chambers.

Declaration of financial/conflict of interests to be recorded prior to dealing with each item

66. Sand Drift and Litter Control from Building Sites

File Ref: (BU-SCC-009) (Community Services)

Refer Item: N/A

Applicant: N/A

Owner: N/A

Purpose of Report

1. To consider a draft Local Law relating to litter control and sand drift from building sites and subdivisions.

Background

2. There is no current legislation available to the Shire of Kalamunda which adequately addresses the issue of sand drift and litter control from building sites and subdivisions.

Comments

3. Litter and sand drift from building sites and subdivisions has the potential to cause a nuisance to adjoining properties and existing residents, and to damage the environment. Rising awareness of environmental issues and concern over loss of amenity has led to an increasing community expectation that these issues be addressed by the Shire. The large amount of development currently occurring within the Shire is paralleled by a similar increase in litter and sand related complaints being received, and placing a strain on Shire resources.
4. Once litter has blown off site residents and the Shire must remove the litter at their own cost. A recent example of litter from building sites is St John's Road, Wattle Grove. Cleanup of this site alone consisted of eight hours work at a cost to the Shire of \$270.
5. Current Control Options
 - a) Building License Conditions - Provision of bins is a condition of approval on the building license. The condition does not refer to adequate containment of litter, it is therefore possible for builders to provide a bin and still have significant amount of litter blowing off site. If a problem area is identified builders are contacted and required to provide bins but, as there is no practical enforcement option for non compliance, this has limited success.
 - b) Litter Infringements - This type of litter cannot typically be dealt with under the *Litter Act 1979* as once it blows from a building site, identification of its origin is difficult. Specific origin must be known to meet the evidentiary level required to issue an infringement.

6. The draft Local Law would be made under the provisions of the *Local Government Act 1995*. This Act allows for modified penalties, making available the practical enforcement option currently unavailable to Shire Officers, with the intention that builders will respond more quickly to Shire requests to provide bins and maintain litter and sand drift control.
7. It is proposed that the local law below be adopted through the following process; in accordance with Section 3.12 of the Local Government Act (1995).
 - (i) The summary of the purpose and effect of the proposed local law be given at the next Council meeting.
 - (ii) State wide public notice, of the proposal summarising the purpose and effect of the proposed local law.
 - (iii) A copy of the state wide public notice and the proposed local law be sent to the Minister for Local Government.
 - (iv) Following a period of at least six weeks from the date of the public notice, all submissions made are to be considered and a report provided to Council.
 - (v) Council to consider and make the proposed local law.

LOCAL GOVERNMENT ACT 1995

SHIRE OF KALAMUNDA

SAND DRIFT AND LITTER CONTROL LOCAL LAW 2006

Under the powers conferred by the Local Government Act 1995 and by all other powers, the Local Government of the Shire of Kalamunda resolved to make the following Local Law on the --day of ---2006.

CONTENTS

PART 1 - PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and intent
- 1.4 Application of local law
- 1.5 Definitions

PART 2 - SAND DRIFT AND LITTER CONTROL

- 2.1 Wind blown sand
- 2.2 Litter control on building sites

PART 3 - PENALTIES

- 3.1 Offences
- 3.2 Infringement and infringement withdrawal notices
- 3.3 Offence description and modified penalty
- 3.4 Prosecution for offences
- 3.5 Records to be kept

SCHEDULE 1 – OFFENCES AND MODIFIED PENALTIES

PART 1 - PRELIMINARY

1.1 Title

This local law may be referred to as the Shire of Kalamunda Sand Drift and Litter Control Local Law 2006.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the Gazette.

1.3 Purpose and intent

(1) The purpose of this local law is to provide for the regulation, control and management of sand drift, rubbish and litter control, on building sites and subdivisions on private property within the district so as to protect the amenity of the area.

(2) The effect of this local law is to establish the requirements relating to sand drift, rubbish and litter control on building sites and subdivisions on private property within the district.

1.4 Application of local law

This local law applies throughout the district.

1.5 Definitions

In this local law unless the context requires otherwise:

“Act” means the Local Government Act 1995;

“district” means the district of the Shire of Kalamunda;

“land” means land in the district and includes houses, buildings, building and subdivision works, and structures, in or upon the land;

“litter” includes:

(a) all kinds of rubbish, refuse, junk, garbage or scrap: and

(b) any article or material abandoned or unwanted by the person or owner last in possession thereof;

“local government” means the Shire of Kalamunda;

“Manager Health Service” means an Environmental Health Officer appointed by the local government to the office of Manager Health Service and includes an Acting Manager Health Service.

“person” means any person, company, employer and includes the owner, occupier and licensee.

“private property” means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

"site" means land in the district upon which building construction or subdivision development is occurring;

"soil" includes sand, limestone, dust, rock, clay and mulch;

PART 2 –SAND DRIFT AND LITTER CONTROL

2.1 Wind blown sand

No person shall allow any land in the district to be kept in such a condition, during building or subdivision works so as to allow soil or dust to be released or escape whether by means of wind, water or other causes, from that land onto adjoining or nearby land.

2.2 Litter control on building sites

(1) No person, owner or occupier shall allow or commence or continue the construction of any building works on any land, unless one of the following measures is implemented to prevent building litter or rubbish of any kind whatsoever from being blown from the building site:

(a) provide a receptacle of a capacity not less than 4m³ on the site for the disposal of all litter; or

(b) provide an equivalent wire enclosure on site with a lid for the disposal of all litter; or

(c) provide a container approved by the Manager Health Service for the disposal of all litter.

(2) All litter which is capable of being wind blown and other offensive matter on the building site is to be placed and kept secure in the receptacle or enclosure or approved container.

(3) The lid is to be kept secure on the receptacle at all times.

PART 3 - PENALTIES

3.1 Offences

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

3.2 Infringement and infringement withdrawal notices

For the purposes of this local law:

(a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the Local Government (Functions and General) Regulations 1996; and

(b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the Local Government (Functions and General) Regulations 1996.

3.3 Offence description and modified penalty

The amount appearing in the final column of the First Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

3.4 Prosecution for offences

A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a court of petty sessions.

3.5 Records to be kept

The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

SAND DRIFT AND LITTER CONTROL LOCAL LAW 2006

FIRST SCHEDULE

Offences and Modified Penalties

Clause	Nature of Offence Modified	Penalty \$
2.1	<i>Failure to prevent soil or dust from being released or escaping from the site</i>	200
2.2(1)	<i>Failure to provide a suitable litter receptacle or enclosure or approved container on a building site</i>	400
2.2(2)	<i>Failure to keep wind blown building litter in receptacle or enclosure or approved container</i>	400

Dated this –day of ----2006

The common seal of the Shire of Kalamunda
was affixed in the presence of:

E Taylor JP
Shire President

D E Vaughan
Chief Executive Officer

COMMITTEE RECOMMENDATION TO COUNCIL**GS 66/2006**

1. That Council resolves to give statewide public notice of its intention to make a Local Law relating to Sand Drift and Litter Control as stated below and invite comment pursuant to Section 3.12 of the Local Government Act 1995.

LOCAL GOVERNMENT ACT 1995**SHIRE OF KALAMUNDA****SAND DRIFT AND LITTER CONTROL LOCAL LAW 2006**

Under the powers conferred by the Local Government Act 1995 and by all other powers, the Local Government of the Shire of Kalamunda resolved to make the following Local Law on the --day of ---2006.

CONTENTS**PART 1 - PRELIMINARY**

- 1.1 Title
- 1.2 Commencement
- 1.3 Purpose and intent
- 1.4 Application of local law
- 1.5 Definitions

PART 2 - SAND DRIFT AND LITTER CONTROL

- 2.1 Wind blown sand
- 2.2 Litter control on building sites

PART 3 - PENALTIES

- 3.1 Offences
- 3.2 Infringement and infringement withdrawal notices
- 3.3 Offence description and modified penalty
- 3.4 Prosecution for offences
- 3.5 Records to be kept

SCHEDULE 1 – OFFENCES AND MODIFIED PENALTIES**PART 1 - PRELIMINARY****1.1 Title**

This local law may be referred to as the Shire of Kalamunda Sand Drift and Litter Control Local Law 2006.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the Gazette.

1.3 Purpose and intent

(1) The purpose of this local law is to provide for the regulation, control and management of sand drift, rubbish and litter control, on building sites and subdivisions on private property within the district so as to protect the amenity of the area.

(2) The effect of this local law is to establish the requirements relating to sand drift, rubbish and litter control on building sites and subdivisions on private property within the district.

1.4 Application of local law

This local law applies throughout the district.

1.5 Definitions

In this local law unless the context requires otherwise:

"Act" means the Local Government Act 1995;

"district" means the district of the Shire of Kalamunda;

"land" means land in the district and includes houses, buildings, works, and structures, in or upon the land;

"litter" includes:

(c) all kinds of rubbish, refuse, junk, garbage or scrap: and

(d) any article or material abandoned or unwanted by the person or owner last in possession thereof;

"local government" means the Shire of Kalamunda;

"Manager Health Service" means an Environmental Health Officer appointed by the local government to the office of Manager Health Service and includes an Acting Manager Health Service.

"person" means any person, company, employer and includes the owner, occupier and licensee.

"private property" means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

"site" means land in the district upon which building construction or subdivision development is occurring

"soil" includes sand, limestone, dust, rock, clay and mulch;

PART 2 –SAND DRIFT AND LITTER CONTROL

2.1 Wind blown sand

No person shall allow any land in the district to be kept in such a condition, during building and/or subdivision works so as to allow soil or dust to be released or escape whether by means of wind, water or other causes, from that land onto adjoining or nearby land.

2.2 Litter control on building sites

(1) No person, owner or occupier shall allow or commence or continue the construction of any building works on any land, unless one of the following measures is implemented

to prevent building litter or rubbish of any kind whatsoever from being blown from the building site:

(a) provide a receptacle of a capacity not less than 4m³ on site for the disposal of all litter; or

(b) provide an equivalent wire enclosure on site with a lid for the disposal of all litter; or

(c) provide a container approved by the Manager Health Service, on site for the disposal of all litter.

(2) All litter which is capable of being wind blown and other offensive matter on the building site is to be placed and kept secure in the receptacle.

(3) The lid is to be kept secure on the receptacle at all times.

PART 3 - PENALTIES

3.1 Offences

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

3.2 Infringement and infringement withdrawal notices

For the purposes of this local law:

(a) the form of the infringement notice referred to in section 9.17 of the Act is form 2 in the First Schedule of the Local Government (Functions and General) Regulations 1996; and

(b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is form 3 in the First Schedule of the Local Government (Functions and General) Regulations 1996.

3.3 Offence description and modified penalty

The amount appearing in the final column of the First Schedule directly opposite an offence described in that Schedule is the modified penalty for that offence.

3.4 Prosecution for offences

A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in a court of petty sessions.

3.5 Records to be kept

The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.

SAND DRIFT AND LITTER CONTROL LOCAL LAW 2006**FIRST SCHEDULE****Offences and Modified Penalties**

Clause	Nature of Offence Modified	Penalty \$
2.1	<i>Failure to prevent soil or dust from being released or escaping from the site</i>	200
2.2(1)	<i>Failure to provide a suitable litter receptacle or enclosure or approved container on a building site</i>	400
2.2(2)	<i>Failure to keep wind blown building litter in receptacle or enclosure or approved container</i>	400

Dated this –day of ----2006

The common seal of the Shire of Kalamunda
was affixed in the presence of:

E Taylor JP
Shire President

D E Vaughan
Chief Executive Officer

Moved Cr Taylor

Seconded Cr McKechnie

CARRIED UNANIMOUSLY

