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Shire of Kalamunda

# General Services Committee

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Minutes for 7 May 2007



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## SHIRE OF KALAMUNDA

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Minutes of General Services Committee  
Held in the Council Chambers  
2 Railway Road, Kalamunda  
Monday 7 May 2007

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1.0 OFFICIAL OPENING

- 1.1 The Chairman opened the Meeting at 7:01pm and welcomed Councillors staff and members of the public gallery.

2.0 APOLOGIES AND LEAVE OF ABSENCE

2.1 PRESENT

**Councillors**

E Taylor	(SHIRE PRESIDENT) NORTH WARD
S Blair	NORTH WARD
N Sadler	(CHAIRPERSON) SOUTH WEST WARD
D Sadler	SOUTH WEST WARD
A Morton	SOUTH WEST WARD
P Tonkin	SOUTH WARD
J Giardina	SOUTH WARD
S Bilich	SOUTH WARD
M Casey	NORTH WEST WARD
M Cresswell	NORTH WEST WARD
J Winterhalder	EAST WARD

**Officials**

M Singh	ACTING CHIEF EXECUTIVE OFFICER
N Wilson	EXECUTIVE MANAGER CORPORATE SERVICES
K O'Connor	EXECUTIVE MANAGER COMMUNITY SERVICES
R O'Brien	EXECUTIVE MANAGER PLANNING & DEV SERVICES
D Elkins	A/EXECUTIVE MANAGER ENGINEERING SERVICES
B Millan	EXECUTIVE ASSISTANT
S Leeson	MANAGER FINANCIAL SERVICE
T Hockley	ACTING MANAGER LIBRARY SERVICE
J Smith	MANAGER HEALTH SERVICE
D McPherson	MINUTE SECRETARY

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**Apologies**

D McKechnie  
D Vaughan

NORTH WARD  
CHIEF EXECUTIVE OFFICER

**Observers**

9

**Newspapers**

2

**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.

3.1 Nil.

**4.0 PETITIONS**

4.1 Nil.

**5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

5.1 That a correction to the Minutes in Item 25 Committee Recommendation to Council point 2 should read "That the Method of Conducting the 2007 Ordinary **Elections** for the Shire of Kalamunda be as postal election".

5.2 That following correction the Minutes of the General Services Committee Meeting held on 2 April 2007 is confirmed as a true and correct record of the proceedings.

Moved: Cr Taylor

Seconded: Cr Casey

**CARRIED UNANIMOUSLY****6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

6.1 Nil.

**7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

7.1 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).

### 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.

## 9.0 REPORT TO COUNCIL

### **Please Note:**

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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47	Eucalyptus Tree at 41 Palmer Crescent, High Wycombe .....	45

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

### **31. Financial Activity Statements for the Period Ending 31 March 2007**

Previous Items: Nil  
Service Area: Corporate Services  
File Reference: FI-SRR-006  
Applicant: N/A  
Owner: N/A

#### **PURPOSE**

1. To receive financial activity statements.

#### **BACKGROUND**

2. Attached are the financial activity statement reports for the period ending 31 March 2007 ([\*Attachment 1\*](#)) prepared in accordance with the requirements of Section 34 of the Local Government (Financial Management) Regulations 1996.
3. It is also a requirement of this regulation that each financial year a local government is to adopt a percentage or value to be used in statements of financial activity for reporting material variances.

#### **COMMENTS**

4. It has been agreed a percentage value of 10% variance be adopted for the 2006/2007 Financial Activity Statement. This amount is in accordance with the materiality provisions of Australian Accounting Standards (Refer AAS5) which is also set at 10%.
5. Refer [\*Attachment 1\*](#) for comments relating to the above mentioned variances.

#### **POLICY IMPLICATIONS**

6. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

7. Nil.

#### **STATUTORY AND LEGAL IMPLICATIONS**

8. Nil.

**FINANCIAL IMPLICATIONS**

9. Nil.

**STRATEGIC IMPLICATIONS**

10. Nil.

**OFFICER COMMENT**

11. Nil.

**MEETING COMMENT**

12. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL      GS 31/2007**

1. That the Financial Activity Statement report for the period ending 31 March 2007 ([Attachment 1](#)) be received.

Moved: Cr Taylor

Seconded: Cr Winterhalder

**CARRIED UNANIMOUSLY**

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

### **32. Creditors Accounts Paid for April 2007**

Previous Items: Nil  
Service Area: Corporate Services  
File Reference: FI-CRS-002  
Applicant: N/A  
Owner: N/A

#### **PURPOSE**

1. To receive creditors' accounts paid for the month of April 2007.

#### **BACKGROUND**

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

#### **DETAILS**

4. Accordingly, the list of Creditors' paid for April 2007 is attached. ([Attachment 1](#))

#### **POLICY IMPLICATIONS**

5. Nil

#### **PUBLIC CONSULTATION/COMMUNICATION**

6. Nil

#### **STATUTORY AND LEGAL IMPLICATIONS**

7. Nil.

#### **FINANCIAL IMPLICATIONS**

8. Nil.

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**STRATEGIC IMPLICATIONS**

9. Nil.

**OFFICER COMMENT**

10. Nil.

**MEETING COMMENT**

11. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL      GS 32/2007**

1. That the list of Creditors' Paid by Shire of Kalamunda for April 2007 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 Taylor

Seconded: Cr D Sadler

**CARRIED UNANIMOUSLY**

### 33. Budget 2006/2007 Mid Year Review

Previous Items: Nil  
 Service Area: Corporate Services  
 File Reference: FI-BUD-001  
 Applicant: N/A  
 Owner: N/A

#### PURPOSE

1. To apprise Council of the estimated unrestricted cash position of Council's Municipal Fund at the 30 June 2007.

#### BACKGROUND

2. A review of the estimated position of unrestricted cash in Council's Municipal Fund at 30 June 2007 in comparison with the 2006/2007 Budget has been completed.

#### DETAILS

3. A summary of major variances as detailed in ([Attachment 1](#)) follows:

	\$
• Income in Excess of Budget	353,000
• Expenditure Under Budget	76,680
<i>Total</i>	<b>429,680</b>
<i>Less</i>	
• Income Under Budget	79,500
• Expenditure in Excess of Budget	345,100
Total Surplus (Deficit) Adjustment 2006/2007	<b>5,080</b>
<i>Less</i>	
• Capital Expenditure in Excess of Budget	4,000

4. The above indicates that if actual performance follows that predicted, Council will have an additional operational surplus at 30 June 2007 of \$5,080 and additional unrestricted cash of \$226,080 (adjusted for depreciation) in the Municipal Fund.

#### POLICY IMPLICATIONS

5. Nil.

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## **PUBLIC CONSULTATION/COMMUNICATION**

6. Nil.

## **STATUTORY AND LEGAL IMPLICATIONS**

7. Nil

## **FINANCIAL IMPLICATIONS**

8. Estimates project additional operational surplus funds at 30 June 2007 of \$5,080 and additional unrestricted cash of \$226,080.

## **STRATEGIC IMPLICATIONS**

9. Nil.

## **OFFICER COMMENT**

10. Nil.

## **MEETING COMMENT**

11. The Committee was advised that a correction was required on [Attachment 1](#). The heading **Budget 2005/2006** should read **Budget 2006/2007**.

## **COMMITTEE RECOMMENDATION TO COUNCIL           GS 33/2007**

1. That Council notes the estimated unrestricted cash adjustment in the Municipal Fund at 30 June 2007 of \$226,080.

Moved: Cr Blair

Seconded: Cr Taylor

## **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY**

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

### **34. Update of Policy CS 6.10 – Appointment as Deputy Chief Executive Officer**

Previous Items: Nil  
Service Area: Corporate Services  
File Reference: OR-OFC-008  
Applicant: N/A  
Owner: N/A

#### **PURPOSE**

1. Council Policy CS 6.10 appoints Executive Managers and the Chief Executive Officer's Executive Assistant as Deputy Chief Executive Officers for the sole purpose of satisfying the requirements of the Oaths, Affidavits and Statutory Declaration Act 2005 which allows such persons to be eligible to witness documents.

#### **BACKGROUND**

2. There have been personnel changes since the policy was last updated.

#### **DETAILS**

3. Accordingly, the policy needs to be updated to reflect current appointments and to provide a reasonable number of suitably qualified witnesses within the organisation. This is a frequently used service to customers.

#### **POLICY IMPLICATIONS**

4. That the Policy CS 6.10 be amended as follows:

That Kevin O'Connor, Mahesh Singh, Rory O'Brien, Neil Wilson and Barbara Millan be appointed as Deputy Chief Executive Officer within the meaning of the Local Government Act 1995 for the sole purpose of satisfying the requirements of the Oaths, Affidavits and Statutory Declaration Act 2005 which allows for the above persons to be eligible to witness documents.

#### **PUBLIC CONSULTATION/COMMUNICATION**

5. Nil

#### **STATUTORY AND LEGAL IMPLICATIONS**

6. Nil

#### **FINANCIAL IMPLICATIONS**

7. Nil.

**STRATEGIC IMPLICATIONS**

8. Nil.

**OFFICER COMMENT**

9. Nil.

**MEETING COMMENT**

10. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 34/2007**

1. That the Policy CS 6.10 be amended as follows:

That Kevin O'Connor, Mahesh Singh, Rory O'Brien, Neil Wilson and Barbara Millan be appointed as Deputy Chief Executive Officer within the meaning of the Local Government Act 1995 for the sole purpose of satisfying the requirements of the Oaths, Affidavits and Statutory Declaration Act 2005 which allows for the above persons to be eligible to witness documents.

Moved: Cr Casey

Seconded: Cr Bilich

**CARRIED UNANIMOUSLY**

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

### **35. 2007/2008 Budget Programme**

Previous Items: Nil  
Service Area: Corporate Services  
File Reference: FI-BUD-009  
Applicant: N/A  
Owner: N/A

#### **PURPOSE**

1. To consider the programme for the setting of the 2007/2008 Budget.

#### **BACKGROUND**

2. The setting of the Municipal Budget is one of the most significant decision making processes for Council to address on an annual basis. Accordingly, it is appropriate to consider strategies and procedures for setting the 2007/2008 Budget.

#### **DETAILS**

3. It is proposed to follow a programme similar to last year, albeit a little later to accommodate with Budget adoption being incorporated into the August Ordinary Council Meeting.

4. The following program is proposed:

##### Part (a)

- |            |  |
|------------|--|
| April 2007 | <ul style="list-style-type: none"><li>- Recurrent Operations Review (rolling programme).</li><li>- Commencement of period of Budget discussions regarding major issues priorities and strategies. Ensure alignment with Plan for the Future of the District.</li><li>- Closing date for Non-Recurrent submissions (4 May).</li></ul>   |
| May 2006   | <ul style="list-style-type: none"><li>- Distribution of Recurrent proformas to Executive Managers.</li><li>- Recurrent proformas to be completed by Executive Managers.</li><li>- Executive Management Committee consideration of 1st Draft Non-Recurrent proposals (commence prioritisation) -.14 May.</li><li>- Distribution of 1st Draft Non-Recurrent proposals to Councillors - 25 May.</li><li>- Executive Management Committee consideration of 1st Draft Recurrent proposals - 28 May.</li></ul> |

- 
- June 2006
- Distribution of 1st Draft Recurrent proposals to Councillors - 1 June.
  - Executive Management Committee consideration of 2nd Draft Non-Recurrent (prioritised) - 8 June.
  - Councillors Forum (to be confirmed).
  - Informal publicity period to continue progressively throughout the Budget programme.
  - Executive Management Committee consideration 2nd Draft Recurrent, 3rd Draft Non-Recurrent, Staff Establishment - 15 June/ 22 June.
5. The above programme (a) is for internal management purposes and may be subject to minor variation.

Part (b)

- Wednesday  
4 July 2007
- Councillors Forum. To consider 1st Draft composite Budget.
- Monday  
19 July 2007
- Ordinary Council Meeting to consider endorsement of Draft Budget for release for public comment.
- Monday  
Can be 23 or 30 July  
2007  
(favour 30 July)
- Commencement of 14 day public comment period.
  - Notices to be placed in local press advising that details of Budget proposals are available for inspection and inviting comment.
  - Specific advice forwarded to Community Groups providing a summary of Budget proposals and inviting comment.
- Monday  
6 or 13 August 2007  
(favour 13 August)
- Conclusion of public comment period.
- Monday 20 August  
2007
- Formal Adoption of 2007/2008 Budget incorporated in August Ordinary Council Meeting.
6. Part (b), the closing dates for public submissions and the Council timetable will be advertised in the local press to make the community aware of the proposed programme for the setting of the Budget.

Note: August Ordinary Council Meeting 20 August 2007.

## POLICY IMPLICATIONS

7. Nil.

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## **PUBLIC CONSULTATION/COMMUNICATION**

8. Nil.

## **STATUTORY AND LEGAL IMPLICATIONS**

9. Nil.

## **FINANCIAL IMPLICATIONS**

10. Nil

## **STRATEGIC IMPLICATIONS**

11. Nil.

## **OFFICER COMMENT**

12. Nil.

## **MEETING COMMENT**

13. The Committee was advised a Councillor Forum would be held on 22 May 2007.

## **COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 35/2007**

1. That the Council endorse a programme for the setting of the 2007/2008 Budget as follows:

Part (a)

- |            |   |
|------------|---|
| April 2007 | - Recurrent Operations Review (rolling programme).  |
|            | - Commencement of period of Budget discussions regarding major issues priorities and strategies. Ensure alignment with Plan for the Future of the District. |
|            | - Closing date for Non-Recurrent submissions (4 May).   |

- 
- |           |  |
|-----------|--|
| May 2007  | <ul style="list-style-type: none"> <li>- Distribution of Recurrent proformas to Executive Managers</li> <li>- Recurrent proformas to be completed by Executive Managers</li> <li>- Executive Management Committee consideration of 1st Draft Non-Recurrent proposals (commence prioritisation) - 14 May.</li> <li>- Distribution of 1st Draft Non-Recurrent proposals to Councillors - 25 May.</li> <li>- Executive Management Committee consideration of 1st Draft Recurrent proposals - 28 May.</li> </ul>                       |
| June 2007 | <ul style="list-style-type: none"> <li>- Distribution of 1st Draft Recurrent proposals to Councillors - 1 June.</li> <li>- Executive Management Committee consideration of 2nd Draft Non-Recurrent (prioritised) - 8 June.</li> <li>- Councillors Forum (to be confirmed).</li> <li>- Informal publicity period to continue progressively throughout the Budget programme.</li> <li>- Executive Management Committee consideration 2nd Draft Recurrent, 3rd Draft Non-Recurrent, Staff Establishment - 15 June/22 June.</li> </ul> |

The above programme (a) is for internal management purposes and may be subject to minor variation.

Part (b)

- |  |  |
|--|--|
| Wednesday<br>4 July 2007                                   | - Councillors Forum. To consider 1st Draft composite Budget.   |
| Monday<br>19 July 2007                                     | - Ordinary Council Meeting to consider endorsement of Draft Budget for release for public comment.   |
| Monday<br>Can be 23 or 30 July<br>2007<br>(favour 30 July) | <ul style="list-style-type: none"> <li>- Commencement of 14 day public comment period.</li> <li>- Notices to be placed in local press advising that details of Budget proposals are available for inspection and inviting comment.</li> <li>- Specific advice forwarded to Community Groups providing a summary of Budget proposals and inviting comment.</li> </ul> |

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Monday - Conclusion of public comment period  
6 or 13 August 2007  
(favour 13 August)

Monday 20 August - Formal Adoption of 2007/2008 Budget incorporated in  
2007 August Ordinary Council Meeting

Part (b), the closing dates for public submissions and the Council timetable will be advertised in the local press to make the community aware of the proposed programme for the setting of the Budget.

Note: August Ordinary Council Meeting 20 August 2007.

Moved: Cr Taylor

Seconded: Cr Casey

**CARRIED UNANIMOUSLY**

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

### 36. Summary Of Council And Committee Meetings And Important Dates And Events 2007/2008

Previous Items: Nil  
 Service Area: Corporate Services  
 File Reference: OR-MTG-006  
 Applicant: N/A  
 Owner: N/A

#### Purpose of Report

1. To endorse the schedule of meetings and important dates for the period June 2007 to May 2008.

#### Background

2. Council has previously agreed the Schedule of Ordinary Meetings be as follows:
  - First Monday of the Month - General Services Committee 7:00pm
  - Second Monday of the Month - Planning Services Committee 7:00pm
  - Third Monday of the Month - Ordinary Council Meeting 7:00pm
3. It is normal practice for a Citizenship Ceremony to be held on the second Wednesday of the month.
4. It is a requirement of the Local Government (Administration) Regulations 1996 (Regulation 12) that local public notice be given annually of Council and Committee meeting times, dates and places for the next 12 months.
5. Current Council policy determines that scheduled meeting dates that fall on a public holiday will move to the next available day.

#### Comments

6. Accordingly, following is the schedule of Council and Committee meetings for the period June 2007 to May 2008

<b>June</b>	<b>2007</b>	
Tuesday	5 .....	General Services Committee
Monday	11.....	Planning Services Committee
Monday	18.....	Ordinary Council Meeting
<b>July</b>		
Monday	2 .....	General Services Committee
Monday	9 .....	Planning Services Committee
Monday	16.....	Ordinary Council Meeting

**August**

Monday	6 .....	General Services Committee
Monday	13.....	Planning Services Committee
Monday	20.....	Ordinary Council Meeting

**September**

Monday	3 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**October**

Tuesday	2 .....	General Services Committee
Monday	8 .....	Planning Services Committee
Monday	15.....	Ordinary Council Meeting

**November**

Monday	5 .....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting

**December**

Monday	3 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**February 2008**

Monday	4 .....	General Services Committee
Monday	11.....	Planning Services Committee
Monday	18.....	Ordinary Council Meeting

**March**

Tuesday	4 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**April**

Monday	7 .....	General Services Committee
Tuesday	14.....	Planning Services Committee
Monday	21.....	Ordinary Council Meeting

**May**

Monday	5 .....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting

**POLICY IMPLICATIONS**

7. Nil.

**PUBLIC CONSULTATION/COMMUNICATION**

8. Nil.

**STATUTORY AND LEGAL IMPLICATIONS**

9. Nil.

**FINANCIAL IMPLICATIONS**

10. Nil

**STRATEGIC IMPLICATIONS**

11. Nil.

**OFFICER COMMENT**

12. Nil.

**MEETING COMMENT**

13. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL****GS 36/2007**

That the Schedule of Council and Committee meetings for 2007/2008 as detailed below be endorsed.

<b>June</b>	<b>2007</b>	
Tuesday	5 .....	General Services Committee
Monday	11.....	Planning Services Committee
Monday	18.....	Ordinary Council Meeting
<b>July</b>		
Monday	2 .....	General Services Committee
Monday	9 .....	Planning Services Committee
Monday	16.....	Ordinary Council Meeting

**August**

Monday	6 .....	General Services Committee
Monday	13.....	Planning Services Committee
Monday	20.....	Ordinary Council Meeting

**September**

Monday	3 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**October**

Tuesday	2 .....	General Services Committee
Monday	8 .....	Planning Services Committee
Monday	15.....	Ordinary Council Meeting

**November**

Monday	5 .....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting

**December**

Monday	3 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**February 2008**

Monday	4 .....	General Services Committee
Monday	11.....	Planning Services Committee
Monday	18.....	Ordinary Council Meeting

**March**

Tuesday	4 .....	General Services Committee
Monday	10.....	Planning Services Committee
Monday	17.....	Ordinary Council Meeting

**April**

Monday	7 .....	General Services Committee
Tuesday	14.....	Planning Services Committee
Monday	21.....	Ordinary Council Meeting

**May**

Monday	5 .....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting

Moved: Cr Morton

Seconded: Cr Blair

**CARRIED UNANIMOUSLY**

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

**37. Council Consideration of Rating of Aboriginal Land/Rating of Charitable Organisations**

Previous Items: N/A  
Service Area: Corporate Services  
File Reference:  
Applicant: N/A  
Owner: N/A

**PURPOSE**

1. To consider the rating of Aboriginal Land and Charitable Organisations.

**BACKGROUND**

2. The Shire has received an "Infopage" from Western Australian Local Government Association (WALGA) requesting Council consideration of the situation regarding a recent State Administrative Tribunal (SAT) determination. A copy of the Infopage is presented as [Attachment 1.](#)

**DETAILS**

3. Council can advise WALGA of its position in this matter and/or support the Shire of Derby-West Kimberley in their Supreme Court Appeal.

**POLICY IMPLICATIONS**

4. Nil.

**PUBLIC CONSULTATION/COMMUNICATION**

5. Nil.

**STATUTORY AND LEGAL IMPLICATIONS**

6. The Local Government Act in Section 6.26 (Rateable Land) addresses those instances where land is not rated. Section (g) refers to "Land used exclusively for charitable purposes".

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## **FINANCIAL IMPLICATIONS**

7. There would be a financial impact if the Shire of Kalamunda made a financial contribution to the Shire of Derby-West Kimberley.

## **STRATEGIC IMPLICATIONS**

8. There are strategic implications to the SAT determination in that it opens up the definition of a “clearly disadvantaged group” which may have wider application.

## **OFFICER COMMENT**

9. Whilst the issue of Pastoral Leases is not applicable to the Shire of Kalamunda the application of such a ruling to any commercial undertaking run for the benefit of a clearly disadvantaged group could well be. Such a situation if taken to extreme could see unfair advantage applied to groups trading in opposition to others on a commercial basis.
10. The other issue is cost shifting which is very applicable in this instance. If a Government through the Local Government Act forces the donation to any group of a benefit (i.e. no rates) it, the Government, should pay, not the people of the municipality through the Local Government.
11. The recent Hawker Report and the subsequent Inter Government Agreement addressed the issue of cost shifting and its control.

## **MEETING COMMENT**

12. Nil.

## **COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 37/2007**

1. That the Shire of Kalamunda write to the Minister for Local Government and Western Australian Local Government Association expressing concern over the State Administrative Tribunal determination believing that any expansion of the non rateable land provisions in the Local Government Act is further cost shifting.

Moved: Cr Tonkin

Seconded: Cr Taylor

## **CARRIED UNANIMOUSLY**

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

### **38. Disability Access and Inclusion Plan and Access and Inclusion Policy**

Previous Items: N/A  
Service Area: Community Services  
File Reference: HE-PUH-007  
Applicant: Shire of Kalamunda  
Owner: Shire of Kalamunda

#### **PURPOSE**

1. To consider endorsement of the Disability Access and Inclusion Plan, and adoption of the Access and Inclusion Policy, for the Shire of Kalamunda.

#### **BACKGROUND**

2. Under the Disability Services Act 1993 and Regulations 1994, the Shire of Kalamunda is required to review its current Disability Services Plan and replace it with a new version titled Disability Access and Inclusion Plan (DAIP); the revised plan is to be provided to the Disability Services Commission (DSC) by 1 July 2007. ([Attachment 1.](#))
3. The Access and Inclusion Policy forms part of the Disability Access and Inclusion Plan template provided by DSC and is considered a best practise document.

#### **DETAILS**

4. The Shire of Kalamunda Disability Access and Inclusion Plan has been developed with support from the DSC as well as feedback gained from consultation with the community.
5. The Shire of Kalamunda does not currently have an Access and Inclusion Policy; the purpose of the Access and Inclusion Policy is to:
  - State the Shire of Kalamunda's commitment to ensuring that the community is accessible for and inclusive of people with disabilities, their families and carers.

#### **POLICY IMPLICATIONS**

6. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

7. Public comment was invited through the local print media, Shire of Kalamunda website and local libraries for inclusion into the DAIP.

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**STATUTORY AND LEGAL IMPLICATIONS**

8. Part 5 of the Disabilities Services Act 1993, requires public authorities, (Western Australian State Government agencies and Local Government authorities) to develop and implement a Disability Access and Inclusion Plan in accordance with prescribed standards covering consultation, review and reporting.

**FINANCIAL IMPLICATIONS**

9. Actions from the Plan will have budget implications i.e. the Access Audit currently being conducted will require future budget considerations.

**STRATEGIC IMPLICATIONS**

10. Nil.

**OFFICER COMMENT**

11. The DAIP has been developed as a result of input from community consultation and the Disability Services Commission. The proposed DAIP Policy contains a number of outcomes and objectives that outlines Council's position and intention in relation to equitable access and inclusion for persons with disabilities, their families and carers.

**MEETING COMMENT**

12. The Committee requested clarification on aspects of the Disability Access and Inclusion Plan.

**COMMITTEE RECOMMENDATION TO COUNCIL****GS 38/2007**

1. That Council endorse the Disability Access and Inclusion Plan and adopt the Access and Inclusion Policy for the Shire of Kalamunda as attached.

Moved: Cr Taylor

Seconded: Cr Blair

**CARRIED UNANIMOUSLY**

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

### **39. Nominations For Membership – Disability Access And Inclusion Advisory Committee**

Previous Items: N/A  
Service Area: Community Services  
File Reference: CO-CCS-041/2  
Applicant: N/A  
Owner: N/A

#### **PURPOSE**

1. To consider nominations for membership to Council's Disability Access and Inclusion Advisory Committee.

#### **BACKGROUND**

2. The new Disability Access and Inclusion Plan (DAIP) to be considered by Council will include an outcome which states *'People with disabilities have the same opportunities as other people to participate in any public consultation by the Shire of Kalamunda'*.
3. In recognition of the above statement, and Council's recent decision to increase the membership of the Committee to allow a broader representation of persons with disabilities, nominations from the community were sought.
4. The Terms of Reference for the Disability Access and Inclusion Advisory Committee state that the membership shall comprise:

##### *Membership*

- *At least one Councillor*
- *The Chief Executive Officer, or his nominee*
- *Up to six members of the community who have a disability or who work with people with disabilities*

*The following disabilities would ideally be represented:*

- *Physical*
- *Sensory*
- *Psychological disability (carer or advocate)*
- *Intellectual disability (carer or advocate)*
- *Parent/carers of a child with a disability*
- *Youth with a disability*

*The term of appointment shall be up to two years; however retiring members are eligible for re-nomination*

## DETAILS

5. The objectives, as stated in the Terms of Reference, are listed below:
- The committee shall consider issues pertaining to the implementation of the DAIP.
  - Consider provision of services, facilities and programs for people with disabilities within the Shire of Kalamunda.
  - Consider issues relevant to access in the community as referred to it by Council.
  - Seek to identify any additional barriers not identified in the DAIP and advise Council accordingly.

## POLICY IMPLICATIONS

6. Nil

## PUBLIC CONSULTATION/COMMUNICATION

7. Requests for nominations were made through local print media, the Shire of Kalamunda website and community groups.

The following nominations were received:

<b>Name</b>	<b>Representing</b>
Henry Foreman	Intellectual disability (carer)
Kerry Gail Allan-Zinner	Physical
Michael Tucker	Disability Services Commission
Trish Carlton	Disability Services Commission
Matt Dixon	Parent of a child with a disability. Disability Services Commission.
Norma Hatchett	Parent of a child with a disability
Tom Fallon	Spouse with disability access issues
Carole Trivett	Physical
Carol Everett	Parent of a child with a disability
Peter Thorpe	Physical
Frances Epps	Physical
Christine Miller	Parent of a child with a disability
Katy Stephens	Intellectual as well as physical disability (carer)

## STATUTORY AND LEGAL IMPLICATIONS

8. Appointments are made in accordance with Section 5.10 (1) (d) of the Local Government Act 1995.

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**STRATEGIC IMPLICATIONS**

9. Nil

**OFFICER COMMENT**

10. As the Terms of Reference limit community membership to six representatives, not all nominees were successful. The main criterion used in determining suitable membership was that the nominees were local and represented a range of different disabilities.

**MEETING COMMENT**

11. The meeting discussed the nomination of Cr Nita Sadler.

**COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 39/2007**

1. That Council appoint the following persons as members of Council's Disability Access and Inclusion Advisory Committee:

Henry Foreman

Kerry Gail Allan-Zinner

Matt Dixon

Norma Hatchett

Peter Thorpe

Katy Stephens

2. That the following Council member be appointed to the Disability Access and Inclusion Advisory Committee:

Cr. Nita Sadler.

Moved: Cr Giardina

Seconded: Cr Taylor

**CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY**

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

**40. Proposed Street Name for a Strata Subdivision of Lot 14 Littlefield Road, High Wycombe.**

Previous Items: N/A  
Service Area: Planning and Development Services  
File Reference: 320-05  
Applicant: Pro Develop  
Owner: L Hislop

**PURPOSE**

1. To consider a street name for the strata subdivision of Lot 14 Littlefield Road, High Wycombe. Refer ([Attachment 1.](#)) for Locality Plan.

**BACKGROUND**

2. The WA Planning Commission approved the subdivision in October 2005.

**DETAILS**

3. The strata subdivision of the above lot requires one road name. The road in question is a private road and therefore does not have to be endorsed by the Geographic Names Committee (GNC) of Landgate. Nevertheless, GNC recommends that the usual guidelines for street naming be followed for the naming of private roads.
4. The developer proposed a name that will take into account the vicinity of Poison Gully-Gully Close.

**POLICY IMPLICATIONS**

5. Nil.

**PUBLIC CONSULTATION/COMMUNICATION**

6. Nil.

**STATUTORY AND LEGAL IMPLICATIONS**

7. Nil.

**FINANCIAL IMPLICATIONS**

8. Nil.

## **STRATEGIC IMPLICATIONS**

9. Nil.

## **OFFICER COMMENT**

10. The name Gully Close has been checked against the guidelines and recommendations of the GNC for road naming and complies.

## **MEETING COMMENT**

11. Nil.

## **OFFICER RECOMMENDATION**

**GS 40/2007**

1. That Council supports the street name of Gully Close for a private road within the strata subdivision of Lot 14 Littlefield Road, High Wycombe.

Moved: Cr Casey

Seconded: Cr Cresswell

**CARRIED UNANIMOUSLY**

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

#### **41. Proposed New Names for Parks of the Darling Range**

Previous Items: Nil  
Service Area: Planning & Development Services  
File Reference: PG-STU-006  
Applicant: Department of Environment and Conservation  
Owner: Crown Reserves

#### **PURPOSE**

1. To consider new names for Regional (mixed land managers) and National (State managed) Parks in the Darling Range.

#### **BACKGROUND**

2. The Department of Environment and Conservation (DEC) is currently undertaking a naming process for four Regional and three National Parks in the Darling Range. The proposed boundaries for the new National Parks were released for public comment and the public were also invited to submit suggested names for the new parks. The Darling Range Community Advisory Committee has had significant input into the process and has been advising DEC on new names for the seven parks.

#### **DETAILS**

3. A map of the parks and their respective proposed names is shown in ([Attachment 1](#)). The proposed names are as follows;
  - Beeloo Regional Park – meaning river or stream
  - Karda-mia Regional Park – meaning Race Horse Goanna's home
  - Waarlitch National Park – meaning eagle
  - Culbardie National Park – meaning magpie
4. The proposed names are Aboriginal terms recognising Noongar groups that were prominent in the Darling Range area around the time of European settlement as well as the fauna of the Darling Range.
5. The Karda-mia, Beeloo, Waarlitch and Culbardie Parks fall partially or wholly within the Shire of Kalamunda.

#### **POLICY IMPLICATIONS**

6. Nil

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**PUBLIC CONSULTATION/COMMUNICATION**

7. Public consultation was undertaken by DEC via the Darling Range Community Advisory Committee.

**STATUTORY AND LEGAL IMPLICATIONS**

8. Nil

**FINANCIAL IMPLICATIONS**

9. Nil

**STRATEGIC IMPLICATIONS**

10. Nil

**OFFICER COMMENT**

11. Once DEC's consultation program has been finalised and a series of names have been agreed upon, they will be forwarded to the Geographical Names Committee for approval.

**MEETING COMMENT**

12. The Committee discussed the benefits and implications of the name changes.

**COMMITTEE RECOMMENDATION TO COUNCIL****GS 41/2007**

1. That Council supports the names of Karda-mia Regional Park, Beeloo Regional Park, Waarlitch National Park and Culbardie National Park for the Parks partially or wholly within the boundaries of the Shire of Kalamunda and requests that the Geographic Names Committee approve the names.

Moved: Cr Tonkin

Seconded: Cr Giardina

**For the Recommendation**

Cr Bilich  
Cr Giardina  
Cr Tonkin  
Cr Morton  
Cr Casey  
Cr Cresswell  
Cr Taylor  
Cr Blair  
Cr N Sadler

**Against the Recommendation**

Cr D Sadler  
Cr Winterhalder

**CARRIED**

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

#### **42. Management Order over Reserve 33453 ( 107) Spring Road, Kalamunda**

Previous Items: N/A  
Service Area: Planning and Development Services  
File Reference: SP-03/107  
Applicant: Department for Planning and Infrastructure  
Owner: The Crown

#### **PURPOSE**

1. To consider a request from the Department for Planning and Infrastructure (DPI) for the Shire of Kalamunda to accept a Management Order to take care and control over the reserve for 'Public Recreation' located on Spring Road, Kalamunda. Refer ([Attachment 1](#)) for a Locality Plan.

#### **BACKGROUND**

2. A routine request has been made by the DPI for the Shire of Kalamunda to accept a Management Order over the reserved land.
3. Reserve 33453 has an area of 4,441m<sup>2</sup>. The reserve is located on vegetated steep land opposite a National Park.
4. The reserve has no firebreaks and requires a fuel reduction burn especially at the front of the block.

#### **POLICY IMPLICATIONS**

5. Nil

#### **PUBLIC CONSULTATION/COMMUNICATION**

6. Nil

#### **STATUTORY AND LEGAL IMPLICATIONS**

7. The land was ceded to the Crown for the purpose of 'Public Recreation' as a condition of subdivision in terms of Section 152 of the Planning and Development Act. The land is not reserved under Town Planning Scheme No 3 and is zoned Residential R5.

#### **FINANCIAL IMPLICATIONS**

8. In line with definition of maintenance works for a category 4 reserve, the costs are anticipated to be in order of \$2,000 per annum.

## **STRATEGIC IMPLICATIONS**

9. Taking on a Management Order over the above reserve will allow the Shire of Kalamunda an opportunity to protect the interest of the Shire's residents by preserving the reserve land in perpetuity.

## **OFFICER COMMENT**

10. It is recommended that the Management Order be accepted subject to firebreaks being constructed and a fuel reduction burn being completed prior to the handover of the reserve.

## **MEETING COMMENT**

11. Nil.

## **OFFICER RECOMMENDATION**

**GS 42/2007**

1. That Council agrees to accept a Management Order over Reserve 33453 (107) Spring Road, Kalamunda, subject to firebreaks being constructed and a fuel reduction being completed prior to the handover of the reserve and that the Department for Planning and Infrastructure be advised accordingly.

Moved: Cr Taylor

Seconded: Cr Tonkin

**CARRIED UNANIMOUSLY**

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

**43. Relinquishment of Management Order over Lots 8228 and 9090 (Reserve 28735) Gooseberry Hill**

Previous Items: N/A  
Service Area: Planning and Development Services  
File Reference: KL-01/039 RES  
Applicant: Western Australian Planning Commission (WAPC)  
Owner: WAPC

**PURPOSE**

1. To consider a request by the Western Australian Planning Commission (WAPC) to relinquish a Management Order over lots 8228 and 9090 Kalamatta Way Gooseberry Hill, from Reserve 28735 in order for them to be amalgamated into Class A Reserve 30200.

**BACKGROUND**

2. Reserve 28735 consists of three lots- Lot 8228, adjoining Lot 9090 and Lot 8227 with a total area of 2.6860 ha. The purpose of the reserve is 'Public Recreation'.

**DETAILS**

3. The area of land shown outlined on ([Attachment 1.](#)) is reserved for Parks and Recreation purposes in the Metropolitan Regional Scheme and is currently part of the Darling Range Regional Park. The area includes Lots 8228 and 9090 from Reserve 28735 currently managed by the Shire of Kalamunda.
4. The WAPC owns the majority of the land and is now in a position to include Lots 8228 and 9090 into the regional park with a Management Order issued in favour of the Conservation Commission of WA (part of the Department of Environment and Conservation).
5. In order to facilitate a transfer of the Lots to the State Council needs to relinquish the Management Order over the portions of the reserve in question.

**POLICY IMPLICATIONS**

6. Nil

**PUBLIC CONSULTATION/COMMUNICATION**

7. Nil

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**STATUTORY AND LEGAL IMPLICATIONS**

8. Should Council decide to relinquish the Management Order the responsibility for the lots would go to the Conservation Commission of WA (DEC) for management.

**FINANCIAL IMPLICATIONS**

9. Nil

**STRATEGIC IMPLICATIONS**

10. Nil

**OFFICER COMMENT**

11. The vegetation on Lots 8228 and 9090 comprises Darling Scarp Complex (which is locally uncommon) and should be retained for conservation. Amalgamation into the regional park under management of the Conservation Commission would protect the vegetation. Amalgamating the reserves would facilitate more appropriate management.

**MEETING COMMENT**

12. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL****GS 43/2007**

1. That Council agrees to relinquish the Management Order over Lots 8228 and 9090 (Reserve 28735) Gooseberry Hill and that the WAPC be advised accordingly.
2. That Council agrees that Reserve 28735, now comprising only Lot 8227, will continue to be under the care and control of the Shire of Kalamunda.

Moved: Cr Blair

Seconded: Cr Taylor

**CARRIED UNANIMOUSLY**

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

#### **44. Tender for the Supply & Delivery of 50kW Tractor – T0702**

Previous Items: Nil.  
Service Area: Engineering Services  
File Reference: AD-TEN-004  
Applicant:  
Owner:

#### **PURPOSE**

1. To consider Tenders for the 'Supply and Delivery of 50kW Tractor'.

#### **BACKGROUND**

2. Tender T0702 for the Supply and Delivery of 50kW Tractor, closed on 5 April 2007. The Tender called for the supply of a 50kW tractor and the trade-in of an existing 50kW tractor.

#### **DETAILS**

3. A total of ten tenders were received from five different suppliers. A summary of the tractors offered, along with the identity of the suppliers, is included at ([\*Attachment 1.\*](#)). The lowest tendered net changeover price, of \$25,729, is for a Kubota M7040FC tractor supplied by Boya Equipment. The next lowest tender was provided by CJD Equipment, with a net changeover price of \$28,245.

#### **POLICY IMPLICATIONS**

4. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

5. The tender process requires advertising to the general public. The tender was advertised in The West Australian and on the Shire of Kalamunda website.

#### **STATUTORY AND LEGAL IMPLICATIONS**

6. Local Government Act and applicable regulations.

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## **FINANCIAL IMPLICATIONS**

7. The purchase replacement of 50kW tractor was included in the 2006-07 financial year budget, within the plant replacement allocation. The estimated changeover cost, allowed for within the plant allocation, was \$35,000.

## **STRATEGIC IMPLICATIONS**

8. Nil.

## **OFFICER COMMENT**

9. The Shire already has Kubota equipment within the fleet and is satisfied with the reliability and serviceability of the equipment. The tendered tractor complies with all the requirements of the tender and has a warranty period exceeding the requirement of the tender specification, being 3 years.
10. In view of the low tendered price, and the satisfactory performance of other Kubota equipment within the Shire fleet, it is recommended that Council accept the Boya Equipment Tender, T0702, for the Supply and Delivery of 50kW Tractor, at a net changeover price of \$25,729.

## **MEETING COMMENT**

11. Nil.

## **COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 44/2007**

1. That the Tender for the Supply and Delivery of 50kW Tractor, submitted by Boya Equipment for a Kubota M7040FC, be accepted at the net changeover price of \$25,729.

Moved: Cr Casey

Seconded: Cr Cresswell

**CARRIED UNANIMOUSLY**

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

#### **45. Road Closure - Orangedale Road, Lesmurdie**

Previous Items: GS 123/2006  
Service Area: Engineering Services  
File Reference: OR-02/GEN  
Applicant: AA Wilkie Consulting Engineers  
Owner:

#### **PURPOSE**

1. To re-consider an application to permanently close a portion of Orangedale Road Lesmurdie, under Section 58 of the Land Administration Act 1997, to facilitate the subdivision of Lot 2 (19) Orangedale Road, in line with the adopted Outline Development Plan (ODP), shown at ([Attachment 1.](#))

#### **BACKGROUND**

2. The road reserve at Lot 2 (19) Orangedale Road Lesmurdie, together with Canning Road and Pomeroy Road, forms part of the boundary of the ODP for Canning Location 311. The ODP was adopted by Council in November 1980, which was subsequently endorsed in 1981, by the then Town Planning Board.
3. The applicant is acting on behalf of the owners of Lot 2 (19) Orangedale Road, who are intending to subdivide the land in the near future. As part of the adopted ODP for Canning Location 311, a lot configuration was approved showing the road being closed and the land area being partially incorporated into the future subdivisional lots and into the future subdivisional road reserve of Fasolo Close.
4. At the December 2006 Ordinary Council Meeting, Council adopted the following Resolution;
  1. *That action be initiated under Section 58 of the Land Administration Act 1997 to close the section of Orangedale Road shown at (Attachment 2.).*
  2. *That should no objection be received, the Minister for Lands be requested to close the road.*
  3. *That the Minister for Land be indemnified against any liability arising from the road closure.*

#### **DETAILS**

5. Approximately 30% of the subject land is vegetated. The future subdivision may result in the loss of the majority of this vegetation.
6. A notice of the road closure was advertised, providing a 35 day submission period. Ten objections were received. The common theme is an objection to the potential loss of mature vegetation.

**POLICY IMPLICATIONS**

7. Permanent road closures are effected under Section 58 of the Land Administration Act 1997.

**PUBLIC CONSULTATION/COMMUNICATION**

8. Community consultation was carried out in accordance with Section 58 of the Land Administration Act 1997 and associated regulations.

**STATUTORY AND LEGAL IMPLICATIONS**

9. Nil.

**FINANCIAL IMPLICATIONS**

10. Nil.

**STRATEGIC IMPLICATIONS**

11. Nil.

**OFFICER COMMENT**

12. Maintaining the subject section of road reserve will enhance the ability for the Shire to control clearing of these trees. However, even with control of this land it is likely that some trees will be removed during the construction of a new road required to facilitate the subdivision.
13. It is possible to control some vegetation clearing through subdivision conditions, however, this option is considered inferior as it will ultimately place these trees on private property, which may allow their gradual removal by future owners.
14. The Shire does not receive any financial benefit when a section of road reserve is closed. The reduction of road reserve ultimately reduces the total area to be maintained by the Shire, however, this benefit is considered marginal. It is recommended that the request to close a portion of Orangedale Road Lesmurdie, not be supported.

**MEETING COMMENT**

15. A representative of the owner of the adjoining property spoke in opposition to the recommendation.
16. A resident spoke in support of the recommendation.

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**COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 45/2007**

1. That the request to close a portion of Orangedale Road Lesmurdie, adjacent to the proposed subdivision of Lot 2 (19) Orangedale Road, not be supported.

Moved: Cr Taylor

Seconded: Cr Cresswell

**For the Recommendation**

Cr Bilich  
Cr Tonkin  
Cr Morton  
Cr D Sadler  
Cr Casey  
Cr Cresswell  
Cr Taylor  
Cr Blair  
Cr N Sadler

**Against the Recommendation**

Cr Giardina  
Cr Winterhalder

**CARRIED**

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#### **46. Temporary Road Closure – Sala Road, Pickering Brook**

Previous Items: N/A  
Service Area: Engineering Services  
File Reference: SL-02/GEN  
Applicant: Mr & Mrs M Sala-Tenna  
Owner:

##### **PURPOSE**

1. To consider a request for the temporary road closure of Sala Road, Pickering Brook, under Section 3.50 of the Local Government Act, as shown at [\*\(Attachment 1.\)\*](#).

##### **BACKGROUND**

2. Mr & Mrs M Sala-Tenna own 20 Sala Road, Pickering Brook, from which they operate a business.
3. Sala Road was previously constructed as a gravel road by the Shire to provide access to a number of gravel pits. This use has not existed for some time, and Sala Road's purpose now is to provide access to the number 20 Sala Road.
4. Although the formal purpose of Sala Road is to provide access to single property, the road is commonly used by recreational vehicles, which creates a noise and dust nuisance to the owner.

##### **DETAILS**

5. The property owner has requested Sala Road to be closed and incorporated into their property as a driveway. An alternative to the full closure of Sala Road is the installation of a gate by the property owner, facilitated through the Temporary Road Closure process.
6. Sala Road provides access to the adjacent bush for fire fighting purposes.

##### **POLICY IMPLICATIONS**

7. The road closure is to be effected under Section 3.50 of the Local Government Act.

##### **PUBLIC CONSULTATION/COMMUNICATION**

8. The requirements of Section 3.50 of the Local Government Act and associated regulations will be used as the basis for public consultation.

##### **STATUTORY AND LEGAL IMPLICATIONS**

9. Nil.

**FINANCIAL IMPLICATIONS**

10. Nil.

**STRATEGIC IMPLICATIONS**

11. Nil.

**OFFICER COMMENT**

12. The installation of a gate is considered advantageous over a permanent closure, as it provides the desired control of use to the owner, whilst maintaining access for fire fighting purposes. It is recommended that approval to install a gate is granted, on the basis that the property owner is responsible for the installation, maintains the road and that a Shire and Department of Environment and Conservation lock is installed on the gate to allow access for fire fighting purposes.
13. The subject land is surplus to current and future requirements for the road network.

**MEETING COMMENT**

14. Nil.

**COMMITTEE RECOMMENDATION TO COUNCIL                      GS 46/2007**

1. That the temporary road closure of Sala Road be advertised, in accordance with the provisions of Section 3.50 of the Local Government Act, as shown ([\*Attachment 1.\*](#)).
2. That in the event there are no objections, a notice temporarily closing Sala Road be advertised in a paper which circulates in the district in accordance with Section 3.50 of the Local Government Act, and the owners be permitted to install a gate accordingly.

Moved: Cr Winterhalder

Seconded: Cr D Sadler

**CARRIED UNANIMOUSLY**

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

#### **47. Eucalyptus Tree at 41 Palmer Crescent, High Wycombe**

Previous Items: GS-48/2006  
Service Area: Engineering Services  
File Reference: PL-03/041  
Applicant: Ms Adele Miles  
Owner: Mr & Mrs Miller-Smith

#### **PURPOSE**

1. To consider issuing a Notice under Section 3.25 of the Local Government Act 1995 (the Act) to the owners of 41 Palmer Crescent, to make safe the Eucalyptus tree at the rear of their property.

#### **BACKGROUND**

2. The Local Government Act empowers Local Governments to issue notices to owners/occupiers of private land requiring them to do certain things on their land including making trees safe.
3. Based upon the information provided by Legal Aid, the Shire developed a 'fact sheet' to assist residents in dealing with trees on neighbouring properties, which encroach or cause damage to their property. The 'fact sheet' also outlined the Shire's powers under the Act and suggested to residents they contact the Shire, if the owner of the offending tree does not respond to their reasonable request.
4. Whilst the intent of the 'fact sheet' was to assist the residents to resolve their dispute through a mutual agreement, the Applicant believes that the Shire must issue a Notice to remove the tree, as they have followed the procedure outlined in the fact sheet to resolve the dispute.
5. The Applicant also asked a number of questions relating to Shire processes and obligations in respect to dangerous trees at the March and April Ordinary Council Meetings. The answers to these questions at the March meeting have been provided to the applicant in writing, whilst the answers for the April meeting will be provided in due course.

#### **DETAILS**

6. In February 2007 Mr Menamin and Ms Miles, the residents of 39 Palmer Crescent, on forming the opinion that their neighbour's tree was unsafe, requested the Shire have their neighbour remove the tree.
7. On inspection by staff it was considered the tree did not pose an immediate threat, however, it was noted that there had been some previous branch fall from the tree and several branches extending over the fence-line may require pruning.

8. Following the inspection the applicants were advised that the matter would be best resolved between the two neighbours, as the tree is located on private property. They were made aware of the advice provided by Legal Aid in respect to their rights to remove the offending branches. They were also advised that the Shire does not take lightly the issuing of notices and were requested to provide a report from a qualified Arboriculture Consultant.
9. The applicant provided Arboriculture Consultants report, which was received on 29 March 2007. The report indicated that although the tree structure was in sound condition, some branches have the emergence of epicormic growth. Accordingly the report concluded that the tree poses an imminent danger and recommended that it should be felled at ground level. A copy of the Arboriculture Consultant's report appears at ([Attachment 1.](#))
10. The Shire forwarded a copy of the Arboriculture Consultant's report to the owners of 41 Palmer Crescent, Mr & Mrs Miller-Smith, and requested they provide a time table for the removal of the tree.
11. In response Mr and Mrs Miller-Smith, forwarded the following e-mail from the same Arboriculture Consultant engaged by the applicant:

*"Although it would be advisable to remove the tree, due to future ongoing maintenance, it is feasible to comply with the dangerous trees act, by substantially reducing the main apical limb that extends over into yours and your neighbours property and to remove the lateral limbs which extend over into 39 Palmer."*

12. On the basis of the above recommendation from the Arboriculture Consultant, Mr & Mrs Miller-Smith have advised as follows:

*"We are planning to take the tree back to the top of the trunk (where the tree narrows and branches out). This will save the tree but allow it to be maintained and no longer pose any danger to surrounding properties."*

*"Because of the size and location of the tree, property owners at 39 Palmer Crescent and 32 Lorikeet Loop will need to temporarily move small sheds to allow the tree to be trimmed safely. I am delivering letters to both neighbours today with a request the sheds be moved by Tuesday, 1 May 2007. Tree trimming will proceed as soon as the sheds are out of harms way."*

13. Mr & Mrs Miller-Smith have further advised that the house is under a contract of sale and they would like to make the tree safe as outlined above, by 7 May 2007.

## **POLICY IMPLICATIONS**

14. Council does not have a written policy relevant to this matter.

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## **PUBLIC CONSULTATION/COMMUNICATION**

15. Nil.

## **STATUTORY AND LEGAL IMPLICATIONS**

16. Sections 3.25 of the Act provides that a local government may give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a Notice in writing relating to the land requiring the person to do anything specified in the Notice that is prescribed in Schedule 3.1.
17. Making a tree safe is prescribed in the Schedule 3.1.
18. Section 3.24 of the Act requires that the above powers only be exercised on behalf of the local government by a person expressly authorised by it, to exercise those powers.
19. A person who is recipient of a Notice may apply to the State Administrative Tribunal (SAT) for a review of the decision.
20. If the recipient of such a Notice fails to comply and does not apply to the SAT for a review, the local government may carry out the work for which the Notice was given and recover the costs. However, the local government will need to comply with the entry procedures prescribed in the Act. If the owner of the property objects or resists the entry a court order may be required to enter the property.

## **FINANCIAL IMPLICATIONS**

21. Nil.

## **STRATEGIC IMPLICATIONS**

22. Nil.

## **OFFICER COMMENT**

23. Neighbourly disputes such as trees encroaching on neighbouring properties would be best resolved between neighbours. However, in circumstances when the neighbours are unable to resolve the dispute amongst themselves, the Shire can be called upon to issue a Notice under Section 3.25 of the Local Government Act.
24. The Local Government Act provides discretionary power to the Shire to issue a Notice to the owners of private land to carry out certain work on their land specified in Schedule 3.1 of the Act, which includes making trees safe.
25. Whilst acting on a complaint, the Shire should consider the rights and obligations of all stakeholders in order that the Shire is able to defend its decision to issue a Notice. The legal proceedings are generally expensive and can divide the community.

26. Accordingly, the Shire has in the past very rarely issued a Notice under Section 3.25 of the Act and instead encouraged neighbours to mutually resolve their disputes. The same practice has been applied in this case, despite intense pressure by the complainant.
27. As a result of negotiations with Mr & Mrs Miller-Smith it is likely that the tree will be made safe by the time the General Services Committee considers this report. However, in the event that this outcome is not achieved, it would be appropriate to issue a Notice to ensure that the tree is made safe.
28. It is intended that a policy will be formulated in due course which will outline the circumstances under which a Notice under section 3.25 may be issued by an authorised staff, to deal with such complaints more efficiently. After the adoption of the proposed policy a revised information sheet will be made available to residents.

#### **MEETING COMMENT**

29. Two residents spoke in support of the recommendation.
30. The owners of the property spoke in support of the recommendation and provided clarification as to the timeframe for making the tree safe.

#### **COMMITTEE RECOMMENDATION TO COUNCIL**

**GS 47/2007**

1. That the Chief Executive Officer be authorised to issue a Notice, under Section 3.25 of the Local Government Act 1995, to the owners of 41 Palmer Crescent to make the Eucalyptus tree safe.

Moved: Cr Giardina

Seconded: Cr Taylor

**CARRIED UNANIMOUSLY**

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## 10.0 QUESTIONS BY MEMBERS WHICH DUE NOTICE HAS BEEN GIVEN

10.1 Nil.

## 11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

### 11.1 Sculpture – High Wycombe (Cr Casey)

Q. Can you please advise when the Sculpture/Water Feature will be installed in High Wycombe?

A. A timeframe for the completion and installation of the artwork is not yet available.

### 11.2 Footpaths – High Wycombe (Cr Giardina)

Q. Who decides what colour is used for footpaths within the Shire?

A. The Engineering department is responsible and makes decisions as to the style of paths within the Shire.

### 11.3 Item 47 – Eucalyptus Tree at 41 Palmer Crescent, High Wycombe (Cr Bilich)

Q. What would be the outcome if the neighbours do not remove the shed as requested?

A. Once notice is issued the notice would need to be complied with. This is a neighbourhood dispute and the Council would not have any involvement in this issue.

### 11.4 Streetlight – Hale Road Forrestfield (Cr D Sadler)

Q. Councillors were advised two months ago that the damaged streetlight in Hale Road, Forrestfield was to be replaced. When would this be done?

A. The Shire is awaiting a contractor to become available to install the light.

## 12.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

12.1 Nil.

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13.0 MATTERS BEHIND CLOSED DOORS

13.1 Nil.

14.0 CLOSURE

There being no further business, the Chairman declared the meeting closed at 8:35 pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed ..... Chairman

Dated this .....day of .....2007