
Shire of Kalamunda

Planning Services Committee

Minutes for 8 March 2010



SHIRE OF KALAMUNDA

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Minutes of Planning Services Committee Held in the Council Chambers 2 Railway Road, Kalamunda Monday 8 March 2010

1.0 OFFICIAL OPENING

1.1 The Chairman opened the meeting at 7.00pm and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 APOLOGIES AND LEAVE OF ABSENCE

2.1 Present

Councillors

D McKechnie	(SHIRE PRESIDENT) NORTH WARD
M Thomas	(CHAIRPERSON) NORTH WARD
N Townsend	SOUTH WEST WARD
A Morton	(DEPUTY CHAIRMAN) SOUTH WEST WARD
M Robinson	SOUTH WEST WARD
G Stallard	SOUTH EAST WARD
C Everett	SOUTH EAST WARD
F Lindsey	SOUTH EAST WARD
M Cresswell	NORTH WEST WARD
P Heggie	NORTH WEST WARD
D O'Connor	NORTH WEST WARD

Officials

J Trail	CHIEF EXECUTIVE OFFICER
C Higham	DIRECTOR PLANNING & DEVELOPMENT SERVICES
N Wilson	DIRECTOR CORPORATE SERVICES
K O'Connor	DIRECTOR COMMUNITY DEVELOPMENT
M Singh	DIRECTOR ENGINEERING SERVICES
A Fowler-Tutt	MANAGER STRATEGIC PLANNING
D Tomlinson	MANAGER STATUTORY PLANNING
D Wilson	MANAGER BUILDING SERVICES
J Gough	MINUTE SECRETARY

Apologies

S. Bilich

NORTH WARD

B Millan

EXECUTIVE ASSIST TO CEO

Observers

10

Newspapers

Nil

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 the Minutes of the Planning Services Committee Meeting held on 8 February 2010 be confirmed as a true and correct record of the proceedings.

Moved: Cr Townsend

Seconded: Cr Heggie

CARRIED UNANIMOUSLYStatement 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 February 2010 ."

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 had given or will give advice.

8.1 Item 9.15 – Middle Helena Catchment Area Land Use and Water Management Strategy

Cr Lindsey declared an Interest affecting Impartiality as he resides within this area.

9.0 REPORT TO COUNCIL

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

9.13 Subdivision Guide Plan - Land bound by Welshpool Road East, Edward Road and Gilchrist Road, Lesmurdie

Previous Items:	N/A
Service Area:	Planning Development Services
File Reference:	PG-DEV-036
Applicant:	N/A
Owner:	Various

PURPOSE

1. To consider the adoption of a Subdivision Guide Plan (SGP) for the Special Rural zoned portion of Lesmurdie area bound by Welshpool Road East, Edward Road and Gilchrist Road. Refer **(Attachment 1.)** for Locality Plan.
2. The proposed SGP requires endorsement of the Western Australian Planning Commission (WAPC).

BACKGROUND

3. A Subdivision Guide Plan is required prior to considering subdivisions in a Special Rural zone unless the Shire and the WA Planning Commission are satisfied that such plan is unnecessary.

DETAILS

4. The intent of the SGP is to provide a spatial plan for a more co-ordinated and integrated approach to subdivision design to avoid, in particular, the use of battleaxe lot design. The design of the SGP includes, where possible, the provision of loop roads for connectivity but it also includes the use of cul-de-sac roads. Refer **(Attachment 2.)** for advertised Subdivision Guide Plan.

STATUTORY AND LEGAL IMPLICATIONS

5. Scheme provisions pertaining to the preparation of SGP are contained under Clause 5.10- Special Rural Zone which details the requirement for a SGP. The provisions require that SGP will be required unless the Shire is satisfied that such a plan is unnecessary, would result in the creation of no more than two lots or not require a Detailed Land Capability Analysis. Future subdivision will generally accord with the SGP adopted for specified areas by Local Government and the WAPC. Variations to the SGP can be considered by Council and the WAPC.

POLICY IMPLICATIONS

6. Nil.

PUBLIC CONSULTATION/COMMUNICATION

7. In October 2009, the proposed SGP was forwarded to all the landowners within the area covered by the plan. Fourteen (14) submissions were received- five (5) being objections, five (5) being conditional non-objections and four (4) being non objections.
8. The following main concerns were raised by submitters:
- Landowner on Gilchrist Road questioned lot sizes not being sufficient for subdivision in Special Rural zone and lack of Scheme Water;
 - Impact on the amenity of the area being impacted on by doubling the existing density;
 - Landowners on Welshpool Road East were concerned that the cost of constructing the road through their properties might be too prohibitive to make the subdivision financially viable and
 - The issue of unsafe proposed road intersection with Welshpool Road East.

A few landowners made alternative propositions regarding design and layout of proposed roads related to specific issues of their individual properties (position of existing home and a wish to retain mature trees on a property). Refer **(Attachment 3.)** for Summary of Submissions.

FINANCIAL IMPLICATIONS

9. Nil

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

10. **Strategic Planning Implications**
- As stated previously, the intent of the SGP is to provide a spatial plan for a more co-ordinated and integrated approach to subdivision design.
11. **Sustainability Implications**
- Social implications**
- Nil
- Economic Implications**
- Potential economic implications for subdividing in this area are related to connection of scheme water for Edward and Gilchrist Roads and construction of proposed roads.
- Environmental Implications**
- Detailed Land Capability Analysis is required for all lots identified under the SGP. The retention of remnant vegetation and/or planting of additional vegetation might be some of the recommendations following such report.

OFFICER COMMENT

12. In relation to concerns raised by the landowners following comments are offered:
- Some of the properties shown as properties with subdivision potential fall slightly short of sufficient land area to allow for subdivision in this zoning. Additionally, properties that will have roads constructed over

will have resulting lots slightly smaller than the requirements under the zone. It should be noted that in the past the WA Planning Commission supported subdivision in Special Rural areas that resulted in lots smaller than 1 ha if the variation was minor.

- Properties on Gilchrist Road and some on Edwards Road do not have access to scheme water. They will not be able to be subdivided until such time that the water become available. The SGP has to incorporate these properties to set the framework for any future subdivision in the area.
- The Special Rural zone of this area already allows for lots 1ha in area. The proposed SGP is necessary to facilitate any subdivision proposals than might eventuate in the future.
- One of the objectives of the SGP is to coordinate the subdivision design and provide equity to landowners in terms of apportionment of road construction costs.
- The issue of unsafe proposed intersection with Welshpool Road East has been taken into account and design has been adjusted accordingly.

Refer **(Attachment 4.)** for modified Subdivision Guide Plan.

13. The WAPC have advised it will not support subdivision applications in the areas under Special Rural zoning until such time as a SGP has been endorsed. Accordingly, Shire planning staff has prepared a plan which provides for a more coordinated approach to subdivision design.
14. The SGP is a flexible plan in so far as the designs can be modified to address any concerns landowners might have. Importantly, the SGP should be viewed as a starting point in the subdivision process which will provide more certainty for those landowners who wish to subdivide. On this basis, it is recommended that the proposed SGP be adopted and forwarded to the WAPC for adoption.

MEETING COMMENT

15. Nil

COMMITTEE RECOMMENDATION TO COUNCIL

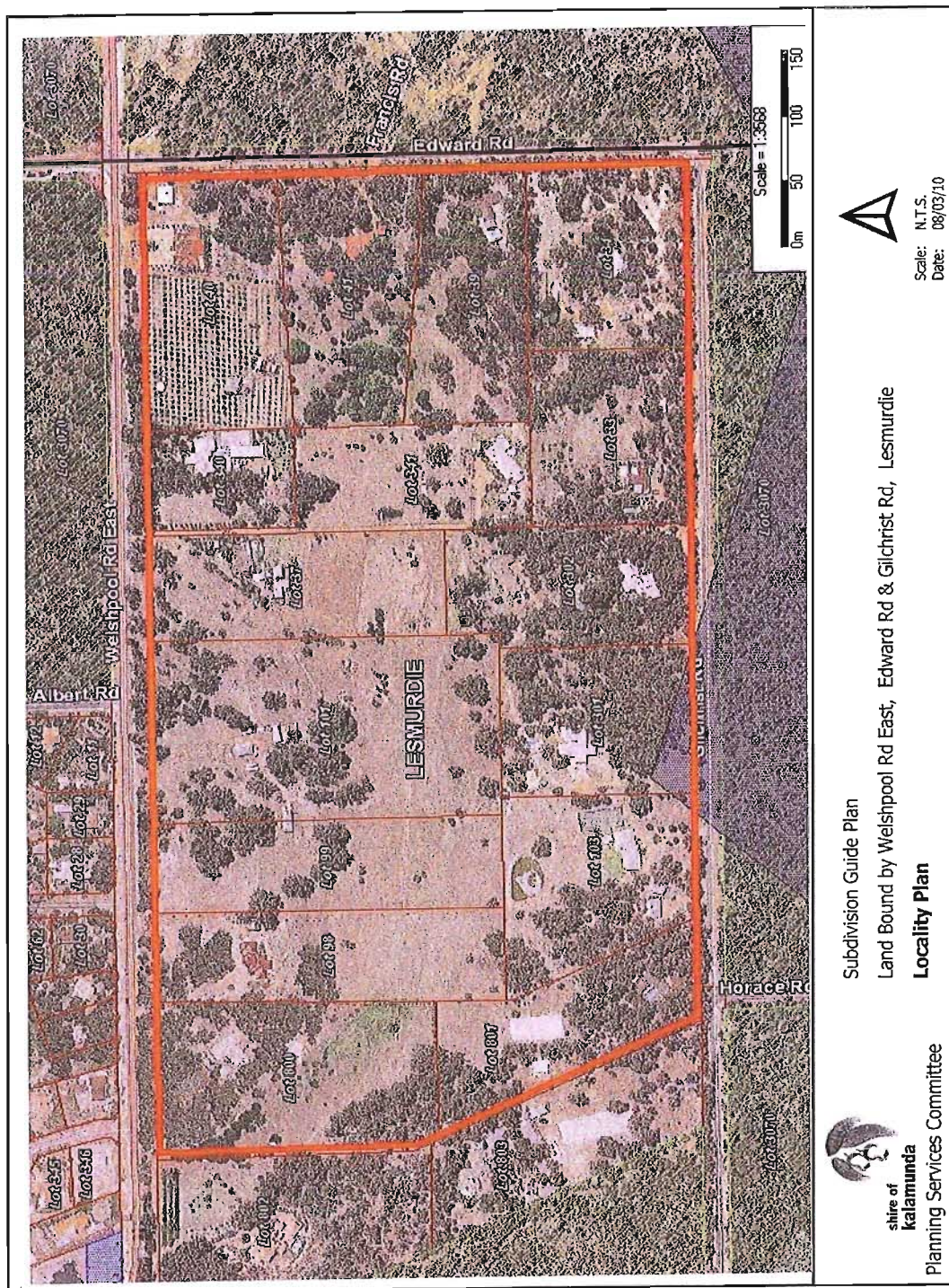
PS 13/2010

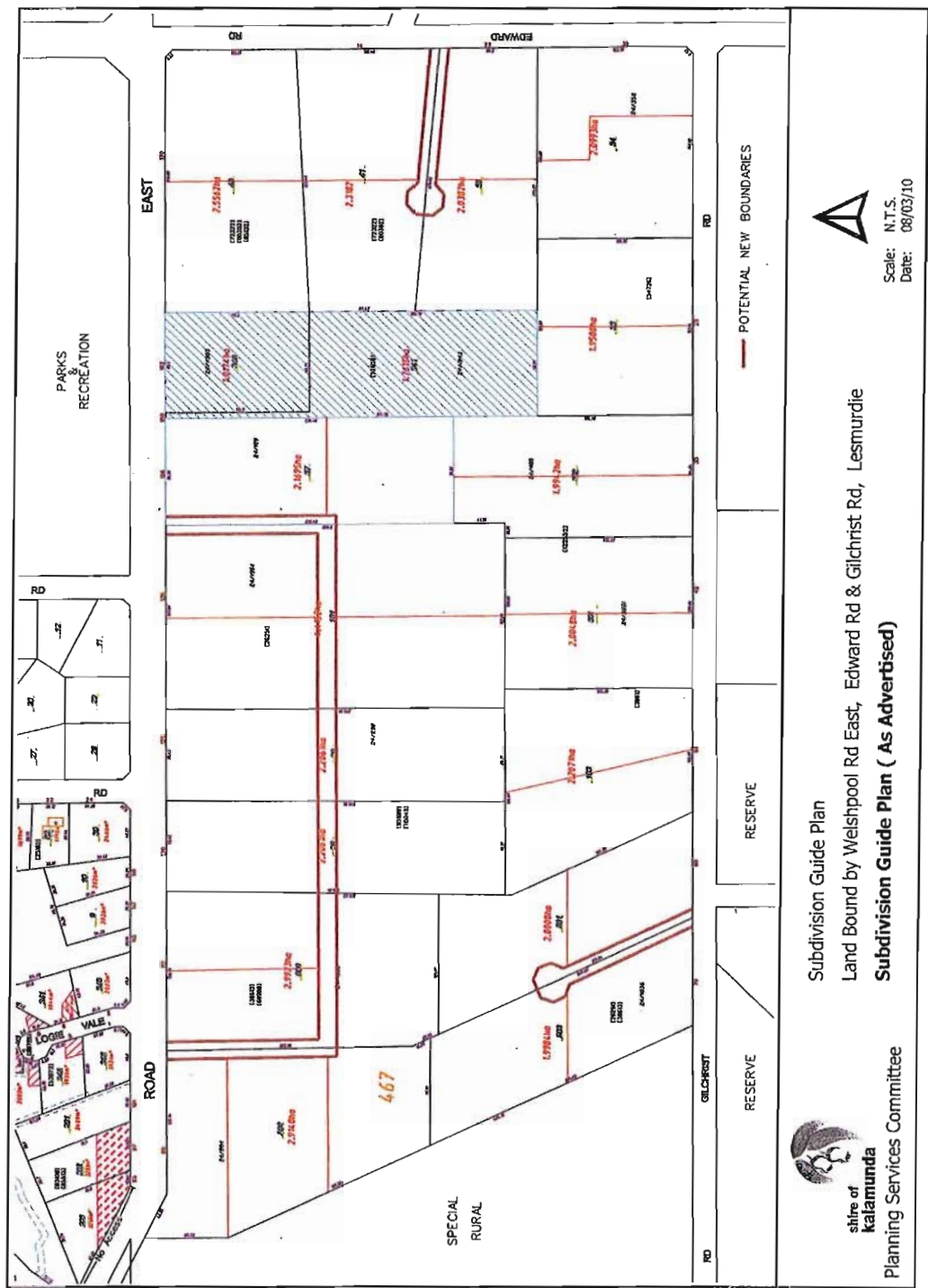
1. That Council adopts the Subdivision Guide Plan for Lesmurdie Area bound by Welshpool Road East, Edward Road and Gilchrist Road and forwards the plan to the Western Australian Planning Commission for endorsement.

Moved: Cr Everett

Seconded: Cr Townsend

CARRIED UNANIMOUSLY





Item . Attachment .
EMC Date:

**Land Bound By Welshpool Road East, Edward Road And Gilchrist Road, Lesmurdie-
Proposed Subdivision Guide Plan
(PG-DEV-036) (Planning and Development Services)**

Submission		Details	Officer Comment
1.	M O'Connell 14 Edward Road Lesmurdie WA 6076	No Objection 1. I believe that this area would lend itself to a subdivision down to half acre (or less) because the valley aspect will allow for sewerage and drainage to the foothills system.	Noted. 1. The Subdivision Guide Plan does not propose rezoning of the subject area; rather the plan seeks to improve the design of future subdivision applications for the Special Rural zoned land.
2.	L Zurzolo 170 Welshpool Road Lesmurdie WA 6076	No Objection	Noted.
3.	D Condo 98 Welshpool Road Lesmurdie WA 6076	No Objection 1. Area of land used for road construction not to be deducted from lot size when calculating minimum lot area. 2. Traffic safety to be looked at carefully at Welshpool Road intersections as the west one is close to a dangerous gradient	Noted 1. The minimum lot size for special rural zoned land is 1ha where Scheme water is available. It is acknowledged that those lots that have subdivision potential prior to the adoption of the Guide Plan, however due to the requirement for a road will fall below the

PSC Item 13/2010 - (Attachment 3.)

			<p>minimum lot size, should still be able to subdivide. Provisions will have to be inserted into the Scheme to this effect.</p> <p>2. This comment has been taken on board and in consultation with the Shire engineers the proposed road has been moved to avoid a new intersection in the area of low visibility</p>	
4.	N & H Barnard 38 Gilchrist Road Lesmurdie WA 6076	<p>Objection</p> <ol style="list-style-type: none"> Proposed boundary goes through the middle of the house and business. The land for the battle axe leg was purchased and approved by the Shire. Services for the house run along the battle axe leg. What is wrong with battle axe leg? The road will ruin our outlook and create traffic noise. 	<p>Noted</p> <ol style="list-style-type: none"> The SGP has been amended to allow for a battle axe leg in this instance. Noted. Noted. The use of Battle axe legs is not a good design outcome for broad acre subdivision, in particular where alternative design with appropriate road frontage can be achieved. Refer comments 4.1.1. 	
5.	GD Gray 156 Welshpool Road East Lesmurdie WA 6076	<p>Objection</p> <ol style="list-style-type: none"> Wishes for the area to remain as it is. Wants to pass on the land to family as it had been for almost 100 years Believes that majority of people are happy with the land as is. 	<p>Noted.</p> <ol style="list-style-type: none"> The intent of the Guide plan is to improve the future subdivision design of the subject land. The plan does not allow for any additional lots other than those already allowed for under the Special Rural zone. 	
6.	L Giura 158 Welshpool Road Lesmurdie WA 6076	<p>Objection (conditional)</p> <ol style="list-style-type: none"> Who is going to pay for road construction? How are the hoons going to be stopped using the roads? Should the priority not be making Welshpool Road safe- heavy vehicles, excessive noise etc. 	<p>Noted</p> <ol style="list-style-type: none"> The cost of constructing the internal road will be met by the subdivider and therefore should be treated like any other subdivision infrastructure cost. Driver behaviour is not a planning 	

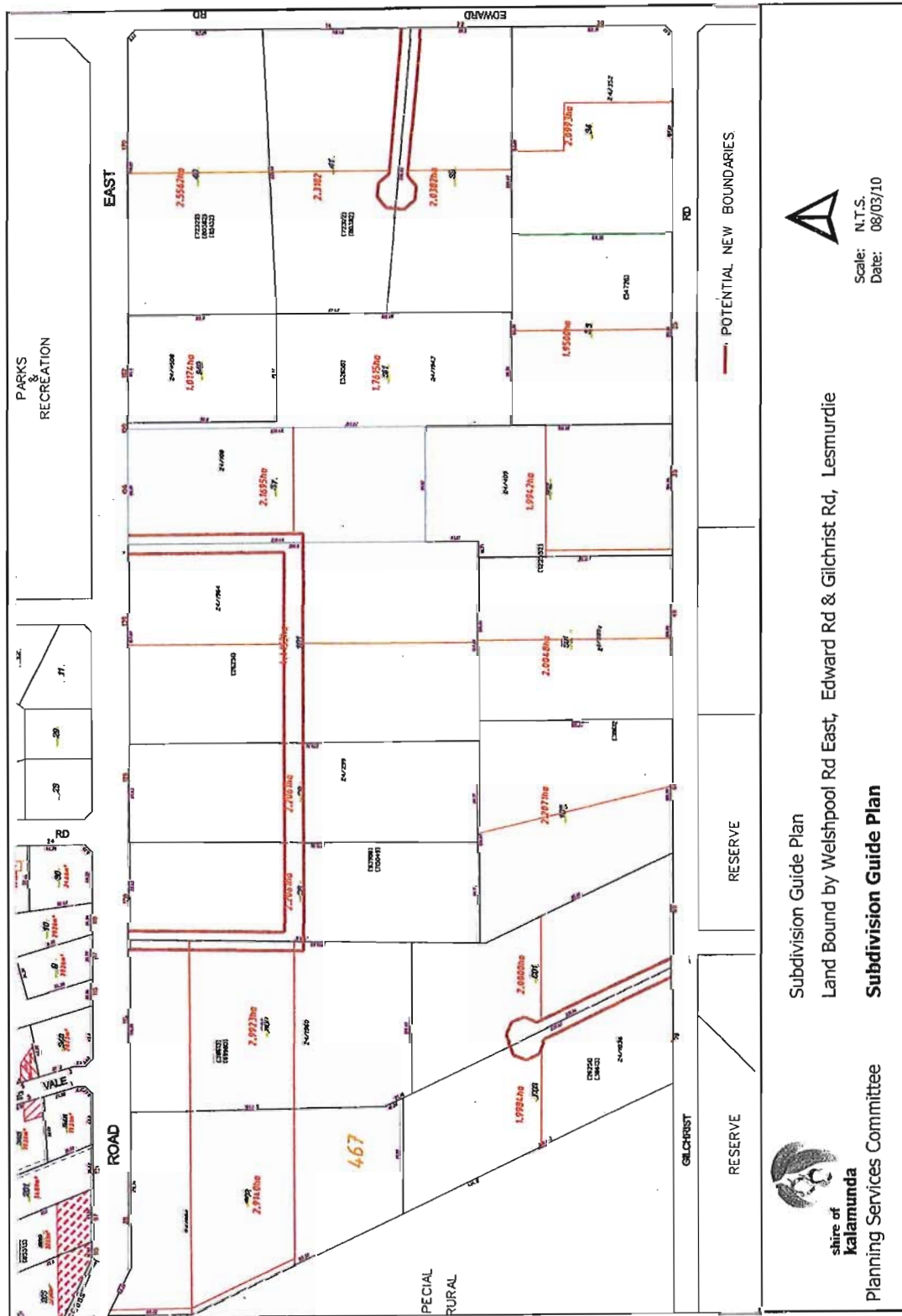
PSC Item 13/2010 - (Attachment 3.)

			consideration. 3. Vehicle safety on Welshpool Road will be considered in respect to proposed entry points onto the road.
7.	M Patterson 49 Gilchrist Road Lesmurdie WA 6076	Objection 1. The unique amenity of this area would be severely compromised by doubling the density. 2. I believe that the majority of landowners would support amendment to the Scheme to create a zone to protect current lot sizes.	Noted 1. Refer comments 5.1.1. 2. The current Special Rural zoning of the land is not changing.
8.	M & K Page 69 Gilchrist Road Lesmurdie WA 6076	Objection 1. No water supply on Gilchrist Road which prevents subdivision anyway 2. Increased density- increased bushfire risk 3. If water provided- access can be provided alternatively from Welshpool Road East (shown on the map attached to comment)	Noted 1. It is acknowledged that subdivision down to 1 ha requires connection to scheme water and that some lots on Gilchrist Road do not have access to Scheme water. However the Guide plan is still required for these lots in the event that scheme water is provided in the future. 2. No density increase is proposed other than those lots which currently have subdivision potential under the Scheme. 3. The Shire would not support the construction of a road through reserved land.
9.	M Burchett 79 Gilchrist Road Lesmurdie WA 6076	Conditional Non Objection 1. In principle, no objections with the exception of further clarification regarding lot size for subdivision approvals under 2 ha	Noted 1. With the requirement for a new road some lots will fall below the minimum lot size required under the Scheme. See comment

			3.1.1.	
10.	E.Beattie 25 Gilchrist Road Lesmurdie, WA 6076	Conditional Non Objection 1. Access Points off Welshpool Road are not safe. 2. Welshpool Road is exceptionally steep opposite Logie Vale and narrows to one lane with a sharp change in direction which is poorly lit. 3. Welshpool Road is affected by heavy haulage which operate in low gears which add to the danger. School and commuter traffic increase danger.	1. This comment has been taken on board and in consultation with the Shire engineers the proposed road has been moved to avoid a new intersection in the area of low visibility 2. See 10.1.1. 3. Noted	
11.	M Sinosich 34 Edward Road Lesmurdie WA 6076	Conditional Non Objection 1. What will be proposed for Francis Road corner Edward/Gilchrist section of the Forrest?	1. The area in question is not part of this Subdivision Guide Plan	
12.	B Lodewyke 22 Edward Road Lesmurdie WA 6076	Conditional Non Objection 1. Position of proposed road between 14 and 22 not ideal because of number of trees that will have to be removed to accommodate the proposed road. 2. An alternative is to have the road moved to the left hand side of the property to grant access to the rear of my property. 3. The ideal entry to our land is at the back between No 30 and No 25, I will ask the landowners if they are willing to sell me a small strip of land.	1. The position of the access road between 14 and 22 Edward Road is considered most appropriate from planning point of view; however, it is possible for the local government to consider a variation from the Subdivision Guide Plan without amending the Scheme in the future 2. .	

13.	JM & JC Hamilton 120 Welshpool Road East Lesmurdie WA 6076	Conditional Non Objection Supportive of minimising battleaxe subdivisions but not in favour of road layout to service Welshpool Road properties. Constructing a road with services would make it unattractive to subdivide	Noted
14.			

Copies of submissions may be made available to Councillors.



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

9.14 Lot 5 (19) Carob Tree Place, Lesmurdie- Modification to Structure Plan- Canning Location 311

Previous Items:	N/A
Service Area:	Planning Development Services
Applicant:	G Lovell
Owner:	G Lovell

PURPOSE

1. To consider a proposal to modify the Structure Plan for Canning Location 311 to facilitate the subdivision of Lot 5 (19) Carob Tree Place, Lesmurdie into 2 lots. Refer **(Attachments 1a. & 1b.)** for Locality Plan and Public Consultation.

BACKGROUND

2. The subject lot is zoned Urban Development under the provisions of Local Planning Scheme No. 3 (the Scheme). Lot 5 comprises an area of 4011sqm. The lot contains a residence, two sheds and a pool. The site slopes gently from east to west.
3. The Structure Plan for Canning Location 311 bound by Canning Road, Pomeroy Road and Orangedale Road was adopted by Council in November 1980. The Structure Plan was subsequently endorsed by the then Town Planning Board in 1981. Refer **(Attachment 2.)** for adopted Structure Plan. Minimum lot size identified on the Structure Plan is 2,000sqm, equivalent to a residential density of R5.

DETAILS

4. The proposed change to the Structure Plan would enable Lot 5 to be subdivided in two lots. Refer **(Attachment 3.)** for the proposed modification to the Structure Plan.
5. The proposed R5 density code applied to this site reflects the lack of reticulated sewerage and is consistent with the minimum lot size applied to the Structure Plan area.

STATUTORY AND LEGAL IMPLICATIONS

6. The design and assessment of structure plans are dealt with under the provisions of clause 6.2 *Development Areas* of Local Planning Scheme No. 3. In particular Clause 6.2.3- *Preparation of Structure Plans* and 6.2.4- *Adoption and Approval of Structure Plans*.
7. The request will be forwarded to the Western Australian Planning Commission (WAPC) for determination. In the event that the WAPC refuses the request, there is a right of review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

8. Nil

PUBLIC CONSULTATION/COMMUNICATION

9. The modification was referred to surrounding landowners for comment. No submissions were received.

FINANCIAL IMPLICATIONS

10. Nil

STRATEGIC AND SUSTAINABILITY IMPLICATIONS**11. Strategic Planning Implications**

- The subject lot is part of a Planned Urban Area and provides for residential development, where appropriate, to a minimum density of R5.

12. Sustainability Implications**Social implications**

- This proposal will result in development of another residential property in an already established area.

Economic Implications

- Nil

Environmental Implications

- An inspection of the property by Shire environmental staff revealed a number of large marri trees scattered through the rear of the site with no understorey vegetation. Given the endemic nature of marri trees, the existing trees are considered to have a low conservation value.

OFFICER COMMENT

13. The proposed modification represents a minor variation to the design of the adopted Structure Plan. The proposal is consistent with the intent of the balance of the Structure Plan in providing lots with minimum lot size of 2,000sqm. Importantly, the subject lot is suitable for on-site effluent disposal, making it suitable for subdivision to a minimum lot size of 2,000sqm.
14. In 1980, the adopted Structure Plan for Canning Location 311 identified building envelopes for each of the lots on Carob Tree Place. The intent of the envelopes was to protect the vegetation existing at the time of the adoption. Environmental advice received suggests however that with virtually no understorey left, some of the trees can be removed to facilitate the proposed modification and ultimately the future subdivision of the subject property into two lots.
15. It is recommended that the proposed modification incorporates a building envelope of 547sqm to ensure the number of trees removed is controlled, yet provides for a sufficient area for a dwelling and associated outbuildings to be built on the site. The location of the building envelope will be consistent with the building envelope of the adjoining Lot 4 providing for a 15m rear setback in order to preserve as many mature trees as possible. See **(Attachment 4.)** detailing the location of the proposed modified building envelope.

16. Having regard for the above, it is recommended that the proposed modification to the adopted Structure Plan for Canning Location 311 be forwarded to the Western Australian Planning Commission with a recommendation of approval.

MEETING COMMENT

17. Two Councillors commented on the value of the Marri trees and the importance of building envelopes.
18. The Director of Planning and Development Services explained that the building envelopes would ensure the conservation of many of those trees.

COMMITTEE RECOMMENDATION TO COUNCIL PS 14/2010

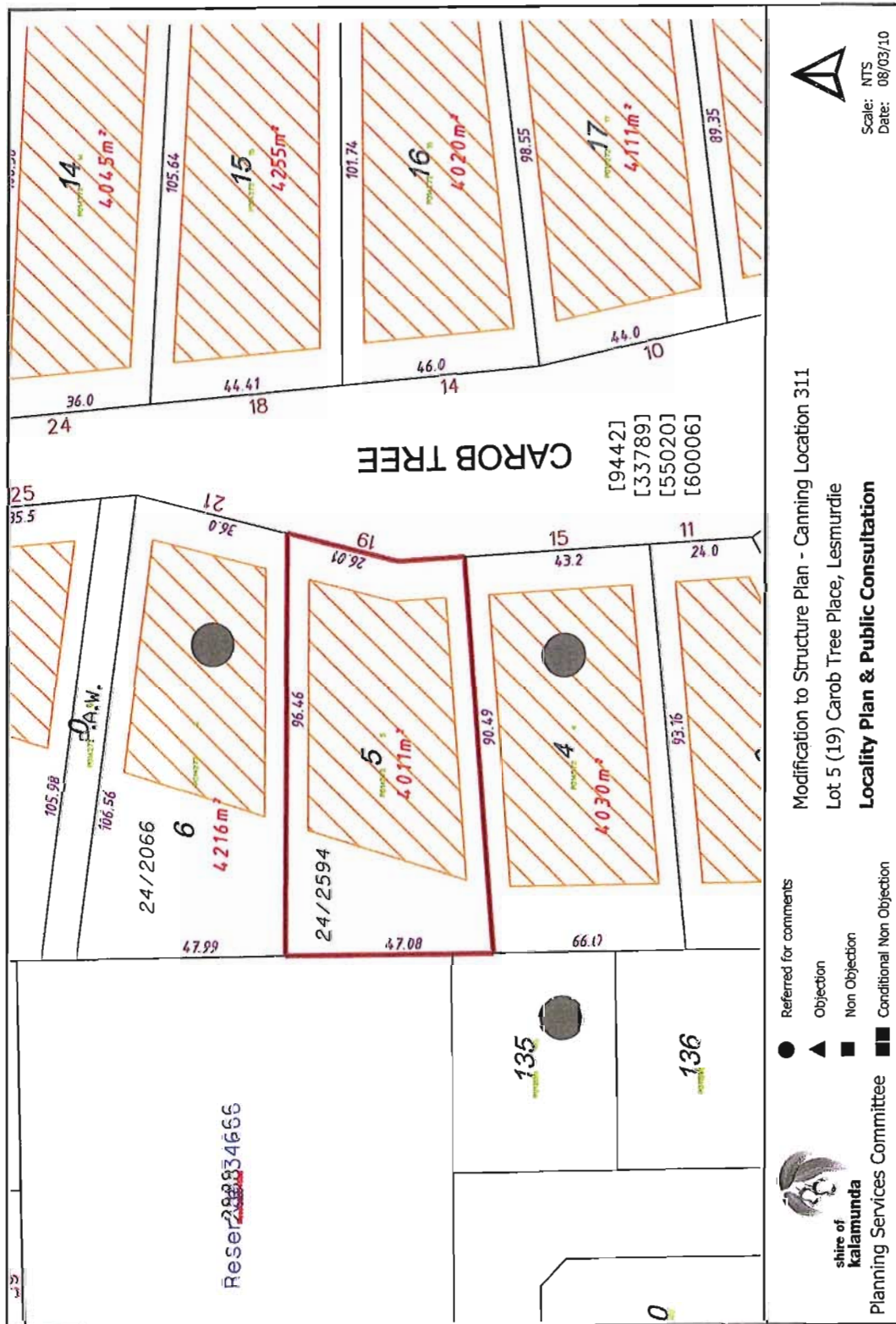
1. That Council adopts the proposed modification to the adopted Structure Plan for Canning Location 311 for Lot 5 (19) Carob Tree Place, Lesmurdie and forwards it to the Western Australian Planning Commission for endorsement.

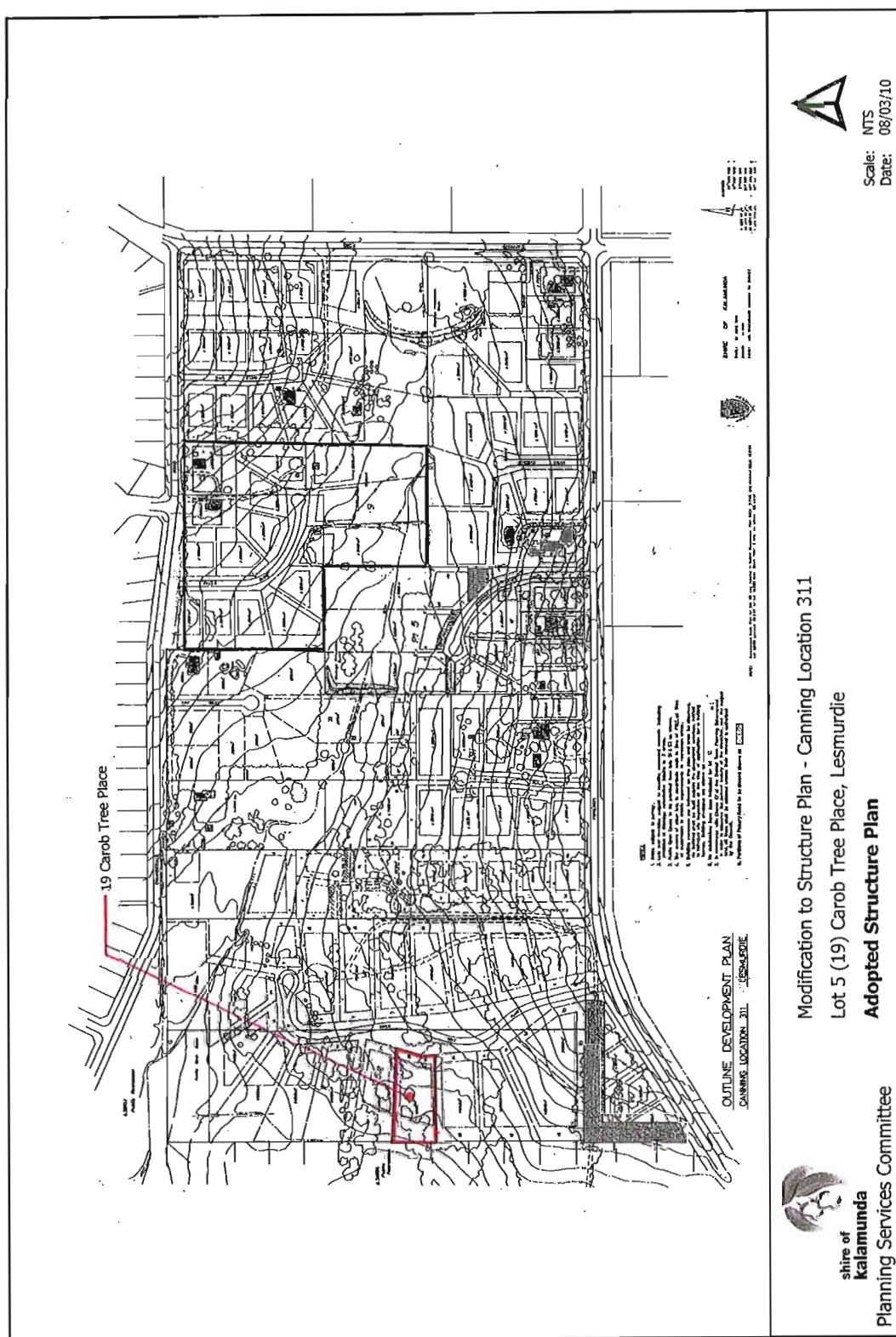
Moved: Cr Everett

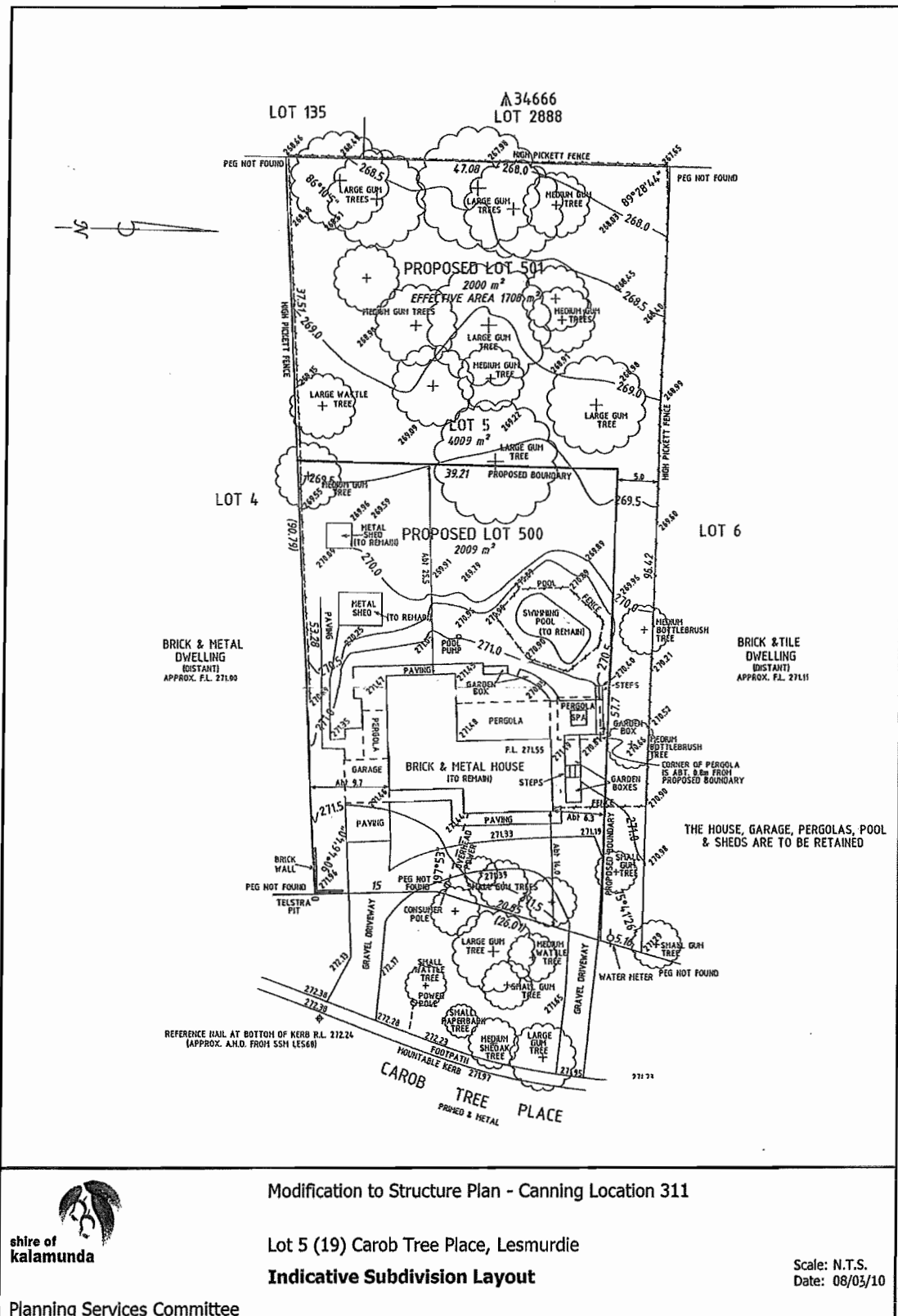
Seconded: Cr Stallard

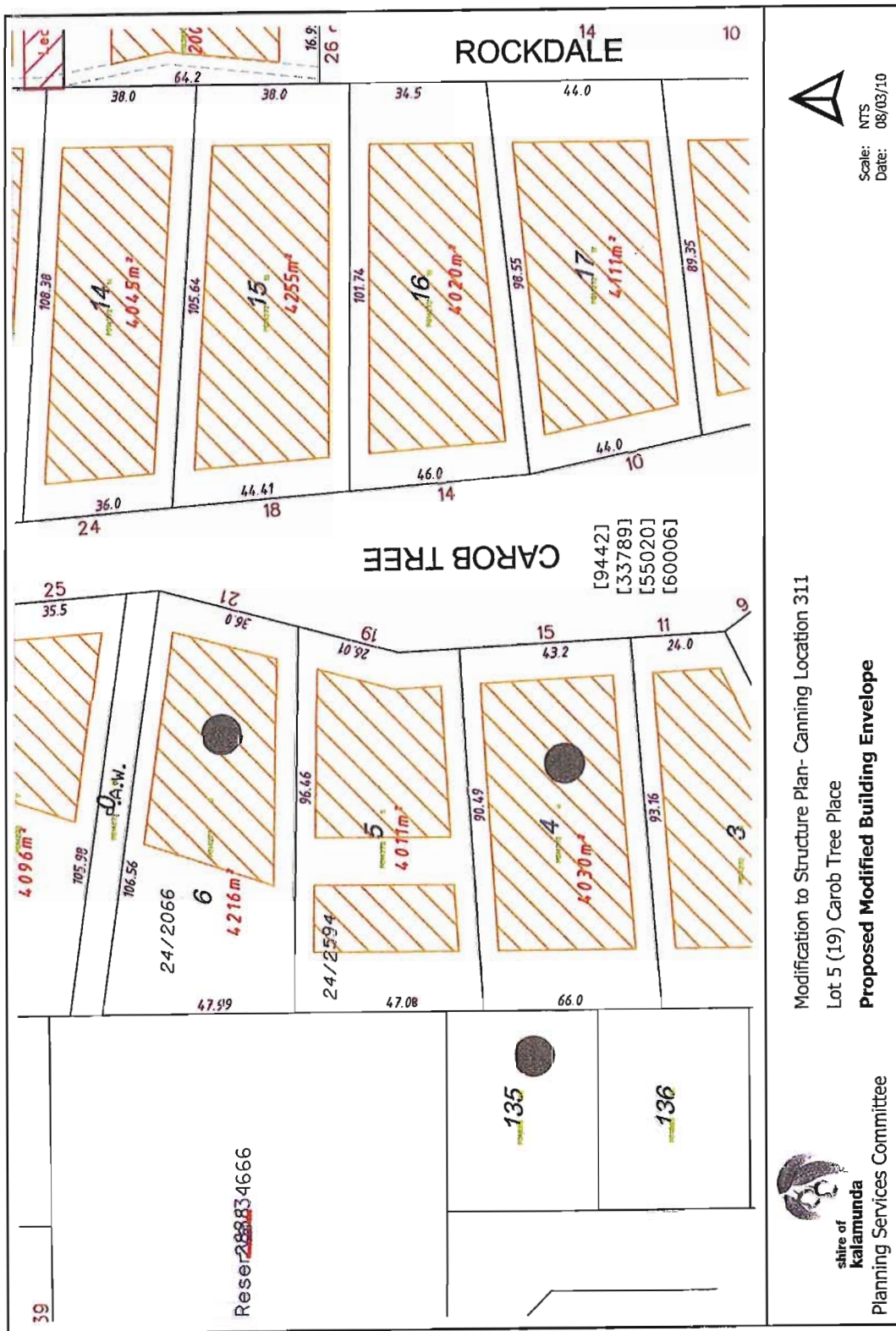
CARRIED UNANIMOUSLY











Modification to Structure Plan- Canning Location 311
Lot 5 (19) Carob Tree Place
Proposed Modified Building Envelope

Shire of
Kalamunda
Planning Services Committee

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

Cr Lindsey declared an Interest affecting Impartiality as he resides within the area.

9.15 Middle Helena Catchment Area Land Use and Water Management Strategy

Previous Items:	PS 119/03, PS 26/08, PS 9.2/09, PS 9.11/10
Service Area:	Planning and Development Services
Author:	Andrew Fowler-Tutt
File Reference:	EV-EPP-037
Applicant:	N/A
Owner:	N/A

PURPOSE

1. To consider adoption of the Draft Middle Helena Catchment Area Land Use and Water Management Strategy.
2. Refer the Draft Strategy to the Western Australian Planning Commission (WAPC) for endorsement.

BACKGROUND

3. The Middle Helena Catchment Area is the catchment area for the Helena River from the Mundaring Weir downstream to the Helena Pumpback Dam. The draft Strategy released in 2003, provides a framework for sustainable and integrated land use and water management for the catchment area by way of integrating the land use planning process, public drinking water source protection and catchment management. Refer **(Attachment 1.)** Locality Plan.
4. The Draft Strategy divides the catchment areas into three risk based priority classifications, namely Priority Areas P1, P2 and P3. Refer **(Attachment 2.)** The Strategy recommends two amendments to the Metropolitan Region Scheme (MRS) for priority areas within the gazetted boundary of the Middle Helena Catchment Area, namely:
 - To place a *Water Catchment Reservation* over areas designated as Priority 1. All developments applications received for this area must be forwarded to the Western Australian Planning Commission for determination; and
 - To place a *Rural Water Protection Zone* over areas designated as Priority 2 areas. All land identified in the land use compatibility table as being conditional or incompatible will require referral to the Department of Water (DoW) for comment.
5. No new reservation or zoning is proposed for areas classified as Priority 3 at the Metropolitan Region Scheme level. A further recommendation of the Strategy, however is to establish a *Special Control Area* in the Kalamunda Local Planning Scheme No.3 that would illustrate the boundary of the catchment area, give effect to the Metropolitan Region Scheme Amendment (MRS) that would identify areas designated as Priority 3 and to guide future land use or development that may affect the quality of public drinking water.

6. The Draft Strategy does not revoke any existing land use approvals, but will ensure future approvals are managed in an environmentally appropriate manner. Although Priority 3 areas will not be subject to the provisions in the MRS requirements, they will be incorporated via the Special Control Area in the Shire's Scheme. The provisions of the special control area will require land use activities and planning decisions made generally in accordance with the land use compatibility in the Strategy.
7. In December 2003, following landowner concern regarding the restrictive nature of the Strategy regarding land use activity, Council resolved not to support the Draft Strategy. Refer **(Attachment 3.)** Council 2003 resolution.
8. In September 2005, the Western Australian Planning Commission produced a report to respond directly to the submissions received. The responses to the concerns raised by Council in 2003 are contained in **(Attachment 4)**.
9. In 2008, the then Department for Planning and Infrastructure (DPI), in conjunction with the Minister's office reconvened the Steering Committee and Project Reference Group with the intention of preparing a final review and finalising the Strategy. The reformed Project Reference Group comprises representatives from:
 - Shire of Kalamunda;
 - Shire of Mundaring;
 - Department of Water;
 - Department of Environment and Conservation;
 - Department of Agriculture;
 - East Ward Resident Association;
 - Eastern Hills Catchment Management Program;
 - Eastern Metropolitan Regional Council;
 - Equestrian Interest;
 - Friends of Piesse Brook;
 - Helena River Catchment Group;
 - Kalamunda Districts Tourism Association;
 - National Trust of Australia (WA);
 - Perth Hills Vigneron's Association;
 - Swan River Trust;
 - WA Fruit growers Association;
 - Water Corporation; and
 - Western Walking Club.

Membership of the Steering Committee comprises:

- Shire of Kalamunda including elected members;
- Shire of Mundaring including elected members;

- Department of Water;
 - Department of Environment and Conservation; and
 - Department of Planning.
10. In April 2008, Council endorsed the reconvened Steering Group and Project Reference Group and endorsed Councillor Lindsey and Councillor Thomas as its Representative and Deputy on the Steering Group.
 11. In May 2009, a Discussion Paper was prepared by Consultants commissioned by the then Department for Planning and Infrastructure to review the issues raised by stakeholders in 2004 during the advertising of the Strategy, discuss any significant issues which may have arisen since this time and propose a way forward to resolve the issues and finalise the document.
 12. In June 2009, the Project Reference Group met to consider the Discussion Paper. The meeting included a presentation of the Draft Strategy, matters raised in the submissions, key issues for discussion (including recommended changes) and a way forward. The Group was requested to provide written comment to the Department of Planning (DP).
 13. In July 2009, the Discussion Paper was revised to include the issues discussed by the Project Reference Group in June 2009 and presented to the Steering Committee. The revised Discussion Paper reflects the discussion and recommendations of the Steering Committee to finalise the Middle Helena Land Use and Water Management Strategy.
 14. In December 2009, Council deferred consideration of the planning report requesting adoption of the Middle Helena Strategy to the Planning Services Committee Meeting in February 2010 to allow the report to be advertised for public comment.
 15. In February 2010, Council deferred consideration of the planning report requesting adoption of the Middle Helena Strategy to the Planning Services Committee Meeting in March 2010 to allow for an extension of the advertising period.

DETAILS

16. The Discussion Paper produced in July 2009 provides a review of the issues raised by stakeholders and presents the recommendations of the Steering Committee to finalise the Strategy.
17. The principal issues identified in the Discussion Paper are:
 1. Opposition to restrictions placed on existing land uses, particularly in agricultural areas, and the impact this will have on landowners and water quality;
 2. Access to and recreation within the reservoir protection zone; and
 3. Implementation of the Strategy via the planning approvals system.
18. To address the above and other issues raised by Stakeholders in response to the Draft Strategy, which are identified in the Section 23 of this report, the paper proposes a number of changes (largely clarification) to the final Strategy refer **(Attachment 5.)** Recommended Changes to the Strategy Report.
19. The Discussion Paper also includes the recommendations of the Steering Committee

(Attachment 6.) The Committee makes special reference to the proposal for a Reservoir Protection Zone, noting that although the idea of implementing such a zone was not fully supported by the Committee, it was consistent with current Government legislation and practice to protect public drinking water sources. The issue of recreation in public drinking water source areas and the use of the Reservoir Protection Zone would be addressed outside the Strategy, through a coordinated Government review.

20. The Steering Committee also made a recommendation in respect to the provision of zones and special control areas to provide guidance and avoid confusion concerning their implementation **(Attachment 7.)**.

STATUTORY AND LEGAL IMPLICATIONS

21. The Draft Strategy recommends provisions to be accommodated in the Metropolitan Region Scheme (MRS) and the Shire's Local Planning Scheme No.3. There is currently a 'gap' in the Shire's Local Planning Scheme No.3. When the Scheme was Gazetted in March 2006, the 'Water Catchments' reservation was omitted for the Middle Helena catchment on the understanding that the Middle Helena Strategy would be finalised.
22. The Strategy is consistent with State Planning Policy 2.7 – Public Drinking Water Source Policy and categorises areas within the catchment into Priority 1, 2 and 3 areas, based on the individual attributes of each area including land use and land use zoning. The Priority 1, 2 and 3 areas will be reflected in the MRS and Local Planning Scheme No.3.

POLICY IMPLICATIONS

23. There are a number of planning and environmental policies that apply to the Middle Helena Catchment Area. In particular, those applied by the Department of Water (DoW) - *Water Quality Protection Note No.25 – Land Use Compatibility in Public Drinking Water Source Areas (2004)*. This provides the DoW's advice on land use practices and activities within areas gazetted for public drinking water supply in order to maintain water quality and have been used in the Draft Strategy to guide land use practice within the catchment area.
24. The land use compatibility table provided in the Draft Strategy forms part of the Water Quality Protection Note and provides a guide for land uses that are acceptable, land uses that can be managed to be compatible (termed compatible with conditions), or land uses that are incompatible.

PUBLIC CONSULTATION/COMMUNICATION

25. The Draft Strategy was previously advertised for a period of 3 months which was later extended for an additional two months concluding on 21 January 2004 to facilitate broader stakeholder comment. During this period a total of 53 submissions were received. Of these submissions seven (7) were in total support, seven (7) indicated general support but with some reservations and the balance thirty nine (39) opposed the Strategy including the Shire of Kalamunda.

26. The principal concerns identified were:

- Opposition to restrictions placed on existing land uses, particularly in agricultural areas, and the impact this will have on landowners and water quality;
- Access to and recreation within the reservoir protection zone; and
- Implementation of the Strategy via the planning approvals system.

27. All the submissions received were responded to by the WAPC in 2005. All the concerns raised by Council are commented on in **(Attachment 4)** of the report.

28. In December 2009, the Planning Services Committee Report seeking adoption of the Draft Strategy was advertised in the local newspaper with comments requested by 16 January 2010. Due to concerns from the community that there was insufficient time to comment due the advertising occurring over the Christmas holiday, the advertising period was extended to the 15 February 2010. Member of the Project Reference Group were also notified of the planning report and requested to comment. A total of two (2) submissions were received in relation to the adverted draft. The issues raised in the submissions are commented on in **(Attachment 8.)** of the report.

FINANCIAL IMPLICATIONS

29. Nil

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

30. Strategic Planning Implications

- The Draft Strategy describes key planning issues associated with the protection and management of the water source within the Middle Helena catchment and recommends provisions to be incorporated into the MRS and Local Planning Scheme No.3. These provisions will enable future planning of the catchment to be undertaken in a manner cognisant of broader strategic planning issues for the Shire such as tourism and protection of the Shire's orcharding and viticulture industries.

31. Sustainability Implications

Social implications

- There are a number of social activities that occur in the Middle Helena catchment that could be affected by the Strategy with the imposition of more restrictive land controls.

Economic Implications

- There are a number of rural-commercial enterprises such as wineries, restaurants and tearooms catchment that could be affected by the Strategy with the imposition of more restrictive land controls.

Environmental Implications

- The Strategy will require future development of land use activities to incorporate best environmental management practises to ensure that water quality in the catchment is not compromised.

OFFICER COMMENT

32. The concerns of Council previously raised in December 2003 have been responded to by the WAPC with their submission report of 2005 and further comment provided by the Shire in response refer **(Attachment 4.)** it is considered that the concerns raised have been addressed by the Commission and further by the Project Reference Group and Steering Committee with the proposed changes to the Strategy identified in **(Attachments 5 and 6.)** of this report. The comments raised in response to the advertising conducted in January and February 2010 have also been addressed in **(Attachment 8.)** of the report. Comment is provided on the principal concerns raised in the submissions, with particular relevance to the Shire of Kalamunda, namely:
- 33.
- Restriction on land use
 - Reservoir protection zone; and
 - Implementation of strategy.
 - Compliance measures to address illegal activities.

RESTRICTION AND LAND USE

34. In respect to restriction on land use activities, concerns were raised regarding the impact on land use activities by imposing additional land use controls via P1 and P2 classifications, in particular the economic impact on land values and limiting options for diversification of land use with agricultural areas.
35. It is acknowledged that proposed land use activities or the expansion of existing land use activity may now be subject to further consideration from the Shire, the WAPC or other government agency such as the DoW regarding potential impacts on water quality. In such instances, the applicant will be required to demonstrate best management practices as part of their application to ensure water quality issues are not compromised. Importantly, however, existing approved land use activities identified as incompatible in P2 areas and compatible with conditions in P2 and P3 areas are not affected by these classifications and are able to continue with 'non conforming use rights'.
36. One of the concerns for the Shire was the identification of Floriculture as incompatible in P2 areas. This is largely due to the required rates of fertilizer application and pesticide use. The concern raised was that this classification did not allow sufficient flexibility to expand existing businesses in areas with appropriate aspect and soil conditions. Accordingly, some flexibility has been afforded to the types of floriculture proposals which may be considered in P2 areas. Essentially intensive floriculture will continue to be opposed, however, extensive floriculture that requires negligible irrigation and chemical inputs will be considered as a conditional activity.
37. Another land use classification of concern to the Shire relates to a restaurant use. The Draft Strategy classified the use as compatible in P2 areas subject the use being restricted to a waste water load equivalent to 1 house per hectare (less than 540 litres per day). To provide some flexibility regarding the use and more clarity regarding the interpretation on the amount of water, it is proposed that the criteria

be reworded in such a way that proposals should be consistent with the State Government Sewerage Policy and will be assessed on an individual basis to consider site characteristics and the incorporation of best management practices.

38. The flexibility afforded to agricultural uses such as those described above are supported given the approach should enable appropriate agricultural land use activities to expand where it can be demonstrated that best environmental management practices are incorporated into the proposal.
39. Equestrian Centres will remain as incompatible uses in P2 areas, given the use is considered to be more intensive and has higher stocking rates than proposals for stables which remain as conditional in P2 areas.

RESERVOIR PROTECTION ZONE

40. Whilst Council had no objection to the zone per se, Council did object to the closure of the Helena Pipehead Walk Trail. However, Reservoir Protection zones have been established around the majority of reservoirs on the coastal plan and recognised as very important in minimising the risk of bacteria from entering the water source. Whilst community values of access to recreational walk trails is recognised, this has to be balanced against the significance of retaining good water quality. The closure and rehabilitation of the walk will be the responsibility of the Water Corporation and DoW in consultation with the Department of Environment and Conservation. The requirement for recreation trails in the area will be considered as part of the "Trails Master Plan" being developed by the Department of Sport and Recreation together with key stakeholders in the area. The issue of restricting public access within reservoir protection areas was acknowledged by the Steering Committee and noted that the issue should be considered as part of the wider consideration of recreation within drinking water source areas at a State Government level.

IMPLEMENTATION OF STRATEGY

41. The Discussion Paper – Response to Submissions and Recommendations of the Steering Committee - has drafted a set of provisions for Special Control Areas in order to provide some guidance over land use planning in the Middle Helena Catchment. Whilst the concept of a Special Control Area is supported, Shire staff will need to liaise with the DP regarding the content of the provisions to ensure that they are consistent with Shire requirements. The provisions are contained in **(Attachment 7)**.
42. The role of the DoW in respect to the implementation will be important insofar as all applications proposing land use activities listed as 'compatible with conditions' will require referral to them for comment. The Shire will need to liaise with the DoW in respect to suitable time frames for the referral period to ensure that applications are dealt with in a timely manner to avoid lengthy delays in the planning process.

COMPLIANCE MEASURES

43. Concerns regarding the lack of appropriate compliance mechanisms to control in particular the illegal use of off road vehicles are acknowledged as an ongoing issue for the Shire of Kalamunda, Water Corporation and Department of Conservation and

Land Management. Whilst the latter government agencies have the power to deal with the issue on their land and do implement measures to address the issues, dealing with the issue more broadly is beyond the scope of the Middle Helena Strategy. There should be a collaborative approach by all affected government agencies to deal with the issue separate to the adoption of the Strategy.

CONCLUSION

44. Since the release of the Draft Strategy for public comment in November 2003, the document has been the subject of ongoing discussion and debate by all key stakeholders concerning its major recommendations and implementation. The reconvening of the Project Reference Group and Steering Committee, the preparation of the Discussion Paper and response to submissions and recommendations of the Steering Committee has meant the Draft Strategy has been progressed to a situation where all the concerns raised have been addressed and changes have been recommended. In order to provide some certainty to the land use planning process with the designated water catchment area, it is recommended that Council adopts the Middle Helena Catchment Area Land Use and Water Management Strategy.

MEETING COMMENT

45. A Councillor asked the following questions which were answered one at a time:
- Q.1 Who is going to test for contaminants and water quality (was concerned about the Shire incurring a cost)
- A.1 The Manager, Strategic Planning advised that the Department of Water would carry out those tests.
- Q.2 Are we going to have some control in the Department of Water's assessment of applications as recent conditions imposed on applications had seemed out of touch with the requirements of this Shire?
- A.2 The Director, Planning and Development Services explained that such decisions are ultimately the Shire's, but that we have to take advice from the Department of Water.
- Q.3 Will there still exist the 60 day processing or deemed refusal?
- A.3 The Manager, Strategic Planning confirmed that this was the case.
- Q.4 Are there plans to accommodate off-road vehicles in our Shire?
- A.4 The Manager, Strategic Planning stated that the use of off-road vehicles in water catchment areas is an on-going problem that has been addressed with other government agencies. Alternative sites must be found elsewhere and this issue will be followed up.
- Q.5 Will there be a public education programme for people affected by this strategy?
- A.5 The Manager, Strategic Planning said that he would follow this through with

the Planning Commission.

Q.6 Are other departments going to comply and be accountable? E.g. Western Power , Eastern Terminal in priority area?

A.6 The Manager, Strategic Planning said that, like any other applications received through the Shire within the catchment area, they will need to be assessed in accordance with this strategy by other departments.

OFFICER RECOMMENDATION

1. That Council:

- adopts the Middle Helena Catchment Area Land Use and Water Management Strategy incorporating the recommended changes to the Strategy Report (July 2009), the Recommendations of the Steering Committee (July 2009) and the Proposed Scheme Provisions for a Local Planning Scheme No.3 Special Control Area;

2. Requests the CEO to:

- liaise with the Department of Planning regarding the content of the Special Control Area Provisions contained in **Attachment 7** to ensure that they are consistent with Shire requirements.
- informs the Department of Planning of Council's support.

Moved: Cr Lindsey

Seconded: Cr Everett

The Mover and Seconder accepted that Cr Thomas proposed the following motion:

COMMITTEE RECOMMENDATION TO COUNCIL PS 15/2010

1 That Council:

1. Objects to the closure of the Helena Pipehead Walk Trail as proposed in the Middle Helena Catchment Land Use and Water Management Strategy.
2. Adopts the Middle Helena Catchment Area Land Use and Water Management Strategy incorporating the recommended changes to the Strategy Report (July 2009), **with the exception of the closure of the Helena Pipehead Walk Trail**, the Recommendations of the Steering Committee (July 2009) and the proposed Scheme Provisions for Local Planning Scheme No.3 Special Control Areas.

3. Requests the CEO to:

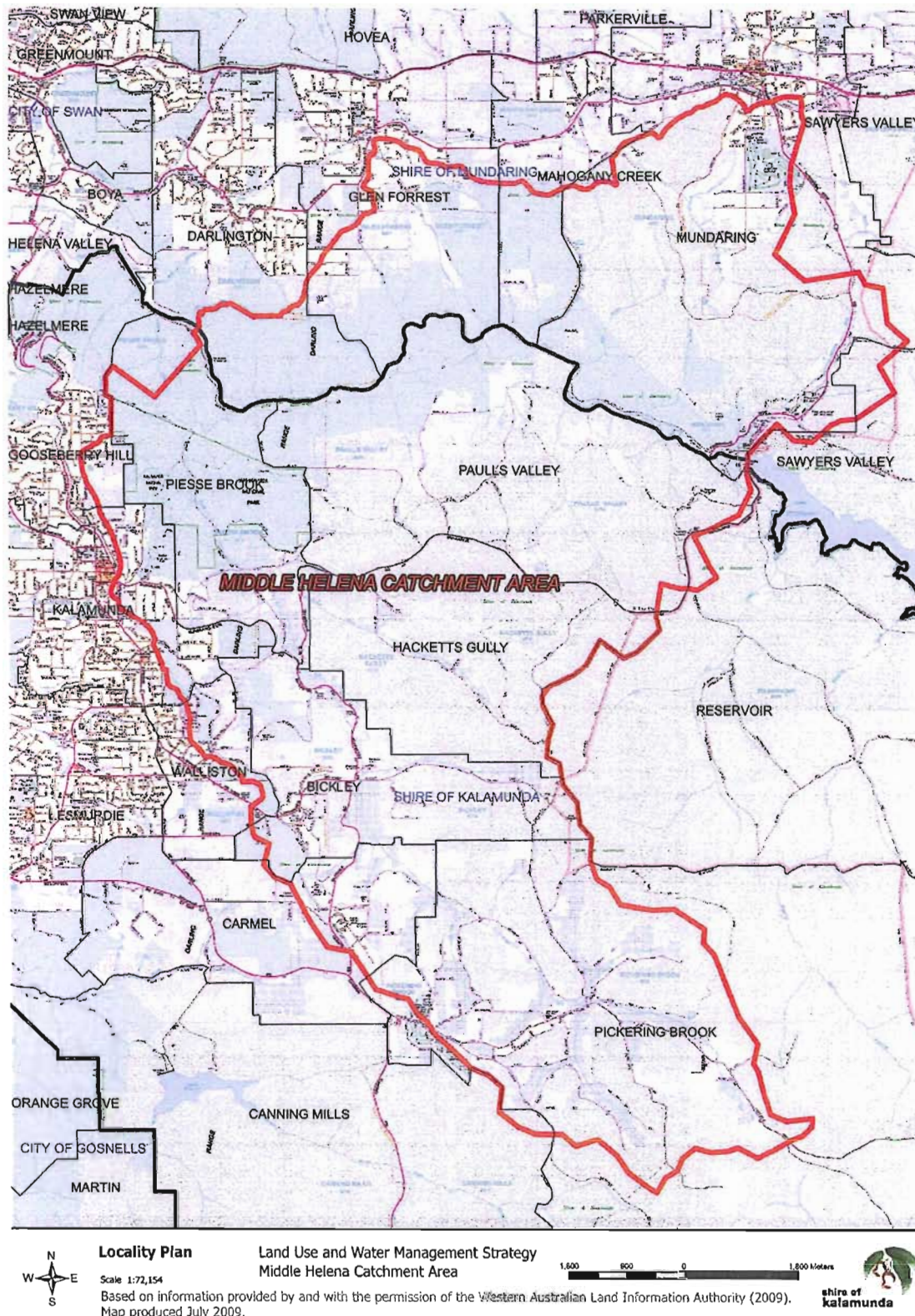
- liaise with the Department of Planning regarding the content of the Special Control Area Provisions contained in **Attachment 7** to ensure that they are consistent with Shire requirements.

informs the Department of Planning of Council's support.

Moved: Cr Lindsey

Seconded: Cr Everett

CARRIED UNANIMOUSLY



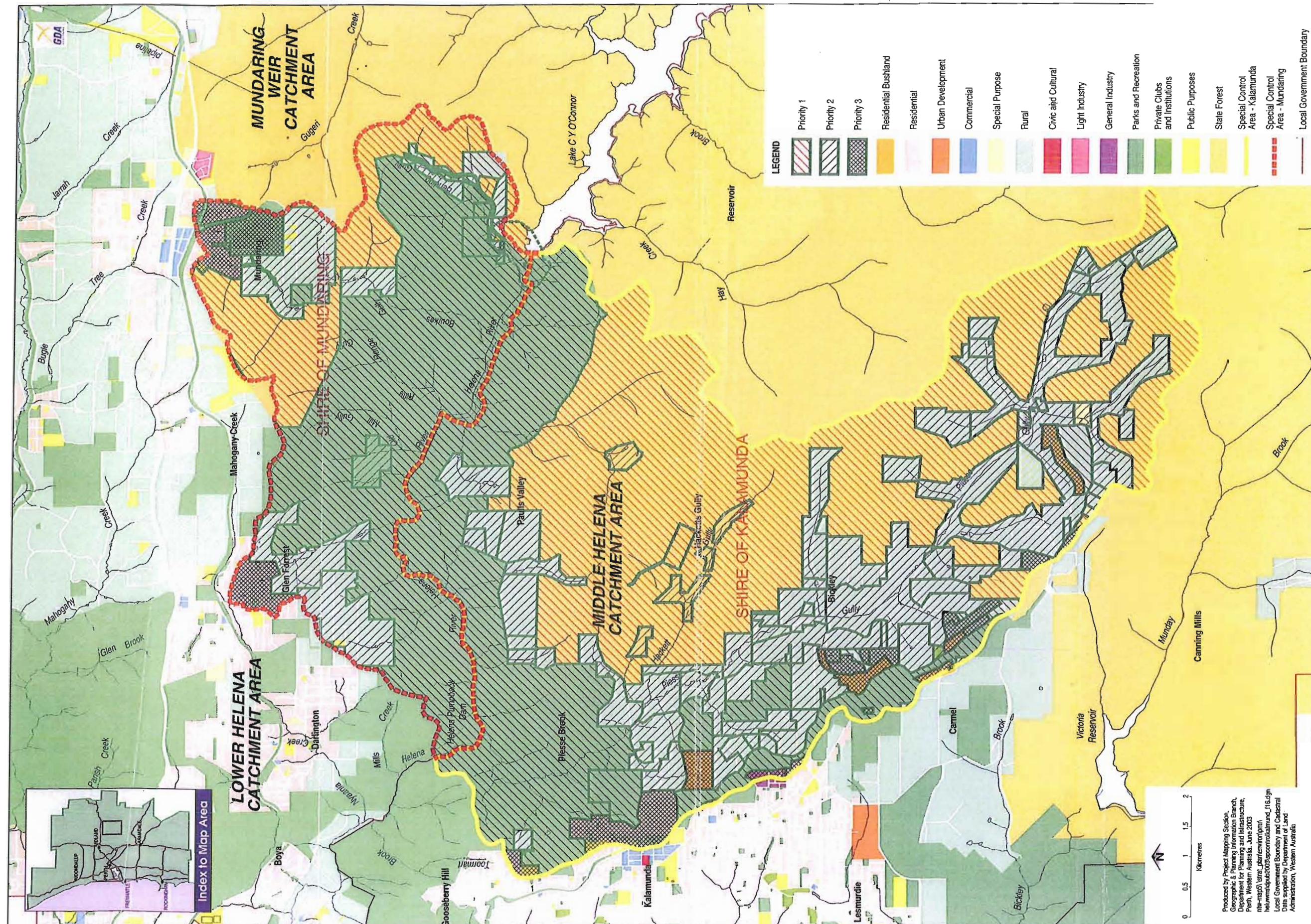


Figure 16: Proposed Special Control Areas - Kalamunda/Mundaring

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**9.2.1 Middle Helena Catchment Area Land Use and Water Management Strategy
(EV-EPP-037) (Item No. 119)**

Cr Blair declared a Disclosure of Interest Affecting Impartiality, as she owns property that is zoned rural and will be zoned P2 in this strategy.

Wendy Fletcher, Executive Manager Resident Services declared a Disclosure of Interest Affecting Impartiality, as she lives within the designated catchment area affected by this strategy (Area P3)

EN BLOCK RESOLUTION OCM 141/03

1. In acknowledgment of the peak time of working activity in the Hills Orchard area that the public submission period be extended until April 2004 to allow the major stakeholders time to prepare their submissions.
2. That prior to formal consideration of this strategy, the state government fully investigate alternative means of addressing water quality such as undertaking a cost analysis of an appropriate water treatment plant for water within the Helena Pumpback Dam prior to transfer of that water to Mundaring Weir/Lake CY O'Connor. In addition, further research should be undertaken and provided to all stake holders which identify the exact nature of the extent of contaminants in the Helena Pumpback Dam together with investigations from field work by state government authorities with a view to identify the primary source(s) of such contaminants.
3. Notwithstanding 1 above, that the Western Australian Planning Commission be advised that the Shire of Kalamunda strongly objects to the proposed Middle Helena Catchment Area Land Use and Water Management Strategy as:
 - a. It does not take into consideration the social and economic impacts on existing land uses and strategic land use planning for the area. Specifically it imposes restrictions on future rural land use of the Hills Orchard area – which is identified in State Planning Policy No. 11 as having regional/state significance as a Priority Agricultural zone.
 - b. It gives no acknowledgment to the rights of established long term agricultural uses.
 - c. Objection is raised to the blanket application when issues can be site/use specific.
 - d. Resources would be better allocated in public education.
 - e. Very little consideration has been given to the Shire's previous submission on the Statement of Planning Policy for Public Drinking Water Source Protection in that many of the concerns raised have not been addressed in this document.
 - f. The strategy proposes that the Helena Pipehead Walk Trail track would be closed once the Reservoir Protection zone is adopted. This approach is not supported and it is considered more appropriate to not permit use

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of the track by animals (horses, dogs etc) and to educate walkers and advise them of the need to take care to not contaminate water supplies.

g. Specific reference needs to be given to the following issues in the land use compatibility table:

- i. Intensive floriculture is still incompatible in a P2 area. This is contrary to the Commissions Statement of Planning Policy 11 relating to Agricultural & Rural Land Use Planning Policy which identifies the Hills Orchard area as an Agricultural Priority Management Area. As best management practices can be used and this use exists in the Hills Orchard area it is recommended that this be conditional for the Helena area, such that conditions can be imposed requiring best management practices.
- ii. The Commissions Statement of Planning Policy 11 relating to Agricultural & Rural Land Use Planning Policy identifies the Hills Orchard area as an Agricultural Priority Management Area yet orcharding and viticulture are identified as conditional uses. In recognising the state importance of this area, these uses should be listed as compatible.
- iii. Equestrian centres are listed as being incompatible in a P2 area, small scale centres operated under best management practice can exist in the area with no impact on the water quality. This should be modified to be a condition use. Stables are still listed as being conditional in a P2 area (which suggests that all such applications would require referral to the Water & Rivers Commission for comment). This is considered to be an onerous requirement for what amounts to a small outbuilding. Stables should be listed as a compatible use in P2 areas.
- iv. An educational establishment is incompatible in a P2 area (Carmel college is located within a P2 area). This needs to be addressed and modified to be a conditional use in a P2 area for the Middle Helena strategy.
- v. Under the draft Strategy, restaurants can only be considered in a P2 whereby effluent disposal is limited to the equivalent of 1 house per 2 hectares. This should be modified to be a conditional use and each application assessed on merit having due regard to effluent disposal treatment proposals and distance to the pump back dam.
- vi. For the Middle Helena area an agreement needs to be reached between the Shire and Water & Rivers Commission regarding which applications must be referred to them for comment, a time frame for comment and the process for dealing with applications for land uses not listed in the land use compatibility table.

4. That a copy of this submission also be provided to:

- h. The Eastern Districts Planning Committee
- i. The Western Australian Local Government Association

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- j. The Helena River Catchment Group.
 - k. Relevant interest parties/stakeholders.
5. That a working group of Council members, stakeholders and staff meet to provide factual information and statements to the affect that this policy the statement of planning policy is in direct conflict with our Hills Orchard Study and our District Planning Scheme No 3.
6. That the State Government be strongly lobbied by this Council as to the serious implications to the Shire and to our 25 year strategy and our economic development.

Moved: (Cr Govan) Seconded: (Cr Billich)

CARRIED UNANIMOUSLY

Reasons for Objection by the Shire of	Response/Action Taken by WAPC	Officer Comment
<p>1. It does not take into consideration the social and economic impacts on existing land uses and strategic land use planning for the area. Specifically it imposes restrictions on future rural land use of the Hills Orchard area – which is identified in State Planning Policy No. 11 as having regional/state significance as a Priority Agricultural zone.</p> <p>2. It gives no acknowledgment to the rights of established long term agricultural uses.</p>	<p>1. The Strategy has accommodated the Shire's aspirations for a tourist and agricultural precinct. It has also been developed with the WAPC to meet future planning for the region.</p> <p>1. Current activities occurring within the area identified as 'priority agricultural' are generally low intensive, i.e., orcharding and viticulture. Intensive agricultural activities such as intensive floriculture and market gardening contribute significantly to the nutrients and turbidity within the catchment.</p> <p>2. The strategy allows for the continuation of existing agricultural activities, DoE will work with landowners through their associations to develop and implement best management practices. It must also be appreciated that the area is a priority drinking water servicing the metropolitan area and Kalgoorlie.</p> <p>3. The term 'conditional' will be amended to read 'compatible with conditions'. Its designation as such recognises that with the implementation of best management practices, the risks to water quality can be acceptably managed.</p>	<p>1. Existing approved land use activities identified as incompatible in P2 areas and compatible with conditions in P2 & P3 areas are not affected by those classifications and are able to continue with "non-conforming use rights." Existing activities have been afforded greater flexibility where best environmental practices are proposed.</p> <p>1. Essentially where intensive agricultural activities can demonstrate best environmental practices i.e. reduced irrigation and fertiliser inputs then proposals to extend existing activities will be considered.</p> <p>2. Refer to comments 1.1.1</p>

<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  <p>shire of kalamunda</p> </div> <div> <p>Middle Helena Catchment Area Land Use and Water Management Strategy</p> </div> <div style="text-align: right;">  <p>Scale: NTS Date: 08.12.2009</p> </div> </div> <div style="text-align: center; margin-top: 10px;"> <p>Planning Services Committee</p> </div>		
3. Objection is raised to the blanket application when issues can be site/use specific.	<p>1. Priority classification system is consistent with the state's approach to water source protection and has been successfully used in many different water catchments. It has been developed as a fair and equitable balance between the needs of water source protection and environmental management, and recognising existing landowner rights.</p> <p>2. Its basis on tenure is appropriate given that the majority of land immediately affected by a PDWSA is already in government ownership and appropriately managed (P1). Where land is in private ownership, the priority classification system aims to ensure appropriate land use and management of land and is applied according to zoning (P2 or P3) in order to acknowledge existing lawful land uses and property owner rights.</p>	<p>1. The land use classification of either P2 & P3 which applies to most privately owned land provides the necessary flexibility to assess individual land use activities.</p> <p>Noted.</p>
4. Resources would be better allocated in public education.	<p>1. Resources are applied to these matters. Additional resources have been directed to water quality catchment protection issues.</p>	Noted.
5. Very little consideration has been given to the Shire's previous submission on the Statement of Planning Policy for Public Drinking Water Source Protection in that many of the concerns	<p>1. Following extensive consultation, SPP 2.7 was formally adopted by the WAPC in June 2003 and is a recognised WAPC Policy which must be taken into account when amending TPS.</p>	<p>1. The strategy is consistent with SP 2.7 and categorises areas within the catchment into P1, P2 & P3 areas based on the land use and land use zoning.</p>

<p>raised have not been addressed in this document.</p> <p>6. The Strategy proposes that the Helena Pipehead Walk Trail track would be closed once the Reservoir Protection zone is adopted. This approach is not supported and is considered more appropriate to not permit use of the track by animals (horses, dogs etc.) and to educate walkers and advise them of the need to take care to not contaminate water supplies.</p>	<p>1. The WC and the DoE will look into rerouting the current Helena Pipehead trail walk so it stays outside the ROZ and improving facilities elsewhere in the catchment for recreation and walkers.</p> <p>2. We need to balance the benefit delivered from recreation and benefit of supplying a safe good quality water source to consumers. Many other recreation areas exist, not so many alternative drinking water supplies are available in our drying climate.</p>	<p>1. The requirement for recreation trails in the area will be considered as part of the "Trails Master Plan" being developed by the Department of Sport & Recreation together with key stakeholders. The issue of restricting public areas within the reservoir protection areas was acknowledged by the Steering Committee as part of the wider consideration of recreation within drinking water source areas at a State Government level.</p>
<p>7. Specific reference needs to be given to the following issues in the land use compatibility table:</p> <p>i. Intensive floriculture is still incompatible in a P2 area. This is contrary to the Commissions Statement of Planning Policy 11 relating to Agricultural & Rural Land Use Planning Policy which identifies the Hills Orchard area as an Agricultural Priority Management Area. As best management practices can be used and this use exists in the Hills Orchard area it is recommended that this be conditional for the Helena area, such that conditions can be imposed requiring best management practices.</p>	<p>i. Current activities occurring within the area identified as 'priority agricultural' are generally low intensive, i.e., orcharding and viticulture. Intensive agriculture activities such as intensive floriculture and market gardening contribute significantly to the nutrients and turbidity within the catchment.</p> <p>ii. The strategy allows for the continuation of existing agricultural activities, DoE will work with landowners through their associations to develop and implement best management practices. It must also be appreciated that the area is a priority drinking water area servicing the metropolitan area and Kalgoorlie.</p>	<p>Refer to comments 2.1.1</p>

ii. The commissions Statement of Planning Policy 11 relating to Agricultural & Rural Land Use Planning Policy identifies the Hills Orchard area as an Agricultural Priority Management Area yet orcharding and viticulture are identified as conditional uses. In recognising the state importance of this area, these uses should be listed as compatible.	i. The term 'conditional' will be amended to read 'Compatible with conditions'. Its designation as such recognises that with the implementation of best management practices, the risks to water quality can be acceptably managed.	Noted
iii. Equestrian centres are listed as being incompatible in a P2 area, anal scale centres operated under best management practices can exist in the area with no impact on the water quality. This should be modified to be a conditional use. Stables are still listed as being conditional in a P2 area (which suggests that all such applications would require referral to the Water & Rivers Commission for comment). This is considered to be an onerous requirement for what amounts to a small outbuilding. Stables should be listed as a compatible use in P2 areas.	i. DoE to comment	i. Although those facilities are considered to be a conditional land use (special stocking rates apply), equestrian centres are considered to be more intensive and generally higher stocking rates than stables apply.
iv. An educational establishment is incompatible in a P2 area (Carmel college is located within a P2 area). This needs to be addressed and modified to be a conditional use in a P2 area for the Middle Helena strategy.	i. Carmel College is acknowledged as an existing activity and therefore will not be affected by the P2 area.	i. Noted
v. Under the draft Strategy, restaurants can only be considered in a P2 whereby effluent disposal system is limited to the equivalent of 1 house per 2 hectares. This should be modified to be a conditional use and each	i. Normally restaurants are incompatible within P2 areas. The Strategy has made some concessions in this respect to allow for small tearooms and restaurants to exist with some conditions.	i. The recommendations of the Steering Committee proposed that the criteria for restaurants be reworded such that future proposals should be consistent with the State Government sewerage policy and will be assessed

<p>application assessed on merit having due regard to effluent disposal treatment proposals and distance to the pump back dam.</p>	<p>ii. The Department will also consider alternatives to septic waste disposal that are proven to be more efficient and have lower outputs of phosphorus and nitrogen.</p> <p>iii. Based on current local government limits on minimum lot sizes in P2 areas (i.e. land within the Hills Orchard Study) should be sufficient size to meet our septic density requirements.</p>	<p>on an individual basis to consider site characteristics and the incorporation of best management practices.</p>
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<p>vi. For the Middle Helena area an agreement needs to be reached between the Shire and Water & Rivers Commission regarding which applications must be referred to then for comment, a time frame for comment and the proves for dealing with applications for land uses not listed in the land use compatibility table.</p>	<p>i. Where the proposed land use or activity is identified as 'compatible' in the latest version of the <i>Land Use Compatibility in Public Drinking Water Source Areas</i> Quality Protection Note, referral to DoE is not required.</p> <p>ii. For a land use or activity identified as 'conditional', local government should refer tie application to DoE, unless other referral arrangements have been agreed between the two parties.</p> <p>iii. Existing land uses that are 'incompatible' would generally not be permitted to expand, but are allowed to continue at existing approved levels as a 'non-conforming land use' under the TPS. DoE will consider proposals to expand, or change from an existing incompatible land use to another incompatible land use, if the proposed land use represented a reduced risk to water quality.</p>	<p>i. Noted. The comment from the commission clarifies the matter. Consultation regarding time frames for responses can be discussed directly with the DoW.</p>
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APPENDIX 1: RECOMMENDED CHANGES TO THE STRATEGY REPORT

The following changes, in no particular order, are recommended to be made to the text, figures and tables. These changes were highlighted as part of the formal submission process and other changes are also likely to be required to ensure currency of text, tables and figures.

- i) Change the term 'conditional' in the LUCT table to 'compatible with conditions' and 'compatible' to 'acceptable'. Incorporate the changes to the LUCT into the table and include in body of document;
- ii) Include a note informing about restricted planning and development practices in areas of importance to Nyungar people and post European settlement heritage sites.
- iii) Page 9 – The text refers to five Declared Rare Flora but only four are mentioned on page 10.
- iv) Page 11 – Carter 2003 is not listed in the Reference.
- v) Page 13 – Add following 'management of State forests forcatchment protection, timber production and conservation of biodiversity values'.
- vi) Page 13 – Change 'Minister for the Environment and Heritage' to 'Minister for the Environment'.
- vii) Page 16 – Update section 5, table 2, based on the indicative boundaries of the new national parks. The Forest Management Plan has been finalised. DEC to provide most recent information/text.
- viii) Page 18 – update land use information including table 3.
- ix) Table 3 and associated text (Section 6) uses the term 'bush' as a land use. Change this to 'native vegetation'.
- x) Page 20 – The Conservation and Land Management Regulations 2002 have replaced the National Park Authority Regulations.
- xi) Page 20 – The Golden Pipeline Project to be described as 'actively underway'.
- xii) Section 6 to include a comment that impact posed by land management practices are far less than those posed by other land uses.
- xiii) Clarify the contaminants that pose the greatest risk to water quality in the catchment and include measures for addressing these contaminants in table 4.
- xiv) Provide more context regarding land uses and the risks these pose to water quality in the catchment (e.g. pie charts and qualitative statements which show source separations) and discuss management of these risks (combine sections 6 and 7);
- xv) Link the relatively poor water quality in the Middle Helena (Appendix 3 pg 54/55) to the discussion about land use (pg 21/22) as part of Section 7.
- xvi) Page 24 – delete last sentence in para 2;
- xvii) Page 34 – The publication, Policy and Guidelines for Recreation, is no longer in draft form.
- xviii) Page 38, 9.2.3, para 3, remove reference to the DoW WQPN and refer to the Middle Helena Catchment LUCT.
- xix) Page 39 – add "Proposals in P3 areas are unlikely to be supported where the change is to a 'more polluting' land use (i.e. change from 'acceptable' to 'conditional')";
- xx) Section 9 (or in appendix) – propose wording for special control area provisions;
- xxi) Page 43 – need table number and heading. Also include timing for implementation of actions;
- xxii) Restaurants are listed as 'incompatible' on page 72 but 'conditional' on page 75. Clarify.
- xxiii) Lot 4898 Mundaring Weir Road to be classified as P2 instead of P1
- xxiv) Appendix 1: revise based on review process;
- xxv) Appendix 2: update to include process since public consultation;
- xxvi) Appendix 3 - Include the most recent water quality results and a comparison with the targets contained in the Australian Drinking Water Guidelines, DoW and Water Corporation to supply data;



Middle Helena Land Use and Water Management Strategy – Recommendations of Steering Committee

- xxvii) Appendix 3, Table on page 55 – Change Plesse Brook to Plesse Gully and Helena River to Hardey Rd Tributary and shade data in the Hardey Rd column;
- xxviii) Appendix 4 – revised and update;
- xxix) Appendix 5 – update land use information (pie charts);
- xxx) Appendix 6 – revise and update.
- xxxi) Appendix 7 – Remove and put critical information (including the Middle Helena-specific LUCT) in the document
- xxxii) Update all figures to reflect current data;
- xxxiii) Include a label for Bending Gully on Figure 1.
- xxxiv) Include the cattle farm adjacent to the pipeline, 4km west of Mundaring Weir Road.
- xxxv) Include the most up-to-date boundaries of all existing and proposed National and Regional Parks.
- xxxvi) Replace figure title of Figure 14 with that of 15 and vice versa;
- xxxvii) Map 15/16 – Lot 4898 Mundaring Weir Road (V6) (Precinct BN30A9), Lot 505 Jellicoe Road (N5) and Lot 488 Holbrook Road (N5) Glen Forest are privately owned and are to be included in P2 area, not P1.
- xxxviii) Map 15/16 – Precinct boundary for part Lot 931 Hardey Road, Glen Forrest (O4/O5) shows P2, but coloured as P1. Whole lot is privately owned and should be P2 (Precinct HR30A).



5 RECOMMENDATIONS OF THE STEERING COMMITTEE

The Steering Committee agreed that although the idea of implementing a reservoir protection zone was not fully supported, it was consistent with current Government legislation and practice to protect public drinking water sources. The issue of recreation in public drinking water source areas and the use of reservoir protection zones would be addressed outside the Strategy, through a coordinated Government review. The finalisation of the Strategy should not be delayed while the issue was being investigated by Government.

The Steering Committee agreed that the following changes should be made to the Strategy:

- a) incorporation of the changes to the generic Department of Water land use compatibility table into the table in the Strategy (rather than as a separate table) and changed headings to "acceptable" and "compatible with conditions" consistent with the current language. Modifications to the land use compatibility table for the catchment to be incorporated into the provisions of the special control area in local schemes (see appendix 2) so that any future modifications to the generic land use compatibility table by the Department of Water, in consultation with the Shires, will be applicable in the area also;
- b) that proposals for onsite wastewater disposal should be consistent with the Government Sewerage Policy: Perth Metropolitan Region (Government of Western Australia, 1995) and will be assessed on an individual basis to consider site characteristics and management practices proposed;
- c) inclusion of draft provisions for the special control area for the Middle Helena Catchment for consideration by each local government (appendix 2);
- d) noting of the proposed gazettal of the catchment area under the Metropolitan Water Supply, Sewerage and Drainage Act 1909 rather than the Country Areas Water Supply Act 1947;
- e) revision to ensure that any references to policy and other documents are relevant and up to date including adjustments to figures to reflect current land use, catchment boundaries, national parks and physical features using the most recent data sets;
- f) more detailed information on land uses and contaminants that pose the greatest risk to water quality in the catchment, their sources and measures for addressing these contaminants;
- g) inclusion of current detailed information on the water quality of the Pumpback Dam, as provided by the Water Corporation. Consideration should also be given to the difference between measured concentrations and loads;
- h) acknowledgement that any assessment of conditional uses by the Department of Water will consider the effect of best practice management and proven improvements in technology to better address potential water quality impacts;
- i) amending the text on Page 32 and 42 to reflect the land use compatibility table and state that the change should be from Incompatible to "a compatible or conditional land use"; and
- j) incorporation of all typographical errors noted in submissions and specific changes as per appendix 1.



5.1 Recommendations to aid implementation of the strategy

The following actions are recommended to be included in the Strategy to aid implementation:

- DoW to review Water Quality Protection Note No 25: Land Use Compatibility in Public Drinking Water Source Areas (DoW, 2004) including the land use compatibility table periodically to allow for changes in best management practices and proven technologies. This may include a review of the impacts of floriculture, viticulture and orchards. When the land use compatibility table is being reviewed, any proposed changes should be considered in terms of their impact within the Middle Helena catchment and consultation should occur with the Shires of Kalamunda and Mundaring;
- Agencies to identify roles, responsibilities and timing required to manage the closure of the Pipehead Walk Trail and give consideration to the need for further trails as part of the "Trails Masterplan"; and
- The Department of Water, together with other agencies including the Department of Health, to consider the need for additional guidance for onsite wastewater disposal in sensitive environments, including the consideration of cumulative impacts.

5.2 Finalisation of Strategy

The Department of Planning will endeavour to finalise the Strategy as soon as possible, consistent with the recommendations in this Discussion Paper.

DRAFT



APPENDIX 2: PROPOSED SCHEME PROVISIONS FOR TPS SPECIAL CONTROL AREA

The following provisions are recommended to be included in the town planning schemes of the Shires of Mundaring and Kalamunda for the special control area over the Middle Helena Catchment.

6.2 Middle Helena Catchment Area

- 6.2.1 The Middle Helena Catchment Area is the catchment for that section of the Helena River from the Mundaring Weir downstream to the Helena Pumpback Dam (also known as the Lower Helena Diversion Dam). The portion of the Middle Helena Catchment Area that falls within the Shire of Mundaring is shown on the Scheme Map. The area is subject to the Middle Helena Catchment Area Land Use and Water Management Strategy, which identifies three priority classification areas (Priority 1, Priority 2 and Priority 3). These priority classifications are also shown on the Scheme Map (P1, P2 and P3).
- 6.2.2 The purpose of this Special Control Area is to implement the Middle Helena Catchment Area Land Use and Water Management Strategy. The objectives of this Special Control Area are to:
- (a) ensure that the long-term quality of the Middle Helena Catchment as a public drinking water source is not compromised; and
 - (b) reduce potential nutrient, contaminant and sediment export into the Helena River.
- 6.2.3 All development within the Special Control Area shall require planning approval and shall be subject to the Shire's discretion, notwithstanding that the use may be designated a 'P' Use under the Scheme.
- 6.2.4 The Shire may refer an application for planning approval to the Department of Water for comment where that application is for a use which is identified as 'Compatible with conditions' or 'Incompatible' within the relevant priority classification area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note Land Use Compatibility in Public Drinking Water Source Areas, incorporating the following variations to that Table specific to the Middle Helena Catchment Area.

Land Use	P2
Restaurants (including cafes and tea rooms)	Compatible with conditions [^]
Exhibition centre	Compatible with conditions [^]
Irrigated golf courses or recreational parks	Incompatible #
Public swimming pools/aquatic centres	Incompatible #

[^] Proposals for onsite wastewater disposal should be consistent with the Government Sewerage Policy: Perth Metropolitan Region (Government of Western



Middle Helena Land Use and Water Management Strategy – Recommendations of Steering Committee

Australia, 1995] and will be assessed on an individual basis to consider site characteristics and management practices proposed.

Compatible with conditions on Mundaring Recreational Oval and Golf Course (Reserve 7045), Mundaring Weir Road, Mundaring.

- 6.2.5 Except where a proposed use is for extension or replacement of a non-conforming use which is a non-conforming due to this special control area, a use which is identified as 'Incompatible' within the relevant priority classification area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note Land Use Compatibility in Public Drinking Water Source Areas, incorporating the variations to that Table specific to the Middle Helena Catchment Area (clause 6.2.4), shall not be approved.
- 6.2.6 In determining or making recommendation on an application for planning approval within the Special Control Area, or making recommendation on an application for subdivision within the Special Control Area, the Shire shall have particular regard to:
- (a) any advice received from the Department of Water;
 - (b) the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note Land Use Compatibility in Public Drinking Water Source Areas, incorporating the variations to that Table specific to the Middle Helena Catchment Area (clause 6.2.4);
 - (c) the recommendations of the Middle Helena Catchment Area Land Use and Water Management Strategy, particularly those specific to the relevant priority classification area;
 - (d) the requirements of State Planning Policy No. 2.7, Public Drinking Water Source Policy;
 - (e) the potential impact of the proposal on the quality of the water resource; and
 - (f) the drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.
- 6.2.7 The Shire may refuse any application for planning approval or may impose appropriate conditions on any planning approval so as to protect the water resource.



Middle Helena Catchment Area Land Use and Water Management Strategy

(EV-EEP-037) (Planning and Development Services)

Submission		Comments	Officer Comments
15.	Lisa Baker	<p>Illegal public access to these areas, particularly by off-road vehicles (4WDs and Trail/quad bikes) is currently rife. Proper policing and management of this problem MUST accompany this strategy. Recommendations to address this problem have been presented (late 2009) to the Minister for Sport based on the Report, "Back on Track" WA Trail Bike Management Strategy. These recommendations must be funded by WA Government in order to address the problem of high impact erosion and environmental degradation caused by off road vehicles across this delicate water catchment region.</p>	<p>Noted.</p> <p>1. To protect the water quality and restrict access around the immediate environs of the Helena Pumpback Dam a Reservoir Protection Zone will be established. The protection zone will be managed by the Department of Water and the Water Corporation. Refer Comments 8.1 regarding the illegal use of off road vehicles accessing water catchments.</p>
16.		<p>Agricultural land use including floriculture; I fully support the recommendation to limit fertilizer and pesticide use in these areas. The use of slow release fertilizer across all areas should be encouraged.</p>	<p>Noted .</p>
17.		<p>Equestrian centres should not be excluded but should be subject to strict management regimes requiring referral to the Water and River Commission especially in relation to water management. Stables must be listed as</p>	<p>Noted.</p> <p>1. The intensive nature of equestrian centres as opposed to horse stables the principal reason for the proposed use remaining as incompatible in P2 areas.</p>

		compatible use in P2 areas as these are small facilities, many of which need to have management plans with LGAs (e.g. for non-conforming use). Approval from the Waters and Rivers Commission is considered too onerous for a non-commercial, small stable.	
18.	John Davenport PO Box 212 Kalamunda, WA 6926	More Information on contaminants, their sources and measures to address these problems to water quality. These should be made available publicly on a regular basis to encourage appropriate debate and response from the community within the catchment.	Noted. 1. On adoption of the Strategy it is proposed that a management plan will be developed by the Shire to identify and management the sources of contaminants within the water catchment area.
19.		The acknowledgement that assessment of conditional uses should incorporate the recognition of best management practice and improvements in technology to address impacts on water quality. I am particularly pleased that the Department of Water will, under this proposal, 'consider alternatives to septic waste disposal that are proven to be more efficient and have lower outputs of phosphorus and nitrogen as well as other contaminants'.	Noted
20.		I am worried that horticulture is in line for continued rigid restraints when a scientific case for this has not been presented. It seems to me that in all agricultural pursuits, increased cost of inputs such as labour, fertilisers and sprays have reduced margins enough to force producers to be very careful in their management of their crops. Horticulture is no different in this respect to any other of the activities carried out in the Middle Helena catchment area.	Noted. 1. All land use activities within the water catchment area will be subject to best management practises.

21.	<p>Another concern is that this draft document (item 3.4) does not explore specific actions from nominated government departments to ensure that compliance mechanisms are in place to make this strategy work. Residents in the Middle Helena Catchment are rightly cynical that there seems to be an uneven enforcement of catchment management strategies. They see and hear the continued illegal use of off-road trail bikes, despite numerous signs in the catchment stating their use is prohibited. No government department seems to enforce the regulations. Also, despite enormous opposition from the community, the Shire, Synergy etc, residents have experienced major departments, such as the Department of Water and the Department of Conservation & the Environment, not oppose Western Power's proposal to upgrade the SQIS and establish an Eastern Terminal in State Forest situated in 5 hills Priority 1 catchments where 'energy industry' in the LUCT table (which they helped compile) is 'INCOMPATIBLE'.</p>	<p>Noted.</p> <p>1. It is acknowledged that the illegal use of off road vehicles is an ongoing problem for government agencies to deal with. Advice from the Shire's Rangers Department indicates that the Water Corporation and Department of Environment and Conservation and Department of Conservation and Land Management do take the matter seriously and take active measures in consultation and coordination with the Police to address the illegal activity.</p>
22.	<p>This is a major weakness of the whole strategy; placing the planning onus on the Shires but not reciprocating with enforcement management to ensure compliance with the objectives of the strategy. My suggestion would be that the Shire refuses to endorse this draft until such measures and responsibilities are clearly specified in the draft document.</p>	<p>Noted.</p> <p>1. It is critical that given the delays experienced in finalising the Strategy that the Shire of Kalamunda and other members of the Project Reference Group adopt the Strategy in order to provide some certainty to the land use planning process in water catchment areas. The issue of illegal off road vehicles is acknowledged as significant and one which should be addressed as a separate compliance matter to the Strategy by all government agencies.</p>

Copies of submissions may be made available to Councillors.

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

9.16 Modification to Structure Plan- Maida Vale Urban Area U6- Lot 1 Gilba Place, Maida Vale

Previous Items:	N/A
Service Area:	Planning and Development Services
Author	Nina Lytton
File Reference:	PG-DEV-013
Applicant:	Vision Surveys
Owner:	Chantamat Investments Pty Ltd & Vision Surveys

PURPOSE

1. To consider a proposal to modify the Structure Plan for the Maida Vale Urban Cell U6 to facilitate the development and subdivision of Lot 1 (8) Gilba Place, Maida Vale at a density of Residential R20. Refer **(Attachment 1.)** for Locality Plan and Public Consultation.

BACKGROUND

2. Lot 1 is zoned Urban Development under the provisions of Local Planning Scheme No.3 (the Scheme) comprising part of the Maida Vale Urban Area U6. Under the adopted the Structure Plan for Maida Vale Urban Area U6, the subject lot has an applied density of Residential R5. The Structure Plan was approved in 1994, comprising land bound by Roe Highway, Maida Vale Road, Old Maida Vale Road, Hawtin Road and Harold Way.
3. The adopted Structure Plan established a predominant R20 coding for the area with the exception of a small number of R30 grouped housing lots, one R5 area adjacent to the SECWA Transmission Corridor and the subject lot. See **(Attachment 2.)** for the adopted Structure Plan.
4. The subject lot currently contains one burnt down dwelling with no apparent primary frontage. The land is overgrown with low scrub and some small to medium sized gum trees. The gradient of land is insignificant.
5. The application to subdivide this property in five (5) lots at a density of R5 was recommended for approval on 14 December 2009.

DETAILS

6. The proposed modification seeks to amend the applied density coding for Lot 1 from R5 to R20. The land area of Lot 1 is 1.0054 ha. A density of R20 would allow for 17 properties to be developed. See **(Attachment 3.)** for the indicative subdivision plan.
7. Lot 1 has access to reticulated sewerage, water and drainage system. Public transport is available from the corner of Harold and Hawtin Roads. The land is within a 500m radius of a childcare facility, a shop and a medical facility. Millson

Reserve and Norwood Reserve are both within 300m from the subject lot.

8. The area to the North of Lot 1 is currently being developed and there is a provision for Neighbourhood Shopping Centre and Community Centre within the Structure Plan.
9. Lot 1 is on the boundary of the Structure Plan Area. It is bounded by R20 zoning to the north and Special Rural and R5 Residential zonings to the South and East, both located outside the structure plan area.
10. The applicant has prepared a botanical report on the site.

STATUTORY AND LEGAL IMPLICATIONS

11. In accordance with Clause 6.2 5, Change or departure from a Structure Plan of the Scheme, modification of the Structure Plan that materially alters the intent of the Structure Plan has to be sent to the WA Planning Commission for determination.

POLICY IMPLICATIONS

12. The Policy DEV 30 '*Rezoning of Properties Residential R20 or Higher*' outlines matters to be taken into consideration when assessing a request to rezone a property to R20 or higher.
13. *Draft Liveable Neighbourhoods Policy 3* is an integrated planning and assessment policy to assist with the design and assessment of Structure Plans and subdivision plans, to guide urban development within metropolitan and regional Western Australia. The policy promotes a mix of housing types in close proximity to commercial, community activities with good access to public transport and public open space.
14. Directions 2031, The Draft Spatial Framework for Perth and Peel, was released in June 2009. The draft strategy reconfirms the themes identified in previous strategic plans, which were to better use existing infrastructure and provide for a more sustainable city. The strategy recognises the benefits of a more consolidated city while working from historic patterns of urban growth.
15. Draft Directions 2031 sets out what kind of city Perth will be. The key assumptions are as follows:
 - A more compact city is desirable, i.e. we must continue to achieve more consolidated development.
 - We must work with the city we have, i.e. continued consolidation will help to contain future growth.
 - We must make more efficient use of land and infrastructure, i.e. current average residential densities are 10 dwellings per zoned hectare. We must increase this to at least an average of 15 dwellings per zoned hectare.
 - We must prioritise land that is already zoned, i.e. we have a significant supply of land that has been deemed suitable for new urban development. This land will be the first priority for new development.

PUBLIC CONSULTATION/COMMUNICATION

16. In accordance with the Clause 6.2.4.5 of the Scheme, the proposed modification was referred to surrounding landowners for comment. Eleven (11) submissions were received, consisting of one (1) conditional non-objection, ten (10) objections in addition a petition signed by nineteen (19) residents, objecting to the proposal was also received. It should be noted that the petition included seven people who had already objected to the proposal.
17. The main concerns are summarised as follows:
- Pimelea Street, Gilba Place and Kunzea Close will be connected into a through road which would increase traffic and noise.
 - The loss of vegetation and wildlife habitat.
 - The loss of amenity to the area.

Refer **(Attachment 4.)** for summary of submissions.

FINANCIAL IMPLICATIONS

18. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

19. **Strategic Planning Implications**

- The proposed R20 zoning is consistent with the intent of the adopted Structure Plan for the Maida Vale Urban Area U6.

20. **Sustainability Implications**

Social Implications

- The proposed R20 coding will allow for additional dwellings in a planned urban area in close proximity to existing and planned commercial and community facilities.

Economic Implications

- Existing infrastructure and services are available to the property thus assisting with the development of the site.

Environmental Implications

- The existing vegetation comprises part of the Forrestfield vegetation complex. A botanical study was undertaken on the site at the request of the shire. The report concluded that approximately three quarter of the vegetation on the site is classified as either degraded or completely degraded, with the balance considered to be in good condition.

OFFICER COMMENT

21. Individual submissions have been responded to in **(Attachment 4)** of the report. The main concerns raised are summarised as follows:

Through road connection:

- The proposed modification does not involve connecting Pimelea Street

to Gilba Place; the existing cul de sac will remain in place. It is acknowledged that Kunzea Close will be extended through to Harold Road under the proposed plan of subdivision, however alternative vehicles access onto Hawtin Road is provided via Pimelea Street.

Loss of native vegetation and wildlife:

- The issue of the loss of habitat for wildlife currently present on site can be dealt with under the instructions of the DEC. Vegetation on site is fairly degraded and as such is not considered to have a high conservation value. Relocation of flora and fauna to better preserve areas can be dealt with at the more appropriate subdivision stage.

Loss of amenity

- It is evident from the submissions received that the land is perceived as open space and the creation of potentially 17 lots would have an impact on the amenity of surrounding residents in particular those on Kunzea Close. The subject land has with the exception of a single dwelling remained undeveloped for many years. Importantly, the land is privately owned and zoned for residential use. The land comprises part of a planned urban area with designated areas of reserved land for public access provided for under the Structure plan. It is important to note that 10 objections were received from residents on land with an applied residential density of R20.
22. Whilst the number of objections to the proposal is acknowledged, from a planning perspective, there is sufficient justification to support the proposal. In this regard, the subject lot comprises part of a Planned Urban Area located in close proximity to existing and planned commercial facilities and adjacent to public transport routes. Further the proposed R20 coding is consistent with the State Government strategic planning document Directions 2031 which promotes consolidation of existing urban areas.
23. The botanical study concludes that about three quarters of the lot is rated degraded or completely degraded with only one quarter in good condition. Although the lot is in the Forrestfield Vegetation Complex, it is not included in a Shire of Kalamunda Reserve, has no Declared Rare or Priority Flora present and the vegetation is not a Threatened or Priority Ecological Community. It is evident from the botanical report that there is no substantive evidence of any flora constraints on the proposed subdivision proceeding. The report concluded that *"there is no evidence of any vegetation or flora constraints on the proposed subdivision proceeding."*
24. In summary, the proposed modification is consistent with the intent of the U6 Structure Plan in providing for low to medium residential development with good access to commercial, community facilities and public transport. Moreover, the proposal is consistent with State Government planning policy. The botanical study of the site suggests the site has no ecological value. On this basis, it is recommended that the proposed modification to the structure plan to allow for an R20 coding be supported.

MEETING COMMENT

25. V. Bonner, S Newson and R. Newell all stressed that they were not against the proposal but had serious concerns about the opening of Kunzea Close as that would lead to traffic and safety issues.
26. S. Colam spoke on behalf of the applicant and said that he was quite happy to work with the Shire staff and the residents to redesign the plans so as to avoid to have Kunzea Close made into a thoroughfare road.

OFFICER RECOMMENDATION

1. That Council adopts the proposed modification to the Maida Vale Urban Cell U6 to allow for a R20 coding on Lot 1 (8) Gilba Place, Maida Vale and that the modification be forwarded to the Western Australian Planning Commission for endorsement.

As there was no Mover, the Recommendation lapsed.

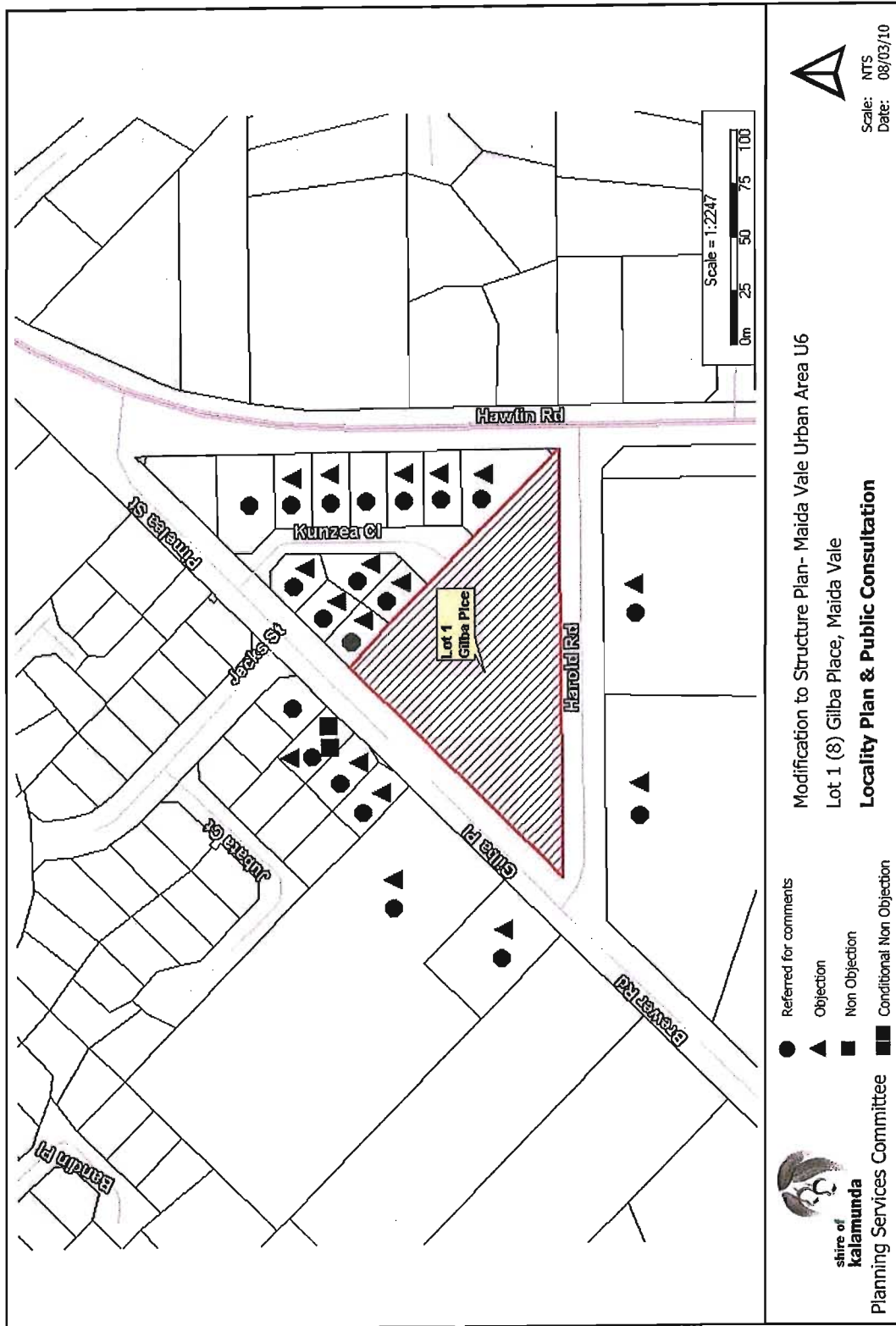
COMMITTEE RECOMMENDATION TO COUNCIL PS 16/2010

1. That this item be deferred until the OCM next Monday.

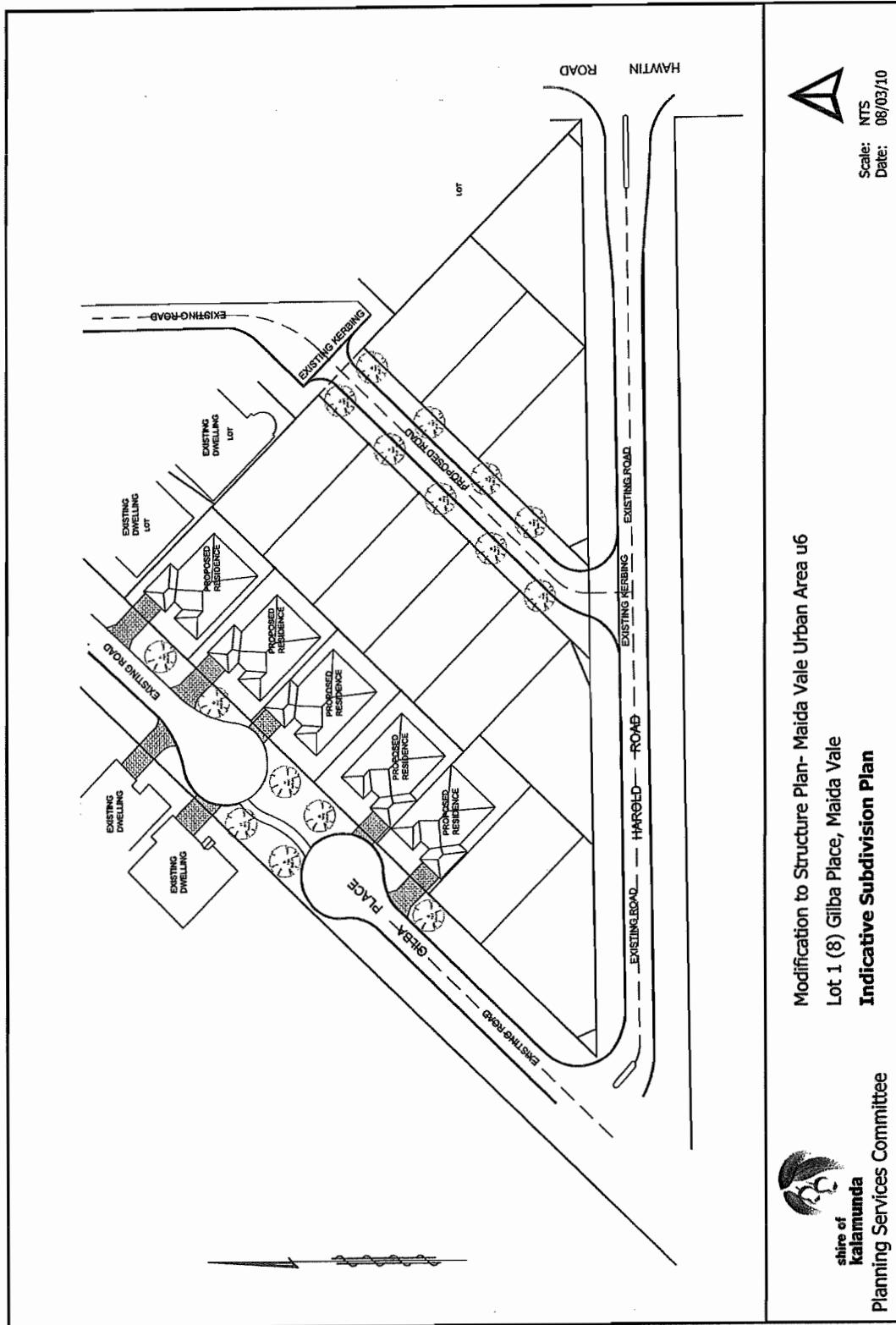
Moved: Cr McKechnie

Seconded: Cr Cresswell

CARRIED UNANIMOUSLY







Scale: NTS
Date: 08/03/10

Modification to Structure Plan- Maida Vale Urban Area u6
Lot 1 (8) Gilba Place, Maida Vale
Indicative Subdivision Plan


shire of
kalamunda
Planning Services Committee

Item . Attachment .

EMC Date:

Lot 1 Gilba Place, Maida Vale - Modification To Structure Plan – Maida Vale Urban Cell U6 (PG-DEV-013) (Planning and Development Services)

Submission		Details	Comments
23.	S Capon 7 Gilba Place Maida Vale WA 6057	Objection 1. Try and keep rural areas somewhere.	1. The lot in question is not rural, it is presently zoned residential R5.
24.	A Gibson 17 Pimelea Street Maida Vale WA 6057	Objection 1. Pimelea Street cul-de-sac looks like it will be opened. 2. There is a lot of wildlife at this land which will be lost.	1. The developer does not propose to open cul-de sac roads Pimelea Street and Gilba Place- see the indicative layout of properties around cul-de sac areas (Attachment 3.) 2. The property is zoned residential R5 and therefore it is appropriate for development.
25.	M & T Cooke 34 Brewer Road Maida Vale WA 6057	Objection 1. Loss of rural lifestyle 2. The environment would suffer through higher pollution, water usage, noise, loss of local wildlife and increased demand for gas and electricity. 3. Value of properties will decrease. 4. Keeping it R5 would allow some other local residents a special rural environment	1. The lot in question is on the boundary between residential R20 and Special Rural area 2. There would be higher demand for services. 3. Property values are not a planning consideration. 4. Any future lots would have both the rural as well as urban outlook, considering the property is on the boundary between two zones.
26.	19 residents of Kunzea Close and Pimelea Street	Objection 1. Proposal will result in Kunzea Street cul-de-sac and Pimelea Street cul-de-sac to be	1. On both counts, the plan sent out to residents wasn't clear on the issues of cul-de sac roads mentioned. The

PSC Item 16/2010 - (Attachment 4.)

		<p>come through road which would increase traffic and noise</p> <p>2. If there is a need for street name change for Pimelea Street that would cause a gross inconvenience to the residents</p>	<p>applicant has since shown that there is no intention to change Pimelea Street or Gilba Place road layouts. See (Attachment 3.).</p> <p>2. As above</p>
27.	<p>I & D Gregory 4 Harold Road Maida Vale WA 6057</p>	<p>Objection</p> <p>1. The reason why they moved to this area is to offer their children a safe, open area in which to play and grow</p> <p>2. Current zoning is more in keeping with the present community</p>	<p>1. The proposed lot can be developed in residential lots regardless of the R coding</p> <p>2. Lots would have both the rural as well as urban outlook, considering the property is on the boundary between two zones</p>
28.	<p>D Johnson 5 Kunzea Close Maida Vale 6057</p>	<p>Objection</p> <p>1. R5 zoning is almost rural in feel whereas R20 is very residential. The proposed modification constitutes a very large change in density</p> <p>2. Existing Lot 1 Gilba Place is not a well groomed parkland but still gives a sense of open space- POS is missing in this area.</p> <p>3. Making Kunzea Close a through Road would have a far greater effect on residents that just increased traffic</p> <p>4. A lovely feel that comes from having natural bush to the South of us will be replaced by 17 block development.</p>	<p>1. The change would be from average of 2000sqm to average of 500sqm. R20 is considered low density residential code.</p> <p>2. Lot 1 Gilba Place is not a park but a private land zoned Urban Development</p> <p>3. A change from the cul-de-sac to a through road is acknowledged</p> <p>4. A change of the amenity is acknowledged but the land would be developed as residential regardless of the R coding</p>
29.	<p>N Sadler 143 Brewer Road Maida Vale WA 6057</p>	<p>Objection</p> <p>1. This land acts as a buffer between Special Rural and Urban land in this area. It is abundant in native species and a safe haven for bandicoots.</p> <p>2. It should remain R5 in fairness to all Special Rural landowners.</p>	<p>1. This land is on the boundary between two zonings so either zoning could be considered appropriate.</p> <p>2. The subject land comprises part of a planned area urban where the applied density is primarily R20.</p>

PSC Item 16/2010 - (Attachment 4.)

30.	J & W Green 22 Pimelea Street Maida Vale WA 6057	Objection 1. Proposal to combine Pimelea Street and Gilba Place as a through road is strongly opposed.	1. The developer does not propose to open cul-de sac roads Pimelea Street and Gilba Place- see the indicative layout of properties around cul-de sac areas (Attachment 3.)
31.	DV Bonner 10 Kunzea Close Maida Vale WA 6057	Objection 1. Kunzea Close mustn't be opened as we were promised by the Council that it would be closed forever. 2. The trees at Lot 1 Gilba Place are home to black cockatoos, bandicoots and lizards. I thought that Council's policy was "Home in the trees"- surely all the trees must not go.	1. Kunzea Close will only service additional 7-9 homes- not necessarily a large additional traffic volume. 2. The proposed lot can be developed in residential lots regardless of the R coding
32.	J Cartwright 15 Pimelea Street Maida Vale WA 6057	Objection 1. Excess traffic flow in the present quiet street 2. Confusion over the street names/locations 3. There was no indication that the cul-de-sac would be opened	1. There will be three additional dwellings in Pimelea Street 2. It is described as if the way the streets are named now causes confusion- regardless; nothing is proposed to change for Gilba/Pimelea/Brewer Roads stretch. 3. Cul-de-sac is not proposed to be opened
33.	E Silfo 20 Pimelea Street Maida Vale WA 6057	Conditional non-objection 1. Cul-de-sac for Pimelea Street and Gilba Place to remain. 2. No additional road to join subdivision apart from Kunzea Close	1. It is not proposed to change that 2. There is no plan to add any other road
34.	S & P Miller 24 Pimelea Street Maida Vale WA 6057	Objection 1. Do not wish that current cul-de-sacs Pimelea/Gilba/Brewer to be opened.	1. The developer does not propose to open cul-de sac roads Pimelea Street and Gilba Place- see the indicative layout of properties around cul-de sac areas (Attachment 3.)

Copies of submissions may be made available to Councillors.

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

9.17 Metropolitan Region Scheme Amendment - Request for Concurrent Local Planning Scheme Amendment - to rezone Land bound by Nardine Close, Roe Highway, Sultana Road West and Milner Road, High Wycombe from 'Special Rural' to 'Light Industry'

Previous Items:	PS 52/09
Service Area:	Planning and Development Services
Author	Andrew Fowler-Tutt
File Reference:	PG-DEV-033
Applicant:	N/A
Owner:	Various

PURPOSE

1. To consider a request from the Western Australian Planning Commission (WAPC) to support a concurrent Metropolitan Region Scheme (MRS) and Local Planning Scheme No.3 (The Scheme) amendment to rezone land bound by Nardine Close, Roe Highway, Sultana Road West Nardine Close and Milner Road from 'Special Rural' to 'Light Industry'. Refer **(Attachment 1.)** Locality Plan.

BACKGROUND

2. In November 2008, Council resolved to support a request from the Western Australian Planning Committee (WAPC) to initiate an amendment to the MRS to rezone land bound by Berkshire Road, Roe Highway, Sultana Road West and Milner Road from 'Rural' to 'Urban'. Refer **(Attachment 2.)** Locality Plan.
3. In June 2009, Council resolved to support a request from the WAPC for a concurrent MRS and Scheme amendment for the area bound by Berkshire Road, Roe Highway, Nardine Close and Milner Road to rezone the land from 'Special Rural' to 'Light Industry'. Refer **(Attachment 3.)** Locality Plan.

DETAILS

4. The Metropolitan Region Planning Committee (MRPC) on behalf of the WAPC is seeking Council's formal endorsement of the concurrent MRS and Scheme amendment process for the area bound by Nardine Close, Roe Highway, Sultana Road West and Milner Road to rezone the land from 'Special Rural' to 'Light Industry'.

STATUTORY AND LEGAL IMPLICATIONS

5. *Part 9 sec.126 of the Planning and Development Act 2005 states that where a region scheme is amended to include land in an urban zone the local government scheme may be automatically amended where the local government requests and the WAPC agrees to the automatic amendment. It is understood that the WAPC will only agree to amend a local planning scheme where the scheme includes an urban development zone (or equivalent) that requires the preparation of a structure plan, the intent being to avoid duplication in the public consultation process and to focus the public on the ultimate form of development as proposed on the structure plan.*

6. The concurrent amendment process will need to incorporate provisions to include the subject land under *Part 6 – Special Control Areas* of the Scheme which will provide the necessary statutory basis for the preparation of the structure plans for the subject land.
7. A structure plan is required to be prepared and advertised in accordance with *Clause 6.2* of the Scheme for the area between Berkshire Road and Sultana Road West identified in **Attachment 2**, in order to co-ordinate land use and development on the subject land.

POLICY IMPLICATIONS

8. Nil

PUBLIC CONSULTATION/COMMUNICATION

9. In September 2008, the MRS amendment to rezone the land area identified in was referred out to affected landowners for comment. A total of fifty six (56) submissions were received, of these forty three (43) were non-objections. No advertising was undertaken as part of the proposed concurrent amendment.

FINANCIAL IMPLICATIONS

10. The Shire has engaged planning and environmental consultants to progress the planning of the proposed industrial area.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

11. Strategic Planning Implications

- The MRPC, on behalf of the WAPC, have indicated that they are seeking Council support to the concurrent amendment process. In the event that Council resolves not to support the request, this could delay the progress of the MRS amendment and ultimately the strategic planning of the area as required under the Kewdale Hazelmere Integrated Master Plan (KHIMP).
- The area immediately to the north of Sultana Road West has been identified under the KHIMP as a future development area and represents Stage 2 of the planned expansion of the Forrestfield Industrial Area. Planning investigations for this area is anticipated to commence in the latter end of 2010. Accordingly, there would seem little merit in considering a transition zone, i.e. to allow for a less intensive land use activity, and therefore buffer to affected residents along the edge of Sultana Road West given the timing of the planning investigations for the area.

12. Sustainability Implications

Social implications

- The planned development of the area for industrial land use activity through the preparation of a structure plan will enable some landowners to progress with the development of the land independently of others. It is acknowledged that this may have some amenity implications for those landowners who wish to remain on their properties in the short term.

Economic Implications

- The planned industrial area will have economic benefits for future developers given the proximity of the land to existing industrial and commercial areas and associated infrastructure and utilities.

Environmental Implications

- A large proportion of Lots 1 and 2 (126 and 128) Sultana Road West located adjacent to the existing MRS reserve are included in a Bush Forever area, yet remain urban zoned land. Council, in considering the MRS amendment for the subject land, has previously requested the WAPC to give consideration to the inclusion of the lots as a regional reserve.

OFFICER COMMENT

13. The concurrent amendment process allows the Scheme to be automatically amended to rezone the subject land from 'Special Rural' to 'Light Industry' on completion of the MRS amendment process.
14. A Structure Plan will be prepared for the area between Berkshire Road and Nardine Close and the proposed light industrial zoning over the area satisfies the intent of the sec.126 of the Act. The Scheme will need to be modified to identify the subject area as a 'Development Area' requiring a structure plan to be prepared and adopted.
15. In regard to the advertising of the concurrent amendment proposal, it was evident from the submissions received to the MRS amendment, that landowners were supportive of a light industry zone under the Scheme for the area between Nardine Close and Sultana Road West. On this basis, it was decided not to refer the proposal out to affected landowners. Moreover, landowners will have an opportunity to comment on the proposed light industrial zoning when the MRS amendment is advertised for public comment.
16. Council's support thus far for the planning of the Forrestfield Industrial area will require Clause 5.4 of the Scheme to be deleted. The Clause prohibiting subdivision in the KHIMP Area was introduced when the Scheme was gazetted prior to the planning of the industrial area having commenced.
17. In summary, the applicant is seeking Council agreement to the concurrent amendment process. The MRPC, on behalf of the WAPC, are also seeking Council support for the proposal in order to progress the MRS amendment. From a planning perspective there is sufficient planning justification for Council to support the request, moreover, it will help to expedite the MRS amendment and ultimately the strategic planning of the area. On this basis, it is recommended that Council supports the request for a concurrent amendment to the Scheme to rezone the subject land from 'Special Rural' to 'Light Industry'.

MEETING COMMENT

18. A Councillor asks if the Shire would make sure that the buffer zone be enforced.
19. Director, Planning and Development Services advised that this was the rezoning stage and that during the process of the structure plan this would be addressed.

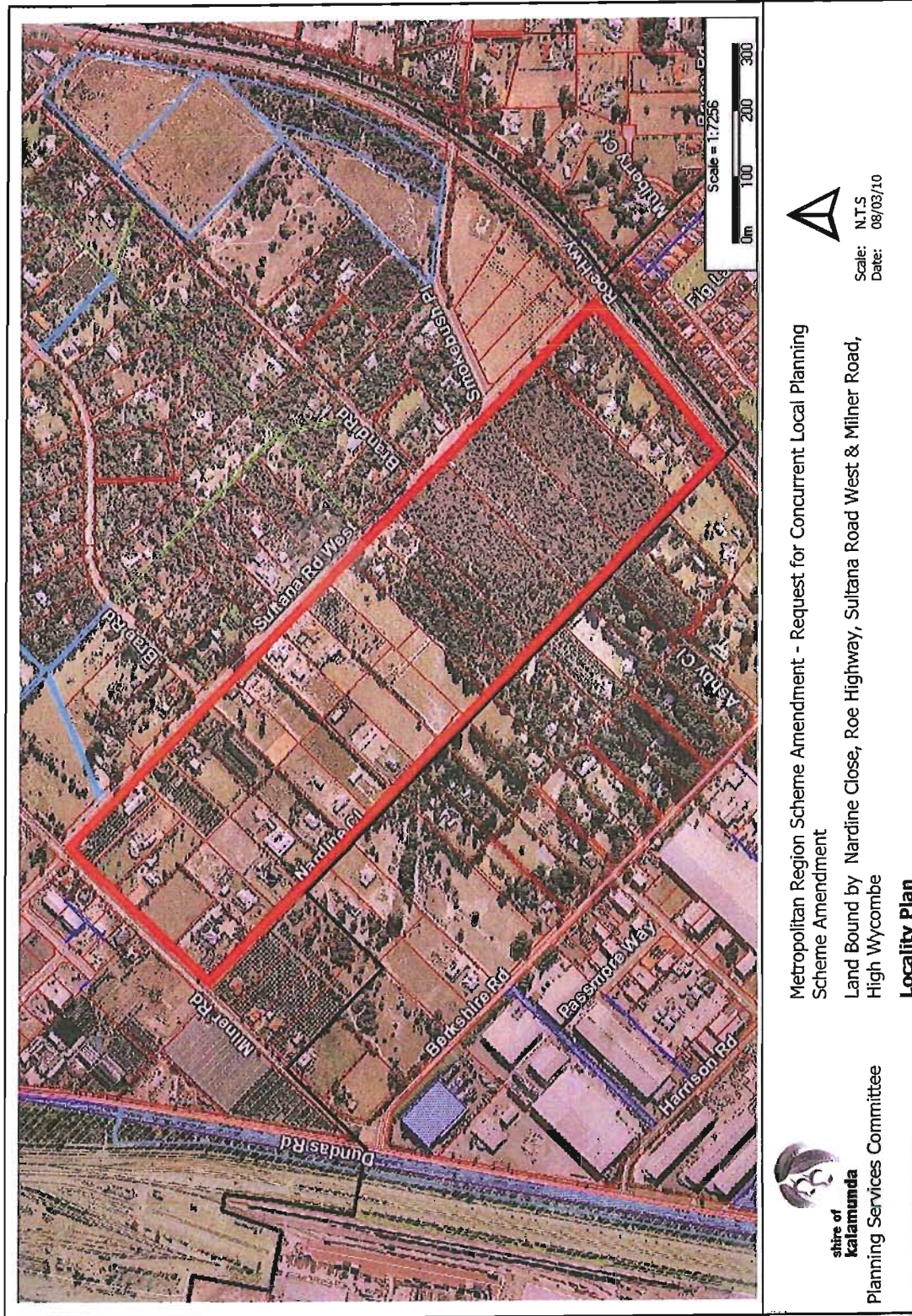
COMMITTEE RECOMMENDATION TO COUNCIL**PS 17/2010**

1. That the Western Australian Planning Commission be advised that Council supports the request for a concurrent amendment to Local Planning Scheme No 3 to rezone land bound by Nardine Close, Roe Highway, Sultana Road West and Milner Road from 'Special Rural to 'Light Industry' with the following provisions included in Clause 6.1.1 of Local Planning Scheme No.3 as follows:
 - 6.1.1 The following Special Control Areas are shown on the Scheme Map:
 - g. Development areas shown on the Scheme Map as DA shall be in accordance with the following clause.
 - 6.1.3 No development and/or subdivision shall commence or carried out within the Forrestfield Light Industrial Area bound by Nardine Close, Roe Highway, Sultana Road West and Milner Road until a Structure Plan is prepared and adopted in accordance with Clause 6.2 – Development Areas, of the Scheme.
2. That the Scheme map be modified to identify the subject site with the annotation 'DA'.
3. Clause 5.4 Special Applications for the Subdivision of Land of the Scheme be deleted.

Moved: Cr McKechnie

Seconded: Cr Townsend

CARRIED UNANIMOUSLY





Scale: N.T.S.
Date: 08/03/10

Metropolitan Region Scheme Amendment - Request for Concurrent Local Planning Scheme Amendment
Land Bound by Berkshire Road, Roe Highway, Sultana Road West & Milner Road, High Wycombe

Locality Plan



Shire of Kalamunda
Planning Services Committee



Planning Services Committee

Metropolitan Region Scheme Amendment - Request for Concurrent Local Planning Scheme Amendment

Land Bound by Berkshire Road, Roe Highway, Nardine Close & Milner Road, High Wycombe

Locality Plan



Scale: N.T.S.
Date: 08/03/10

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

9.18 Review of the Shire of Kalamunda Standing Orders Local Law

Previous Items:	GS/OCM February 2010
Service Area:	Chief Executive's Office
File Reference:	LE-LOL-020
Applicant:	N/A
Owner:	N/A

PURPOSE

1. To consider amending the Shire's Standing Orders local law, by repealing the current law and replacing it with a revised version.

BACKGROUND

2. The Standing Orders, or meeting procedures, provide guidelines for the conduct of meetings.
3. The current Standing Orders local law was gazetted in August 1999. In the 10 years in which it has been in operation, some inconsistencies and lack of clarity have been identified. There have also been changes to legislation (such as the introduction of the Rules of Conduct for elected members), which may be appropriate to have reflected in the local law.

DETAILS

4. In order to amend a local law, a new local law must be created. The process for creating a local law is outlined in section 3.12 of the *Local Government Act 1995*.
5. Once Council resolves to make a new local law, state-wide and local public notice must be given of the proposed local law, and 42 days allowed for the public to make submissions. At the end of the submission period, Council may proceed with adopting the local law, or may choose to not proceed. Minor amendments may be made before the local law is adopted (if it is proposed to make a local law significantly different from that advertised, the process must be re-started).
6. A proposed Standing Orders local law has been obtained from McLeods Barristers and Solicitors. This proposed version includes notes which refer to relevant legislation. These are included for information and guidance, and do not form part of the actual local law which would be gazetted.
7. Council considered this item at the Ordinary Council Meeting held in February 2010. It was resolved that the item would be deferred until a Councillor forum had been held to discuss the content of the proposed local law.

8. A forum was held on 22 February 2010, attended by 8 Councillors. Changes made as a result of this forum have been included in the proposed local law. The proposed local law is shown at **(Attachment 1.)**.

STATUTORY AND LEGAL IMPLICATIONS

9. Section 3.12 of the *Local Government Act 1995*.

POLICY IMPLICATIONS

10. MTG9 - Standing Committee Meeting Reports – Adoption at Ordinary Council Meeting
MTG11 – Standing Committee Meetings – Procedures
MTG12 - Standing Committee and Council Meetings – Standing Orders

If the proposed local law is ultimately adopted by Council, any policies which are inconsistent with the local law will be revoked.

PUBLIC CONSULTATION/COMMUNICATION

11. If Council resolves to make the new local law, state-wide and public notice will be given, and public submissions invited.
12. Councillor forum held 22 February 2010.

FINANCIAL IMPLICATIONS

13. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

14. **Strategic Planning Implications**
Strategic Plan 2009-2014 – Strategic Plan Goal 5 – A Shire that is well governed, providing positive leadership and efficient service delivery to the community.
15. **Sustainability Implications**
 - Social implications**
 -
 - Economic Implications**
 -
 - Environmental Implications**
 -

OFFICER COMMENT

16. The proposed amendment to the Standing Orders provides Council with an opportunity to consider changing its current procedures. For example, the timing and frequency of committee and Council meetings (or even whether or not to hold standing committee meetings); the practice of taping meetings; procedures for deputations; and other matters may all be considered.

17. The timing of Council and committee meetings for the period November 2009 to October 2011 was adopted by Council at the Special Council meeting held on 19 October 2009 (SMC120/09). In order to change the schedule of meetings, this decision would need to be revoked.

MEETING COMMENT

18. The Mover of the staff recommendation did not accept a proposed amendment to a clause within the Meeting Procedures Local Laws 2010 with the possibility of this being included in the motion. The Recommendation was put to the vote unchanged.

COMMITTEE RECOMMENDATION TO COUNCIL

PS 18/2010

1. That state-wide and local public notice be given that Council proposes to make a new local law, the *Meeting Procedures Local Law 2010*, as shown in **(Attachment 1)**.
2. It be recorded that the purpose of this local law is to provide for the orderly conduct of meetings of the council and committees, the manner of making an effective petition to the local government, and for the safe custody and use of the common seal. The effect of the local law is that all council and committee meetings, the manner of making a petition to the local government, and the use of the common seal, are to be governed by the standing orders, unless otherwise provided for in the Act or regulations.

Moved: Cr McKechnie

Seconded: Cr Lindsey

For

Cr McKechnie
Cr Thomas
Cr Lindsey
Cr Stallard
Cr Morton
Cr O'Connor
Cr Cresswell
Cr Heggie

Against

Cr Everett
Cr Robinson
Cr Townsend

CARRIED / ABSOLUTE MAJORITY

Local Government Act 1995

Shire of Kalamunda

Meeting Procedures Local Law 2010

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Local Government Act 1995

Shire of Kalamunda

Meeting Procedures Local Law 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the council of the Shire of Kalamunda resolved on [date to be inserted] to make the following local law.

Part 1 - Preliminary

1.1 Citation

- (1) This local law may be cited as the *Shire of Kalamunda Meeting Procedures Local Law 2010*.
- (2) In the clauses that follow, this local law is referred to as “these Meeting Procedures”.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Application and intent

- (1) These Meeting Procedures contain the rules that apply to the conduct of meetings of the council and its committees, and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and these Meeting Procedures.
- (3) These Meeting Procedures are intended to result in –
 - (a) better decision making by the council and its committees;
 - (b) the orderly conduct of meetings dealing with council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) more efficient and effective use of time at meetings.

1.4 Definitions

In these Meeting Procedures–

“absolute majority” has the meaning given to it in the Act;

"absolute majority" means –

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
- (b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body.

[Section 1.4 of the Act]

"Act" means the *Local Government Act 1995*;

"CEO" means the Chief Executive Officer of the Shire;

"clause" means a clause of these Meeting Procedures;

"committee" means a committee of the council (established under section 5.8 of the Act);

"Council" means the council of the Shire;

"Councillor" has the same meaning as is given to it in the Act;

"Councillor" means a person who holds the office of councillor on a council (including a person who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor).

[See section 1.4 of the Act]

"deputy president" means the deputy president of the Shire;

"employee" has the same meaning as is given to it in the Act;

"employee" means a person employed by a local government under section 5.36.

[See section 1.4 of the Act]

"meeting" means a meeting of the council or of a committee, or an electors' meeting, as the context requires;

"member" has the same meaning as given to it in the Act;

"member" means:

in relation to the council of the local government –

- (a) an elector mayor or president of the local government; or
- (b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor.

[Section 1.4 of the Act]

"Minister" means the Minister responsible for administering the Act;

"minor amendment", in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;

"president" means the president of the Shire;

"presiding member" means -

- (a) in respect of the council, the person presiding under section 5.6 of the Act (see clause 3.1); and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13 and 5.14 of the Act (see clauses 3.4 and 3.5);

"Regulations" means the *Local Government (Administration) Regulations 1996*;

"Rules of Conduct Regulations" means the *Local Government (Rules of Conduct) Regulations 2007*;

"Shire" means the Shire of Kalamunda;

"simple majority" means more than 50% of the members present and voting;

"special majority" has the same meaning as is given to it in the Act;

Section 1.10 of the Act states -

1.10. Decisions by special majority

The footnote "*Special majority required*" applying to a power conferred in this Act on a local government, means that -

- (a) if there are more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of a 75% majority of the council; or
- (b) if there are not more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of an absolute majority of the council.

"substantive motion" means an original motion, or an original motion as amended, but does not include an amendment motion or a procedural motion.

Note: unless otherwise defined, the terms used in these Meeting Procedures have the meaning given to them in the Act and Regulations (see section 44 of the Interpretation Act 1984).

1.5 Repeal

The *Shire of Kalamunda Standing Orders Local Law 1999*, published in the *Government Gazette* on 20 August 1999, is repealed.

Provisions of the Act, Regulations and other legislation

(1) In this local law -

- (a) provisions of the Act and Regulations, and of other legislation, are

- reproduced in a boxed format; and
- (b) notes are also included in a boxed format.
- (2) The purpose of reproducing these provisions, and of including the notes, is to assist the reader in the interpretation or administration of this local law.
- (3) The reproduced provisions of the Act and Regulations and other legislation, and the notes –
- (a) are to be treated as footnotes and are not part of this local law (see section 32(2) of the Interpretation Act 1984); and,
- (b) reproduce only the provisions, or refer only to the provisions, that were in force at the time that the council resolved to adopt this local law and, therefore, may not necessarily be accurate at a future date.

Part 2 - Meetings

2.1 Ordinary and special council meetings

- (1) Ordinary and special council meetings are dealt with in the Act.

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

[Section 5.3 of the Act]

- (2) An ordinary meeting of the council, held on a monthly basis or otherwise as determined by the council, is for the purpose of considering and dealing with the ordinary business of the council.
- (3) A special meeting of the council is held for the purpose of considering and dealing with council business that is urgent, complex in nature, for a particular purpose or confidential.

2.2 Calling council meetings

The calling of council meetings is dealt with in the Act.

- An ordinary or a special meeting of a council is to be held -
- (a) if called for by either -
- (i) the mayor or president; or
- (ii) at least 1/3 of the councillors,
- in a notice to the CEO setting out the date and purpose of the proposed meeting; or
- (b) if so decided by the council.

[Section 5.4 of the Act]

2.3 Convening council meetings

- (1) The convening of a council meeting is dealt with in the Act.

- | | |
|-----|---|
| (1) | The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting. |
| (2) | The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place and purpose of the meeting. |

[Section 5.5 of the Act]

Sections 9.50 to 9.54 of the *Local Government Act 1995* and sections 75 and 76 of the *Interpretation Act 1984* deal with how documents can be given to a person. Under these provisions, notice of a meeting may be given to a council member by –

- | | |
|-----|--|
| (a) | personally handing the notice to the member; |
| (b) | sending it by post to the last known address of the member; or |
| (c) | leaving it for the member at his or her usual or last known place of abode or, if he or she is the principal of a business, at his or her usual or last known place of business. |

- (2) Subject to subclause (3), the CEO is to give at least 36 hours' notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the council.
- (3) Where, in the opinion of the president or at least 1/3 of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special council meeting.

2.4 Calling committee meetings

A meeting of a committee is to be held –

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| (a) | if called for in a verbal or written request to the CEO by the president or the presiding member of the committee, advising the date and purpose of the proposed meeting; |
| (b) | if called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or |
| (c) | in accordance with a decision of the council or the committee. |

2.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

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| (1) | At least once each year a local government is to give local public notice of the |
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dates on which and the time and place at which –

- (a) the ordinary council meetings; and
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).
- (3) Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.
- (4) If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.

[Regulation 12 of the Regulations]

Part 3 - Presiding member and quorum

Division 1: Who presides

3.1 Who presides

Who presides at a council meeting is dealt with in the Act.

- (1) The mayor or president is to preside at all meetings of the council.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at a meeting of the council in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and –
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,then, the council is to choose one of the councillors present to preside at the meeting.

[Section 5.6 of the Act]

3.2 When the deputy president can act

When the deputy president can act is dealt with in the Act.

If –

- (a) the office of mayor or president is vacant; or
- (b) the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,

then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

[Section 5.34 of the Act]

3.3 Who acts if no president

Who acts if there is no president is dealt with in the Act.

(1) If the circumstances mentioned in section 5.34(a) or (b) apply and –

- (a) the office of deputy mayor or deputy president is vacant; or
- (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,

and the mayor or president or deputy will not be able to perform the functions of the mayor or president for a time known to the council, then the council may appoint a councillor to perform during that time the functions of the mayor or president, as the case requires.

(2) If the circumstances mentioned in section 5.34(a) or (b) apply and –

- (a) the office of deputy mayor or deputy president is vacant; or
- (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,

and a person has not been appointed under subsection (1), the CEO, after consultation with, and obtaining the agreement of, 2 councillors selected by the CEO, may perform the functions of mayor or president, as the case requires.

[Section 5.35 of the Act]

3.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in the Act.

(1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –

- (a) to 'office' were references to 'office of presiding member';
- (b) to 'council' were references to 'committee'; and
- (c) to 'councillors' were references to 'committee members'.

[Section 5.12(1) of the Act]

Clauses 2 to 5 inclusive of Schedule 2.3 provide as follows:

2. When the council elects the mayor or president

- (1) The office is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How the mayor or president is elected

- (1) The council is to elect a councillor to fill the office.
- (2) The election is to be conducted by the CEO in accordance with the procedure prescribed.
- (3) Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.
- (5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with the procedures set out in Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.

5. Votes may be cast a second time

- (1) If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.
- (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.
- (3) When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.
- (4) The votes cast under subclause (3) are to be counted, and the successful

candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.

[Clauses 2 to 5 inclusive of Schedule 2.3]

3.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —

- (a) to 'office' were references to 'office of deputy presiding member';
- (b) to 'council' were references to 'committee';
- (c) to 'councillors' were references to 'committee members'; and
- (d) to 'mayor or president' were references to 'presiding member'.

[Section 5.12(2)]

Division 2 (clauses 6, 7 and 8) of Schedule 2.3 provides as follows:

6. Definitions

In this Division —

"extraordinary vacancy" means a vacancy that occurs under section 2.34(1);

"the office" means the office of deputy mayor or deputy president.

7. When the council elects the deputy mayor or deputy president

- (1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —
 - (a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.

8. How the deputy mayor or deputy president is elected

- (1) The council is to elect a councillor (other than the mayor or president) to fill the office.
- (2) The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.
- (3) Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.
- (5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

[Division 2 (clauses 6, 7 and 8) of Schedule 2.3]

3.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

If, in relation to the presiding member of a committee –

- (a) the office of presiding member is vacant; or
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

[Section 5.13 of the Act]

3.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

If, in relation to the presiding member of a committee –

- (a) the office of presiding member and the office of deputy presiding member are vacant; or
- (b) the presiding member and the deputy presiding member, if any, are not available or

are unable or unwilling to perform the functions of presiding member,
then the committee members present at the meeting are to choose one of themselves to preside
at the meeting.

[Section 5.14 of the Act]

Division 2: Quorum

3.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

The quorum for a meeting of a council or committee is at least 50% of the number of offices
(whether vacant or not) of member of the council or the committee.

[Section 5.19 of the Act]

3.9 Reduction of quorum for council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is
dealt with in the Act.

- (1) The Minister may reduce the number of offices of member required for a quorum at
a council meeting specified by the Minister if there would not otherwise be a
quorum for the meeting.
- (2) The Minister may reduce the number of offices of member required at a council
meeting to make a decision specified by the Minister if the decision is one which
would otherwise be required to be made by an absolute majority and a sufficient
number of members would not otherwise be present at the meeting.

[Section 5.7 of the Act]

3.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

The local government may reduce* the number of offices of committee member required for a
quorum at a committee meeting specified by the local government if there would not
otherwise be a quorum for the meeting.

*Absolute majority required.

[Section 5.15 of the Act]

3.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the
Regulations.

If a quorum has not been established within the 30 minutes after a council or committee
meeting is due to begin then the meeting can be adjourned –

- (a) in the case of a council, by the mayor or president or if the mayor or president is
not present at the meeting, by the deputy mayor or deputy president;
- (b) in the case of a committee, by the presiding member of the committee or if the
presiding member is not present at the meeting, by the deputy presiding member;
- (c) if no person referred to in paragraph (a) or (b), as the case requires, is present at the
meeting, by a majority of members present;

- (d) if only one member is present, by that member; or
- (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorised by the CEO.

[Regulation 8 of the Regulations]

3.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present –

- (a) the presiding member is immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under paragraph (a), the presiding member may either adjourn the meeting to some future time or date or may extend the extension period for a further period of up to 30 minutes; and
- (c) if a quorum is not present at the expiry of the extended period of suspension under paragraph (b), the presiding member is to adjourn the meeting to a later time on the same day or to another day.

3.13 Names to be recorded

At any meeting –

- (a) at which there is not a quorum present to begin the meeting; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

3.14 Adjourned meeting procedures

Where a meeting is adjourned for want of a quorum –

- (a) the names of members who have spoken on a matter that was interrupted by the adjournment are to be recorded in the minutes and clause 7.8 applies when the debate on the matter is resumed; and
- (b) the meeting is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise.

Part 4 - Business of a meeting

4.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting of the council other than that specified in the agenda, without the approval of the presiding member or a decision of the council.
- (2) No business is to be transacted at a special meeting of the council other than that given in the notice of the meeting as the purpose of the meeting.

- (3) No business is to be transacted at a committee meeting other than that specified in the agenda, or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) Where a council meeting is adjourned to the next ordinary meeting of the council, the business unresolved at the meeting that is adjourned is to be dealt with at item 8 of clause 4.2 at that ordinary meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with at item 8 of clause 4.2 at that ordinary meeting.
- (6) Where a council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that:
 - (a) specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

4.2 Order of business

- (1) Unless otherwise decided by the council, the order of business at an ordinary meeting of the council is to be as follows –
 - 1. Official opening.
 - 2. Public question time –
 - 2.1 Responses to previous questions from members of the public taken on notice.
 - 2.2 Public question time.
 - 3. Record of attendance, apologies and leave of absence.
 - 4. Disclosures of interests.
 - 5. Petitions.
 - 6. Confirmation of minutes.
 - 7. Announcements by the presiding member without discussion.
 - 8. Unresolved business from previous meetings.
 - 9. Reports and recommendations of committees.
 - 10. Reports by the CEO –
 - 10.1 Reports without discussion.
 - 10.2 Reports and recommendations for discussion.
 - 11. Motions of which previous notice has been given.
 - 12. Questions by members of which due notice has been given.

13. Questions by members without notice.
 14. New business of an urgent nature.
 15. Matters for which meeting is to be closed to the public.
 16. Closure.
- (2) Unless otherwise decided by the members present, the order of business at any special meeting of the council or at a committee meeting is to be the order in which that business stands in the notice of, or agenda for, the meeting.
- Note: In exercising its discretion relating to the order of business under subclause (1) and (2), a meeting must comply with the requirements of the Act and Regulations relating to public question time (see clauses 5.3-5.5 below).*
- (3) Despite subclauses (1) and (2), the CEO may include on the agenda of a council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

4.3 Grant of leave of absence

The grant of leave of absence is dealt with in the Act.

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| <ol style="list-style-type: none">(1) A council may, by resolution, grant leave of absence, to a member.(2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister.(3) The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting. |
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[Section 2.25 of the Act]

4.4 Announcements by the presiding member without discussion

Announcements by the presiding member under item 7 of clause 4.2(1) are –

- (a) to inform the council of official duties performed, or functions attended, by the president, or of other matters of importance to the council, of which the council has not previously been informed;
- (b) to be brief and concise;
- (c) to be completed within 10 minutes; and
- (d) not to be the subject of any discussion.

4.5 Reports by the CEO

- (1) Reports by the CEO under item 10.1 of clause 4.2(1) are –
- (a) to inform the council of matters of importance to the council; and
 - (b) not to be the subject of discussion.

- (2) Reports by the CEO under item 10.2 of clause 4.2(1) are –
 - (a) to enable the CEO to carry out his or her functions, including the function of ensuring that advice and information is available to the council so that informed decisions can be made; and
 - (b) to be the subject of discussion.

4.6 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or these Meeting Procedures otherwise provide, a member may raise at a meeting such business of the Shire as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under subclause (1) is to be given at least 4 clear working days before the meeting at which the motion is moved.
- (3) A notice of motion must relate to a matter for which the council is responsible.

Note: the matters for which the council is responsible are dealt with in section 2.7 of the Act.

- (4) The CEO –
 - (a) with the concurrence of the president, may exclude from the notice paper any notice of motion that he or she considers to be out of order (under clause 8.2(1)), such as a breach of clause 7.7 and 7.13 of these Meeting Procedures; or
 - (b) may make such amendments to the form, but not the substance, as will bring the notice of motion into due form.
- (5) A notice of motion is not out of order because the policy involved is considered to be objectionable.
- (6) If a notice of motion is excluded under subclause (4), the CEO is to provide the reason for its exclusion to all members as soon as practicable.
- (7) The CEO may provide relevant and material facts and circumstances relating to the notice of motion on such matters as policy, budget and law.

Note: under section 5.41(b) of the Local Government Act, the CEO may provide to members any information that he or she considers relevant to the notice of motion.

- (8) A motion of which notice has been given is to lapse unless –
 - (a) the member who gave notice of it, or some other member authorised by him or her in writing, moves the motion when called on; or
 - (b) the council or committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (9) If a notice of motion is given and lapses in the circumstances referred to in subclause (8)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

4.7 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, with the consent of the person presiding or on a motion that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), "cases of extreme urgency or other special circumstances" means matters –
 - (a) that have arisen after the preparation of the agenda that are considered by the meeting to be of such importance and urgency that they are unable to be dealt with administratively by the Shire and must be considered and dealt with by the council before the next meeting; and
 - (b) that, if not dealt with at the meeting, are likely to –
 - (i) have a significant adverse effect (financially or otherwise) on the Shire; or
 - (ii) result in a contravention of a written law.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting –
 - (a) the presiding member is to ask the CEO to give; and
 - (b) the CEO, or the CEO's nominee, is to give,a verbal report to the meeting.
- (4) The minutes of the meeting are to include –
 - (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
 - (b) the reasons for any decision made at the meeting that is significantly different from any recommendations of the CEO or the CEO's nominee.

Deleted: <#> An amendment other than a minor amendment is a motion of which not given under this clause be considered at a meeting if written notice of the amendment is received by the CEO not less than 12:00 noon on the working day preceding the meeting at which the motion is to be considered. <#> The presiding member is to determine whether an amendment is a minor amendment for the purposes of subclause (1). <#> is to make that determination on the basis that a minor amendment is one which, in his or her opinion, does not materially alter the basic intent of the principal motion.

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4.8 Adoption by exception resolution

- (1) In this clause 'adoption by exception resolution' means –
 - (a) a resolution of the council that has the effect of adopting, for each of a number of specifically identified reports, the committee or employee recommendation as the council resolution; and
 - (b) a resolution of a committee that has the effect of adopting, for each of a number of specifically identified reports, the employee recommendation as the committee resolution.
- (2) The council or a committee may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter –

- (a) that requires an absolute majority or a special majority;
- (b) in which a financial or proximity interest has been disclosed; or
- (c) that is a matter on which a member wishes to move a motion that is different to the recommendation.

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4.9 Closure – time limits for council meetings

If a meeting of the council is in progress 3 hours after its commencement –

- (a) the presiding member is to enable the council to decide whether the meeting should continue;
- (b) the meeting may continue -
 - (i) for up to 1 more hour;
 - (ii) only if a motion that the meeting continue is carried; and
 - (iii) only for the time (up to 1 more hour) specified in that motion; and
- (c) the presiding member is to adjourn the meeting –
 - (i) if the motion under paragraph (b) is not carried; or
 - (ii) at the conclusion of any extension specified in a motion that is carried under paragraph (b).

Note: a council meeting may continue beyond 4 hours by suspending this Standing Order under clause 15.1 below.

Part 5 - Public participation

5.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

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| <p>(1)</p> <ul style="list-style-type: none"> (a) all council meetings; and (b) all meetings of the committee to which a local government power or duty has been delegated. <p>(2)</p> <p>If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following –</p> <ul style="list-style-type: none"> (a) a matter affecting an employee or employees; (b) the personal affairs of any person; (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; |
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- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal –
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,
 where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to –
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.
- [Section 5.23 of the Act]

5.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public (other than any person specified in a resolution).
- (2) The council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close to members of the public a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried –
 - (a) the presiding member is to direct everyone to leave the meeting except –
 - (i) the members;
 - (ii) the CEO;
 - (iii) any employee of the Shire, unless specified in a resolution; and
 - (iv) any other person specified in a resolution; and

- (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3) may, by order of the presiding member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice of the relevant motion.
- (6) Unless the council or the committee resolves otherwise, once the meeting is reopened to members of the public the presiding member is to ensure that –
 - (a) any resolution of the council or committee made while the meeting was closed is to be read out; and
 - (b) the vote of a member or members is recorded in the minutes.
- (7) For the convenience of members of the public, the council or a committee may –
 - (a) identify, in advance, an agenda item that is to be, or may be, discussed during part of a meeting that is to be closed to members of the public; and
 - (b) defer that agenda item as the last item of the meeting.

Note: restrictions on the disclosure of information considered at a meeting closed to the public are set out in clause 5.13 below.

5.3 Question time for the public

Question time for the public is dealt with in the Act.

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| (1) | Time is to be allocated for questions to be raised by members of the public and responded to at – <ul style="list-style-type: none">(a) every ordinary meeting of a council; and(b) such other meetings of councils or committees as may be prescribed. |
| (2) | Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations. |

[Section 5.24 of the Act]

5.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Regulations.

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| For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are – | |
| (a) | every special meeting of a council; |
| (b) | every meeting of a committee to which the local government has delegated a power or duty. |

[Regulation 5 of the Regulations]

5.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Regulations.

- (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

[Regulation 6 of the Regulations]

5.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Regulations.

- (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined –
 - (a) by the person presiding at the meeting; or
 - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,having regard to the requirements of subregulations (2) and (3).
- (2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in subregulation (3) requires –
 - (a) a council to answer a question that does not relate to a matter affecting the local government;
 - (b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
 - (c) a committee to answer a question that does not relate to a function of the committee.
- (5) If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to –
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.

[Regulation 7 of the Regulations]

5.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must –
 - (a) first state his or her name and address;
 - (b) direct the question to the presiding member;
 - (c) ask the question briefly and concisely;
 - (d) limit any preamble to matters directly relevant to the question; and
 - (e) ensure that the question is not accompanied by any expression of opinion, statement of fact or other comment, except so far as may be necessary to explain the question.
- (2) Each member of the public with a question is entitled to ask up to 3 questions before other members of the public will be invited to ask their questions.
- (3) A member of the public may give prior written notice to the CEO of the text or substance of a question that he or she wishes to ask at a meeting.
- (4) Unless the presiding member determines otherwise, a question of which prior written notice has been given to the CEO is to be given priority in question time.
- (5) Where a member of the public gives written notice of a question, the presiding member may determine that the question is to be responded to as normal business correspondence.
- (6) A question may be taken on notice by the council or committee for later response.
- (7) Where a question is taken on notice, the CEO is to ensure that –
 - (a) a written response is given to the person who asked the question; and
 - (b) a summary of the response is included in the minutes of the next meeting of the council or committee.
- (8) A response to a question –
 - (a) is to be brief and concise; and
 - (b) is not to be the subject of any discussion, except that if in the opinion of a member, false information or any adverse reflection is contained in any question asked or comments made by a member of the public, then (through the presiding member) the member may correct or clarify the matter.
- (9) Where a response to a question is given at a meeting, a summary of the question and the response is to be included in the minutes.
- (10) The presiding member may decide that a question is not to be responded to where –

- (a) the same or similar question was asked at a previous meeting, a response was provided and the person who asked the question is directed to the minutes of the meeting at which the response was provided;
 - (b) it is in the form of a statement, provided that the presiding member has taken reasonable steps to assist the person to phrase the statement as a question; or
 - (c) the question is offensive or defamatory in nature, or is one which, if asked by a member, would be in breach of these Meeting Procedures or any other law.
- (11) The council or committee, by resolution, may agree to extend public question time.

5.8 Distinguished visitor

If a distinguished visitor is present at a meeting of the council or a committee, the presiding member –

- (a) may invite the distinguished visitor to sit beside the presiding member or at the council table;
- (b) may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting; and
- (c) may direct that the presence of the distinguished visitor be recorded in the minutes.

5.9 Deputations

- (1) A deputation may be made to the council or a committee in accordance with this clause.
- (2) A person or group who wishes to be received as a deputation by the council or a committee must –
 - (a) apply in writing to the CEO for approval; and
 - (b) include with the application information relating to the subject matter to be raised by the deputation in concise terms, but in sufficient detail to provide a general understanding of the purpose of the delegation.
- (3) The CEO is to refer –
 - (a) to the president – a copy or summary of an application to be received as deputation by the council; or
 - (b) to the presiding member of the relevant committee – a copy or summary of an application to be received as a deputation by the committee.
- (4) If the president, or the presiding member (as the case may be), approves an application referred under subclause (3), the CEO is to invite the person or group to make the deputation.

- (5) If the president, or the presiding member (as the case may be), does not approve an application under subclause (3), the CEO is to refer the application to the next meeting of the council or the committee (as the case may be) to determine the application.
- (6) If a person or group is invited to make a deputation, the deputation –
 - (a) is not to exceed 5 people, only 2 of whom may address the council or committee, although others may respond to a specific question from a member; and
 - (b) is not to address the council or committee for a period exceeding 10 minutes without the agreement of the council or the committee (as the case may be).
- (7) The number of deputations that may be made in regard to any one matter at a meeting of council or committee is to be limited to 2, unless the council or committee resolves otherwise.
- (8) Any matter which is the subject of a deputation to the committee is not to be decided by the committee until the deputation has completed its presentation.

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5.10 Petitions

- (1) A petition must -
 - (a) be addressed to the president;
 - (b) be made by electors of the district;
 - (c) state the request on each page;
 - (d) contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
 - (g) be respectful and temperate in its language; and
 - (h) comply with any form prescribed by the Act or any other written law, such as the *Local Government (Constitution) Regulations 1996* if, for example, it is -
 - (i) a proposal to change the method of filling the office of president;
 - (ii) a proposal to create a new district or alter the boundaries of the Shire;
 - (iii) a request for a poll on a recommended amalgamation; or
 - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

- (2) On the presentation of a petition –
 - (a) the councillor presenting it is confined to reading the petition; and
 - (b) the only motion that is in order is that the petition be received and, if necessary, that it be referred for the CEO's report.
- (3) At any meeting, the council or committee is not to vote on any matter that is the subject of a petition presented to that meeting, unless –
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the council or committee has considered the issues raised in the petition.

5.11 Participation at committee meetings

- (1) In this clause a reference to a 'person' is to a person who –
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.

Note: a member of the public is entitled to attend a committee meeting only where a local government power or duty has been delegated to that committee: see section 5.23(1)(b) of the Act.

- (2) A member may attend, as an observer, any meeting of a committee of which he or she is not a member or the deputy of a member, but is to sit in an area set aside by the CEO for observers separated from the committee members.
- (3) Without the consent of the presiding member, no person is to address a committee meeting.
- (4) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (5) A person addressing the committee with the consent of the presiding member must cease that address immediately after being directed to do so by the presiding member.
- (6) A person who fails to comply with a direction of the presiding member under subclause (5) may, by order of the presiding member, be removed from the committee room.
- (7) The council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

5.12 Public inspection of agenda materials

The right of a member of the public to inspect the documents relating to a council or committee meeting are dealt with in the Regulations.

- | |
|---|
| (1) A local government is to ensure that notice papers and agenda relating to any |
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council or committee meeting and reports and other documents which —

- (a) are to be tabled at the meeting; or
- (b) have been produced by the local government or a committee for presentation at the meeting,

and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.

- (2) Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).

[Regulation 14 of the Regulations]

5.13 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2), of the Regulations is to be -
 - (a) identified in the agenda of a council or committee meeting under the item "Matters for which the meeting is to be closed to the public"; and
 - (b) marked "Confidential" in the agenda.
- (2) A member or an employee who has -
 - (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public,

must not disclose any of that information to any person other than another member or an employee to the extent necessary for the purpose of carrying out his or her duties.

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- (3) Subclause (2) does not prevent a member or employee from disclosing information -
 - (a) at a closed meeting;
 - (b) to the extent specified by the council and subject to such other conditions as the council determines;
 - (c) that is already in the public domain;
 - (d) to an officer of the Department;
 - (e) to the Minister;
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

Note: Regulation 6 of the Local Government (Rules of Conduct) Regulations 2007 states:

6. Use of information

- (1) In this regulation —
“closed meeting” means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
“confidential document” means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
“non-confidential document” means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
 - (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

5.14 Recording of proceedings

- (1) Unless otherwise decided by the meeting —
 - (a) the CEO is to ensure that an audio recording is taken of the proceedings of each council and standing committee meeting; and
 - (b) the CEO may also record the proceedings of a meeting in any other way that he or she considers to be appropriate.
- (2) Unless with the written authorisation of the presiding member, a person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting.

5.15 Prevention of disturbance

- (1) A reference in this clause to a ‘person’ is to a person other than a member.
- (2) A person must ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the council or a committee.
- (3) A person addressing the council or a committee must extend due courtesy and respect to the council or committee and the processes under which it operates and must comply with a direction by the presiding member.

Penalty \$1,000

- (4) A person present at or observing a meeting must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

Penalty \$1,000

- (5) The presiding member may warn a person who fails to comply with this clause.

- (6) If –

- (a) after being warned, the person again acts contrary to this clause, or to these Standing Orders; or
- (b) a person refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.

- (7) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member be removed from the meeting room and, if the presiding member orders, from the premises.

Note: section 75 of the *Criminal Code* states:

Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years.

Part 6 - Questions by members

6.1 Questions on notice

- (1) A member who wishes to ask a question at a meeting of the council is to give to the CEO written notice of the text of the question at least 4 clear working days before the meeting.
- (2) If the CEO considers that the question breaches or may breach these Meeting Procedures or any other law –
 - (a) the CEO is to refer the question to the president;
 - (b) the president is to exclude the question if he or she concurs with the view of the CEO; and
 - (c) if the question is excluded, the CEO is to give all members, as soon as practicable but not later than the next ordinary meeting, the reasons for the exclusion.
- (3) Notice of a question that is not withdrawn or excluded under subclause (1) is to be included, if practicable, in the agenda of the meeting, or is otherwise to be tabled at the meeting.

- (4) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed, unless with the consent of the presiding member.

6.2 Questions during debate

At any time during the debate on a motion before the motion is put, a member may ask a question and, with the consent of the presiding member, may ask one or more further questions.

6.3 Restrictions on questions and answers

- (1) Questions asked by a member, and responses given by a member or an employee –
 - (a) are to be brief and concise; and
 - (b) are not to be accompanied by –
 - (i) expression of opinion, statement of fact or other comment, except so far as may be necessary to explain the question or answer; or
 - (ii) any discussion or further question, except with the consent of the presiding member.
- (2) In answering any question, a member or an employee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her original answer.

Part 7 - Conduct of members

7.1 Seating

- (1) At the first council meeting held after each ordinary election day, the CEO is to allot, alphabetically by ward, a position at the council table to each member.
- (2) The CEO is to re-allot, by random draw, positions at the council table within each ward if requested to do so by the council.
- (3) At council meetings each member must occupy his or her seat as allotted under this clause.
- (4) At committee meetings where seating has been allotted under this clause, each member must occupy his or her seat as allotted.

7.2 Official titles to be used

A speaker, when speaking or referring to the president or deputy president, or to a councillor or employee, must use the title of that person's office.

7.3 Entering or leaving a meeting

During the course of a meeting, a member must not enter or leave the meeting without first giving an appropriate indication, in order to facilitate the recording in the minutes of the time of entry or departure.

Note: regulation 11(b) of the Regulations requires the content of minutes of a meeting of a council or committee to include –

- '(b) where a member enters or leaves a meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting ...'*

7.4 Members who wish to speak

A member who wishes to speak at a council meeting –

- (a) must indicate his or her intention to speak by raising his or her hand, or by any other method determined by the council; and
- (b) when invited by the presiding member to speak, and unless otherwise determined by the council, must address the meeting through the presiding member.

7.5 Priority of speaking

- (1) At a council meeting, where 2 or more members of the council indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) At a committee meeting, the presiding member is first to invite committee members to speak followed, at the discretion of the presiding member, by other members and attendees.
- (3) A decision of the presiding member under this clause is not open to discussion or dissent.

7.6 Presiding member may take part in debates

Subject to compliance with procedures for the debate of motions contained in these Meeting Procedures, the presiding member may take part in a discussion of any matter before the meeting.

7.7 Relevance

- (1) A member must restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The presiding member, at any time, may –
 - (a) call the attention of the meeting to any irrelevant or repetitious remarks by a member; or
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member must comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

7.8 Speaking twice

- (1) A member must not address the council or a committee more than once on any motion or amendment except –
 - (a) as the mover of a substantive motion, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A member who asks a question before speaking has not addressed the meeting for the purposes of this clause.

7.9 Duration of speeches

A member must not speak on any matter for more than 5 minutes without the consent of the meeting which, if given, is to be given without discussion.

7.10 No speaking after conclusion of debate

A member must not speak on any motion or amendment –

- (a) after the mover has replied; or
- (b) after the question has been put.

7.11 No interruption

A member must not interrupt another member who is speaking unless –

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 7.15; or
- (d) to move a procedural motion that the member be no longer heard (see clause 10.1(e)).

7.12 No reopening of discussion

A member must not reopen a discussion on any council or committee decision, except to move that the decision be revoked or changed (see Part 14).

7.13 Offensive language

- (1) A member must not reflect adversely on a decision of the council or a committee except on a motion that the decision be revoked or changed (see Part 14).
- (2) A member must not –
 - (a) reflect adversely on the character or actions of another member or employee;
 - (b) impute any motive to a member or employee; or

- (c) use an expression that is offensive or objectionable,

unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

Penalty \$1,000

- (3) A member must not use offensive or objectionable expressions in reference to any other member, employee or other person.

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- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the presiding member is to cause the words used to be taken down and read to the meeting for verification and then to be recorded in the minutes.

Note: Regulation 10 of the *Local Government (Rules of Conduct) Regulations 2007* states:

10. Relations with local government employees

- (1) A person who is a council member must not —
- (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means —
- (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use offensive or objectionable expressions in reference to a local government employee.
- (4) Subregulation (3)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

7.14 Withdrawal of offensive language

A member who, in the opinion of the presiding member and in the absence of a resolution under clause 7.13(2) —

- (a) reflects adversely on the character or actions of another member or employee;
- (b) imputes any motive to a member or employee; or
- (c) uses an expression that is offensive or objectionable,

must, when directed by the presiding member, withdraw the reflection, imputation or expression and make a satisfactory apology.

Note: clause 8.5 applies where a member fails or refuses to comply with a direction by the presiding member under this clause.

7.15 Personal explanation

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking must indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation must confine his or her observations to a succinct statement relating to the specific part of the speech in which he or she may have been misunderstood.

Part 8 - Preserving order

8.1 Presiding member to preserve order

- (1) The presiding member is to preserve order and, whenever he or she considers it necessary, may call any member to order.
- (2) When the presiding member rises or speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is immediately to cease speaking and every member present must preserve strict silence so that the presiding member may be heard without interruption.

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- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 7.6, but to preserve order.

8.2 Point of order

- (1) A member may object, by way of a point of order, only to a breach of –
 - (a) any of these Meeting Procedures; or
 - (b) any other written law.
- (2) Examples of valid points of order are –
 - (a) a speaker's remarks not being relevant to the motion or amendment being debated (see clause 7.7); and
 - (b) a speaker's use of offensive or objectionable expressions (see clause 7.13).
- (3) Despite anything in these Meeting Procedures to the contrary, a point of order –
 - (a) takes precedence over any discussion; and

- (b) until determined, suspends the consideration or discussion of any other matter.

8.3 Procedures on a point of order

- (1) A member who is addressing the presiding member must not be interrupted except on a point of order.
- (2) A member interrupted on a point of order must cease speaking until –
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

8.4 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order –
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that –
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a member is out of order, the presiding member may direct the member to make an explanation, retraction or apology.

8.5 Continued breach of order

If a member –

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) fails or refuses to comply with a direction from the presiding member (such as a direction under clause 7.7(2)(b), 7.14 or 8.4(3)(b)),

the presiding member may direct the member to refrain from taking any further part in that meeting, other than by voting, and the member must comply with that direction.

8.6 Presiding member may adjourn meeting

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.

- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

Part 9 - Debate of substantive motions

9.1 Motions to be stated and in writing

- (1) A member who wishes to move a substantive motion, or an amendment to a substantive motion –
 - (a) is to state the substance of the motion before speaking to it; and
 - (b) is to put the motion or amendment in writing if –
 - (i) in the opinion of the presiding member, the motion or amendment is significantly different to the relevant written recommendation of a committee or an employee (including a person who, under a contract for services with the Shire, provides advice or a report on the matter); or
 - (ii) he or she is otherwise required to do so by the presiding member.
- (2) The written terms of the motion or amendment are to be given to the CEO who is to ensure that they are recorded in the minutes.

9.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a council or a committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations (see clause 14.1 below).

9.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion, the person presiding may put the motion directly to the vote.
- (3) If a member opposes a motion, the motion is to be dealt with under this Part.
- (4) This clause does not apply to a motion or decision to revoke or change a decision which has been made at a council or committee meeting (see Part 14).

9.4 Only one substantive motion at a time

The council or committee –

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- (a) is not to accept a substantive motion while another substantive motion is being debated; and
- (b) is not to consider more than one substantive motion at any time.

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9.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

9.6 Order of call in debate

The presiding member is to call speakers to a substantive motion in the following order

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

9.7 Limit of debate

The presiding member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

9.8 Member may require motion to be read

A member may require the motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

9.9 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, lost or carried.

9.10 Amendments must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

9.11 Relevance of amendments

An amendment must be relevant to the motion in respect of which it is moved.

9.12 Mover of motion may speak on amendment

Any member, including the mover of the motion, may speak during debate on an amendment.

9.13 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

9.14 Withdrawal of motion and amendments

(1) The council or a committee may, without debate, grant leave to withdraw a substantive motion or amendment on the request of the mover of the motion or amendment if –

(a) it has the approval of the seconder; and

(b) there is no voice expressed to the contrary by any member,

in which case there is to be no further discussion on the motion or amendment.

(2) Unless subclause (1) applies, the discussion on the motion or amendment is to continue.

(3) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

9.15 Right of reply

(1) The mover of a substantive motion has the right of reply.

(2) The right of reply may be exercised only –

(a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.

(3) After the mover of the substantive motion has commenced the reply –

(a) no other member is to speak on the question; and

(b) there is to be no further discussion on, or any further amendment to, the motion.

(4) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

- (5) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

Note: under clause 10.4 of these Meeting Procedures, the carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

Part 10 - Procedural motions

10.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 9), a member may move any of the following procedural motions –

- (a) that the meeting proceed to the next item of business;
- (b) that the item be referred or adjourned to a council or committee meeting;
- (c) that the meeting now adjourn;
- (d) that the motion be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the presiding member be disagreed with; and
- (g) that the meeting be closed to members of the public (see clause 5.2).

10.2 No debate

- (1) The mover of a motion stated in paragraphs (a), (b), (c), (f) or (g) of clause 10.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion stated in paragraph (d) or (e) of clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

10.3 Who may move

A member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, can not move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

10.4 Right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

10.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next item of business”, if carried has the effect that –

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the meeting moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

10.6 Item to be referred or adjourned

- (1) A motion “that the item be referred or adjourned” –
 - (a) is, in the case of a referral, to state the council or committee meeting to which the item is to be referred and the time of that meeting (and the reasons for the motion);
 - (b) is, in the case of an adjournment, to state the time to which the debate on the item is to be adjourned (and the reasons for the motion); and
 - (c) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but is to continue at the meeting, and at the time, stated in the motion.
- (2) If a motion “that the item be adjourned” is carried at a meeting of the council –
 - (a) the names of members who have spoken on the item are to be recorded in the minutes; and
 - (b) unless the presiding member or the meeting determines otherwise, clause 7.8 is to apply when the debate on the item is resumed.

10.7 Meeting now adjourn

- (1) A member is not to move or second more than one motion of adjournment during the same meeting.
- (2) Before putting the motion for the adjournment, the presiding member may seek leave of the meeting to deal first with matters that may be subject of an adoption by exception resolution (see clause 4.8).
- (3) A motion “that the meeting now adjourn” –
 - (a) is to state the time and date to which the meeting is adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) If a meeting that is adjourned under this clause interrupts the debate on an item, the names of members who have spoken in the item before the adjournment are to be recorded in the minutes.

- (5) Unless the presiding member or the meeting determines otherwise, a meeting adjourned under subclause (3) –
 - (a) is to continue from the point at which it was adjourned; and
 - (b) clause 7.8 is to apply if the debate on an item is resumed.

10.8 Motion to be put

- (1) If the motion “that the motion be now put”, is carried during discussion on a substantive motion without amendment, the presiding member is to offer the right of reply and then immediately put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during debate of an amendment, the presiding member is to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

10.9 Member to be no longer heard

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved can not speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

10.10 Ruling of the presiding member be disagreed with

If the motion “that the ruling of the presiding member be disagreed with” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Note: the provisions dealing with a procedural motion “that the meeting be closed to members of the public” are set out in clause 5.2 of these Meeting Procedures.

Part 11 - Disclosure of interests

11.1 Disclosure of interests

The requirements for members and employees to disclose financial and other interests, the nature of the interests that must be disclosed, and related matters are dealt with in the Act, the Regulations, the Rules of Conduct and the Code of Conduct.

11.2 Separation of committee recommendations

Where, at a committee meeting, a member discloses a financial interest in a matter, and the matter is included in the recommendations (or part of the recommendations) of the committee to a council or committee meeting that will or may be attended by the member, the agenda of that council or committee meeting is to separate the relevant recommendation (or the relevant part of the recommendation) from other recommendations of the committee.

Note: the purpose of this clause is to enable the member to declare the interest and leave the room before the consideration of the matter in which he or she has the interest.

Part 12 - Voting

12.1 Motion - when put

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member –
 - (a) is to put the motion to the meeting; and
 - (b) if requested by a member, is again to state the terms of the motion.
- (2) A member must not leave the meeting when the presiding member is putting any motion.

12.2 Voting

Voting is dealt with in the Act and the Regulations.

- | | |
|-----|---|
| (1) | Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote. |
| (2) | Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote. |
| (3) | If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote. |
| (4) | If a member of a council or a committee specifically requests that there be recorded – <ol style="list-style-type: none">(a) his or her vote; or(b) the vote of all members present, on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes. |
| (5) | A person who fails to comply with subsection (2) or (3) commits an offence.
[Section 5.21 of the Act] |

Voting at a council or committee meeting is to be conducted so that no voter's vote is secret. [Regulation 9 of the Regulations]

12.3 Majorities required for decisions

The majorities required for decisions of the council and committees are dealt with in the Act.

- | | |
|-----|---|
| (1) | A decision of a council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority. |
| (2) | A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a |

	local law for the particular kind of decision, by that kind of majority.
(3)	This section does not apply to elections —
(a)	by a council of the local government's mayor or president under section 2.11;
(b)	by a council of the local government's deputy mayor or president under section 2.15; or
(c)	by a committee of the committee's presiding member or deputy presiding member under section 5.12.
	[Section 5.20 of the Act]

12.4 Question – method of taking vote

In taking the vote on any motion, the presiding member –

- (a) is to put the motion, first in the affirmative, and then in the negative;
- (b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
- (c) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each member's vote; and
- (d) subject to this clause, is to declare the result.

Part 13 - Keeping of minutes

13.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

1)	The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.
(2)	The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.
(3)	The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.
	[Section 5.22 of the Act]

13.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.

	The content of minutes of a meeting of a council or a committee is to include —
(a)	the names of the members present at the meeting;
(b)	where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the

	business of the meeting;
(c)	details of each motion moved at the meeting, the mover and the outcome of the motion;
(d)	details of each decision made at the meeting;
(da)	written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration);
(e)	a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and
(f)	in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest".
[Regulation 11 of the Regulations]	

- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a meeting are to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is otherwise withheld or cancelled, the reasons for the decision.

13.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Regulations.

A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —	
(a)	in the case of a council meeting, within 10 business days after the meeting; and
(b)	in the case of a committee meeting, within 5 business days after the meeting.
[Regulation 13 of the Regulations]	

13.4 Confirmation of minutes

- (1) The CEO is to give to each member —
- (a) the unconfirmed minutes of each council meeting — within 10 business days after the meeting; and
 - (b) the unconfirmed minutes of a committee meeting — within 5 business days after the meeting.
- (2) If a member is dissatisfied with the accuracy of the draft minutes, he or she is to provide to the CEO a written copy of the alternative wording to amend the draft minutes no later than 3 clear working days before the meeting where the minutes are to be confirmed.
- (3) At that meeting, the member who provided the alternative wording shall, at the time for confirmation of minutes —
- (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.

Note: documents associated with meetings (including notice and agenda papers, minutes and records) are to be retained in accordance with the Shire's record keeping plan under the State Records Act 2000.

Part 14 - Implementing decisions

14.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

- | | |
|------|---|
| (1) | If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported |
| (a) | in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or |
| (b) | in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, |
| | inclusive of the mover. |
| (1a) | Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover. |
| (2) | If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made |
| (a) | in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or |
| (b) | in any other case, by an absolute majority. |
| (3) | This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different. |
- [Regulation 10 of the Regulations]

14.2 Meaning of terms

In this Part –

"authorisation" means a licence, permit, approval or other means of authorising a person to do anything;

"implement", in relation to a decision, includes –

- (a) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
- (b) take any other action to give effect to the decision; and

"valid notice of revocation motion" means a notice of a motion to revoke or change a decision that –

- (c) complies with the requirements of the Act, Regulations and these Meeting Procedures and may be considered, but has not yet been considered, by the council or a committee as the case may be; and
- (d) if carried and implemented, would result in the decision being revoked or being substantially different.

14.3 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the council or a committee is not to consider a motion to revoke or change a decision –
 - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 14.4 to implement the decision;
 - (b) where the decision concerns the grant of an authorisation, and where that authorisation has been communicated in writing by the Shire to the applicant; or
 - (c) where the decision is procedural in its form or effect.
- (2) The council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) or (b) if the motion is accompanied by a written statement, by or on behalf of the CEO, of the legal and financial consequences of the motion being carried.

14.4 Implementing a decision

- (1) Subject to subclause (4), and unless a resolution is made under subclause (2), a decision made at a meeting is not to be implemented by the CEO or any other person until after 12 noon of the first business day after the commencement of the meeting at which the decision was made.
- (2) The council or a committee may, by resolution carried at the same meeting at which a decision was made, request the CEO to take immediate action to implement the decision.
- (3) A decision made at a meeting is not to be implemented by the CEO or any other person –
 - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the council or the committee as the case may be.
- (4) The CEO is to ensure that members of the public attending a meeting are informed, by an appropriate notice, that a decision to grant an authorisation –
 - (a) is to take effect only in accordance with this clause; and
 - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

Note: one of the statutory functions of the CEO under section 5.41(c) of the Act is to "cause council decisions to be implemented".

Part 15 - Suspension and non-application of Meeting Procedures

15.1 Suspension of Meeting Procedures

- (1) A member may, at any time, move that the operation of one or more of the clauses of these Meeting Procedures be suspended.
- (2) A member moving a motion under subclause (1) is to identify the clause or clauses to be suspended, and state the reasons for the motion, but no other discussion is to take place.
- (3) A motion under subclause (1) which is seconded and carried is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

15.2 Where Meeting Procedures do not apply

- (1) In situations where –
 - (a) these Meeting Procedures have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Meeting Procedures,the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion of dissent is moved and carried under clause 10.10.

Part 16 - Committees

16.1 Establishment and appointment of committees

- (1) The establishment of committees is dealt with in the Act.

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

**Absolute majority required.*

[Section 5.8 of the Act]

- (2) A council resolution to establish a committee under section 5.8 of the Act is to include –
 - (a) the terms of reference or functions of the committee;
 - (b) either –
 - (i) the names or titles of the members, employees and any other persons to be appointed to the committee; or

- (11) the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
- (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

16.2 Types of committees

The types of committees are dealt with in the Act.

- | | |
|-----|--|
| (1) | In this section –

'other person' means a person who is not a council member or an employee. |
| (2) | A committee is to comprise – <ul style="list-style-type: none">(a) council members only;(b) council members and employees;(c) council members, employees and other persons;(d) council members and other persons;(e) employees and other persons; or(f) other persons only. |

[Section 5.9 of the Act]

16.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

- | | |
|-----|---|
| (1) | Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.

<i>*Absolute majority required.</i> |
| (2) | A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation. |
| (3) | Without limiting the application of sections 58 and 59 of the <i>Interpretation Act 1984</i> – <ul style="list-style-type: none">(a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and(b) any decision to amend or revoke a delegation under this section is to be by an absolute majority. |
| (4) | Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person. |

[Section 5.16 of the Act]

16.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

- | | |
|------|---|
| (1) | A local government can delegate – |
| (a) | to a committee comprising council members only, any of the council's powers or duties under this Act except – |
| (i) | any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and |
| (ii) | any other power or duty that is prescribed; |
| (b) | to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and |
| (c) | to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of – |
| (i) | the local government's property; or |
| (ii) | an event in which the local government is involved. |
| (2) | A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f). |
- [Section 5.17 of the Act]

16.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

- | | |
|-----|--|
| (1) | A committee is to have as its members – |
| (a) | persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and |
| (b) | persons who are appointed to be members of the committee under subsection (4) or (5). |
| | <i>* Absolute majority required.</i> |
| (2) | At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides. |
| (3) | Section 52 of the <i>Interpretation Act 1984</i> applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government. |
| (4) | If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a |

- member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.
- [Section 5.10 of the Act]

16.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until –
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;
 - (b) the person resigns from membership of the committee;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,
- whichever happens first.
- (2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until –
- (a) the term of the person's appointment as a committee member expires;
 - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,
- whichever happens first.
- [Section 5.11 of the Act]

16.7 Appointment of deputies

The appointment of a person to be a deputy of a member of committee is dealt with in the Act.

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.
** Absolute majority required.*
- (2) A person who is appointed as a deputy of a member of a committee is to be —

- (a) if the member of the committee is a council member — a council member; or
 - (b) if the member of the committee is an employee — an employee; or
 - (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or
 - (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.
- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.
- [Section 5.11A of the Act]

16.8 Resignation of committee members

The resignation of committee members is dealt with in the Regulations.

A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation.

[Regulation 4 of the Regulations]

16.9 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

[Section 5.18 of the Act]

16.10 Meeting Procedures to apply

These Meeting Procedures apply generally to committees, except for clause 7.8 in respect of the prohibition against speaking more than once.

16.11 Committee to report

A committee –

- (a) is answerable to the council;
- (b) is to report on its activities when, and to the extent, required by the council; and
- (c) is to prepare and submit to the council a report containing recommendations.

16.12 Presentation of committee reports

The proposed adoption by the council of recommendations of a committee is to be moved—

- (a) if the presiding member of the committee is a council member and is in attendance – by the presiding member;
- (b) if the presiding member of the committee is not a council member or is absent – by a member of the committee who is also a council member; or
- (c) otherwise – by a council member who is not a member of the committee.

16.13 Reports of committees - questions

Where a recommendation of a committee is submitted for adoption by the council, any council member may direct questions directly relating to the recommendation, through the presiding member, to the presiding member of the committee or to any member of the committee in attendance.

16.14 Permissible motions on committee recommendations

A recommendation made by a committee may be –

- (a) adopted by the council without amendment;
- (b) rejected by the council and replaced by an alternative decision;
- (c) amended, and adopted as amended, by the council; or
- (d) referred back to the committee for further consideration.

Part 17 - Meeting of electors

17.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

- | | |
|-----|---|
| (1) | A general meeting of the electors of a district is to be held once every financial year. |
| (2) | A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year. |
| (3) | The matters to be discussed at general electors' meetings are to be those prescribed.
[Section 5.27 of the Act] |

17.2 Matters for discussion at general electors' meeting

The matters to be discussed at a general electors' meeting are dealt with in the Regulations.

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

[Regulation 15 of the Regulations]

17.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

- (1) A special meeting of the electors of a district is to be held on the request of not less than –
 - (a) 100 electors or 5% of the number of electors - whichever is the lesser number; or
 - (b) 1/3 of the number of council members.
- (2) The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance and regulations.
- (3) The request is to be sent to the mayor or president.
- (4) A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.

[Section 5.28 of the Act]

17.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

A request for a special meeting of the electors of a district is to be in the form of Form 1.

[Regulation 16 of the Regulations]

17.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

- (1) The CEO is to convene an electors' meeting by giving –
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice,of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

[Section 5.29 of the Act]

17.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

- (1) The mayor or president is to preside at electors' meetings.

- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and –
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.
[Section 5.30 of the Act]

17.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.
[Section 5.31 of the Act]

Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.
[Regulation 18 of the Regulations]

- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to these Meeting Procedures.

17.8 Participation of non-electors

A person who is not an elector of the Shire must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits him or her to do so.

Note: A person who is not an elector of the Shire can not vote at an electors' meeting (see clause 17.9).

17.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Regulations.

- (1) Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.
- (2) All decisions at a general or special meeting of electors are to be made by a simple majority of votes.
- (3) Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.
[Regulation 17 of the Regulations]

17.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

The CEO is to —

- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.

[Section 5.32 of the Act]

17.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

[Section 5.33 of the Act]

Part 18 - Enforcement

18.1 Penalty for breach

A person who breaches a provision of these Meeting Procedures commits an offence.

Penalty: \$5,000, and a daily penalty of \$500

18.2 Who can prosecute

Who can prosecute is dealt with in the Act.

A prosecution for an offence against a local law may be commenced by —

- (a) a person who is acting in the course of his or her duties as an employee of the local government or regional local government that made the local law; or
- (b) a person who is authorised to do so by the local government or regional local government that made the local law.

[Section 9.24(2) of the Act]

Part 19 - Common Seal

19.1 Custody of the common seal

The CEO is to have charge of the common seal of the Shire, and is responsible for the safe custody and proper use of it.

19.2 Use of common seal

The use of the common seal is dealt with in the Act.

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
 - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
 - (a) the mayor or president; and
 - (b) the chief executive officer or a senior employee authorised by the chief executive officer,
 each of whom is to sign the document to attest that the common seal was so affixed.
- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.

9.49B. Contract formalities

- (1) Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person.
- (2) The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the local government concerned and other parties to the contract.
- (3) Subsection (1) does not prevent a local government from making, varying or discharging a contract under its common seal.

[Sections 9.49A and 9.49B of the Act]

Deleted: 1

Dated: [day month 2010].

The common seal of the Shire of Kalamunda was affixed by authority of a resolution of the council in the presence of –

.....
President

.....
Chief Executive Officer

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

The Chief Executive Officer declared that he is a member of the Kanyana Board.

9.19 Kanyana Wildlife Sanctuary - Additional Fundings

Previous Items:
Service Area: Engineering Services
File Reference:
Applicant:
Owner:

PURPOSE

1. To consider additional funding to allow for an extended scope of works to be carried out at the Kanyana Wildlife Sanctuary (Paxwold).

BACKGROUND

2. As part of the relocation of Kanyana Wildlife Sanctuary, from Gooseberry Hill to the Paxwold site, an amount of \$80,000 was allocated for the upgrade of internal roads.

DETAILS

3. The road works are currently being undertaken and during the process the scope of works has grown, based upon a request from the user group, to encompass more of the facility.
4. The additional work involves the sealing of pathways, due to safety concerns for visitors walking on the slippery road. The extra road upgrade from the Veterinary Clinic carpark through to the animal enclosures, incorporating the visitor and husbandry tracks, cannot be contained within the present allocation.
5. The allocated \$80,000 is sufficient to upgrade the existing access road from the Caretakers residence, looping around the front of the old Guide Hall, and back to the Caretakers residence, as well as the upgrade of the gravel track through to the Veterinary Clinic and car park, as shown at **(Attachment 1.)**
6. Kanyana have advised that the sanctuary cannot be opened to the public until all site works are carried out, and the area is made safe for users and visitors.

STATUTORY AND LEGAL IMPLICATIONS

- 7.

POLICY IMPLICATIONS

- 8.

PUBLIC CONSULTATION/COMMUNICATION

9.

FINANCIAL IMPLICATIONS

10. It is estimated that an additional \$30,000 is required to complete these works.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS11. **Strategic Planning Implications**

•

12. **Sustainability Implications****Social implications**

•

Economic Implications

•

Environmental Implications

•

OFFICER COMMENT

13.

MEETING COMMENT

14. A Councillor asked if this was the last of the request for expenditure before opening the Sanctuary.

15. Director, Engineering Services explained that no further engineering type expenditure was anticipated but could not comment on any further request for funds for other assistance.

COMMITTEE RECOMMENDATION TO COUNCIL**PS 19/2010**

1. That Council notes and authorises an over expenditure of approximately \$30,000 to complete the road works in Kanyana Wildlife Sanctuary (Paxwold).

Moved: Cr Everett

Seconded: Cr Thomas

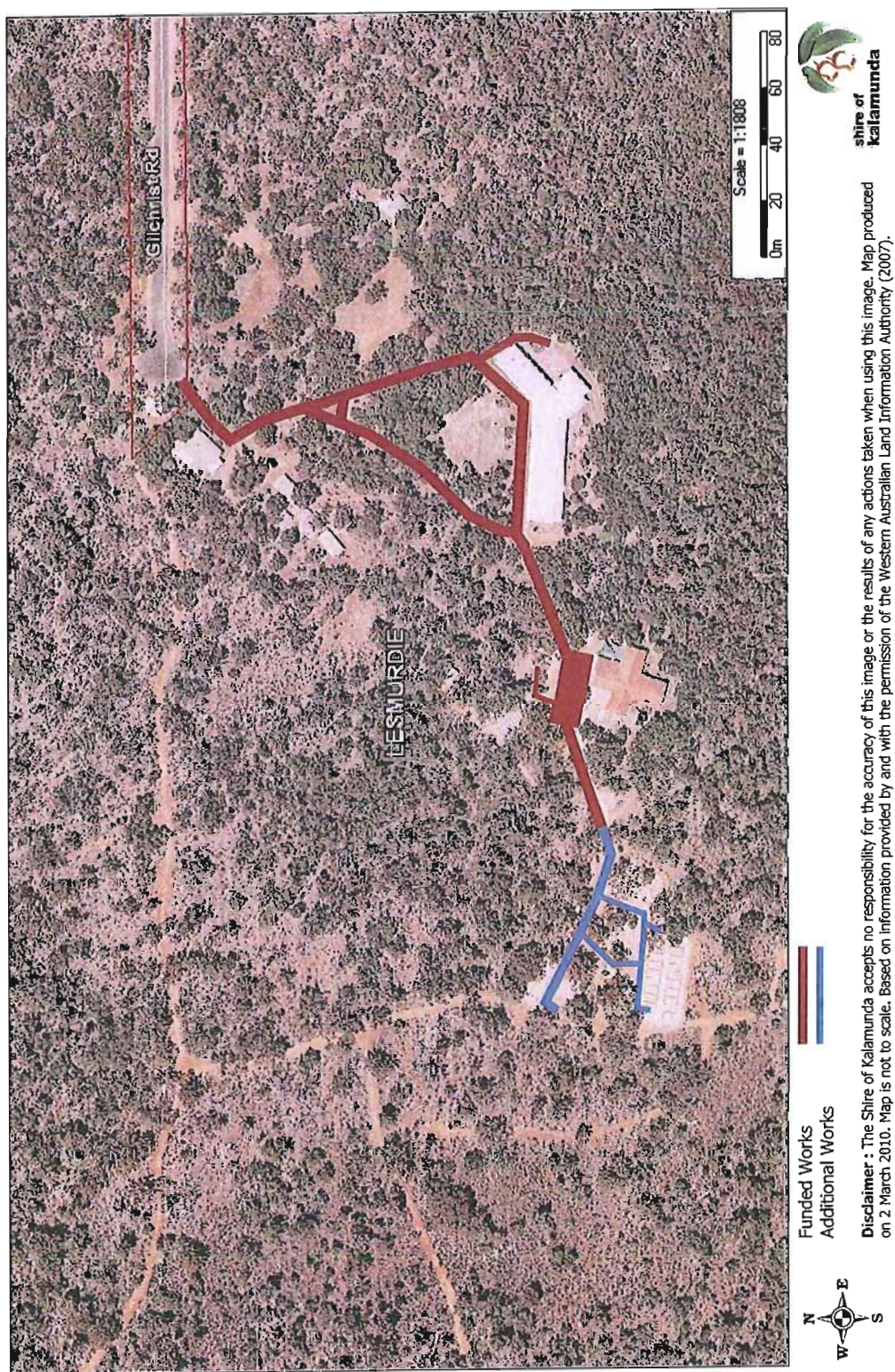
For

Cr McKechnie
Cr Everett
Cr Stallard
Cr Morton
Cr O'Connor
Cr Cresswell
Cr Heggie
Cr Lindsey
Cr Thomas

Against

Cr Townsend
Cr Robinson

CARRIED / ABSOLUTE MAJORITY



10.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

10.1 Nil

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

11.1 Sea Containers (Cr Townsend)

Q.1 Are there any plans on restricting the use of sea containers in the Shire?

A.1 Taken on notice.

11.2 Hatfield Park Lake (Cr Robinson)

Q.1 As the lake has dried up, is there something done about re-instating the waterproofing lining?

A.1 Taken on notice

11.3 Meetings starting time (Cr McKechnie)

Q.1 Could the CEO survey the Councillors to find out if a starting time at 6.30pm would be acceptable for Committee meetings?

A.1 Taken on notice

11.4 Bin on Anderson Road (Cr Robinson)

Q.1 Has the query on the bin been passed on to the relevant staff member?

A.1 Yes it has been and progress will be notified to the Councillor.

11.5 Levy on Developers (Cr Lindsey)

Q.1 Is the Shire aware that some Shires are levying developers for the cost of building Ovals, recreation centres and the like. Does this have some merit for this Shire?

A.1 The Director, Planning and Development Services advised that the Shire is aware of such practices and it is worthy to be explored. To do that the Shire needs to put a provision in our Scheme.

11.6 Ownership of buildings on Crown land (Cr Stallard)

Q.1 As buildings built on Crown land automatically belong to the Shire, is the Shire responsible for those buildings insurances?

A.1 The Director, Corporate Services informed that leases are in place to outline rights and responsibilities of both the Shire and the lessees. At present the lessees are responsible for their buildings' insurance so Council would need to give directions to change the policy.

12.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

12.1 Nil

13.0 MATTERS CLOSED TO THE PUBLIC

13.1 Nil

14.0 CLOSURE

There being no further business, the Chairman declared the meeting closed at 7.50pm.

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

Signed.....Chairman

Dated thisday of.....2010