



MINUTES

ORDINARY COUNCIL MEETING

TUESDAY 15 FEBRUARY 2011
(Held at the Waroona Health & Community Resource Centre)

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1. DECLARATION OF OPENING/ANNOUNCEMENTS

The Chairperson declared the meeting open at 4.00 pm and welcomed Councillors and Staff to the meeting.

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

Cr M Walmsley	Shire President
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 P Webb	Director Technical Services
Mr L Fouché	Manager Planning Services
Mrs S Cicolari	Executive Support Officer

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

LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil.

ABSENCE FOR NON ATTENDANCE

Cr L Scott	Deputy Shire President
Cr C Germain	Councillor

3. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

4.1 PUBLIC QUESTION TIME

4.1.2 Mr Alan Calhoun of 46 Jackson Street, Waroona asked if Councillors believed that the election of Council members with no wards is a democratic and effective way of serving the people of this Shire.

The Shire President advised that there had previously been a ward system, however this was reviewed 2 years ago as part of a review system to be conducted every 8 years by the Local Government. At the time of the review it was advertised for public comment of which no submissions were received.

The Shire President noted that with no ward system all Councillors represented the entire Shire. Ratepayers could contact any of the Councillors if they have concerns, not just a Councillor representing their ward. This process will be reviewed again in 6 years time.



- 4.1.2 Mr Angus Gardner of Unit 9, 14 Thatcher Street, Waroona voiced his concerns over the design of reconstruction works occurring at the north end of Fouracre St and requested Council consider amending the plans and widen the road.

The matter was considered at item 12.1.2 of the Council meeting.

4.2 PUBLIC STATEMENTS

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. DISCLOSURES OF MEMBERS' & OFFICERS' INTERESTS

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

Cr Snell declared an interest affecting impartiality in Item 9.2.5.

Cr Witney left the meeting, the time being 4.17 pm.

7. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 ORDINARY COUNCIL MEETING – 16 DECEMBER 2010

COUNCIL RESOLUTION

OCM11/02/001

MOVED: Cr Dew

SECONDED: Cr Snell

That the Minutes of the Ordinary Council Meeting held 16 December 2010 be confirmed as being a true and correct record of proceedings.

CARRIED 5/0

9.0 REPORTS OF OFFICERS AND COMMITTEES

9.1 DIRECTOR TECHNICAL SERVICES

9.1.1 TEMPORARY CLOSURE NANGA AND NANGA BROOK ROAD FOR SPORTING EVENT	
Reporting Officer / Officer's Interest:	Mr Paul Webb, Director Technical Service / Nil
Responsible Officer / Officer's Interest	Mr Paul Webb, Director Technical Service / Nil
Proponent:	Cyclo Sportif Club Australia
Landowner:	
Date of Report: 9 February 2011	File No: 132/2
Previous Reference:	
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	Nil
Voting Requirements	Simple Majority

Proposal

To temporarily close Nanga and Nanga Brook Road to vehicular traffic on Sunday 3rd April 2011 to facilitate safe use of the road during a sporting On Road Bicycle event.

Background

The Cyclo Sportif Club Australia Inc previously made use of Nanga Road, Nanga Brook Road and the Waroona Recreation Centre and ground, for a bicycle event of a similar nature in 2010. This involved long and short length racing from Waroona to Dwellingup. The start finish line is situated adjacent to the Waroona Recreation Centre. The event was held over a one day period, and the road was open to traffic during the event.

The event organisers indicated that the 2010 event was very successful, and have requested use of Nanga and Nanga Brook Road for another event scheduled to take place on the 3rd April 2011.

Community Consultation

Notification will be given to residents by the event organisers via mail, and signage will be put in place on Nanga and Nanga Brook Road prior to the event.

Officer's Comments

This type of cycling event was held for the first time in the Waroona townsite last year, and it was reported that the event attracted in excess of 600 entrants. The event was held with the road open but with marshals and some partial control over the extent of the course.

Advice was given to the event organisers that Nanga and Nanga Brook Road may have relevant safety related conditions that required consideration prior to holding the next event. Traffic speeds on the proposed course have been recorded over several years and it is apparent that the mix of rural traffic speeds and large groups of bicycle traffic may cause a higher risk than normal traffic conditions.



The event organisers have requested a temporary closure of the course area, being Nanga and Nanga Brook Road see **Appendix 9.1.1**. The event is to be held on the 3rd April 2011, which is a Sunday. Collected traffic data has identified that there is infrequent peak traffic on weekends at the midday period, which would need to be deviated via the Pinjarra Williams Road. The road would need to remain partially open to residents who reside inside the event area and also to the Alcoa mine site. An Alcoa Community Liaison Officer has been contacted and they have no concerns with the temporary closure of the proposed route.

Local Police have been contacted, and they strongly support the temporary closure of Nanga Brook Road to traffic.

Cyclo Sportif has contacted the Shire of Murray. It is the responsibility of the event organiser to liaise with the Shire of Murray and the Shire of Waroona to achieve a mutually beneficial outcome for the event.

It is requested that Council support temporary closure of Nanga and Nanga Brook Road during the Cyclo Sportif event, but allow controlled access of local traffic into the event area.

The closure would be done at no cost to Council. It is the responsibility of the event organisers to organise all traffic management personnel.

COUNCIL RESOLUTION

OCM11/02/002

Moved: Cr Salerian

Seconded: Cr Wright

That Council resolves to support the temporary closure on Nanga and Nanga Brook Roads on 03 April 2011, for the purpose of an on road bicycle event on condition that,

- **Cyclo Sportif receives support for the closure of the portion of Nanga Brook Road that is contained within the Shire of Murray for the duration of the event to be held on 03 April 2011.**

And,

- **The event organiser liaise with the Chief Executive Officer or his nominated representative on the most appropriate means to notify the residents of the Shire of Waroona that may be affected by the temporary closure of Nanga and Nanga Brook Roads on 03 April 2011.**

CARRIED 5/0

Cr Witney returned to the meeting, the time being 4.20 pm.

The Shire President took the opportunity to thank Mr Paul Webb for his work at the Waroona Shire and wished him all the best for the future in his new position at the Shire of Coolgardie.

Mr Paul Webb, Director Technical Services left the meeting at 4.21 pm.



9.2 DIRECTOR COMMUNITY & PLANNING SERVICES

9.2.1 PROPOSED PERMANENT ROAD CLOSURE – UNUSED PORTION OF PRINCE ROAD	
Reporting Officer / Officer's Interest:	Nadine Aiberti – Planning Assistant / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Bernie Worthington
Landowner:	Shire of Waroona
Date of Report: 3 February 2011	File No: 132/1
Previous Reference:	OCM10/09/138
Statutory/Policy Implications:	<i>Land Administration Act 1997</i>
Strategic Implications:	Local Planning Strategy Draft Hills Landscape Protection Policy
Financial Implications:	Advertising Cost
Voting Requirements	Simple Majority

Proposal

The proponent has requested Council to permanently close an unused portion of Prince Road that dissects Lot 9 Prince Road, Waroona.

Background

The unused portion proposed to be closed was made redundant by the construction of a realigned portion of Prince Road immediately to the south. There is no constructed road currently existing within the unused portion. The unused portion adversely affects the use and development of Lot 9 by effectively dissecting the lot into two parcels of land.

In 2006, the Planning Department began the closure of the subject portion of Prince Road and public advertising of the proposed closure appears to have been completed. Given that four years had passed since the initial actions by the Shire, the Minister for Lands required a current Council resolution and any public comments on the proposal.

At the Ordinary Council Meeting held 28 September 2010, Council resolved to:

1. *To initiate the permanent closure by commencing public advertising in accordance with Section 58 of the Land Administration Act 1997.*
2. *That after public advertising has been completed, a report to Council is to be prepared for Council's authorisation to formally request the Minister for Lands to permanently close the unused portion.*

A diagram showing the portion of Prince Road originally proposed to be closed is at **Appendix 9.2.1a**.

Community Consultation

The proposal was advertised in accordance with Section 58 of the Land Administration Act 1997.



Notice of the closure was forwarded to neighbouring properties and relevant state agencies. The agencies/service providers included Telstra, Water Corporation, Western Power, Alinta, and Alcoa.

During the advertising period, three (3) submissions were received. These submissions were from Telstra, the Water Corporation and a neighbouring property owner. Telstra and the Water Corporation have no objections to the proposed road closure while a neighbouring land owner requested that a portion of the road be left open with the intention of using that portion of the road for access to a future proposed subdivision. A copy of the Schedule of Submissions is at **Appendix 9.2.1b.** and the copy of the proposed modification is attached at **Appendix 9.2.1c.**

Local Planning Strategy (LPS)

The Local Planning Strategy includes the subject land in the Hills Landscape Protection. The properties located in this area are zoned Rural 4 - Hills face, Rural 5 - Darling Range and Rural 6 – Rural Residential in terms of the Shire of Waroona Town Planning Scheme No.7 1996.

The objective of the Hills Landscape Protection area is *“to provide for opportunities for small-scale agriculture and tourism accommodation whilst providing landscape protection”*. Closing the unused portion of Prince Road that dissects Lot 9 Prince Road is not inconsistent with the objective of the LPS. A copy of the Scarp and Darling Range Precinct of the LPS is at **Appendix 9.2.1.d.**

Furthermore, the new portion of the road is located within the “Tourist Route” of the Local Planning Strategy, the unused portion of Prince Road that dissects Lot 9 Prince Road is not located within this route, therefore there will be no adverse affects to the designated “Tourist Route”. A plan showing the “Tourist Route” can be seen at **Appendix 9.2.1e.**

Draft Hills Landscape Protection Policy

The drafting of the Hills Landscape Protection Policy has commenced, however it has not been completed or adopted by Council yet. One of the objectives on the Draft Hills Landscape Protection Policy, which was presented at the Ordinary Council meeting on 16 December 2010, is the:

“Provision of a suitable local road network that would link potential subdivisions for properties within the Hills Landscape Protection area.”

At this stage of the policy development, it is expected that the proposed closure of Prince Road will not affect the outcome or objective of the policy.

Officer's Comments

Planning Services Department Officers have attended to the necessary consultation process in accordance with Section 58 of the *Land Administration Act 1997 – Closure of roads*. All closure items have been addressed and there is no further use for the portion of Prince Road as a road reserve.

It has been established that no services will be adversely affected by the proposed road closure, however one of the submissions from a neighbouring land owner requested a slight modification of the proposed road closure.



The neighbouring property owner's concern was that presently he is working towards rezoning his property with the view to subdivide the property at a later date. He requested that a portion of the road be left open with the intention of using that portion of the road for access to a future proposed subdivision. The portion in question which the neighbouring property owner requested remain open can be seen on **Appendix 9.2.1c**.

Planning Services Officers have amended the proposed road closure plan so that the portion of road which the neighbouring property owner wishes to remain open is not included in the final plan of the road closure (as seen in **Appendix 9.2.1c**).

The Engineering Department advised that this matter was ongoing over several years and that the action was appropriate.

An assessment of the proposed road closure against the objectives of the Local Planning Strategy and the Draft Hills Landscape Protection Policy showed the closure will not adversely affect strategic development in the Scarp and Darling Range Precinct.

It is therefore recommended that the subject portion of Prince Road, Waroona with the inclusion of the slight modification requested by the neighbouring property owner (as attached at **Appendix 9.2.1c**) be closed via the appropriate request to the Minister for Lands.

COUNCIL RESOLUTION

OCM11/02/003

MOVED: Cr Snell

SECONDED: Cr Dew

That Council, with respect to the proposed closure of the unused portion of Prince Road, Waroona, resolves:

- 1. To request the Minister for Lands pursuant to Section 58 of the Land Administration Act 1997, to close the subject unused portion of Prince Road, Waroona as indicated in *Appendix 9.2.1c*.**

CARRIED 6/0



9.2.2 LOT 1209 SOUTHERN ESTUARY ROAD, LAKE CLIFTON - APPLICATIONS FOR PLANNING CONSENT FOR HOUSE ON RESERVED LAND.	
Reporting Officer / Officer's Interest:	Greg Delahunty – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Gray & Lewis Land Use Planners
Landowner:	Ronald Armstrong
Date of Report: Date Report Written	File No: TP1386, PRS610-14-1
Previous Reference:	None
Statutory/Policy Implications:	Planning and Development Act 2005 Peel Regional Scheme Shire of Waroona Town Planning Scheme No. 7
Strategic Implications:	State Planning Strategy 1997 Statement of Planning Policy No. 2.1 Peel Harvey Coastal Plain Catchment State Planning Policy 3.4 Natural Hazards and Disasters Environmental Guidance for Planning and Development Environmental Protection Bulletin No. 12 Swan Bioplan - Peel Regionally Significant Natural Areas (Peel RSNA's) Local Planning Strategy
Financial Implications:	Potential claim for compensation for refusal of application. Claim value unknown.
Voting Requirements	Simple Majority

Proposal

Two applications were received for a 2 Storey house at Lot 1209 Southern Estuary Road, Lake Clifton (in terms of Shire of Waroona Town Planning Scheme No. 7 as well as the Peel Regional Scheme).

The proposed house is to be situated on land reserved under the Peel Region Scheme for Regional Open Space. The submitted site plan and an elevation plan are at **Appendix 9.2.2a & 9.2.2b** respectively.

Background

As this application is for Planning Consent on land reserved for Regional Open Space under the Peel Region Scheme, two applications were received from the applicant. One application was made under the Town Planning Scheme No. 7 to the Shire of Waroona and a second application, under the Peel Region Scheme, was made to the Western Australian Planning Commission (WAPC). Once the application was received by the WAPC, it was then referred back to the Shire of Waroona in order to give Council the opportunity to make a recommendation to the WAPC on this application.

Currently there is no existing improvement on the 64.297 ha lot. There is an approved Subdivision Guide Plan in place that was endorsed by the Minister for Planning in June 2010.



Statutory Implications

Planning and Development Act 2005

Section 126 of the Planning and Development Act 2005 deals with zoning amended by region planning scheme.

Section 126 (1) states that if a region planning scheme delineates land comprised in a local planning scheme as a reserve for any public purpose, then the local planning scheme, in so far as it operates in relation to that land, is, by force of this section and without any further action under the Act, amended to such extent (if any) as is necessary to give effect to the reservation under the region planning scheme. (In this instance the relevant region scheme is the Peel Region Scheme). Section 126 applies directly to the Shire of Waroona Town Planning Scheme No.7.

Section 177 describes when compensation is payable if land is reserved for a public purpose

- (1) Subject to subsection (3), when under a planning scheme any land has been reserved for a public purpose, no compensation is payable by the responsible authority for injurious affection to that land alleged to be due to or arising out of such reservation until —
 - (a) The land is first sold following the date of the reservation; or
 - (b) The responsible authority —
 - (i) Refuses an application made under the planning scheme for approval of development on the land; or
 - (ii) Grants approval of development on the land subject to conditions that are unacceptable to the applicant.

Peel Region Scheme

The application site is designated as Regional Open Space in terms of the Peel Region Scheme.

Part 1 of the Peel Region Scheme deals with the preliminary aspects of the Scheme.

Clause 2 (2) states that reserved land means land reserved under the scheme for a public purpose.

Clause 5 (a) states that the purpose of the scheme is to provide for the reservation and protection of land for regional; transport, conservation, recreation and public uses.

Clause 5 (c) states that the purpose of the Scheme is to provide a mechanism for landowners to be compensated in a fair and equitable manner where land is reserved for a public purpose.

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.

Clause 7 of the Scheme states that if the scheme is inconsistent with a local government scheme, the scheme prevails over the local government scheme to the extent of the consistency.

Part 3 of the Scheme deals with land Reserved under the Scheme.

Clause 9 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.

Clause 10 (a) states that land is reserved under the scheme for the following public purposes:

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

Clause 12. (e) states that land is classified into zones under the Scheme for the following purposes:

- Rural – 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.

Part 6 of the Peel Region Scheme deals with the Development of Land.

Clause 18 states that subject to clause 19 and 20, a person may not commence or carry out development on a reserved land unless that person has first applied for and obtained the planning approval of the commission under Part 7.

Part 7 of the Scheme deals with Applications for Planning Approval under the Scheme.

Clause 30 (1) states that an application for Planning Approval is to be lodged with the Local Government in whose district the land that is the subject of the application is situated.

Clause 30 (2) states that a Local Government that receives an application under subclause (1) is to forward it to the Commission within seven (7) days of receiving it.

Town Planning Scheme No. 7

Part III of the Town Planning Scheme No. 7 deals with Scheme Reserves. Clause 3.1 states that land shown as Reserves on the Scheme Maps, and the legend thereon, are lands reserved under the Scheme for the purposes shown on the Scheme Maps. The Peel Region Scheme reservation is reflected on Town Planning Scheme Map No.7, which designates the site in question as Regional Open Space. A copy of the Scheme Map is at **Appendix 9.2.2c**.

Clause 3.2.1 states that where an application for Planning Consent is made with respect to land within a Scheme Reserve or any other Crown Reserve, the Council shall have regard to the ultimate purpose intended for the Reserve and the Council shall, in the case of land reserved for the purposes of a Public Authority, confer with that Authority before granting its consent.

Clause 3.3 deals with the issue of compensation. Clause 3.3.1 states that where the Council refuses Planning Consent for development of a Scheme Reserve on the ground that the land is reserved for Local Authority purposes or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.

Clause 3.3.2 states that claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing Planning Consent or granting consent subject to conditions which are unacceptable to the applicant.

Legal advice

Given a potential claim for compensation, legal advice has been sought from McLeods Solicitors. The advice indicated that an application under Town Planning Scheme No.7 is not required as the application site is in private ownership and not a Crown Reserve. The reservation is also under the Peel Region Scheme and not a Local Scheme Reserve.

Strategic Implications

State Planning Strategy (1997)

It is the objective of this Strategy to provide an overarching framework for other State Policies and “provide(s) a strategic guide for land use planning through to the year 2029”. The Strategy sets out the following five principles to guide planning in Western Australia, two of the relevant principles are:

- Environmental principle: To protect and enhance the key natural and cultural assets of the State and deliver to all Western Australians a high quality of life which is based on environmentally sustainable principles.
- Regional development principle: To assist the development of regional Western Australia by taking account of the region’s special assets and accommodating the individual requirements of each region.

Statement of Planning Policy No. 2.1 Peel Harvey Coastal Plain Catchment

The applicant is advised that the proposal is located within the Peel-Harvey catchment and the provisions of the Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992 and the Statement of Planning Policy No. 2.1 – the Peel-Harvey Coastal Plain Catchment (SPP 2.1) shall apply.

In accordance with Provision 6.2.1 of SPP 2.1, the use of conventional on-site effluent disposal systems will only supported where it can be demonstrated that there is at least a 2m vertical separation between the base of the leach drain and the highest known groundwater level and a 100m horizontal separation between the disposal system and the nearest water body.

State Planning Policy 3.4 Natural Hazards and Disasters (SPP 3.4)

State Planning Policy 3.4 states: “Development proposed within a floodway that is considered obstructive to major flooding is not acceptable as upstream flood levels may increase. The 100-year average recurrence interval flood should be used as the defined flood event. The floodplain of a defined flood event should be used as the area over which controls on land use and development need to recognise the impacts of flooding. All habitable, commercial and industrial buildings should have their floor levels above the level of the defined flood event.”

The proposal is therefore not consistent with SPP 3.4.

Environmental Guidance for Planning and Development

As the proposed dwelling is located within 50m of a Conservation Category wetlands mapped on DEC’s Geomorphic Wetlands Swan Coastal Plain dataset it is subject to the Environmental Protection Authorities Guidance Statement 33 (Environmental Guidance for Planning and Development).

Environmental Protection Bulletin No. 12 Swan Bioplan - Peel Regionally Significant Natural Areas (Peel RSNA’s)

The Swan Bioplan Project has identified natural areas with significant flora, vegetation and landform values in the Peel Sector. The mapped Peel RSNA’s 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 lot contains land designated as Peel Regionally Significant Natural Areas on public and private land. It appears that the proposed house is to be located on land designated as Peel Regionally Significant Natural Areas on private land.

A copy of the Swan Bioplan - Peel Regionally Significant Natural Areas is at **Appendix 9.2.2d.**

Subdivision Guide Plan

A revised Subdivision Guide Plan for Pt 16 and Lot 1209 Southern Estuary Road, Lake Clifton, was approved under the Shire of Waroona Town Planning Scheme No. 7, Amendment No. 26 in June 2010 by the Minister of Planning. This plan clearly indicates any future access points, lot locations and roadways for future development on the subject lot. A copy of the approved Subdivision Guide Plan is at **Appendix 9.2.2e.**

Local Planning Strategy (LPS)

The subject lot is located within the Lake Clifton Precinct of the LPS. It is the Shire’s aim to provide areas that will offer lifestyle blocks with good amenity and in locations where the environmental impacts can be minimised.

In regards to on-site effluent disposal in the Peel – Harvey Catchment: standard septic systems are to be located no closer than 100m from any watercourse or wetland and a two (2) metre minimum vertical separation from the highest known groundwater level. Alternative Treatment Units are to be provided where the setback is less than

100m. No septic system is to be located closer than 50m to any watercourse or wetland.

Referrals

As noted, under Clause 30 (2) of the Peel Regional Scheme, the application for Planning Consent under the Shire of Waroona Town Planning Scheme No. 7 was forwarded to the WAPC.

Also due to the sensitive nature of this proposal and its proximity to the Harvey Estuary it was decided that this application should be forwarded to a number of Public Authorities, the Department of Water; the Department of Environment and Conservation as well as The Peel Harvey Catchment Council.

See Schedule of Submissions at ***Appendix 9.2.2f***.

Community Consultation

As a “single house” is not classified as an “AA” or a “SA” land use within the land use table of the Town Planning Scheme, there is no need to advertise this application to neighbouring landowners.

Internal Referral

Upon referral to Engineering Services, the Director of Technical Services advised that the crossover / connection to the property is to be constructed away from the T Junction so as not to create a four - way intersection. The Director of Technical Services suggested moving the crossover road connection South East and constructing a sealed crossover to the satisfaction of the Shire.

As the proposal is not commercial the Director of Technical Services stated that he had no comment to make regarding drainage inside the property.

Upon referral to Building Services, the Building Surveyor stated that a Building License must be attained before the commencement of any development. The Building Surveyor also stated that development on site must comply with the Building Code of Australia 2010.

Upon referral to Health Services the Building Surveyor emphasised the need for a mandatory use of an Alternative Treatment Unit (ATU). This is to prevent phosphorous from entering the Peel Harvey Inlet.

Officer's Comments

The following comments were received from relevant Public Authorities:

The Department of Water

The Department of Water in carrying out its role in floodplain management provides advice and recommends guidelines for development on floodplains with the object of minimising flood risk and damage.

The Murray Floodplain Development Strategy shows that a proportion of the lot is affected by flooding during major events with 100 year ARI flood level estimated to be 2.1 m AHD. This flood level includes an allowance of 0.9 m for possible future sea level rise to 2110.

More importantly, the site of the proposed development is located within the floodway. (Refer to attached plan at **Appendix 9.2.2g**).

The Floodway is defined as the main river channel and a portion of the floodplain which forms the main flow path for flood waters during major flooding. Development (i.e. building) that is located within the floodway and is considered obstructive to major river flows is not acceptable as it will increase flood levels upstream and create potential environmental impacts both upstream and downstream.

When development is located within the floodway the Department of Water assesses each proposal based on its merits and the factors examined include depth of flooding, velocity of flow, its obstructive effects on flow, possible structural and potential flood damage, difficulty in evacuation during major floods and its regional benefit.

For this particular proposal, the following comments are provided:

- The proposed dwelling would become isolated during major events as floodwaters would inundate the low lying land surrounding the proposed dwelling.
- It is recommended that the proposed dwelling is relocated to a higher location on the lot.
- A minimum habitable floor level of 2.70 m AHD is recommended to ensure adequate flood protection.

Consequently, the proposal is not acceptable with regard to major flooding.

Department of Environment and Conservation (DEC)

The proposed dwelling is located within 50m of a Conservation Category wetland mapped on DEC's Geomorphic Wetlands Swan Coastal Plain dataset. This is not in accordance with the Environmental Protection Authorities Guidance Statement 33 (Environmental Guidance for Planning and Development) which outlines that 'The EPA urges that all conservation category wetlands and their buffers are fully protected'

The DEC does not support the proposal for the above reason.

Peel Harvey Catchment Council

The Peel Harvey Catchment Council recommends that the Shire not support this application as it is on land reserved for a public purpose under the Peel Region Scheme.

A personal residence is not a public purpose and will result in a range of detrimental impacts to the natural environment.

Also in the absence of a detailed flora survey it is unknown if any rare flora, or threatened ecological communities are located on site, however, *Caladenia huglii* have been recorded in nearby areas, outside their traditional range and therefore the presence of rare flora cannot be ruled out.



Environmental Protection Bulletin No. 12 Swan Bioplan - Peel Regionally Significant Natural Areas (Peel RSNA's)

The Environmental Protection Authority advises that proposals that may impact on Peel RSNA's 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 cannot be supported.

Subdivision Guide Plan

In June 2010 the Minister of Planning approved a Subdivision Guide Plan for Pt 16 and Lot 1209 Southern Estuary Road, Lake Clifton. This guide plan clearly delineates the location of the lots, building envelopes and roads for any future development. It also clearly marks out the access point that must be utilises for any development.

The proposed crossover/connection and access road contravene the Subdivision Guide Plan that was endorsed by the Minister for Planning. If the proposed development were to take place it would involve a separate crossover/connection as well as an access road that cuts through approximately five of the proposed lots. A copy of the approved Subdivision Guide Plan is at **Appendix 9.2.2e**.

Local Planning Strategy

With regards to the Local Planning Strategy the proposed house is located in the Lake Clifton Precinct within an area designated as Open Space, Recreation, Conservation and Forestry. The proposed use is not consistent with this designation.

The proposed house is also located approximately 12 m from the Harvey River and approximately 50 m from the Harvey Estuary. In regards to on-site effluent disposal in the Peel – Harvey Catchment, standard septic systems are to be located no closer than 100 m to any watercourse. Alternative Treatment Units may be provided where the setback is less than 100 m. But in the case of this proposal an Alternative Treatment Unit has not been provided for. Therefore no septic system is to be closer than 50 m to any watercourse or wetland. The proposal clearly contravenes the Local Planning Strategies considerations for this precinct.

Given the above assessment and the multitude of reasons why the application cannot be supported, it is therefore recommended that Council recommend to the WAPC that the application for the proposed house on the Regional Open Space reserve be refused. The applicant will be advised by officers that the application under Town Planning Scheme No.7 is not required.

COUNCIL RESOLUTION**OCM11/02/004****MOVED: Cr Snell****SECONDED: Cr Witney**

That Council, with respect to the application in terms of the Peel Region Scheme for Planning Consent for a single House at Lot 1209 Southern Estuary Road, Lake Clifton, recommend to the Western Australian Planning Commission that the application be refused for the following reasons:

- 1. The proposed house is to be located in the Floodway. The proposed house would become isolated during major events as floodwaters would inundate the low lying land surrounding the proposed dwelling.**
- 2. The proposed house is located in an area that will be affected during major events, with the 100 year ARI flood level estimated to be 2.1m AHD and the proposal is therefore not consistent with *State Planning Policy 3.4 Natural Hazards and Disasters*.**
- 3. The site of the proposed development is within the buffer of a Conservation Category Wetland, contrary to Environmental Protection Authority *Guidance Statement No. 33: Environmental Guidance for Planning and Development*.**
- 4. The proposed Crossover / Connection is located at a point that would create a four way intersection, which is not considered to be a safe access from an engineering design perspective .**
- 5. In the absence of a detailed flora survey it is unknown if any rare flora, or threatened ecological communities are located on site**
- 6. The proposed house and access route are not consistent with the approved Subdivision Guide Plan for the lot that was endorsed by the Minister for Planning in June 2010.**
- 7. The proposal conflicts with the Local Planning Strategy for Waroona which designates the location for the purposes of Open Space, Recreation, Conservation and Forestry The proposed soakwells are also located approximately 50 m and 12 m from the nearest watercourses thus contravening the on-site effluent disposal requirements in the Local Planning Strategy.**
- 8. The proposed house is located within the Regional Open Space reservation of the Peel Region Scheme and approval to the proposed development would conflict with the purpose of the reservation.**

CARRIED 6/0

9.2.3 LOT 69 (NO.15) HESSE STREET, WAROONA - APPLICATION FOR PLANNING CONSENT FOR FAMILY DAY CARE CENTRE	
Reporting Officer / Officer's Interest:	Greg Delahunty – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Aleesa Owen
Landowner:	Aleesa Owen and Timothy Corby
Date of Report: Date Report Written	File No: TP1315
Previous Reference:	None
Statutory/Policy Implications:	Planning and Development Act 2005 Child Care Services Act 2007 Environmental Protection Act 1986 Food Act 2008 Health Act 1911 Building Code of Australia Child Care Services (Family Day Care) Regulations 2006 Environmental Protection (Noise) Regulations 1997 Food Regulations 2009 Shire of Waroona Town Planning Scheme No. 7 Planning Bulletin 72/2009 Child Care Centres
Strategic Implications:	Local Planning Strategy
Financial Implications:	Nil
Voting Requirements	Simple Majority

Proposal

To consider an application for planning consent for Family Day Care Centre at Lot 69 Hesse Street, Waroona.

Background

An application was received for a Family Day Care Centre at Lot 69 (No.15) Hesse Street, Waroona.

The Family Day Care Centre entails the following:

- Employment of no-one other than members of the occupier's household
- Hours of operation between 6:00am and 6.30pm
- Home Occupation to take place all throughout the dwelling
- Provision of care for no more than seven children.
- Four designated play areas and two designated sleep areas provided.
- One toilet will be provided for the centre.
- All play to be contained within the dwelling and within roofed patio area.
- Driveway to provide parking for up to four (4) cars.
- Additional parking provided for on verge of the subject site.

The submitted site plan and an elevation plan are at **Appendix 9.2.3a & 9.2.3b** respectively.

General:

There have been no family day care providers in Waroona for over five years. With the local Child Care Centre closing, families are relying on Child Care Centres outside the Shire of Waroona for their needs.

The 850m² lot contains one house and one shed. The width of the existing driveway can comfortably accommodate a double car bay for visitors / clients in addition to the two parking bays used by the owners.

Development has taken place to convert an existing garage into a storage area. The Patio area has also been covered with a roof. This development was undertaken without a building license and a retrospective Building Licence has been applied for.

Statutory Implications

Family Day Care Centres need to comply with the legislation of the Government of Western Australians Department of Communities Child Care Services Act 2007 and Child Care Services (Family Day Care) Regulations 2006.

In terms of the Child Care Services Act 2007 a Family Day Care Service means:
“a child care service provided at a place where —

- (a) the person providing the service lives; and*
- (b) none of the children to whom the service is provided live.”*

The Department for Communities, through the Child Care Licensing and Standards Unit (CCLSU), is responsible for administering the State Regulations for all licensed child care services, including child care centres, family day care and outside school hour's care. When issuing a Licence for Family Day care the number of children is restricted to seven.

Family Day Care centres are also subject to supplementary legislation such as the Environmental Protection Act 1986 and Regulations, Health Act 1911 and Regulations, and the Building Code of Australia.

In order to operate a Family Day Care centre, an operator must comply with all of the relevant legislation.

Child Care Services (Family Day Care) Regulations (2006)

Advice was sought from the Department for Communities of the Government of Western Australia who supplied the Child Care Services (Family Day Care) Regulations 2006. A license for Family Day Care must be obtained from the Department of Communities. An advice note has been added in relation to this.

Shire of Waroona Town Planning Scheme No. 7 (TPS)

TPS no. 7 defines a Family Day Care Centre as *“land and building used for the purpose of a Family Day Care Centre as defined in Child Welfare (Care Centres) Regulations 1968 (as amended).”*



The subject lot is located within the 'Urban 4 – Residential' zone under the Shire of Waroona Town Planning Scheme No. 7 and is therefore subject to Clause 4.8.1 of the Scheme, which relates specifically to that zoning.

Clause 4.8.1 states that it is an objective of the Council to ensure that development occurs in a manner which will provide adequately for the variety of residential needs anticipated in the reasonably foreseeable future, consistent with the best use of available land resources and a high level of urban amenity.

Family Day Care is currently listed as an 'AA' use under the Zoning Table of the Scheme for the 'Urban 4 – Residential' zone. An 'AA' use means the Council may, at its discretion, permit the use.

Clause 8.7.1 states that if council have not, within sixty days of the receipt of an application for planning consent, either conveyed a decision or given notice of the application, it may be deemed to have been refused.

However clause 8.7.3 states that notwithstanding that an application for Planning Consent may be deemed to have been refused under Clause 8.7.1, the Council may issue a decision in respect of the application at any time after the expiry of the sixty day period specified in that clause as the case may be.

The application was not determined during the initial 60 day period due to initial advice from the applicant that it was decided not to continue with the application. However, after more recent discussions with the Shire's Planning Department, the applicant decided to continue with the application.

Clause 6.8.1 of the Scheme states that minimum on-site vehicle parking spaces shall be provided in accordance with the requirements shown in table 2. As a Family Day Care Centre is listed as a residential use in the Scheme, in relation to vehicle parking, the Scheme states that it must refer to the standards of the Residential Design Codes (covered below).

Residential Design Codes

Clause 6.8.1 of the Town Planning Scheme states that, in relation to vehicle parking, the proposed Family Day Care centre must refer to the Residential Design Codes.

Section 6.5 of the Residential Design Codes deals with Access and Parking Requirements. Clause 6.5.1 A1 states that in relation to single houses, on-site parking spaces provision for two spaces, which may be provided in tandem.

Strategic Implications

WAPC Planning Bulletin 72/2009 Child Care Centres

The objectives of the said Bulletin are to:

1. Locate child care centres appropriately in relation to their surrounding service area.
2. Minimise the impact a child care centre has on its surrounds, in particular on the amenity of existing residential areas.
3. Consider the health and safety of children attending the child care centre within the confines of the planning system.



Local Planning Strategy (LPS)

The subject lot is located within the residential area of the Town Precinct. Section 16.5 states that it is the objective of the Strategy to provide for the enhancement and the planned expansion of the Waroona Townsite. Family Day Care is listed as a discretionary use under the LPS.

Community Consultation

As Family Day Care is listed as an ‘AA’ use, the proposal was advertised under section 8.2.2 of the TPS.

The proposal was advertised to adjoining landowners for a period of 21 days from 22nd December 2010 to 12 January 2011. Letters were sent to adjoining landowners to make them aware of the application. During that time one submission on the matter was received from an adjoining landowner, voicing concerns about the standard of development that has already taken place.

The Schedule of Submissions is at **Appendix 9.2.3c**.

Internal Referral

Upon referral to Engineering Services, the Director of Technical Services stated that no construction must take place upon Shire property (verge) without prior consent from the Shire.

Upon referral to Building Services, the Building Surveyor stated that a building license must be sought for the development that has taken place already. Also, a parapet wall must be constructed with regards to the new carport. The Building Surveyor also stated that all stormwater must be contained on site. It was also noted that any noise emanating from the site will have to comply with the Environmental Protection (Noise) Regulations 1997, which specifies the level of noise that can be made between the hours of 7.00am to 7.00pm Monday to Saturday.

Finally upon referral to the Manager Environmental Health and Building Services, it was noted that should food be prepared on the premises, the premises must be registered with the Shire and comply with the Food Act 2009.

Officer's Comments

The Family Day Care Centre is in keeping with the Council's objectives of providing adequately for the variety of residential needs. Currently there is no Child Care or Day Care facility in Waroona, which shows a critical need for this service.

There is sufficient space for on site vehicular parking, with space for up to four cars on the double car driveway. There is also space for supplementary parking of up to four vehicles upon the verge of the subject lot if such a need should arise, however, this will require specific approval of Council. An advice note has been added with regards to this. The subject lot is located on a straight stretch of road, this should ease the ability of vehicles to access the site safely.

The proposed Family Day Care Centre is consistent with the WAPC's Planning Bulletin 72 – Child Care Centres, in the following ways:

1. Locate child care centres appropriately in relation to their surrounding service area.

The Family Day Care Centre is appropriately located in an area that is clearly lacking this service as there is no such facility in Waroona at present.

2. Minimise the impact a child care centre has on its surrounds, in particular on the amenity of existing residential areas.

The most significant impact that a Family Day Care Centre could have on the amenity of an existing residential area, stems from the fact that there will be an increased number of children on site during the designated times on the designated days. It is the difference between the extra number of children on site compared to a family with children residing on the property that could result in a negative impact on the amenity of the area. The two major differences involved in having the extra number of children on site are parking, consisting of on site parking as well as vehicle drop offs and collection, and noise. A third issue is the visual impact the development will have on the surrounding area as a result of development undertaken that is necessary for the Family Day Care Centre to operate.

a) Parking

The first point to note is that the property is in compliance with the Scheme's requirement to comply with the Residential Design Codes standards for on site vehicle parking. It is a requirement of the Residential Design Codes that two (2) parking spaces must be provided on site for a single house. In the case of the subject proposal the site plan submitted indicates parking provision for at least four (4) vehicles on site. Two (2) parking bays can be utilised by the owners of the residence, while two (2) bays will be available for the purposes of the Family Day Care Centre.

As a result of the extra children on site there will be an increased number of cars accessing the site and parking on site in order to drop off and collect children.

Two potential problems that could possibly arise from this are verge parking and traffic congestion. After a site assessment it is considered that all the parking can be contained wholly on site. There is provision for two (2) visitor parking spaces on site and this should be sufficient to deal with the parent generated trips as they drop off and collect their children each day. A condition has been added to this effect also stating that if parking cannot be contained on site that no parking shall take place on Shire property (verge) without prior written consent of Council. This condition should ensure that no verge parking will take place. Given that the number of children at the Family Day Care Centre is limited to seven (7) including that of the centre operator, traffic generation to the site is considered to be relatively low and consistent with that expected in a residential area. Traffic congestion is therefore not expected to be an issue.

b) Noise

The other impact that could arise from having an extra number of children on site is noise pollution. Under the Environmental Protection (Noise) Regulations 1997, a residence is defined as a Noise Sensitive Premises and can be only subject to a certain level of noise. The proposed Family Day Care centre is surrounded by five (5) residences that would be considered Noise Sensitive Premises under the Noise Regulations. Should the noise created on site exceed the levels permitted as a result of the additional children, the Shire will be able to deal with the matter by enforcing the provisions of the Noise Regulations. To deal with this an advice note has been added to advise the applicant that the Family Day Care Centre needs to comply with the Environmental Protection (Noise) Regulations 1997 at all times.

c) Visual Amenity

In the one submission that was received during the advertisement of the Family Day Care Centre the individual who made the submission was concerned that the development that had taken place on the subject property may have a negative visual impact on the amenity of the area. While this building license is not necessary in order to grant a Planning Approval, it has been added as an advice note that a Building Licence must be obtained for the development already started. Once the Building Licence has been obtained, the development will be to the satisfaction of the Shire, and not affect the visual amenity of the neighbourhood.

3. Consider the health and safety of children attending the child care centre within the confines of the planning system.

The health and safety of the children are regulated by the Child Care Services (Family Day Care) Regulations 2006. In order for an individual to acquire a licence to operate a Family Day Care Centre, the centre needs to be in compliance with these regulations, as well as receiving a Planning Consent. These regulations set out the obligations of the licensee such as the requirements of place and operating procedures. There is also a section dealing with the Safety and Health of the enrolled child. Under Part 3, Obligations of licensee, Division 2, Requirements for place, there is an extensive list of requirements, that the licensee must comply with, that ensure the safety of the child. Under Part 4, Operating the service, Division 5, Safety and Health of enrolled child, there is a list of requirements that must be satisfied throughout the operation of the service that will ensure the safety of the child.

The Director of Technical Services' concerns regarding construction of parking bays on Shire property (verge) has been addressed in a condition to ensure that if excess parking is required, it will not take place on Shire property without written consent.

The Building Surveyors' concern that a Building License must be sought for development that has taken place already, has been dealt with the addition of

an advice note stating that a Building Licence is required for the current/proposed additions to the existing house on the property. The second concern of the Building Surveyor, relating to the containment of all stormwater on site, has been dealt with the addition of a condition stating that all stormwater and drainage runoff must be contained on site to the specification and satisfaction of the Director Technical Services, or connected to a Council stormwater legal point of discharge.

The Manager Environmental Health Office and Building Services' concern regarding the serving of food on the premises has been addressed with the addition of an advice note stating that compliance with the Food Regulations 2009 and Food Safety Standards is required, if food is prepared on site for the consumption at the Family Day Care Centre.

The concerns raised in the submission received following public advertising, were of a similar nature to those raised by the Building Surveyor and have been adequately addressed with the addition of conditions and advice notes as previously noted. It can be ascertained from the minimal number of opposing submissions from other neighbours, that the adjoining landowners have no objection to the proposed Family Day Care Centre.

The proposed Family Day Care Centre is not expected to detract from the amenity of the area. The proposal will also address the current lack of a similar service in the Shire of Waroona. Given the above assessment, there is no planning reason to refuse the application and the proposed Family Day Care Centre is therefore recommended for approval.

COUNCIL RESOLUTION

OCM11/02/005

MOVED: Cr Wright

SECONDED: Cr Snell

That Council, with respect to the application for Planning Consent for a Family Day Care Centre at Lot 69 (No.15) Hesse Street Waroona, approve the application subject to the following conditions:

- 1. The total number of children on site for child care purposes (including the proponent's own children), shall not exceed seven (7) at any time in accordance with the conditions on the Department for Communities Family Day Care Service Licence.**
- 2. Proposed outdoor activities associated with the Family day Care Centre are only to be carried out between 7.00am – 6.00pm on weekdays and 9.00am – 6.00pm on weekends. All activities must be conducted in a manner to avoid any adverse noise impact upon adjoining neighbours, to the satisfaction of the Manager Environmental Health and Building Services.**
- 3. Dropping off and picking up of children are to be restricted between 7.00am – 6.00pm on weekdays and 9.00am – 6.00pm on weekends to the satisfaction of the Manager Environmental Health and Building Services.**

4. All vehicle parking, including vehicles dropping off and picking up children, shall be accommodated within the boundaries of the subject lot.
5. The area proposed for dropping off and picking up (as per attached site plan) is to be clear at all times and available for the use of customers to the satisfaction of the Manager Planning Services.
6. No verge parking shall take place without prior written consent of the Shire.
7. All stormwater and drainage runoff to be contained on site to the specification and satisfaction of the Director Technical Services, or connected to a Council stormwater legal point of discharge.
8. The use, management and development of the land to be in accordance with the terms and provisions of the Town Planning Scheme No.7.
9. All conditions to be completed with prior to exercising the right of this consent, to the satisfaction of the Manager Planning Services.
10. This approval shall expire if the development hereby approved is not commenced and conditions completed within two (2) years of the date hereof, or within any extension of time which upon written application to Council (made at least sixty (60) days prior to the expiry of the approval) is granted by it in writing.

Advice to applicant:

- A. The applicant should ensure that the proposed development complies with all other relevant legislation including but not limited to; Child Care Services (Family Day Care) Regulations 2006, the Environmental Protection Act 1986 and Regulations, Health Act 1911 and Regulations, and the Building Code of Australia.
- B. A Building Licence is required for the current / proposed additions to the existing house on the property.
- C. The applicant is advised that the Family Day Care Centre must be registered under the Food Act 2008 and compliance with the Food Regulations 2009 and Food Safety Standards is required if food is prepared on site for the consumption at the Family Day Care Centre.
- D. The applicant is advised to liaise with the Shire's Environmental Health and Building Services Department to arrange for an inspection of the premises to ensure compliance with requirement of the Health Act 1911.

CARRIED 6/0



9.2.4 LOT 105 SOUTHERN ESTUARY ROAD LAKE CLIFTON - APPLICATION FOR PLANNING CONSENT FOR RELOCATION OF BUILDING ENVELOPE AND SHED	
Reporting Officer / Officer's Interest:	Greg Delahunty – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Benjamin Doyle
Landowner:	Benjamin Doyle
Date of Report:	File No: TP1374
Previous Reference:	TP13542
Statutory/Policy Implications:	Planning and Development Act 2005 Shire of Waroona Town Planning Scheme No. 7
Strategic Implications:	Local Planning Strategy Shire of Waroona Town Planning Policy 2.0 Lake Clifton / Herron Structure Plan Shire of Waroona Town Planning Policy No. 5.0 - Setbacks and Building Envelopes
Financial Implications:	Nil
Voting Requirements	Simple majority

Proposal

An application was received for the relocation of the 200m² building envelope on Lot 105 Southern Estuary Road, Lake Clifton, which is to accommodate a 12m by 12m (144m²) American Barn style shed constructed with steel framing. The applicant has proposed that the building envelope be shifted 125 m towards the front of the site.

The proposed relocation would see the envelope be located 97 m from the street boundary and 155 m from the rear boundary. There will a new side setback of 49 m to the western side of the lot and a new setback of 6.5 m to the eastern side.

The submitted plan and a location diagram are contained at **Appendix 9.2.4a**.

Background

The 3.1 ha lot is presently vacant in terms of improvements. The majority of the lot has a relatively dense coverage of mature native vegetation with the exception of a cleared area at the front of the lot.

It should be noted that a planning consent has been granted on 27 July 2010 for the location of a 12m by 12m (144m²) American Barn style shed constructed with steel framing in the original Building Envelope to the rear of the property. (The colour of the shed was conditioned to be non-reflective and of muted, natural tones.)

Statutory Implications

The subject lot is located within the 'Rural 6 – Rural Residential' zone under the Shire of Waroona Town Planning Scheme No. 7 (TPS). In accordance with Clause 6.1.2(c) (vi) of the TPS, development taking place within land zoned 'Rural 6 – Rural Residential' requires the Planning Consent of Council. Clause 4.15 of the Scheme



relates specifically to the 'Rural 6' zone, and the application for the variation of the envelope can be assessed using the relevant provisions of this clause.

Clause 4.15.3(c) concerns building envelopes. This clause states that Council may permit a variation of a building envelope if the new location will not be detrimental to the protection of the environment or the amenity of the area.

Clause 4.15.4 states that no approval is needed, from Council, for the clearing of trees and vegetation within a defined building envelope

Strategic Implications

Planning Policy 2.0 - Lake Clifton / Herron Structure

Lot 105 Southern Estuary Road is located in the Lake Clifton Precinct and is therefore subject to the Lake Clifton / Herron Structure Plan (Planning Policy 2.0). The objectives of this Policy are reflected in the Local Planning Strategies guide for this precinct.

Planning Policy 5.0 – Setbacks and Building Envelopes

Lot 105 is also subject to Planning Policy 5.0 – Setbacks and Building Envelopes. This policy states that applications for the modification of building envelopes shall be assessed against a selection of criteria. Some of the criteria used to assess this are as follows.

- a) The effect the proposed modification is likely to have on the amenity of adjoining properties, in terms of privacy, overshadowing or visual intrusion.
- b) The effect the proposal is likely to have on the environment.

Local Planning Strategy (LPS)

The subject lot is located within the Lake Clifton Precinct of the Local Planning Strategy. Lot 112 is designated "Rural Residential" within the Local Planning Strategy. It is an objective of the Strategy to provide adequate areas that will offer lifestyle blocks with good amenity in locations where environmental impacts can be minimised.

Community Consultation

Under section 8.2.2 of the TPS the proposed variation of the building envelope was advertised to adjoining landowners for comment. Letters were sent to adjoining landowners to make them aware of the application. During the advertising period, two submissions on the matter were received. The Schedule of Submissions is at **Appendix 9.2.4b**.

The first adjoining landowner's submission was in favour of the proposal.

The second adjoining landowner's submission was opposed to the proposed building envelope relocation, stating:

- Objection based on the fact that if this is approved we will be looking at a shed on our neighbours block and it is not a pretty sight.
- The applicant has already chopped down trees in his existing building envelope.



- Area is being devalued due to number of sheds being constructed
- When purchasing the lot was led to believe, by the real estate agent, that only single story brick/iron or brick/tiled homes would be permitted in the area.

Officer's Comments

The proposed location of this Building Envelope has been changed on two separate occasions by the applicant, neither of which was to the satisfaction of the Planning Department. The original submitted plan is attached at **Appendix 9.2.4c**.

A site inspection revealed that although the proposed envelope relocation will see a reduced amount of mature native trees removed in the envelope, there is scope for greater reduction of tree loss if the envelope is located more centrally and to the front of the lot. As clearing within approved envelopes is permitted in the Rural 6 Zone, trees may potentially be removed by the property owner in the current envelope.

The eastern side setback of 6.5 m is very close to the adjoining landowner considering the size of the lot. Following the advertisement period of three weeks this adjoining landowner made a submission in opposition to the proposed Building Envelope relocation. One point of the objection was the fact that the applicant has already removed native vegetation within their original Building Envelope. The applicant had the right to clear this vegetation within his envelope, however, as the location of the new Building Envelope contains more vegetation, more clearing can legally be undertaken.

There was also one submission in favour of the relocation from the landowner at the rear of the subject lot, stating that the proposal would provide them greater privacy.

Due to the fact that some clearing has already been undertaken in the original Building Envelope and also the proximity of the proposed Building Envelope to the adjoining landowners on the east side, it is suggested that Council designates the new Building Envelope in a location that does not detrimentally affect the amenity of the natural environment as well as the amenity of adjoining landowners.

A condition, stating that Council may determine the location of the building envelope, has been added to address this issue.

Council's proposed relocation of the building envelope is consistent with Planning Policy 5.0 – Setbacks and Building Envelopes, given that it satisfies the criteria in the following manner:

The effect on the environment is reduced as the number of trees and vegetation growing within the proposed building envelope is much smaller than that in the original envelope.

Also the amenity of adjoining landowners will not be significantly affected due to the new setbacks of this Building Envelope. The proposed shed will be similar in design to that of other sheds approved by the Shire in the Lake Clifton area.

Council's proposed building envelope relocation is consistent with the Local Planning Strategy for the Lake Clifton Precinct. This states that it is an objective of the Local Planning Strategy, for this precinct, to provide adequate areas that will offer lifestyle

blocks with good amenity and in locations where environmental impacts can be minimised. Clearly the amenity of the environment and adjoining landowners would be through a recommended siting of the Building Envelope by the Planning Department.

Given that the current Building Envelope location is undesirable it is suggested that the siting of a new location by the Planning Department will result in a Building Envelope that will not detract from the environmental amenity of the area in general or the amenity of adjoining landowners specifically.

COUNCIL RESOLUTION

OCM11/02/006

MOVED: Cr Wright

SECONDED: Cr Snell

That Council, with respect to the application for Planning Consent for a Building Envelope relocation and a shed at Lot 105 Southern Estuary Road, Lake Clifton, approve the application subject to the following conditions:

- 1. An amended Building Envelope plan shall be submitted by the applicant and approved by the Manger Planning Services at a location:
 - 77m from the street boundary of the lot.
 - 175m from the rear boundary of the lot.
 - 34m to the western side boundary of the lot.
 - 21.5m to the eastern side boundary of the lot .**
- 2. All dwellings, outbuildings and other structures shall be developed within the building envelope hereby approved.**
- 3. The shed hereby approved shall occur in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the approval of Council, except as required below.**
- 4. Building materials to be of a colour not detrimental to the character of the natural landscape of the locality – that is colours to be non-reflective and of muted tones.**
- 5. All stormwater and drainage run-off shall be contained on site to the specifications and satisfaction of the Director Technical Services or appropriate designated Council officer. Without the approval of Council, no stormwater is to be discharged into or on the road reserve, or connected to a Council stormwater legal point of discharge.**

- 6. This approval shall expire if the development hereby approved is not completed within two (2) years of the date hereof, or within any extension of time which upon written application to Council (made at least sixty (60) days prior to the expiry of the approval) is granted by it in writing.**

Advice to applicant:

- A. In terms of Clause 4.15.4 of the Shire of Waroona Town Planning Scheme No.7 1996 clearing of trees or other substantial vegetation is not permitted except clearing of vegetation which is:**
- Dead diseased or dangerous;**
 - Necessary for any firebreak;**
 - For the purpose of access to an approved dwelling or outbuildings;**
 - Within a defined building envelope and limited to that;**
 - Necessary for the construction of a dwelling, outbuildings and an area of 20 m width surrounding the dwelling for the purposes of bush fire protection.**
- B. The applicant is advised that no site works shall commence until a Building Licence has been issued by the Shire of Waroona. This Planning Consent does not grant consent to commence building works. Furthermore, the shed is to comply with the Building Code of Australia.**

CARRIED 6/0

Cr Snell declared an interest affecting impartiality in Item 9.2.5 as a member of FRAGYLE.

9.2.5 EXTENT AND USE OF YALGORUP NATIONAL PARK	
Reporting Officer / Officer's Interest:	Louis Fouché – Manager Planning Services / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	FRAGYLE
Landowner:	Various
Date of Report: Date Report Written	File No: 163/1
Previous Reference:	N/A
Statutory/Policy Implications:	Environment Protection and Biodiversity Conservation Act 1999 Planning and Development Act 2005 Western Australian Planning Commission Act Land Administration Act 1997 Peel Region Scheme Shire of Waroona Town Planning Scheme 1996
Strategic Implications:	State Planning Policy 2.1 Peel – Harvey Coastal Plain Catchment State Planning Policy 2.6 State Coastal Planning 1998 State Planning Policy 2.9 Water Resources 2006 Coastal and Lakelands Planning Strategy 1999 Yalgorup National Park Management Plan 1995 - 2005 Peel-Yalgorup Ramsar Management Plan Natural Resource Management Plan for Peel-Harvey Catchment 2005 Peel Waterways Economic Development and Recreation Management Plan 2002 Shire of Waroona Local Planning Strategy 2009
Financial Implications:	Nil
Voting Requirements	Simple Majority

Proposal

Correspondence has been received from Friends of Ramsar Action Group for the Yalgorup Lakes Environment (FRAGYLE) requesting support for:

- The protection of environmental values in the Yalgorup Lakes and surrounding area through the expansion of the Yalgorup National Park through the acquisition of private land adjacent to the lakes.
- The amalgamation of private land adjoining the Yalgorup Lakes into the Yalgorup National Park with National Park status.
- The opening and making available of the Yalgorup National Park to the public as an Ecological, Educational and Recreational Park.

A covering letter and executive summary of the FRAGYLE proposal is attached as **Appendix 9.2.5a**. Copies of the Yalgorup National Park Maps provided by FRAGYLE are attached as **Appendix 9.2.5b**



Background

The issue regarding extension and consolidation of the Yalgorup National Park has been ongoing for some time and has been affected by various statutory and strategic documents as well as lobbying by interest groups. Included in the mentioned documents are the designation of the National Park in the Peel Region Scheme, Yalgorup National Park Management Plan 1995 -2005 and the Shire of Waroona Local Planning Strategy 2009.

Community Consultation

No public consultation has been conducted for this specific proposal as this is essentially a state government matter. Public consultation was conducted by the Department of Planning / Western Australian Planning Commission as legally required for the Peel Region Scheme. Public consultation is generally conducted by government agencies on their management plans.

Statutory Implications

Environment Protection and Biodiversity Conservation Act (1999) (Commonwealth)

Australia recognises its obligations to the Ramsar Convention through legislative tools such as the *Environment Protection and Biodiversity Conservation Act 1999*. The Act protects matters of National Environmental Significance, including the ecological character of Ramsar wetlands, threatened ecological communities, listed threatened species and migratory species.

Under the Act, “Actions” that are likely to impact on a matter of National Environmental Significance *must* be referred to the Australian Government Minister.

The referral should be made by:

- The person proposing to take an action, but may also be made by
- A State, Territory or Australian Government Minister, or government agency (including Local Government) that is aware of a proposed action if that Minister or agency has administrative responsibilities relating to the action, or
- The Australian Government Environment Minister.

Planning and Development Act 2005

Section 126 (1) states that if a region planning scheme delineates land comprised in a local planning scheme as a reserve for any public purpose, then the local planning scheme, in so far as it operates in relation to that land, is, by force of this section and without any further action under the Act, amended to such extent (if any) as is necessary to give effect to the reservation under the region planning scheme. (In this instance the relevant region scheme is the Peel Region Scheme).

Section 177 describes when compensation is payable if land is reserved for a public purpose.

Peel Region Scheme

It should be noted that land designated for the Yalgorup National Park is designated as Regional Open Space and Waterways in terms of the Peel Region Scheme. Other substantial portions of land in the immediate locality are designated State Forest or zoned Rural. The extent of private land proposed to be incorporated in the National Park is not clear from the maps and documentation provided by FRAGYLE on this aspect.

Clause 2 (2) states that reserved land means land reserved under the scheme for a public purpose. Clause 5 (a) states that the purpose of the scheme is to provide for the reservation and protection of land for regional; transport, conservation, recreation and public uses.

Clause 5 (c) states that the purpose of the Scheme is to provide a mechanism for landowners to be compensated in a fair and equitable manner where land is reserved for a public purpose.

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.

Clause 10 stipulates what land reserved under the scheme can be used for, including the following public purposes:

- Regional open Space - to protect the natural environment, provide recreational opportunities, safeguard important landscapes and provide for public access.
- State Forest – to recognise State Forests.
- Waterways – to recognise permanently inundated inland and coastal lands below the high water mark, and existing and proposed water canals.

Clause 12. stipulates what land zoned under the scheme can be used for, including the following purpose:

- Rural – 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.

Part 6 of the Peel Region Scheme deals with the Development of Land and Clause 18 states that subject to clause 19 and 20, a person may not commence or carry out development on a reserved land unless that person has first applied for and obtained the planning approval of the commission under Part 7.

Town Planning Scheme No. 7

Part III of Town Planning Scheme No. 7 deals with Scheme Reserves. Clause 3.1 states that land shown as Reserves on the Scheme Maps, and the legend thereon, are lands reserved under the Scheme for the purposes shown on the Scheme Maps. The Peel Region Scheme reservation is reflected on Town Planning Scheme Map No.7, which designates the site in question as Regional Open Space and Waterways. A copy of the Scheme Maps, which also reflects the Peel Region Scheme reservations, is attached as **Appendix 9.2.5c**.



Clause 3.2.1 states that where an application for Planning Consent is made with respect to land within a Scheme Reserve or any other Crown Reserve, the Council shall have regard to the ultimate purpose intended for the Reserve and the Council shall, in the case of land reserved for the purposes of a Public Authority, confer with that Authority before granting its consent.

Clause 3.3 deals with the issue of compensation. Clause 3.3.1 states that where the Council refuses Planning Consent for development of a Scheme Reserve on the ground that the land is reserved for Local Authority purposes or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.

Clause 3.3.2 states that claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing Planning Consent or granting consent subject to conditions which are unacceptable to the applicant.

Strategic Implications

The area included in and surrounded by the Yalgorup National Park is subject to a raft of strategic plans. Some key documents are discussed below.

State Planning Policy 2.1 Peel – Harvey Coastal Plain Catchment

The Peel-Harvey coastal plain catchment policy ensures that land use changes within the Peel-Harvey estuarine system likely to cause environmental damage to the estuary are brought under planning control and prevented.

The objectives of this policy are to:

- Improve the social, economic, ecological, aesthetic, and recreational potential of the Peel-Harvey coastal plain catchment.
- Ensure that changes to land use within the catchment to the Peel-Harvey estuarine system are controlled so as to avoid and minimise environmental damage.
- Balance environmental protection with the economic viability of the primary sector.
- Increase high water-using vegetation cover within the Peel-Harvey coastal plain catchment.
- Reflect the environmental objectives in the draft Environmental Protection Policy (Peel-Harvey Estuarine System) 1992.
- Prevent land uses likely to result in excessive nutrient export into the drainage system.

State Planning Policy 2.6 State Coastal Planning 1998

The policy addresses land use planning and development issues specifically as they relate to the protection and management of the coast. The policy requires strategic plans to guide local planning, development setbacks for protection against coastal processes such as erosion and storms, and the provision of coastal foreshore reserves. Guidance is provided on determining setbacks. The preparation of coastal planning strategies or coastal foreshore management plans in partnership with the broader community is also strongly advocated.



The policy provides high order guidance for decision-making on coastal planning matters and applies statewide. Implementation will be through local government town planning schemes, and regional and local strategies.

State Planning Policy 2.9 Water Resources 2006

This policy is directly related to the overarching sector policy SPP 2 Environment and Natural Resources policy and provides clarification and additional guidance for consideration of water resources in land use planning. The objectives of this policy are to:

- protect, conserve and enhance water resources that are identified as having significant economic, social, cultural and/or environmental values;
- assist in ensuring the availability of suitable water resources to maintain essential requirements for human and all other biological life with attention to maintaining or improving the quality and quantity of water resources; and
- promote and assist in the management and sustainable use of water resources.

Yalgorup National Park Management Plan 1995 -2005

The Yalgorup National Park Management Plan was developed by the then Department of Conservation and Land Management and addresses issues related to management directions, conservation, recreation, community relations, commercial uses, research and plan implementation.

The Peel-Yalgorup Ramsar Site Management Plan

The Peel-Yalgorup Ramsar Site Management Plan aims to maintain the ecological character of the wetland environment that is an important part of Mandurah and the Peel-Harvey Region, by encouraging wise use of the wetland and its resources. The Peel-Yalgorup Ramsar wetland covers 26,000 hectares and comprises four sub-systems, the Peel Inlet, Harvey Estuary, the McLarty Lakes and the Yalgorup Lakes.

Please find attached Local Government Areas Affected at **Appendix 9.2.5d**.

Natural Resource Management Plan for Peel-Harvey Catchment 2005

The *Natural Resource Management Plan for Peel-Harvey Catchment* was prepared by the Peel-Harvey Catchment Council (PHCC) to provide a framework for addressing natural resource management (NRM) issues across the whole of the catchment. It builds upon a considerable history of community involvement in landcare and natural resource management within the catchment, fostered by various government agencies.

Peel Waterways Economic Development and Recreation Management Plan 2002

The goal of the study prepared by the Water and Rivers Commission was to develop an Economic Development and Recreation Plan for the Peel Waterways which will provide for clear and planned use of the waterways and related land based activities.



Shire of Waroona Local Planning Strategy 2009

With regards to the Local Planning Strategy the Yalgorup National Park is located in the Lake Clifton and Coastal Precincts within an area designated as Open Space, Recreation, Conservation and Forestry. Copies of the Coastal and Lake Clifton Precinct Plans in the Local Planning Strategy are attached as **Appendix 9.2.5e**.

Officer's Comments

The Yalgorup Lakes and National Park are subject to a raft of federal, state and local government legislation, policies, strategies and management plans as indicated earlier in the report.

It is clear from the above documents that the Yalgorup Lakes and National Park are located in an ecological and sensitive biodiverse environment, which is recognised by the Ramsar Convention on wetlands, the reservations in the Peel Region Scheme and Shire of Waroona Town Planning Scheme as well as designations in the Shire of Waroona Local Planning Strategy. The conservation of these areas is imperative in order to ensure the preservation of the various sensitive fauna and flora species found in the area. Although it is clear that development around the lakes does place pressure on the lakes environment, it is however not clear that the current conservation process is not adequate.

At this point, it is not considered necessary that any of the existing statutory documents (i.e. Regional Scheme and Local Planning Scheme) be amended. It is considered that the proposal is generally consistent with the Shire of Waroona Local Planning Strategy.

Different components of the subject area are managed by different government agencies including the Department of Environment and Conservation as well as the Peel-Harvey Catchment Council. Management Boards are responsible for the management of the various management plans that affect the Yalgorup Lakes and National Park.

It is not clear from the FRAGYLE proposal whether it proposes a change in management structure, however, the proposal may have implications in terms of the management of the Yalgorup Lakes and National Park, which are best reviewed by the Government of Western Australia if considered necessary and appropriate.

The proposal by FRAGYLE that private land in the Yalgorup Lakes system be integrated with the Yalgorup National Park is supported in as far as the existing Peel Regional Plan reservations apply. The private ownership of land in reserved areas presents various development and legal implications to the Shire including potential claims for compensation under the town planning scheme. Similar claims can be made to the State Government in terms of the Peel Region Scheme. Integrating private land beyond the Regional Open Space boundaries in the Peel Region Scheme will be inconsistent with the scheme itself.

The general intent by FRAGYLE to promote environmental education in the Yalgorup Lakes location is supported as this will contribute to the objectives of the conservation and preservation of the natural environment in and surrounding the lakes system. The establishment of environmental education centre in the national park for instance will be of significant benefit to educating the general public on a range of environmental topics relevant to the area.

The area of the National Park is vast (approximately 13,000 ha across the Shires of Murray, Waroona and Harvey) and therefore provides for opportunities for recreation such as camping, eco-tourism, cycling and walking tracks. Where appropriate, the general intent of FRAGYLE to promote recreation and health values within the Yalgorup National Park is also supported. This however needs to occur in a well managed and controlled manner so that the risk of environmental harm is minimised.

In as far as recreation and environmental education are concerned, it is considered that should these objectives be successfully developed, that it will also assist in promoting Waroona and the Peel region from a tourism, development and economic perspective.

The proposal by FRAGYLE is supported in general, however the implications of the proposal specifically in terms of management structure is best reviewed and considered by the Western Australian Government.

COUNCIL RESOLUTION

OCM11/02/007

MOVED: Cr Dew

SECONDED: Cr Wright

That in relation to the correspondence from FRAGYLE regarding the Yalgorup National Park, Council advises FRAGYLE and the Department for Environment and Conservation that it supports:

- 1. The protection of environmental values in the Yalgorup Lakes and surrounding area through the expansion of the Yalgorup National Park by the voluntary acquisition of private land adjacent to the lakes in accordance with the Regional Open Space and Waterways boundaries of the Peel Region Scheme.**
- 2. The amalgamation of private land adjoining the Yalgorup Lakes into the Yalgorup National Park with National Park status in accordance with the Regional Open Space and Waterways boundaries of the Peel Region Scheme.**
- 3. The opening and making available of the Yalgorup National Park to the public as an Ecological, Educational and Recreational Park where appropriate.**

CARRIED 6/0

9.2.6 LAKE CLIFTON BUSHFIRES –WAIVING OF PLANNING AND BUILDING FEES	
Reporting Officer / Officer's Interest:	Steve Cleaver, Director Community and Planning Services / Nil
Responsible Officer / Officer's Interest	Steve Cleaver, Director Community and Planning Services / Nil
Proponent:	Shire of Waroona Fire Recovery Committee
Landowner:	n/a
Date of Report: 24 March 2011	File No.: 51/2
Previous Reference:	Nil
Statutory/Policy Implications:	Local Government Act 1995
Strategic Implications:	Will allow redevelopment of the Lake Clifton fire affected properties
Financial Implications:	Approximately \$5000
Voting Requirements	Absolute Majority

Proposal

To waive the building licence application fee and Planning application fee for current owners for the replacement of burnt buildings following the Lake Clifton Fires.

Background

The Local Recovery Committee has recommended

COMMITTEE RESOLUTION

MOVED: Tracey Timmins

SECONDED: Michael Cossington

That the Recovery Committee recommends to the Shire of Waroona Council to consider waiving the building and planning application fees for property damaged by fire.

CARRIED 10/0

Community Consultation

Nil.

Officer's Comments

Similar Local Government gestures of waiving fees were made in the instances from the Toodyay and Dwellingup fires. It has been noted that after four years from the 2007 Dwellingup fires only four houses have been rebuilt. In this regard it is unlikely that the offer will fully be taken up as some resident choose to relocate. It also needs to be noted that the builders registration board levy and building construction and training fund levy collected on behalf of the State Government cannot be waived as they are State charges, a request has been made to these agencies to also waive these fees however at the time of writing this report a reply has not been received.



In order not to have to amend the fees and charges it is recommended that the Shire charge the standard fees and offset this expenditure by in essence providing a grant for the fire affected owners to the value of the fees. Whilst it could be argued that these victims may have insurance that would pay the building fees most of the owners were under insured and the assistance will offset some of their losses and provide encouragement to rebuild.

It is also appropriate that a time limit be placed on the waiving of fees with the normal fees resuming after 2012/2013.

COUNCIL RESOLUTION**OCM11/02/008****MOVED: Cr Witney****SECONDED: Cr Dew**

That Building Licence application fees and Planning Application fees be absorbed by Council for fire affected properties in Lake Clifton following the fires of 10-13 January 2011, subject to the following conditions:

- 1. Exemption to expire 30 June 2013;**
- 2. Exemption is for replacement of burnt buildings previously approved; and**
- 3. Expenditure is allocated to job PW03.**

CARRIED BY AN ABSOLUTE MAJORITY 6/0

9.2.7 REQUEST FOR QUOTATION - DRAKESBROOK WEIR PONTOON	
Reporting Officer / Officer's Interest:	Steve Cleaver, Director Community & Planning Services / Nil
Responsible Officer / Officer's Interest	Steve Cleaver, Director Community & Planning Services / Nil
Proponent:	Shire of Waroona
Landowner:	Water Corporation
Date of Report:	24 March 2011 File No.: 49/1
Previous Reference:	OCM05/058
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	\$36000 offset by \$15000 Regional and Local Community Infrastructure Program (RLCIP) Round 3 grant funding.
Voting Requirements	Simple majority

Proposal

To accept the quotation from McCall Engineering for construction of a replacement pontoon for the Drakesbrook Weir at \$36000 ex (GST)

Background

The Shire has budgeted for replacement of the pontoon at the Weir however since the time of constructing the 2010/2011 budget the original firm quoting for an off the shelf pontoon has gone out of business. All other designs were either inappropriate or modified boat jetties.

Community Consultation

Nil.

Officer's Comments

Advice was sought from the City of Mandurah as they have a number of pontoons and they generously provided a model engineered design from which the Shire could obtain quotes from local manufacturers.

McCall Bros and Dwyer Engineering were invited to quote and at the close of quotes the following was received.

Company	Price (ex GST)
McCall Bros	36000
Dwyer Engineering	45474

Council has allocated \$310000 to this project and to date has spent \$75000. We will also receive \$138400 of grants towards the upgrade and at this stage will be significantly under budget this financial year. This is because car park works were undertaken by the Water Corporation instead of the Shire resulting in \$60000 worth of savings. It should also be noted that the Shires trust funds that are used for this project were given to the Shire by the Water Corporation.



The additional Shire contribution will be \$21,000, however the pontoon is significantly safer and better than the previously budgeted model. Due to the cost savings in other areas of the project it is recommended that Council therefore accepts the quote from McCall Bros.

COUNCIL RESOLUTION

OCM11/02/009

MOVED: Cr Witney

SECONDED: Cr Snell

That the quote from McCall Bros for supply of a pontoon for the Drakesbrook Weir at a cost of \$36000 be accepted.

CARRIED 6/0

9.3 DEPUTY CEO/DIRECTOR CORPORATE SERVICES

9.3.1 ACCOUNTS FOR PAYMENT	
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
Voting Requirements	Simple Majority

APPENDIX 9.3.1**COUNCIL RESOLUTION****OCM11/02/010****MOVED: Cr Dew****SECONDED: Cr Wright****That Vouchers numbered:**

<u>ACCOUNT</u>	<u>CHEQUE NOS.</u>	<u>AMOUNT \$</u>	<u>TOTAL \$</u>
Municipal Trust	6375 - 6437	\$46,948.22	\$46,948.22
	10957 - 10965	\$37,879.40	\$37,879.40
	EFT 11674 - 11992		
Electronic Transfers	EFT 11675 - 11980	\$952,426.84	\$952,426.84
Direct Wages	N/A	\$358,764.60	\$358,764.60
01/12/10 – 26/01/11			
	TOTAL:		<u>\$1,396,019.06</u>

and attached at Appendix 9.3.1 be endorsed.**CARRIED 6/0**

9.3.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD 1 JULY 2010 TO 31 DECEMBER 2010 & 1 JULY 2010 TO 31 JANUARY 2011	
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: 7/2/11	File No.: 1/1
Previous Reference:	N/A
Statutory/Policy Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	N/A
Voting Requirements	Simple Majority

APPENDIX 9.3.2**COUNCIL RESOLUTION****OCM11/02/011****MOVED: Cr Dew****SECONDED: Cr Salerian**

That the Monthly Statements of Financial Activity for the period 1 July 2010 to 31 December 2010 & 1 July 2010 to 31 January 2011 Appendix 9.3.2 be received and noted.

CARRIED 6/0

9.3.3 BUDGET REVIEW FOR THE PERIOD 1ST JULY 2010 TO 31ST JANUARY 2011	
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: 08.02.2011	File No.: 1/7
Previous Reference:	2010/2011 Adopted Budget
Statutory/Policy Implications:	See below
Strategic Implications:	N/A
Financial Implications:	See below
Voting Requirements	Absolute Majority

Policy Implications

This report considers the Council Policy in relation to material variances which states that “The materiality factor for highlighting variances (budget to actual) shall be 10% with a minimum of \$20,000.

Proposal

Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year. The review is to be submitted to Council within 30 days for determination.

The review of an annual budget for a financial year must –

- (a) consider the local government’s financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
- (b) consider the local government’s financial position as at the date of the review and
- (c) review the outcomes for the end of that financial year that are forecast in the budget.

Within 30 days after a council has made a determination, a copy of the review and council’s determination is to be submitted to the Department.

Included with the agenda at **Appendix 9.3.3** is a detailed financial information report (including predicted financial position as at 30th June 2011) pertaining to the 2010/11 budget. The report covers the 7 months period to 31st January 2011, by which this review is based.

1. Operating Income

General Purpose Funding

Rating income is less than budget forecast due to incorrect valuations supplied by the Valuer General.



The income shortfall of approx \$19,000 is expected to be partially offset by interim rates raised 2010/11.

Royalties for Regions – At the time of preparing this report no confirmation had been received on the distribution of 2010/11 funding.

Councillors would be aware that project details were submitted in conjunction with the preparation of a “Forward Capital Works Plan”.

Although the 2010/11 adopted budget contains income and expenditure of \$530,000 related to this funding, a budget amendment will be required to allocate the expenditure once approved.

Governance

Resource Sharing Initiatives – Shire of Murray:
Expenditure in 2010/11 will be less than budget due to delays with the commencement of some initiatives.

Administration Centre Extension:
Reserve fund transfer (ie, income) of approx \$400,000 is still to be made.

Law, Order, Public Safety

Fire Control – In Sept 2010 urgent replacement of a seized water pump was required at the Armstrong Hills water tank (\$2644). In addition vandalism occurred to the Southern Estuary Road fire tank which was solar powered. Negotiations are continuing with Western Power to extend electricity to this site. In the meantime Council has been manually filling the tank.

Thanks to a generous donation of \$15,000 from the Westpac Bank (to assist the Lake Clifton Bush Fire Recovery) electricity will be connected, a new pump installed and fencing repaired.

Housing

Internal transfer of rental subsidy for Doctors residence is yet to be made (\$13,520).

Community Amenities

Town Planning – Contributions to the preparation of the Preston Beach Townsite Strategy (\$25,000) are now unlikely in 2010/11. Very little expenditure has been incurred and therefore no recoup is necessary.

Transport

Government Grants of \$308,000 associated with the 2010/11 Road Construction program are outstanding and will be progressively claimed over the next 3 months.

Sundry Debtor Control

No doubtful debts likely to impact the end of year position have been identified.

2. Operating Expenditure

Housing

Doctors Residence 1 Eastcott Street – Following the departure of Dr Singh the residence required further expenditure to replace floor coverings, painting etc to bring the house to a suitable standard for the replacement doctor. Repairs to kitchen and bathroom benches plus replacement of stove will be required at a later date.

As a result maintenance on the house (A/C1702) will be in excess of budget.

Law, Order, Public Safety

Additional ranger hours are made available during the summer period to continue employment of part time ranger Sara Cope.

Matching funds were made available by employment agency Community First International.

Community Amenities

The failure of 3 BBQ's at Preston Beach (leaving only 1 operational) has incurred unbudgeted expenditure of approx \$2,300. This is likely to be an ongoing problem with coastal locations (corrosion) being the cause.

Refuse Site Attendant Contract - A budget error has been revealed which resulted in expenditure of approx \$60,000 (associated with the tip management contract) not being processed. This has now been corrected and is expected to be offset by additional tip income.

Landcare – The Council acts as “administration” for the receipt and expenditure of NHT – Landcare funds. These have a net nil offset on both the annual budget and annual accounts.

For the review period expenditure is substantially less than predicted.

Recreation & Aquatic Centre

At the review period operating expenses at the Recreation and Aquatic Centre are within budget estimates. There is however a need to monitor kiosk expenses for the remainder of the financial year.

Income levels for dry area activity are slightly less than forecast.

Transport

Operating works accounts associated with Town & Rural Street Maintenance are well below budget for the review period. This area of operations received

a significant increase in allocation for 2010/11 and these additional funds have remained unspent. Due to a focus on completion of the Road Construction program predictions are that expenditure will remain below budget at the year end.

A review of Public Works Overheads was also carried out at the review period and adjustments made where appropriate.

Economic Services

Due to extended sick leave of the Council's Building Surveyor the services of a relief officer were engaged at a cost of \$4,000.

Other Property & Services

Internal allocations associated with the Works program (overhead and plant operation costs) are under allocated at period end. These allocations are reviewed on an ongoing basis.

In addition, unbudgeted expenditure of \$9,300 was required due to a Long Service Leave commitment for a former employee. This amount also required an adjustment to Public Works Overheads.

Funds for the purpose of Long Service Leave commitments are held in a Reserve Account.

Lake Clifton Bushfire – Direct expenses associated with the fire have amounted to \$11,300 as at period end. Please note that this figure represents actual direct costs and not staff time or other indirect costs. This figure is not final.

3. Capital

Land & Buildings

Administration Centre Extension – Expenditure of \$504,253 has been incurred at period end (Budget \$840,000). It is difficult to predict the end of year position with this project, however it appears likely that although construction of the building may be complete, 2 ongoing disputes may linger well into 2011/12.

A further budget allocation will be considered for peripheral work such as landscaping and security etc.

Plant & Equipment

Expenditure on the Council's Plant Replacement Program is a timing issue. It is not expected to exceed budget at year end.

Furniture & Equipment

Expenditure on Furniture and Equipment Assets is a timing issue and is expected to be within budget when complete.



Infrastructure Assets – Roads

Expenditure on the 2010/11 Road Program is substantially less for the forecast period than predicted.

There are however, not expected to be any projects that will not be complete by the end of year and it appears likely that total expenditure will be slightly less than budget.

Infrastructure Assets – Other

All projects are on time and within budget at the reporting period.

Funding of \$190,000 (A/C3634) previously associated with Parks development adjacent to Fouracre Street has been transferred to roadworks associated with the Fouracre Street redevelopment. Approval from the funding body (Better Regions) has been obtained.

The following table indicates the status of capital projects at 31st January 2011.

COA	Project	Asset Type	Budget	Actual to 31/1/11	Comments
0554	Upgrade Database Server including Windows NT server	Furniture & Equipment	19,500	0	March
0554	Purchase HP Colour Laser Printer, Digital Camera, GBC Multibind Electric Binding Machine, Electric Stapler & 2x PC's	Furniture & Equipment	8,750	5296	In progress
0544	Replace Office Building Roof - Colourbond	Buildings	44,000	12742	Royalties for Regions
0554	Admin Centre Furniture	Furniture & Equipment	4,000	0	March
0514	Council Chambers Furniture	Furniture & Equipment	20,000	0	March
0524	Construction Admin Centre Extensions	Buildings	840,000	503344	In progress
0574	Changeover CEO Vehicle (gross)	Plant & Equipment	46,000	44138	Complete
0574	Changeover DCEO Vehicle (gross)	Plant & Equipment	34,000	0	Feb
0914	Purchase ATV Quad Bike - Rangers	Plant & Equipment	12,000	12000	April
0914	Changeover Ranger Vehicle (gross)	Plant & Equipment	32,000	0	May
0724	Construct Preston Fire Shed	Buildings	81,500	88854	Complete
1374	Grid Positioning System Device	Furniture & Equipment	500	0	March
2274	Replacement PC - Town Planner	Furniture & Equipment	1,620	0	March
3134	Harvey River Walk Trail	Infrastructure - Other	45,000	0	Not commenced
2254	Subaru Forrester MPS	Plant & Equipment	28,500	0	Feb
3044	PC - Library (Replace main AMLIB PC)	Furniture & Equipment	1,550	0	March
7114	Purchase Touch Screen Monitor - Kiosk	Furniture & Equipment	1,400	0	March
7114	Purchase Backup Paging System	Furniture & Equipment	2,850	0	April

7114	Purchase Defibrillator	Furniture & Equipment	3,680	3336	Complete
7114	Punch Bags for Group Fitness Class	Furniture & Equipment	1,300	0	April
7114	Kindy Gym Equipment	Furniture & Equipment	1,000	1240	Complete
7154	Purchase Pool Cover Blanket Buddy	Plant & Equipment	9,500	8740	Complete
7154	Dolphin Pool Cleaner	Plant & Equipment	1,400	0	March
7154	Purchase Spin Bikes	Plant & Equipment	2,728	2728	Complete
3124	Hamel Wetlands/Precinct	Infrastructure - Other	52,000	18731	In progress
3614	Fouracre St - Parkland Development	Infrastructure - Other	190,000	0	Transferred to 3284
3634	Drakesbrook Weir Upgrade	Infrastructure - Other	320,000	74054	In progress
2464	Town Hall Ceiling Fans & Tables	Furniture & Equipment	9,000	11637	Complete
2474	Lake Clifton Com Ctr Paving & Verandah	Buildings	11,000	10000	Complete
3714	Skateboard Park Redevelopment	Infrastructure - Other	40,581	29,772	In progress
3724	Town Oval - Remove Redundant Green, Replace Sump Lid	Infrastructure - Other	16,207	1715	April
3734	Pump Sets for Main and Cricket Ovals	Infrastructure - Other	30,000	26923	Complete
3184	Roads to Recovery	Infrastructure - Roads	180,922	55097	In progress
2014	Urban Stormwater Drainage - Fouracre St	Infrastructure - Other	15,042	17606	Complete
3284	Fouracre St - Paving	Infrastructure - Other	139,255	56559	In progress
3204	Road Work Total Construction (Full Pgm \$947042)	Infrastructure - Roads	472,628	42130	In progress
3504	Replace Office Furniture - Depot	Furniture & Equipment	1,500	1418	Complete
3554	Purchase Handheld Emulsion Sprayer (minor)	Plant & Equipment	3,000	2200	Complete
3554	Changeover DTS Vehicle	Plant & Equipment	29,000	30059	Complete
3554	Ford Front End Loader (new)	Plant & Equipment	100,000	79000	Complete
3554	Toyota Hilux Single Cab Tray - P42	Plant & Equipment	32,000	0	Feb
3554	Pedestrian Path Sweeper (new)	Plant & Equipment	22,000	0	April
3554	Rural Mulching Deck (new)	Plant & Equipment	25,000	0	April
4644	Subdivision Civic Centre Land	Land	172,470	134887	Complete
3584	Forrest Highway Sign	Infrastructure - Other	8,906	0	Not commenced
7714	Town Centre - Catholic Church Wall	Infrastructure - Other	39,750	28252	In progress
4164	Changeover DCS Vehicle	Plant & Equipment	32,000	63896	Additional Replacement
4164	Replace MEHBS Vehicle	Plant & Equipment	24,000	24132	Complete
TOTAL			3,209,039	1,390,486	

4. **Cash Position**

Cash position at 31st January 2011
Municipal Fund - \$866,482
(of which \$616,550 is invested)

Reserve Account - \$1,921,351

5. **Summary**

Analysis of the overall financial position for the review period has not identified any areas of concern in relation to the adopted budget which have not been previously identified.

There are however a number of areas addressed in this report which will be monitored for the remainder of the financial year, particularly that of the capital works budget.

It is proposed to hold a meeting of the Finance and Audit Committee prior to the March Ordinary Council meeting. The Committee will consider this report and meet with the Council Auditor.

6. **Budget Amendments 2010/11**

The following amendments to the 2010/11 adopted budget have been approved by the Council to date:

- Amend the 2010/11 budget to increase expenditure of Building Asset Capital account 0544 from \$30,000 to \$40,000, and transfer \$14,000 from Building Asset Maintenance Reserve account to Municipal Income Account to replace central air-conditioning unit in Shire Admin building and install a smaller separate air-conditioning unit in the computer server room. OCM10/11/176
- Amend 2010/11 budget to increase funding from account 3584 Townscape Development from \$5,000 to \$8906 to erect a joint tourism sign on Forrest Highway in conjunction with Shires of Harvey and Murray. OCM10/11/181
- To purchase a new New Holland T6020 Elite Tractor for \$86,900 and sell the Ford 5640 Tractor to the Waroona Golf Club for \$20,050. OCM10/12/185
- Amend the 2010/11 budget to purchase a fee simple lot in Sundercombe Loop, Waroona up to a purchase price of \$140,000 from A/C4644, and transfer funds from Trust T801 to A/C Muni 4725 to offset this expenditure. OCM10/12/193
- Amend the 2010/11 budget to authorise the upgrade to the Recreation Centre Skatepark and authorise unbudgeted expenditure of \$40,581 (A/C3714) and authorise unbudgeted income from grants to \$40,581 (A/C3733). OCM10/12/194
- Amend the 2010/11 budget to increase expenditure of Hamel Wetland/Precinct account from \$37,000 to \$52,000 and authorise unbudgeted expenditure of \$15,000 from A/C131240 and authorise unbudgeted income of \$15,000 from grants to A/C131130. OCM10/12/198

- Amend the 2010/11 budget to receive income of \$26,000 from the sale of Council's vehicle Kia Grand Carnival to the Waroona Lions Club and increase expenditure by \$33,000 ex GST for the outright purchase of a new Kia Grand Carnival. OCM10/12/205

COUNCIL RESOLUTION

OCM11/02/012

MOVED: Cr Dew

SECONDED: Cr Snell

That the 2010/11 adopted budget review for the period 1st July 2010 to 31st January 2011 be received.

CARRIED BY ABSOLUTE MAJORITY 6/0

Suspending of Standing Orders

COUNCILS RESOLUTION

OCM11/02/013

Moved: Cr Salerian

Seconded: Cr Snell

That Standing Orders be suspended to enable a short recess, the time being 5.10 pm.

CARRIED 6/0

All Councillors and staff that were present when Standing Orders were suspended were also present at the resumption of Standing Orders.

COUNCILS RESOLUTION

OCM11/02/014

Moved: Cr Witney

Seconded: Cr Wright

That Standing Orders be resumed once again, the time being 5.20pm.

CARRIED 6/0



9.4 CHIEF EXECUTIVE OFFICER

9.4.1 LOT 420 BANCELL ROAD, WAGERUP – MURRAY MOTORCYCLE CLUB	
Reporting Officer / Officer's Interest:	Ian Curley – Chief Executive Officer / Nil
Responsible Officer / Officer's Interest	Ian Curley – Chief Executive Officer / Nil
Proponent:	Murray Cowper MLA
Landowner:	Land vested with Shire of Waroona
Date of Report: 09.02.2011	File No: A2192
Previous Reference:	N/A
Statutory/Policy Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	Unknown
Voting Requirements	Simple Majority

Proposal

Murray Cowper, MLA, Member for Murray-Wellington has written requesting Council agree to relinquish the vesting of Reserve 11160 Bancell Road, Wagerup in favour of the Murray Motorcycle Club.

Background

In 2009 Mr Cowper advised me verbally of the potential interest the Murray Motorcycle Club (MMC) had in locating its facilities and track at Reserve 11160. At that point no agreement was given to consider relinquishing the vesting nor was any approach or submission made by the MMC, itself, indicating their desires or intentions. Although subsequent correspondence indicates Council agreement to the proposal I am not aware of any such agreement.

In June 2010 the Department of Regional Development and Lands wrote advising that the MMC had expressed an interest to them in acquiring the reserve and requested advice as to whether Council still had a use for the land. The Director of Technical Services responded advising that it had not been established if all the gravel and timber resources in the reserve had been exhausted, therefore the reserve was still of value to the Shire.

No further correspondence or representation to the Shire has been received on the matter until the letter from Mr Cowper arrived in December 2010.

Community Consultation

No proposal or communication has been received from the Murray Motorcycle Club so public consultation with neighbouring property cannot be undertaken at present.

Officer's Comments

Reserve 11160 Bancell Road is vested with the Shire of Waroona for the purposes of "Timber and Gravel", however, any sale of the reserve would be undertaken by the State and proceeds of sale would be received by the State.

Should it be determined that significant deposits of gravel remain on the site it would be of significant value to the Shire.

This site was previously investigated for a potential motorcycle track in 2002 and a report "*Flora vegetation condition and environmental sensitivity survey of Bancell Road Reserve*" was undertaken by Woodman Environmental Consulting Pty Ltd and commissioned by Alcoa World Alumina.

Clause 5 of the report says: "*The vegetation mapped within the reserve was found to belong to Floristic Community Type 3 as defined by Gibson et al (1994). The three sub-groups within this type are all listed as Threatened Ecological Communities by CALM, with two of these protected from development under Commonwealth legislation. Any proposed development that may impact vegetation belonging to either of these sub-groups requires a formal assessment by the Commonwealth Department of Environment and Heritage*".

Under the recommendations in the report it says :

"2. If Alcoa wish to pursue the development of a motorcycle track and facilities within the reserve then a full plot assessment (utilising the method detailed in Gibson et al (1994) of the vegetation will be required in spring to determine which of the three sub-groups the vegetation belongs to."

A full copy of the report is available for interested Councillors. Copies of other relevant correspondence are at **Appendix 9.4.1**.

Whilst the issue of the potential for motorcycle club/facilities in the shire is a recreation issue and can be considered by the Council's Recreation Advisory Committee, the pre-dominate issue is whether Reserve 11160 should be relinquished or not and that matter is a matter for the entire Council and should be dealt with in the first instance.

Planning Comment

Reserve 11160 is reserved under the Shire's Town Planning Scheme as a Public Purpose Reserve, denoted for the purposes of Timber and Gravel". The reserve cannot be used for any other purpose without the land being rezoned. If the land is sold for private purposes a subsequent scheme amendment could be undertaken, rezoning the land for purpose where an application for a motorcycle club could be approved.

If Council does agree to relinquish the reservation and the land is subsequently sold, it does not guarantee the success of any subsequent application to utilise the land for a motorcycle club or track.

COUNCIL RESOLUTION

OCM11/02/015

MOVED: Cr Dew

SECONDED: Cr Wright

That Council advises Mr Cowper that it is not prepared to relinquish the vesting of Reserve 11160 Bancell Road, Wagerup, vested with the Shire of Waroona for the purposes of Gravel and Timber, to enable the Department of Regional Development and Lands sell the land to the Murray Motorcycle Club for the purpose of establishing a motorcycle club and track.

CARRIED 6/0

10. CONFIDENTIAL REPORTS

Nil.

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN, OR FOR CONSIDERATION AT NEXT MEETING

Nil.

12. NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION**12.1 ELECTED MEMBERS**

12.1.1 EXTENSION OF PART TIME RANGER POSITION	
Reporting Officer / Officer's Interest:	N/A
Responsible Officer / Officer's Interest	Ian Curley – Chief Executive Officer / Nil
Proponent:	Cr Noel Dew
Landowner:	N/A
Date of Report: 15.02.2011	File No: 54/1
Previous Reference:	N/A
Statutory/Policy Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	Unknown
Voting Requirements	Simple Majority

COUNCIL RESOLUTION**OCM11/02/016****MOVED: Cr Dew****SECONDED: Cr Snell**

That Council increase the weekend employment of a casual Ranger up to and including the Easter 2011 long weekend.

CARRIED 6/0**12.1.2 FOURACRE STREET NORTH - ROADWORKS AND UPGRADE 131/1**

Following the question asked in Public Question time, the Shire President raised the issue of the current work on the reconstruction of the north section of Fouracre Street.

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.

12.2 OFFICERS

Nil.

13. CLOSURE OF MEETING

There being no further business the Chairperson closed the meeting the time being 6.50 pm.

I CERTIFY THAT THESE MINUTES WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING HELD 22 MARCH 2011 AS BEING A TRUE AND CORRECT RECORD OF PROCEEDINGS.

.....
PRESIDING MEMBER

.....
DATE

