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Shire of Kalamunda

# Ordinary Council Meeting Agenda

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Monday 21 March 2011

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Report of General Services Committee Meeting 14 March 2011

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## **NOTICE OF MEETING ORDINARY MEETING OF COUNCIL**

Councillors,

Notice is hereby given that the next meeting of the Ordinary Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on:

**Monday 21 March 2011, commencing at 6.30 pm.**

For the benefit of members of the public, attention is drawn to the following requirements as adopted by Council.

### **Open Council Meetings – Procedures**

1. All Council Meetings are open to the public, except for matters raised by Council under Item No. 15.0 of the Agenda.
2. Members of the public may ask a question at an Ordinary Council Meeting under Item 3.0 of the Agenda.
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceedings, just raise your hand when the Shire President opens '*question time*' under Item 3.0 of the Agenda.
4. All other arrangements are in accordance with Council's Standing Orders, Policies and decision of the Shire or Council.

James Trail  
**Chief Executive Officer**

16 March 2011

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## AGENDA

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**1.0 OFFICIAL OPENING****2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED****3.0 PUBLIC QUESTION TIME**

A period of not less than 15 minutes is provided to allow questions from the Public Gallery on matters relating to the functions of Council.

	<b>Questions taken on Notice – Annual Electors Meeting 7 February 2011</b>
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	<b>Cr Donald McKechnie</b>
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Q.	What is happening with regard to the plans for the Future Aged Care accommodation?
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A.	The Local Planning Strategy has identified a number of potential sites for aged care accommodation. The recommended sites are in accordance with the Councils Aged Accommodation Strategy. Once endorsed by the Department for Planning the Local Planning Strategy, including the potential sites, will be advertised for public comment. In addition to this, the Shire is being proactive by calling for expressions of interest for aged accommodation facilities on land within its control.
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	<b>Mr Alexander Victor Ronalds</b>
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Q1.	Can the wording on the Shire Dog Attack Report be altered, instead of referring to "victim" and "complainant" as the terminology can be stressful.
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A1.	It is not possible to alter the wording as the Dog Attack Statement Report is one of three documents in a pack sent to various parties involved in any alleged dog attack. These documents and the contents including the specific terminology of persons involved has purposely been designed to assist in the evidence gathering process for potential prosecution.
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Q2.	Recently many of us in Forrestfield have received a newsletter on the Gateway Project where the term "A Grade Separation Interchange" was used, most of the general public would find it difficult to understand this term. In future is it possible to ensure terminology can be easily understood by residents and the community.
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A2.	Whilst the newsletter on the Gateway Project was not produced by the Shire, we will take on board these comments with regard to the use of language and terminology in relation to Shire produced publications.
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Q3.	Can the Council consider at its next Budget consideration continual spot pick-ups? As ad hoc dumping can make the Shire look very untidy.
A3.	The Shire is in the process of reviewing its bulk kerbside collection processes. Carrying out ad hoc dumping will be part of this review.
Q4.	Is there an opportunity to have community notice boards on display in the nearby Local Shopping Centre's?
A5.	The Shire use community notice boards in local shopping centres where possible. Information from the Shire can also be found in the local Libraries, Recreation Centres, the Shire's Administration Centre and also the Shire's website.
Q6.	. Can Council consider or look at changing the Shires Christmas shutdown period, as I rang the Shire over the Christmas break and was directed to another phone number.
A6.	The Shire office is closed for the Christmas and New Year public holidays, and three days in between. Calls are managed by a professional WA based call centre which is contracted for most metropolitan local governments. Enquiries are actioned according to the call type, and staff are on call and available to attend to priority and emergency enquiries.
Q7.	Shire telephone recordings often refer to the Shire's website for residents to find information; can the Shire be a little more conscious that there are number Residents that do not have computers or access to a computer?
A8.	The Shire provides information in a variety of formats, with the website being one of these. The Shire is always happy to provide information in printed format, advice by the phone, or over the counter. The website is the most instant form of providing large amounts of information, and is therefore mentioned on telephone recordings as the quickest form of providing assistance at any time of the day or week.
Q9.	Is it possible that Local Elected Members have a local stall down at the shopping centres, so residents can talk and communicate to their elected members?
A9.	Residents are encouraged to talk with their elected members and contact details can be found on the Shire's website. Councillors attend many community events, where residents will be able to speak with them. All committee and council meetings are also open to residents, who are encouraged to attend. Local shopping centres do not generally permit elected members to use their facility, which ensures they remain politically neutral.

Q10.	Is it possible to extend the eyes on the street to engage the local community include local walking groups and residents, perhaps the name could also be changed to reflect our community?
A10.	Eyes on the Street, coordinated by the Office of Crime Prevention is an agency based program targeting Local Governments, major shopping centres, government agencies and industry bodies, but not residents or community groups. Neighbourhood Watch is the corresponding Office of Crime Prevention program which engages residents of the local community, giving them the capacity to report through to Crime Stoppers, similar to the Eyes on the Street program. To ensure consistency, the Office of Crime Prevention has advised they would like the “Eyes on the Street” branding to remain throughout participating Local Governments and communities of Perth.
	<b>Ross Leighton, Wattle Grove</b>
Q1.	I Would like the Council to consider the term “Customer Service” as we are ratepayers paying for the maintenance, services & Infrastructure of this Council and do not have a choice of where we can go.
A1.	The Shire provides services to many groups of people, including people who live in the Shire (residents), people who own property but reside elsewhere (ratepayers), people or companies who run businesses, and people who are visitors or tourists to the area. It is difficult to find a term which covers all of these groups of people, and as a term which is generally recognised and understood, “Customer” and “customer service” has been used by the Shire of Kalamunda.

#### 4.0 PETITIONS/DEPUTATIONS

#### 5.0 APPLICATIONS FOR LEAVE OF ABSENCE

##### 5.1 Application for Leave of Absence – Cr Carol Everett

That Cr Carol Everett be granted leave of absence for the period 18 May 2011 to 30 June 2011. This leave period will include the Planning Services Committee Meeting, Tuesday 7 June 2011, General Services Committee Meeting, Monday 13 June 2011, and Ordinary Council Meeting, Monday 20 June 2011.

Moved:

Seconded:

Vote:

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**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Ordinary Council Meeting 21 February 2011**

That the Minutes of the Ordinary Council Meeting of the Shire of Kalamunda held in the Council Chambers, 2 Railway Road, Kalamunda on 21 February 2011 is confirmed as a true and correct record of the proceedings.

Moved:

Seconded:

Vote:

Statement by Presiding Member

**“On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 21 February 2011.”**

**6.2 Special Council Meeting 8 March 2011**

That the Minutes of the Special Council Meeting of the Shire of Kalamunda held in the Council Chambers, 2 Railway Road, Kalamunda on 8 March 2011 is confirmed as a true and correct record of the proceedings.

Moved:

Seconded:

Vote:

Statement by Presiding Member

**“On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 8 March 2011.”**

**7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

**8.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**8.1 GS41 CONFIDENTIAL ITEM Request for Expression of Interest EOI 1005 – Land Lease and Community Housing Development Lot 106 (88) Hale Road Forrestfield**

*Reason for Confidentiality*

*Local Government Act 1995: Section 5.23(2) (c), “A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting”.*

## 9.0 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. (*Local Government Act 1995* Sections 5.60B and 5.65).
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (*Local Government Act 1995* Sections 5.70 and 5.71)

### 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.

## 10.0 REPORT TO COUNCIL

Declaration of Financial/Conflict of interests to be recorded prior to dealing with each item.

### 10.1 Planning Services Committee Report

#### 10.1.1 Adoption of Planning Services Committee Report

That the recommendations contained in the Planning Services Committee Report of the 8 March 2011, except withdrawn items PS08 & PS09, be adopted.

Moved:

Seconded:

Vote:

#### 10.1.2 **PS06 Lot 301 (384) Holmes Road, Forrestfield - Local Planning Scheme No. 3 Amendment No. 36 – Additional Uses – Veterinary Centre and Consulting Rooms**

##### COMMITTEE RECOMMENDATION TO COUNCIL PS 06/2011

1. That Council notes the submissions received and adopts the amendment to Local Planning Scheme No. 3 without modification in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME  
SHIRE OF KALAMUNDA  
LOCAL PLANNING SCHEME NO. 3  
AMENDMENT NO. 36

That Council, in pursuance of Part 5 of the *Planning and Development Act 2005*, amends Local Planning Scheme No. 3 by:

1. Including Consulting Rooms and Veterinary Centre under item 4 of Schedule 4 (Special Uses).
2. Delete condition (a) currently under item 4 of the Scheme's Schedule 4 as follows:

*“(a) The development of the site shall be limited to a total of 580sqm gross leasable area, comprising an Office 340sqm and a Delicatessen Shop 240sqm.”*

3. replace condition (a) under item 4 of the Scheme's Schedule 4 with the following:

*“(a) The development of the site shall be limited to a total of 580sqm gross leasable area”*

10.2.3

### **PS07 Lot 49 (199) Crystal Brook Road, Wattle Grove – Parking of Two Commercial Vehicles**

#### COMMITTEE RECOMMENDATION TO COUNCIL PS 07/2011

1. That Council approves the application dated 21 December 2010 to park two commercial vehicles (Scania school buses registration numbers 9KH 867 and 1DEK 006) on Lot 49 (199) Crystal Brook Road, Wattle Grove, subject to the following conditions:
  - a. When parked on the property the vehicles must, at all times, be parked in the approved location as shown on the approved site plan.
  - b. The commercial vehicles are only to be operated between the hours of 6.40am and 6.00pm Monday to Friday during school term.
  - c. Washing of the commercial vehicles on the subject lot is to be limited to the use of water and mild detergent, but not involve the use of any solvents, degreasing substances, steam cleaning and any other processes which may cause pollution or degradation of the environment.
  - d. The approval is personal to the applicant and shall not be transferred or assigned to any other person, property or commercial vehicle (including trailers).
  - e. The additional screening is to be installed in the approved location shown on the site plan within 28 days of the approval date, and maintained by the landowner thereafter to the satisfaction of the Shire's Director Planning and Development Services.



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**10.1.4 PS08 Public Art Strategy-Kalamunda Town Centre**COMMITTEE RECOMMENDATION TO COUNCIL PS 08/2011

1. That Council endorses the Public Art Strategy for the Kalamunda Town Centre.
2. That a Project Reference Group be formed comprising Shire staff and suitably qualified and experienced members of the art community to manage each of the proposed art work commissioned.
3. The Project Reference Group to prepare a schedule of the commissioned works detailing the concept proposal, projected costs and time frames for the completion of the art work for Council consideration and endorsement.
4. The group will be formed as soon as the Strategy is supported by the Shire's annual budget.

Moved:

Seconded:

Vote:

Cr Frank Lindsey proposed an amendment to the Committee Recommendation to Council to include more detail in Point 1.

1. That Council endorses the Public Art Strategy for the Kalamunda Town Centre. The sculpture proposed for location 'd' (corner Canning and Haynes Street), should incorporate elements of aboriginal art and history relevant to the Shire.
2. That a Project Reference Group be formed comprising Shire staff and suitably qualified and experienced members of the art community to manage each of the proposed art work commissioned.
3. The Project Reference Group to prepare a schedule of the commissioned works detailing the concept proposal, projected costs and time frames for the completion of the art work for Council consideration and endorsement.
4. The group will be formed as soon as the Strategy is supported by the Shire's annual budget.

Moved: **Cr Frank Lindsey**

Seconded:

Vote:

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**10.1.5 PS09 Shire of Kalamunda Health Local Laws 2001 Review**COMMITTEE RECOMMENDATION TO COUNCIL (PS 09/2011)

That Council:

1. Resolves to give state-wide public notice of its intention to amend the Shire of Kalamunda Health Local Laws 2001 and to create the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011, and invite comment pursuant to Section 3.12 of the *Local Government Act 1995*.
2. Notes in relation to the Shire of Kalamunda Health Local laws that:
  - a. The purpose is to provide for the regulation, control and management of sanitation, housing, waste, food, nuisances, lodging houses and offensive trades as part of the function of local governments to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its residents and the community.
  - b. The effect is to establish requirements relating to the matters referred to in recommendation 2.a. on land within the district.
3. Notes in relation to the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Laws that:
  - a. the purpose is to provide for the regulation, control and management of:
    - i. The keeping of animals
    - ii. Sand drift, rubbish and litter control on building and construction sites
    - iii. Nuisancesas part of the Local Governments function to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its citizens.
  - b. The effect is to establish requirements relating to the matters referred to in subsection one on land within the district.

Moved:

Seconded:

Vote:

Cr Frank Lindsey proposed an amendment to the Committee Recommendation to Council to include an additional Point 4.

That Council:

1. Resolves to give state-wide public notice of its intention to amend the Shire of Kalamunda Health Local Laws 2001 and to create the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011, and invite comment pursuant to Section 3.12 of the *Local Government Act 1995*.

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2. Notes in relation to the Shire of Kalamunda Health Local laws that:
    - a. The purpose is to provide for the regulation, control and management of sanitation, housing, waste, food, nuisances, lodging houses and offensive trades as part of the function of local governments to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its residents and the community.
    - b. The effect is to establish requirements relating to the matters referred to in recommendation 2.a. on land within the district.
  3. Notes in relation to the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Laws that:
    - a. the purpose is to provide for the regulation, control and management of:
      - i. The keeping of animals
      - ii. Sand drift, rubbish and litter control on building and construction sites
      - iii. Nuisancesas part of the Local Governments function to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its citizens.
    - b. The effect is to establish requirements relating to the matters referred to in subsection one on land within the district.
  4. All poultry must be enclosed at night and in the case of a rooster, pea cock, pea hen, goose or turkey, be housed in a small box or similar, which is located in the night enclosure, and designed to prevent early morning crowing.

Moved: **Cr Frank Lindsey**

Seconded:

Vote:

## **10.2 General Services Committee Report**

### **10.2.1 Adoption of General Services Committee Report**

That the recommendations contained in the General Services Committee Report of the 14 March 2011, except withdrawn items GS23, GS27, GS33 & GS40, be adopted.

Moved:

Seconded:

Vote:

10.2.2 **GS24 Creditors' Accounts Paid During the Period 2 February to 25 February 2011**

COMMITTEE RECOMMENDATION TO COUNCIL (GS24/2011)

1. That the list of creditors paid during the period 2 February to 25 February 2011 (Attachment 1) be received by Council in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.

10.2.3 **GS25 Monthly Financial Statements for the Period ending 28 February 2011**

COMMITTEE RECOMMENDATION TO COUNCIL (GS25/2011)

1. That the monthly financial statements which comprise the Statement of Financial Position, Statement of Comprehensive Income by Nature and Type, Statement of Comprehensive Income by Program, Rate Setting Statement, Cash Flow Statement, Notes to and Forming Part of the Financial Report and Operating Budget Variance Analysis for the period ending 28 February 2011 (Attachment 1) be received.

10.2.4 **GS26 Debtors and Creditors Reports for the Period ending 28 February 2011**

COMMITTEE RECOMMENDATION TO COUNCIL (GS26/2011)

1. That the outstanding debtors (Attachment 1) and creditors (Attachment 2) report as at 28 February 2011 be received.

10.2.5 **GS27 Rates Debtors Report for the Period ending 28 February 2011**

COMMITTEE RECOMMENDATION TO COUNCIL (GS27/2011)

1. That the rates debtors report as at 28 February 2011 (Attachment 1) be received.

10.2.6 **GS29 Application to Keep More Than Two Dogs – 25 Joyce Street, Lesmurdie**

COMMITTEE RECOMMENDATION TO COUNCIL (GS29/2011)

1. That Council, pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 25 Joyce Street, Lesmurdie to keep four dogs on this property.

10.2.7 **GS30 Application to Keep More Than Two Dogs – 99 Moffett Road, Lesmurdie**

COMMITTEE RECOMMENDATION TO COUNCIL (GS30/2011)

1. That Council, pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 99 Moffett Road, Lesmurdie to keep a third dog on this property

10.2.8 **GS31 Application to Keep More Than Two Dogs – 258 Grove Road, Lesmurdie**

COMMITTEE RECOMMENDATION TO COUNCIL (GS31/2011)

1. That Council, pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 258 Grove Road, Lesmurdie to keep a third dog on this property.

10.2.9 **GS32 Community Sport and Recreation Facilities Fund Small Grants Winter 2011/12**

COMMITTEE RECOMMENDATION TO COUNCIL (GS32/2011)

That Council:

1. Endorses the following applications for the Department of Sport and Recreation's 2011/12 Community Sport and Recreation Facilities Small Grant Fund in order of priority:
  - a) Hartfield Park Recreation Centre Feasibility Study
  - b) Kalamunda and Districts Basketball Association
2. Considers allocating \$40,000 in the 2011/2012 budget for the Hartfield Park Feasibility Study subject to the successful outcome of the CSRFF application.
3. Considers allocating \$72,670 in the 2011/2012 budget for the purchase of four new basketball backboards at the Ray Owen Sports Centre subject to the successful outcome of the CSRFF application.

10.2.10

**GS34 Adoption of Asset Management Policy**COMMITTEE RECOMMENDATION TO COUNCIL (GS34/2011)

1. That Council adopts the Asset Management Policy (ENG 15), as shown at (Attachment 1).

10.2.11

**GS35 Boonooloo Road – Petition, Traffic Calming Request**COMMITTEE RECOMMENDATION TO COUNCIL (GS35/2011)

1. That Council notes the proposed installation of speed cushions on Boonooloo Road Kalamunda, for consideration in the Works Programme for the 2011/12 financial year budget and the proponent of the petition be advised accordingly.

10.2.12

**GS36 Endorsement of Restricted On-Street Parking**COMMITTEE RECOMMENDATION TO COUNCIL (GS36/2011)

1. That the parking restrictions as detailed at (Attachment 1) be endorsed by Council following an education process of 2 months.

10.2.13

**GS38 Dundas Road and Maida Vale Road – Works Programme**COMMITTEE RECOMMENDATION TO COUNCIL (GS38/2011)

1. That the project for the improvement of intersection of Dundas Road and Maida Vale Road at a budget of \$45,600 be deleted from the 2010/11 Works Programme.
2. That Main Roads WA be requested to remove the section of Maida Vale Road, from Everitt Place to Roe Highway from the list for "Network 7 Vehicular Access".

10.2.14

**GS39 Waste Services Positions**COMMITTEE RECOMMENDATION TO COUNCIL (GS39/2011)

1. That two new full time positions be created within the Waste Services area, for the purpose of collection and disposal of illegal dumping, litter pickups and bin services.

10.2.15 **GS41 CONFIDENTIAL ITEM Request for Expression of Interest EOI 1005 – Land Lease and Community Housing Development Lot 106 (88) Hale Road Forrestfield**

*Reason for Confidentiality*

*Local Government Act 1995: Section 5.23(2) (c), "A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting".*

COMMITTEE RECOMMENDATION TO COUNCIL (GS41/2011)

1. That Access Housing be asked to further develop the proposal submitted taking into account and addressing the feedback provided by Councillors show in (Attachment 2), with a further presentation being made to Councillors prior to the Ordinary Council Meeting of Council to be held on Monday 18 April 2011.

**Absolute Majority Required**

10.2.16 **GS28 Mid-Year 2010/2011 Budget Review**

COMMITTEE RECOMMENDATION TO COUNCIL (GS27/2011)

1. That the 2010-2011 Budget Review Explanation and Summary (Attachment 1) be noted.
2. That the 2010/2011 attachments (Attachment 2) as presented, being the Comprehensive Statements of Income by Nature or Type, Comprehensive Statements of Income by Program, Rate setting Statement and Note 6 – Reserves of the Notes to and forming part of the Finance Statements, be adopted.

Moved:

Seconded:

Vote:

10.2.17 **GS33 Community Safety and Crime Prevention Advisory Committee – Nomination for Membership**

COMMITTEE RECOMMENDATION TO COUNCIL (GS33/2011)

That Council:

1. Accepts the resignation of John Everett.
2. Appoints Lesmurdie Ratepayers Association Representative, Gordon Gray, to the Community Safety and Crime Prevention Advisory Committee.

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Moved:

Seconded:

Vote: **Absolute Majority Required**

10.2.18 **GS37 Delegation of Authority to Chief Executive Officer -  
Determination of Prohibited Parking Areas**

COMMITTEE RECOMMENDATION TO COUNCIL (GS37/2011)

1. That Council adopts Determination of Prohibited Parking Areas (ENG-1) as shown at (Attachment 1).

Moved:

Seconded:

Vote: **Absolute Majority Required**

**Deferred Item transferred to Chief Executive Officer's Report (10.4.2) for  
Consideration**

10.2.19 **GS40 Welshpool Road, Wattle Grove - Proposed Road Closure, Reserve  
Adjoining Lots 211 (12) Lewis Road, 8 (51) St John Road and 500 (32)  
Gavour Road**

COMMITTEE RECOMMENDATION TO COUNCIL (GS40/2011)

1. To defer the Recommendation of GS 40/2011 to the Ordinary Council Meeting on 21 March 2011 with the consideration of the option of closing the road with an easement rather than a drainage reserve.

**10.3 Audit Committee Report**

10.3.1 Adoption of Audit Committee Report

That the recommendations contained in the Audit Committee Report of the 14 March 2011, except withdrawn item AC03, be adopted.

Moved:

Seconded:

Vote:



**10.3.2 AC01 2010 Compliance Audit Return**COMMITTEE RECOMMENDATION TO COUNCIL (AC01/2011)

1. That Council adopts the Compliance Audit Return for the year ending 31 December 2010.

**10.3.3 AC02 Investment Report**COMMITTEE RECOMMENDATION TO COUNCIL (AC02/2011)

1. That the report on Investments held by the Shire of Kalamunda be received.

**10.3.4 AC04 Overdraft Facility**COMMITTEE RECOMMENDATION TO COUNCIL (AC04/2011)

1. That Council establish an overdraft facility of \$1.5 million with the Commonwealth Bank of Australia Limited.
2. That pursuant to s6.20(2)(a) of the Local Government Act 1995 one month's public notice of the intention to enter into an overdraft facility be given locally.
3. That the Chief Executive Officer and the Director of Corporate Services be the signatories on the overdraft facility.
4. That the investment report to the Audit Committee included information of movements within the overdraft facility.

**10.3.5 AC03 Sundry Debtors write-off**COMMITTEE RECOMMENDATION TO COUNCIL (AC03/2011)

1. That Audit Committee authorise the write off of sundry debt of \$459.
2. That the Audit Committee receives details on formal recovery proceedings in progress.
3. That detailed information be provided at the Ordinary Council Meeting of 21 March 2011 in relation to the recovery of monies in lieu of Public Open Space.

Moved:

Seconded:

Vote:

## 10.4 Chief Executive Officer's Report

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

### 10.4.1 Tree Issue – 16 Williams Street, Gooseberry Hill

Previous Items	N/A
Responsible Officer	Director Engineering Services
Service Area	Engineering Services
File Reference	WL-14/GEN
Applicant	N/A
Owner	N/A

Attachment 1 Arboriculture Consultant's Report

#### PURPOSE

1. To consider issuing a Notice under Section 3.25 of the *Local Government Act 1995*, to the owners of 16 Wordsworth Avenue, Gooseberry Hill, to make safe the Marri tree located at the in the property adjacent to Units 22 and 23 Williams Street, Gooseberry Hill.

#### BACKGROUND

2. The *Local Government Act 1995* 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. The Shire of Kalamunda's standard practice regarding the issuing of Notices under Section 3.25 of the *Local Government Act 1995*, includes the following steps:
  - In the first instance the Shire encourages the complainant to resolve the issue directly with the neighbour and/or raise the issue formally with the neighbour.
  - If the complainant advises that they can no longer get co-operation from the owner of the tree, the complainant is asked to make the complaint in writing along with the evidence of a report from an Arboriculture Consultant. They need to also include evidence that they have made an attempt to resolve the issue with their neighbour.
  - If the Arboriculture Consultant's report states that the tree is dangerous and can cause damage to life, a report is presented to Council with a recommendation to issue a Notice under Section 3.25 of the *Local Government Act 1995* to the owner of the land where the subject tree is located.
  - A further process, as outlined in the *Local Government Act 1995* is followed to ensure the Notice is complied with.

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**DETAILS**

4. The Chairman of the Milton Park Strata Group, Mrs Patricia Neale, contacted the Shire regarding the trees located on the property of 16 Wordsworth Avenue, Gooseberry Hill. Mrs Neale reported that she had written to the owners of the subject trees, requesting that they be pruned due to the hazard they pose to the adjacent units, however, they did not receive a response.
5. The Shire wrote to Mrs Neale informing her that for the Shire to become involved, an Arboriculture Report would be required, stating that the tree/s are a dangerous and can cause damage to life. An Arboriculture Consultant's report dated 4 March 2011 is shown at (Attachment 1) indicates that the tree is unsafe and should be removed at ground level as soon as practically possible.

**STATUTORY AND LEGAL IMPLICATIONS**

6. Section 3.25 of the *Local Government Act 1995* provided that a local government may give a person who is the owner of, (unless Schedule 3.1 indicates otherwise) or, 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.
7. Making a tree safe is prescribed in Schedule 3.1 Clause 9 (Notice can be issued to either owner or occupier.)
8. Section 3.24 of the *Local Government Act 1995* 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.
9. A person, who is a recipient of a Notice, may lodge an objection in the prescribed manner, within 28 days of the Notice. Council cannot delegate the power to hear and determine an objection. (Refer Section 5.43 (g) of the *Local Government Act 1995*.)
10. A person who is a recipient of a Notice may also apply to the State Administrative Tribunal (SAT) for a review of the decision, within 42 days of the Notice, or within 35 days from the date of objection provided the local government has not determined the objection.
11. Section 3.26 of the *Local Government Act 1995* provides, if the recipient of such a Notice fails to comply and does not lodge an objection or apply to the SAT for 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 *Local Government Act 1995*.

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**POLICY IMPLICATIONS**

12. Council does not have a written Policy relevant to this matter.

**PUBLIC CONSULTATION/COMMUNICATION**

13. Nil.

**FINANCIAL IMPLICATIONS**

14. Nil.

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS****Strategic Planning Implications**

15. Nil.

**Sustainability Implications**Social implications

16. Nil.

Economic Implications

17. Nil.

Environmental Implications

18. Nil.

**OFFICER COMMENT**

19. Neighbourly disputes, such as trees encroaching on neighbouring properties, is best resolved between the neighbours. However, in circumstances when the issue is unable to be resolved in this manner, the Shire can be called upon to issue a Notice under Section 3.25 of the *Local Government Act 1995*.
20. Alternatively, the complainant can apply to the courts for an Order, directing that the neighbour have the tree pruned or removed. The applicants were advised that the information in respect to their rights in this situation was available to them on the Legal Aid website.

**OFFICER RECOMMENDATION**

1. That Mr James Trail, Chief Executive Officer, be authorised to issue a Notice, under Section 3.25 of the *Local Government Act 1995*, to the owners of 16 Wordsworth Avenue, Gooseberry Hill, to make the Marri trees identified in the Arboricultural Assessment Report (Attachment 1) safe.
2. That Council's decision be conveyed to Mrs Neale and Mrs Taylor, in response to correspondence to the Shire in respect to the trees on their neighbours property.

Moved:

Seconded:

Vote:



4 March 2011

Milton Park,  
106 William Street  
Gooseberry Hill WA 6076

**ATTENTION: Patricia Neale**

**RE: Trees behind U22 & U23, Milton Park, Gooseberry Hill**

### Arboricultural Assessment

#### **Project Scope**

I can confirm that on Wednesday 9<sup>th</sup> February I was commissioned by Patricia Neale to undertake an inspection of a number of identified trees situated in the property adjacent to Units 22 and 23 of Milton Park, 106 William Street, Gooseberry Hill.

The inspection was undertaken primarily to provide information on:

1. The current structural condition of the identified trees;
2. Whether the identified trees are considered to be representing an endangerment to persons and/or property on adjoining land, and if so;
3. Make recommendations for any future management measures to be undertaken to address and obviate the identified risks with the identified trees.

The following provides a brief of my assessment of the identified trees, and answers to the specific questions as per the above scope of works.

Note: All observations on the Trees were made from the rear courtyard area of Unit 23, 106 William Street, Gooseberry Hill.

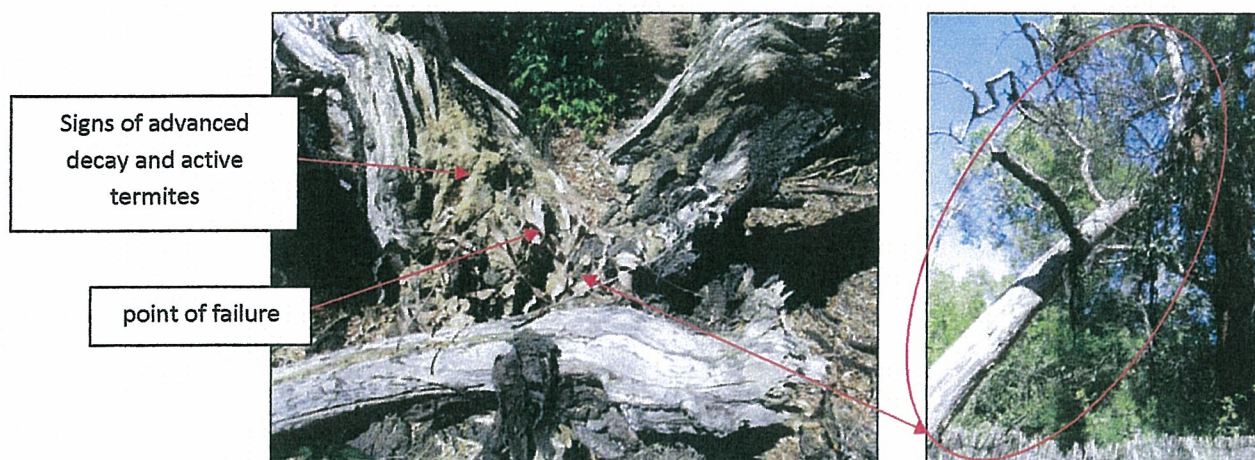
#### **Terms Used**

The following terms have been commonly used throughout this report.

"Trees"	meaning the trees that are the subject of this report
"U22"	meaning Unit 22, 106 William Street, Gooseberry Hill
"U23"	meaning Unit 23, 106 William Street, Gooseberry Hill
"Adjacent Property"	meaning the property known as 16 Wordsworth Avenue, Gooseberry Hill



### Observations; Tree behind U23



Signs of advanced decay and active termites

point of failure

With the absence of any live leaf mass within its canopy, the Tree situated in the area of the Adjacent Property behind U23 was considered to be dead.

I noted that the Tree had failed at a point near to ground level (seen in the above image left), and was noted to be partially hung up/supported by an adjacent tree (identified to be a Marri); seen in the above image right.

Closer inspection showed the presence of what looked to be indicative of advanced decay and active termites in its main stem structure; seen in the above image left.

This Tree was estimated to be approximately 14-16 metres in height.

This Tree was noted to be situated approximately 1 metre from the boundary of U23, and an estimated 3 metres from the main dwelling on U23.

### Observations; Tree behind U22



U22

With the absence of any live leaf mass within its canopy, the Tree in the Adjacent Property behind U22 was also considered to be dead.

An inspection of its main stem structure showed some indication of the possibility of areas of advanced decay and active termites in its main stem structure, although this was difficult to verify given the distance of this Tree from the boundary of U23.

I estimated this Tree to be approximately 15-17 metres in height.

I also noted that this Tree has grown on a slight lean towards U22, and as a result an extent of its canopy overhangs the boundary of U22; seen in above image right.

This Tree was noted to be situated approximately 3-4 metres to the boundary of U22, and an estimated 5-6 metres to the main dwelling on U22.

### Comments

Both Trees are considered to be dead specimens of their given species.

The structure of the Tree behind U23 is considered to be hazardous and it is clear to see that it has already failed at ground level for various reasons.

Given the physical size of this Tree, and its location and proximity in relation to U23, it is fair to assume that should it dislodge from the adjacent tree which it is at present supported by, it could quite possibly fall and strike U23.

The structure of the Tree behind U22 is of concern; given the nature of the lean, and the possible (likely) presence of advanced decay and active termites in its main stem structure.

At the time of my inspection, whilst failure of this Tree at some point at, near to, or below ground level was not considered to be immediately imminent, it was considered highly likely to occur at some point in the foreseeable future.

Note: Since the inspection, this concern has been confirmed as I have been informed that this Tree subsequently failed over night on Monday 28<sup>th</sup> February/Tuesday 1<sup>st</sup> March 2011, and struck part of U22.


### Opinion

Based on all of the available evidence, it is in my opinion that both of these Trees are dead and have what is considered to be a very poor and potentially hazardous structural condition for specimens of their given species.

Given their location in the Adjacent Property and proximity to U22 and U23, it is also in my opinion that both of these Trees do represent an endangerment to persons and/or property on adjoining land at the time of my inspection.

Given that failure of both Trees has already occurred to some extent it is also in my opinion that the only viable management option remaining to obviate any further risks of endangerment to persons and/or property on adjoining land with either of these Trees is to completely remove them both to ground level.

### Recommendations

Based on my observations I recommend that both of the identified Trees be removed to ground level as soon as practicably possible. 

I have made the above recommendations based on:

1. The existing health and structural characteristics of the upper canopy of the Trees;
2. The evidence gained from the visual inspection of the main stem structure of the Trees; and



3. The location of the Trees in relation to the identified areas of potential targets on adjoining land; namely U22 and U23.

If you have any queries regarding the above, or if I can be of further assistance, please do not hesitate to contact me.

Yours sincerely

JASON ROYAL

**Disclaimer:**

This advice has been provided in good faith and based upon the material information provided by the Client to Arbor logic, and based on the visual inspection of the tree(s) at the time this advice was prepared.

Arbor logic does not accept liability arising out of loss or damage that results from: -

- Material information not being provided by the Client to Arbor logic at the time this advice was prepared.
- The provision of misleading or incorrect information by the Client or any other party to Arbor logic upon which this advice was prepared.
- This advice being used by the Client or any other party in circumstances or situations other than the specific subject of this advice.
- Failure by the Client to follow this advice.
- The action(s) or inaction(s) of the Client or any other party that gives rise to the loss of, or damage to, the subject of this advice.

The information provided in this advice may not be reissued or printed without Arbor logic's written permission.

It is also important to take into consideration that all trees are living organisms and as such there are many variables that can affect their health and structural properties that remain beyond the scope of reasonable management practices or the advice provided in this report based on the visual inspection of the tree(s).

As such a degree of risk will still remain with any given tree(s) despite the adoption of any best management practices or recommendations made in this report.

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

**10.4.2. Welshpool Road, Wattle Grove - Proposed Road Closure, Reserve Adjoining Lots 211 (12) Lewis Road, 8 (51) St John Road and 500 (32) Gavour Road**

Previous Items	GS 40/2011
Responsible Officer	Director Engineering Services
Service Area	Engineering Services
File Reference	WL-10/GEN
Applicant	Peter Webb
Owner	N/A
Attachment 1	Location Plan for proposed closure
Attachment 2	Proposed Road Closure and Drainage Reserve
Attachment 3	Proposed Road Closure and Drainage Easement

**PURPOSE**

1. To consider the closure of a triangular section of road reserve on Welshpool Road Wattle Grove, under Section 58 of *The Land Administration Act 1997*.

**BACKGROUND**

2. In July 2009, Peter Webb and Associates, on behalf of the owners of Lot 500 Gavour Road, requested closure of the triangular portion of the Welshpool Road reserve, refer (Attachment 1) and subsequent purchase of the land.
3. The applicant was advised that, to process this request, the Shire would require the existing drainage reserve to be extended to the modified road reserve, as shown at (Attachment 2). The applicant was asked if their client would still be interested in purchasing the land.
4. The owner then engaged CID Consultants who proposed that an easement be placed on the piece of land instead of creating a drainage reserve. This proposal was not accepted by the Shire. The applicant has now requested that the matter be considered by Council.

**DETAILS**

5. The triangular portion of the road reserve as shown on (Attachment 1) and (Attachment 2) was originally acquired from Lot 212 (20) Lewis Road, to create the Welshpool Road reserve. This section is surplus to the road reservation requirements.

6. A 5m wide and 830m long drainage reserve exists between Welshpool Road at the proposed location and a natural water course running north of Welshpool Road refer (Attachment 1). If the triangular portion of the road reserve is closed the drainage reserve will need to be extended to the new road reserve boundary refer (Attachment 2).
7. The land, once the road closure takes place, is disposed of by Landgate and the applicant will need to negotiate directly with their office, should they wish to purchase the land.
8. Subdivisional Approval for a four lot subdivision exists on Lots 193 (851) Welshpool Road and 211 (12) Lewis Road as shown in (Attachment 1). The owners of 12 Lewis Road may also stake a claim to purchase the land, as it abuts their lot and would not be affected by the drainage reserve.

### **STATUTORY AND LEGAL IMPLICATIONS**

9. The road closure will need to be affected under Section 58 of *The Land Administration Act 1997*.

### **POLICY IMPLICATIONS**

10. Nil.

### **PUBLIC CONSULTATION/COMMUNICATION**

11. *The Land Administration Act* requires the Local Government to advertise its intent to close the road, by placing a notice in a newspaper circulating within the district, and allow a minimum period of thirty five days for submissions. The Local Government must consider any objections prior to making a decision to close the road.
12. Accordingly, consultation will take place by way of a statutory notice and resultant submissions. However, the landowners adjoining the road reserve proposed for closure have been advised of the report being considered by the General Services Committee.

### **FINANCIAL IMPLICATIONS**

13. There is a cost for advertising and processing the road closure application including surveying and preparation of deposit plans. Traditionally these costs have been paid by the applicant or prospective purchaser of the land.

### **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

#### **Strategic Planning Implications**

14. There are no strategic implications.

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**Sustainability Implications**Social implications

15. Nil.

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

**OFFICER COMMENT**

18. The section of the road reserve proposed for closure is surplus to the Shire's future road network requirements. The closure does not provide any benefit to the Shire.
19. The applicant has proposed placement of an easement in lieu of the drainage reserve. This proposition was not supported as the easement does not provide exclusive use of the land for drainage purposes.
20. An easement defines the rights and objectives of the respective parties, which could be subject to legal interpretations in the event of a dispute. As opposed to the drainage reserve being created under the ownership of crown and vested to the Shire, which provides exclusive rights to the Shire.
21. Easements are generally created either to retrofit infrastructure or where creation of a reserve is not achievable. There have been a number of cases where the Shire's infrastructure has either been damaged or the owners have built temporary or semi-permanent structures over the easements. This has resulted in additional maintenance and reinstatement costs.
22. It is in the Shire's interest to require a drainage reserve rather than an easement. Accordingly, the road closure is recommended on the basis that the drainage reserve is extended to the proposed new boundary of the road reserve.

**OFFICER RECOMMENDATION**

1. That, subject to the applicant agreeing to meet all costs associated with the road closure, Council advertises its intent to close the rectangular section of Welshpool Road, as shown on (Attachment 2), in accordance with Section 58 of *The Land Administration Act 1997*.

Moved:

Seconded:

Vote:

**COMMITTEE RECOMMENDATION TO COUNCIL (GS 40/2011)**

1. To defer the Recommendation of GS 40/2011 to the Ordinary Council Meeting on 21 March 2011 with the consideration of the option of closing the road with an easement rather than a drainage reserve.

Moved: Cr Donald McKechnie

Seconded: Cr Margaret Thomas

Vote: **CARRIED UNANIMOUSLY (10/0)**

**RECOMMENDATION**

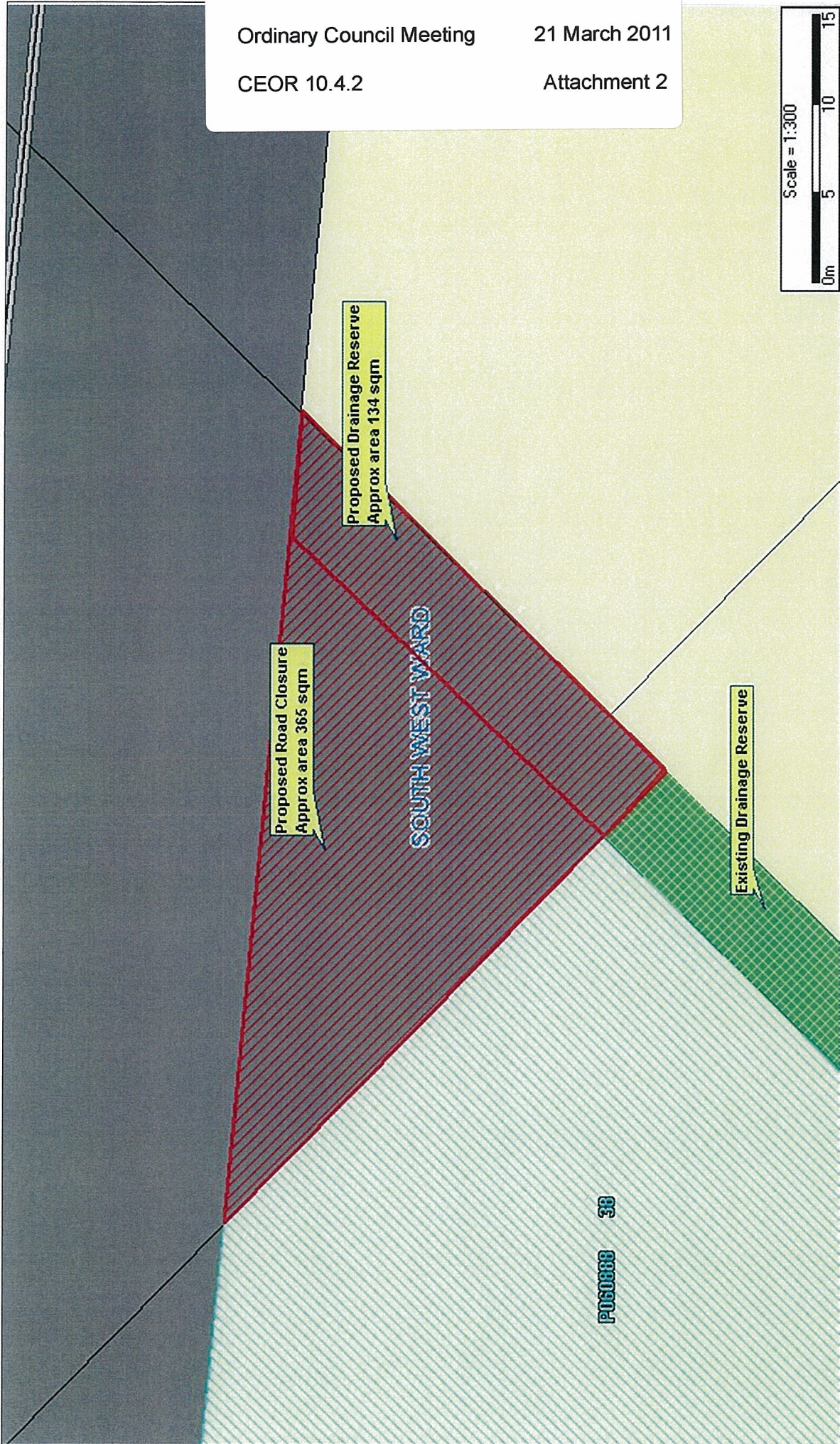
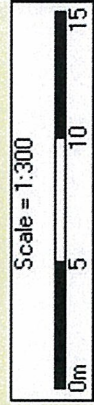
1. That, subject to the following, Council advertise its intent to close the rectangular section (approximately 500m<sup>2</sup>) of Welshpool Road adjoining Lot 112 (12) Lewis Road, Lot 500 (32) Gavour Road and Lot 8 (51) Johnson Place, as shown on (Attachment 3), in accordance with Section 58 of *The Land Administration Act 1997*.
- a) Applicant pays for advertising and administrative costs of processing the road closure.
  - b) A drainage easement, as shown on the (Attachment 3), is placed on the road reserve proposed for closure.
  - c) The potential purchaser of the road reserve, proposed for closure, Lot 112, pays for all costs associated with preparing and processing the deposited plans.







Ordinary Council Meeting      21 March 2011  
CEOR 10.4.2                      Attachment 2

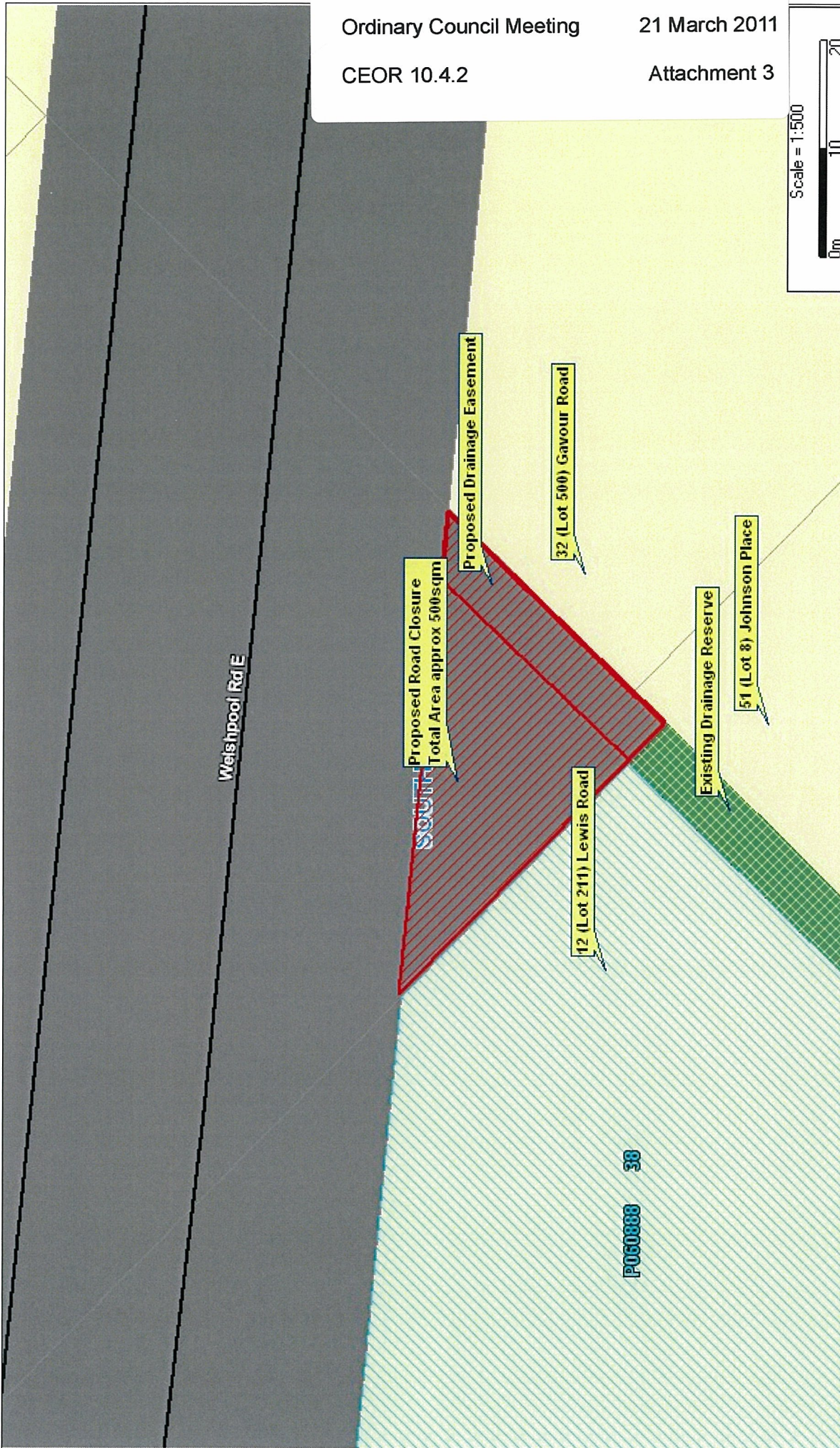


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Scale = 1:500



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**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE****13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**13.1 Various - Cr Noreen Townsend

Q1. Could we be advised when this work is programmed for the footpath - Strathearn Way Forrestfield?

A1. The construction is due to commence on Wednesday, 16 March 2011.

Q2. Footpath Lilian Road Maida Vale has been deferred - could we please have an update?

A2. At the February 2011 meeting when the relevant Agenda Item was deferred by Council, the CEO advised the Council that staff had carried out the research on this issue and therefore the staff recommendation remains the same. It is now up to the Council to either accept the staff recommendation or adopt an alternative Motion. Accordingly, the matter rests with Council.

Q3. Graffiti program/removal - this situation is worsening throughout the shire on fences abutting shire road reserves. Part of the intention of the graffiti program from a councillors view point was that this visible vandalism be removed as well as that on shire infrastructure. It is this visible graffiti on fences and buildings abutting road reserves that impacts on the amenity of the area.

I believe that the removal of graffiti on these locations should be brought forward.

Could we please have an update on this situation?

A3. At present the graffiti is removed from Council owned buildings and infrastructure and fences on private properties abutting public open spaces and public access ways. A priority matrix for the operation was included in a recent Councillor Bulletin. Current resources do not permit undertaking work on private fences abutting road reserves. However, we do supply property owners with a kit to remove the graffiti themselves.

It is acknowledged that this is a problem and it will require significant resources and if it is to be removed by the same crew, it will be at the cost of the work currently being undertaken based on the priority matrix. It is intended to review the operations after six months of its implementation at which time it will be clearer about the workloads and crews capacity to manage graffiti removal requests. In the meantime, the crew can commence removing vulgar and offensive graffiti on private fences abutting road reserves.

**14.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION****15.0 MEETING CLOSED TO THE PUBLIC****16.0 CLOSURE**