

Shire of Lake Grace

Ordinary Council Meeting

Minutes

28 June 2017



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CONTENTS

1.0	OPENING & ANNOUNCEMENT OF VISITORS.....	5
2.0	ATTENDANCE RECORD.....	5
2.1	PRESENT	5
2.2	APOLOGIES	5
2.3	LEAVE OF ABSENCE PREVIOUSLY GRANTED	5
3.0	PUBLIC QUESTION TIME	5
4.0	APPLICATIONS FOR LEAVE OF ABSENCE.....	6
4.1	CR ARMSTRONG, CR LLOYD AND CR MARSHALL.....	6
5.0	MINUTES OF PREVIOUS COUNCIL MEETINGS.....	6
5.1	ORDINARY MEETING – 24 MAY 2017	6
5.2	SPECIAL COUNCIL MEETING – 21 JUNE 2017	7
6.0	DECLARATIONS OF INTEREST.....	7
6.1	DECLARATIONS OF FINANCIAL INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60A	7
6.2	DECLARATIONS OF PROXIMITY INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60B	8
6.3	DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATIONS 1996 SECTION 34C	8
7.0	NOTICES OF URGENT BUSINESS.....	8
8.0	MOTIONS OF WHICH NOTICE HAS BEEN RECEIVED	8
9.0	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS.....	8
9.1	MR RUSTY LEE	8
10.0	MEMBERS' REPORTS	9
10.1	CR ARMSTRONG	9
10.2	CR CHAPPELL.....	9
10.3	CR CLARKE	10
10.4	CR HUNT	10
10.5	CR LLOYD	10
10.6	CR MARSHALL	11
10.7	CR STANTON	11
10.8	CR WALKER.....	11
10.9	CR DE LANDGRAFFT.....	11
11.0	MATTERS FOR CONSIDERATION – INFRASTRUCTURE SERVICES.....	12
11.1	UNBUDGETED EXPENDITURE – REIMBURSEMENT FOR WORKS CARRIED OUT TO DRAIN MAGENTA ROAD	12
11.1	NEWDEGATE-PINGRUP ROAD DAMAGE COMPENSATION	19

12.0	MATTERS FOR CONSIDERATION – PLANNING	23
12.1	DEVELOPMENT APPLICATION – PROPOSED STORAGE YARD (LIME SAND) – LOT 11 (NO.7059) KULIN-LAKE GRACE ROAD, LAKE GRACE	23
12.2	RETROSPECTIVE DEVELOPMENT APPLICATION – ADDITIONS TO EXISTING WINERY – LOT 97 (NO.6321) KULIN-LAKE GRACE ROAD, NORTH LAKE GRACE (WALKERS HILL VINEYARD)	28
13.0	MATTERS FOR CONSIDERATION – HEALTH & BUILDING	42
14.0	MATTERS FOR CONSIDERATION – FINANCE	43
14.1	ACCOUNTS FOR PAYMENT – MAY 2017	43
14.2	FINANCIAL STATEMENTS – MAY 2017	45
14.3	UNBUDGETED EXPENDITURE – REIMBURSEMENT FOR WORKS CARRIED OUT TO DRAIN MAGENTA ROAD	47
15.0	MATTERS FOR CONSIDERATION – COMMUNITY SERVICES	48
16.0	MATTERS FOR CONSIDERATION - ADMINISTRATION	49
16.1	SHIRE OF LAKE GRACE STRATEGIC COMMUNITY PLAN 2017–2027	49
16.2	ROAD NAMING – NEW ACCESS ROAD FOR DEWAR STREET LIGHT INDUSTRIAL SUBDIVISION LAKE GRACE	54
16.3	DELEGATION OF POWERS TO THE CHIEF EXECUTIVE OFFICER AND THE DELEGATIONS REGISTER	57
16.4	SOUTHERN AGCARE DONATION	61
16.5	2017 WALGA ANNUAL GENERAL MEETING – RE-NOMINATION OF PROXY DELEGATES	64
17.0	INFORMATION BULLETIN	66
17.1	INFORMATION BULLETIN REPORT – JUNE 2017	66
18.0	URGENT BUSINESS BY DECISION OF THE MEETING	68
19.0	SCHEDULING OF MEETING	68
19.1	JULY 2017 ORDINARY MEETING	68
20.0	CONFIDENTIAL BUSINESS – AS PER LOCAL GOVERNMENT ACT S5.23 (2)	68
20.1	DISPOSAL OF MERCEDES BENZ TRUCK	68
21.0	CLOSURE	69
22.0	CERTIFICATION	69

SHIRE OF LAKE GRACE

Minutes of the Ordinary Meeting of Council held at Council Chambers, 1 Bishop Street, Lake Grace, WA on Wednesday 28 June 2017.

1.0 OPENING & ANNOUNCEMENT OF VISITORS

The Shire President opened the meeting at 3.09 pm.

2.0 ATTENDANCE RECORD

2.1 PRESENT

Cr JF De Landgrafft	Shire President
Cr SG Hunt	Deputy Shire President
Cr LW Armstrong	
Cr R Chappell	
Cr DS Clarke	
Cr RA Lloyd	
Cr AD Marshall	
Cr MG Stanton	
Cr AJ Walker	

In Attendance

Ms D Gobbart	Chief Executive Officer
Ms L Gray	Deputy Chief Executive Officer
Mr P Webb	Manager Infrastructure Services
Ms N Bowman	Governance Officer

Observers/Visitors

Mr Rusty Lee

2.2 APOLOGIES

Nil

2.3 LEAVE OF ABSENCE PREVIOUSLY GRANTED

Cr Chappell has been granted leave of absence from Saturday 8 July 2017 to Friday 11 August 2017 inclusive.

3.0 PUBLIC QUESTION TIME

Nil

4.0 APPLICATIONS FOR LEAVE OF ABSENCE

4.1 CR ARMSTRONG, CR LLOYD AND CR MARSHALL

Applications for Leave of Absence were received in writing from Cr Armstrong, Cr Lloyd and Cr Marshall.

Resolution

RESOLUTION 12553

Moved Cr Stanton
Seconded Cr Clarke

The leave of absence be granted to:

1. Cr Armstrong for the period Friday 30 June 2017 to Monday 17 July 2017 inclusive;
2. Cr Lloyd for the period Friday 7 July 2017 to Tuesday 15 August 2017 inclusive;
3. Cr Lloyd for the period Tuesday 12 September 2017 to Tuesday 19 September 2017 inclusive; and,
4. Cr Marshall for the period Wednesday 5 July 2017 to Monday 10 July 2017 inclusive.

CARRIED 9/0

5.0 MINUTES OF PREVIOUS COUNCIL MEETINGS

5.1 ORDINARY MEETING – 24 MAY 2017

Resolution

RESOLUTION 12554

Moved Cr Walker
Seconded Cr Hunt

That the minutes of the Ordinary Meeting of Council held on 24 May 2017 be confirmed as a true and accurate record.

CARRIED 9/0

5.2 **SPECIAL COUNCIL MEETING – 21 JUNE 2017**

Recommendation

That the minutes of the Special Meeting of Council held on 21 June 2017 be confirmed as a true and accurate record.

Resolution

RESOLUTION 12555

Moved Cr Chappell
Seconded Cr Hunt

That Council move to next business.

CARRIED 9/0

6.0 DECLARATIONS OF INTEREST

6.1 DECLARATIONS OF FINANCIAL INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60A

Cr De Landgraftt declared financial interest for Item 14.3 Unbudgeted Expenditure – Reimbursement for Works Carried Out to Drain Magenta Road (refer to page 12) with the nature of the interest being, the De Landgraftt's offered to contribute towards the work on Magenta Road.

Cr Chappell declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage, handling and freight of grain, purchase of fertiliser and a loan.

Cr Clarke declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage, handling, freight and the sale of grain and lime purchased and delivered to farm.

Cr De Landgraftt declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage, handling, and potential sale of grain.

Cr Lloyd declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage and handling of grain.

Cr Marshall declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage, handling and marketing of grain and supply of fertiliser and lime sand.

Cr Stanton declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a grain grower, sale and storage of canola and barley.

Cr Walker declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation (refer to page 19) and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace (refer to page 23) with the nature of the interest being a shareholder, storage, handling and sale of grain and is an employee of CBH Group.

6.2 DECLARATIONS OF PROXIMITY INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60B

Nil

6.3 DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATIONS 1996 SECTION 34C

Nil

7.0 NOTICES OF URGENT BUSINESS

Nil

8.0 MOTIONS OF WHICH NOTICE HAS BEEN RECEIVED

Nil

9.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

9.1 MR RUSTY LEE

Mr Lee representative on behalf of farmers from the Magenta area gave a presentation in regards to works carried out by Woodstock Trading, Newdegate Grader Hire, Roselea Trading and PW & TA Ness for drainage works for farmers to access their farms and supplies using Magenta Road. Mr Lee's presentation is in relation to Item 14.3 Unbudgeted Expenditure – Reimbursement for works carried out to drain Magenta Road and is seeking Council's consideration of reimbursement for works carried out.

Mr Lee thanked the Chief Executive Officer, Denise Gobbart for her help and due process that had to be followed. Val and Rusty Lee trade as Roselea Trading and Roselea Trading have been

involved in the draining of the road from the beginning. On the 9-10 February 2017 the district received heavy rainfall which had a tin effect therefore causing many roads to flood even to roads that normally don't. Magenta Road did not flood straight away however on 23 February 2017 the depth of water was recorded at being 750 millimetres deep. The Shire held a Flood Event Landowner Information Session in Newdegate on 28 February 2017 and community was advised it would take the Shire at least six (6) weeks for works to commence. The Shire only received authority on 20 April 2017 to undertake the works. With the restricted access because of the water farmers could not move livestock; children couldn't get to the bus to go to school.

Ms Denise Gobbart left the meeting at 3.19 pm.

Surveying was carried out by Mr Peter Ness and Mr Lee to allow the team to start the drainage work. On 2 March 2017 worked commenced for drainage of water from Lake Buchan to Lake Lockhart, through channels between several lakes to achieve road access.

Ms Denise Gobbart returned to the meeting at 3.20 pm.

Aerial Photographs taken on 6 March 2017 were displayed, providing detailed information of the works carried out in particular sections and what processes were taken to get the water to drain. The team consisting of Newdegate Grader Hire, Woodstock Trading, Roselea Trading and PW & TA Ness will be going back in the next 10 days to remove the ridge for water to drain off the road into a different lake.

Mr Lee urged Councillors to consider the reimbursement of works carried out by local land owners and if successful invoices will be provided.

10.0 MEMBERS' REPORTS

10.1 CR ARMSTRONG

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

Monday 26 June

Attended the Newdegate Recreation Council meeting.

10.2 CR CHAPPELL

Tuesday 6 June

Attended the Lake Grace Development Association meeting.

Friday 9 June

Attended the Lake Grace Regional Art Space exhibition opening.

Wednesday 21 June

Attended the Lake Grace Regional Health Advisory Council meeting, the Special Meeting of Council and Budget Workshop.

Tuesday 27 June

Attended the Varley Progress meeting.

10.3 CR CLARKE

Tuesday 6 June

Attended the Lake Grace Development Association meeting.

Wednesday 14 June

Attended the CWA International day.

Sunday 18 June

Attended the Colts Carnival in Kulin as an Ambulance officer on standby.

Monday 19 June

Attended the Roe Tourism meeting in Corrigin.

Wednesday 21 June

Attended the Lake Grace Regional Health Advisory Council meeting, the Special Meeting of Council and Budget Workshop.

Tuesday 27 June

Attended the Varley Progress meeting.

10.4 CR HUNT

Tuesday 13 June

Attended the Lake Grace District High School Board meeting.

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

10.5 CR LLOYD

Friday 26 May

Attended the Kookoo Kookaburra night.

Tuesday 6 June

Attended the Newdegate Field Day Committee meeting.

Sunday 11 June

Attended the Acoustics Road trip to Corrigin, Quairading, Bruce Rock, Narembeen with Mr Gary Guelfi, Mr David Butcher and Ms Kelly Richardson.

Monday 12 June

Attended the Newdegate Community Development Association meeting.

Wednesday 14 June

Attended the Integrated Planning Asset Management Committee meeting and the Lake Grace Regional Art Space Exhibition.

Monday 19 June

Attended Alan (Tiger) Hall's funeral in Hopetoun.

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

Monday 26 June

Attended Joyce Webb's funeral in Albany.

Tuesday 27 June

Met with Michel Greenhalgh, Acoustics Architect at the Newdegate Pavilion. Attended the Varley Progress meeting.

10.6 **CR MARSHALL**

Wednesday 14 June

Attended the Integrated Planning Asset Management Committee meeting.

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

Tuesday 27 June

Attended the Lake Grace Community Resource Centre Committee meeting.

10.7 **CR STANTON**

Tuesday 13 June

Attended the Lake Grace District High School assembly. Attended meeting with Bendigo Board members.

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

10.8 **CR WALKER**

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

10.9 **CR DE LANDGRAFFT**

Wednesday 14 June

Attended the Integrated Planning Asset Management Committee meeting.

Wednesday 21 June

Attended the Special Meeting of Council and Budget Workshop.

Thursday 22 June

Attended the Eastern Wheatbelt Primary Health Care Group in Narembeen. This group is now disbanded and Roe Regional Organisations of Council (Roe ROC) will now deal with health issues. Shire will have a special seat on this group.

Friday 23 June

Attended the Central Country Zone Meeting in Pingelly.

11.0 MATTERS FOR CONSIDERATION – INFRASTRUCTURE SERVICESResolution**RESOLUTION 12556**

Moved Cr Lloyd
 Seconded Cr Walker

That Council move Item 14.3 Unbudgeted Expenditure – Reimbursement for Works Carried Out to Drain Magenta Road to next business for discussion.

CARRIED 9/0

Cr De Landgraft declared financial interest in Item 14.3 Unbudgeted Expenditure – Reimbursement for Works Carried Out to Drain Magenta Road with the nature of the association being, the De Landgraft's offered to contribute towards the work on Magenta Road.

The Presiding Member Cr De Landgraft left the meeting at 3.37 pm. In the absence of the Presiding Member, the Deputy President Cr Hunt presided the meeting from 3.37 pm.

14.3 UNBUDGETED EXPENDITURE – REIMBURSEMENT FOR WORKS CARRIED OUT TO DRAIN MAGENTA ROAD

Applicant: Rusty and Val Lee
File No. 0477
Attachments: Letter from Roselea Trading
Author: Ms Natasha Bowman

Disclosure of Interest: Nil
Date of Report: 22 June 2017
Senior Officer: Mr Paul Webb


 Governance Officer


 Manager Infrastructure Services

Summary

For Council to consider a request for the reimbursement of \$9,400 for works carried out by local farmers to open flooded roads from the flood event in February 2017.

Background

In February 2017 the Shire was impacted by flooding and damages to roads, fencing, agricultural land etc. It is alleged in a letter from Roselea Trading (refer attached), that many farmers in Magenta could not access supplies from Newdegate. This is due to the flood as water was blocking Magenta, Parsons and Old Ravensthorpe Roads.

At the time of the flooding event which occurred during the period 9 – 10 February, Magenta Road west of Brooker Road was clear of any water across the road. On Thursday 23 February 2017 the Chief Executive Officer (CEO) received a call from local landowners that Magenta Road was now under water with varying reports from 200 millimetres to well over 600 millimetres. This was an unexpected occurrence, with the comment made to the CEO that activities of others further afield had most likely been the cause of this event.

It is noted that prior to this flooding event residents in the Magenta region did have access via Magenta Road into Newdegate for supplies. Given the water over the road, most in that south east region would then have restricted access, with lengthy detours through private land holding to obtain supplies and services.

The Shire held a Flood Event Landowner Information Session in Newdegate on 28 February 2017, and the Shire advised it would take the Shire at least six (6) weeks to start work to give access to these stranded farmers due to the processes that needed to be undertaken.

On Thursday 9 March 2017, the Soil Commissioner, Mr Andrew Watson and the Shire's CEO Officer met with three (3) landowners to investigate ways to shift water from Magenta Road to allow road access from the residents within the Magenta catchment area. Mr Andrew Watson acknowledged that the proposal by the local farmers to carry out works for draining of water from Lake Buchan to Lake Lockhart through channels between several lakes to achieve road access for residents was a viable option.

During this meeting it was made very clear to the group that the Shire had no authority to authorise the works, nor would funding be available in the event that the CEO did get the approval to drain the water, the land owners acknowledged this. The commitment from the CEO was to investigate external funding as compensation for the works, if this could be obtained the Shire would make reimbursement of the cost.

As the landholders couldn't wait for any Shire approval processes, they advised that they would be funding the works themselves, to allow residents access and for them to carry on with their business of farming. It is noted that the group had already commenced the works prior to the meeting with the CEO and Soil Commissioner.

During this period the CEO was working with the State Recovery Co-ordinator and Main Roads to seek funding options for the removal of water from our key commodity routes. This was a very lengthy process, which was not obtained until 20 April 2017. Without the assistance of the State Recovery Co-ordinator this would not have occurred. Throughout this process the CEO sort approval for funding of the works already undertaken on Magenta Road, without success, due to the known processes not being followed.

On 31 May 2017 the rate payers in the Magenta region wrote to the Shire requesting the Shire to meet the cost of the works carried out by the landholders as the Shire was (allegedly) not able to carry out the drainage works to allow farmers to access supplies in time for seeding etc.

Comment

The works carried out in this instance was not approved at the time of works completion therefore this cost cannot be a part of the Western Australia Natural Disaster and Relief and Recovery Arrangements (WANDRRA) funding. For funding to be considered under the current arrangements, a proposal and estimate of works, with accompanying photographs of the 'existing' issue need to be provided to Main Roads Western Australia for consideration. As much of the work indicated by Roselea Trading was associated with water on property, not necessarily directly impacting road reserve, much of the road flooding may be considered incidental to the relocation of water.

Magenta, Parson and Old Ravensthorpe Roads are still affected by water being over the road, and the CEO is still liaising with landholders and the Office of Emergency Management in an effort to

remove or reduce water levels from significant Shire controlled roads, being Old Ravensthorpe, Magenta and Hatters Hill Roads.

The Shire is responsible for maintenance of a large road asset base, level of service considerations are yet to be researched. Whilst it is a priority for the administration to process maintenance and continuity of use, there is also responsibility for due process. While there is cause for dissatisfaction in the inability of the Shire to immediately act in an attempt to mitigate the effects of a natural disaster, it should be noted that this inability to immediately act is widespread and has affected all shires subject to this natural disaster.

Any expenditure of funds prior to due process would not be recouped by the Shire, much as those identified by Roselea Trading have been affected by acting immediately, and as such have eliminated the affected landholders from receiving funding. The accusation of ‘further scrutiny’ would appear to allude that the administration has been subject to impropriety, when in fact delay has been the subject of proper action.

With these abnormal weather events considerable pressure is put on all in the community to seek the best outcomes for both the community at large and individual landowners. There are a number of landowners that have approached the Shire to seek compensation as they have drained water on their land holdings which in turn has cleared water from a road.

Unfortunately, funding is not available to drain all water that has fallen. If due process is followed, funding would be available for roads of significance throughout the district. Any precedence in local government funding drainage works without consideration to the administration processes will lead to future potential claims being made against the Shire, as the precedence would have been made.

It is therefore the officer’s recommendation that this request not be supported.

Legal Implications

Local Government Act 1995

6.8 Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

* *Absolute majority required.*

- (1a) In subsection (1) —
- additional purpose** means a purpose for which no expenditure estimate is included in the local government’s annual budget.
- (2) Where expenditure has been incurred by a local government —
- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

Policy Implications

N/A

Consultation

Internal: Denise Gobbart, Chief Executive Officer

External: Rusty Lee, Magenta Farmer

Financial Implications

An unbudgeted expense of \$9,400 would be incurred.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

- Ec1 Maintain community built infrastructure and provide an effective and efficient transportation network.
- Ec1.1 Maintain efficient, safe and appropriate infrastructure including roads, built and civic infrastructure.
- S1.4 Develop civic and community leadership values to improve community culture.
- CL2 Foster a united approach between our communities.

Recommendation

That Council, advise Roselea Trading that the request for reimbursement of expenses for drainage works is not supported, as previously advised by the Chief Executive Officer.

Voting Requirements

Simple majority required.

Resolution

In the event that the motion was lost Cr Armstrong foreshadowed a motion.

RESOLUTION 12557

Moved Cr Stanton
Seconded Cr Chappell

That Council, advise Roselea Trading that the request for reimbursement of expenses for drainage works is not supported, as previously advised by the Chief Executive Officer.

LOST 5/3

Foreshadowed Motion/Resolution

RESOLUTION 12558	
Moved Cr Armstrong	
Seconded Cr Lloyd	
That Council reimburse:	
Roselea Trading	\$1,000
Woodstock Trading	\$7,500
PW and TA Ness	\$900
being a total of \$9,400 for the works undertaken to drain water from Magenta Road, a significant commodity route within the district. These funds are to be sourced from Rural Road Maintenance Job 122505 Drainage.	
CARRIED BY ABSOLUTE MAJORITY 6/2	

Reason for the Foreshadowed Motion:
Magenta Road is a significant commodity route and the works undertaken to allow the water to drain from Magenta Road was of a significant benefit to all landowners and residents of the Magenta region.

Cr De Landgrafft returned to the meeting at 3.51 pm.
Cr Hunt vacated the chair on Cr De Landgrafft returning to preside the meeting at 3.51 pm.
The Chief Executive Officer read aloud the decisions of Council.

The Chief Executive Officer (CEO) advised that as a result of the declarations received prior to the meeting, an application had been made to the Minister for Local Government for approval under section 5.69(3)(a) of the Local Government Act 1995 for sufficient elected members to be present to form a quorum to allow the matters to be discussed. As a result of that request correspondence had been received from the Department of Local Government and Communities as follows:

“I refer to your correspondence dated 20 June 2017 and advise that, in accordance with authority delegated by the Minister for Local Government, the Executive Director has approved the Shire of Lake Grace’s application, in part, under section 5.69(3)(a) of the Local Government Act 1995 (the Act).

This approval allows disclosing members, Councillors Ross Chappell, Rosalind Lloyd and Murray Stanton to fully participate in the discussion and decision making relating to the below-mentioned items at the Shire’s Ordinary Council Meeting of 28 June 2017;

11.1 – NEWDEGATE-PINGRUP ROAD DAMAGE COMPENSATION

12.1 – DEVELOPMENT APPLICATION – PROPOSED STORAGE YARD (LIME SAND) – LOT 11 (NO.7059) KULIN-LAKE GRACE ROAD, LAKE GRACE

Subject to the following conditions:

- 1. The approval is only valid for the 28 June 2017 Ordinary Council Meeting when agenda items 11.1 and 12.1 are considered;*
- 2. The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. The CEO is to provide a copy of the Department’s letter of approval to the abovementioned Councillors;*
- 4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
- 5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and,*
- 6. The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.”*

Cr Chappell declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a \$2 shareholder, storage and handling of grain \$21,870, freight of grain \$20,000, the sale of grain \$141,900 and purchase of fertiliser loan \$38,000. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Ordinary Council Meeting of 28 June 2017.

Cr Lloyd declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11

(No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a \$2 shareholder, storage and handling of grain. All grain has been sold. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Ordinary Council Meeting of 28 June 2017.

Cr Stanton declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a grain grower, sale and storage of canola \$66,307.34 and barley \$73,327.18. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Ordinary Council Meeting of 28 June 2017.

As Ministerial approval has been granted to allow Cr Chappell, Cr Lloyd and Cr Stanton to fully participate in the discussion and decision making related to this matter, they remained in the Council Chambers.

Cr Clarke declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) – Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a \$2 shareholder, storage and handling of grain \$41,000, freight \$57,500 and the sale of Canola \$582,960, Oats \$219,780, Barley \$138,000, lime purchased and delivered to farm \$123,000 and approximately 5 tonne of wheat unsold.

Cr De Landgrafft declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a \$2 shareholder, grain still in storage 134.3t lupins, 45.62t Oats, 33.78t Wheat with an estimated value of \$53,000 and the potential future storage, handling and sale of approximately 10,000 tonne grain.

Cr Marshall declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the interest being a \$2 shareholder, storage and marketing of grain to the value of approximately \$1,500,000, supply of fertiliser to the value of \$250,000 and supply of lime sand to the value of \$20,000.

Cr Walker declared financial interest in Items 11.1 Newdegate-Pingrup Road Damage Compensation and 12.1 Development Application – Proposed Storage Yard (Lime Sand) - Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace with the nature and extent of the association being a \$2 shareholder, sale of grain to the value of \$25,000 and is an employee of CBH Group earning \$20,000 per annum.

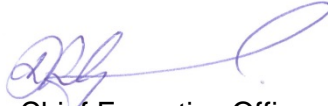
Cr Clarke, Cr De Landgrafft, Cr Marshall and Cr Walker left the meeting at 3.55 pm. In the absence of the Presiding Member, the Deputy President Cr Hunt presided the meeting at 3.55 pm.

11.1 NEWDEGATE-PINGRUP ROAD DAMAGE COMPENSATION

Applicant: Internal Report
File No. 0477
Attachments: Nil
Author: Mr Paul Webb

Disclosure of Interest: Nil
Date of Report: 15 May 2017
Senior Officer: Ms Denise Gobbart


Manager Infrastructure Services


Chief Executive Officer

Summary

For Council to consider cost recovery for repair of the damage to Newdegate-Pingrup Road, caused by Cooperative Bulk Handling Group (CBH) during cartage operations on Saturday 18 February 2017.

Background

During the flood event in February 2017 the Shire of Lake Grace, due to widespread road damage, the status of the road network was unknown, until an initial road inspection could be undertaken and that information compiled by staff. On completion of the inspection process, roads that had been assessed as trafficable were opened to traffic, some of which were only opened to vehicles under 4.5 tonnes.

It is acknowledged that the Newdegate-Pingrup Road was listed as open to all traffic in the Media Release issued 15 February 2017. This decision was made given it was a sealed road; at the time of making this decision the administration was not aware of any proposed grain movements from Newdegate.

On Saturday 18 February it was identified that CBH had been using Newdegate-Pingrup Road to cart grain from the Newdegate Field Day site. The administration of the Shire was made aware of this traffic movement on Saturday 18 February when a phone call was received from the Shire President after 11.00 am.

After advice was received the Chief Executive Officer and Manager Infrastructure Services were able to contact Mr Chris Poot around midday to ascertain what works CBH were undertaking. He then advised that they were carting the last 2,000 tonnes from the Newdegate Field Day site and that they were nearly finished. Verbal conditional approval was then granted.

During cartage operations the road was damaged. There was a total loss of running surface, deformation of base and sub base over to full width of road for approximately 50 metres. It is acknowledged that other cartage contractors were also using the road during the period that the road damage occurred.

The matter was discussed at a Council briefing session, when the Chief Executive Officer sought direction from Council for cost recovery of the repair works. Although the briefing session was an informal meeting of Council, clear direction was given to seek compensation from CBH for the road repair.

Comment

The Newdegate-Pingrup Road link is a Shire class A road, and is part of a vital haulage route for the Newdegate district. Our local farmers rely on this link for their livelihood; any deviation due to road damage would have a direct impact on this important local industry.

Damage to roads by third party offenders are recoupable through both the *Local Government Act 1995, Schedule 3.1, Division 1, 3* and the *Road Traffic Act 1974, Part V, Division 1, Section 55 (1)*, and the *Road Traffic Act 1974, Part V, Division 4, s.80A, (2)(ii)*.

It is clear that CBH have failed to initially report the damage to the shire road asset, the incident was reported to the administration by elected members, and although later admitting liability through conversation with Shire officers and email correspondence, CBH are now indicating that they will not undertake rectification works to the road damage, that they have been party to the cause.

By following administrative process, Shire officers had secured affirmation of corrective works with CBH officers. In this time, the CBH Chairman, Mr Wally Newman, has allegedly been in contact with Shire Councillor's;

'As discussed by phone this morning, our Chairman has had a conversation with a number of your Shire Councillors and the position reached from those conversations was that CBH should not be responsible for paying for the repair of the Newdegate-Pingrup Road section in question. On this basis, CBH is not in a position to cover the cost of repairs as requested by the Shire of Lake Grace.'

Excerpt from an email received by the Chief Executive Officer and Manager Infrastructure Services, 10 May 2017.

The above comments are disappointing given that Council had informally given clear direction for the administration to seek recovery of costs from CBH. If the above comments have foundation, it leaves the administration in a difficult situation as it would appear that elected members are involving themselves in administrative processes. Given the above the administration is now seeking a formal resolution of Council to proceed or not with the cost recovery for the repair of the damaged section of road.

Whilst the administration of the Shire is required to follow due process, the Council, in a broad sense, may make direction that is divergent from that process, on condition that it is not contrary to law and that Council understand the level of risk to which it may be exposed if that direction is adverse to a standard or staff recommendation.

In this matter, the administration is seeking compensation for damage to a Shire asset by a third party. Council, in consideration of available funds, may consider instead on the balance of costs associated with legal proceedings that it may instead be prudent to repair the damage from Shire funds, and to be mindful of future operations by the offending party.

Consideration of future operations may include formal written applications for specific road use to the Council, road assessment inspections at the cost of the applicant prior to road use to assess the level of road damage, or taking of a bond by applicants (subject to creation of an appropriate policy) by road users to cover damage costs and reduce financial risk to the Shire from corporate entities that can field a larger legal team and larger financial budget.

Legal Implications

Local Government Act 1995

Schedule 3.1 – Powers under notices to owners or occupiers of land

Division 1 – Things a notice may require to be done

3. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.

Road Traffic Act 1974

Part V - Regulation of Traffic

Division 1 – Driving of vehicles: general offences

Section 55 – Driver in incident occasioning property damage to stop and give information

- (1) If a vehicle driven by a person (the driver) is involved in an incident in which any property is damaged, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsection (4).

Penalty: a fine of 30 PU.

Division 4 – Impounding and confiscation of vehicles for certain offences

80A – Confiscation of vehicles used in certain impounding offences (driving)

- (2) A court may make an order if it is satisfied that —
 - (a) the offence was committed in a school zone; or
 - (b) the offence was committed in a confiscation zone other than a school zone and the commission of the offence resulted in, or was likely to result in —
 - (i) members of the public experiencing harassment, intimidation, fear or alarm; or
 - (ii) damage to any property, including the road; or
 - (c) the commission of the offence involved the driving of the vehicle at 90 km/h or more above the speed limit.

Policy Implications

N/A

Consultation

Internal: Denise Gobbart, Chief Executive Officer

External: Mr Chris Poot, Cooperative Bulk Handling
Mr Rob Dickie, Cooperative Bulk Handling

Financial Implications

The quote received to undertake the repairs by third party contractor is \$6,388.80 GST inclusive. This quote includes reinstate the pavement seal. For the repairs to be undertaken in-house, excluding the reinstatement of the pavement seal, it is estimated to cost \$7,390.90 GST inclusive.

To date the emergency remedial works undertaken by the Shire has cost approximately \$4,000.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Economics Focus Area

- Ec1 Maintain community built infrastructure and provide an effective and efficient transportation network
- Ec1.1 Objective: Maintain efficient, safe and appropriate infrastructure including roads, built and civic infrastructure.
- Ec1.1 Outcome: Improved service delivery to users of facilities and a more robust road network.
- Ec1.2 Objective: Support the provision of appropriate regional transportation links, including road and rail infrastructure and services.
- Ec1.1 Outcome: More efficient and safer transport that supports increased access to and from the district.

Voting Requirements

Simple majority required.

Recommendation/Resolution

RESOLUTION 12559

Moved Cr Stanton
Seconded Cr Chappell

That Council, instruct the Chief Executive Officer to pursue Cooperative Bulk Handling Group for the recovery of costs, associated with the road damage to Newdegate-Pingrup Road, approximately 590 metres south of the Maley Street intersection as the damage was primarily caused by the cartage of grain from the Cooperative Bulk Handling Group grain storage facility on Saturday 18 February 2017.

CARRIED 4/1

12.0 MATTERS FOR CONSIDERATION – PLANNING
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12.1 DEVELOPMENT APPLICATION – PROPOSED STORAGE YARD (LIME SAND) – LOT 11 (NO.7059) KULIN-LAKE GRACE ROAD, LAKE GRACE

Applicant:	Cooperative Bulk Handling Ltd (Landowner)
File No.:	0365
Attachments:	<ol style="list-style-type: none"> 1. Plan 1 – Location Plan 2. Plan 2 – Existing Lot Configuration 3. Plan 3 – Aerial Site Plan 4. Development Application Information 5. Traffic Impact Assessment
Author:	Mr Joe Douglas (Urban & Rural Perspectives) Town Planning Consultant
Disclosure of Interest:	Nil
Date of Report:	16 June 2017
Senior Officer:	Ms Denise Gobbart


 Chief Executive Officer

Summary

This report recommends that a development application submitted by Cooperative Bulk Handling Limited (CBH) (Landowner) seeking Council's retrospective approval for an unauthorised 'storage yard' (i.e. lime sand storage and supply) established at its existing grain handling and storage facility on Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace be approved subject to conditions.

Background

The applicant is seeking Council's retrospective development approval for the unauthorised establishment and operation of a 'storage yard' (i.e. lime sand storage and supply) at its existing grain handling and storage facility on Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace.

Under the terms of the application Council's approval is being sought for the transportation, storage and distribution of up to 20,000 tonnes of lime sand from its bulk handling and storage facility in Lake Grace. CBH's objective is to help address the current shortfall of lime sand in the Wheatbelt Region by creating stockpiles in strategic areas to help improve access to and availability of high quality lime sand to local grain growers throughout the district.

Lot 11 is located immediately adjacent to the northern boundary of the Lake Grace townsite and has direct frontage and access to Kulin-Lake Grace Road along its western boundary and an operational railway reserve along its eastern and southern boundaries (see Plan 1).

Lot 11 is irregular in shape, comprises a total area of approximately 34.045 hectares and has been extensively developed and used for 'rural industry' purposes (i.e. grain handling and storage). The land contains a number of improvements associated with its current approved use including open and closed grain storage bins and associated infrastructure, sheds, a site office, sampling hut, weighbridge, vehicle accessways and parking, stormwater drainage infrastructure and boundary fencing (see Plans 2 & 3).

Specific details of the proposal including various plans and additional supporting information are provided in Attachments 4 & 5.

Comment

Current Zoning & Land Use Permissibility

That portion of Lot 11 subject to this application is classified 'General Industry' zone under the Shire's current operative Local Planning Scheme No.4 (LPS No.4).

The key objectives of the land's current 'General Industry' zoning classification are to provide for general, light and service industries which by the nature of their operations should be separated from residential areas and to provide employment opportunities for residents of the district.

Having regard for the various land use definitions contained in Schedule No.1 of LPS No.4, it is concluded the proposal to store and distribute lime sand from Lot 11 is most appropriately classified as a 'storage yard'.

Under the terms of the Zoning Table contained in LPS No.4 the development and use of any land classified 'General Industry' zone for the purposes of a 'storage yard' is listed as a discretionary (i.e. 'D') use which means it is not permitted unless the local government has exercised its discretion by granting development approval.

In considering the application Council must also have regard for the fact Lot 11 currently has direct frontage and access to Kulin-Lake Grace Road which is a State road under the care, control and management of Main Roads WA (MRWA) and currently classified 'Local Scheme Reserve – Major Road' in LPS No.4. Given these facts, the potential increase in the total number of heavy vehicle movements to and from the site arising from the proposed use and the potential impacts on the State road network, the application was referred to MRWA on 18 October 2016 for review and comment in accordance with the specific requirements of Clause 5.3.1 of LPS No.4.

Following ongoing discussions between CBH and MRWA regarding the proposal including the details contained in a Traffic Impact Statement prepared by Roadwest Engineering Group WA Pty Ltd on CBH's behalf and the outcomes from a site inspection by MRWA staff on 1 June 2017, MRWA advised in correspondence to the Shire dated 9 June 2017 that:

- i) it is satisfied the proposal will not have an adverse impact on the State road network; and,
- ii) if the quantity of lime sand to be transported to, stored and distributed from the site were to increase from the maximum proposed 20,000 tonnes per annum, CBH should be required to prepare and submit a further development application to the Shire including an updated Traffic Impact Statement for formal consideration and determination by Council.

Compliance with Development Standards & Other Scheme Requirements

LPS No.4 does not contain any specific standards governing the development and use of any land classified 'General Industry' zone for the purposes of a 'storage yard'. As such the application has been assessed with due regard for the general development standards contained in LPS No.4 including those that apply specifically to all land classified 'General Industrial' zone as well as the various matters required to be considered under clause 10.2 of LPS No.4.

Given the area being used for the intended purpose was originally approved by Council for grain storage purposes in 2003 (i.e. there is no actual increase in the total amount of storage area or capacity on the land or any on-ground changes in terms infrastructure, heavy vehicle access arrangements or the total number of vehicle movements to and from the site), the reporting officer has concluded the proposal satisfies all the relevant requirements of LPS No.4 and is unlikely to give rise to any negative impacts if managed appropriately.

It is however recommended Council consider imposing a condition on any development approval issued to ensure suitable on-site management measures are implemented by CBH to minimise the potential for any dust impacts which was an issue of concern raised by members of the local community during the initial 12 week trial period undertaken between January and April 2016.

It is understood concerns have also been raised by local transport contractors regarding the potential loss of business opportunity and increased competition for the carting of lime sand throughout the district arising from CBH's proposal. Whilst CBH have sought to address these concerns by way of direct consultation with local transport contractors, Council should note increased market competition and the potential impact on local business operators is not a relevant planning consideration and cannot be used as a basis for the final determination of this or any other development application unless any such proposal passes the 'public interest' test. It should also be noted during public advertising of the application no concerns were raised in this regard as evidenced by the fact no submissions were received by the Shire during or after the formal consultation period.

Conclusion

It is concluded from a detailed assessment of the application that approval to the establishment and operation of a 'storage yard' (i.e. lime sand storage and supply) at CBH's existing grain handling and storage facility on Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace is unlikely to have a detrimental impact upon the amenity, character, functionality and/or safety of the immediate locality and is capable of being implemented in a proper and orderly manner subject to compliance with a number of conditions. As such it is recommended Council exercise its discretion and grant conditional development approval.

Legal Implications

Planning and Development Act 2005

Shire of Lake Grace Local Planning Scheme No.4

Planning and Development (Local Planning Schemes) Amendment Regulations 2015 (LPS Amendment Regulations) – As the land in question is not located within a designated 'bushfire prone area' a Bushfire Attack Level (BAL) assessment is not required in this particular instance.

Policy Implications

Nil

Consultation

Not formally required however given the various concerns raised by the local community during the initial 12 week trial period the application was advertised for public comment by the Shire's administration for the minimum required period of 14 days in accordance with the specific requirements of LPS No.4. At the conclusion of public advertising on 3 February 2017 no submissions had been received by the Shire in respect of the proposal.

The application was also referred to Main Roads WA for comment as discussed previously above and the subject of a number of discussions with the Shire's Chief Executive Officer and Manager Infrastructure Services.

Financial Implications

Nil

Strategic Implications

Shire of Lake Grace Local Planning Strategy - The proposal for Lot 11 is considered to be consistent with the aims and objectives of the Shire's Local Planning Strategy as it applies to the following:

- Promote the diversification of the Shire's economy by encouraging the development of downstream processing of primary produce and diversified industries;
- Direct the majority of new commercial and industrial development to the Lake Grace, Newdegate, Lake King and Varley townsites to build upon existing infrastructure in these settlements and maximise efficiencies of operation and economies of scale.

Shire of Lake Grace Strategic Community Plan

The proposal for Lot 11 is considered to be consistent with the aims and objectives of the Shire's Strategic Community Plan as it applies to the following:

- Ec1 Maintain community built infrastructure and provide an effective transportation network.
- Ec2 Provide an environment that supports business and investment opportunities;

Voting Requirements

Simple majority required.

Recommendation/Resolution**RESOLUTION 12560**

Moved Cr Lloyd

Seconded Cr Armstrong

That the development application submitted by Cooperative Bulk Handling Limited (CBH) (Landowner) seeking Council's retrospective approval for an unauthorised 'storage yard' (i.e. lime sand storage and supply) established at its existing grain handling and storage facility on Lot 11 (No.7059) Kulin-Lake Grace Road, Lake Grace be approved subject to compliance with the following conditions and advice notes:

Conditions

1. The development and use of the land for the purposes of a 'storage yard' (i.e. lime sand storage and supply) shall be undertaken in a manner consistent with the information and plans submitted in support of the application unless otherwise approved by Council.
2. The applicant shall continually monitor any dust generated by the 'storage yard' use and implement suitable measures in accordance with any relevant Environmental Protection Authority and Department of Environment Regulation regulations, policies, guidance statements or guidelines to ensure any dust impacts are appropriately managed and controlled.
3. In the event dust generated by the 'storage yard' use becomes an issue of concern to the local community and/or Council, a dust management plan prepared in accordance with the specific requirements of the Environmental Protection Authority and/or the Department of Environment Regulation shall be submitted to the Shire for consideration and determination by Council. Upon receipt of notification from the Shire of the need for a dust management plan, the applicant shall prepare and submit a dust management plan to the Shire within sixty (60) days with the 'storage yard' use to cease operation immediately pending approval to the plan and implementation of the required management measures to the satisfaction of the Shire's Chief Executive Officer.

RESOLUTION 12560 continued

4. All heavy vehicles entering and exiting the site containing lime sand shall be suitably covered to help minimise any potential dust impacts.
5. No lime sand shall be stored outside the bulkhead storage area designated for this purpose as shown on the plans submitted in support of the application.
6. A maximum of 20,000 tonnes of lime sand is permitted to be stored on the land in the designated location at any one time. Should the applicant wish to store a larger quantity of lime sand on the property a further development application, including an updated Traffic Impact Statement prepared in accordance with Main Roads WA specific requirements, shall be submitted to the Shire for formal consideration and determination by Council.

Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant/landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Lake Grace Local Planning Scheme No.4 and may result in legal action being initiated by the local government.
4. If the applicant/landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.

CARRIED 5/0

*Cr Clarke, Cr De Landgrafft, Cr Marshall, Cr Walker returned to the meeting at 4.10 pm.
Cr Hunt vacated the chair on Cr De Landgrafft returning to preside the meeting at 4.10 pm.
The Chief Executive Officer read aloud the decisions of Council.*

12.2 RETROSPECTIVE DEVELOPMENT APPLICATION – ADDITIONS TO EXISTING WINERY – LOT 97 (NO.6321) KULIN-LAKE GRACE ROAD, NORTH LAKE GRACE (WALKERS HILL VINEYARD)

Applicant: Jared and Tania Bray (Landowner)
File No.: 0453
Attachments: 1. Plan 4 – Location Plan
 2. Plan 5 – Existing Lot Configuration
 3. Plan 6 – Aerial Site Plan
 4. Development Application Information
 5. Various Plans (*under separate cover*)
 6. Site Photos
 7. Bushfire Attack Level Assessment
Author: Mr Joe Douglas (Urban & Rural Perspectives)
 Town Planning Consultant
Disclosure of Interest: Nil
Date of Report: 16 June 2017
Senior Officer: Ms Denise Gobbart


 Chief Executive Officer

Summary

This report recommends that a development application submitted by Jared and Tania Bray (Landowners) seeking Council's retrospective approval for a number of unauthorised additions to an existing winery and the placement/construction of new ablution facilities on Lot 97 (No.6321) Kulin-Lake Grace Road, North Lake Grace be approved subject to conditions.

Background

The applicants are seeking Council's retrospective development approval for unauthorised construction works, the establishment of additional uses and the placement/construction of new ablution facilities in support of an existing winery (i.e. Walkers Hill Vineyard) on Lot 97 (No.6321) Kulin-Lake Grace, Road, North Lake Grace.

Lot 97 is located approximately 7.5 kilometres north of the Lake Grace townsite on the north-eastern corner of the intersection of Kulin-Lake Grace Road and Burns Road (see Plan 4).

Lot 97 is rectangular in shape and comprises a total area of approximately 11.828 hectares. The land has direct frontage and access to Kulin-Lake Grace Road along its western boundary and Burns Road along its southern boundary (see Plan 5).

The land has been developed and used for the purposes of a small scale winery and includes a number of associated tourism related uses including cellar door sales and wine tasting. Physical improvements associated with these uses include a well-established vineyard, internal access roads and parking, boundary fencing, firebreaks and various buildings/structures associated with the winery and associated tourism operations on the land (see Plan 6).

The applicants have submitted a development application to obtain Council's retrospective approval for the following unauthorised additions and uses:

- i) Conversion of an existing approved 180 square metre farm shed into a dwelling (i.e. single house) and double garage which the applicants currently occupy and use for residential purposes (i.e. structures 'C' and 'D' on the site plan submitted in support of this application);
- ii) Construction of a 72 square metre lean-to structure on the north side of the 180 square metre

- farm shed now being used for residential purposes (i.e. structure 'E' on the site plan);
- iii) Placement of a 21 square metre second hand transportable building immediately north of the 180 square metre farm shed now being used for residential purposes and construction of a 45 square metre enclosed verandah on its northern and western sides which is being used for ancillary accommodation purposes (i.e. structure 'F' on the site plan); and,
 - iv) Conversion of an existing approved 260 square metre farm shed (including lean-to structure) into a reception centre and restaurant (i.e. cafe) with seating capacity for up to 60 people at any one time (i.e. structure 'H' on the site plan).

In addition to the above the applicants are seeking Council's development approval for the following:

- i) Placement of an 18 square metre second hand transportable ablution building on the south side of the unauthorised reception centre and restaurant building (i.e. structure 'J' on the site plan);
- ii) Construction of a new 7 square metre timber framed, zincalume clad disabled ablution building adjacent to the second hand transportable ablution building referred to in point (i) above (i.e. structure 'J' on the site plan); and,
- iii) Installation of a new septic tank and leach drain system to service the two new ablution buildings.

Various plans, photographs, explanatory notes and documentation provided by the applicants in support of the application are provided in Attachments 4 to 7.

Comment

Current Zoning & Land Use Permissibility

Lot 97 is classified 'General Agriculture' zone under the Shire of Lake Grace's current operative Local Planning Scheme No.4 (LPS No.4).

A key objective of the land's current 'General Agriculture' zoning classification is to ensure the continuation of broad hectare farming as the principle land use within the district, protect the rural landscape character, control the fragmentation of agricultural land through further subdivision and consider non-rural uses where they can be shown to be of a benefit to the district.

The following is a summary of the permissibility of the current unauthorised uses on the land as prescribed in the Zoning Table of LPS No.4:

- 'Single House' – Permitted subject to the issuance of development approval;
- 'Ancillary Accommodation' – Use Not Listed;
- 'Reception Centre' – Not permitted unless the local government has exercised its discretion by granting development approval following completion of public advertising; and,
- 'Restaurant' - Not permitted unless the local government has exercised its discretion by granting development approval following completion of public advertising.

In order to ensure compliance with the specific requirements of LPS No.4 the application was advertised for public comment by the Shire's administration for the minimum required period of 14 days. At the conclusion of public advertising on 5 May 2017 no submissions had been received by the Shire in respect of the proposal.

In considering the application Council must also have regard for the fact Lot 97 currently has direct frontage and access to Kulin-Lake Grace Road which is a State road under the care, control and management of Main Roads WA (MRWA) and is currently classified 'Local Scheme Reserve –

Major Road' in LPS No.4. Given these facts and the associated increase in the total number of vehicle movements to and from the land arising from the proposed additional uses, the application was referred to MRWA on 7 April 2017 for review and comment in accordance with the specific requirements of Clause 5.3.1 of LPS No.4.

At the time of writing this report no formal response had been received from MRWA despite a number of follow ups by the reporting officer. Notwithstanding this fact Council should note the following key points:

- i) At its Ordinary Meeting held on 24 June 2013 Council resolved to grant development approval for the establishment of a new restaurant (i.e. cafe) within an existing 54 square metre zincalume shed on the land comprising the cellar door sales and wine tasting facilities (i.e. structure 'A' on the site plan submitted in support of this current application);
- ii) That approval was conditional upon the landowners/applicants decommissioning the existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road for traffic safety reasons and constructing two new crossovers to the land directly from Burns Road as recommended by MRWA in their referral response to that application;
- iii) A recent site inspection by the Shire's Manager Infrastructure Services and subsequent discussions with the applicants/landowners confirmed the existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road remains open and operational and was not closed as required by Council's previous development approval. This can be attributed to the applicants/landowners decision not to act on that approval (i.e. the new restaurant was never established);
- iv) Given the applicants/landowners decision not to proceed with the new restaurant use within the two (2) year approval timeframe that approval lapsed and has no further effect;
- v) Notwithstanding MRWA's failure to respond to the Shire's request for comment regarding the latest development application, it is considered reasonable to assume MRWA still has concerns with the existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road and would like it permanently closed for traffic safety reasons;
- vi) The applicants/landowners confirmed in a recent discussion with the reporting officer that the existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road will be closed if this latest development application is approved by Council.

Given all of the above it is considered reasonable to again impose a condition on any development approval issued requiring this existing vehicle entry/exit point to Lot 97 to be permanently closed and a suitable alternative primary access point constructed along the land's Burns Road frontage as originally recommended by MRWA.

Compliance with Development Standards

Following a detailed assessment of the application in the context of the specific requirements of LPS No.4, including those matters prescribed in Clause 10.2, it is concluded the development and use of the land for the intended purposes is generally compliant with all relevant standards including boundary setbacks, plot ratio, landscaping, vehicle access, on-site parking, effluent disposal, stormwater drainage management, essential services and buffer separation distances to adjoining broadacre agricultural land uses.

Notwithstanding this conclusion it is recommended Council consider imposing a number of conditions and advice notes on any development approval issued to address the following matters:

- The need to close and relocate the primary access point to/from the property currently

located on the corner truncation of the intersection between Kulin-Lake Grace Road and Burns Road for traffic safety reasons as mentioned previously above;

- The need to ensure the new driveway crossovers to the land from Burns Road are constructed to a suitable trafficable standard to accommodate all types of vehicles entering and exiting the property including those required for firefighting purposes;
- The need to ensure suitable arrangements are made with respect to bushfire safety as discussed in a separate sub-heading below;
- The need to ensure any proposed new advertising signage is provided in accordance with the specific standards and requirements of the Shire of Lake Grace Local Planning Scheme No.4 and Main Roads (Control of Advertisements) Regulations 1996;
- The need to ensure compliance with the specific standards and requirements of the National Construction Code 2012 (i.e. the Building Code of Australia);
- The need to ensure compliance with the specific standards and requirements of the Health (Miscellaneous Provisions) Act 1911 and all associated regulations including the Health (Public Buildings) Regulations 1992;
- The need to ensure compliance with the specific standards and requirements of the Australia New Zealand Food Standards Code; and,
- The need to ensure compliance with the specific standards and requirements of the Liquor Licensing Act 1988 and all associated regulations.

Bushfire Attack Level Assessment (BAL)

Lot 97 has been designated by the Fire and Emergency Services Commissioner as being located within a designated 'Bushfire Prone Area'. As such the applicants have submitted a Bushfire Attack Level (BAL) Assessment in support of the application to satisfy the specific requirements of clause 78D(1) of Part 10A of the Planning and Development (Local Planning Scheme) Regulations 2015.

A review of the BAL Assessment prepared by accredited bushfire planning practitioners Lush Fire & Planning in the context of State Planning Policy 3.7 entitled *Planning in Bushfire Prone Areas* and the Western Australian Planning Commission's *Guidelines for Planning in Bushfire Prone Areas 2017* including follow up discussions with Lush Fire & Planning and the Shire's Chief Bushfire Control Officer have confirmed the following:

- i) The existing vegetation located within 100 metres of the site comprises a mix of tall shrubland, grassland and low threat vegetation;
- ii) The principal bushfire hazard vegetation is the tall shrubland located along Burns Road;
- iii) The existing dwellings and function centre on the land have been assessed as having a rating of BAL-19 and BAL-12.5 respectively. The bushfire risk is therefore considered to be **moderate** for the dwellings due to the risk of ember attack and burning debris ignited by wind-borne embers and the likelihood of exposure to radiant heat and **low** for the function centre due to the risk of ember attack;
- iv) The BAL ratings for the existing dwellings and function centre could be reduced to BAL-12.5 for the dwellings and BAL-Low for the function centre through the selective clearing of vegetation within the road reserve area along Burns Road and ongoing maintenance thereafter by the Shire;
- v) Alternatively by removing the existing verandah along the front of the 180 square metre farm shed converted for use as a dwelling by the applicants and maintaining a 20 metre wide low fuel zone around all the dwellings as an asset protection zone, the BAL rating for the dwellings could be reduced to BAL-12.5 with the function centre retaining its current BAL-12.5 rating;
- vi) The risk of ember attack could be further mitigated by the landowners complying with the

recommended construction requirements of Australian Standard AS3959 entitled 'Construction of Buildings in Bushfire Prone Areas' as these apply specifically to land with a BAL-12.5 rating and could include measures such as:

- sealing of any gaps greater than 3 millimetres in the external parts of the buildings (i.e. walls, windows, doors and roofs); and
- providing suitably constructed screens over the open-able portion of any windows and weather strips to all doors.

Due to the property's location in a designated bushfire prone area the Building Code of Australia requires the dwellings and associated outbuildings on the land to be designed and constructed to reduce the risk of ignition from a bushfire, appropriate to the potential risk. The Building Code references AS3959 as a deemed to satisfy solution that provides one way of demonstrating compliance with the Building Code's bushfire performance requirements. Council should note the construction requirements of AS3959 will be considered and applied to the dwellings and associated outbuildings on the land by the Shire's Building Surveyor during the building permit application stage of the project irrespective of the current planning assessment process. If building approval is granted in due course, the applicants will be responsible for ensuring the dwellings and associated outbuildings comply with the bushfire construction requirements of the Building Code with the local government having the necessary statutory power to enforce any specific requirements.

Council should note the bushfire construction provisions of the Building Code of Australia do not apply to the function centre building on the land (i.e. Class 9 buildings). As such the applicants have the discretion to utilise any or all of the elements of AS3959 in the construction of the building they consider appropriate in the circumstances.

vii) As the building construction provisions prescribed in Australian Standard AS3959 and the Building Code of Australia do not provide a complete response to bushfire management and are considered impractical for the function centre building due to it being open on its north-western side, a number of other bushfire mitigation measures for the entire development could be required as a condition of development approval including:

- Provision and maintenance of multiple ingress/egress routes from the land (i.e. at least two driveway crossovers to the adjoining local road network);
- Provision and maintenance of a strategic firebreak around the northern side of all existing improvements located in the south-western quadrant of the land to help separate the existing development in this area from the paddock area to the north-east;
- Provision of a suitable water supply to the land including a separate static water supply tank with a minimum capacity of 10,000 litres with suitable couplings available for firefighting purposes, a non-electric pump and hose of sufficient length to reach all developed parts of the land as well as a slip-on firefighting unit and pump with a minimum capacity of 800 litres;
- Provision and maintenance of a 20 metre wide low fuel zone around the dwellings and associated outbuildings on the land as an asset protection zone;
- Provision and maintenance of a 50 metre wide low fuel zone around the function centre building on the land as an asset protection zone;
- Preparation of a bushfire management plan and bushfire evacuation plan by a suitably accredited bushfire planning practitioner; and,
- Being aware of any fire weather warnings including total fire bans and having appropriate operational procedures in place.

The findings and recommendations of the BAL Assessment have been raised with the applicants who have confirmed in writing they would not be averse to removing the existing verandah along the front of the 180 square metre farm shed converted for use as a dwelling to achieve a BAL-12.5

rating for both the dwellings and function centre.

Council should note the alternative option of selectively clearing existing vegetation within the verge areas along Burns Road to reduce the BAL ratings for the dwellings and function centre as suggested in the BAL Assessment is not supported for the following reasons:

- i) The need for the Shire to establish an ongoing maintenance program at ratepayers expense and the potential legal liability issues if the maintenance program were to lapse for whatever reason and a serious bushfire event were to occur which resulted in property damage, personal injury and/or loss of life;
- ii) The clearing of roadside vegetation is inconsistent with Council's environmental protection and conservation strategy which seeks to limit the clearing of remnant native vegetation throughout the Shire insofar as possible; and,
- iii) A site specific discussion with the Shire's Chief Bushfire Control Officer Mr Brad Watson has confirmed the volunteer fire brigade's preference for all existing native vegetation within the verge areas along Burns Road to be retained as their experience fighting fires throughout the district has proven such vegetation actually slows the fire front down considerably and affords fire fighters the opportunity to catch up and extinguish any flames.

The applicants also confirmed in a follow up telephone discussion the property is connected to the Water Corporation's existing reticulated water supply scheme in the immediate locality and is provided with two (2) x 23,000 litre water storage tanks with suitable hose couplings for fighting purposes as well as two (2) slip-on firefighting units and pumps with a storage capacity of 400 and 2,000 litres respectively.

Having regard for:

- a) the findings and recommendations of the BAL Assessment and subsequent discussions with accredited bushfire planning practitioners Lush Fire & Planning, the Shire's Chief Bushfire Control Officer and the current landowners/applicants;
- b) the broader principles and objectives of State Planning Policy 3.7 entitled 'Planning in Bushfire Prone Areas';
- c) the outcomes from assessment of the proposal against the bushfire protection criteria contained in Appendix 4 of the Guidelines for Planning in Bushfire Prone Areas 2017 as these apply to the development's location, siting and design, vehicular access and water supply, all of which are considered capable of being satisfied;
- d) the requirements of Local Planning Scheme No.4 as they apply specifically to bushfire protection;
- e) the landowners/applicants obligation to ensure the construction requirements of Australian Standard AS3959 are applied to the dwellings and associated outbuildings on the land during the building permit application stage of the project;
- f) the landowners/applicants obligation to ensure compliance with the Shire's Firebreak Notice prepared pursuant to section 33 of the Bushfires Act 1954 as it applies to peripheral firebreaks and harvest and/or machinery movement bans;
- g) the nature of the proposed uses and occupants and the potential risks to life and property in the event of a bushfire;
- h) the relatively close proximity of the subject land to the Lake Grace townsite;
- i) the Shire's endorsed Local Emergency Management Arrangements as it applies specifically to bushfire emergencies; and,
- j) the capacity of existing firefighting infrastructure and services to suitably manage a major bushfire event on the land which was confirmed during discussion with the Shire's Chief Bushfire Control Officer,

it is concluded the proposal for Lot 97 is compliant with the requirements of SPP 3.7 and therefore capable of achieving acceptable bushfire protection outcomes subject to compliance with a number of conditions on any development approval issued by Council and compliance with Australian Standard AS3959 and the Building Code of Australia during the building approval stage of the project.

Conclusion

It is concluded from a detailed assessment of the application that the current unauthorised additions and uses associated with the existing winery on Lot 97 (No.6321) Kulin-Lake Grace Road, North Lake Grace and the proposed placement/construction of new ablution facilities on the land are unlikely to have a negative impact on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. It is therefore recommended the application be conditionally approved.

Legal Implications

Planning and Development Act 2005

Shire of Lake Grace Local Planning Scheme No.4

Part 10A Planning and Development (Local Planning Scheme) Regulations 2015 - Bushfire Risk Management

Policy Implications

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

Guidelines for Planning in Bushfire Prone Areas 2017

Consultation

The application was advertised for public comment by the Shire's administration for the minimum required period of 14 days in accordance with the specific requirements of LPS No.4. At the conclusion of public advertising on 5 May 2017 no submissions had been received by the Shire in respect of the proposal.

The application was also:

- i) referred to Main Roads WA for comment on 7 April 2017. At the time of writing this report no formal response had been received from this agency despite a number of follow ups by the reporting officer;
- ii) the subject of a detailed telephone discussion with the Shire's Chief Bushfire Control Officer Mr Brad Watson on 13 June 2017 to discuss the various bushfire planning issues arising from the proposal, existing site conditions including accessibility and the capacity of local fire fighting infrastructure and services to suitably manage a major bushfire event on the land;
- iii) discussed with the Shire's Manager Infrastructure Services who attended the site and took photographs of the existing access arrangements and roadside vegetation; and,
- iv) discussed with the Shire's Building Surveyor to confirm what building approvals had previously been issued by the Shire and what approvals are required to change the class and use of the existing approved buildings on the land as well as those unauthorised structures that require retrospective approval under the Building Act 2011 and Building Regulations 2012.

Financial Implications

Nil

Strategic Implications*Shire of Lake Grace Local Planning Strategy*

The proposal for Lot 97 is considered to be consistent with the aims and objectives of the Shire's Local Planning Strategy as it applies to the following:

- Promote the diversification of the Shire's economy by encouraging the development of downstream processing of primary produce, diversified industries and further tourism opportunities including farm stay accommodation and ecotourism;
- Make investment in tourism an attractive and simple proposition by recognising tourism as a legitimate land use compatible with a range of existing land uses;
- Ensure that due consideration is given to protecting the natural environment in planning for tourism development;
- Provide tourism opportunity in the Shire's agricultural areas where it is complementary to the agricultural use of the land and impacts are contained on-site so as to not compromise the productive capacity of agricultural land; and,
- Provide opportunities for the development of additional housing on productive agricultural land in limited circumstances where it is relevant and justified in terms of farm management and/or tourist development.

Shire of Lake Grace Strategic Community Plan

The proposal for Lot 97 is considered to be consistent with the aims and objectives of the Shire's Strategic Community Plan as it applies to the following:

- Ec2 Provide an environment that supports business and investment opportunities;
- S1 Maintain and improve the Shire of Lake Grace as an attractive place to live; and,
- S2 Provide a supportive social environment.

Recommendation

Moved Cr Marshall
Seconded Cr Clarke

That the development application submitted by Jared and Tania Bray (Landowners) seeking Council's retrospective approval for unauthorised construction works, the establishment of additional uses and the placement/construction of new ablution facilities in support of an existing winery (i.e. Walkers Hill Vineyard) on Lot 97 (No.6321) Kulin-Lake Grace, Road, North Lake Grace be approved subject to compliance with the following conditions and advice notes:

Conditions

1. The development and use of the land for the purposes of a 'single house', 'ancillary accommodation', 'reception centre' and 'restaurant' (i.e. cafe) including the associated new ablution facilities shall be undertaken in a manner consistent with the information and plans submitted in support of the application unless otherwise approved by Council.
2. The existing verandah along the front of the 180 square metre farm shed converted for use as a dwelling by the applicants/landowners shall be removed within 28 days of the date of this approval for bushfire safety reasons.
3. The existing unauthorised demountable building shown as structure 'G' on the site plan submitted in support of the application does not form part of this approval and shall be removed within 28 days of the date of this approval as per the commitment provided by the applicants/landowners in the notation contained on the site plan.
4. A 20 metre wide low fuel zone shall be provided and maintained around all the dwellings and

- associated outbuildings on the land as an asset protection zone which shall remain free of any rubbish or litter at all times to help guard against the potential bushfire risk.
5. A 50 metre wide low fuel zone shall be provided and maintained around the function/reception centre building on the land as an asset protection zone which shall remain free of any rubbish or litter at all times to help guard against the potential bushfire risk.
 6. The property shall at all times be provided with a suitable water supply for firefighting purposes including a separate static water supply tank with a minimum capacity of 10,000 litres with suitable couplings available for firefighting purposes, a non-electric pump and hose of sufficient length to reach all developed parts of the land as well as a slip-on firefighting unit and pump with a minimum capacity of 800 litres.
 7. The two (2) existing driveway crossovers along the land's frontage to Burns Road shall be constructed to the specifications and satisfaction of the Shire's Chief Executive Officer to accommodate all types of vehicles entering and exiting the property including those required for firefighting purposes and shall remain open at all times to ensure two (2) different vehicular access routes to Burns Road are provided.
 8. The existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road shall be closed within 28 days of the date of this approval for traffic safety reasons with the driveway crossover between the access gates and road carriageway to be decommissioned in its entirety and the land reinstated to the satisfaction of the Shire's Chief Executive Officer.
 9. The existing native vegetation located within the road reserve area along Kulin – Lake Grace Road adjacent to this road's intersection with Burns Road shall be pruned and/or removed at the landowners/applicants expense to improve sight distance for vehicles travelling along Kulin – Lake Grace Road as they approach Burns Road. The landowners/applicants shall consult with Main Roads WA to determine and confirm the full extent of all pruning and/or clearing works required to ensure adequate site distances are achieved. The landowners/applicants shall then make all necessary enquiries and arrangements to ensure all clearing works required by Main Roads WA are undertaken in accordance with the *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. All pruning and/or clearing works including disposal of vegetation shall be undertaken to the specifications and satisfaction of Main Roads WA and the Shire's Chief Executive Officer.
 10. All on-site vehicle accessways and parking areas shall be constructed, drained and maintained to the specifications and satisfaction of the Shire's Chief Executive Officer.
 11. A maximum of sixty (60) patrons are permitted to be accommodated in the 'reception centre' and 'restaurant' (i.e. cafe) building at any one time unless otherwise approved by Council.
 12. All development on the land shall be provided with an adequate on-site effluent disposal system constructed and maintained to the specifications and satisfaction of the Shire's Chief Executive Officer and Department of Health.
 13. All rubbish generated on-site shall be managed and disposed of to the specifications and satisfaction of the Shire's Chief Executive Officer.
 14. Any future proposed advertising signage shall be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4, the Shire's Local Planning Policy No.6.5 entitled 'Advertising Signage' and Main Roads (Control of Advertisements) Regulations 1996.

Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicants/landowners and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant and landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. In accordance with the Building Act 2011 and Building Regulations 2012, a Building Permit Application for the proposed placement/construction of two (2) new ablution facilities (i.e. structure 'J' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land to accommodate these structures.
4. In accordance with the Building Act 2011 and Building Regulations 2012, a Building Approval Certificate application for all existing unauthorised structures on the land (i.e. structures 'E' & 'F' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
5. In accordance with the Building Act 2011 and Building Regulations 2012, suitable occupancy permit application/s to change the classification and use of the existing approved 180 square metre farm shed on the land into a dwelling (i.e. 'single house') and double garage (i.e. structures 'C' & 'D' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
6. In accordance with the Building Act 2011 and Building Regulations 2012, suitable occupancy permit application/s to change the classification and use of the existing approved 260 square metre farm shed (including lean-to structure) into a 'reception centre' and 'restaurant' (i.e. cafe) (i.e. structure 'H' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
7. The proposed development on the land is required to comply in all respects with the National Construction Code of Australia including Australian Standard AS3959 where applicable. Plans and specifications which reflect these requirements must be submitted to the Shire with the required building applications.
8. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of the Health (Miscellaneous Provisions) Act 1911 and all associated regulations including the Health (Public Buildings) Regulations 1992.
9. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of the Australia New Zealand Food Standards Code.
10. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of Liquor Licensing Act 1988 and all associated regulations.
11. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Lake Grace Local Planning Scheme No.4 and may result in legal action being initiated by the local government.

12. If the applicants/landowners are aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.

Voting Requirements

Simple majority required.

Amendment

RESOLUTION 12561

Moved Cr Chappell
Seconded Cr Clarke

That the following conditions be amended;

1. Condition 2 delete '28 days' insert '90 Days';
2. Condition 3 delete '28 days' insert '90 Days';
3. Condition 8 delete '28 days' insert '90 Days'; and,
4. Condition 11 delete 'sixty (60)' and insert 'one hundred and twenty (120)'.

CARRIED 9/0

Substantive Motion

RESOLUTION 12562

Moved Cr Marshall
Seconded Cr Clarke

That the development application submitted by Jared and Tania Bray (Landowners) seeking Council's retrospective approval for unauthorised construction works, the establishment of additional uses and the placement/construction of new ablution facilities in support of an existing winery (i.e. Walkers Hill Vineyard) on Lot 97 (No.6321) Kulin-Lake Grace, Road, North Lake Grace be approved subject to compliance with the following conditions and advice notes:

Conditions

1. The development and use of the land for the purposes of a 'single house', 'ancillary accommodation', 'reception centre' and 'restaurant' (i.e. cafe) including the associated new ablution facilities shall be undertaken in a manner consistent with the information and plans submitted in support of the application unless otherwise approved by Council.
2. The existing verandah along the front of the 180 square metre farm shed converted for use as a dwelling by the applicants/landowners shall be removed within 90 days of the date of this approval for bushfire safety reasons.
3. The existing unauthorised demountable building shown as structure 'G' on the site plan submitted in support of the application does not form part of this approval and shall be removed within 90 days of the date of this approval as per the commitment provided by the applicants/landowners in the notation contained on the site plan.

RESOLUTION 12562 continued

4. A 20 metre wide low fuel zone shall be provided and maintained around all the dwellings and associated outbuildings on the land as an asset protection zone which shall remain free of any rubbish or litter at all times to help guard against the potential bushfire risk.
5. A 50 metre wide low fuel zone shall be provided and maintained around the function/reception centre building on the land as an asset protection zone which shall remain free of any rubbish or litter at all times to help guard against the potential bushfire risk.
6. The property shall at all times be provided with a suitable water supply for firefighting purposes including a separate static water supply tank with a minimum capacity of 10,000 litres with suitable couplings available for firefighting purposes, a non-electric pump and hose of sufficient length to reach all developed parts of the land as well as a slip-on firefighting unit and pump with a minimum capacity of 800 litres.
7. The two (2) existing driveway crossovers along the land's frontage to Burns Road shall be constructed to the specifications and satisfaction of the Shire's Chief Executive Officer to accommodate all types of vehicles entering and exiting the property including those required for firefighting purposes and shall remain open at all times to ensure two (2) different vehicular access routes to Burns Road are provided.
8. The existing vehicle entry/exit point to Lot 97 on the corner truncation between Kulin-Lake Grace Road and Burns Road shall be closed within 90 days of the date of this approval for traffic safety reasons with the driveway crossover between the access gates and road carriageway to be decommissioned in its entirety and the land reinstated to the satisfaction of the Shire's Chief Executive Officer.
9. The existing native vegetation located within the road reserve area along Kulin – Lake Grace Road adjacent to this road's intersection with Burns Road shall be pruned and/or removed at the landowners/applicants expense to improve sight distance for vehicles travelling along Kulin – Lake Grace Road as they approach Burns Road. The landowners/applicants shall consult with Main Roads WA to determine and confirm the full extent of all pruning and/or clearing works required to ensure adequate site distances are achieved. The landowners/applicants shall then make all necessary enquiries and arrangements to ensure all clearing works required by Main Roads WA are undertaken in accordance with the *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. All pruning and/or clearing works including disposal of vegetation shall be undertaken to the specifications and satisfaction of Main Roads WA and the Shire's Chief Executive Officer.
10. All on-site vehicle accessways and parking areas shall be constructed, drained and maintained to the specifications and satisfaction of the Shire's Chief Executive Officer.
11. A maximum of one hundred and twenty (120) patrons are permitted to be accommodated in the 'reception centre' and 'restaurant' (i.e. cafe) building at any one time unless otherwise approved by Council.
12. All development on the land shall be provided with an adequate on-site effluent disposal system constructed and maintained to the specifications and satisfaction of the Shire's Chief Executive Officer and Department of Health.
13. All rubbish generated on-site shall be managed and disposed of to the specifications and satisfaction of the Shire's Chief Executive Officer.

RESOLUTION 12562 continued

14. Any future proposed advertising signage shall be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4, the Shire's Local Planning Policy No.6.5 entitled 'Advertising Signage' and Main Roads (Control of Advertisements) Regulations 1996.

Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicants/landowners and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant and landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. In accordance with the Building Act 2011 and Building Regulations 2012, a Building Permit Application for the proposed placement/construction of two (2) new ablution facilities (i.e. structure 'J' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land to accommodate these structures.
4. In accordance with the Building Act 2011 and Building Regulations 2012, a Building Approval Certificate application for all existing unauthorised structures on the land (i.e. structures 'E' & 'F' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
5. In accordance with the Building Act 2011 and Building Regulations 2012, suitable occupancy permit application/s to change the classification and use of the existing approved 180 square metre farm shed on the land into a dwelling (i.e. 'single house') and double garage (i.e. structures 'C' & 'D' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
6. In accordance with the Building Act 2011 and Building Regulations 2012, suitable occupancy permit application/s to change the classification and use of the existing approved 260 square metre farm shed (including lean-to structure) into a 'reception centre' and 'restaurant' (i.e. cafe) (i.e. structure 'H' on the site plan submitted in support of the development application) must be submitted to and approved by the Shire's Building Surveyor.
7. The proposed development on the land is required to comply in all respects with the National Construction Code of Australia including Australian Standard AS3959 where applicable. Plans and specifications which reflect these requirements must be submitted to the Shire with the required building applications.

RESOLUTION 12562 continued

8. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of the Health (Miscellaneous Provisions) Act 1911 and all associated regulations including the Health (Public Buildings) Regulations 1992.
9. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of the Australia New Zealand Food Standards Code.
10. The 'reception centre' and 'restaurant' (i.e. cafe) shall comply in all respects with the specific standards and requirements of Liquor Licensing Act 1988 and all associated regulations.
11. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Lake Grace Local Planning Scheme No.4 and may result in legal action being initiated by the local government.
12. If the applicants/landowners are aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.

CARRIED 9/0

Reason for change:

The amendment from 28 days to 90 days is that the applicants are currently on leave and will not be returning until the end of July. This will give the applicant more time to apply with the relevant conditions.

The amendment from 60 to 120 patrons, is that 60 is the maximum patrons that could be seated in the 'reception centre', there may be functions held were the patrons do not require seating. The applicant has been advised that the Building Code of Australia will deem the requirements for the number of patrons permitted to be accommodated in the 'reception centre'.

13.0 MATTERS FOR CONSIDERATION – HEALTH & BUILDING

No matters for consideration.

14.0 MATTERS FOR CONSIDERATION – FINANCE

14.1 ACCOUNTS FOR PAYMENT – MAY 2017

Applicant:	Internal Report
File No.	0277
Attachments:	List of Creditors
Author:	Ms Victoria Gracheva
Disclosure of Interest:	Nil
Date of Report:	16 June 2017
Senior Officer:	Ms Linda Gray



Finance Officer



Deputy Chief Executive Officer

Summary

For Council to ratify expenditures incurred for the month of May 2017.

Background

List of payments for the month of May 2017 through the Municipal and Trust accounts are attached.

Comment

In accordance with the requirements of the *Local Government Act 1995*, a list of creditors is to be completed for each month showing:

- (a) The payee's name;
- (b) The amount of the payment;
- (c) Sufficient information to identify the transaction; and,
- (d) The date of payment.

The attached list meets the requirements of the Financial Management Regulations.

Legal Implications

Local Government (Financial Management) Regulations 1996 – Reg 12

Local Government (Financial Management) Regulations 1996 – Reg 13

Policy Implications

Policy 3.6 - Authorised Use of Credit Card/Fuel Cards

Policy 3.7 - Purchasing Policy

Consultation

N/A

Financial Implications

The list of creditors paid for the month of May 2017 from the Municipal and Trust Account Total \$1,164,591.05.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Civic Leadership - Focus Area (5)

- Excellence in Shire administration and communication.

Voting Requirements

Simple majority required.

Recommendation/Resolution**RESOLUTION 12563**

Moved Cr Chappell
 Seconded Cr Stanton

That Council ratify the list of payments totalling \$1,164,591.05 as presented for the month of May 2017 incorporating:

- Trust Account Cheques:	1344	\$	190.00
- Electronic Funds Transfer:	EFT16747 - EFT16929	\$	875,451.88
- Municipal Account Cheques:	36576 - 36586	\$	19,642.78
- Direct Debits:	DD6891.1 – DD6891.7	\$	150,850.75
	DD6919.1 – DD6919.7		
	DD6920.1 – DD6920.7		
	DD6959.1 - DD6959.22		
	DD6960.1 – DD6960.3		
- Electronic Funds Transfer:	Payroll Net Pay	\$	118,455.64

CARRIED 9/0

14.2 FINANCIAL STATEMENTS – MAY 2017

Applicant: Shire of Lake Grace
File No. 0275
Attachments: 1. Financial Reports May 2017
2. Bank Reconciliations May 2017
Author: Ms Linda Gray
Disclosure of Interest: Nil
Date of Report: 21 June 2017
Senior Officer: Ms Denise Gobbart


Deputy Chief Executive Officer


Chief Executive Officer

Summary

Consideration of the financial statements for the month ending 31 May 2017.

Background

The following financial reports to 31 May 2017 are included for your information:

- Monthly Statement of Financial Activity
- Financial Activity Variances
- Significant Accounting Policies
- Statement of Objective
- Acquisition of Assets
- Disposal of Assets
- Information on Borrowings
- Reserves
- Net Current Assets
- Rating Information
- Trust Funds
- Operating Statement by Programme
- Balance Sheet
- Financial Ratios
- Capital Road Works
- Operating Revenue and Expenditure Graphs
- Bank Reconciliations

Comment

N/A

Legal Implications

Local Government Act 1995 – section 6.4

Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Consultation

N/A

Financial Implications

Nil

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Civic Leadership – Focus Area (5)

- Excellence in Shire administration and communication.

Voting Requirements

Simple majority required.

Recommendation/Resolution

RESOLUTION 12564

Moved Cr Hunt

Seconded Cr Armstrong

That Council in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996* receives the Statements of Financial activity for the period ended 31 May 2017.

CARRIED 9/0

**14.3 UNBUDGETED EXPENDITURE – REIMBURSEMENT FOR WORKS CARRIED
OUT TO DRAIN MAGENTA ROAD**

Item brought forward in the Agenda at the request of Council – refer to item 14.3 (page 12) of this document.

15.0 MATTERS FOR CONSIDERATION – COMMUNITY SERVICES

No matters for consideration.

16.0 MATTERS FOR CONSIDERATION - ADMINISTRATION
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16.1 SHIRE OF LAKE GRACE STRATEGIC COMMUNITY PLAN 2017–2027

Applicant:	Executive Services
File No.	0271
Attachments:	Draft Strategic Community Plan 2017-2027
Author:	Ms Denise Gobbart Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	20 June 2017
Senior Officer:	Ms Denise Gobbart



Chief Executive Officer

Summary

The purpose of this report is for Council to consider and adopt the draft Strategic Community Plan 2017 – 2027 and authorise local public notice of the adopted plan.

Background

In December 2016, Council authorised the engagement of Moore Stephens to undertake the 2017 major review of the Strategic Community Plan.

The review process commenced in January 2017 and focused on obtaining feedback in relation to our services and facilities. The community engagement campaign was prompted and advertised in the local newsletters, local notice boards, the Shire website and Facebook page and community email distribution list, with a link to the electronic survey provided.

Community workshops were held on Monday 27 and Tuesday 28 March 2017 in Varley, Newdegate, Lake King and Lake Grace. Responses were received from 100 individuals, either completing the survey or attending the community workshops.

Following the community consultation Moore Stephens prepared a Community Perceptions Report. This report detailed the methodology and summarised the results of the community consultation. This was presented at the workshop held Thursday 6 April 2017 with Councillors and the Senior Management Team present.

The workshop reviewed the report from the community consultation, set new visions and strategic objectives, defined new desired outcomes and strategies to achieve objectives and defined Key Performance Indicators.

Since the workshop the Draft Strategic Community Plan 2017 – 2027 was received by the Chief Executive Officer for review prior to presentation to Council.

Comment

The Integrated Planning and Reporting – Framework and Guidelines state the following in relation to Community and Council roles;

Community

Ideally, the local government actively partners the community in realising the future of the local area. Communities provide vital input to understanding aspirations and service needs. In turn, they have a key role in monitoring progress. These roles are voluntary and rely on engaging local

government processes, where the community feels they genuinely have a voice in decisions that affect them in the long, medium and short term.

Council

The Council sets the local governments strategic and policy directions and makes the final judgement call on the best balance between aspirations and affordability. This is at the heart of the elected Council's governance role and a prime means of giving effect to local democracy. It is up to the Council to ultimately determine affordable and achievable priorities that respond to the needs and aspirations of the community.

There were some very positive outcomes through the community engagement process and the subsequent workshops. Our Moore Stephens facilitators were very impressed with the outcomes from both the community and Council.

The document presented is aligned to both the community and Council and will ensure that we are working in the same direction for common outcomes. Following the adoption of the Strategic Community Plan 2017 – 2027 the Corporate Business Plan and other informing strategies will need to be aligned with the new objectives, outcomes and strategies.

Legal Implications

Extract - Department of Local Government & Communities – Integrated Planning & Reporting Framework & Guidelines September 2016:

Appendix B: Legislation and Regulation – relevant extracts

From the Local Government Act 1995

5.53. Annual reports

(2) The annual report is to contain –

- (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and
- (i) such other information as may be prescribed.

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

6.2 Local government to prepare annual budget

- (2) In the preparation of the annual budget the local government is to have regard to the contents of the plan for the future of the district made in accordance with section 5.56 and to prepare a detailed estimate for the current year of —
 - (a) the expenditure by the local government; and
 - (b) the revenue and income, independent of general rates, of the local government; and
 - (c) the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.
- (3) For the purposes of subsections (2)(a) and (b) all expenditure, revenue and income of the local government is to be taken into account unless otherwise prescribed.

Local Government (Administration) Regulations 1996

19CA. Information about modifications to certain plans to be included (Act section 5.53(2)(i))

- (1) This regulation has effect for the purposes of section 5.53(2)(i).
- (2) If a modification is made during a financial year to a local government's strategic community plan, the annual report of the local government for the financial year is to contain information about that modification.
- (3) If a significant modification is made during a financial year to a local government's corporate business plan, the annual report of the local government for the financial year is to contain information about that significant modification.

19C. Strategic community plans, requirements for (Act section 5.56)

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
 - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
 - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
 - (c) demographic trends.
- (6) Subject to sub regulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

*Absolute majority required.

- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

19DA. Corporate business plans, requirements for (Act section 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —

- (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
 - (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
 - (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.
- *Absolute majority required.
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

19D. Adoption of plan, public notice of to be given

- (1) After the adoption of a strategic community plan, or modifications of a strategic community plan, under regulation 19C, the local government is to give local public notice in accordance with sub-regulation (2).
- (2) The local public notice is to contain —
 - (a) notification that —
 - (i) a strategic community plan for the district has been adopted by the council and is to apply to the district for the period specified in the plan; and
 - (ii) details of where and when the plan may be inspected;
 - or
 - (b) where a strategic community plan for the district has been modified —
 - (i) notification that the modifications to the plan have been adopted by the council and the plan as modified is to apply to the district for the period specified in the plan; and
 - (ii) details of where and when the modified plan may be inspected.

Local Government Act 1995

All local governments are required to plan for the future of their district under Section 5.56 (1) of the Local Government Act 1995. Regulations under Section 5.56(2) of the Act outline the minimum requirements to achieve this.

The minimum requirement of the plan for the future is the development of:

- A Strategic Community Plan; and
- A Corporate Business Plan.

Policy Implications

N/A

Consultation

Internal: Shire President
Councillors
Deputy Chief Executive Officer
Manager Infrastructure Services

External: Shire of Lake Grace Community
Jessica Spark, Moore Stephens
Russel Barnes, Moore Stephens

Financial Implications

There will be minor costs associated with printing and advertising of the adopted Strategic Community Plan 2017 – 2027.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Connecting with our Future 2023

Leadership Development and Participation:

- E2 Create a culture of leadership development, engagement and opportunities that are encouraged and supported across the Shire.
- E2.1 For future Shire planning, policy development, decision making and important initiatives include community participation strategies.
- E2.2 Educate and inform the community on Shire policies, processes and responsibilities.
- E2.3 Review the effectiveness of these initiatives.

Voting Requirements

Absolute majority (5) required.

Recommendation/Resolution

RESOLUTION 12565

Moved Cr Chappell
Seconded Cr Armstrong

That Council,

1. adopts the Strategic Community Plan 2017 – 2027; and,
2. gives local public notice of the adoption and availability of the Strategic Community Plan 2017 – 2027 in accordance with Local Government (Administration) Regulations 1996, Regulation 19D.

CARRIED BY ABSOLUTE MAJORITY 9/0

16.2 ROAD NAMING – NEW ACCESS ROAD FOR DEWAR STREET LIGHT INDUSTRIAL SUBDIVISION LAKE GRACE

Applicant:	Internal
File No.	0357
Attachments:	1. Indicative Subdivision Plan 2. Location Plan showing Boulton Street prior to road closure 3. Deposited Plan 411875
Author:	Mrs Jeanette Bennett
Disclosure of Interest:	Nil
Date of Report:	19 June 2017
Senior Officer:	Ms Denise Gobbart


Executive Officer


Chief Executive Officer

Summary

For Council to consider naming the new access road created for the Dewar Street Light Industrial Subdivision as Boulton Street.

Background

In June 2016, Council, under Resolution 12316, resolved to proceed with the proposed excision and acquisition of portion of Lot 20 (No.19) Mather Road Lake Grace for future road access purposes to the Dewar Street Light Industrial Subdivision and authorised the Chief Executive Officer to undertake a number of key tasks to progress the project.

An approval for subdivision (refer Attachment No.1) of a portion of Lot 20 was subsequently submitted to the WA Planning Commission and was approved subject to the proposed new roadway being constructed and drained at the applicant's cost (i.e. Shire of Lake Grace). Mr Peter Gow was engaged to undertake the survey and prepare a Deposited Plan (refer attached Deposited Plan (DP) 411875).

In order to officially lodge DP 411875 with Landgate and for the transfer of land to take place (i.e. transfer of the land from Robert and Linda Carruthers to the Shire), the newly created road requires naming.

Comment

Boulton Street as it was originally (refer Attachment No.2), was located adjacent to Dewar Street Lake Grace. The street was gazetted as a road reserve but was never constructed and was officially closed in order to make way for development of the Dewar Street Light Industrial Subdivision blocks.

It is suggested that the new proposed access road being created is named Boulton Street in recognition of the former unconstructed road reserve and in respect to the Boulton family as a pioneering family of the district.

Email advice has been received from the Geographic Names Committee that the name Boulton Street would be acceptable for recommendation to the Geographic Names Committee.

Legal Implications

Responsibility for the naming of roads, features, townsites and places (including Reserves) in Western Australia resides with the Minister for Lands, under the Land Administration Act 1997.

The Geographic Names Committee was established to provide the Minister for Lands with advice on geographical nomenclature matters and guidelines to facilitate the approval and processing on nomenclature applications.

Generally, Local Governments propose road names to the Geographic Names Committee and all interested parties are advised.

Policy Implications

Council has no specific policy with regards to the naming of roads within the Shire; however road names are generally selected in accordance with guidelines provided by the Geographic Names Committee, specifically:

- New names and changes of names shall have strong local community support.
- Names in public use shall have primary consideration.
- Name duplication and dual naming should be avoided, especially those in close proximity.
- Names of living individuals should only be used in exceptional circumstances.
- Name characterised as follows to be avoided, where possible; incongruous; given and surname combinations; qualified names; double names; corrupted, unduly cumbersome, obscene, derogatory or discriminating names; and commercialised names.
- Preferred sources of names are: - descriptive names appropriate to features, pioneers, war casualties and historical events connected with the area, and name from Aboriginal languages currently or formerly identified within the general area.
- Generic terms must be appropriate to features described.
- New names proposed must be accompanied by exact information as to location, feature identification, origin, or if alteration is proposed, by a rationale.
- The use of genitive apostrophe is to be avoided (e.g. Butcher's).
- Hyphenated words in place names shall only be used where they have been adopted in local usage. (e.g. City of Kalgoorlie-Boulder).

Consultation

External: Geographic Names Committee
 Mr Robert Carruthers

Financial Implications

Cost to the Shire will include installation of new road name signage and inclusion of the new road on town maps.

Strategic Implications

Shire of Lake Grace Community Strategic Plan

Civic Leadership:

- CL1 Elected members provide visionary leadership that fairly and equitably represents their shire community.

Voting Requirements

Simple majority required.

Recommendation/Resolution

RESOLUTION 12566

Moved Cr Marshall
Seconded Cr Walker

That Council:

1. Endorse the proposal to name the new access road as shown on Deposited Plan 411875, Boulton Street; and,
2. Recommend the proposed name to the Geographic Names Committee.

CARRIED 9/0

Cr Armstrong left the meeting at 4.34 pm and returned to the meeting at 4.36 pm.

16.3 **DELEGATION OF POWERS TO THE CHIEF EXECUTIVE OFFICER AND THE DELEGATIONS REGISTER**

Applicant: Executive Services
File No. 0052
Attachments: Register of Delegations
Author: Ms Denise Gobbart
 Chief Executive Officer
Disclosure of Interest: Nil
Date of Report: 21 June 2017
Senior Officer: Ms Denise Gobbart



Chief Executive Officer

Summary

The purpose of this report is for Council to review its delegation of powers and duties performed by the Chief Executive Officer and other staff.

Background

In accordance with the requirements of the *Local Government Act 1995, s5.46 (2)*; the local government is to review its delegations made under this division at least once each financial year. The previous review was undertaken in June 2016.

The Delegation Register is a requirement under the *Local Government Act 1995, s5.46 (2)* and is subject to the annual external audit process.

Comment

The attached Delegation Register details where the Council has delegated powers and duties to the Chief Executive Officer, and where the Chief Executive Officer has delegated to other employees.

Only one (1) amendment has been approved by Council since the previous review in June 2016, being for Delegation F02 – Payment of Creditors which was submitted to Council at its 24 August 2016 Ordinary Council Meeting resolution 12339.

The Delegations Register has been reviewed and a number of the delegations have minor amendments to the wording. Each delegation includes cross reference to Council policy and or separately appointed Authorised Officers where appropriate.

Amendments

The following amendments have been made to reflect the change of title of Act for the Health Act 1911 (which is now known as the Health (Miscellaneous Provisions) Act 1911) for the following:

- H01 – Health Act (Deputy)

Throughout the year the Delegations Register will be reviewed to ensure that the correct legislative power reference is recorded against each delegation. The current legislative power refers to Local Government Act 1995, s5.42 'Delegations of some powers and duties to the CEO', this is just informing that the local government may delegate, not the head of power that is being delegated.

Legal ImplicationsLocal Government Act 1995

5.46 Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

5.16 Delegation of some powers and duties to certain committees

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

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* —
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

5.42 Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

[Section 5.42 amended by No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

5.43 Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;

(i) such other powers or duties as may be prescribed.

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44 CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,
 are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —

conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

Local Government (Administration) Regulations 1996

18G Delegations to CEOs, limits on (Act s.5.43)

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and
- (b) regulations 18C and 18D.

[Regulation 18G inserted in Gazette 31 Mar 2005 p. 1039.]

19 Delegates to keep certain records (Act s.5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

Planning and Development Act 2005

Bush Fires Act 1954

Dog Act 1976

Health (Miscellaneous Provisions) Act 1911

Food Act 2008

Local Government (Miscellaneous Provisions) Act 1960

Shire of Lake Grace Local Laws

Policy Implications

Shire of Lake Grace Policy Manual

Consultation

N/A

Financial Implications

Nil

Strategic Implications

Shire of Lake Grace Strategic Plan

Civic Leadership

- Focus 5 – Excellence in Shire administration and communication.

Voting Requirements

Absolute majority (5) required.

Recommendation/Resolution

RESOLUTION 12567

Moved Cr Hunt

Seconded Cr Clarke

That Council, in accordance with s5.42 of the *Local Government Act 1995*, delegate to the Chief Executive Officer and others, the discharge of duties and powers as detailed in the attached Register of Delegations (Review June 2017) noting that the Chief Executive Officer has delegated some of her powers and duties to other staff in accordance with limitations imposed by s5.43 of the Act and other relevant legislation.

CARRIED BY ABSOLUTE MAJORITY 9/0

16.4 SOUTHERN AGCARE DONATION

Applicant: Internal Report
File No. 0797
Attachments: Nil
Author: Ms Cheryl Chappell


 Community Services Officer

Disclosure of Interest: Nil
Date of Report: 13 June 2017
Senior Officer: Ms Linda Gray


 Deputy Chief Executive Officer

Summary

The purpose of this report is for Council to consider a donation to Southern Agcare to support the delivery of counselling services in the Shire of Lake Grace as an annual contribution for one year only.

Background

Southern Agcare is a non-profit professional counselling and support service for rural people provided by rural people. Some funding is through the Department of Child Protection and Family Support (CPFS) to provide a free Family Counselling service which is confidential, independent and mobile. It is unique and so very important in rural areas. Southern Agcare continues to strive to maintain and endeavour to expand its services and offering to the communities in the Shire.

In Lake Grace the counsellors have had 9 new clients in the past 6 months with approximately 1 -2 new clients added each month. These clients can self-refer (just call), the Doctors can refer, family members, hospital or community nurse. Due to the ever-increasing demand for the services there are now the maximum numbers of clients the counsellors can have as an open case which is based on their actual hours worked including travel time. These changes have resulted in a waitlist however if funding can be increased then counsellor service hours can increase.

The donation will support:

- \$500 will provide fuel for 2 counsellors for one month;
- \$100 will provide fuel for 2 counsellors for one week;
- \$80 will provide one counsellor with a phone for one month;
- \$60 will provide one client with a 1 hour counselling session; and,
- \$30 will provide one client with half hour counselling session.

Southern Agcare provide an assurance that funds of \$2,000 would be utilised purely in providing counselling sessions or workshops for residents of the Shire, and client numbers and an end of the financial year report can be submitted in support of this.

Comment

The Council may wish to consider a donation to Southern Agcare in view of the negative impact in 2016/17 of the floods and the subsequent dry seasonal conditions, and the need for additional counselling services to be available within the communities.

Legal Implications

Nil

Policy Implications

Shire of Lake Grace 2016/17 Register of Delegations

Delegation Number – F01 Donations

The Chief Executive Officer is delegated authority to determine requests for a donation, from Council's budgeted Donations account, of monies up to the value of \$500.00 when a group or individual can demonstrate:

1. Significant direct benefit to the local community;
2. That the group is an incorporated community group or non-profit making organisation;
3. That the group's financial status is such as to justify a donation and the Shire has previously recognised the group as deserving of assistance; and,
4. That available funding exists in the Shire's budget.

Consultation

Internal: Denise Gobbart, Chief Executive Officer

Financial Implications

Council budgeted \$5,000 for donations and ex gratia payments in 2016/17. \$4,882 of the \$5,000 has been spent leaving \$117 in the account. The request for funding is \$2,000 therefore, a funding source will need to be identified, or alternatively, included in the 2017/18 Budget.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

- S1 Maintain and improve the Shire of Lake Grace as an attractive place to live.
- S1.4 Develop civic and community leadership values to improve community culture.
- S2 Provide a supportive social environment.
- S2.3 Provide a social environment that allows your families to feel supported and connected to their family and community.

Voting Requirements

Simple majority required.

Recommendation/Resolution

RESOLUTION 12568

Moved Cr Clarke
Seconded Cr Lloyd

That Council donates \$2,000 to Southern Agcare in the 2017/18 Financial Year in recognition of the tough seasonal conditions endured by the Shire of Lake Grace community.

CARRIED 9/0

WALGA AGM - Delegates

It has been drawn to our attention that Councillors Armstrong and Clarke are no longer attending Local Government Week. Consideration is required to change/revoke Resolution 12543 of Item 16.2 2017 WALGA Annual General Meeting – Nomination of Delegates of 24 May 2017 Ordinary Meeting or for Council to nominate the Chief Executive Officer as a proxy delegate or to resolve to proceed to next business.

Notice is hereby given by the following:

Councillor: _____
NAME _____
SIGNATURE

Councillor: _____
NAME _____
SIGNATURE

Councillor: _____
NAME _____
SIGNATURE

 Denise Gobbart _____
DATE
CHIEF EXECUTIVE OFFICER

To revoke or change the following decision:

Meeting / Date	24 May 2017
Agenda Item No	Council 16.2
Agenda Item Name	2017 WALGA Annual General Meeting – Nomination of Delegates
File Reference	0029
Resolution No	12543

Recommendation

That Council revoke the proxy delegates Cr Armstrong and Cr Clarke for the Western Australian Local Government Association Annual General Meeting 2017.

or

Recommendation

That Council move to next business.

Resolution

RESOLUTION 12569

Moved Cr Marshall
 Seconded Cr Clarke

That Council move to next business.

CARRIED 9/0

16.5 2017 WALGA ANNUAL GENERAL MEETING – RE-NOMINATION OF PROXY DELEGATES

Applicant: WA Local Government Association
File No. 0029
Attachments: Nomination Form
Author: Ms Natasha Bowman

Disclosure of Interest: Nil
Date of Report: 22 June 2017
Senior Officer: Ms Denise Gobbart


 Governance Officer


 Chief Executive Officer

Summary

For Council to re-nominate proxy delegates for the 2017 Annual General Meeting (AGM) of the Western Australian Local Government Association (WALGA).

Background

Each year WALGA holds its AGM at the WA Local Government Convention to which each member of local government is entitled to be represented by two (2) voting delegates.

The delegates are to be registered by 3 July 2017.

The AGM is to be held at the Perth Convention Centre on Wednesday, 2 August 2017 commencing at 1.30 pm.

At its 24 May 2017 Ordinary Council Meeting, Council as per resolution below nominated voting and proxy delegates for the AGM.

RESOLUTION 12543 *Moved Cr Hunt, Seconded Cr Clarke*

That Council appoint delegates to the Western Australian Local Government Association Annual General Meeting 2017 as follows:

- Voting Delegates Cr De Landgraft
 Cr Hunt
- Proxy delegates Cr Armstrong
 Cr Clarke

CARRIED 9/0

Councillor Armstrong has since contacted the Shire's Governance Officer, Ms Tash Bowman on Thursday 22 June advising he is no longer able to attend Local Government Week due to personal reasons. Contact was then made with Councillor Clarke the other delegated proxy who has confirmed that she is no longer able to attend either. Councillors Armstrong and Clarke are, therefore requesting Council to re-nominate both proxy delegates for the AGM.

Comment

Council has previously nominated the Shire President and Deputy President as its delegates to the WALGA Central Country Zone.

It is appropriate that the Zone delegates be nominated to represent the Shire at the AGM. In addition, for the AGM, it is requested that Council nominate proxy delegates in the event that one or both of the voting delegates are unable to attend.

Legal Implications

Western Australia Local Government Association Constitution

Policy Implications

N/A

Consultation

N/A

Financial Implications

The cost of attending the AGM is provided for within the Shire's Conference expenses allocation E041030 - \$22,000 which covers the cost of the convention, accommodation, and travel.

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Civic Leadership

- CL1 - Elected members provide visionary leadership that fairly and equitably represents their Shire community.

Recommendation

That Council re-appoint proxy delegates to the Western Australian Local Government Association Annual General Meeting 2017 as follows:

- Proxy delegates Cr _____
 Cr _____

Voting Requirements

Simple majority required.

17.0 INFORMATION BULLETIN

17.1 INFORMATION BULLETIN REPORT – JUNE 2017

Applicant:	Executive Services
File No.	N/A
Attachments:	Information Bulletin (<i>under separate cover</i>)
Author:	Ms Natasha Bowman


 Governance Officer

Disclosure of Interest:	Nil
Date of Report:	21 June 2017
Senior Officer:	Ms Denise Gobbart


 Chief Executive Officer
Summary

The purpose of the Information Bulletin is to keep Elected Members informed on matters of interest and importance to Council.

Background

The Information Bulletin Reports deal with monthly standing items and other information of a strategic nature relevant to Council.

Note: The Information Bulletin is an internal management document; therefore attachments are not for public information.

Copies of other relevant Councillor information are distributed via email.

Comment

This month's (June 2017) Information Bulletin Report has been emailed to Councillors.

The June 2017 Information Bulletin attachment includes:

Reports

1. Council Status Report – May 2017
2. Infrastructure Services Report – May 2017
3. Monthly Schedules – May 2017
4. Outstanding Rates Report – May 2017
5. Environmental Health Officer Report – June 2017

Letters

6. WALGA – WANDRRA Temporary Exemption Update
7. Office of Emergency Management – WANDRRA Day Labour Temporary Exemption Framework Update

Circulars & Newsletters

8. Department of Local Government and Communities – Circular 07/2017
9. Department of Local Government and Communities – Circular 08/2017
10. District Health Advisory Council e-News
11. WALGA Info Page – Control of Off-road Vehicles
12. Hon David Templeman MLA Media Release – Regulation Amendment – Changes to Fixed Term Deposit Investment Period

13. Hon David Templeman MLA Media Release – Mycouncil Website Data Update

Minutes

14. Integrated Planning Asset Management Committee Meeting – 14 June 2017

Legal Implications

Nil

Policy Implications

Nil

Consultation

N/A

Financial Implications

Nil

Strategic Implications

Shire of Lake Grace Strategic Community Plan

Civic Leadership - Focus Area 5

- Excellence in Shire administration and communication.

Voting Requirements

Simple majority required.

Resolution

RESOLUTION 12570

Moved Cr Walker

Seconded Cr Stanton

That Council accepts the Information Bulletin report.

CARRIED 9/0

18.0 URGENT BUSINESS BY DECISION OF THE MEETING

Nil

19.0 SCHEDULING OF MEETING**19.1 JULY 2017 ORDINARY MEETING**

The next Ordinary Meeting of Council is scheduled to take place on Wednesday 26 July 2017, commencing at 3.00 pm at the Council Chambers, 1 Bishop Street, Lake Grace.

20.0 CONFIDENTIAL BUSINESS – AS PER LOCAL GOVERNMENT ACT S5.23 (2)

Mr Rusty Lee and Ms Linda Gray left the meeting at 4.45 pm.

Resolution**RESOLUTION 12571**

Moved Cr Chappell
Seconded Cr Clarke

That Council meet behind closed doors at 4.45 pm in accordance with section 3.7 of the Shire of Lake Grace Standing Orders Local Law 2015, and Section 5.23(2)(c) of the Local Government Act 1995.

CARRIED 9/0

This item and any attachments are confidential in accordance with Section 5.23(2)(c) of the Local Government Act 1995 as it contains “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting”.

20.1 DISPOSAL OF MERCEDES BENZ TRUCK

Forwarded under separate cover.

Integrated Planning Asset Management Committee Recommendation/Resolution**RESOLUTION 12572**

Moved Cr Chappell
Seconded Cr Marshall

That Council resolve to instruct the Chief Executive Officer to put item P02CAP, Mercedes Benz prime mover LG244, Asset Code 1192, out for public auction, with a reserve price of \$xxxxxx.

CARRIED 9/0

Resolution

RESOLUTION 12573

Moved Cr Chappell
Seconded Cr Clarke

That Council move out from behind closed doors at 4.49 pm.

CARRIED 9/0

Ms Linda Gray returned to the meeting at 4.49 pm.

Having opened the meeting to the public at 4.49 pm the President read aloud the decisions of Council.

21.0 CLOSURE

There being no further business, the Shire President closed the meeting at 4.50 pm.

22.0 CERTIFICATION

I, Jeanette Frances De Landgraft, certify that the minutes of the meeting held on the 28 June 2017 as shown were confirmed as a true record at the meeting held on the 26 July 2017.

Shire President

Date