



# **MINUTES**

## **ORDINARY COUNCIL MEETING**

**TUESDAY 22 MARCH 2011**

**(Held at the Waroona Health & Community Resource Centre)**

## TABLE OF CONTENTS

1.	DECLARATION OF OPENING/ANNOUNCEMENTS.....	3
2.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .....	3
3.	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE .....	3
4.1	PUBLIC QUESTION TIME .....	3
4.2	PUBLIC STATEMENTS .....	4
5.	APPLICATIONS FOR LEAVE OF ABSENCE.....	4
6.	DISCLOSURES OF MEMBERS’ & OFFICERS’ INTERESTS.....	5
7.	PETITIONS/DEPUTATIONS/PRESENTATIONS .....	5
8.	CONFIRMATION OF MINUTES .....	6
8.1	ORDINARY COUNCIL MEETING – 15 FEBRUARY 2011 .....	6
9.0	REPORTS OF OFFICERS AND COMMITTEES .....	6
9.1	DIRECTOR TECHNICAL SERVICES.....	6
9.2	DIRECTOR COMMUNITY & PLANNING SERVICES .....	7
9.2.1	PROPOSED PEDESTRIAN ACCESS WAY CLOSURES – LOT 166 ON PLAN 6760, WAROONA (RESERVE 50609), LOCATED BETWEEN FITZPATRICK PLACE, EASTCOTT PLACE AND HILL STREET WAROONA .....	7
9.2.2	SALE OF RAILWAY LAND – DISCONTINUED RAILWAY ADJACENT TO LOT 4 & 5 ON PLAN 21899 AND LOT 6 ON PLAN 21900 – SHIRE OF WAROONA .....	13
9.2.3	APPLICATIONS FOR EXPLORATION LICENCE 70/4042 .....	16
9.2.4	APPLICATIONS FOR EXPLORATION LICENCE 70/4039 .....	23
9.2.5	RETROSPECTIVE COUNCIL APPROVAL - ST VINCENT DE-PAUL SHED, LOT 79 SOUTH WESTERN HIGHWAY, WAROONA.....	29
9.3	DEPUTY CEO/DIRECTOR CORPORATE SERVICES .....	31
9.3.1	ACCOUNTS FOR PAYMENT .....	31
9.3.2	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDED 28 FEBRUARY 2011 .....	32
9.3.3	POLICY AMENDMENT 2.2 – USE OF COUNCIL VEHICLES.....	33
9.4	CHIEF EXECUTIVE OFFICER.....	35
9.4.1	LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN - JANUARY 1, 2010 TO DECEMBER 31, 2010.....	35
9.4.2	BUSINESS INCENTIVE GRANTS PROGRAM 2010/11 .....	36
10.	CONFIDENTIAL REPORTS .....	38
11.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN, OR FOR CONSIDERATION AT NEXT MEETING .....	38
12.	NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION .....	38
	ELECTED MEMBERS.....	38
12.1.1	COUNCIL BUILDINGS – ENTRY KEYS .....	38
12.2	OFFICERS .....	38
13.	CLOSURE OF MEETING .....	39

## 1. DECLARATION OF OPENING/ANNOUNCEMENTS

The Chairperson declared the meeting open at 4.09 pm and welcomed Councillors and Staff to the meeting.

Cr Witney was not present at the opening of the meeting and entered at 4.10 pm.

## 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

Cr M Walmsley	Shire President
Cr L Scott	Deputy Shire President
Cr C Germain	Councillor
Cr N Dew	Councillor
Cr J Salerian	Councillor
Cr T Witney	Councillor
Cr C Wright	Councillor
Cr L Snell	Councillor
Mr I Curley	Chief Executive Officer
Mr LTilbrook	DCEO/Director Financial Services
Mr S Cleaver	Director Community & Planning Services
Mr L Fouché	Manager Planning Services
Mr M Tamblyn	Manager Environmental Health & Building Services
Mrs N Aiberti	Planning Assistant
Mrs S Cicolari	Executive Support Officer

There were seven members of the public present at the commencement of the meeting.

### LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil.

## 3. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

### 4.1 PUBLIC QUESTION TIME

4.1.1 Mr Angus Gardner of Unit 9, 14 Thatcher Street, Waroona, asked the following questions. (answers are in italics)

- i) Why wasn't the width of the street opposite IGA the same as the Hotel?

*The extra width of road opposite the Waroona Hotel, constructed in red asphalt, is for angle parking.*

- ii) Why is there a nib on the corner of Coronation Road and Fouracre Street?

*The east nib at the intersection of Coronation Rd and Fouracre St is wider than normal to accommodate an overwidth parking area on the east side of Fouracre St adjacent to IGA. This is to cater for the IGA delivery trucks being able to either reverse into their loading bay or*



*park parallel to the road and be unloaded by forklift without stopping traffic in the southbound lane. That nib and the kerbing on the eastern side of the road near the Coronation Rd intersection will undergo some modification when the section of Coronation Rd, from South West Highway to the railway line, is reconstructed. That work is scheduled for the next financial year.*

- iii) Are Council going to do a survey of ratepayers after 6 weeks for people, as it is an accident waiting to happen on Fouracre Street?

*The Council advised at the February 2011 meeting that the current plans were discussed at length and it was deemed that no further action was required at this stage, however once works had been completed, the issue may be reconsidered if it was deemed necessary. The Council has not considered undertaking a ratepayer survey.*

The Shire President advised Mr Gardner he would take the questions on notice and respond in writing. Mr Gardner indicated his agreement.

- 4.1.2 Mr Alan Calhoun of 46 Jackson Street, Waroona asked the following questions:

- i) Why was the T junction altered at the corner of Miller Street and Fouracre Street?

*The Shire President advised that the intersection was altered to slow down traffic and address drainage problems. The changes were designed to meet all traffic and engineering requirements and adopted by the Council.*

- ii) Who made the decision to make all the alterations on Fouracre and Miller Streets?

*The Shire President advised that the Council approved the plans for the reconstruction of Fouracre and Millar Streets.*

## 4.2 PUBLIC STATEMENTS

- 4.2. Mr Brncic, of 15 Fitzpatrick Street, Waroona made a statement in support of the closure of the public access way being considered at agenda Item 9.2.1.

## 5. APPLICATIONS FOR LEAVE OF ABSENCE

### **COUNCIL RESOLUTION**

**OCM11/03/017**

**MOVED: Cr Salerian**

**SECONDED: Cr Snell**

**That Leave of Absence is granted to Cr Witney and Cr Scott for the next Ordinary Council meeting to be held on 28 April 2011.**

**CARRIED 8/0**



## 6. DISCLOSURES OF MEMBERS' & OFFICERS' INTERESTS

(Disclosure of interest MUST ALSO is made by the member or officer immediately prior to a matter, for which an interest is being disclosed, is dealt with.)

Cr Snell declared a proximity interest in Item 9.2.2 and Item 9.2.3.

## 7. PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 PETITION – ANGUS GARDNER, WAROONA	
Responsible Officer / Officer's Interest:	Ian Curley, Chief Executive Officer / Nil
Proponent:	Mr Angus Gardner
Landowner:	N/A
Date of Report: 21.03.2011	File No: 97/1
Previous Reference:	Nil
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	Nil
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

That the petition submitted by Mr Angus Gardner regarding road construction works carried out in Fouracre Street, Waroona in 2010 and 2011 be accepted.

### Background

Mr Gardner has presented a petition to Council regarding the road construction works on Fouracre Street, Waroona that occurred in 2010 and 2011.

### Community Consultation

N/A

### Officer's Comments

The petition is assessed against the criteria in the *Shire of Waroona Standing Orders Local Law Local Government Act 1995* clause 21.2 which specifies the criteria a petition must contain. The petition does not meet the requirements of clause 21.2, therefore no assessment of the petition or check on validity of names has been undertaken, however, it has been copied and provided to all Councillors for their information.

In relation to dealing with petitions lodged with the Council clause 21.2(3) states the following :

*The only question which shall be considered by the Council on the presentation of any petition shall be :*



- a) *That the petition shall be accepted; or*
- b) *That the petition not be accepted; or*
- c) *that the petition be accepted and referred to a committee for consideration and report; or*
- d) *That the petition be accepted and be dealt with the full Council”.*

**COUNCIL RESOLUTION**

**OCM 11/03/018**

**Moved: Cr Dew**

**Seconded Cr Snell**

**That the petition submitted by Mr Angus Gardner regarding road construction works carried out in Fouracre Street, Waroona in 2010 and 2011 be accepted.**

**CARRIED 8/0**

**8. CONFIRMATION OF MINUTES**

**8.1 ORDINARY COUNCIL MEETING – 15 FEBRUARY 2011**

**COUNCIL RESOLUTION**

**OCM 11/03/019**

**Moved: Cr Witney**

**Seconded Cr Snell**

**That the Minutes of the Ordinary Council Meeting held 15 February 2011 be confirmed as being a true and correct record of proceedings.**

**CARRIED 8/0**

**9.0 REPORTS OF OFFICERS AND COMMITTEES**

**9.1 DIRECTOR TECHNICAL SERVICES**

Nil.



## 9.2 DIRECTOR COMMUNITY & PLANNING SERVICES

<b>9.2.1 PROPOSED PEDESTRIAN ACCESS WAY CLOSURES – LOT 166 ON PLAN 6760, WAROONA (RESERVE 50609), LOCATED BETWEEN FITZPATRICK PLACE, EASTCOTT PLACE AND HILL STREET WAROONA</b>	
Reporting Officer / Officer's Interest:	Nadine Aiberti – Planning Assistant / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Sylvia Baird & Michael & Louise McDonald
Landowner:	Department of Regional Development and Lands
Date of Report: 10 March 2011	File No.: 132/1
Previous Reference:	Nil
Statutory/Policy Implications:	Planning & Development Act 2005 Land Administration Act 1997 Liveable Neighbourhoods – Community Design Code Designing out Crime Planning Guidelines (June 2006) Community Safety and Crime Prevention Plan 2005-2010 Security and Safety Audit 2003 Local Planning Strategy (LPS)
Strategic Implications:	Objective 1 – Prepare for Growth
Financial Implications:	2011/2012 Budget (allocation to be quantified)
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

The Shire of Waroona has received two (2) letters from adjoining landowners requesting that the Pedestrian Access Ways (PAWs) at Lot 166 on Plan 6760, Waroona (Reserve 50609), located between Fitzpatrick Place, Eastcott Place and Hill Street, Waroona, be closed due to antisocial behaviour occurring in the PAW on a regular basis.

A copy of the survey plan of the subject PAWs is at **Appendix 9.2.1a** (page 5).

### Background

Council is required to follow the formal process of closing the existing PAWs as defined by the Land Administration Act 1997 and the associated practice manuals of the Department of Planning (DoP). The general practice for closing a PAW involves consideration of the broader pedestrian/cyclist access and permeability (where relevant) assessment. The assessment (which is attached at **Appendix 9.2.1a**) covers the physical attributes of the proposed PAW to be closed, the connectivity assessment, where the PAW is located in respect to community facilities, research on relevant texts and literature pertaining to PAWs, referrals and consultation with agencies and infrastructure providers and the community, an inspection and assessment of the PAW showing photos and an evaluation of travel distances etc. At the completion of all stages this assessment is to be submitted to Western Australian Planning commission (WAPC) for endorsement.

The Department of Regional Development and Lands will not progress any closure until the Department of Planning (DoP) has consented to the closure and the Council



has resolved to close the PAW. In this regard, it should be noted that the Minister for Lands retains the final statutory discretion on the disposal of the PAW under the powers contained in the Land Administration Act 1997.

#### Financial Implications

Council may need to cover the costs associated with the removal of the 171 metres of footpath (consisting of 60 x 60 metre concrete slabs) and the bollards at the entrance of the PAWs. Other costs that would be incurred are advertising, contracting of a consultant (if necessary) and officer time. If the Council is to endorse the closure of the PAW it will be necessary to allocate appropriate funds in the 2011/2012 budget to undertake the closure of the PAW.

#### Statutory Implications

##### Planning and Development Act 2005

Section 152 of the Planning and Development Act 2005 deals with 'Certain Land to Vest in the Crown'. In this section pedestrian access ways are noted as being Crown land.

##### Land Administration Act 1997 (the Act)

Section 50 of the Act deals with 'Revocation of management orders', and states: "*(1) When a management body (a) agrees that its management order should be revoked, the Minister may by order revoke the management order*".

Currently there is a management order on this PAW, whereby the Shire of Waroona manages the PAW.

Section 51 of the Act deals with 'Cancellation etc. of reserves generally' and states: "*the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve*".

The PAW is classed as a Reserve, owned by the Crown, a cancellation of the reserve would need to be undertaken in order to transfer the land after the successful subdivision/amalgamation process, to proceed and the adjoining land owners would then be able to take possession of the land.

Section 74 of the Act provides the Minister with the powers to sell Crown land.

It should be noted here that as there is a critical sewage pipeline of the Water Authority in this PAW. If the Water Authority decides to retain the location, an easement may be required over the land of the two adjoining properties that it would then run through.

Section 87 deals with 'Minister may convey in fee simple or lease Crown land for subsequent amalgamation with adjoining land' and states that "*if the Minister considers that a parcel of Crown land is unsuitable for retention based on good land use and planning principles, the Minister may, by order amalgamate that parcel with the adjoining land*".

#### Strategic Implications





### Liveable Neighbourhoods – Community Design Code

Element 2 of the Liveable Neighbourhoods deals with the ‘Movement Network’, in the headed up section ‘Safe routes to schools, bus stops and stations’ suggests that routes to these types of community facilities should have “*minimal gaps in surveillance*” and makes reference to the ‘WAPC Designing Out Crime Planning Guidelines’ as a document which can guide developers and Councils alike on ways to design areas to lessen crime.

This PAW is currently used by people going to and from the Waroona District High School and with little to no surveillance within this PAW, it would indicate that this PAW is not a safe route, in the terms of the definition in Liveable Neighbourhoods.

### Designing out Crime Planning Guidelines (June 2006)

Section 5.1 – ‘Natural surveillance’ deals with the issue of surveillance of PAWs a pertinent element of this section is the statement “*to encourage surveillance of spaces from surrounding buildings and land users*”.

With high fences and little to no surveillance of this PAW and no way to redesign the PAW to “encourage surveillance of spaces from surrounding buildings and land users”, it would seem that the option of closing the PAW altogether would be an option worth considering.

Section 5.8 – ‘Management and maintenance’ deals with the condition of the PAW which states:

- *“To discourage graffiti and vandalism by reducing blank canvases;*
- *To facilitate prompt reporting of any damage;*
- *To ensure prompt maintenance and repairs; and*
- *To promote the perception of a well cared for area”.*

As can be seen from the pictures in **Appendix 9.2.1a** (pages 20-28) ‘Management of maintenance’ is an issue and has an impact financially on the Shire in the sense that it is necessary to remove the graffiti, repair damage to the footpath, clean up rubbish and glass, slash weeds and generally maintain the PAW. The closure of the PAW would end the need to maintain the PAW.

Section 5.18 – ‘Pedestrian Routes, laneways, alleyways and access ways’ deals with safety aspects and suggests that a ‘factor to consider’ is “*Consider appropriate closure techniques and alternative uses to remove unsafe parts of an existing network*”. Section 5.18 also states:

- *“Design to maximize safe pedestrian and cyclist linkages, especially at night; and*
- *Design to encourage legitimate activity”.*

Beyond the PAW issue this “route” via the PAW is not a “safe pedestrian and cyclist linkage” as once into the cul-de-sacs of Eastcott and Fitzpatrick Place there is no footpaths and it is necessary for pedestrians and cyclists to travel on the road to get where they are going.

Consideration could be given to a designated broader pedestrian/access plan for the Shire.

### Community Safety and Crime Prevention Plan 2005-2010

Part 7 of the Community Safety and Crime Prevention Plan 2005-2010, deals with Community Safety and Crime Prevention Strategies, Section 4 – ‘Promote Integrated Urban and Social Planning Responses to Crime and Safety Issues’, highlights the need to “investigate safety on walkways (lanes) within residential areas”.

### Security and Safety Audit 2003

The Shire of Waroona Security and Safety Audit 2003, deals with overall issues of a Security and Safety aspects within the Shire and it was highlighted in this document, that the PAW adjoining Fitzpatrick Place, Eastcott Place and Hill Street had been the subject of many complaints of disorderly behaviour.

### Local Planning Scheme No. 7 (LPS7) & Residential Design Code (R-Code)

The Lots adjoining the PAW are zoned ‘Urban 4 – Residential’ zone with a Residential Design Coding of R12.5.

Pursuant to the R-Codes the minimum lot size for a block in R12.5 is 700 m<sup>2</sup>, with an average of 800 m<sup>2</sup>. The current adjoining lot areas vary between 769 m<sup>2</sup> and 989 m<sup>2</sup>. If the PAW was to be closed and amalgamated with adjoining lots, lot areas would increase to between 865 m<sup>2</sup> and 1024m<sup>2</sup>.

The increase in lot area would not be so substantial that the lots would have potential for subdivision. Given that 31 of the 42 lots in Fitzpatrick Place and Eastcott Place are over 1,000 m<sup>2</sup>, an increase in lot sizes for these four (4) lots in Fitzpatrick Place and Eastcott Place, would bring them in to line with the average lot size for the area.

### Local Planning Strategy (LPS)

The area in which the PAW is situated is indicated as Residential in the LPS and generally the average lot size is 800 m<sup>2</sup>.

### Local Structure Plan

On 18 June 2008, Council at its Ordinary Council Meeting resolved:

*“To finally endorse the proposed Structure Plan over Lots 9001, 180 and 371 Elliott Street and Lot 386 Hill street, Waroona and advises the Western Australian Planning Commission accordingly”.*

A Structure Plan Endorsed by Council and approved by WAPC can be seen at **Appendix 9.2.1a** (page 9).

On 19 March 2009, the Western Australian Planning Commission (WAPC) approved the Structure Plan as part of Scheme Amendment 16.

Although the Structure Plan has been endorsed by Council and the WAPC, no subdivision application has been submitted to date. However, it is pertinent that the proposed subdivision be taken into account in relation to the future development of the area.

A subdivision in this location would be directly affected; however, it is believed that the walkability would not be increased by a huge amount and therefore not greatly affects any future residents that may reside in this area.

### Community Consultation

If Council resolves to initiate the closure of the PAWs, community consultation will be undertaken in accordance with Section 58 of the Land Administration Act 1997, where adjoining landowners and relevant service providers will be given the opportunity to comment on the proposed closure of the PAWs.

### Referrals

#### *Western Power*

Advised, that there are no underground assets at this location

#### *Harvey Water*

Advised, that there are no Harvey Water Assets at this location

#### *Water Authority*

Advised, that the area contains a critical sewerage pipeline (see plan in **Appendix 9.2.1a page 17**)

#### *Telstra*

Advised that there are no Telstra assets in this location (see plan in **Appendix 9.2.1a page 19**).

#### *Waroona Police*

Sgt Jeff Taylor advised that there was a total of 14 offences in the three streets, being Fitzpatrick Place, Eastcott Place and Hill Street in the period of 6 months leading up to the date of 25 February 2011, varying from Burglary, Stealing and Drugs. Several homes nearby are frequented by Police on a regular basis and this area is on their list of areas to target patrols due to anti-social behaviour. It was also noted that the PAW in question is a well known spot for drug deals.

### Internal Referral

To be sought if the Council wishes to pursue the closure of the PAW.

### Officer's Comments

The PAW in question is a link between the three streets Fitzpatrick Place, Eastcott Place and Hill Street within the townsite of Waroona. The PAW runs behind and along the side of six (6) properties and is of a Y shape. The PAW offers no passive surveillance over the PAW and is not optimal as there is no line of sight from the entrance of the PAW to the exit. Even at the top part of the Y pedestrians are not able to view the exit from the entrance because of a slight angling at the middle.

Residents adjoining the PAW in Eastcott Place have reported considerable vandalism consisting of broken fences, rocks thrown into their yards and at their animals as well as anti-social behaviour in and around the PAW. It is also evident that vandalism is prevalent throughout the entire PAW as per the pictures in **Appendix 9.2.1a** on (pages 20-28).

The PAW has 60cm x 60cm square concrete slabs approximately 2.5 metres in width lining the 171 metres of footpath. It is considered that the formal closure of the PAW would require the removal of the concrete slabs and bollards at the entrances of the access ways.

The adjoining landowners will be given the opportunity to purchase the land by Landgate at a price determined by the Valuer General, with the additional of costs associated with the process such as surveyor costs, land transfer fees, relocation of infrastructure and subdivision/amalgamation fees.

All adjoining landowners will need to be in agreement to purchase the land or alternatively the Shire can decide whether an adjoining owner could purchase all of the land which adjoins their land if the other adjoining land owner is not willing to purchase the land.

Based on the assessment report (attached at **Appendix 9.2.1a**) this particular PAW is concerning in respect to safety and the amenity of the area, when assessed against the Designing out Crime Planning Guidelines.

Given the assessment above, it is therefore recommended that Council commence the public advertising of the requested closure of the PAW.

#### **COUNCIL RESOLUTION**

**OCM 11/03/020**

**Moved: Cr Wright**

**Seconded Cr Germain**

**That Council resolves:**

- 1. To publicly advertise the proposed closures of the PAW located at Lot 166 on Plan 6760, Waroona (Reserve 50609), between Fitzpatrick Place, Eastcott Place and Hill Street, Waroona, in accordance with Section 58 of the Land Administration Act 1997;**
- 2. To write to the affected adjoining landowners to ascertain whether they would support the closure of the PAW and are willing to purchase the PAW land adjoining their properties; and**
- 3. That at the closure of the advertising period a further report is presented, together with any submissions received, at the next available Council meeting.**

**CARRIED 8/0**



Cr Snell declared a proximity interest in Item 9.2.2 as a close associate of an adjoining landowner of the land the subject of the report, and left the room at 4.30 pm.

<b>9.2.2 SALE OF RAILWAY LAND – DISCONTINUED RAILWAY ADJACENT TO LOT 4 &amp; 5 ON PLAN 21899 AND LOT 6 ON PLAN 21900 – SHIRE OF WAROONA</b>	
Reporting Officer / Officer's Interest:	Nadine Aiberti – Planning Assistant / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Department of Regional Development and Lands
Landowner:	Crown
Date of Report: 13 <sup>th</sup> May 2008	File No.: 132/1
Previous Reference:	Nil
Statutory/Policy Implications:	Planning and Development Act 2005 Land Administration Act 1997 (the Act) Local Planning Scheme No. 7 (LPS7) Local Planning Strategy (LPS)
Strategic Implications:	Objective 3 – Protect and Conserve agricultural lands and rural land uses
Financial Implications:	Nil
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

The Shire of Waroona has received a letter from the Department of Regional Development and Lands (The Department) requesting comment in regards to the Departments intention to approach the adjoining land owners and investigate if they are interested in acquiring portions of the discontinued railway. The discontinued railway abuts Lot 6 on Plan 21900 and Lot 4 and 5 on Plan 21899 in the Shire of Waroona.

Council's comments in relation to this matter are sought as they are partly responsible for the management of the discontinued railway.

### Background

The Department has identified this parcel of land as a remnant of the old Waroona to Lake Clifton Railway, which was closed in 1924. Presently there is no railway line per-se, however, there is a track that is unsealed.

A copy of an Aerial photo and a site plan showing the location of the discontinued railway, are attached at **Appendix 9.2.2a** and **Appendix 9.2.2b** respectively.

### Statutory Implications

#### Land Administration Act 1997 (the Act)

Section 266 deals with 'Land in reserves of discontinued or deviated railways to become Crown land' and states:



*“When under an Act a railway has been discontinued or the line of a railway has been deviated and as a result of that discontinuance or deviation land dedicated for the railway is no longer required for that purpose, that land becomes by virtue of this section Crown land”*

Section 74 of the Act provides the necessary powers to the Minister in relation to sell of Crown land

### Strategic Implications

#### Local Planning Scheme No. 7 (LPS7)

The Lots adjoining the discontinued railway are zoned ‘Rural 1 – General Farming’ zone.

Clause 4.14 ‘Rural Zones – All’ states in its 4.14.1 ‘Objectives & Policies’ as follows:

*“Council’s objective is to preserve the rural character of the District’s farming lands and to ensure that they continue to contribute materially to the District’s economy, whilst recognising that changes in land use practices will affect land management and the landscape generally”.*

Pursuant with this clause the closure of this discontinued railway would enable Lot 6 which is located on both sides of the discontinued railway at one section to become one lot and therefore be able to be used as one large lot for the purpose of rural activities.

#### Local Planning Strategy (LPS)

The area in which the discontinued railway is situated is within the Peel-Harvey Coastal Plain Catchment (1992). Clause 2.4a. states *“The State’s priority agricultural land resource should be protected”.*

The closure of the discontinued railway would be consistent with this clause.

The area in which the discontinued railway is zoned is ‘General Agriculture’ and under the LPS the objective of the area is *“To provide for the continued use of the area for a range of agricultural pursuits and low-key tourist establishments”.*

The closure of the discontinued railway would facilitate the objective of the area.

### Community Consultation

The Department of Regional Development and Lands has indicated that it is their intention to notify the surrounding land owners of its intention to close the discontinued railway.

#### Heritage Council of Western Australia

An examination of the State Heritage List indicated that the discontinued railway is not on the current State Heritage List.

#### Shire of Waroona Municipal Heritage Inventory



An examination of the Shire of Waroona Municipal Heritage Inventory indicated that the discontinued railway is not on the current local Heritage List.

#### Officer's Comments

The land in question is redundant and is a remnant of the old Waroona to Lake Clifton Railway which was closed in 1924. It is not a sealed road and does not offer access to any of the properties within that area.

The amenity of the area would not be affected by the sale and amalgamation of the land with adjoining properties.

The discontinued railway does not appear on the State or Local Municipal Heritage List, nevertheless it is recommended that Department of Regional Development and Lands consults with the Heritage Council of Western Australia regarding the Heritage significance of the property prior to disposal.

It is therefore recommended that Council proceed to notify the Department of Regional Development and Lands that it has no objections to the closing of the DRR.

#### **COUNCIL RESOLUTION**

**OCM 11/03/021**

**Moved: Cr Dew**

**Seconded Cr Scott**

**That Council resolves to:**

- 1. Notify the Department of Regional Development and Lands that it has no objections to the closing of the discontinued railway land adjacent to Lot 4 and 5 on Plan 21899 and Lot 6 on Plan 21900 – Shire of Waroona.**
- 2. Recommend that the Department of Regional Development and Lands consults with the Heritage Council of Western Australia regarding the heritage significance of the property prior to disposal.**

**CARRIED 7/0**

Cr Snell returned to the meeting, the time being 4.32 pm.

Mrs Aiberti left the meeting at 4.32 pm.



Cr Snell declared a proximity interest in Item 9.2.3 as a close associate of an adjoining landowner of the land the subject of the report, and left the room at 4.33pm

<b>9.2.3 APPLICATIONS FOR EXPLORATION LICENCE 70/4042</b>	
Reporting Officer / Officer's Interest:	Greg Delahunty – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Iluka Resources Limited
Landowner:	Various
Date of Report: 8 March 2011	File No: 123/1
Previous Reference:	None
Statutory/Policy Implications:	Mining Act 1978 Environmental Protection Act 1986 Shire of Waroona Town Planning Scheme No. 7 Local Planning Strategy 2009 Environmental Protection Bulletin No. 12 Swan Bioplan - Peel Regionally Significant Natural Areas (Peel RSNAs) Coastal and Lakeland's Planning Strategy 1999.
Strategic Implications:	Objective 2 – Conserve our pristine environment, Objective 3 – Protect and conserve agricultural lands and rural land uses.
Financial Implications:	Nil.
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

Two applications for Mining Tenements in the Shire of Waroona were submitted to the Department of Mining and Petroleum by Iluka Resources Limited.

This proposed application is for an Exploration Licence and would see exploration overlap on private property located within the Shire of Waroona. The submitted location plan is at **Appendix 9.2.3a**.

The subject land covered in the proposal is 27 graticular blocks. The proposal states that the application is for subsurface rights only in respect to private land, the private land in question is the first 30m of earth below the grounds surface, below a 30m depth the land is no longer private land but crown land.

As the application concerns private land within the Shire, Council have been given the opportunity to make comment on the application. It should be noted that public land is also involved in the proposal.

### Background

In accordance with the provisions of the Mining Act 1978 the Shire of Waroona was notified of the application for Exploration Licence 70/4042. As the application overlaps private property within the Shire, this notification was a statutory requirement.

The majority of the area with which the application is concerned is zoned R 1 - General Agriculture under the Town Planning Scheme. The remaining area with which the proposal is concerned is reserved for Public Purpose.





Iluka Resources Limited is an established mineral sands explorer and miner with operating mines in the south-west and mid-west of Western Australia

It should be noted that further approvals will be required prior to mining being permitted on the area in question. These approvals include:

- A mining lease application in terms of the Mining Act 1978.
- Operating Licence in terms of the Environmental Protection Act 1986.
- A Planning Consent in terms of Town Planning Scheme No.7.
- An extractive Industries Licence in terms of the Shire of Waroona Extractive Industries Local Law 1999.

### Statutory Implications

#### **Mining Act 1978**

Under the Mining Act 1978 the Minister for Mines and Petroleum may grant an exploration licence upon the receipt of an application.

An objection to the granting of an application for an exploration licence shall be lodged at the office of the mining registrar. If an objection is received the warden shall hear the application for the exploration licence and may give any person who has lodged such a notice of objection an opportunity to be heard.

An exploration licence shall, subject to this Act, remain in force for a period of 5 years from and including the date on which it was granted, and shall then expire.

An exploration licence authorises the holder to enter and re-enter the land the subject of the licence with such agents, employees, vehicles, machinery and equipment as may be necessary or expedient for the purpose of exploring for minerals in, on or under the land.

It also authorises the holder to excavate, extract or remove, subject to any conditions imposed under section 24, 24A or 25, from such land, earth, soil, rock, stone, fluid or mineral bearing substances in such amount, in total during the period for which the licence remains in force, as does not exceed the prescribed limit, or in such greater amount as the Minister may, in any case, approve in writing;

Under Section 67 of the Mining Act, the holder of exploration licence is to have priority for grant of mining leases or general purpose leases.

#### **Environmental Protection Act 1986**

Under Schedule 5 of the Environmental Protection Act 1986 native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.

The Act also states that vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.

### **Peel Region Scheme 2003**

Sections of land within the boundaries of this proposal are reserved under the Peel Region Scheme as Regional Open Space and State Forest.

The Peel Region Scheme states that reserved land means land reserved under the scheme for a public purpose.

The purpose of the scheme is to provide for the reservation and protection of land for regional; transport, conservation, recreation and public uses.

Clause 6 (c) states that the aim of the scheme is to protect as regional open space, the regions coastal foreshores, the foreshores of the Serpentine, Murray and Harvey rivers and the Peel inlet and Harvey Estuary as well as other areas of regional conservation significance and areas for regional recreational facilities

The Scheme states that the lands shown as reserved lands on the Scheme Map are reserved under the Scheme for the public purpose shown on the Scheme Map.

In the case of this proposal the following Scheme reservations apply:

- Regional open Space - to protect the natural environment, provide recreational opportunities, safeguard important landscapes and provide for public access.
- State Forests – To recognise State Forests

Some of the affected land is zoned Rural under the Peel Region Scheme. It is the aim of the Rural Zone to provide for the sustainable use of land for agricultural, assist in the conservation and wise use of natural resources including water, flora fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments

### **Town Planning Scheme No. 7**

The application for exploration falls partly within the 'Rural 1 – General Agriculture' zone under the Shire of Waroona Town Planning Scheme No. 7 (TPS). Clause 4.14 of the Scheme relates to the 'Rural 1' zone, and the application for the exploration licence can be assessed using the relevant provisions of this clause.

Extractive Industry is currently listed as an 'AA' use under the Zoning Table of the Scheme for the 'Rural 1 – General Agriculture' zone. An 'AA' use means the Council may, at its discretion, permit the use.

### **Strategic Implications**

### **Shire of Waroona Strategic Plan 2005 – 2025**

It is an objective of the Shire of Waroona Strategic Plan 2005 – 2025 to protect and conserve agricultural lands and rural land uses.



## Strategic Planning Implications

### **Inner Peel Region Structure Plan 1997**

The Inner Peel Region Structure Plan is a West Australian Planning Commission policy detailing broad land use for the area. The purpose of the structure plan is to ensure a comprehensive approach to planning and development in the Peel Region. An area in the North West corner of this proposal's boundary is designated for Open Space – Conservation under the Peel Inner Region Structure Plan.

### **Strategic Minerals and Basic Raw Materials Policy.**

It is the aim of this policy to identify land within the Peel Region Scheme area which contains mineral resources and basic raw materials of State or regional significance. Although specific portions of land in the Shire of Waroona have been identified as strategic minerals and basic raw materials resource areas, none of these sites are located within the boundaries of this proposal.

### **Coastal and Lakelands Planning Strategy 1999**

The Coastal and Lakeland's Planning Strategy is a Western Australian Planning Commission structure plan detailing broad land use classifications for the area extending from Dawesville in the North to Binningup in the South. Within the Shire of Waroona, the Planning Strategy applies to the Localities of Lake Clifton and Preston Beach. Areas identified as General Farming, Existing National Park and proposed extensions to the National Park fall within the boundaries of this proposal.

### **Environmental Protection Bulletin No. 12 Swan Bioplan - Peel Regionally Significant Natural Areas (RSNAs)**

The Swan Bioplan Project has identified natural areas with significant flora, vegetation and landform values in the Peel Sector. The mapped Peel RSNAs do not identify all regionally significant natural areas in the region but identifies areas that represent the range of landscapes, habitats, vegetation and flora originally found in the Peel Sector.

The subject application affects land designated as Peel Regionally Significant Natural Areas on public and private land.

### **Local Planning Strategy**

#### **Section 4.4 Remnant Vegetation**

Large areas of native vegetation still remain along the coast. These areas are home to three Commonwealth listed Threatened Ecological Communities (TECs), six listed plant species and numerous faunal species. A copy of the Remnant Vegetation Map is at **Appendix 9.2.3b**.

#### **14.1 Mineral and Basic Raw Materials Considerations**

There are a number of sand extraction licences on either side of the Old Bunbury Roads. The most significant issue associated with this use is the presence of remnant vegetation. Sites should be chosen that do not contain significant areas of remnant vegetation.



### 14.2 Minerals and Basic Raw Materials Strategy

Section 3 states that the extraction of sand, gravel and limestone should be permitted on sites where clearing of significant vegetation is not required and where the operations can be undertaken without unreasonable impact on the locality and environment. Extensive rehabilitation is to be undertaken on a cell by cell basis on all extraction sites upon completion of extraction in that cell.

### 16.2 Lake Clifton Precinct

A portion of the land is designated Rural Residential within the Lake Clifton Precinct of the Local Planning Strategy. The sub-precinct objective is to provide areas that will offer lifestyle blocks with good amenity in locations where environmental impacts can be minimised. Remnant vegetation is to be retained on all sites unless clearing is required for roads, access, within a defined building envelope or for the purpose of bushfire protection.

A significant portion of the land wherein the exploration is expected to take place is designated as Rural Smallholdings within the Lake Clifton Precinct. The sub-precinct objective is to consolidate the land between Lake Clifton and the Old Coast Road to provide smallholding lots that offer agricultural, lifestyles and tourist opportunities. Extractive Industry is not considered as a primary or secondary land use within this area. A copy of the precinct plan is at **Appendix 9.2.3c**.

### 16.3 Agricultural Precinct

A portion of the subject land is designated as General Agriculture within the Agricultural Precinct of the Local Planning Strategy. The sub-precinct objective is to provide for the continued use of the area for a range of agricultural pursuits and low key tourists establishments. Extractive Industry is listed as a discretionary use within this precinct.

## **General Sustainability**

### General Environmental Considerations

Although mining impacts should generally be managed to an acceptable level, the experience in Waroona has been that operators have not been managing noise and dust impacts on the community adequately. These impacts also manifest in health concerns in the community.

### Social/Community Impact

While the report comprehensively deals with the environmental and the economic components of sustainability, the social/community impact also needs to be considered. Mining activity generally causes displacement of communities, which is not desirable in smaller regional and rural areas such as Waroona.

## **Officer's Comments**

The proposal for an exploration licence affects subsurface rights in respect to private land. Private land, an extensive area of State Forest and land reserved for Regional Open Space fall within the boundaries of the application site. Therefore this proposal

shall be viewed in respect to the private and public land that it covers within the Shire of Waroona.

Even though this application is for an exploration licence, it is felt that Council should assess this proposal in the knowledge that any exploration may in the future lead to an application for extractive industry on the subject land.

Under the Town Planning Scheme extractive industry is a land use that may be permitted at Council's discretion in most Rural zones. Consequently if the exploration of this land warrants extraction in the future, it will be within Council's power to permit or refuse this land use.

Sections of the land within the proposal are designated as Rural Residential and Rural Smallholdings under the Shire of Waroona's Local Planning Strategy. Although this is not a zoning under the Town Planning Scheme, the Local Planning Strategy identifies these locations as suitable areas for residential development under any future Scheme amendments. Extractive Industry is not a permitted land use in either the Rural 6 or Rural 7 zones. Therefore the encouragement of exploration that may lead to extraction should not be endorsed in these areas.

There is also a great deal of remnant vegetation present within the proposed exploration area. When considering the extraction of minerals and raw materials the Local Planning Strategy states that sites should be chosen that do not contain significant areas of remnant vegetation. The Strategy also states that the extraction of sand, gravel and limestone should only be undertaken on sites where clearing of significant vegetation is not required and where the operations can be undertaken without unreasonable impact on the locality and environment.

There are also isolated pockets of remnant vegetation present within the boundaries of the proposal. Under the EPA 1986 native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.

The Environmental Protection Authority (EPA) advises that any proposals that may impact on Peel Regionally Significant Natural Areas will require site specific flora and vegetation surveys to be undertaken compliant with Level 2 survey standards as outlined in EPA Guidance Statement 51 (EPA 2004a) and apply the criteria for determination of regionally significant natural areas outlined in EPA Guidance Statement 10 (EPA 2006). As there has been no such study undertaken, this proposal should be approached with care.

The remaining private land that is covered in the proposal is designated as General Agriculture. Although future extractive industry within this area is listed as a discretionary use within the precinct in the Local Planning Strategy, it is located outside the area indicated as significant in the Strategic Minerals and Basic Raw Materials Policy of the Peel Region Scheme. In fact the complete exploration site indicated in the licence application is located outside this Policy area.

The Mining Act 1978 states that the holder of exploration licence has priority for grant of mining leases or general purpose leases in respect of any part of the land the subject of the exploration licence. It is therefore necessary to carefully consider the possible future extraction implications of a mining exploration licence prior to supporting the proposal.

From a sustainability assessment perspective, the social/community impact also needs to be considered. Mining activity generally causes displacement of communities, which is not desirable in smaller regional and rural areas such as Waroona.

Experience with mining operators in Waroona has been that noise and dust impacts on the community have not been managed adequately.

It should also be noted that further applications under the Mining Act 1978, Town Planning Scheme No.7 and Extractive Industries Local Law 1999 will be required for future mining in the area of the exploration licence.

Given the above assessment, it is recommended that Council does not support the Exploration Licence.

### **COUNCIL RESOLUTION**

**OCM 11/03/022**

**Moved: Cr Dew**

**Seconded Cr Scott**

**That with respect to the application for a Mining Tenement for Exploration Licence 70/4042, Council resolves to advise Iluka Resources Limited and the Department of Mining and Petroleum that:**

**A. Council does not support the Exploration Licence within the area of the application given the proposal:**

- **is not consistent with the Strategic Minerals and Basic Raw Materials Policy of the Peel Region Scheme 2003.**
- **will impact on future Rural Residential development in accordance with the Shire of Waroona Local Planning Strategy 2009.**
- **is located within areas with significant remnant vegetation and poses an unacceptable threat to existing remnant vegetation, rare flora and threatened ecological communities.**
- **is unacceptable from a social/community sustainability point of view as it poses a risk of displacement to the community.**
- **triggers concerns regarding the adequate management of noise and dust emissions related to the environmental health of the community.**

**CARRIED 6/1**

**For the Motion: Crs Dew, Scott, Germain,  
Witney, Wright and Walmsley  
Against the Motion: Cr Salerian**

Cr Snell returned to the meeting, the time being 4.39 pm.



<b>9.2.4 APPLICATIONS FOR EXPLORATION LICENCE 70/4039</b>	
Reporting Officer / Officer's Interest:	Greg Delahunty – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Iluka Resources Limited
Landowner:	Various
Date of Report: Date Report Written	File No: 123/1
Previous Reference:	None
Statutory/Policy Implications:	Mining Act 1978 Environmental Protection Act 1986 Peel Region Scheme 2003 Shire of Waroona Town Planning Scheme No. 7 1996 Inner Peel Region Structure Plan 1997 Shire of Waroona Local Planning Strategy 2009
Strategic Implications:	Objective 2 – Conserve our pristine environment Objective 3 – Protect and conserve agricultural lands and rural land uses
Financial Implications:	Nil
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

Two applications for Mining Tenements within the Shire of Waroona were submitted to the Department of Mining and Petroleum by Iluka Resources Limited.

This proposed application is for an Exploration Licence and would see exploration take place on private property located within the Shire of Waroona. The submitted location plan is at **Appendix 9.2.4a**.

The subject land covered in the proposal is made up of seven graticular blocks. The application is for subsurface rights only in respect to private land -the first 30m of earth below the grounds surface. (Below the first 30m the land is no longer private land but crown land).

As the application concerns private land within the Shire, Council have been given the opportunity to make comment on the application. No Public Land or Town Planning Scheme Reserves are affected by this proposal.

### Background

In accordance with the provisions of the Mining Act 1978 the Shire of Waroona was notified of the application for Exploration Licence 70/4039. As the application overlaps private property within the Shire, this notification was a statutory requirement.

The area affected by which the application is zoned Rural 1 - General Agriculture, Rural 2 – Irrigated Agriculture, Rural 4 - Hills Face and Urban10 - Special Industry.

Iluka Resources Limited is an established mineral sands explorer and miner with operating mines in the south-west and mid-west of Western Australia.



It should be noted that further approvals will be required prior to mining being permitted on the area in question. These approvals include:

- A mining lease application in terms of the Mining Act 1978.
- Operating Licence in terms of the Environmental Protection Act 1986.
- A Planning Consent in terms of Town Planning Scheme No.7.
- An extractive Industries Licence in terms of The Shire of Waroona Extractive Industries Local Law 1999.

### Statutory Implications

#### **Mining Act 1978.**

Under the Mining Act 1978 the Minister for Mines and Petroleum may grant an exploration licence upon the receipt of an application.

An exploration licence shall, subject to this Act, remain in force for a period of five years from and including the date on which it was granted, and shall then expire.

An exploration licence authorises the holder to enter and re-enter the land the subject of the licence with such agents, employees, vehicles, machinery and equipment as may be necessary or expedient for the purpose of exploring for minerals in, on or under the land.

It also authorises the holder to excavate, extract or remove, subject to any conditions imposed under section 24, 24A or 25, from such land, earth, soil, rock, stone, fluid or mineral bearing substances in such amount, in total during the period for which the licence remains in force, as does not exceed the prescribed limit, or in such greater amount as the Minister may, in any case, approve in writing;

Under Section 67 of the Mining Act Holder of exploration licence to have priority for grant of mining leases or general purpose leases.

#### **Environmental Protection Act 1986**

Under Schedule 5 of the Environmental Protection Act 1986 native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.

The Act also states that vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.

#### **Peel Region Scheme 2003**

It is the purpose of the Peel Region Scheme is to provide for zoning of land for living, working and rural uses.

Clause 6 (e) states that the aim of the scheme is to provide for industrial development in planned estates where land use conflicts and environmental impacts will be minimised and efficient production facilitated.

Clause 6 (h) states that the aim of the scheme is to provide for the efficient and timely extraction of minerals and raw materials and subsequent rehabilitation of affected land.





The Peel Region Scheme also classifies land into zones. This application for exploration is subject to the following zonings under the Peel region Scheme:

(d) Industrial – to provide for manufacturing industry, the storage and distribution of goods and associated uses.

(e) Rural – to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments.

### **Town Planning Scheme No. 7**

The application for exploration falls partly within the ‘Rural 1, Rural 2 and Rural 4 zones under the Shire of Waroona Town Planning Scheme No. 7 (TPS).

Extractive Industry is currently listed as an ‘AA’ use under the Zoning Table of the Scheme for each of these zones. An ‘AA’ use means the Council may, at its discretion, permit the use.

The remaining section of land is zoned Urban 10 – Special industry. Clause 4.17 of the Town Planning Scheme deals specifically with this zone. Clause 4.17.1 states that land use and development of any Special Industry Zone shall be restricted to the operations of the industry identified on the Scheme Map. The industry proposed is defined as “industry – extractive” in terms of the Scheme.

### **Strategic Implications**

#### **Shire of Waroona Strategic Plan 2005 – 2025**

The Long-term sustainability of the Shire is paramount. There is a need to encourage business and allow private enterprise to flourish. Opportunities are needed for large and small-scale business. This in turn will generate employment opportunities resulting in economic benefits and industrial diversity.

### **Strategic Planning Implications**

#### **Strategic Minerals and Basic Raw Materials Policy**

It is the aim of this policy to identify land within the Peel Region Scheme area which contains mineral resources and basic raw materials of State or regional significance. A significant amount of land located within this proposals boundary has been identified as a strategic minerals and basic raw materials resource policy area.

### **Local Planning Strategy**

#### **14.2 Minerals and Basic Raw Materials Strategy**

2. Industry – Extractive to be a permitted use in all rural zones except R6 – Rural residential.

3. Permit the extraction of sand, gravel and limestone on sites where clearing of significant vegetation is not required and where the operations can be undertaken



without unreasonable impact on the locality and environment. Extensive rehabilitation to be undertaken on a cell by cell basis on all extraction sites upon completion of extraction in that cell.

### 15 Special land use controls

There are eight Special Control Areas (SCAs) identified on the Local Planning Strategy Map. These SCAs are subject to specific land use controls that are used to protect industry in the area from incompatible development and subdivision.

The subject proposal falls within SCA 1 Wagerup Alumina Refinery. The purpose of this SCA is to restrict the encroachment of sensitive land uses and development. Extractive Industry is localised within this SCA, therefore the subject proposal would comply with the provisions of this SCA.

### Industrial Precinct

The proposed exploration is located within the Industrial Precinct of the Local Planning Strategy.

A portion of the land is designated General Industry within the Industrial Precinct of the Local Planning Strategy. It is the objective of the Shire to provide areas for general industry of regional and local significance and to protect those industries from encroaching land use and developments that could jeopardise their establishment and operation.

A portion of the land is designated General Agriculture within the Industrial Precinct of the Local Planning Strategy. It is the objective of the sub-precinct to provide for the continued use of the area for a range of agricultural pursuits. Industry – Extractive is listed as a discretionary use in this area.

The final portion of the land in this proposal is designated Priority Agriculture within the Industrial Precinct of the Local Planning Strategy. The objective of the Priority Agriculture sub-precinct is the protection of the area from lifestyle subdivision and other non-compatible development. Industry – Extractive is listed as a discretionary use in this area.

## **General Sustainability**

### General Environmental Considerations

Although mining impacts should generally be managed to an acceptable level, the experience in Waroona has been that operators have not been managing noise and dust impacts on the community adequately. These impacts also manifest in health concerns in the community.

### Social/Community Impact

While the report comprehensively deals with the environmental and the economic components of sustainability, the social/community impact also needs to be considered. Mining activity generally causes displacement of communities, which is not desirable in smaller regional and rural areas such as Waroona.

### **Officer's Comments**

Under the Town Planning Scheme Extractive Industry is a land use that may be permitted at Council's discretion in most Rural zones. Consequently if the exploration of this land warrants extraction in the future, it will be within Council's power to permit or refuse this land use.

Although this application is for an exploration licence, it is felt that Council should assess and consider this proposal in the knowledge that any exploration may in the future lead to an application for extractive industry on the subject land.

Minerals contribute significantly to the economy of the State and mineral extraction and processing is a key component of the local economy. Basic raw materials are essential for the road and construction industries.

The proposed exploration will primarily be undertaken within the Industrial Precinct of the Local Planning Strategy. Extractive industry is listed as a discretionary use within the Industrial Precinct in the Local Planning Strategy.

The proposal is partially located within Special Control Area One (1) marked on the Strategy Map. As noted exploration is considered as compatible development within this SCA.

Although future extractive industry is listed as a discretionary use in the Local Planning Strategy within a part of the proposed exploration area, it is also partially located outside the area indicated as significant in the Strategic Minerals and Basic Raw Materials Policy of the Peel Region Scheme.

From a sustainability assessment perspective, the social/community impact also needs to be considered. Mining activity generally causes displacement of communities, which is not desirable in smaller regional and rural areas such as Waroona.

Experience with mining operators in Waroona has been that noise and dust impacts on the community have not been managed adequately.

It should also be noted that further applications under the Mining Act 1978, Town Planning Scheme No.7 and Extractive Industries Local Law 1999 will be required for future mining in the area of the exploration licence.

Given the above assessment, it is recommended that Council does not support the Exploration Licence.

**COUNCIL RESOLUTION**

**OCM 11/03/023**

**Moved: Cr Salerian**

**Seconded Cr Witney**

**That with respect to the application for a Mining Tenement for Exploration Licence 70/4039, Council resolves to advise Iluka Resources Limited and the Department of Mining and Petroleum that:**

**A. Council does not support the Exploration Licence within the area of the application given the proposal:**

- the application is not fully consistent with the Strategic Minerals and Basic Raw Materials Policy of the Peel Region Scheme 2003.
- is unacceptable from a social/community sustainability point of view as it poses a risk of displacement to the community.
- triggers concerns regarding the adequate management of noise and dust emissions related to the environmental health of the community.

**CARRIED 8/0**

<b>9.2.5 RETROSPECTIVE COUNCIL APPROVAL - ST VINCENT DE-PAUL SHED, LOT 79 SOUTH WESTERN HIGHWAY, WAROONA</b>	
Reporting Officer / Officer's Interest:	Mark Tamblyn – Manager Environment Health and Building Services/Nil
Responsible Officer / Officer's Interest	Mark Tamblyn – Manager Environment Health and Building Services/Nil
Proponent:	N/A
Landowner:	Shire of Waroona
Date of Report: 10 march 2011	File No: A2739
Previous Reference:	I3603
Statutory/Policy Implications:	Nil
Strategic Implications:	N/A
Financial Implications:	
<b>Voting Requirements</b>	<b>Absolute Majority</b>

### Proposal

To allow retrospective approval for St Vincent De-Paul to erect a 6m x 6m shed on Lot 79 South Western Highway, Waroona (Landcare centre), and to allow a 'lean-to' addition to this shed. This parcel of land is freehold owned by Council.

### Background

In June 2004 a building licence was approved (BLA2004087) to erect a shed on Lot 79 South Western Highway for St Vincent De-Paul (Landcare Centre). No town planning issues were evident. The building was constructed in August 2005, however no Council approval was given. Further correspondence indicates that a request to relocate a storage shed from the rear of the Masonic Lodge at 29 Parnell Street to the Landcare centre was proposed by the Waroona Community Theatre Group, however it never eventuated, and the BLA is listed as expired.

In October 2010, St Vincent De-Paul made application for a 'lean-to' for the existing shed at the Landcare Centre and was subsequently approved, and later suspended, by building and town planning, however it was noted that no Council approval for the lean-to had been given, and further investigation revealed that the shed itself has no formal Council approval to be constructed at the Landcare Centre. A photo of the shed is attached (**Appendix 9.2.5a**).

The lean-to construction consists of a 6.1m x 2.4m addition to the western side of the existing shed. It is a steel framed colorbond construction which is closed on 2 sides (front opening) and matches the existing shed. The quoted cost is \$2500. Its use is for additional storage space.

St Vincent De-Paul submitted a letter on 24<sup>th</sup> February 2011 requesting retrospective approval of this shed (BLA 2004087) (**Appendix 9.2.5b**).

### Officer's Comments

Discussion with Manager Town Planning indicates that the proposal is permitted and planning consent is not required (**Appendix 9.2.5c**).



The BLA to construct a 'lean-to' (BLA2010132) has been suspended until the matter is resolved. However, no building implications exist.

**COUNCIL RESOLUTION**

**OCM 11/03/024**

**Moved: Cr Germain**

**Seconded Cr Witney**

1. That retrospective approval be given to St Vincent De-Paul for their existing 6m x 6m shed at the rear of the Landcare Centre Lot 79 (93) South Western Highway, Waroona as per BLA2004087
2. That the CEO be authorised to sign a "Peppercorn Lease" agreement between the Shire and St Vincent De-Paul group and this lease reflect that the shed to become property of the Shire should St Vincent De-Paul cease to operate from this building.
3. That approval is given to construct a 6.1 m x 2.4 m 'lean-to' on this shed as per BLA 2010132.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**9.3 DEPUTY CEO/DIRECTOR CORPORATE SERVICES**

<b>9.3.1 ACCOUNTS FOR PAYMENT</b>	
Reporting Officer / Officer's Interest:	Joe Dineley – Senior Finance Officer / Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – Deputy CEO/Director Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report:	File No.: 1/3
Previous Reference:	N/A
Statutory/Policy Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	N/A
<b>Voting Requirements</b>	<b>Simple Majority</b>

**APPENDIX 9.3.1**

<b><u>COUNCIL RESOLUTION</u></b>			
<b>OCM 11/03/025</b>			
<b>Moved: Cr Witney</b>			
<b>Seconded Cr Snell</b>			
<b>That Vouchers numbered:</b>			
<b><u>ACCOUNT</u></b>	<b><u>CHEQUE NOS.</u></b>	<b><u>AMOUNT \$</u></b>	<b><u>TOTAL \$</u></b>
Municipal	6438 - 6463	\$10,561.10	\$10,561.10
Trust	10966 - 10970 EFT 11981 - 11996	\$154,744.45	\$154,744.45
Electronic Transfers	EFT 11997 - 12173	\$775,820.69	\$775,820.69
Direct Wages	09/02/11 – 23/02/11 inclusive	\$145,599.00	\$145,599.00
	<b>TOTAL:</b>		<b><u>\$1,086,725.24</u></b>
<b>and attached at Appendix 9.3.1 be endorsed.</b>			
			<b>CARRIED 8/0</b>



<b>9.3.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDED 28 FEBRUARY 2011</b>	
Reporting Officer / Officer's Interest:	Tamara Olsson – Manager Financial Services / Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – Deputy CEO/Director Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report: 08.03.2011	File No.: 1/1
Previous Reference:	N/A
Statutory/Policy Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	N/A
<b>Voting Requirements</b>	<b>Simple Majority</b>

**APPENDIX 9.3.2****COUNCIL RESOLUTION****OCM 11/03/026****Moved: Cr Witney****Seconded Cr Germain**

**That the Monthly Statements of Financial Activity for the period ended 28 February 2011 Appendix 9.3.2 be received and noted.**

**CARRIED 8/0**



<b>9.3.3 POLICY AMENDMENT 2.2 – USE OF COUNCIL VEHICLES</b>	
Reporting Officer / Officer's Interest:	Laurie Tilbrook – Deputy CEO/Director Corporate Services / Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – Deputy CEO/Director Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report:	15.03.2011
	File No.: 111/1
Previous Reference:	N/A
Statutory/Policy Implications:	Amendment to Council Policy 2.2 required
Strategic Implications:	N/A
Financial Implications:	The Council's FBT liability is not affected by the policy amendment, however in some cases there will be adjustments to the FBT liability of individual staff
<b>Voting Requirements</b>	<b>Absolute Majority</b>

### Proposal

An amendment is proposed to Council policy 2.2 relating to use of Council vehicles.

The amendment is necessary to formalise arrangements by which Council vehicles are used as pool vehicles.

### Officer's Comments

The proposed amendment is necessary to formalise a practise that already exists ie; all Council vehicles are regarded as "pool" vehicles and are available for use by Councillors and staff for Council business.

There is no change to the private use of vehicles by individual staff which are governed by employment contracts.

The following policy is therefore recommended for inclusion as an addition to Policy 2.2.

Addition of part 1 as follows:

### Pool Vehicles

- (i) All Council vehicles are to be utilised as pooled vehicles, being available for use by Councillors and employees for Council business.
- (ii) On occasions permission may be given to garage a pool vehicle at an employee's home when a journey starts or finishes out of normal business hours and this may include commuting and/or limited private use subject to the approval of the Chief Executive Officer.

**COUNCIL RESOLUTION**

**OCM 11/03/027**

**Moved: Cr Germain**

**Seconded Cr Witney**

**That Council Policy 2.2 “Use of Council Vehicles” is amended by the inclusion of the following:**

**Pool Vehicles**

- (i) All Council vehicles are to be utilised as pooled vehicles, being available for use by Councillors and employees for Council business.**
  
- (ii) On occasions permission may be given to garage a pool vehicle at an employee’s or Councillors home when a journey starts or finishes out of normal business hours and this may include commuting and/or limited private use subject to the approval of the Chief Executive Officer.**

**CARRIED BY ABOLSUTE MAJORITY 8/0**

**9.4 CHIEF EXECUTIVE OFFICER**

<b>9.4.1 LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN - JANUARY 1, 2010 TO DECEMBER 31, 2010</b>	
Reporting Officer / Officer's Interest:	Laurie Tilbrook – Deputy CEO / Director Corporate Services / Nil
Responsible Officer / Officer's Interest:	Laurie Tilbrook – Deputy CEO / Director Corporate Services / Nil
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 14 March 2011	File No.:193/1
Previous Reference:	March 10 Item 9.4.1 OCM10/038
Statutory/Policy Implications:	The Compliance Audit Return is an annual requirement of the Local Government Audit Regulations 1996.
Strategic Implications:	Nil
Financial Implications:	Nil
<b>Voting Requirements</b>	<b>Simply Majority</b>

Proposal

N/A

Background

The Compliance Audit is a self-assessment tool that allows Council to monitor how the organisation is functioning in relation to meeting a range of its statutory obligations under the Local Government Act and its Regulations.

Community Consultation

Nil

Officer Comments

A copy of the Compliance Audit Return is included with the agenda papers under separate cover.

**COUNCIL RESOLUTION****OCM 11/03/028****Moved: Cr Witney****Seconded Cr Snell**

**That the Compliance Audit Return for the Shire of Waroona for the period January 1, 2010 to December 31, 2010 be adopted by the Council.**

**CARRIED 8/0**

<b>9.4.2 BUSINESS INCENTIVE GRANTS PROGRAM 2010/11</b>	
Reporting Officer / Officer's Interest:	Ian Curley Chief Executive Officer Maree Ellis Community Development Officer
Responsible Officer / Officer's Interest	Ian Curley Chief Executive Officer
Proponent:	Natalina Derrick
Landowner:	N/A
Date of Report:	10 <sup>th</sup> March 2011 File No.: 98/1
Previous Reference:	<b>OCM10/10/165</b>
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	The allocation in the 2010/2011 budget is a total of \$6,600.
<b>Voting Requirements</b>	<b>Simple Majority</b>

### Proposal

Council is asked to approve a Business Incentive Grant application for two thousand dollars (\$2,000) from Natalina Derrick who has moved a home occupation Crystal Therapy business into vacant premises on the main street of Waroona at 99 Southwest Highway. The grant is to be used to assist with rental payments for the business premise.

### Background

The Shire of Waroona established a New Business Incentive Grant Fund in November 2010 to provide small amounts (individual amounts of up to \$2000) of discretionary funds to new or existing commercial business proprietors in the Waroona Central Business District (CBD) to assist with the costs of opening a new business or expansion of an existing business. These funds are designed to encourage new and current business proprietors to make use of existing empty business premises in the Waroona CBD. At the OCM 10/10, Council resolved to provide an amount of Six Thousand Six hundred dollars (\$6,600) remaining from the 2010/11 budget for the Townscape Development Grants Program.

### COUNCIL RESOLUTION

**OCM10/10/165**

**MOVED: Cr Germain**

**SECONDED: Cr Snell**

**That Council initiate a new Business Grants Scheme, with the amount of \$6,600 available in the 2010/2011 budget and that grants are made available to assist individuals or businesses to start up a new business or expand an existing business which occupies a currently vacant business premises located in the Waroona Town Centre. The CEO to develop guidelines in consultation with the Small Grants Committee and the grants to be launched at the Business Sundowner in November.**

**CARRIED BY ABSOLUTE MAJORITY 7/0**

### Community Consultation

The grants were advertised locally and copies made available at the Business Sundowner in November.



Officer's Comments

The business is deemed to be eligible under the criteria set out in the Guidelines and application form. The Guidelines and application form are available if Councillors would like a copy.

**COUNCIL RESOLUTION**

**OCM 11/03/029**

**Moved: Cr Germain**

**Seconded Cr Witney**

**That an amount of two thousand dollars (\$2,000) be granted to the applicant, Natalina Derrick, from the Business Incentive grants fund 2010/11.**

**CARRIED 8/0**

**10. CONFIDENTIAL REPORTS**

Nil.

**11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN, OR FOR CONSIDERATION AT NEXT MEETING****12. NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION****ELECTED MEMBERS****-12.1.1 COUNCIL BUILDINGS – ENTRY KEYS**

Reporting Officer / Officer's Interest:	N/A
Responsible Officer / Officer's Interest	Mr Steve Cleaver / Director Community & Planning Services
Proponent:	Cr Trish Witney
Landowner:	Shire of Waroona
Date of Report: 22 March 2011	File No.: 44/1
Previous Reference:	
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	
<b>Voting Requirements</b>	<b>Simple Majority</b>

**COUNCIL RESOLUTION****OCM 11/03/030****Moved: Cr Witney****Seconded Cr Germain**

**That Officers prepare a report or policy outlining the requirement for occupiers of buildings on Council land to deposit a key allowing entry to those building with the Council. The report or policy to outline conditions of entry to those buildings.**

**CARRIED 8/0****12.2 OFFICERS**

Nil.



**13. CLOSURE OF MEETING**

There being no further business the Chairperson closed the meeting the time being 5.36 pm.

I CERTIFY THAT THESE MINUTES WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING HELD 28 APRIL 2011 AS BEING A TRUE AND CORRECT RECORD OF PROCEEDINGS.

.....  
PRESIDING MEMBER

.....  
DATE

