



MINUTES

ORDINARY COUNCIL MEETING

TUESDAY 16 DECEMBER 2010
(Held at the Waroona Health & Community Resource Centre)

TABLE OF CONTENTS

1.	DECLARATION OF OPENING/ANNOUNCEMENTS.....	4
2.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED	4
3.	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE	4
4.1	PUBLIC QUESTION TIME	4
4.2	PUBLIC STATEMENTS	4
5.	APPLICATIONS FOR LEAVE OF ABSENCE.....	5
6.	DISCLOSURES OF MEMBERS’ & OFFICERS’ INTERESTS.....	5
7.	PETITIONS/DEPUTATIONS/PRESENTATIONS	5
8.	CONFIRMATION OF MINUTES	5
8.1	ORDINARY COUNCIL MEETING – 23 NOVEMBER 2010.....	5
9.0	REPORTS OF OFFICERS AND COMMITTEES	6
9.1	DIRECTOR TECHNICAL SERVICES.....	6
9.1.1	PURCHASE OF FOUR WHEEL DRIVE 100 HORSE POWER TRACTOR AND TRADE OF SHIRE OF WAROONA PLANT P16 FORD FRONT END LOADER	6
9.2	DIRECTOR COMMUNITY & PLANNING SERVICES	10
9.2.1	LOT 5 (87) PATERSON ROAD, WAROONA – APPLICATION FOR PLANNING CONSENT FOR STABLE AND STOCKING OF TWO PONIES	10
9.2.2	LOT 1000 PRESTON BEACH ROAD NORTH, LAKE CLIFTON – RETROSPECTIVE APPLICATION FOR PLANNING CONSENT FOR WIND MONITORING MAST	15
9.2.3	LOT 2 (61) MITCHELL ROAD, PRESTON BEACH – RECONSIDERATION OF DECISION OF REFUSAL FOR RELOCATED DWELLING.....	19
9.2.4	LOT 364 & 365 MCNEILL ROAD, WAROONA – PROPOSED 3 LOT SUBDIVISION	24
9.2.5	LOT 9 PRINCE ROAD, WAROONA – PROPOSED 6 LOT SUBDIVISION ..	29
9.2.6	PROPOSED HILLS LANDSCAPE PROTECTION POLICY	37
9.2.7	AMENDMENT OF 2010/2011 BUDGET – PURCHASE OF LAND.....	41
9.2.8	SKATE PARK UPGRADE	43
9.2.9	SD 141880 – GRANT OF EASEMENT TO BE ENDORSED AND SEALED .	45
9.2.10	LOT 211 (6) NEIL PLACE, WAROONA – APPLICATION FOR PLANNING CONSENT FOR OUTBUILDING.....	46
9.2.11	AMENDMENT TO THE 2010/11 ADOPTED BUDGET - HAMEL PRECINCT AND SURROUNDS LANTANA CONTROL.....	50
9.3	DEPUTY CEO/DIRECTOR CORPORATE SERVICES	52
9.3.1	ACCOUNTS FOR PAYMENT	52
9.3.2	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD 1 JULY 2010 TO 30 NOVEMBER 2010	53
9.3.3	FORWARD CAPITAL WORKS PLAN (FCWP)	54
9.4	CHIEF EXECUTIVE OFFICER.....	57
10.	CONFIDENTIAL REPORTS.....	57
10.1.1	SHIRE OF WAROONA 2011 AUSTRALIA DAY AND MERITORIOUS COMMUNITY SERVICE AWARDS.....	57
10.1.2	CHIEF EXECUTIVE OFFICER’S ANNUAL PERFORMANCE REVIEW	58



10.1.3	PURCHASE OF REPLACEMENT VEHICLE FOR DIRECTOR COMMUNITY & PLANNING SERVICES AND SALE OF KIA GRAND CARNIVAL TO WAROONA LIONS CLUB	59
11.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN, OR FOR CONSIDERATION AT NEXT MEETING	60
12.	NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION	60
12.1	ELECTED MEMBERS.....	60
12.2	OFFICERS	60
13.	CLOSURE OF MEETING	60

1. DECLARATION OF OPENING/ANNOUNCEMENTS

The Chairperson declared the meeting open at 4.04 pm and welcomed Councillors and Staff to the meeting.

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

Cr M Walmsley	Shire President/Presiding Member
Cr C Germain	Councillor
Cr N Dew	Councillor
Cr J Salerian	Councillor
Cr L Snell	Councillor
Mr I Curley	Chief Executive Officer
Mr LTilbrook	DCEO/Director Financial Services
Mr P Webb	Director Technical Services
Mr S Cleaver	Director Community & Planning Services
Mr L Fouchē	Manager Planning Services
Mr M Tamblin	Manager Health and Building Services
Mrs S Cicolari	Executive Support Officer/Minute Taker

APOLOGIES

Cr L Scott	Deputy Shire President
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LEAVE OF ABSENCE PREVIOUSLY APPROVED

Cr T Witney	Councillor
Cr C Wright	Councillor

There were 6 members of the public present at the commencement of the meeting.

3. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

4.1 PUBLIC QUESTION TIME

Nil

4.2 PUBLIC STATEMENTS

Mr Lynden Semmens of Greg Rowe & Associates spoke on Item 9.2.5, Lot 9 Prince Road, Waroona, Proposed 6 Lot Subdivision, public statement attached at **Appendix 4.2.1.**

A representative on behalf of Mrs Angela Sharland of 18 Lawlor Road, Attadale, WA, spoke on Item 9.2.3 – Lot 2 (61) Mitchell Road, Preston Beach, Reconsideration of Decision for Refusal for Relocated Dwelling, public statement attached at **Appendix 4.2.2.**



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.)

6.1 Cr Walmsley declared an interest affecting impartiality in Item 9.2.4.

7. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 ORDINARY COUNCIL MEETING – 23 NOVEMBER 2010

COUNCIL RESOLUTION

OCM10/12/184

MOVED: Cr Snell

SECONDED: Cr Germain

That the Minutes of the Ordinary Council Meeting held 23 November 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 PURCHASE OF FOUR WHEEL DRIVE 100 HORSE POWER TRACTOR AND TRADE OF SHIRE OF WAROONA PLANT P16 FORD FRONT END LOADER	
Reporting Officer / Officer's Interest:	Paul Webb Nil
Proponent:	Shire of Waroona
Date of Report: 6 December 2010	File No:
Previous Reference:	Nil
Statutory/Policy Implications:	Quotes obtained in accordance with Council Policy
Strategic Implications:	N/A
Financial Implications:	2010/11 budget \$100,000
Voting Requirements	Simple Majority

Proposal

Purchase of 1 x four wheel drive tractor, minimum 100 horse power at the Power Take Off and trade-in of Shire of Waroona Plant P16 Ford front end loader, WR7213, in accordance with the 2010/2011 Budget and Council's endorsed 5 year plant replacement program.

Background

The 2010/2011 Budget included the replacement of Council's Ford front end loader, registration WR7213. An amount of \$100,000 has been included in the budget for the changeover of the machine.

Quotations were sought through public advertising for the supply of a new tractor and trade-in of the existing tractor. Quotations were also invited for outright purchase of the tractor offered for trade.

At the close of the quotation period none were received.

Four quotations were subsequently obtained, however, two of these quotations are non compliant with the specifications supplied and have been disqualified from consideration.

One request for outright purchase has been received and has been included as part of this process.

Community Consultation

Quotations sought through public advertising.

Officer's Comments

The purchase of this unit needs to encompass the ability of the new Tractor to run a rotating 7ft drum verge mulching unit that will clear new growth, and small vegetation from road verges.

Advice has been sought from a number of Shires that run a verge mulching unit. It has been advised that the use of a power management system on the tractor unit reduces the reliance on a higher horsepower range. Previously, 100hp at the PTO could not be constantly applied when the tractor unit was placed under load. With the introduction of the Common Rail System and engine management, power is delivered to the PTO as required and at a constant rate. This constant power delivery can be achieved with a four cylinder unit.

Based on advice from other Shires, quotations have been sought on the following specification –

Shire of Waroona

Specification for Tractor Purchase. Four wheel drive.

- Suspension mounted cab
- Suspension Seat with lumbar support
- Dual roof mounted beacons
- Two way radio fitted to Shire of Waroona requirements
- 2 kg Fire extinguisher fitted inside cab
- Externally mounted tool box
- CD Radio fitted
- Air-conditioning fitted that can cater to dusty conditions
- Road Licensed
- ROPS enclosed cab
- South West window tinting to all windows
- Four Wheel Drive
- PTO 540 RPM / 1000 RPM
- Dual Rear Remote hydraulic couplings to rear of vehicle
- Lug Tyres (agricultural)
- 3 point linkage internal and external control
- 4 Cylinder Engine
- Front and Rear movable work lights
- Power shuttle transmission
- Hydraulic capacity minimum 60 l/min variable
- 85-95 HP to PTO
- Engine power management

Quotations Received

Three quotations, compliant with the specifications, have been received as follows –
(*Note costs are inclusive of GST)

1. Harvey Farm Services, Harvey

Supply of 1 new John Deere Premium 6230 Tractor	\$99,900
Less trade in of Ford 5640 Tractor	\$22,800
Change over price	\$77,812

PRICE WITHOUT TRADE IN **\$89,900**

2. New Holland, Waroona

Supply 1 new New Holland T6020 Elite Tractor	\$86,900
Less trade in of Ford 5460 Tractor	\$22,000

Change over price **\$64,900**

PRICE WITHOUT TRADE IN **\$86,900**

3. Waroona Golf Club, Waroona

**Submitted a quotation for the outright purchase
of the Ford 5640 Tractor** **\$20,050**

Consideration of the disposal of the Ford 5640 tractor to the Waroona Golf Club

The lowest quote received is that from New Holland, Waroona for the supply of a New Holland T6020 Elite Tractor at a net changeover of \$64,900, including a trade-in price of \$22,000.

The Waroona Golf Club has expressed interest in purchasing the trade machine at a cost of \$20,050 to assist with ground keeping at the Waroona golf course. There is a difference of \$1,950 in trade-in prices between the above two quotes.

Council is able to accept a trade-in amount that is not the highest amount.

Council does, from time to time, provide assistance to various sporting clubs and organisations that support the district. It has previously assisted the Preston Beach Golf Club by donating the previous volunteer ranger vehicle to the Club instead of offering the vehicle for trade-in when the new ranger's vehicle was purchased.

COUNCIL RESOLUTION

OCM10/12/185

MOVED: Cr Dew

SECONDED: Cr Snell

That Council resolves to -

- 1. Accept the quotation received from New Holland, Waroona for the supply of a new *New Holland T6020 Elite Tractor* at the outright purchase price of \$86,900 (inclusive of GST) and,**
- 2. Accept the offer from the Waroona Golf Club to purchase Council's *Ford 5640 Tractor* at a cost of \$20,050 (inclusive of GST).**
- 3. Council delegates authority to the Chief Executive Officer to administer the provisions of the Local Government Act 1995 and Local Government (Functions & General) Regulations 1996 in relation to the disposition of Council's Ford Tractor at a value of \$20,050 to the Waroona Golf Club.**

CARRIED BY ABSOLUTE MAJORITY 5/0

9.2 DIRECTOR COMMUNITY & PLANNING SERVICES

9.2.1 LOT 5 (87) PATERSON ROAD, WAROONA – APPLICATION FOR PLANNING CONSENT FOR STABLE AND STOCKING OF TWO PONIES	
Reporting Officer / Officer's Interest:	Rhys Bloxsidge – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Troy Fullarton
Landowner:	Troy & Michelle Fullarton
Date of Report: 19 November 2010	File No: TP1341
Previous Reference:	None
Statutory/Policy Implications:	Shire of Waroona Town Planning Scheme No. 7, Stocking Rate Guidelines For Rural Small Holdings
Strategic Implications:	None
Financial Implications:	None
Voting Requirements	Simple majority

Proposal

Council is requested to consider an application for Planning Consent for a stable and the stocking of two ponies at Lot 5 (87) Paterson Road, Waroona.

The proposed stable would have a floor area of 25 square metres and be constructed of jarrah and corrugated iron.

The subject lot has been shown on the submitted site plan to be divided into three paddocks for the purposes of stock management.

A location diagram is at **APPENDIX 9.2.1 (a)**. Copies of the submitted plans are at **APPENDIX 9.2.1 (b)**.

Background

The subject lot is 1 hectare in area. A dwelling and two outbuildings currently exist on the lot. Furthermore, the subject lot is depicted in the maps of the Shire of Waroona Town Planning Scheme No. 7 as being within the 'Urban 6 – Rural Living' zone. It should be noted that the lot is predominantly cleared and has a waterway dissecting the property in the front half.

Initially, the proponent submitted a site plan showing the proposed stable adjacent to the eastern boundary of the subject lot, however, following community consultation, an amended site plan was submitted showing the proposed stable located towards the western boundary of the subject lot.

The initial application was also for one pony and one full-sized horse, however, the current application is for two ponies.

Community Consultation

The initial application showing the proposed stable was advertised in accordance with clause 8.2 of the Shire of Waroona Town Planning Scheme No. 7 (Scheme). During this particular advertising period, an objection was received. A Schedule of Submissions is at **APPENDIX 9.2.1 (c)**.

Following the objection, the proponent amended the site plan to show a new location for the proposed stable. The amended plans were again advertised in accordance with clause 8.2 of the Scheme and during this advertising period, no submissions were received.

Statutory Implications

A stable is listed as an 'AA' use within the 'Urban 6 – Rural Living' zone under the Zoning Table of the Shire of Waroona Town Planning Scheme No. 7 (Scheme). An 'AA' use means that Council may, at its discretion, permit the use.

The stocking of ponies for domestic purposes can be defined as 'equestrian activity' under Schedule 1 (definitions) of the Scheme. Equestrian activity is also listed as an 'AA' use within the 'Urban 6 – Rural Living' zone under the Zoning Table of the Scheme.

As a guide, the Department of Agriculture and Food's *Stocking Rate Guidelines for Rural Small Holdings* addresses all issues relating to applications for stocking and is deemed appropriate in this case to assess the proposal.

Internal Referrals

The Engineering Department has inspected the plans of the proposal and subsequently not offered any comments given that there are no particular engineering issues associated with stables or stocking.

The Building/Health Department has alerted the Planning Department to the relevance of Division 3 of the Shire of Waroona *Health Local Law*, the Department of Health's pamphlet on stable flies and the Department of Agriculture and Food's farm note on stable flies.

Officer's Comments

With regard to the proposed stable, it is considered that the location of the stable would not detrimentally impact the amenity of any adjoining landowner. The stable would be 75 metres from the dwelling at the adjoining property to the west and 70 metres from the dwelling at the adjoining property to the east. These distances are considered adequate enough to dissipate any manure odour stemming from the stable provided that manure is managed satisfactorily. In this case, it is deemed that manure odour from the stable would be managed satisfactorily given that manure will be required to be collected weekly and put into a manure receptacle. (see advice note B)

With regard to the proposed stocking of two ponies, the Stocking Rate Guidelines for Rural Small Holdings (SRG) basically recommends the number and type of stock that should be permitted on a property in comparison to sheep, dependent on soil type and total land area suitable for grazing.

In this case, the subject lot is considered to be on unirrigated loamy flats. For this soil type, the recommended stocking rate per hectare is the equivalent to 10 sheep. The subject lot has approximately 0.8 hectares of available grazing land, therefore the equivalent to 8 sheep can be permitted on the lot without special stock management measures being implemented. The SRG states that two ponies are the equivalent to 10 sheep, therefore the proposed stocking rate on the lot slightly exceeds the SRG. The SRG recommends that a Stock Management Plan should be prepared and implemented for properties that are proposed to exceed the SRG. The applicant has prepared a Stock Management Plan, which is at **APPENDIX 9.2.1 (d)**.

It is considered that the applicant's Stock Management Plan demonstrates that the proposed stocking rate on the property would not have an adverse impact on that property.

The important points to note from the Stock Management Plan are:

- The property would be broken up into three paddocks for rotational grazing;
- The two ponies would graze in each of the three paddocks for two weeks at a time and then be taken off site for an additional two weeks. This would enable satisfactory regrowth of the pasture in the unused paddocks to prevent erosion;
- The two ponies would be stabled at night, meaning that there would be no grazing or erosion taking place for 12 hours of every day;
- The two ponies would be basically given 100% of their feed requirements by hand by which the proponent would bring in oaten chaff, pony cubes and meadow hay rolls;
- The property would be revegetated with couch grass, which has a quick regeneration rate.

Conditions with respect to the above have been recommended to Council to be added to ensure that the stock is managed in accordance with the Stock Management Plan.

With respect to the advice from the Building/Health Department, Division 3 of the Shire of Waroona *Health Local Law* relates specifically to the keeping of large animals. The proponent will be made aware of the requirement to comply with the provisions of the *Health Local Law* by an advice note.

The Local Law addresses appropriate manure management principles so that flies are reduced during the summer months (i.e. requirement for the provision of a manure receptacle and requirement for manure to be collected weekly and disposed of in the receptacle).

The Local Law also addresses appropriate controls for stables within the gazetted townsite. These provisions do not apply to the proposed stable, given that the subject lot lies outside the boundaries of the gazetted townsite of Waroona.

With respect to the Department of Health's pamphlet on stable flies and the Department of Agriculture and Food's farm note on stable flies, it is considered important that manure is managed to prevent stable flies from becoming attracted to a property where stock exists. In this case, the provisions of the Local Law are considered adequate to ensure that stable flies are not attracted to the subject property.

Considering that the proposal to stock the property with two ponies is only a minor deviation from the base stocking rate as recommended by the SRG and that the Stock

Management Plan and recommended conditions would ensure that the slight deviation from the SRG would not detrimentally affect the property by way of erosion, the application is recommended for approval.

COUNCIL RESOLUTION**OCM10/12/186****MOVED: Cr Germain****SECONDED: Cr Snell**

That Council, with respect to the application for Planning Consent for a stable and stocking of two ponies at Lot 5 (87) Paterson Road, Waroona, approve the application subject to the following conditions:

- 1. The stable hereby approved shall be constructed in accordance with the plans submitted with the application and these shall not be altered or modified, unless required to below, without the prior written approval of Council;**
- 2. All stormwater and drainage runoff from the stable shall be contained on site to the satisfaction and specification of the Director Technical Services. Without the prior written approval of Council, no stormwater is to be discharge into or on the road reserve, or connected to a Council stormwater legal point of discharge;**
- 3. The stocking hereby approved shall be managed in accordance with the submitted Stock Management Plan (dated 2 September 2010) and with the amended site plan (dated 2 August 2010) and these shall not be altered or modified, except as required below, without the prior written approval of Council;**
- 4. The property shall be divided into three paddocks as shown on the submitted site plan. Each paddock shall be fenced in accordance with an appropriate rural standard of fencing to the satisfaction of the Manager Planning Services;**
- 5. Revegetation of the property shall occur annually (during winter) with suitable annual grazing pasture to the satisfaction of the Manager Planning Services. The revegetation shall occur in accordance with the Department of Agriculture and Food's Farmnote No. 7 of 2004 – 'Grazing management.' The Farmnote has been attached.**
- 6. Existing trees within the grazing paddocks shall be adequately protected from tree damage/ringbarking to the satisfaction of the Manager Planning Services.**

ADVICE:

- A.** The applicant is advised that no site works relating to the stable shall commence until a Building Licence has been issued by the Shire of Waroona. This planning approval does not grant consent to commence building works.
- B.** The applicant shall note that compliance with the Shire of Waroona Health Local Law is required in order to minimise fly nuisance and control disease. Section 5.3.4 of the Health Local Law states:
“An owner or occupier of premises on which an approved animal is kept shall-
- (a) provide in a position convenient to the stable a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tight-fitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
 - (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
 - (c) cause the receptacle to be emptied at least once a week and as often as necessary to prevent it becoming offensive or a breeding place for flies or other vectors of disease;
 - (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
 - (e) cause all manure produced on the premises to be collected daily and placed in the receptacle.”
- C.** With regard to condition 6, please find attached the Department of Agriculture and Food’s Farmnote No. 21 of 1998 – ‘Manure management on small properties.’

CARRIED 5/0

9.2.2 LOT 1000 PRESTON BEACH ROAD NORTH, LAKE CLIFTON – RETROSPECTIVE APPLICATION FOR PLANNING CONSENT FOR WIND MONITORING MAST	
Reporting Officer / Officer's Interest:	Rhys Bloxsidge – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	TPG Town Planning and Urban Design
Landowner:	Cape Bouvard Investments Pty Ltd
Date of Report: 18 November 2010	File No: TP1368
Previous Reference:	TP1098
Statutory/Policy Implications:	Shire of Waroona Town Planning Scheme No. 7
Strategic Implications:	None
Financial Implications:	None
Voting Requirements	Simple majority

Proposal

Council is requested to consider a retrospective application for Planning Consent for a wind monitoring mast at Lot 1000 Preston Beach Road North, Lake Clifton. It has been proposed to have the wind monitoring mast on site for a further four years.

The wind monitoring mast is:

- constructed of tubular steel with a face width of 650 millimetres;
- 80 metres high;
- supported by 24 guy wires that extend from various points of the tubular mast to the ground.

A location diagram is at **APPENDIX 9.2.2 (a)**. The submitted plans of proposal are at **APPENDIX 9.2.2 (b)**.

Background

The subject lot is 185 hectares in area and is covered predominantly by scattered vegetation with some areas of dense vegetation. Under the Shire of Waroona Town Planning Scheme No. 7 (Scheme), the lot is located within the 'Rural 3A – Coastal' zone. The lot is bordered by land of the same zoning to the south, land governed by the City of Mandurah to the north and Yalgorup National Park to the west and east.

The wind monitoring mast currently exists on the subject lot in the position as shown on the submitted site plan at **APPENDIX 9.2.2 (a)**. Council approved the erection of the wind monitoring mast at the Ordinary Council Meeting of December 2008 for a period of 30 months. Planning approval for the wind monitoring mast expired in June 2010.

The wind monitoring mast is used to assess the potential of the site to harness wind power. The wind monitoring mast records wind speeds at a height to help determine site suitability.

It should be noted that a private airstrip exists on a property 500 metres to the south of the subject lot.

Community Consultation

The proposed wind monitoring mast is a use not listed under the Zoning Table of the Scheme and therefore is subject to advertising in accordance with clause 8.2.3 of Scheme. This clause requires affected landowners to be notified, an advertisement placed in the local newspaper and a sign erected on site.

Due to the height of the wind monitoring mast and the close proximity of the private airstrip to the south, the Civil Aviation Safety Authority was also invited to submit comments.

During the advertising period, no submissions were received.

Statutory Implications

The Shire of Waroona Town Planning Scheme No. 7 (Scheme) is the primary statutory document concerning the proposal. As the subject lot is located within 'Rural 3B – Coastal' zone, the proposal is subject to the relevant objectives and provisions of clause 4.14.8, which relate specifically to the 'Rural 3B' zone.

Furthermore and as mentioned, a wind monitoring mast is a use not listed under the Zoning Table of the Scheme.

There are no planning policies that relate to the proposal.

Officer's Comments

In accordance with clause 4.14.8 of the Shire of Waroona Town Planning Scheme No. 7 (Scheme), Council's objective for the zone will be to ensure continuation of appropriate rural activities which are consistent with the protection of the coastal environment, the ecology of Yalgorup National Park, the landscape of the environs of Old Coast Road and the traffic management requirements of that road by permitting uses other than rural pursuits that are appropriate to the objective.

As the wind monitoring mast has been erected since early 2009, there has been enough time to assess the impact of the wind monitoring mast on the amenity of the area. Basically, the wind monitoring mast has not had a significant impact upon the amenity of the area. The Department of Environment and Conservation has not advised Council that the wind monitoring mast is affecting Yalgorup National Park in an adverse way nor has any member of the public advised Council that the structure visually detracts from the amenity of the area. It is extremely difficult to visually locate the wind monitoring mast from Old Coast Road. It is considered that impact of the wind monitoring mast on the amenity of the area is unlikely to change or increase for the requested further four years.

Human activity on site would also be very minimal over the course of the four years, given that the wind monitoring mast basically records wind data independently. Deconstruction of the wind monitoring mast after the approval lapses may cause some vegetation disturbance. A condition has been added to ensure that vegetation is replanted in the vicinity of the wind monitoring mast after its deconstruction by way of implementation of a Landscaping Plan.

Clause 8.4 of the Scheme states that Council may impose a condition on a planning approval that limits the duration for which an approval is granted. In this case, as the

wind monitoring mast has had no significant impact upon the amenity of the area, it is recommended to Council to allow the proponent to keep the wind monitoring mast erected for the requested four years.

The previous approval of the wind monitoring mast required the proponent to install a flashing beacon at the top of the mast to ensure that aircraft in the vicinity were aware of the mast. It is recommended to Council to reapply this condition, even though the Civil Aviation Safety Authority did not offer any comments on the proposal.

Given that the wind monitoring mast is consistent with the objective of clause 4.14.8 of the Scheme, that no objections to the wind monitoring mast have been received in the past or present and that the mast is not adversely affecting the amenity of the area, it is considered that there is no reason to refuse the proposal.

COUNCIL RESOLUTION

OCM10/12/187

Moved: Cr Dew

Seconded: Cr Salerian

That Council, with respect to the retrospective application for Planning Consent for the wind monitoring mast at Lot 1000 Preston Beach Road North, Lake Clifton, approve the application subject to the following conditions:

- 1. The wind monitoring mast hereby approved shall be deconstructed and all materials removed from site within four years of the date of this approval unless an extension of approval time (in accordance with condition 4) is granted by Council in writing;**
- 2. A flashing/rotating beacon shall be installed at the top of the wind monitoring mast to the satisfaction of the Manager Planning Services. The beacon shall be maintained on the mast to the satisfaction of the Manager Planning Services;**
- 3. A Landscaping Plan, detailing size and type of vegetation and showing revegetation of the site of the wind monitoring mast shall be approved by the Manager Planning Service within 90 days of the date of this approval.**

The vegetation shall consist of mainly mature plantings being a mixture of shrubs and canopy trees (minimum height of 0.5 metres for shrubs and 1 metre for canopy trees).

The approved Landscaping Plan shall be completely implemented within 60 days of the date of the expiry of this approval.

- 4. This approval shall expire within four years of the date hereof, or within any extension of time which upon written application to Council (made at least 60 days prior to the expiry of the approval) is granted by it in writing.**

Advice:

- A. With regard to condition 2, the proponent is advised to contact the Civil Aviation Safety Authority to ascertain the appropriate standard of beacon;**
- B. With regard to condition 3, the applicant is advised that the Landscaping Plan must be in accordance with Planning Policy 23.0 – Landscaping. A copy of the policy has been enclosed.**

CARRIED 5/0

9.2.3 LOT 2 (61) MITCHELL ROAD, PRESTON BEACH – RECONSIDERATION OF DECISION OF REFUSAL FOR RELOCATED DWELLING	
Reporting Officer / Officer's Interest:	Rhys Bloxsidge – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Angela Sharland
Landowner:	Alec and Angela Sharland
Date of Report: 24 November 2010	File No: TP1324
Previous Reference:	None
Statutory/Policy Implications:	Town Planning Scheme No. 7, Planning and Development Act 2005, State Administrative Tribunal Act 2004, State Administrative Tribunal Regulations 2004, Planning Policy 9.0 – Relocated Dwellings
Strategic Implications:	None
Financial Implications:	Staff time
Voting Requirements	Absolute majority

Proposal

Council is requested to reconsider its decision of refusal for a relocated dwelling at Lot 2 (61) Mitchell Road, Preston Beach.

A location diagram and site plan is at **APPENDIX 9.2.3(a)**. Modified plans of the relocated dwelling have been submitted and are at **APPENDIX 9.2.3(b)**. A Landscaping Plan for the subject lot is at **APPENDIX 9.2.3(c)**. Pictures of the vegetation associated with the Landscaping Plan are at **APPENDIX 9.2.3(d)**.

Background

At the Ordinary Council Meeting of 22 June 2010, Council resolved to refuse a proposed relocated dwelling at the subject property due to the following reason:

“The proposed relocated dwelling is within a gazetted townsite where Planning Policy 9.0 states that such developments shall not be permitted.”

Copies of the refused plans are at **APPENDIX 9.2.3(e)**.

Following Council's decision, the proponent lodged an appeal against the decision with the State Administrative Tribunal (SAT). Subsequently, a chain of mediation hearings took place as follows:

9 August 2010: During a teleconference Directions Hearing attended by the Manager Planning Services, the previous Manager Planning Services and Town Planner, the presiding member of the SAT and the proponent were advised that the dwelling would require significant modifications in order for Council to reconsider the application, given that the subject lot was in a prominent location on Mitchell Road. The SAT member directed that mediation occur at a later date.

20 September 2010: On site mediation took place to view the dwelling proposed to be relocated from Hall Road and to view the subject lot. It was discussed and agreed by Council representatives, the proponent and the presiding SAT member that the



proponent would consult an architect and submit plans showing modifications to the dwelling (roof detail, balconies, awnings, colour scheme, etc.) and landscaping.

17 November 2010: A secondary mediation meeting was held at the SAT offices to discuss the modified plans. Prior to this date, the proponent submitted modified plans of the relocated dwelling and a Landscaping Plan to Council officers for preliminary comment. It was conveyed to the proponent that the modified plans were a significant improvement and this was reconfirmed at the mediation on this date. The preliminary Landscaping Plan illustrated that vegetation would be planted within Council's road reserve, however, after consultation with the Director Technical Services, the proponent was advised to modify the Landscaping Plan and remove any proposed vegetation from the road reserve. The modified Landscaping Plan presented at the mediation adequately demonstrated this. Furthermore, the proponent was advised that the modified plans and Landscaping Plan would be presented at the Ordinary Council Meeting of December for Council's reconsideration.

The matter is adjourned until 22 December 2010, when a further mediation meeting will occur and council's reconsideration of the application will be presented.

Overview

Lot 2 Mitchell Road is located within the 'Urban 9 – Preston Beach' zone under the Shire of Waroona Town Planning Scheme No. 7. The lot is 790m² in area and is currently vacant of any improvements. The lot slopes steeply from the Mitchell Road frontage towards the rear and has two street frontages (Hill Street and Mitchell Street).

Community Consultation

The initial plans of the relocated dwelling were advertised to adjoining landowners for comment. During the advertising period, no comments were received.

Statutory Implications

The relocated dwelling is subject to the provisions of Planning Policy 9.0, which relates specifically to planning applications for relocated dwellings.

Officer's Comments

Planning and Development Policy 9.0 – 'Relocated Dwellings'

First and foremost, the Policy states that Council will not approve relocated dwellings within the boundaries of a gazetted townsite. The subject lot is located within the gazetted townsite of Preston Beach, however, in accordance with clause 2.4.3 of the Scheme, Council is not bound by Policy but shall take into consideration the provisions of the Policy in making its decision.

The objective of the Policy is to:

- provide clear standards as to what constitutes an acceptable standard of relocated dwelling;
- ensure the style, materials, condition and design of a relocated dwelling is in keeping with the character of the area within which the dwelling is to be sited;
- provide a process for dealing with relocated dwellings;

- ensure that Council does not facilitate an increase in asbestos-clad dwellings within the Shire.

Furthermore, the Policy states that acceptable development for a proposed relocated dwelling is to accord with the following:

- The dwelling contains at least one bedroom separate from the other rooms in the dwelling, a lounge/dining area, a kitchen and a separate toilet, bathroom and laundry facility;
- The design, scale, standard and appearance of the dwelling is compatible with the type of dwellings that exist in the locality in which it is to be located;
- The condition and appearance of the roof and wall clad materials are to be in as new condition, or are proposed to be painted or rendered and repaired to bring up to the standard of a new dwelling;
- The dwelling's visual appearance is to be enhanced by the addition of verandahs or through screening and/or landscaping;
- The dwelling is to be located on the site so as to minimise the visual impact from public areas and neighbouring properties;
- The dwelling does not contain asbestos.

It is considered that the modified plan of the relocated dwelling is compliant with the objective and acceptable development of the Policy. In comparing the refused plans with the modified plans, the proponent has illustrated that the appearance of the relocated dwelling would be significantly enhanced with the following proposed modifications:

- The rear patio would be entirely replaced with a new Colorbond gabled roof patio, giving the dwelling a larger roof pitch at the rear to enhance its appearance
- a new Colorbond gabled roofed terrace would be added to the front of the dwelling, also giving the front of the dwelling a larger roof pitch to enhance its appearance;
- the window on the western side of the dwelling would be replaced with a new larger window with an awning, which would reduce the visual bulkiness of that respective wall of the dwelling;
- the large spaces beneath the dwelling would be in-filled with Colorbond cladding;
- a colour scheme would be incorporated into the proposal (as demonstrated on the submitted elevation plans), giving the dwelling a more modern appearance and allowing it to blend it with the character of existing dwellings in Preston Beach;
- the existing weatherboard cladding of the dwelling would be painted in accordance with the proposed colour scheme (as demonstrated on the submitted elevation plans);
- the site would be vegetated with native plant species similar to the landscaping incorporated at Footprints Resort, which would ultimately improve the aesthetics of the site (see Landscaping Plan at **APPENDIX 9.2.3(c)**).

Colour Scheme

In accordance with the submitted elevation plans, the gutters, verandah framing, existing aluminium window frames on the dwelling and verandah railing would be finished with Dulux 'Wild Water' (dark blue/green shade); the weatherboard cladding of the dwelling would be painted Dulux 'Luna Landscape 5' (light green shade); and



the roof cladding of the dwelling and verandahs and Colorbond infill would be Colorbond 'Windspray' (grey shade).

The colour scheme is modern and aesthetically pleasing. It significantly enhances the appearance of the relocated dwelling, especially given that the existing weatherboard cladding of the relocated dwelling would be repainted, ultimately giving the cladding an 'as new' appearance in accordance with Planning Policy 9.0.

Landscaping

As mentioned, the proposed Landscaping Plan would further enhance the visual amenity of the site. Given it is considered that the landscaping will not be required for screening purposes. It is noted that that in this respect, the two verandahs are new and the weatherboard cladding would be repainted to an 'as new' standard. The Landscaping Plan demonstrates that the site would be visually enhanced by the selected native species, which are tolerant of coastal conditions. The Colorbond infill along each facade of the dwelling and at the front does present some minor visual bulkiness issues, however, the selected species proposed to grow along those walls would grow high enough to break up the street view of these facades. (James Stirling grows to three (3) metres and the Grevillea grows up to four (4) metres).

The proposed landscaping is also very similar to the landscaping in place at Footprints Resort. The vegetation at Footprints Resort has proven to be effective and has significantly contributed to the enhancement of that development.

Site Prominence

The subject lot slopes significantly from the front to the rear and also has a two street frontage (Hill Street and Mitchell Road). Given the site's prominence, it is important that a relocated dwelling on the property achieves a standard of appearance that does not visually detract from the amenity of the area. Mitchell Road is the primary access road through the Preston Beach townsite and also leads to the beachfront, therefore any dwelling on the subject property would be in view of tourists and residents driving along Mitchell Road. It is considered that the proposal would enhance the site, particularly with the attractive new verandahs and gables roofs.

Time Limit

It has been recommended as a condition of approval to limit the time for the proponent to complete all site works to one year from the date that the relocated dwelling is placed on site. Considering that site works are fairly substantial, one year should be enough time for the works to be completed in accordance with the submitted plans.

Conclusion

Given that the proposed relocated dwelling would be brought up to an aesthetically pleasing standard of appearance that would enhance the amenity of the area rather than detract from it, and taking into account that the dwelling is compliant with the relevant provisions of Planning Policy 9.0 (other than the fact that it is located within a townsite), it is recommended to Council to approve the amended proposal.

COUNCILS RESOLUTION**OCM10/12/188****Moved: Cr Dew****Seconded: Cr Salerian****A. That Council revoke its' resolution of 22 June 2010 stating:**

“That Council resolves with respect to the application for Planning Consent for the relocated dwelling at Lot 2 (61) Mitchell Road, Preston Beach, to refuse the application subject to the following reason:

- 1. The proposed relocated dwelling is within a gazetted townsite where Policy 9.0 states that such developments shall not be permitted”.**

CARRIED BY ABSOLUTE MAJORITY 5/0**COUNCILS RESOLUTION****OCM10/12/189****Moved: Cr Salerian****Seconded: Cr Germain**

B. That Council, with respect to State Administrative Tribunal’s order, in terms of Section 31(1) of the State Administrative Tribunal Act 2004 (WA) for the reconsideration of the relocated dwelling at Lot 2 (61) Mitchell Road, Preston Beach, advise the State Administrative Tribunal that the relocated dwelling can be approved subject to the following conditions:

- 1. The relocated dwelling hereby approved shall occur in accordance with the approved plans and specifications and these shall not be altered or modified without the prior written approval of Council;**
- 2. All site works relating to the relocated dwelling (as per approved plans) shall be completed within one year of the relocated dwelling being placed on site;**
- 3. Vegetation shall be implemented on site in accordance with the approved Landscaping Plan within 60 days of practical completion of site works relating to the relocated dwelling to the satisfaction of the Manager Planning Services. The vegetation shall thereafter be maintained to the satisfaction of the Manager Planning Services;**
- 4. This planning approval shall expire within two years of the date hereof, or within any extension of time which upon written application to Council (made at least 60 days prior to the date of expiry of this approval) is granted by it in writing.**

CARRIED 5/0

Cr Walmsley declared an interest affecting impartiality in Item 9.2.4 as an associate of the proponent.

9.2.4 LOT 364 & 365 MCNEILL ROAD, WAROONA – PROPOSED 3 LOT SUBDIVISION	
Reporting Officer / Officer's Interest:	Louis Fouché – Manager Planning Services / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	A J March Pty Ltd
Landowner:	Mitchell Nominees Pty Ltd
Date of Report: 7 December 2010	File No.: SD143219
Previous Reference:	Nil
Statutory/Policy Implications:	Planning and Development Act 2005 Town Planning Regulations 1967 Shire of Waroona Town Planning Scheme No.7 1996. (See report). WAPC Development Control Policy 3.4 – Subdivision of Rural Land. (See report).
Strategic Implications:	Local Planning Strategy. (See report).
Financial Implications:	Nil
Voting Requirements	Simple majority

Proposal

A Western Australian Planning Commission referral was received for the 3 lot subdivision of Lot 364 & 365 McNeill Road, Waroona. The three lots are proposed to be 13.79 ha (Lot 1), 47.33 ha (Lot 2) and 44.1 ha (Lot 3) respectively.

A location plan and the submitted plan of subdivision are at **APPENDIX 9.2.4 (a)**.

Background

Lot 364 and 365 McNeill Road, Waroona, is located within the 'Rural 1 – General Farming' zone.

Lot 364 is 40 hectares in area and lot 365 is 64 hectares in area.

The land is currently being used as a Livestock Transport Depot and Livestock business. Lot 365 has two dwellings and outbuildings located on the site associated with the livestock transport business. Lot 364 has no structural development on the property. Holding paddocks associated with the business have been developed on both original lots.

The land is generally cleared with some small pockets of vegetation existing on lot 365.

Both lots have frontage to McNeill Road, which is of bitumen construction almost to the northern boundary of Lot 365 and of gravel construction further to the north. Lot 365 is located on the corner of McNeill Road and Mayfield Road. Mayfield Road is of bitumen construction.



Statutory Implications

The Planning and Development Act 2005 and the Shire of Waroona Town Planning Scheme No. 7 are the primary statutory documents concerning the proposal.

Under the Scheme, the subdivision proposal is subject to Clause 4.14.7, relating to all Rural Zones which enables the requirement of a guideline plan, which may include building envelopes, conservation/tree planning areas, access and strategic firebreak provisions. No guideline plan, conservation planning proposal or fire management plan were received from the Western Australian Planning Commission as part of the referred application.

Strategic Implications

Under the Local Planning Strategy (the Strategy), the subject land is classified 'Priority Agriculture' and is subject to Lot sizes "*minimum lot size of 40 hectares subject to each lot having at least 30 hectares of suitable horticultural land*".

Proposed Lot 1 does not meet the area requirement in the Local Planning Strategy, being 26,21 ha below the minimum lot area in the Strategy. Lots 2 (47.33 ha) and three (44.1 ha) appear to adequately meet the minimum lot area requirement.

Development Control Policy 3.4 – Subdivision of Rural Land

The applicant indicated in the proposal is consistent with criterion 4.6 (Farm rationalisation) of Development Control Policy 3.4. This criterion provides for the rationalisation of multiple lots in one ownership through boundary realignment in order to improve farm management or provide access to landlocked lots.

Although this objective is supported, the criterion is subject to the requirement that "(b) no additional lots are created". In this case three lots are created from the original two – therefore an additional lot is created.

Criterion 4.2 provides for the subdivision of land in broadacre farming areas, consistent with the prevailing size of lots in the locality (excluding historic anomalies). Proposed Lot 1 is well below the prevailing lot size in the area of 40 hectares and above.

Criterion 4.4 enables subdivision of lots to accommodate specific existing or proposed non-rural land uses such as public utilities, quarries and uses ancillary to the rural use of land such as abattoirs and canning works. It could be argued that the livestock transport company operating from the property falls within the latter category.

Community Consultation

No community consultation or subdivision referrals are expected to be undertaken by Local Government as these applications are administered by the Western Australian Planning Commission.

Internal Referral

The Director Technical Services made the following comments:

1. Proposed Lots 2 and 3 have limited access to Mayfield Road, as the area is dissected in two places by Water Corporation Drains. This removes all-weather access from the rear areas of these lots when the drains are in flow. It is requested that building envelopes be placed on the Mayfield frontage of these lots to enable all weather access to the subdivided areas. This action will be required for the subdivision to succeed. If building envelopes cannot be applied, then bridge structures to the Satisfaction of the Water Corporation will be required over the Water Corporation Drain.
2. Fords to be constructed over both drains, to allow access to the locked areas of land. Fords to be constructed to the satisfaction of the Water Corporation.
3. Advice to be given to Water Corporation that a reserve is to be placed over the existing drains. If Water Corporation refuses to undertake this action, a protective covenant will need to be placed over the drains to ensure that the drains cannot be blocked or restricted as this will affect upstream flows.
4. Restrictive covenant to be placed over remnant vegetations on the lots and adjacent to the existing Water Corporation drains.
5. Advice to the Department of Environment that there is an existing Wetland area on the proposed subdivisional area that may require protection.
6. Culverted, sealed crossovers to be constructed to the satisfaction of the Director of Technical Services or his nominated representative.
7. Those lots not fronting an existing road being provided with frontage to a constructed road connected by a constructed road to the local road system and such road being constructed and drained at the applicant/owner's cost.
8. Plans of proposed works to be approved by the Shire of Waroona prior to the start of any construction works.
9. Fire management plan to be created and implemented to the Satisfaction of the Shire of Waroona and FESA.

Comment was also made regarding the protection of the existing water course on the property and wetland areas. Drains connecting to the Mayfield Drain traverse both Lot 364 and 365 in an east – west direction.

Officer's Comments

For land zoned 'Rural 1 – General Farming', the Scheme's objective is to preserve the rural character of the District's farming lands and to ensure that they continue to contribute materially to the District's economy, whilst recognising that changes in land use practices will affect land management and the landscape generally.

The proposed subdivision will allow the rationalization of the existing boundaries of the farm and to create a new title to encompass the existing business.



For land with a classification of 'Priority Agriculture', the Strategy requires a 40 hectare minimum lot size for subdivision. The subdivision proposal consists of three lots. Lot 1 has a proposed size of 13.79 hectares, lot 2 has a proposed size of 47.33 hectares and lot 3 has a proposed size of 44 hectares. The subdivision proposal is not compliant with the minimum lot size standard (40 ha) of the Local Planning Strategy.

A realignment of boundaries of Lots 364 and 365 McNeill Road, Waroona, can be supported and although proposed Lot 1 will be well below the minimum lot area requirement in the Local Planning Strategy, it complies with Criterion 4.4 of WAPC Development Control Policy 3.4 which provides for the subdivision of lots to accommodate specific existing or proposed non-rural land uses ancillary to the rural use of land. The applicant's argument that the livestock transport company operating from the property falls within the latter category, can therefore be accepted.

It is recommended that Council recommends to the Western Australian Planning Commission to approve the subdivision subject to the conditions noted below.

COUNCILS RESOLUTION

OCM10/12/190

Moved: Cr Snell

Seconded: Cr Salerian

That Council advises the Western Australian Planning Commission that it supports the three (3) lot subdivision of Lots 364 and 365 McNeill Road, Waroona subject to the following conditions:

- 1. Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots shown on the approved plan of subdivision.**
- 2. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required by the Shire of Waroona Town Planning Scheme No.7.**
- 3. A Fire Management Plan being prepared and implemented to the satisfaction and specifications of the local government and the Fire and Emergency Services Authority.**
- 4. Notification in the form of a section 70A notification, pursuant to the *Transfer of Land Act 1893 (as amended)* is to be placed on the Certificate of Title of the proposed lots advising:**

“This lot is subject to a fire management plan. The responsibility of the landowner includes:

- (a) Construction and maintenance of internal firebreaks;***
- (b) Providing a copy of the Fire Management Plan to each property owner upon sale of the lot;***
- (c) Modifying bush fire fuels in the Building Protection and Hazard Separation Zones: and***



(d) Carrying out Hazard Reduction”

5. Prior to the commencement of site works, a detailed plan identifying building envelopes on proposed Lots 2 and 3 on the approved plan of subdivision is to be prepared in consultation with the local government.
6. Fords to be constructed over both drains on the approved plan of subdivision to enable access to landlocked areas of land. Fords are to be constructed to the satisfaction of the Water Corporation.
7. Those lots not fronting an existing road connected by a constructed road to the local road system and such road being constructed, drained and sealed at the applicant/owner’s cost to the satisfaction of the Local Government.
8. Plans of proposed works to be approved by the local government prior to the commencement of any construction works.

Advice to the Western Australian Planning Commission:

- a. In relation to condition 7, it should be noted that McNeill Road is not fully constructed and sealed for the full length of the frontage of the proposed lots 1 and 2 to the satisfaction of the Local Government.
- b. Advice is to be provided to Water Corporation that a reserve is to be created over the proposed lots, protecting the drains located thereon. Alternatively, protective covenants are to be placed on the titles of affected land to protect the drains from blockage or restriction, affecting upstream flow.
- c. Advice is to be provided to the Department of the Environment and Conservation that it appears that there is a an existing wetland area on proposed Lot 2, which may require protection and that remnant vegetation along both Water Corporation drains on the subdivision site may require protection.

CARRIED 5/0

9.2.5 LOT 9 PRINCE ROAD, WAROONA – PROPOSED 6 LOT SUBDIVISION	
Reporting Officer / Officer's Interest:	Louis Fouché – Manager Planning Services / Nil
Responsible Officer / Officer's Interest:	Louis Fouché – Manager Planning Services / Nil
Proponent:	Greg Rowe & Associates
Landowner:	Drakesbrook Wines Pty Ltd
Date of Report: 6 December 2010	File No.: SD143271
Previous Reference:	SD139424; OCM09/028 ; 132/3
Statutory/Policy Implications:	Planning and Development Act 2005 Town Planning Regulations 1967 Shire of Waroona Town Planning Scheme No.7 1996. State Planning Policy_2.5 - Agricultural and Rural Land Use Planning WAPC Development Control Policy 1.1 - Subdivision of land - General principles WAPC Development Control Policy 3.4 – Subdivision of Rural Land. Planning Guidelines: Planning for Bush Fire Protection
Strategic Implications:	Local Planning Strategy 2009
Financial Implications:	Nil
Voting Requirements	Simple majority

Proposal

A Western Australian Planning Commission referral was received for the 6 lot subdivision of Lot 9 Prince Road, Waroona.

A site plan is at **APPENDIX 9.2.5(a)**. A current submitted plan of subdivision is at **APPENDIX 9.2.5(b)**. A previous submitted plan of subdivision is at **APPENDIX 9.2.5(c)**.

Background

Lot 9 Prince Road, Waroona, is located within the 'Rural 5 – Darling Range' zone.

The lot is 93 hectares in area.

The land is currently being used as a winery and there are ancillary buildings located on site associated with the winery.

The land is generally cleared with some large pockets of remnant vegetation existing.

The property has frontage to Prince Road, which is of gravel construction and links to Scarp Road.

It is understood that the proponent has approached the Water Corporation regarding an easement over (Lot 524 on Plan 114788) and it is further noted that a dedication of a portion of Scarp Road over Department of Environment and Conservation land has



also been pursued. In relation to the latter Council, at its meeting of 22 June 2010, resolved as follows:

- A. *That the costs of the survey and dedication of the survey and the lodgement of plans with Landgate are the full responsibility of the subdivider (B Worthington); and*
- B. *That Council advises the Department of Environment and Conservation that it supports the survey and dedication of the undedicated portion of Scarp Road.*

Previous application

A similar application (SD 139424) was lodged with the Western Australian Planning Commission (WAPC) in February 2009 and considered by Council at its Meeting of 24 March 2009. The application was also for a 6 lot subdivision of the land with proposed access from Prince Road as shown on **APPENDIX 9.2.5(c)**.

Council recommended to the WAPC that the application be refused on the following grounds:

1. *There is no legal access provided by a surveyed, dedicated, constructed road to the proposed subdivision;*
2. *The subdivision proposal is not compliant with the Local Planning Strategy in that the Strategy stipulates that acceptable protection must be offered to future residents from bushfire hazard. The subject area is a known high risk fire area. As no legal right of access exists to the subject land, fire emergency services may not have the opportunity to protect future residents from the hazard of bushfire.*

An advice note was also added to Council's recommendation, stating that:

- a. *Further to reason 1, the sole existing route to the proposed subdivision is requires access across the Waroona Dam wall, which is not a surveyed road reserve. The Waroona Dam wall is owned by the water Corporation. The Water Corporation can legally close access across the wall and if this was to occur, access to the proposed subdivision is not possible;*
- b. *Further to Reason 2, the submission of a fire management plan would be a condition of approval of the proposed subdivision. It is expected that a fire management plan would require legal access to the site. Presently, legal access does not exist.*

On 31 March 2009, the WAPC refused the application based on six reasons:

1. *The proposed subdivision does not comply with Western Australian Planning Commission State Planning Policy 2.5: Agricultural and Rural Land Use Planning, as it proposes to create lots of a size consistent with Rural-Smallholdings zone in a Rural zone*
2. *The proposed subdivision does not comply with Western Australian Planning Commission State Planning Policy 3.3: Subdivision of Rural Land as the closer settlement of land has not been specifically provided for in the provisions of the Shire of Waroona Town Planning Scheme No.7.*
3. *The proposed subdivision does not comply with Western Australian Planning Commission State Planning Policy 1.1 Subdivision of Land – General Principles as the proposed lots would not have legal road access.*

4. *The proposed subdivision is contrary to the Shire of Waroona Town Planning Scheme No.7, which does not provide for the land to be subdivided to create ten hectare lots.*
5. *The current road system would not facilitate emergency access to and/or from the site (located in an area of known bushfire risk) in the event of bushfire.*
6. *Approval to the subdivision would set an undesirable precedent for the further subdivision of surrounding lots.*

It does not appear that an application for review (appeal) under Part 14 of the Planning and Development Act 2005 occurred.

Statutory Implications

Under the Scheme, Shire of Waroona Town Planning Scheme No. 7 (the Scheme) the land in question is zoned 'Rural 5 – Darling Range' zone. Subdivision is not specifically addressed in Clause 4.14.10 pertaining to the 'Rural 5 – Darling Range' zone.

It is noted in the WAPC's reasons 1, 2 and 4 for refusing the original subdivision application in 2009, that the WAPC is of the view that in relation to the Rural 5 – Darling Range' zone, the Scheme in its current format is not adequate to control further subdivision and development.

Strategic Implications

Under the Local Planning Strategy, the subject land is located within the Scarp and Darling Range Precinct and has a classification of 'Hills Landscape Protection.' The objective of the Hills Landscape Protection area in the Local Planning Strategy is: "To provide for opportunities for small-scale agriculture and tourism accommodation whilst providing landscape protection".

The Strategy lists proposed primary / permitted land uses as well as proposed discretionary uses. The primary uses are mostly of a residential and home based business nature while the discretionary uses are generally of an agricultural or tourist nature.

Due to the steep topography and the extent of vegetation of the area, particular focus is placed on the protection to be offered to future residents from bushfire hazard. The strategy requires the preparation of bushfire risk assessments and Fire Management Plans as part of the documentation to be submitted with development and subdivision applications.

The protection of the visual amenity of the area is of high importance in the area, particularly from the coastal plain.

Agricultural land uses are permitted in cleared areas, while attention is to be given to the protection of the natural environment (i.e. groundwater and remnant vegetation).

As the Local Planning Strategy does not cover detail that would normally be found in a Structure Plan, it is proposed to establish a Local Planning Policy to guide development in the Hills Landscape Protection area of the Local Planning Strategy.

The key planning issues relating to the further subdivision/development of the Hills Landscape Protection areas include the following:



- Strategic bushfire risk assessment and the provision of suitable strategic fire emergency access/connecting roads.
- Provision of a suitable local road network that would link potential subdivisions for properties within the Hills Landscape Protection area.
- Identification of specific landscape features/view sheds, where further development is not desirable or needs specific attention.

State Planning Policy 2.5 Agricultural and Rural Land Use Planning (SPP 2.5)

Part 5.3.1 of SPP 2.5 states that:

- (i) *Land identified in the local planning strategy as being suitable for closer settlement in rural areas should be zoned “Rural-Residential” for a residential use in a rural environment, or “Rural Smallholdings” for a residential use in association with a rural pursuit, or “Residential” in areas for townsite expansion and*
- (ii) *In areas zoned “Rural-Residential” or “Rural Smallholdings”, town planning scheme provisions should provide for—*
 - (a) *the requirement for a subdivisional guide plan;*
 - (b) *restrictions on the type and scale of any agricultural land uses or rural pursuits;*
 - (c) *the identification of clearing, land management controls and environmental repair requirements including the retention of areas of remnant vegetation or regeneration of degraded areas;*
 - (d) *the identification of either a building envelope, or building exclusion area, on each lot to which all development is restricted;*
 - (e) *the restriction of development to only one dwelling per lot;*
 - (f) *the control over the location of development (including the siting of dwellings, ancillary buildings, service roads and firebreaks) so that it does not significantly detract from any scenic landscape and/or conservation attributes;*
 - (g) *compliance with State and local government environmental and health standards in respect of dwellings and ancillary buildings and the associated services (i.e. drainage and wastewater disposal);*
 - (h) *requirement for all structures in high bushfire risk areas to be constructed to Australian Standard AS3959;*
 - (i) *road design to allow for safe egress in event of an emergency;*
 - (j) *the preparation and implementation of bushfire management plans; and*
 - (k) *any other matter that arises from the preparation of the local government’s settlement strategy.*
- (iii) *The Commission will only support subdivision for Rural-Residential and Rural Smallholdings where the land has been appropriately zoned within the town planning scheme and the provisions of Policy No. DC 3.4 (2001) Clause 6 can be complied with.*

Development Control Policy 1.1 - Subdivision of land - General principles

Part 3.7.1 of the Policy states that “*New green title lots will be created only where each lot has, or can be, provided with direct frontage access to a constructed public road, which is connected to the road system of the locality. This is to ensure the provision of public utility and other services as well as to provide vehicular and pedestrian access to the lot*”.



It is understood from the application that progress has been made with the addressing of the legal access issue. This has however not been fully confirmed and is discussed further under the heading *Officer's Comments* in this report.

Development Control Policy 3.4 – Subdivision of Rural Land

Criterion 3.1 of the Western Australian Planning Commission (WAPC) Development Control Policy 3.4 states that:

“It is WAPC policy that the subdivision of rural and agricultural land for closer settlement (rural-residential and rural smallholdings) and more intensive agricultural uses should be properly planned through the preparation of regional and local planning strategies and provided for in local planning schemes prior to subdivision”.

WAPC Planning Guidelines: Planning for Bush Fire Protection

Guidance statement B9 in the Guidelines in relation to subdivision/development conditions state that the WAPC may impose conditions on subdivisions, strata applications or development applications to address fire protection issues including, but not limited to:

- the provision of fire fighting water supply and fire hydrants;
- the provision of fire services access;
- the preparation of a fire management plan and implementation of the specific fire protection measures set out in the plan (model fire management plan in appendix 4 of these guidelines);
- the allocation of a site for the location of a fire fighting facility; or
- the implementation of measures to ensure that prospective purchasers are aware of relevant scheme provisions, fire management plan and publications addressing fire safety.

Community Consultation

Community consultation is not undertaken for subdivision referrals as this is generally done at scheme amendment stage.

Internal Referral

The Director Technical Services provided the following comments:

The subdivision currently does not have legal road access which I consider to be a critical failure of the subdivision. There is potential of fire risk in this area with sole access across the existing Water Corporation Dam wall. To date, Water Corporation will not give written support that this access can be used as legal access.

Proposed conditions provided are as follows:

1. Engineering plans to be approved by the Shire of Waroona prior to the start of construction.
2. Drainage management strategy be supplied and implemented by the client to the satisfaction of the Shire of Waroona.

3. Fire management strategy to be supplied and implemented by the client to the satisfaction of the Shire of Waroona and FESA.
4. Protective covenant to be placed over existing water courses, to the satisfaction of the Shire of Waroona and the Department of Water.
5. Protective covenant be placed over existing vegetation to the satisfaction of the Shire of Waroona and the Department of Environment.
6. Plan to be provided to the Shire of Waroona identifying Building envelopes, with consideration to the Fire Management Plan and all weather access.
7. Roads to be constructed and sealed to the satisfaction of the Shire of Waroona.
8. Provision of a surveyed dedicated sealed and constructed road to the subdivisional area.
9. Culverted, sealed crossovers to proposed lots, to the Satisfaction of the Shire of Waroona.

Officer's Comments

For land zoned 'Rural 5 – Darling Range,' the Scheme's objective is to encourage the retention of rural pursuits and the development of suitable recreational and holiday facilities.

The proposed subdivision will allow the existing winery to continue operating whilst harnessing the potential for other rural pursuits to be introduced on the remaining 5 lots.

For land with a classification of 'Hills Landscape Protection', the Strategy requires a 10 hectare minimum lot area for subdivision. The subdivision proposal has 5 lots ranging between 10 hectares and 15.9 hectares. The lot containing the existing winery is proposed to be 38.76 hectares in area. The subdivision proposal is compliant with the minimum lot area requirements of the Strategy.

It should be noted that although progress has been made to resolve access constraints to the proposed subdivision, the subdivision is still fatally flawed regarding this matter.

For a vehicle to reach Prince Road, of which the proposed subdivision relies on for access, the vehicle must use the full length of Invarell Road. This includes having to cross the Waroona Dam wall, which is not a legal accessway.

The dam wall is owned by the Water Corporation and is not a public road reserve. The Water Corporation has the right to close the dam wall at anytime it sees fit, and if this was to occur, access to Lot 9 is not possible. The applicant indicated that some progress has been made in relation to obtaining an access easement at the east of Lake Navarino.

The supplementary report provided by Greg Rowe and Associates in support of the subdivision application states that the Water Corporation indicated their willingness to grant an access easement across a portion of their land (Lot 524 on Plan 114788) to officially provide legal road access to Lot 9 prince Road. This has however not been finalised and binds a third party (Water Corporation) who is not party to the application itself. Practical access will still be provided via Scarp Road and over the dam wall.

The alternative access solution for Lot 9 is the dedication of the full length of Scarp Road, which is understood to be a Department of Environment and Conservation (DEC) track, maintained by the Shire of Waroona. At its meeting of 22 June 2010



Council resolved to advise the DEC that it supports the dedication of the road, subject to all costs be borne by the subdivider. The status of the dedication of the road is unknown at this stage.

The concern is held that emergency services (fire and ambulance services in particular) may not have the opportunity to access the subdivision if the dam wall was closed. The Strategy stipulates that for subdivisions, proponents must demonstrate that acceptable protection can be offered to future residents from bushfire hazard. The subject area is a known high risk fire area. The proponent needs to submit a fire management plan as part of the proposal (and potentially expects to do so through a condition of approval). Future residents of the subdivision will have to be protected from the hazard of bushfire with alternative legal access to the subject land. In this sense, the proposal is not compliant with the Strategy and Development Control Policy 1.1.

The reasons noted by the WAPC for refusing the previous subdivision application in March 2009 are acknowledged. To date, the applicant does not appear to have addressed all six these reasons, other than the access related issue.

As at present there is no legal access to the proposed subdivision, it is recommended to Council to recommend to the Western Australian Planning Commission to refuse the subdivision on that basis.

COUNCIL RESOLUTION

OCM10/12/191

Moved: Cr Salerian

Seconded: Cr Germain

That Council advises the Western Australian Planning Commission that it supports the six (6) lot subdivision of Lot 9 Prince Road, Waroona subject to the following conditions:

- 1. Legal access being provided by surveyed, dedicated constructed roads to the proposed subdivision to the satisfaction of the Western Australian Planning Commission.**
- 2. An acceptable Fire Management Plan being prepared and implemented to offer protection to future residents from bushfire hazard as the subject area is a known high fire risk area. The plan to be to the specifications of the Local Government and the Fire and Emergency Services Authority.**
- 3. Engineering plans to be approved by the Shire of Waroona prior to the start of construction.**
- 4. Drainage management strategy to be supplied and implemented by the applicant to the satisfaction of the Shire of Waroona.**
- 5. A protective covenant to be placed over existing water courses, to the satisfaction of the Shire of Waroona and the Department of Water.**
- 6. A protective covenant to be placed over existing vegetation to the satisfaction of the Shire of Waroona and the Department of Environment and Conservation.**

7. **A plan to be provided to the Shire of Waroona identifying Building Envelopes, with consideration to the Fire Management Plan and all weather access.**
8. **Provision of surveyed, dedicated sealed and constructed roads to the subdivisional area to the satisfaction of the Shire of Waroona.**
9. **Culverted, sealed crossovers to proposed lots, to the satisfaction of the Shire of Waroona.**

CARRIED 4/1

**For the Motion: Crs Salerian, Germain, Walmsley, Dew
Against The Motion: Cr Snell**

Note: The Officer's Recommendation was not adopted as the Council were satisfied that the impediments identified in the Officer's report could be dealt with satisfactorily.

9.2.6 PROPOSED HILLS LANDSCAPE PROTECTION POLICY	
Reporting Officer / Officer's Interest:	Louis Fouché – Manager Planning Services / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	N/A.
Landowner:	Various
Date of Report: 7 December 2010	File No.: TP 7 General, 111/1
Previous Reference:	N/A
Statutory/Policy Implications:	Planning and Development Act 2005 Shire of Waroona Town Planning Scheme No.7 1996. (See report). WAPC Development Control Policy 3.4 – Subdivision of Rural Land 2008. (See report). Planning for Bush Fire Protection 2010.
Strategic Implications:	Local Planning Strategy 2009
Financial Implications:	Cost of advertising policy
Voting Requirements	Simple majority

Background

The Hills Landscape Protection area in the Local Planning Strategy (the Strategy) covers in excess of 1,200ha of land. A copy of the Scarp and Darling Range Precinct plan in the Strategy is contained at **APPENDIX 9.2.6 (a)**. This area has been the subject of a number of Scheme Amendment and Subdivision applications in the recent past.

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 provisions in the Town Planning Scheme in relation to the three zonings vary significantly with the Rural 6 zoning being the most comprehensive while the Rural 4 and 5 zonings are more basic in relation to development control provisions.

Although the Local Planning Strategy provides guidance for development, it is not a statutory document and it lacks the detail normally provided in a Structure Plan.

Proposal

It is proposed to establish a Local Planning Policy to guide development in the Hills Landscape Protection area of the Local Planning Strategy.

The key planning issues relating to the further subdivision/development of the Hills Landscape Protection areas include the following:

- Strategic bushfire risk assessment and the provision of suitable strategic fire emergency access/connecting roads.
- Provision of a suitable local road network that would link potential subdivisions for properties within the Hills Landscape Protection area.

- Identification of specific landscape features/view sheds, where further development is not desirable or needs specific attention.

Statutory Implications

Where adequate statutory development control provisions do not exist in the Town Planning Scheme No 7, the scheme needs to be amended to accommodate subdivision and development.

It should also be noted that a Hills Landscape Protection zone does not exist in the Waroona Scheme as yet, which is the case with the Shire of Murray Town Planning Scheme. A new zone will have to be created in the Waroona scheme.

In terms of Clause 2.4 of the Scheme, once a Draft Town Planning Scheme Policy has been developed, Council needs to resolve to adopt the draft policy and then advertise the policy for a minimum period of 21 days. All submissions to the draft policy need to be considered by Council and then Council can resolve to adopt the policy, amend it or not proceed with the policy.

Although a town planning scheme policy does not bind Council, it shall have regard for the policy when making a decision.

Development Control Policy 3.4 – Subdivision of Rural Land

Criterion 3.1 of the Western Australian Planning Commission (WAPC) Development Control Policy 3.4 states that:

“It is WAPC policy that the subdivision of rural and agricultural land for closer settlement (rural-residential and rural smallholdings) and more intensive agricultural uses should be properly planned through the preparation of regional and local planning strategies and provided for in local planning schemes prior to subdivision”.

Local Planning Strategy

The objective of the Hills Landscape Protection area in the Local Planning Strategy is: “To provide for opportunities for small-scale agriculture and tourism accommodation whilst providing landscape protection”.

The Strategy lists proposed primary / permitted land uses as well as proposed discretionary uses. The primary uses are mostly of a residential and home based business nature while the discretionary uses are generally of an agricultural or tourist nature.

Due to the steep topography and the extent of vegetation of the area, particular focus is placed on the preparation of Fire Management Plans.

The protection of the visual amenity of the area is of high importance in the area, particularly from the coastal plain.

Agricultural land uses are permitted in cleared areas, while attention is to be given to the protection of the natural environment (i.e. groundwater and remnant vegetation).

Community Consultation

Once drafted, Council would seek public comment on the draft policy for a minimum period of 21 days.

Internal Referrals

The draft policy will be internally referred, prior to being submitted to Council for consideration.

Officer's Comments

The Manager Planning Services attended a meeting with the Director and Manager of the Department of Planning (Peel Region) in Mandurah on 8 November 2010. Two of the issues discussed at the meeting were:

- Rezoning requirement for properties to be subdivided below 10 hectares on rural land (Western Australian Planning Commission Development Control Policy 3.4).
- Potential Local Planning Policy for Waroona Hills / Scarp area.

At the meeting it was agreed that subject to Council endorsement, the Shire of Waroona's Planning Services Department and Technical Services Directorate as well as officers from the Department of Planning will jointly prepare a policy in respect to the Hills Landscape Protection area as identified in the Shire's Local Planning Strategy.

Given the potential for land within the Hills Landscape Protection area are earmarked for subdivision to a minimum lot area of 10ha lots (subject to site specific assessment), there is a need to progress preliminary planning investigations for this area and commence work on drafting up suitable Town Planning Scheme provisions for a 'Hills Landscape Protection zone.' Other local government Town Planning Schemes will also be reviewed to identify suitable provisions to be applied to a Landscape Protection zone in the Shire of Waroona Town Planning Scheme.

The key planning issues relating to the further subdivision/development of the Hills Landscape Protection areas that will be further explored include:

- Strategic bushfire risk assessment and the provision of suitable strategic fire emergency access/connecting roads.
- Provision of a suitable local road network that would link potential subdivisions for properties within the Hills Landscape Protection area.
- Identification of specific landscape features/view sheds, where further development is not desirable or needs specific attention.

At this stage it is not proposed to employ a Planning Consultant or other technical expert to develop the Draft Policy. Plans associated with the policy will be produced by the Department of Planning.

Detailed site specific assessment, fire risk management and subdivision design are to be addressed by proponents' consultants at the rezoning/subdivision stage.

Given development pressure currently being experienced in the area in question it is recommended that the development of the policy be endorsed by Council.



COUNCIL RESOLUTION

OCM10/12/192

Moved: Cr Snell

Seconded: Cr Dew

That Council resolves, with respect to the proposed Hills Landscape Protection Policy, to endorse the development of a Draft Policy to be considered at a future Council meeting.

CARRIED 4/1

For the Motion: Crs Snell, Dew, Germain, Walmsley

Against the Motion: Cr Salerian

9.2.7 AMENDMENT OF 2010/2011 BUDGET – PURCHASE OF LAND	
Reporting Officer / Officer's Interest:	Steve Cleaver, Director Community and Planning Services
Responsible Officer / Officer's Interest	Steve Cleaver Director Planning and Community Services
Proponent:	Shire of Waroona
Landowner:	N/a
Date of Report:	5 October 2010 File No.: 36/1
Previous Reference:	Nil
Statutory/Policy Implications:	Local Government Act s 3.59
Strategic Implications:	Will provide freehold land for Shire purposes
Financial Implications:	\$140,000 expenditure funded by the Public Open Space Trust
Voting Requirements	Absolute majority

Proposal

To purchase a fee simple lot in Sundercombe Loop.

Background

In-lieu of the provision of ten percent public open space developers in the Logue Street area have provided cash to Council for future purchase of land in the Logue Street area. Council has recently resolved to use these funds for public open space upgrades, however at present no additional upgrades are planned.

The funds are held in trust for Council to consider purchase of land. At present the balance of the trust is approximately \$167,910. As this money is held in trust no interest is earned at is essentially eroding due to inflation.

Community Consultation

Manager Finance

Officer's Comments

Discussions with the Developers in the Logue Street area revealed that the prices for lots in the Sundercombe Loop area (**APPENDIX 9.2.7 (a)**) are:

Lots 213-217, 219 and 220 all at \$140,000.

Lots 222-226 and 229-232 all at \$135,000

Comparison lots on the corner of Recreation Road are

Lot 101	707sqm	\$172,000
Lot 124	801sqm	\$180,000
Lots 106, 107 and 108 Logue Street are \$200,000		



Prices are ex GST and not subject to stamp duty. Ongoing costs would be Sewer Rates and the Emergency Services Levy.

COUNCIL RESOLUTION

OCM10/12/193

Moved: Cr Germain

Seconded: Cr Snell

That the 2010/2011 budget be amended to purchase a fee simple lot 219 or 220 in Sundercombe Loop, Waroona and the Chief Executive Officer be delegated the power to undertake the transaction up to a purchase price of \$140,000 (a/c 4644).

That corresponding funds be transferred from trust T801 to a/c municipal 4725 to offset this expenditure.

CARRIED BY ABSOLUTE MAJORITY 5/0

9.2.8 SKATE PARK UPGRADE	
Reporting Officer / Officer's Interest:	Maree Ellis – Community Development Officer
Responsible Officer / Officer's Interest	Steve Cleaver – Director Community and Planning Services
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 29 th November 2010	File No.: 126/8
Previous Reference:	OCM 10/063
Statutory/Policy Implications:	Amendments proposed in accordance with Local Government Act 1995 and Financial management regulations.
Strategic Implications:	Nil
Financial Implications:	2010/2011 budget \$40,581.00 project with contributions of Lotterywest \$25,581.00 Department Regional Australia, Regional Development & Local Government; RLCIP Round 3 \$15,000
Voting Requirements	Absolute Majority

Proposal

The Recreation Advisory Committee is requested to recommend to Council to consider an amendment to the 2010/11 adopted budget in order to commence an upgrade of the Waroona Skate Park.

Background

The Waroona Recreation Advisory Committee made a previous recommendation to the OCM 25 May 2010 to consider an amount of \$10,000 for inclusion in the 2010/11 budget towards the upgrade and for the Shire to seek additional grant funds towards the project.

COMMITTEE RESOLUTION

1. *That the Recreation Advisory Committee recommends to Council that \$46,000 be considered in the 2010/11 budget towards the upgrade of the Waroona Skate Park.*
2. *That the Shire seek additional grant funds through funding applications to Lotterywest, Department of Sport and Recreation and Alcoa of \$36000.*

Moved: Cr Wright

Seconded: Cr Witney

CARRIED 6/0

At the OCM on 25th May 2010, Council resolved to consider funding \$10,000.00 towards the upgrade of the Waroona Skate Park and seek additional grant funds for inclusion in the 2010/11 budget.



COUNCIL DECISION

OCM10/063

MOVED: Cr Scott

SECONDED: Cr Wright

That Council considers funding \$10,000 towards the upgrade of the Waroona Skate Park and seeks additional grant funds through applications to Lotterywest, Department of Sport and Recreation and Alcoa of \$36000, for inclusion in the 2010/11 budget.

CARRIED 8/0

Community Consultation

Local community members have made approaches to staff and councillors outlining problems with flooding at the skate park and asking for an upgrade or new facility. One hundred and sixty five (165) community members have signed a petition supporting the request. Waroona Youth Advisory Council members have spoken with young people in Waroona and have identified the need for an upgrade. Young people met with the Community Development Officer in April 2010 to discuss the issue.

The Community Development Officer has continued to liaise with community members regarding the progress of the project.

Officer's Comments

Sufficient funds of \$40,581.00 have now been secured from Lotterywest and the Department Regional Australia, Regional Development & Local Government; RLCIP Round 3 to complete the project.

The following budget amendment is therefore required.

- Authorise unbudgeted expenditure of \$40,581 from Account 3714
- Authorise income from grants of \$40,581 (A/C 3733)

COUNCILS RESOLUTION

OCM10/12/194

Moved: Cr Snell

Seconded: Cr Germain

That the Council amend the 2010/2011 adopted budget as follows:

- **To authorise the upgrade to the Recreation Centre Skatepark.**
- **Authorise unbudgeted expenditure of \$40,581 (A/C3714)**
- **Authorise unbudgeted income from grants to \$40,581 (A/C3733)**

CARRIED BY ABSOLUTE MAJORITY 5/0

The President acknowledged the work and commitment by the Community Development Officer, Maree Ellis in obtaining funding and organising this project.



9.2.9 SD 141880 – GRANT OF EASEMENT TO BE ENDORSED AND SEALED	
Reporting Officer / Officer's Interest:	Nadine Aiberti – Planning Assistant / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services/ /Nil
Proponent:	Mr J & Mrs S Garavanta-Hodkinson, Paratta Management Pty Ltd Trading as Trustee for Garavanta Superfund
Landowner:	Mr J & Mrs S Garavanta-Hodkinson
Date of Report: 8 December 2010	File: SD181880
Previous Reference:	Nil
Statutory/Policy Implications:	Affixing seal requires Council resolution
Strategic Implications:	Nil
Financial Implications:	Costs are borne by subdivider
Voting Requirements	Simple Majority

This item was withdrawn from the Agenda.

Suspending of Standing Orders

COUNCILS RESOLUTION

OCM10/12/195

Moved: Cr Germain

Seconded: Cr Snell

That Standing Orders be suspended to enable a short recess, the time being 4.57pm.

CARRIED 5/0

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

COUNCILS RESOLUTION

OCM10/12/196

Moved: Cr Snell

Seconded: Cr Germain

That Standing Orders be resumed once again, the time being 5.06pm.

CARRIED 5/0

9.2.10 LOT 211 (6) NEIL PLACE, WAROONA – APPLICATION FOR PLANNING CONSENT FOR OUTBUILDING	
Reporting Officer / Officer's Interest:	Rhys Bloxsidge – Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché – Manager Planning Services / Nil
Proponent:	Melvin Penaluna
Landowner:	Melvin Penaluna
Date of Report: 22 November 2010	File No: TP1372
Previous Reference:	None
Statutory/Policy Implications:	Shire of Waroona Town Planning Scheme No. 7
Strategic Implications:	None
Financial Implications:	None
Voting Requirements	Simple majority

Proposal

An application for Planning Consent was received for an outbuilding at Lot 211 (6) Neil Place, Waroona. The proposed outbuilding would have a floor area, including the associated verandah, of 202.5m² (15m x 13.5m) and would be clad with Zinalume. The proposed outbuilding would also have a maximum height to the apex of the roof of 4.9 metres.

A location diagram is at **APPENDIX 9.2.10(a)**. Copies of the submitted plans are at **APPENDIX 9.2.10 (b)**.

Background

The subject lot is 1000m² and currently contains an existing dwelling and garage. The proponent has indicated that the existing garage would be removed to facilitate erection of the proposed outbuilding. Furthermore, the lot is located within the 'Urban 4 – Residential' zone under the Shire of Waroona Town Planning Scheme No. 7.

Together with the plans, the proponent submitted a plan of the shed with some text, explaining the reason for the size of the outbuilding. The plan is at **APPENDIX 9.2.10(c)**. Basically the applicant has indicated that:

- 50m² is required for a garage (car and trailer);
- 50m² is required for a boat and caravan;
- 40m² is required for storage of equipment relating to a cleaning business;
- 32.5m² is required for a personal workshop and hobbies.

Community Consultation

The proposed outbuilding was advertised in accordance with clause 8.2 of the Shire of Waroona Town Planning Scheme No. 7.

During the advertising period, no submissions were received.

Statutory Implications

The proposed outbuilding is in non-compliance with the Shire of Waroona Town Planning Scheme No. 7 (Scheme) in three parts.



Firstly, Clause 6.11 of the Scheme stipulates that without the approval of Council, the maximum total area of an outbuilding(s) with the 'Urban 4' zone shall not exceed 100m². In this case, the total area of the proposed outbuilding is 202.5m².

Secondly, Clause 6.11 also stipulates that without the approval of Council, the maximum roof height of an outbuilding from the natural ground level shall be no greater than 4.2 metres. The proposed outbuilding would have a maximum height from of the natural ground level of 4.9 metres.

Thirdly, clause 4.8.1 of the Scheme, which relates to the 'Urban 4 – Residential' Zone, stipulates that Council must ensure that residential development attains a satisfactory standard of urban amenity through siting, design and construction. The proposed outbuilding is considered to be contrary to this clause.

Internal Referrals

The Engineering Department has inspected the submitted plans and has not offered any advice on the proposed outbuilding to the Planning Department.

The Building/Health Department requires that should the proposed outbuilding be approved, the structure would be required to comply with the Building Code of Australia.

Officer's Comments

As mentioned previously, the proposed outbuilding has a total area twice as great as the stipulated maximum of 100m² in the Shire of Waroona Town Planning Scheme No. 7 (Scheme) and has a height of 0.7 metres greater than the stipulated maximum of 4.2 metres.

To address these issues, Clause 4.8 of the Scheme relates specifically to land zoned 'Urban 4 – Residential.' Clause 4.8.1 outlines Council's objectives for the zone. Relevant to the proposed outbuilding, one of Council's objectives for the zone is to ensure that residential development attains a satisfactory standard of urban amenity through siting, design and construction.

In this case, it is considered that the proposed outbuilding does not meet the above objective as the siting and design of the outbuilding would be considered to detract significantly from the amenity of the area visually (building bulk).

The proposed outbuilding would have a 3.2 metre high and 15 metre long wall adjacent to the rear boundary (set back 2.8 metres). Given that the width of the subject lot is 19 metres, the rear wall of the outbuilding would occupy the majority of the width of the lot. A wall of such proportion would create severe building intensity issues and would most likely detrimentally affect the visual amenity of the landowners to the rear. The landowner directly to the rear of the subject lot has an outdoor entertaining area approximately 12 metres from their rear boundary. Although existing vegetation along the rear boundary of the subject lot would screen the majority of the rear wall of the proposed outbuilding, the top of the wall and the entire roof would be in view of the entertaining area and would be unsightly, especially considering that the walls and roof would be clad with Zinalume.

It is worth noting that if the proposed outbuilding was compliant with the maximum height level of 4.2 metres, the walls would most likely be lower than 3.2 metres and may possibly be entirely screened to the rear by the existing vegetation in place.

It should be noted that the rear wall of the proposed outbuilding contains two windows which would aid in reducing the severity of building bulk, however, the windows would not be seen from the adjoining landowner to the rear as an existing fence and the mentioned vegetation would screen the windows from view.

Furthermore, the proposed outbuilding would have a 3.2 metre high and 11.5 metre long wall facing each side boundary. With this in mind and taking into account the height of the outbuilding to the pitch of the roof, the visual amenity of the adjoining landowners to each side would also most likely be detrimentally affected. There is also no existing screening in place to reduce the severity of the intensity of the side walls and the existing side fences are not high enough to screen the top of the walls and roof.

It should be noted that the R Codes set provisions for outbuildings in residential zones. Although the subject lot is located within a residential zone, the provisions of the clause 6.11 of the Scheme, relating to outbuildings, override the provisions of the R Codes that relate to outbuildings. However, the provisions of the R Codes relating to outbuildings are worth taking into account. Basically, the R Codes stipulate that without the approval of Council, an outbuilding(s) cannot exceed 60m² in area or 10% in aggregate of the lot size, whichever is lesser. In this case, the lesser is 60m². Should outbuildings be proposed that exceed 60m², the R Codes stipulate that outbuildings should only be approved where they do not detract from the streetscape or the visual amenity of residents of neighbouring properties. Although the provisions relating to outbuildings in the Scheme prevail over the R Codes' provisions, it is important to note that the proposed outbuilding would be 140m² larger than the stipulated requirement of the R Codes.

Furthermore, it should be noted that the proposed outbuilding is compliant with the relevant provisions of the Residential Design Codes of Western Australia (R Codes), including setbacks, open space and design for climate requirements (overshadowing).

Given that the proposed outbuilding is not compliant with the relevant clauses of the Scheme and that erection of the outbuilding would cause the visual amenity of surrounding landowners to be detrimentally affected, it is recommended to Council to refuse the application. The approval of an outbuilding of such a scale and size may set an unacceptable precedent for the residential areas of townsites with the Shire. Outbuildings that exceed 100m² in residential areas are generally considered inappropriate for residential uses.

COUNCILS RESOLUTION

OCM10/12/197

Moved: Cr Snell

Seconded: Cr Germain

That Council, with respect to the application for Planning Consent for an outbuilding at Lot 211 (6) Neil Place, Waroona, to refuse the application due to the following reasons:

- 1. The proposal is contrary to clause 4.8.1 of the Shire of Waroona Town Planning Scheme No. (1996) in that the outbuilding would not achieve a high level of urban amenity as erection of the outbuilding on the lot would significantly detract from the visual amenity of adjoining landowners;**
- 2. The proposed outbuilding is of a scale and intensity that is not consistent with a residential area;**
- 3. The approval of the application may result in an unacceptable precedent for similar applications, further retracting from the residential amenity in the townsite area.**

CARRIED 4/1

**For the Motion: Crs Snell, Germain, Dew & Walmsley
Against the Motion: Cr Salerian**

9.2.11 AMENDMENT TO THE 2010/11 ADOPTED BUDGET - HAMEL PRECINCT AND SURROUNDS LANTANA CONTROL	
Reporting Officer / Officer's Interest:	Maree Ellis – Community Development Officer
Responsible Officer / Officer's Interest	Steve Cleaver – Director Community and Planning Services
Proponent:	Shire of Waroona
Landowner:	Shire of Waroona
Date of Report: 16 TH December 2010	File No.: 115/1
Previous Reference:	N/A
Statutory/Policy Implications:	An absolute majority decision of the Council is required to approve unbudgeted expenditure
Strategic Implications:	Nil
Financial Implications:	2010/2011 budget \$15,000.00 project contribution from South West Catchments Council, South West Caring for Our Country Biodiversity Protection Program.
Voting Requirements	Absolute Majority

Proposal

Council is requested to consider an amendment to the 2010/11 adopted budget in order to continue undertaking chemical and manual control of large infestations of Lantana within the Hamel Nursery locality and smaller infestations in the Shire of Waroona.

Background

The Shire of Waroona recently received NRM funding through the South West Catchments Council (SWCC) to tackle a large Lantana infestation that was identified at the Hamel Nursery and nearby areas. These funds were used to employ a spraying contractor to undertake chemical spraying in the identified areas. Lantana is a weed of National Significance and is a growing threat to our waterways. It has begun to infest important natural areas in Western Australia doing serious damage to sensitive habitats.

During the development of this project, council staff became aware of other infestations within the Shires boundaries which were reported to the South West Catchments Council. In addition, the size of the Lantana problem at the Hamel Nursery and the height of some of the growth meant that not all of the infestation was able to be sprayed and will require manual removal.

South West Catchments Council project officer Jodie Deeley has identified further funding of \$15,000 through the South West Caring for Our Country Biodiversity Protection Program, for a second stage of this project and to expand the project into other areas of the Shire.

Community Consultation

Colleen Archibald – Waroona Landcare Centre
Lindsay Strange – District Bio Security Officer, Department of Agriculture and Food



Officer's Comments

Additional funds for the continuation of this project will assist to make a significant difference to the effectiveness of the initial program and stop the spread of this Weed of National Significance.

COUNCILS RESOLUTION

OCM10/12/198

Moved: Cr Dew

Seconded: Cr Snell

That the 2010/2011 adopted budget be amended as follows

- **Increase expenditure of Hamel Wetland/Precinct account from \$37,000 to \$52,000**
- **Authorise unbudgeted expenditure of \$15,000 from A/C 131240**
- **Authorise unbudgeted income of \$15,000 from grants to A/C 131130**

CARRIED BY ABSOLUTE MAJORITY 5/0

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**COUNCILS RESOLUTION****OCM10/12/199****Moved: Cr Germain****Seconded: Cr Snell****That Vouchers numbered:**

<u>ACCOUNT</u>	<u>CHEQUE NOS.</u>	<u>AMOUNT \$</u>	<u>TOTAL \$</u>
Municipal	6322 - 6346	\$14,582.14	\$14,582.14
Trust	EFT11522 – EFT115523	\$2,879.80	\$2,879.80
Electronic Transfers	EFT 11524 – EFT 11673	\$347,642.85	\$347,642.85
Direct Wages	3/11/10 – 17/11/10 inclusive	\$140,097.20	\$140,097.20
	TOTAL:		<u>\$505,201.99</u>

and attached at Appendix 9.3.1 be endorsed.**CARRIED 5/0**

9.3.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD 1 JULY 2010 TO 30 NOVEMBER 2010	
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:	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**COUNCILS RESOLUTION****OCM10/12/200****Moved: Cr Snell****Seconded: Cr Germain**

That the Monthly Statement of Financial Activity for the period 1 July 2010 to 30 November 2010 Appendix 9.3.2 be received and noted.

CARRIED 5/0

9.3.3 FORWARD CAPITAL WORKS PLAN (FCWP)	
Reporting Officer / Officer's Interest:	Laurie Tilbrook, Deputy CEO / Director Corporate Services / Nil
Responsible Officer / Officer's Interest	Ian Curley – CEO / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report:	File No.: 38/1
Previous Reference:	N/A
Statutory/Policy Implications:	The FCWP is currently not a statutory requirement however is a pre-requisite to access Royalties for Regions funding pursuant to the Country Local Government Fund
Strategic Implications:	The FCWP together with other long term planning documents will form an essential part of the Council's overall planning framework ultimately linked to an updated Community Strategic Plan.
Financial Implications:	Preparation of the document has been funded by a State Government grant of \$28,000. Final preparation costs of the document are yet to be determined but are expected to be slightly less than the funded amount.
Voting Requirements	Simple Majority

Proposal

The Council is requested to consider and endorse the Shire of Waroona Forward Capital Works Plan (FCWP) for the period 2010/11 – 2014/15.

The document has been prepared to draft stage by the Shire of Murray in liaison with officers of the Shire of Waroona.

This exercise forms a prelude to an overall Asset Management strategy based on resource sharing initiatives with the Shire of Murray.

Background

The primary objective of the Country Local Government Fund is to address infrastructure backlogs across the country Local Government sector by providing additional funds for the purposes of infrastructure provision and renewal.

Councillors may recall that initial Royalties for Regions funding in 2008/09 was provided direct however the 2009/10 allocation was deferred (to 2010/11) and then subjected to the requirement to produce and submit by 31 December, a FCWP.

The plan is based on the following criteria:

- Is to address infrastructure items only, not plant and equipment.
- Infrastructure is to be owned by the Council.
- To cover a 5 year period.
- Details of capital works expenditure in the year prior ie, 2009/10.
- Provision of written evidence of adoption.



- Conduct of a risk assessment for each project.
- Must be linked to the Council's Community Strategic Plan.
- A Commitment to an annual review of the plan.

Community Consultation

As the document is largely based on the existing Community Strategic and Long Term Financial Plans community consultation has therefore previously taken place during preparation of these documents.

It should however be noted that the Council's Strategic Plan is overdue for updating (funded in 2010/11) and therefore a renewed approach to community consultation will be required.

It is likely that a "community engagement strategy" will be developed as part of the proposed Integrated Strategic Planning Framework.

Officer's Comments

The document has been divided into the following infrastructure categories:

- buildings
- roads
- drainage
- footpaths
- parks

Each category contains a summary table and individual project information together with an overall total summary.

In addition assets are required to be classified to identify whether the capital works expenditure is either for Renewal, New Asset, Asset Expansion or Asset upgrade.

For each individual sub project in the plan the following information is provided:-

- Purpose of the project, including information on whole of life costing, whether the project involves recurrent expenditure, expenditure for maintenance or renewal of infrastructure or expenditure on new infrastructure.
- Background on the project.
- Explanation of how the project meets the intent of the Council's Strategic Plan.
- Breakdown of funding sources and amount of funding from each source for each year, including whether the Council has identified the CLGF as a funding source.
- A risk management assessment for each project based on the included "risk definition matrix".

Finally the Council is required to identify projects for priority in 2010/11 (detailed at page 6).

The plan will be updated on an annual basis and, subject to feedback from CLGF, will also be amended following completion and adoption of a new Community Strategic Plan.

Both of these documents are the cornerstone of the governments move to an Integrated Planning Framework for Councils and will be crucial to secure future funding.

The document is provided under separate cover.

COUNCILS RESOLUTION

OCM10/12/201

Moved: Cr Snell

Seconded: Cr Germain

- 1. That the Forward Capital Works Plan (FCWP) of the Shire of Waroona for the period 2010/11 to 2014/15 be endorsed.**
- 2. That the Council commits to a methodology for reviewing of the Forward Capital Works Plan on an annual basis.**

CARRIED 5/0

9.4 CHIEF EXECUTIVE OFFICER
Nil.

10. CONFIDENTIAL REPORTS

Members of the public will be excluded from the meeting as the following report is of a confidential nature.

COUNCILS RESOLUTION

OCM10/12/202

Moved: Cr Germain

Seconded: Cr Salerian

That the meeting be closed to members of the public in accordance with Section 5.23(2)(d) of the Local Government Act 1995 to discuss items relating to the allocating of Community Awards, Staff Performance Reviews and Disposal of Council Asset. The time being 5.20 pm.

CARRIED 5/0

10.1.1 SHIRE OF WAROONA 2011 AUSTRALIA DAY AND MERITORIOUS COMMUNITY SERVICE AWARDS

Reporting Officer / Officer's Interest:	Maree Ellis – Community Development Officer
Responsible Officer / Officer's Interest	Steve Cleaver – Director Community & Planning Services
Proponent:	Shire of Waroona
Landowner:	N/A
Date of Report: 9/10/10	File No: 58/1 12/1
Previous Reference:	OCM: 17/12/09
Statutory/Policy Implications:	Nil
Strategic Implications:	Nil
Financial Implications:	Nil
Voting Requirements	Simple Majority

Confidential report was provided under separate cover.

COUNCILS RESOLUTION

OCM10/12/203

Moved: Cr Snell

Seconded: Cr Germain

That Council adopts, en bloc, the recommendations from the Awards Committee meeting held on 8 December 2010 for the following Items 6.1.1, Item 7.1 and Item 7.2.

CARRIED 5/0



10.1.2 CHIEF EXECUTIVE OFFICER'S ANNUAL PERFORMANCE REVIEW	
Committee:	Senior Staff Appointment, Remuneration and Performance Review Committee.
Date of Report: 10.12.2010	File No:
Previous Reference:	N/A
Statutory/Policy Implications:	Local Govt Act 1995 requirement for annual employee review. Local Government Administration Regulation 18D.
Strategic Implications:	N/A
Financial Implications:	N/A
Voting Requirements	Simple Majority

Confidential report was provided under separate cover.

COUNCILS RESOLUTION

OCM10/12/204

Moved: Cr Salerian

Seconded: Cr Snell

That Council record that a positive performance review was undertaken of the Chief Executive Officer for the period September 2009 to December 2010 and that the performance review be accepted, without modification.

CARRIED 5/0

10.1.3 PURCHASE OF REPLACEMENT VEHICLE FOR DIRECTOR COMMUNITY & PLANNING SERVICES AND SALE OF KIA GRAND CARNIVAL TO WAROONA LIONS CLUB	
Reporting Officer / Officer's Interest:	Ian Curley, Chief Executive Officer / Nil
Date of Report: 16.12.2010	File No: 179/1
Previous Reference:	Nil
Statutory/Policy Implications:	
Strategic Implications:	N/A
Financial Implications:	Budget Amendment
Voting Requirements	Absolute Majority

COUNCILS RESOLUTION**OCM10/12/205****Moved: Cr Snell****Seconded: Cr Dew**

1. That Council delegate authority to the Chief Executive Officer to administer the provisions of the Local Government Act 1995 and Local Government (Functions & General) Regulations 1996 in relation to the disposition of Council's vehicle 102WR Kia Grand Carnival at a value of \$26,000, inclusive of GST, to the Waroona Lions Club for the benefit of the Gallop Children's appeal.
2. The 2010/11 Budget be amended to receive income of \$26,000 being the value of 102WR and increase expenditure by \$33,000 ex GST for the outright purchase of a new Kia Grand Carnival.

CARRIED BY ABSOLUTE MAJORITY 5/0**COUNCILS RESOLUTION****OCM10/12/206****Moved: Cr Salerian****Seconded: Cr Snell****That the meeting resume in public, the time being 6.05 pm.****CARRIED 5/0**

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
Nil.

12.2 OFFICERS
Nil.

13. CLOSURE OF MEETING

There being no further business the Chairperson closed the meeting the time being 6.06 pm.

I CERTIFY THAT THESE MINUTES WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING HELD 15 FEBRUARY 2011 AS BEING A TRUE AND CORRECT RECORD OF PROCEEDINGS.

.....
PRESIDING MEMBER

.....
DATE

