

Shire of Lake Grace

Ordinary Council Meeting



## NOTICE PAPER

### To the President and Councillors

In accordance with the provisions of Section 5.5 of the Local Government Act 1995, you are hereby notified that an Ordinary Meeting of Council has been convened:

**Date:** Wednesday 18 November 2015

**At:** Newdegate Library & CRC  
Collier St, Newdegate

**Commencing:** 3.00 pm

To discuss the items of business in the agenda as set out on the following pages.

\_\_\_\_\_  
Neville Hale  
Chief Executive Officer

12 November 2015  
Date

Shire of Lake Grace

Ordinary Council Meeting

# Agenda

18 November 2015

Meeting Commencing at 3.00 pm



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## **SHIRE OF LAKE GRACE**

Agenda for the Ordinary Meeting of Council to be held at Newdegate Library & Community Resource Centre, Collier St, Newdegate WA, on Wednesday 18 November 2015.

### **1.0 OPENING & ANNOUNCEMENT OF VISITORS**

The Shire President opened the meeting at \_\_ pm.

### **2.0 ATTENDANCE RECORD**

#### **2.1 PRESENT**

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

#### **In Attendance**

Mr N Hale	Chief Executive Officer
Ms D Gobbart	A/Manager Corporate Services
Mr L Shopov	Manager Infrastructure Services
Ms L Holben	Manager Community Services
Mrs J Bennett	Executive Officer
Mrs D Robertson	Executive Assistant

#### **Observers/Visitors**

#### **2.2 APOLOGIES**

#### **2.3 LEAVE OF ABSENCE PREVIOUSLY GRANTED**

### **3.0 PUBLIC QUESTION TIME**

### **4.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**5.0 MINUTES OF PREVIOUS COUNCIL MEETINGS**

**5.1 ORDINARY MEETING – 21 OCTOBER 2015**

Resolution

**MOTION**

Moved Cr  
Seconded Cr

That the minutes of the Ordinary Meeting of Council held on the 21 October 2015 be confirmed as a true and accurate record.

**MOTION**

**6.0 DECLARATIONS OF INTEREST**

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

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

**6.3 DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATION SECTION 34C**

**7.0 NOTICES OF URGENT BUSINESS**

**8.0 MOTIONS OF WHICH NOTICE HAS BEEN RECEIVED**


**9.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

**10.0 MEMBERS' REPORTS**


## 11.0 MATTERS FOR CONSIDERATION – INFRASTRUCTURE SERVICES

### 11.1 SUPPLY OF TWO PRIME MOVER TRUCKS

**Applicant:** Manager Infrastructure Services  
**File No.** 0488  
**Attachments:** Tender Specification for a Prime Mover  
**Author:** Louka Shopov

  
 Manager Infrastructure Services

**Disclosure of Interest:** Nil  
**Date of Report:** 10/11/2015  
**Senior Officer:** Neville Hale

  
 Chief Executive Officer

#### Summary

This report recommends that Council authorise the Chief Executive Officer to receive tenders from WALGA preferred suppliers, for Supply of Two Prime Mover Trucks in accordance with Shire of Lake Grace Plant Replacement Program.

#### Background

Shire of Lake Grace Plant Replacement Program allowed for purchasing of two new machines to replace existing DAF CF85 Tipper Trucks.

The original Specification for a Prime Mover is revised, following the discussions at the previous Council meeting, to include a requirement for an automatic transmission, tool box, and engine characteristics. All amendments are highlighted in red in the attached tender specification.

#### Comment

The tender may be awarded to who best demonstrates the ability to provide quality products and/or services at a competitive price.

The Principal has adopted a best value for money approach to this request.

This means that, although price is considered, the tender containing the lowest price will not necessarily be accepted, nor will the tender be ranked the highest on the qualitative criteria.

A scoring system will be used as a part of the assessment of the qualitative criteria.

The tendered prices will be assessed together with qualitative and specification criteria to determine the most advantageous outcome to the Shire.

The assessment criteria will be as per Council policy 3.11 *Tender Selection Criteria*, adopted in June 2015.

- |                          |     |
|--------------------------|-----|
| ▪ Tender Price           | 65% |
| ▪ Warranty and Servicing | 15% |
| ▪ Performance            | 10% |
| ▪ Delivery/Availability  | 10% |

The extent to which a tender demonstrates greater satisfaction of each of these criteria will result in a greater score. The aggregated score of each tender will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment of value for money.

Legal Implications*Local Government Act 1995**Local Government (Function and General) Regulations 1996*Policy Implications

3.11 Tender Selection Criteria

Consultation

Internal: Chief Executive Officer

Bob Palmer - Mechanic

Doug Whiting - Works Supervisor

Gordon Franks, John Gambuti, Kurt Luther - Truck Drivers

Financial Implications

Allowances have been made within the 2015-16 Budget for the replacement of two existing DAF-FAT CF85 6x4 tipper trucks with prime movers.

Strategic Implications

Purchasing of two new prime movers will increase productivity eliminate lost time and improve safety on road reconstruction sites.

Voting Requirements

Simple majority required.

Recommendation

That Council resolve to authorise the Chief Executive Officer to;

1. Receive tenders from WALGA preferred suppliers for the supply of two new Prime Movers in accordance with the revised Tender Specification; and
2. That the following assessment criteria apply:
 

▪ Tender Price	65%
▪ Warranty and Servicing	15%
▪ Performance	10%
▪ Delivery/Availability	10%



## 12.0 MATTERS FOR CONSIDERATION – PLANNING

### 12.1 TRANSFER OF MANAGEMENT ORDER – RESERVE 47100

**Applicant:** Department of Environment and Conservation  
**File No.** 0359  
**Attachments:** Attachments 1 & 2 and Plans 1 & 2  
**Author:** Messrs Joe Douglas & Steve Pandevski  
 Urban & Rural Perspectives - Town Planning Consultants  
**Disclosure of Interest:** Nil  
**Date of Report:** 5 November 2015  
**Senior Officer:** Mr Neville Hale



Chief Executive Officer

#### Summary

This report recommends that Council supports the request from the Department of Parks and Wildlife (DPAW) to transfer the management order applicable to Reserve 47100 from the Shire of Lake Grace to DPAW.

#### Background

By correspondence dated 17 September 2010 DPAW requested the Shire consider the proposed transfer of the management order applicable to Reserve 47100 from the Shire to DPAW (Attachment 1 – DPAW correspondence, previously DEC).

Reserve 47100 is located approximately 20 kilometres south of the Lake King townsite and has direct frontage to Newdegate Road along its southern boundary. The Reserve is densely vegetated in a manner consistent with adjoining Reserves 29860 and 39422 which are currently managed by DPAW for conservation purposes (see Plans 1 – Location Plan and Plan 2 – Aerial Site Plan).

A summary of the current ownership, legal description and management order details applicable to Reserve 47100 is provided as follows:

Land Description	Responsible Agency	Current Management Order Details	Approximate Land Area
Reserve 47100 being Lots 3137 and 3138 on Plan 218633	Department for Planning and Infrastructure	Shire of Lake Grace for Drainage and Landscape Protection	2,541.8ha

(See Attachment 2 – Reserve Enquiry Detail)

At its 24 November 2010 meeting, Council resolved:

#### **MOTION 11119**

*Moved Cr Chamberlain*  
*Seconded Cr De Landgraft*

*That this item lay on the table until the questions raised by Council have been adequately answered.*

**MOTION CARRIED 9/0**

Regrettably, this matter was not referred back to the Planning consultants for follow up action, nor were the questions posed by Council at the time recorded in the minutes or by way of a file note. Subsequent enquiries suggest that the primary concerns at the time of initial consideration related to the ability of the community to retain access for recreation and that the land be available for water catchment and storage if required.

Following discussions with Greg Durell, District Manager, DPAW, it has been suggested that should the Reserve be transferred that it be designated a “Conservation Park”, – as this status allows for other uses such as tourism and recreation and perhaps water.

#### Comment

Councillors may recall earlier discussion in regard to Reserve 34213 north east of Lake King, where following a briefing from Greg Durell, Council resolved at its August 2015 Meeting to support the transfer of that reserve to DPAW subject to it being designated a “Conservation Park” to allow continued access for passive recreation and water if required. Reserve 34213 was previously a Reserve under the management of the Department of Water.

The Land Administration Act 1997 enables the Minister for Lands to change the management order applicable to any reserved Crown land. Ordinarily such a request is made to the Minister by the authority seeking to acquire the management order or the authority seeking to surrender the management order.

Given that DPAW is the authority requesting the proposed new management order for Reserve 47100, it is considered appropriate that it be responsible for progressing the required application to the Minister for Lands, with the Shire providing the required supporting correspondence should Council agree to the proposal.

In considering the appropriateness of DPAW’s request to transfer the management order for Reserve 47100 to help “increase the effectiveness of management activities and responsibilities such as fire pre-suppression programs and wildlife management”, it is reasonable for Council to be guided by the provisions contained in the Shire of Lake Grace’s current operative Local Planning Scheme No.4 and Local Planning Strategy.

Reserve 47100 is currently classified ‘Conservation’ reserve in the Shire of Lake Grace Local Planning Scheme No.4 (LPS No.4).

Under the terms of the Shire of Lake Grace Local Planning Strategy Reserve 47100 is also classified for ‘Conservation’ purposes. One of the strategies relating to environmental protection and conservation as identified in the Local Planning Strategy is to “facilitate the long term protection of areas of local and regional conservation significance in Crown ownership throughout the Shire”

It is considered that transferring the management order for Reserve 47100 to DPAW will facilitate its long term protection and conservation in a manner consistent with the current use and management of the adjoining Reserves 29860 and 39422 by DPAW and the general guidance provided by the Shire’s current Local Planning Scheme No.4 and Local Planning Strategy.

#### Conclusion

The request from DPAW is considered reasonable and will provide opportunity for a single authority to most effectively manage, for conservation purposes, three (3) adjoining reserves that share the same biophysical characteristics. To that extent it is recommended that Council support the proposed transfer of the existing management order applicable to Reserve 47100 from the Shire of Lake Grace to DPAW.

Legal Implications

*Land Administration Act 1997*

Policy Implications

Nil

Consultation

Greg Durell, District Manager, Department of Parks and Wildlife

Joe Douglas, Urban & Rural Perspectives

Financial Implications

Should DPAW's request to secure rights to the management order for Reserve 47100 be approved by the Minister for Lands, all costs associated with ongoing management and maintenance of the land will be transferred from the Shire to DPAW.

Strategic Implications

Shire of Lake Grace Local Planning Strategy – The proposal is consistent with the strategic planning direction provided by the Shire's Local Planning Strategy as this applies to environmental protection and conservation.

Transferral of the management order applicable to Reserve 41700 to the DPAW will enable the preparation and implementation of a holistic and co-ordinated conservation plan for Reserve 47100 and the adjoining Reserves 29860 and 39422. Effective environmental management and conservation of this land will benefit current and future generations.

Voting Requirements

Simple majority required.

Recommendation

That Council resolve to advise the Department of Parks and Wildlife (DPAW) that it supports its request for the management order applicable to Reserve 47100 (Lots 3137 and 3138) to be transferred from the Shire of Lake Grace to DPAW subject to:

1. Reserve 47100 being set aside as a 'Conservation Park' for the purpose of Conservation of Flora and Fauna with provision for other purpose uses such as tourism and recreation and perhaps water; and,
2. All costs (incidental or otherwise) associated with the proposal being borne by DPAW.

## 12.2 **PROPOSED RURAL SUBDIVISION (BOUNDARY REALIGNMENT) – LOTS 24 & 41 GORDON ROAD, BEENONG**

**Applicant:** PH & KE Gow (Licensed Surveyors)  
on behalf of Mr Peter Gordon Pelham (Landowner)

**File No.:** 0363 / 0453

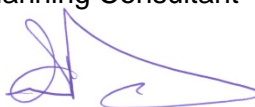
**Attachments:** Plans 1 to 4

**Author:** Messrs Joe Douglas & Steve Pandevski  
(Urban & Rural Perspectives) Town Planning Consultant

**Disclosure of Interest:** Nil

**Date of Report:** 11 November 2015

**Senior Officer:** Mr Neville Hale



Chief Executive Officer

### Summary

This report recommends that a subdivision application submitted to the Western Australian Planning Commission (WAPC) by PH & KE Gow (Licensed Surveyors) on behalf of Mr Peter Gordon Pelham (Landowner) and referred to the Shire for review and comment be supported by Council subject to conditions.

### Background

PH & KE Gow (Licensed Surveyors), acting on behalf of the current landowners, has submitted a subdivision application to the Western Australian Planning Commission (WAPC) seeking approval to realign the boundaries between two (2) existing agricultural lots (Lots 24 and 41).

In support of the proposal the applicant has submitted the following:

*“The reason for the boundary realignment is to enable the landowners to retain their family house and some non-arable land (proposed Lot A) and be able to sell the arable land.*

*Both proposed lots have direct road access to a constructed road (Gordon Road.)”*

Lots 24 and 41 are located generally on the eastern side of Gordon Road in the locality of Beenong and comprise a total combined area of approximately 341.3 hectares. Lot 41 currently has direct frontage and access to Gordon Road, whilst Lot 24 is “land locked” and only has access to Gordon Road via Lot 41. Gordon Road is constructed to a gravel standard (see Plans 1 & 2).

Lots 24 and 41 have been extensively cleared with the arable portions currently used for broad acre cropping and grazing.

Lot 24 contains a single detached dwelling and associates structures (i.e. outbuilding, water tanks etc). Most of Lot 24 is arable.

Lot 41, on the other hand, contains two sheds and is mostly non-arable (i.e. salt lakes are prevalent throughout). Approximately 2.5 hectares (i.e. 1%) of the total area of Lot 41 being 276.55ha is arable (see Plan 3).

The proposed boundary realignment, as illustrated in the attached Plan 4, will result in the following changes to the current lot areas:

Lot Particulars	Existing Land Area (Approx.)	Proposed Land Area (Approx.)
Existing Lot 24	64.75 ha	-
Existing Lot 41	276.55 ha	-
Proposed 'Lot A'	-	77.64 ha
Proposed 'Lot B'	-	263.67 ha

### Comment

In considering the subdivision application Council is required to have due regard for the provisions contained in the following planning documents prior to formulating its response to the WAPC:

- Shire of Lake Grace Local Planning Scheme No.4; and
- WAPC Development Control Policy No.DC 3.4 – '*Subdivision of Rural Land*'.

The following is an assessment of the subdivision proposal in the context of the specific requirements of these planning documents to determine its general suitability.

### Shire of Lake Grace Local Planning Scheme No.4 (LPS No.4)

The land is currently classified 'General Agriculture' zone in LPS No.4.

The key objectives of the land's current 'General Agriculture' zoning classification are to ensure the continuation of broadacre farming as the principle land use within the district, protect the rural landscape character and control the fragmentation of agricultural land.

Clause 5.11.12 of LPS No.4 states that Council will only recommend support for the further subdivision of land classified 'General Agriculture' zone where it accords with the provisions of the Shire's Local Planning Scheme, Local Planning Strategy, relevant Local Planning Policies and any relevant Commission policies applicable at the time.

In essence the subdivision application proposes the realignment of common boundaries between two (2) existing rural lots owned by the same person. If ultimately approved by the Commission the subdivision will ensure that both lots have direct road frontage (i.e. Lot 24 does not currently have direct road frontage and access) and will not result in the creation of any additional lots or dwelling entitlements.

Given these outcomes it is the reporting officers' view the proposed subdivision:

- a) is generally consistent with the guidance provided by the Shire's local planning framework;
- b) is generally consistent with the objectives and provisions applicable to the land's current 'General Agriculture' zoning classification in LPS No.4 as this applies specifically to the continuation of broadacre agriculture in the District; and
- c) may therefore be supported by Council.

WAPC Development Control Policy No.DC3.4 – Subdivision of Rural Land

The Western Australian Planning Commission's (WAPC's) Development Control Policy No.DC3.4 provides guidance on the matters to be considered by the Commission when determining applications for the subdivision of rural land throughout Western Australia.

Section 6 of Policy No.DC3.4 enables the rationalisation of farming land through boundary realignments to improve farm management. As previously mentioned the subdivision application proposes to realign existing boundaries to define and reflect the arable land predominantly within a single lot (proposed Lot B), whilst consolidating the existing home on a predominantly non-arable lot (proposed Lot A).

Furthermore and also consistent with section 6 of Policy No.DC3.4, the proposed subdivision ensures that both new lots will be provided with direct frontage and access to a public road (i.e. Gordon Road).

Having regard for the objectives and guidelines contained within Policy No.DC3.4, the reporting officers' have formed the view that the proposed subdivision will not result in the ad-hoc fragmentation of rural land in the locality, will provide direct road frontage to both new lots and is generally consistent with the provisions contained in Policy No. DC3.4.

Conclusion

It is concluded from a detailed assessment of the subdivision proposal for Lots 24 & 41 Gordon Road, Beenong in the context of the specific requirements of the current local planning framework that it is:

- i) unlikely to compromise the objectives of land classified 'General Agriculture' zone in the Shire of Lake Grace's current operative Local Planning Scheme No.4; and
- ii) generally consistent with the criteria contained in the Western Australian Planning Commission's Development Control Policy No.DC3.4 entitled *Subdivision of Rural Land* as these apply specifically to the rationalisation of farming land through the realignment of existing lot boundaries.

In light of these conclusions it is recommended that Council advise the Western Australian Planning Commission that it supports the proposed subdivision in accordance with the details of the plan submitted in support of the application subject to conditions to ensure:

- a) all existing buildings on the land are setback an appropriate distance from the proposed new lot boundaries; and
- b) both lots have suitable driveway crossover access to Gordon Road.

Legal Implications

Shire of Lake Grace Local Planning Scheme No.4  
Planning and Development Act 2005

Policy Implications

WAPC Development Control Policy No.DC 3.4 – *Subdivision of Rural Land*

Community Consultation

Not Required

Financial Implications

Nil

Strategic Implications

Nil

Cultural Implications

Nil

Voting Requirements

Simple majority required.

Recommendation

That Council advise the Western Australian Planning Commission that it supports the application submitted by PH & KE Gow (Licensed Surveyors) on behalf of Mr Peter Gordon Pelham (Landowner) to subdivide Lots 24 & 41 Gordon Road, Beenong in accordance with the details of the plan submitted in support of the application subject to the following conditions:

1. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia. (Local Government)
2. Suitable arrangements being made with the local government for the provision of a new vehicular crossover(s) to service proposed Lot A shown on the approved plan of subdivision. (Local Government)

**12.3 PLANNING APPLICATION – THREE (3) NEW AGED / DEPENDENT PERSONS’ DWELLINGS ON RESERVE 24473 BEING LOT 107 (NO.49) BENNETT STREET, LAKE GRACE**

**Applicant:** Gary Batt & Associates Architects on behalf of the Shire of Lake Grace (Developer) & State of Western Australia (Landowner)

**File No.:** 0454

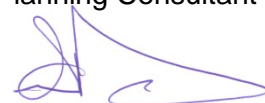
**Attachments:** Plans 5 to 10

**Author:** Messrs Joe Douglas & Carlo Famiano (Urban & Rural Perspectives) Town Planning Consultant

**Disclosure of Interest:** Nil

**Date of Report:** 11 November 2015

**Senior Officer:** Mr Neville Hale



Chief Executive Officer

Summary

This report recommends that a planning application submitted by Gary Batt & Associates Architects on behalf of the Shire of Lake Grace and the State of Western Australia to construct three (3) new aged / dependent persons’ dwellings on Reserve 24473 being Lot 107 (No.49) Bennett Street, Lake Grace be approved subject to conditions.

Background

The applicant is seeking Council’s planning approval to construct three (3) new dependent persons’ dwellings on Reserve 24473 being Lot 107 (No.49) Bennett Street, Lake Grace to assist with the provision of much needed housing for aged, disabled or dependent persons within the Lake Grace townsite.

Reserve 24473 is located centrally within the Lake Grace townsite on the north-eastern corner of the intersection of Bennett and Lawson Streets. The land is rectangular in shape, comprises a total area of approximately 1,042m<sup>2</sup> and is relatively flat throughout its entire area. The property has direct frontage and access to Bennett Street along its southern boundary, Lawson Street along its western boundary and a right-of-way along its northern rear boundary. Reserve 24473 is currently vacant/unused land (see Plans 5 to 7).

The subject land forms part of Crown Reserve 24473 which is owned by the State of Western Australia and currently vested in the Shire of Lake Grace for ‘Children Playground’ purposes. In September 2015 the Shire’s Administration lodged an application with the Department of Lands seeking the Hon. Minister for Lands approval to change the current designated purpose of Reserve 24473 from ‘Children Playground’ to ‘Community Aged Housing’. The Shire’s request in this matter is still being processed by the Department in accordance with the procedures and requirements of the Land Administration Act 1997 and associated regulations.

Under the terms of the plans submitted in support of the application the proposed development will comprise the following key elements:

- i) Construction of three (3) new dwellings designed specifically to accommodate dependent persons’ (see Plans 8 to 10);
- ii) The new dwellings will be constructed of weatherboard/fibre cement wall cladding and custom orb roofing (i.e. ‘Slate Grey’);
- iii) Each dwelling will have two (2) bedrooms, one (1) bathroom, two (2) toilets, a double carport and an alfresco area;



- iv) Each dwelling will comprise a total floor area of approximately 124m<sup>2</sup> not including the carport and alfresco areas;
- v) All dwellings will have a wall height of 2.6 metres (i.e. plate height) and a ridge height of approximately 5.8 metres;
- vi) Proposed Unit 1 will be orientated towards Bennett Street while Units 2 & 3 will be orientated towards Lawson Street;
- vii) The new dwellings will be connected to power, water, telecommunications and reticulated sewerage disposal infrastructure with stormwater drainage to be directed to the local road and drainage network in accordance with Council policy.

### Comments

#### Current Zoning & Land Use Permissibility

Reserve 24473 is classified 'Residential' zone under the Shire of Lake Grace's current operative Local Planning Scheme No.4 (LPS No.4) with an applicable residential density coding of R30. This zoning classification was applied to the land as part of preparation of LPS No.4 to reflect a decision by Council to develop the land for aged persons accommodation at some point in the future based upon local demand.

A key objective of the land's current 'Residential' zoning classification is to encourage a high standard of development that enhances the character and amenity of residential areas while providing opportunities for a variety of housing types.

Under the terms of LPS No.4 the development and use of land in the 'Residential' zone for the purpose of aged / dependent persons' dwellings is classified as a 'D' use which means it is not permitted unless Council has exercised its discretion by granting planning approval.

#### Compliance with Development Standards

An assessment of the application by the reporting officers' against the development standards prescribed in LPS No.4 and the 'deemed to comply requirements' of the Residential Design Codes of Western Australia (i.e. R-Codes) has confirmed it satisfies the majority of standards except for the following:

- i) Element 5.1.2 C2.1 – 'Street setback'; and
- ii) Element 5.5.2 C2.1 – 'Aged or dependant persons' dwellings'.

The following is a brief discussion of the above non-compliance issues:

#### **Point 1: Element 5.1.2 C2.1 – 'Street setback'**

The application proposes a minimum front setback of 1.75 metres for Unit 1 in lieu of 2 metres as required by the 'deemed to comply requirements' of Element 5.1.2 C2.1 of the R-Codes.

Council may consider this non-compliance issue under the 'design principles criteria' contained in Element 5.1.2 of the R-Codes which expressly states:

*"P2.1 Buildings setback from street boundaries an appropriate distance to ensure they:*

- *Contribute to, and are consistent with, an established streetscape;*
- *Provide adequate privacy and open space for dwellings;*
- *Accommodate site planning requirements such as parking landscaping and utilities;*

and

- Allow safety clearances for easements for essential services.

“P2.2 Buildings mass and form that:

- Uses design features to affect the size and scale of the building;
- Uses appropriate minor projections that do not detract from the character of the streetscape;
- Minimises the proportion of the facade at ground level taken up by building services, vehicle entries and parking supply, blank walls servicing infrastructure access and meters and the like; and
- Positively contributes to the prevailing development context and streetscape.”

Following a detailed assessment of the application in the context of the above ‘design principles criteria’ the reporting officers’ have concluded the proposed reduced setback of Unit 1 from the land’s front boundary is capable of being supported and approved by Council for the following reasons:

- The front setback variation (i.e. 250mm) is considered minor and unlikely to have a detrimental impact on the local streetscape or amenity of any adjoining properties in terms of the development’s overall bulk and scale;
- The average front setback for Unit 1 meets the ‘deemed to comply requirements’ of Element 5.1.2 C2.1 of the R-Codes;
- The carport is an open structure and will not have any adverse impacts on the local streetscape in terms of its bulk and scale;
- Abutting Lot 107 is a substantial verge area with a width of approximately six (6) metres along its Bennett Street frontage. The verge width provides an increased setback between the proposed carport and the road pavement, therefore minimising the impact of the proposed built form on the Bennett Street streetscape; and
- There is adequate and sufficient area on Lot 107 to accommodate all essential servicing requirements and any associated easements.

#### **Point 2: Element 5.5.2 C2.1 – ‘Aged or dependant persons’ dwellings’**

The application proposes the following:

- A plot ratio for each dwelling ranging from 109m<sup>2</sup> to 120m<sup>2</sup> in lieu of a maximum plot ratio of 100m<sup>2</sup> as required by the ‘deemed to comply requirements’ Element 5.5.2 C2.1 of the R-Codes;
- The construction of three (3) dependent persons’ dwellings in lieu of a minimum of five (5) dwellings per development as required by the ‘deemed to comply requirements’ Element 5.5.2 C2.1 of the R-Codes; and
- No on-site visitor car parking bays in lieu of one (1) on-site visitor bay required by the ‘deemed to comply requirements’ of Element 5.5.2 C2.1 of the R-Codes.

Council may consider this non-compliance issue under the ‘design principles criteria’ contained in Element 5.5.2 of the R-Codes which expressly states:

“P2 Aged or dependent persons’ dwellings for the housing of aged or dependent persons designed to meet the needs of aged or dependent persons; and

- reduces car dependence (i.e. is located in close proximity to public transport and

services);

- *has due regard to the topography of the locality in which the site is located in respect to access and mobility;*
- *does not impinge upon neighbour amenity; and*
- *responds to a demand for aged or dependent persons' accommodation in the locality which is recognised in the local planning framework."*

Following a detailed assessment of the application in the context of the above 'design principles criteria' the reporting officers' have concluded the proposed development is capable of being supported and approved by Council for the following reasons:

- i) The proposed dwellings have been designed and will be constructed in accordance with Australian Standard AS4299 (i.e. 'Adaptable Housing') to ensure they satisfy the specific needs and requirements of the future intended occupants (i.e. aged / dependent persons);
- ii) Lot 107 is located in close proximity to the Lake Grace town centre area which will provide for the daily needs of the future occupants of the dwellings within a walkable distance;
- iii) The Bennett and Lawson Street road reserves each comprise an eight (8) metre wide road carriageway which is considered more than adequate to accommodate any on-street car parking demand likely to be generated by the proposed development (i.e. visitor parking);
- iv) The proposed development will not have any adverse impacts on any adjoining properties or the local streetscape in terms of its overall bulk and scale;
- v) The proposed development has been designed with due regard for the natural topography of the land and its immediate surrounds; and
- vi) The proposed development will benefit the local community by providing much needed housing for aged / dependent persons in the Lake Grace townsite.

### Conclusion

It is concluded from a detailed assessment of the application that the proposal to construct three (3) new aged / dependent persons' dwellings on Reserve 24473 being Lot 107 (No.49) Bennett Street, Lake Grace is capable of being implemented in a proper and orderly manner and is unlikely to have a negative impact on the general amenity, character, functionality and safety of the immediate locality subject to the imposition of a number of conditions. As such it is recommended that Council exercise its discretion and grant conditional approval to the application.

### Legal Implications

*Planning and Development Act 2005*

*Shire of Lake Grace Local Planning Scheme No.4*

### Policy Implications

*State Planning Policy No.3.1 - Residential Design Codes of Western Australia*

### Community Consultation

Not required.

### Financial Implications

It is understood that a suitable allowance has been made in Council's 2015/2016 budget for the construction of the three (3) new aged / dependent persons' dwellings on Reserve 24473 as proposed.

### Strategic Implications

Nil

### Cultural Implications

The development of aged / dependent persons accommodation in the Lake Grace townsite as proposed by this application could be expected to have significant cultural benefits for both the town and the Shire generally as it will enable disabled or elderly people to maintain and foster ties with their families and the local community.

### Voting Requirements

Simple majority required.

### Recommendation

That the application for planning approval submitted by Gary Batt & Associates Architects on behalf of the Shire of Lake Grace and the State of Western Australia to construct three (3) new aged / dependent persons dwellings on Reserve 24473 being Lot 107 (No.49) Bennett Street, Lake Grace be approved subject to compliance with the following conditions and advice notes:

### Conditions

1. The proposed development shall be undertaken in a manner consistent with the information and plans submitted in support of the application unless otherwise approved by Council.
2. At least one (1) permanent occupant of each dwelling shall be aged or physically dependent as defined by the Residential Design Codes of Western Australia (2015).
3. The proposed dwellings shall incorporate, as a minimum, the following design elements as prescribed by the Residential Design Codes of Western Australia (2015):
  - i) Level external entry path to the front door, with preferably all external doors having level external entry paths;
  - ii) All external and internal doors shall have a minimum 820mm wide clear opening (AS4299);
  - iii) All internal corridors to be a minimum 1,000mm wide with the width to be increased to a minimum of 1,200mm in corridors with openings on side walls;
  - iv) A visitable toilet (AS4299), preferably located within the bathroom; and
  - v) Toilet and toilet approach doors shall have a minimum 250mm high nib wall on the door handle side of the door and provision for the installation of grab rails in accordance with AS4299.
4. A Notification under section 70A of the *Transfer of Land Act 1893* must be registered over the Certificate of Title of each new dwelling if the strata subdivision of the land were to ever proceed to notify owners and prospective purchasers that restrictions apply to the use of each dwelling as stipulated by this approval.
5. All proposed vehicle crossovers, accessways and parking areas shall be constructed and maintained to the specifications and satisfaction of the Shire of Lake Grace.

6. All dwellings shall be connected to reticulated sewerage disposal infrastructure to the satisfaction of the Shire of Lake Grace.
7. All carports shall be open structures and are not permitted to be enclosed by any walls or doors unless otherwise approved by Council.
8. All stormwater drainage discharge generated by the approved structures shall be managed to the specifications and satisfaction of the Shire of Lake Grace.
9. All landscaping is to be completed in accordance with approved plans prior to occupation of the dwellings and shall be maintained to the satisfaction of the Shire of Lake Grace.
10. Any front walls and/or fencing within the primary street setback area of the proposed development shall be visually permeable to the satisfaction of the Shire of Lake Grace.
11. The street verge adjacent to the development shall be landscaped to the satisfaction of the Shire of Lake Grace.



#### Advice Notes

1. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period this approval will lapse and be of no further effect. Where this approval has lapsed, no activity shall be carried out without the further approval of the Shire of Lake Grace having first been sought and obtained.
2. A completed building permit application must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction on the land including any future proposed internal fit out works.
3. The proposed development on the land is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the required building permit application.
4. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.
5. No construction works shall commence on the land prior to 7am without the Shire's written approval.
6. Failure to comply with any of the conditions of this planning 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.

## 13.0 MATTERS FOR CONSIDERATION – HEALTH & BUILDING

### 13.1 PERMISSION TO COLLECT CUTTINGS AND SEED FROM SHIRE OF LAKE GRACE ROAD RESERVES

**Applicant:** Mr Tony Turner  
**File No.** 0309  
**Attachments:** Letter  
**Author:** Mrs Lauren Pitman  
  
**Disclosure of Interest:** Nil  
**Date of Report:** 5 November 2015  
**Senior Officer:** Mr Neville Hale

  
 Environmental Health Officer  
  
  
 Chief Executive Officer

#### Summary

Council is requested to approve the collection of native seed from within roadside reserves vested in the Shire of Lake Grace.

#### Background

Council has received a request from Mr Tony Turner to collect *Leptospermum* seeds and cuttings from roadside reserves vested in the Shire of Lake Grace. The letter of request is attached. Permission is requested for a 12 month period.

All persons collecting native seed require the landowner's permission and must obtain an appropriate license in accordance with the *Wildlife Conservation Act (1950)*.

#### Comment

Mr Turner would like to collect *Leptospermum* seeds and cuttings for identification and propagation purposes. Cuttings will be used for nectar analysis to determine antibacterial properties. Seed from plants with higher antimicrobial properties will be collected and used for small scale cultivation trials. The study will ultimately determine which *Leptospermum* will produce high antimicrobial honey.

It is industry and state funded research and the findings will be published and made publicly available.

In this regard, seeds and cuttings are sought from within road reserves vested to the Shire of Lake Grace from the commencement date of the DPAW license for a period of 12 months.

#### Legal Implications

##### ***Wildlife Conservation Act (1950):***

*"23B. Protected flora on Crown land not to be taken without licence*

- (1) A person shall not on Crown land wilfully take any protected flora unless the taking of the protected flora is authorised by, and carried out in accordance with the terms and conditions of, a licence issued to him under section 23C.*
- (2) In any proceedings for an offence against subsection (1) it is a defence for the person charged to prove that the taking occurred as an unavoidable incident or consequence in the performance of any right, power or authority conferred upon, or in the discharge of any duty or obligation imposed upon, the person by or under any Act or agreement to which the State is a party and which is ratified or approved by an Act or*

*notwithstanding the fact that the performance of that right, power or authority, or the discharge of the duty or obligation, was exercised in a reasonable manner.”*

#### Policy Implications

Nil

#### Consultation

N/A

#### Financial Implications

Nil

#### Strategic Implications

Shire of Lake Grace Community Strategic Plan

- *Economics Focus Area (4) Growing agricultural sustainability*
- *Environment Focus Area (4) Protected flora and fauna*
- *Environment Focus Area (6) Protected natural environment*

#### Voting Requirements

Simple majority required.

#### Recommendation

That Council agrees to allow Mr Tony Turner to collect *Leptospermum* seeds and cuttings from within roadside reserves vested to the Shire of Lake Grace for the duration of a 12 month DPAW issued license, for identification and propagation purposes with the following conditions:

1. All persons collecting native seed are licensed according to the Wildlife Conservation Act (1950) and will abide by the conditions of this license;
2. Only Mr Turner will be conducting the collection;
3. Permission is for a twelve month period, as per the DPAW license;
4. Appropriate hygiene measures will be followed at all times to prevent the spread of plant disease and weeds;
5. All care will be taken to avoid the disturbance of fauna habitat; and
6. All care will be taken to avoid any disturbance that may lead to soil degradation.

**14.0 MATTERS FOR CONSIDERATION – FINANCE**

**14.1 ACCOUNTS FOR PAYMENT – OCTOBER 2015**

**Applicant:** Shire of Lake Grace  
**File No.** 0277  
**Attachments:** List of Creditors  
**Author:** Miss Kairi Nigol

**Disclosure of Interest:** Nil  
**Date of Report:** 12 November 2015  
**Senior Officer:** Denise Gobbart

  
Finance Officer

  
Manager Corporate Services

Summary

For Council to ratify expenditures incurred for the month of October 2015.

Background

List of payments for the month October 2015 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
- (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

Consultation

N/A

Financial Implications

The list of creditors paid for the month of October 2015 from the Municipal and Trust Account  
Total \$ 665,074.49



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

That Council ratify the list of payments totalling \$ 665,074.49 as presented for the month of October 2015 incorporating:

- Trust Account Cheques:	853 to 863	\$	1,540.00
- Electronic Funds Transfer:	EFT 14679 to EFT 14803	\$	399,345.24
- Municipal Account Cheques:	36149 to 36163	\$	72,170.07
- Direct Debits:	DD5715.1 to DD5715.8, DD5788.1 to DD5789.8, DD5799.1 to DD5802.9, DD5812.1, DD5827.1	\$	56,643.93
- Electronic Funds Transfer:	Payroll Net Pay	\$	135,375.25

**14.2 FINANCIAL STATEMENTS – SEPTEMBER 2015**

**Applicant:** Shire of Lake Grace  
**File No.** 0275  
**Attachments:** Financial Reports  
**Author:** Ms Denise Gobbart

**Disclosure of Interest:** Nil  
**Date of Report:** 12 November 2015  
**Senior Officer:** Ms Denise Gobbart

  
 Acting Manager Corporate Services

**Summary**

Consideration of the financial statements for the month ending 30 September 2015.

**Background**

The following financial reports 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 & Expenditure Graphs
- Bank Reconciliations

**Comment**

Nil

**Legal Implications**

*Local Government Act 1995 – section 6.4*

*Local Government (Financial Management) Regulations 1996*

**Policy Implications**

N/A

**Consultation**

Nil

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

That Council in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996* receives the Statement of Financial activity for the period ended 30 September 2015 as attached is received.

**14.3 DELEGATION F02 - PAYMENT OF CREDITORS**

**Applicant:** Shire of Lake Grace  
**File No.** 0052  
**Attachments:** Delegation Number F02  
**Author:** Ms Denise Gobbart

  
 A/Manager Corporate Services

**Disclosure of Interest:** Nil  
**Date of Report:** 09 November 2015  
**Senior Officer:** Mr Neville Hale

  
 Chief Executive Officer

Summary

The purpose of this report is to review the delegation and power and duties performed by the Chief Executive Officer and other staff for delegation number F02 – Payment of Creditors.

Background

In accordance with the requirements of the *Local Government Act 1995, s 5.46 (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 2015.

The Delegation Register is a requirement under the *Local Government Act 1995, s 5.46 (2)* and is subject to the annual external audit process.

Comment

Having reviewed our current practise, with the need for two (2) signatories for authorising payment of creditors, it is apparent that Delegation number F02 – Payment of Creditors, requires the Chief Executive Officer to include additional delegations to both the Manager Community Services and Manager Infrastructure Services.

Having the additional staff included assists with authorising payments when either the Chief Executive Officer or Manager Corporate Services are unavailable.

At the time the newly endorsed organisation structure comes into effect this delegation will again need to be reviewed.

Legal Implications*Local Government Act 1995*

## 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).

(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.]

\* *Absolute majority required.*

#### 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).]

#### Policy Implications

Shire of Lake Grace Policy Manual

Consultation

Mr Neville Hale – Chief Executive Officer

Financial Implications

N/A

Strategic Implications

Shire of Lake Grace Strategic Community Plan

*Civic Leadership Focus Area (5)*

*Excellence in Shire administration and communication*

Voting Requirements

Absolute Majority (5) required.

Recommendation

That Council, in accordance with s5.42 of the Local Government Act 1995, delegate to the Chief Executive Officer, the discharge of duties and powers as detailed in the amended delegation F02 – Payment of Creditors, noting that the Chief Executive Officer has on delegated powers and duties to other staff in accordance with limitations imposed by s5.43 of the Local Government Act 1995.

**15.0 MATTERS FOR CONSIDERATION – COMMUNITY SERVICES**

*No items for consideration*

<b>16.0 MATTERS FOR CONSIDERATION - ADMINISTRATION</b>
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**16.1 ESTABLISHMENT OF COUNCIL COMMITTEES**

**Applicant:** Executive Services  
**File No.** 0039  
**Attachments:** Nil  
**Author:** Mrs Danielle Robertson

**Disclosure of Interest:** Nil  
**Date of Report:** 29 October 2015  
**Senior Officer:** Mr Neville Hale

  
 Executive Assistant

  
 Chief Executive Officer
Summary

The purpose of this report is for Council to endorse community nominations to Committees of Council for the next two years with terms expiring in October 2017.

Background

Committees were established at the 21 October Ordinary Meeting of Council. There were some community representative positions left vacant as nominations had not been received prior to the meeting.

Comment

Advertisements seeking community representatives for the Lake Grace Library & Community Resource Centre Committee, The Newdegate Town Centre Rejuvenation Committee and the Audit Committee were published in early October. Applications were to be submitted in writing; at the time of preparing the October Agenda only one nomination for the Audit Committee had been received.

Current community representatives on these committees have again been contacted and nominations have since been received.

*Note\* The Lake Grace Shire Council has no committees with any delegated authority in respect to the exercising of power and the discharge of duties.*

Legal Implications

*Local Government Act, 1995 - s5.9, s5.10, s5.11, s 5.17, s5.98*

*Local Government Act 1995 – s7*

*Local Government (Administration) Regulations 1996*

*Local Government (Financial) Regulations sections 4-8, as amended 2005*

*Standing Orders Local Law*

Policy Implications

N/A

Consultation

External: Various committees require the seeking of community representation

Financial Implications

Nil



Strategic Implications

## Shire of Lake Grace Community Strategic Plan

*Economics 1.3*

- *Ensure the Shire's capital investment program is cost effective and financially sustainable*

*Civic Leadership 1.2*

- *Encourage greater community input into the decision making process*

*Civic Leadership 1.3*

- *Improve organisational capability and capacity*

Voting Requirements

Absolute majority (5) required

Recommendation (1)**Lake Grace Library and Community Resource Centre Committee**

That Council make additional appointments of:

2 x Ministerial appointees	Mrs Ashley Mottershead Mrs Michelle Lay
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1 x Community Resource Centre Management	Mrs Mary Naisbitt
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1 x Community representative	Mr Ollie Farrelly
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to the Lake Grace Library and Community Resource Centre Management Committee.

Recommendation (2)**Newdegate Town Centre Rejuvenation Committee**

That Council make additional appointments of:


Community Representatives	Mrs Roz Lloyd, Mrs Lynne Ellard, Mrs Judy Walker
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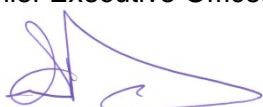
to the Newdegate Town Centre Rejuvenation Committee.

**16.2 BORNATICI –TRANSPORT DEPOT NEWDEGATE - USE OF COMMON SEAL**

**Applicant:** Leanne Bornatici (Landowner)  
**File No.** 370  
**Attachments:** Notification Under Section 70A  
**Author:** Mr Neville Hale

**Disclosure of Interest:** Nil  
**Date of Report:** 03 November 2015  
**Senior Officer:** Mr Neville Hale

  
 Chief Executive Officer

  
 Chief Executive Officer

**Summary**

For Council to authorise the affixing of its Common Seal on the required Notification Under Section 70A of the Transfer of Land Act 1893

**Background**

Council will recall that at its 23 September 2015 Ordinary Meeting it granted planning approval to Leanne Bornatici (Landowner) to develop a transport Depot and short stay workers accommodation on Lot 209 (33) McCracken Road, Newdegate subject to conditions.

Condition 20 of the approval required a Notification, pursuant to Section 70A of the Transfer of Land Act 1893, to be placed on the certificate of title of the land stating:

*“Proprietors and prospective proprietors are hereby notified that the land is located in the Newdegate townsite’s designated industrial area which contains a range of industrial and public uses that may affect the use and enjoyment of the land for short stay workers accommodation purposes due to the emission of noise, dust and/or odours.”*

In accordance with Condition 20 of the previously granted planning approval, Mrs Bornatici has, at her cost, prepared the necessary Notification which is now ready for the affixing of the Shire’s Common Seal.

**Comment**

The affixing of the Common Seal is in accordance with Council’s requirement for the s70A Notification being placed on the landowners certificate of title.

**Legal Implications**

*Local Planning Scheme No.4  
 Transfer of Land Act 1893 – section 70A*

**Policy Implications**

N/A

**Consultation**

Urban and Rural Perspectives – Planning Consultants

**Financial Implications**

None

**Strategic Implications**

N/A

**Voting Requirements**

Simple majority required.

**Recommendation**

That Council authorise the affixing of its Common Seal on the Notification under section 70A of the Transfer of Land Act 1893 in respect to Lot 209 (33) McCracken Road, Newdegate in accordance with condition 20 of the previously granted planning approval.

### 16.3 **SHIRE OF LAKE GRACE – ADOPTION OF STANDING ORDERS LOCAL LAW 2015**

**Applicant:** Shire of Lake Grace  
**File No.** 0378  
**Attachments:** Standing Orders Local Law 2015  
**Author:** Bruce Wittber - BHW Consulting  
**Disclosure of Interest:** Nil  
**Date of Report:** 03 November 2015  
**Senior Officer:** Mr Neville Hale



Chief Executive Officer

#### Summary

The purpose of this report is to consider and adopt as per section 3.12 of the *Local Government Act 1995* (the Act) the Standing Orders Local Law 2015. Separate reports will be prepared to cover the amendment local laws that have been proposed.

#### Background

The Council at its meeting on 24 June 2015 resolved as follows:

#### **MOTION 12056**

*Moved Cr De Landgraft*  
*Seconded Cr Armstrong*

*That Council, by Simple Majority in accordance with section 3.12 of the Local Government Act, 1995:*

1. *Approves the giving of statewide public notice of the following local laws in order to seek public comment:*
  - *Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;*
  - *Animals, Environment and Nuisance Local Law 2015;*
  - *Bush Fire Brigades Amendment Local Law 2015;*
  - *Cemeteries Amendment Local Law 2015;*
  - *Dogs Amendment Local Law 2015;*
  - *Extractive Industries Amendment Local Law 2015;*
  - *Fencing Amendment Local Law 2015;*
  - *Health Local Law 2015;*
  - *Local Government Property Local Law 2015;*
  - *Pest Plants Repeal Local Law 2015;*
  - *Standing Orders Local Law 2015.*
2. *Submit to the Minister for Local Government a copy of all proposed local laws;*
3. *Submits to the relevant Ministers a copy of the relevant local law.*

**MOTION CARRIED 9/0**

**Comment**

Following the above resolution the Shire of Lake Grace (the Shire) advertised the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015, Animals, Environment and Nuisance Local Law 2015, Bush Fire Brigades Amendment Local Law 2015, Cemeteries Amendment Local Law 2015, Dogs Amendment Local Law 2015, Extractive Industries Amendment Local Law 2015, Fencing Amendment Local Law 2015, Health Local Law 2015, Local Government Property Local Law 2015, Pest Plants Repeal Local Law 2015 and the Standing Orders Local Law 2015 in the West Australian Newspaper on Wednesday 1 July 2015 on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015. The closing date for submissions was Friday 14 August 2015.

At the close of the advertising period there were no comments received from the community.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The comments received from the DLGC covered a number of aspects including general typographical, editorial and formatting issues. These changes, which have not affected the intent of the proposed local laws, have been incorporated into the final documents.

Other comments from the DLGC that may affect the intent of each of the proposed local laws are detailed in this report.

The Department of Health had similar changes which are also detailed as appropriate.

**Standing Orders Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant in addition to editorial, format and typographical it is proposed to make the following changes:

- In respect to clause 4.2 it is suggested that the Shire may wish to consider if it wishes to add any further exceptions when confidential information can be disclosed. Examples include:
  - When permitted by the Council;
  - That is already in the public domain;
  - To an officer of the Department;
  - To the Minister;
  - To a legal practitioner for the purpose of obtaining legal advice; or
  - If the disclosure is required or permitted by law.

Clause 4.2 has been redrafted to incorporate the above suggestions.

- The Local Government Act and the Regulations deal with conflicts of interest in a particular way, with certain forms of interest requiring the application of certain procedures.

Since Part 5 deals with interests generally, it treats all conflicts of interest the same and may potentially be inconsistent with the processes in the Act or Regulations. For example, the local law may require members to remove themselves from a debate in circumstances where the Act does not.

It is suggested that the local law deal with this matter by reference to the Act to ensure there isn't any inconsistency.

Following discussions between the CEO and consultant it was agreed to redraft Part 5 to simplify the approach along the lines being proposed by the Shire of Dalwallinu.

The purpose and effect of this local law is as follows:

**Purpose:**

Is to provide the rules for the conduct of meetings of the Council, Committees and electors.

**Effect:**

To result in:

- (a) the orderly and effective conduct of meetings;
- (b) greater community understanding of the meeting process;
- (c) better decision making by the Shire; and
- (d) better outcomes from decisions made.

Consultation

As required by the Act the community was invited to comment on the proposed local laws. The proposals were advertised in the West Australian Newspaper on Wednesday 1 July 2015, on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015.

The closing date for submissions was Friday 14 August 2015.

No comments were received.

Statutory Compliance

Section 3.12 of the Act outlines the procedure for making local laws which is broadly as follows:

- the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner;
- the Shire is to give Statewide public notice stating:
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
  - a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
  - submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- provide a copy of the proposed local law to any person requesting it;
- at the close of submissions consider any submissions made and take into consideration any comments provided;
- adopt the local law as originally published or as amended, subject to the amendments not substantially altering the intent of the local law;
- publish the local law in the Government Gazette;
- give a copy of the local law to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- after the local law has been published in the Government Gazette the local government is to give local public notice:
  - stating the title of the local law;

- summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
- advising that copies of the local law may be inspected or obtained from the local government's office; and
- within 10 days of the publication in the Government Gazette submit the local law to the Joint Standing Committee on Delegated Legislation.

#### Voting Requirements

Absolute Majority (5) required.

#### Recommendation

That the Shire of Lake Grace, by absolute majority, under S3.12 of the *Local Government Act 1995*, resolves to:

1. Note that that no community submissions were received in relation to Standing Orders Local Law 2015;
2. Determine that the proposed changes outlined in the reports and included in the Standing Orders Local Law 2015 are not considered significantly different to that which was originally advertised;
3. Determine to accept all changes proposed and adopt the Standing Orders Local Law 2015; and
4. Authorise the President and the Chief Executive Officer to affix the Common Seal to the Standing Orders Local Law 2015.

**16.4 SHIRE OF LAKE GRACE – ADOPTION OF REPEAL LOCAL LAW**

**Applicant:** Shire of Lake Grace  
**File No.** 0378  
**Attachments:** Pest Plants Repeal Local Law 2015  
**Author:** Bruce Wittber - BHW Consulting  
**Disclosure of Interest:** Nil  
**Date of Report:** 03 November 2015  
**Senior Officer:** Mr Neville Hale



Chief Executive Officer

Summary

The purpose of this report is to consider and adopt as per section 3.12 of the *Local Government Act 1995* (the Act) a Repeal Local Law. Separate reports will be prepared to cover the new local laws that have been proposed.

Background

The Council at its meeting on 24 June 2015 resolved as follows:

**MOTION 12056**

*Moved Cr De Landgraft  
 Seconded Cr Armstrong*

*That Council, by Simple Majority in accordance with section 3.12 of the Local Government Act, 1995:*

1. *Approves the giving of statewide public notice of the following local laws in order to seek public comment:*
  - *Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;*
  - *Animals, Environment and Nuisance Local Law 2015;*
  - *Bush Fire Brigades Amendment Local Law 2015;*
  - *Cemeteries Amendment Local Law 2015;*
  - *Dogs Amendment Local Law 2015;*
  - *Extractive Industries Amendment Local Law 2015;*
  - *Fencing Amendment Local Law 2015;*
  - *Health Local Law 2015;*
  - *Local Government Property Local Law 2015;*
  - *Pest Plants Repeal Local Law 2015;*
  - *Standing Orders Local Law 2015.*
2. *Submit to the Minister for Local Government a copy of all proposed local laws;*
3. *Submits to the relevant Ministers a copy of the relevant local law.*

**MOTION CARRIED 9/0**



### Comment

Following the above resolution the Shire of Lake Grace (the Shire) advertised the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015, Animals, Environment and Nuisance Local Law 2015, Bush Fire Brigades Amendment Local Law 2015, Cemeteries Amendment Local Law 2015, Dogs Amendment Local Law 2015, Extractive Industries Amendment Local Law 2015, Fencing Amendment Local Law 2015, Health Local Law 2015, Local Government Property Local Law 2015, Pest Plants Repeal Local Law 2015 and the Standing Orders Local Law 2015 in the West Australian Newspaper on Wednesday 1 July 2015 on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015. The closing date for submissions was Friday 14 August 2015.

At the close of the advertising period there were no comments received from the community.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The Pest Plants Repeal Local Law 2015 was referred to the Minister for Agriculture; however no comments on the proposed local law were received.

The comments received from the DLGC covered a number of aspects including general typographical, editorial and formatting issues. These changes, which have not affected the intent of the proposed local laws, have been incorporated into the final documents.

Other comments from the DLGC that may affect the intent of each of the proposed local laws are detailed in this report.

The Department of Health had similar changes which are also detailed as appropriate.

### **Pest Plants Repeal Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant there are no changes to the proposed local law other than editorial, format and typographical.

The purpose and effect of this local law is as follows:

#### **Purpose:**

To repeal the local law requiring landowners to control and eradicate declared pest plants on their properties.

#### **Effect:**

To remove control on the spread of declared pest plants.

### Consultation

As required by the Act the community was invited to comment on the proposed local laws. The proposals were advertised in the West Australian Newspaper on Wednesday 1 July 2015, on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015.

The closing date for submissions was Friday 14 August 2015.  
No comments were received.

Statutory Compliance

Section 3.12 of the Act outlines the procedure for making local laws which is broadly as follows:

- the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner;
- the Shire is to give Statewide public notice stating:
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
  - a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
  - submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- provide a copy of the proposed local law to any person requesting it;
- at the close of submissions consider any submissions made and take into consideration any comments provided;
- adopt the local law as originally published or as amended, subject to the amendments not substantially altering the intent of the local law;
- publish the local law in the Government Gazette;
- give a copy of the local law to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- after the local law has been published in the Government Gazette the local government is to give local public notice:
  - stating the title of the local law;
  - summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - advising that copies of the local law may be inspected or obtained from the local government's office; and
- within 10 days of the publication in the Government Gazette submit the local law to the Joint Standing Committee on Delegated Legislation.

Voting Requirements

Absolute Majority (5) required.

Recommendation

That the Shire of Lake Grace, by absolute majority, under S3.12 of the *Local Government Act 1995*, resolves to:

1. Note that that no community submissions were received in relation to Pest Plants Repeal Local Law 2015;
2. Determine that the proposed changes outlined in the reports and included in the Pest Plants Repeal Local Law 2015 are not considered significantly different to that which was originally advertised;

3. Determine to accept all changes proposed and adopt the Pest Plants Repeal Local Law 2015; and
4. Authorise the President and the Chief Executive Officer to affix the Common Seal to the Pest Plants Repeal Local Law 2015.

**16.5 SHIRE OF LAKE GRACE – ADOPTION OF LOCAL GOVERNMENT PROPERTY LOCAL LAW 2015**

**Applicant:** Shire of Lake Grace  
**File No.** 0378  
**Attachments:** Local Government Property Local Law 2015  
**Author:** Bruce Wittber - BHW Consulting  
**Disclosure of Interest:** Nil  
**Date of Report:** 03 November 2015  
**Senior Officer:** Mr Neville Hale



Chief Executive Officer

**Summary**

The purpose of this report is to consider and adopt as per section 3.12 of the *Local Government Act 1995* (the Act) the Local Government Property Local Law 2015. Separate reports will be prepared to cover the amendment local laws that have been proposed.

**Background**

The Council at its meeting on 24 June 2015 resolved as follows:

***MOTION 12056***

*Moved Cr De Landgraft  
Seconded Cr Armstrong*

*That Council, by Simple Majority in accordance with section 3.12 of the Local Government Act, 1995:*

- 1. Approves the giving of statewide public notice of the following local laws in order to seek public comment:*
  - Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;*
  - Animals, Environment and Nuisance Local Law 2015;*
  - Bush Fire Brigades Amendment Local Law 2015;*
  - Cemeteries Amendment Local Law 2015;*
  - Dogs Amendment Local Law 2015;*
  - Extractive Industries Amendment Local Law 2015;*
  - Fencing Amendment Local Law 2015;*
  - Health Local Law 2015;*
  - Local Government Property Local Law 2015;*
  - Pest Plants Repeal Local Law 2015;*
  - Standing Orders Local Law 2015.*
- 2. Submit to the Minister for Local Government a copy of all proposed local laws;*
- 3. Submits to the relevant Ministers a copy of the relevant local law.*

**MOTION CARRIED 9/0**

### Comment

Following the above resolution the Shire of Lake Grace (the Shire) advertised the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015, Animals, Environment and Nuisance Local Law 2015, Bush Fire Brigades Amendment Local Law 2015, Cemeteries Amendment Local Law 2015, Dogs Amendment Local Law 2015, Extractive Industries Amendment Local Law 2015, Fencing Amendment Local Law 2015, Health Local Law 2015, Local Government Property Local Law 2015, Pest Plants Repeal Local Law 2015 and the Standing Orders Local Law 2015 in the West Australian Newspaper on Wednesday 1 July 2015 on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015. The closing date for submissions was Friday 14 August 2015.

At the close of the advertising period there were no comments received from the community.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The comments received from the DLGC covered a number of aspects including general typographical, editorial and formatting issues. These changes, which have not affected the intent of the proposed local laws, have been incorporated into the final documents.

Other comments from the DLGC that may affect the intent of each of the proposed local laws are detailed in this report.

### **Local Government Property Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant in addition to editorial, format and typographical it is proposed to make the following changes:

- As the *Shire of Lake Grace Local Government Property Local Law 2015* is to replace the old local law gazetted 27 March 2001, it is suggested the following provision be inserted in the proposed local law:

"This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2)."

This suggestion has been included as clause 1.8.

- It is suggested a definition be inserted to define what "prohibited drug" means, either directly or by reference to other State legislation.

This suggestion has been included as a definition in clause 1.5.

- It is suggested that if there are no determinations being made by the Shire then Schedule 2 can be removed from the local law. If Schedule 2 is removed, clause 2.1(2) can also be deleted, since its only purpose is to make Schedule 2 enforceable.

Schedule 2 has been deleted.

- It is suggested that clause 2.8(2)(g) be deleted.

The Joint Standing Committee on Delegated Legislation has traditionally opposed the use of determinations. While the Committee has permitted determinations in local government property local laws, it only tends to only allow those which appear in in the WALGA model.

As paragraph (g) does not appear in clause 2.8(2) of the WALGA model, it is suggested the paragraph be removed.

The DLGC notes that clause 2.7(1)(a) permits determinations and does appear in the WALGA model. Since a determination under clause 2.7(1)(a) can also be used to prohibit animals under clause 2.7(2)(c), the removal of clause 2.7(2)(g) should not disadvantage the Shire.

Clause 2.8(2)(g) has been deleted.

It is suggested that clause 3.7 be deleted.

While the majority of the local law deals with the use of local government property, clause 3.7 appears to relate to private agreements with the Shire regarding the final ownership of material brought onto local government property by another person.

Since the Shire has the power to make such private agreements without the local law, it seems unnecessary to address the matter in clause 3.7.

Clause 3.7 has been deleted.

The DLGC comments that clause 5.1(1)(a)(ii) is problematic, as the requirements seem vague and uncertain.

It is suggested that the subparagraph be clarified to indicate what may qualify a person as being 'incapable' of caring for a child they accompany. If the subparagraph isn't clarified, it may be raised as an issue by the JSCDL.

The clause has been redrafted along the lines suggested.

- The DLGC commented that clause 5.4 is acceptable as drafted. However, if the Shire wishes to permit parents and carers to take children of the opposite gender into the toilets with them, the Shire may wish to specify this in the clause.

Clause 5.4 has been redrafted to reflect the changes.

The purpose and effect of this local law is as follows:

**Purpose:**

To regulate the care, control and management of all property of the local government except thoroughfares.

**Effect:**

To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

### Consultation

As required by the Act the community was invited to comment on the proposed local laws. The proposals were advertised in the West Australian Newspaper on Wednesday 1 July 2015, on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015.

The closing date for submissions was Friday 14 August 2015.

No comments were received.

### Statutory Compliance

Section 3.12 of the Act outlines the procedure for making local laws which is broadly as follows:

- the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner;
- the Shire is to give Statewide public notice stating:
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
  - a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
  - submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- provide a copy of the proposed local law to any person requesting it;
- at the close of submissions consider any submissions made and take into consideration any comments provided;
- adopt the local law as originally published or as amended, subject to the amendments not substantially altering the intent of the local law;
- publish the local law in the Government Gazette;
- give a copy of the local law to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- after the local law has been published in the Government Gazette the local government is to give local public notice:
  - stating the title of the local law;
  - summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - advising that copies of the local law may be inspected or obtained from the local government's office; and
- within 10 days of the publication in the Government Gazette submit the local law to the Joint Standing Committee on Delegated Legislation.

Voting Requirements

Absolute Majority (5) required.

Recommendation

That the Shire of Lake Grace, by absolute majority, under S3.12 of the *Local Government Act 1995*, resolves to:

1. Note that that no community submissions were received in relation to Local Government Property Local Law 2015;
2. Determine that the proposed changes outlined in the reports and included in the Local Government Property Local Law 2015 are not considered significantly different to that which was originally advertised;
3. Determine to accept all changes proposed and adopt the Local Government Property Local Law 2015; and
4. Authorise the President and the Chief Executive Officer to affix the Common Seal to the Local Government Property Local Law 2015.



## 16.6 SHIRE OF LAKE GRACE – ADOPTION OF AMENDMENT LOCAL LAWS

**Applicant:** Shire of Lake Grace  
**File No.** 0378  
**Attachments:** Activities in Thoroughfares and Public Places and Trading Amendment Local Law  
Bush Fire Brigades Amendment Local Law  
Cemeteries Amendment Local Law  
Dogs Amendment Local Law  
Extractive Industries Amendment Local Law  
Fencing Amendment Local Law  
**Author:** Bruce Wittber - BHW Consulting  
**Disclosure of Interest:** Nil  
**Date of Report:** 03 November 2015  
**Senior Officer:** Mr Neville Hale



Chief Executive Officer

### Summary

The purpose of this report is to consider and adopt as per section 3.12 of the *Local Government Act 1995* (the Act) a number of Amendment Local Laws. Separate reports will be prepared to cover the new local laws that have been proposed.

### Background

The Council at its meeting on 24 June 2015 resolved as follows:

#### **MOTION 12056**

*Moved Cr De Landgrafft  
Seconded Cr Armstrong*

*That Council, by Simple Majority in accordance with section 3.12 of the Local Government Act, 1995:*

1. *Approves the giving of statewide public notice of the following local laws in order to seek public comment:*
  - *Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;*
  - *Animals, Environment and Nuisance Local Law 2015;*
  - *Bush Fire Brigades Amendment Local Law 2015;*
  - *Cemeteries Amendment Local Law 2015;*
  - *Dogs Amendment Local Law 2015;*
  - *Extractive Industries Amendment Local Law 2015;*
  - *Fencing Amendment Local Law 2015;*
  - *Health Local Law 2015;*
  - *Local Government Property Local Law 2015;*
  - *Pest Plants Repeal Local Law 2015;*
  - *Standing Orders Local Law 2015.*
2. *Submit to the Minister for Local Government a copy of all proposed local laws;*
3. *Submits to the relevant Ministers a copy of the relevant local law.*

**MOTION CARRIED 9/0**

### Comment

Following the above resolution the Shire of Lake Grace (the Shire) advertised the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015, Animals, Environment and Nuisance Local Law 2015, Bush Fire Brigades Amendment Local Law 2015, Cemeteries Amendment Local Law 2015, Dogs Amendment Local Law 2015, Extractive Industries Amendment Local Law 2015, Fencing Amendment Local Law 2015, Health Local Law 2015, Local Government Property Local Law 2015, Pest Plants Repeal Local Law 2015 and the Standing Orders Local Law 2015 in the West Australian Newspaper on Wednesday 1 July 2015 on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015. The closing date for submissions was Friday 14 August 2015.

At the close of the advertising period there were no comments received from the community.

The Department of Local Government and Communities (DLGC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The Department of Health also provided comments in respect to the Animals, Environment and Nuisance Local Law 2015 and Health Local Law 2015.

The Pest Plants Repeal Local Law 2015 was referred to the Minister for Agriculture, the Bush Fire Brigades Amendment Local Law 2015 to the Minister for Emergency Services and the Fencing Amendment Local Law 2015 to the Minister for Commerce. Recent advice has indicated however that the Minister for Commerce is of the view that Fencing Amendment Local Laws are made entirely under the Local Government Act.

The comments received from the DLGC covered a number of aspects including general typographical, editorial and formatting issues. These changes, which have not affected the intent of the proposed local laws, have been incorporated into the final documents.

Other comments from the DLGC that may affect the intent of each of the proposed local laws are detailed in this report.

The Department of Health had similar changes which are also detailed as appropriate.

### **Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant in addition to editorial, format and typographical it is proposed to make the following changes:

- Amendment clause 7 relating to Local Law clause 2.4, the DLGC advised that the Joint Standing Committee on Delegated Legislation (JSCDL):

*has previously raised issues with clauses that define acceptable materials as being as specified in a policy document or “as otherwise approved by the local government”.*

*This is because this allows the local government to amend the policy document at any time or prescribe any material as an “acceptable material” without needing to formally amend the local law or undergo the Parliamentary scrutiny that accompanies an amendment.*

*It is suggested that clause 7 should amend the definition of “acceptable materials” to include a specific list of materials which can be used for verge treatment, rather than using the words “or as otherwise approved by the local government” or referring to a document maintained by the local government.*

The clause has been changed to reflect this concern and a new Schedule 2 has been inserted.

The purpose and effect of the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015 is as follows:

**Purpose:**

To amend the local law relating to activities in thoroughfares and public places and trading.

**Effect:**

Some activities are prohibited; some activities are permitted only under permit in thoroughfares and public places. The local law also enables a local government to require house numbering and the erection of fences in certain circumstances.

**Bush Fire Brigades Amendment Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant there are no changes to the proposed local law other than editorial, format and typographical.

The purpose and effect of this local law is as follows:

**Purpose:**

To amend the provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

**Effect:**

To align the existing local law with changes in law and operational practice.

**Cemeteries Amendment Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant in addition to editorial, format and typographical it is proposed to make the following changes:

- Include in the definition of “Board” reference to the “Shire of Lake Grace”; and
- Delete the proposed First Schedule (modified penalties) as the current penalties in the local law are the maximum permitted under the *Cemeteries Act 1986*.

The Amendment Local Law has been changed to reflect the above comments.

The purpose and effect of this local law is as follows:

**Purpose:**

To amend the local law to provide for the orderly management of the public cemeteries in the Shire of Lake Grace.

**Effect:**

To ensure compliance by all persons engaged in the administration of the cemetery, burying deceased in the cemetery, or otherwise providing services to or making use of the cemetery.

## Dogs Amendment Local Law 2015

As a result of the review by the DLGC and discussions between the CEO and consultant in addition to editorial, format and typographical it is proposed to make the following changes:

- It was not proposed to amend clause 3.1 of the Dogs Local Law however the Joint Standing Committee on Delegated Legislation has recently raised concern with clauses similar to clause 3.1 and has requested that paragraph (c) be amended as follows:

*(c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;*

- The DLGC also suggested that the penalties associated with the confinement of dangerous dogs be removed from the principal local law as it is dealt with under section 33GA (2) of the Dog Act 1976, which sets the penalties for this offence.
- Clause 9 of the Dogs Amendment Local Law amending clause 6.1 of the Dogs Local Law relates to an increased penalty for a dangerous dog defecating on property. The DLGC suggested:

*While it is common for local laws to establish larger penalties for dangerous dogs, this is usually for situations where the circumstances of the offence are aggravated by the fact that a dangerous dog is involved.*

*Where a dog has defecated on property, the fact that a dog is dangerous has little impact on the severity of the offence. If the Shire attempts to impose a larger penalty for dangerous dogs, this may go beyond the legislative intent of Parliament.*

*It is suggested that the penalty for dangerous dogs be deleted. If the penalty is retained, it may be raised as an issue by the Delegated Legislation Committee.*

The Amendment Local Law has been changed to reflect the above comments.

The purpose and effect of this local law is as follows:

Purpose:

To amend the local law to make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

Effect:

To extend the controls over dogs which exist under the *Dog Act 1976*.

## Extractive Industries Amendment Local Law 2015

As a result of the review by the DLGC and discussions between the CEO and consultant there are no changes to the proposed local law other than editorial, format and typographical.

The purpose and effect of this local law is as follows:

**Purpose:**

To amend the local law to establish requirements and conditions with which extractive industries within the district must comply;

**Effect:**

To provide for the regulation, control and management of extractive industries.

**Fencing Amendment Local Law 2015**

As a result of the review by the DLGC and discussions between the CEO and consultant there are no changes to the proposed local law other than editorial, format and typographical.

The DLGC did however note as follows:

*The Attorney General has recently concluded that the Dividing Fences Act 1961 does not actually provide any head of power to local governments to make local laws.*

*The Department advises that fencing local laws are made completely under the powers provided by the Local Government Act 1995. As a result, the references to the Dividing Fences Act can be removed from the title and the enabling provision of the local law.*

The purpose and effect of this local law is as follows:

**Purpose:**

To amend the local law to provide a sufficient fence for purposes of the *Dividing Fences Act 1961* and to state the materials to be used and safety measures to be taken for some types of fencing.

**Effect:**

Augments the compliance requirements of the *Local Government (Miscellaneous Provisions) Act 1960* with respect to the erection and maintenance of fencing.

**Consultation**

As required by the Act the community was invited to comment on the proposed local laws. The proposals were advertised in the West Australian Newspaper on Wednesday 1 July 2015, on the Shire website on Tuesday 7 July 2015 and the Lake Grace, Newdegate, Lake King and Varley community newsletters on Tuesday 14 July 2015.

The closing date for submissions was Friday 14 August 2015.

No comments were received.

**Statutory Compliance**

Section 3.12 of the Act outlines the procedure for making local laws which is broadly as follows:

- the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner;
- the Shire is to give Statewide public notice stating:
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice;

- a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
- submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- provide a copy of the proposed local law to any person requesting it;
- at the close of submissions consider any submissions made and take into consideration any comments provided;
- adopt the local law as originally published or as amended, subject to the amendments not substantially altering the intent of the local law;
- publish the local law in the Government Gazette;
- give a copy of the local law to the Minister and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- after the local law has been published in the Government Gazette the local government is to give local public notice:
  - stating the title of the local law;
  - summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - advising that copies of the local law may be inspected or obtained from the local government's office; and
- within 10 days of the publication in the Government Gazette submit the local law to the Joint Standing Committee on Delegated Legislation.

#### Voting Requirements

Absolute Majority (5) required.

#### Recommendation

That the Shire of Lake Grace, by absolute majority, under S3.12 of the *Local Government Act 1995*, resolves to:


1. Note that that no community submissions were received in relation to the Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015, Bush Fire Brigades Amendment Local Law 2015, Cemeteries Amendment Local Law 2015, Dogs Amendment Local Law 2015, Extractive Industries Amendment Local Law 2015 and Fencing Amendment Local Law 2015.
2. Determine that the proposed changes outlined in the reports and included in the:
  - a) Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;
  - b) Bush Fire Brigades Amendment Local Law 2015;
  - c) Cemeteries Amendment Local Law 2015;
  - d) Dogs Amendment Local Law 2015;
  - e) Extractive Industries Amendment Local Law 2015; and
  - f) Fencing Amendment Local Law 2015,
 are not considered significantly different to that which was originally advertised.

3. Determine to accept all changes proposed and adopt the following local laws:
  - a) Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;
  - b) Bush Fire Brigades Amendment Local Law 2015;
  - c) Cemeteries Amendment Local Law 2015;
  - d) Dogs Amendment Local Law 2015;
  - e) Extractive Industries Amendment Local Law 2015; and
  - f) Fencing Amendment Local Law 2015.
  
4. Authorise the President and the Chief Executive Officer to affix the Common Seal to the following Amendment Local Laws:
  - a) Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2015;
  - b) Bush Fire Brigades Amendment Local Law 2015;
  - c) Cemeteries Amendment Local Law 2015;
  - d) Dogs Amendment Local Law 2015;
  - e) Extractive Industries Amendment Local Law 2015; and
  - f) Fencing Amendment Local Law 2015.

## 16.7 RESCHEDULING OF DECEMBER 2015 MEETING AND SCHEDULING OF COUNCIL MEETING DATES 2016

**Applicant:** Executive Services  
**File No:** 0041  
**Attachments:** Nil  
**Author:** Mrs Danielle Robertson  
  
**Disclosure of Interest:** Nil  
**Date of Report:** 10 November 2015  
**Senior Officer:** Mr Neville Hale

  
 Executive Assistant

  
 Chief Executive Officer

### Summary

For Council to:

1. Reschedule its December 2015 Ordinary Meeting; and,
2. Consider its meeting arrangements for 2016.

### Background

#### **1. Rescheduling of the December 2015 Ordinary Meeting**

As per Resolution 11960 of the November 2014 Ordinary Meeting, the December Meeting of Council is scheduled to be held on Wednesday 16 December 2015 commencing at 3.00 pm.

Due to all schools (i.e. Lake Grace DHS, Newdegate PS and Lake King PS) in the Shire having scheduled their School Concerts on that Wednesday, and given that Council presents awards of excellence & endeavour to students at two of the three school concerts, a change of date to Tuesday 15 December 2015 and an earlier start time of 1.00 pm is recommended.

#### **2. Meeting arrangements for 2016.**

In accordance with the Local Government Act 1995, Council is required, at least once each year, to give local public notice of the date, time and place of its Ordinary Meetings to be held in the coming 12 months.

In 2015, Council scheduled the October and November meeting back one week to the 3<sup>rd</sup> Wednesday of the month (i.e. 21 October and 18 November 2015) thus evening out the breaks between the October, November and December meetings to four weeks each.

### Comment

#### **1. Rescheduling of the December 2015 Ordinary Meeting**

The Change of Date for the December Meeting will be advertised locally as per the requirements of the *Local Government Act 1995* and its regulations.

The earlier start time of 1.00 pm will facilitate the holding of the Shire's Christmas Function on the afternoon of the 15 December 2015.

#### **2. Meeting arrangements for 2016.**

The proposed 2016 schedule of meetings is as per Council's Policy 1.2, which confirms that its meetings are to be held on the fourth Wednesday of each month, except December where it is the third Wednesday.



Consideration has been given to scheduling the December 2016 meeting on Tuesday 20 December with the assumption that the school concerts will be held at the same time in 2016 as in 2015.

The proposed schedule as follows, reflects the meeting dates as per Council Policy 1.2 except for the December meeting, proposed to be held on a Tuesday.

<b>Date</b>	<b>Time</b>	<b>Place</b>
January 2016	N/A	N/A (Annual Break)
24 February 2016	3.00 pm	Council Chambers, Lake Grace
23 March 2016	3.00 pm	Varley Sports Pavilion
27 April 2016	3.00 pm	Council Chambers Lake Grace
25 May 2016	3.00 pm	Newdegate Library Resource Centre
22 June 2016	3.00 pm	Council Chambers Lake Grace
27 July 2016	3.00 pm	Council Chambers Lake Grace
24 August 2016	3.00 pm	Lake King Hall
28 September 2016	3.00 pm	Council Chambers Lake Grace
26 October 2016	3.00 pm	Council Chambers Lake Grace
23 November 2016	3.00 pm	Newdegate Library Resource Centre
20 December 2016 ( <i>Tuesday</i> )	1.00 pm	Council Chambers Lake Grace

The Meeting schedule will be displayed on public library and community notice boards and advertised through community newsletters and the Shire's website.

#### Consultation

Internal: Chief Executive Officer

#### Legal Implications

*Local Government Act 1995* – s5.25(g), Regulations About Council and Committee Meetings and Committees, requires that local public notice of the dates of meetings be given.

*Local Government (Administration) Regulations 1996* – Reg 12 (1), requires local public notice to be given and Reg 12 (2), requires that a local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).

#### Policy Implications

Apart from the December 2016 meeting, the schedule of dates is in accordance with Council Policy 1.2 which makes no provision for specific times or locations.

#### Financial Implications

The additional cost to hold the four meetings in the towns of Varley, Newdegate and Lake King is not considered significant and is accommodated within Council's budgeted expenses.

#### Strategic Implications

Meetings have been held in Newdegate, Lake King and Varley each year in order to give all towns the opportunity to have a Council Meeting in their community and make it more convenient for residents to attend.

Voting Requirements

Simple majority required.

Recommendation

That Council:

1. give local public notice that the December 2015 Ordinary Meeting of Council has been rescheduled to take place on Tuesday 15 December 2015, commencing at 1.00 pm at Council Chambers, 1 Bishop St, Lake Grace WA; and
2. as required by the Local Government Act 1995, give local public notice of the following schedule of meetings for 2016:

<b>Date</b>	<b>Time</b>	<b>Place</b>
January 2016	N/A	N/A (Annual Break)
24 February 2016	3.00 pm	Council Chambers, Lake Grace
23 March 2016	3.00 pm	Varley Sports Pavilion
27 April 2016	3.00 pm	Council Chambers Lake Grace
25 May 2016	3.00 pm	Newdegate Library Resource Centre
22 June 2016	3.00 pm	Council Chambers Lake Grace
27 July 2016	3.00 pm	Council Chambers Lake Grace
24 August 2016	3.00 pm	Lake King Hall
28 September 2016	3.00 pm	Council Chambers Lake Grace
26 October 2016	3.00 pm	Council Chambers Lake Grace
23 November 2016	3.00 pm	Newdegate Library Resource Centre
20 December 2016 ( <i>Tuesday</i> )	1.00 pm	Council Chambers Lake Grace

## 16.8 APPOINTMENT OF DELEGATES TO EXTERNAL COMMITTEES AND ORGANISATIONS

Applicant: Executive Services  
 File No. 0052  
 Attachments: Nil  
 Author: Mrs Danielle Robertson

Disclosure of Interest: Nil  
 Date of Report: 16 November 2015  
 Senior Officer: Mr Neville Hale

  
 Executive Assistant

  
 Chief Executive Officer

### Summary

The purpose of this report is for Council to appoint proxy/deputy delegates to the WALGA Central Country Zone.

### Background

Council at its 21 October Ordinary Meeting appointed President Walker and Deputy President De Landgraft as voting delegates to the WALGA Central Country Zone (CCZ).

After forwarding notification of Council's delegates to BHW Consulting (WLAGA CCZ Secretariat) it has been suggested to include a proxy / deputy delegate to the WALGA CCZ

### Comment

Advice sourced from the CCZ Secretariat suggests it is common for Council's to appoint their CEO in this position in order to cover attendance for the nominated delegates and ensure regular representation.

It is recommended that Council also appoint an elected member as secondary proxy / deputy to ensure elected member representation at all times.

### **WALGA Central Country Zone**

Authority:	Western Australian Local Government Association
Current Membership:	President & Deputy President
Meetings:	Quarterly
Current Status	Active

In summary under the Local Government Act 1995, Committees can be classified as:

3. *Non-Council Committees established by some other authority or community group that operates with no delegated authority in respect to Council's powers or duties but which have an interest in some of the activities of Council and to which Council wishes to have formal representation.*

### Legal Implications

*Local Government Act, 1995 - s5.9, s5.10, s5.11, s 5.17, s5.98*  
*Local Government (Administration) Regulations 1996*

Policy Implications

N/A

Consultation

Internal: Chief Executive Officer

External: Bruce Wittber - BHW Consulting

Financial Implications

Councillor delegates attending other committee meetings may claim travel only – no attendance fees are payable.

Strategic Implications

Shire of Lake Grace Community Strategic Plan

*Civic Leadership Focus Area (5)**Excellence in Shire administration and communication*Policy Implications

N/A

Voting requirements

Absolute majority (5) required.

Recommendation

That Council appoint Cr \_\_\_\_\_ and the Chief Executive Officer as proxy / deputy delegates to the WALGA Central Country Zone.

## 17.0 INFORMATION BULLETIN

### 17.1 INFORMATION BULLETIN REPORT – OCTOBER 2015

**Applicant:** Executive Services  
**File No.** N/A  
**Attachments:** Information Bulletin  
(under separate cover)  
**Author:** Mrs Danielle Robertson  
  
**Disclosure of Interest:** Nil  
**Date of Report:** 1 November 2015  
**Senior Officer:** Mr Neville Hale

  
Executive Assistant

  
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 (October 2015) Information Bulletin Report has been emailed to Councillors.

The October 2015 Information Bulletin attachment includes:

#### **Reports**

1. Council Status Report - October 2015
2. Infrastructure Services Report – October 2015
3. Outstanding Rates Report – October 2015
4. Monthly Schedules – September 2015
5. Newdegate Library Report
7. Lake Grace Library Report
8. EHO Report – October 2015
9. CESM Report – October 2015
10. Dogging Monthly Data – October 2015
11. Shire of Lake Grace Website Stats – October 2015
12. Shire of Lake Grace Facebook Insights – October 2015

#### **Minutes**

13. Roe Tourism AGM 19 October
14. Roe Tourism General Meeting 19 October
15. Lake Grace Library & Community Resource Centre Management Committee

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.

Recommendation

That Council accepts the Information Bulletin report.

**18.0 URGENT BUSINESS BY DECISION OF THE MEETING**

**19.0 SCHEDULING OF MEETING**

**19.1 DECEMBER 2015 ORDINARY MEETING**

As per Resolution 11960, 19 November 2014 the November 2015 Ordinary Meeting of Council has been scheduled to take place on Wednesday 16 December 2015, commencing at 3.00 pm in Council Chambers, 1 Bishop St, Lake Grace WA 6353.

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

**MOTION**

Moved Cr  
Seconded Cr

That Council close the meeting to the public at this time, being \_\_pm to discuss Item 20.1 – Sale of Land – 220 Wattle Drive, Lake Grace.

**MOTION CARRIED**

**20.1 SALE OF LAND – LOT 220 WATTLE DRIVE LAKE GRACE**

*Item forwarded under separate cover*

**MOTION**

Moved Cr  
Seconded Cr

That Council re-open the meeting to the public at this time, being \_\_ pm.

**MOTION CARRIED**

**21.0 CLOSURE**

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

**22.0 CERTIFICATION**

I, \_\_\_\_\_, certify that the minutes of the meeting held on the 21 October 2015 as shown were confirmed as a true record at the meeting held on the 18 November 2015.

\_\_\_\_\_  
Shire President

\_\_\_\_\_  
Date