

# Shire of Lake Grace



# ***Minutes***

## Ordinary Council Meeting

27 May 2009

Ordinary Meeting commencing at 6.00 pm

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## **5.0 MINUTES OF PREVIOUS COUNCIL MEETINGS**

### **5.1 ORDINARY MEETING – 22 APRIL 2009**

#### Resolution

#### **MOTION 10788**

Moved Cr Taylor  
Seconded Cr De Landgraft

That the minutes of the Ordinary Meeting of Council held on the 22 April 2009 be confirmed as a true and accurate record.

**MOTION CARRIED 9/0**

## **6.0 DECLARATIONS OF INTEREST**

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

None

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

None

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

None

## **7.0 NOTICES OF URGENT BUSINESS**

### **7.1 CEO SELECTION COMMITTEE – DOCUMENTATION REVIEW & ENDORSEMENT**

The President advised that following the CEO Selection Committee Meeting held immediately prior to the Council Meeting there is a matter of urgent business requiring Council's attention - refer Item 16.1.

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

None

## 9.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

### 9.1 MR LEN ARMSTRONG

The President advised the meeting that Mr Armstrong had submitted correspondence requesting a presentation to Council in relation to Item 12.3 - Planning Application for the LP Gas Storage Facility at 25 Maley St Newdegate.

Mr Armstrong introduced himself as a Director of Newdegate Hire and advised Council he was present to respond to salient points contained in the public submissions which are the subject of tonight's report put before Council.

In hindsight, Mr Armstrong advised he did build the compound prior to obtaining formal approval and that maybe he should have done it differently. He made further comments relating to the following main points:

- Visitation being over and above 'the norm'
- Block was used as a roadway prior to his purchasing it
- 90% of business is via town deliveries – visitation to the site is minimal
- Advertising of equipment
- Storage of timber
- Stormwater pipes are delivered for farmer's use
- Old Bakery and lean-to is used for storage of items for personal use – believe it is not used as a shop
- Vacant block next door
- One submission came from direct competitor
- Old bakery is heritage listed – believes if it was a tourist site the level of visitation would attract comment
- It is intended to build a neetascreen fence which will act as a shield

Mr Armstrong thanked Council for the opportunity to make this presentation and hoped that Council would take into consideration the points raised.

The Shire President thanked Mr Armstrong and invited Councillors to query Mr Armstrong with any points they may wish to be clarified.

## 10.0 MEMBERS' REPORTS

### 10.1 CR MILTON

Reported:

- Attendance at Local Government Reform Meeting in Perth on 4 May – 400 delegates were present, lots of interest was shown.
- Meeting with Tony Cooke, along with Shire President and CEO – Mr Cooke has been contracted by Council to assist us with our Local Government Reform submission and community consultation process.
- Meeting with representatives of State Land Services regarding the parcel of land adjacent to Walkers Winery.
- Meeting with Terry Waldron, Minister for Sport and Recreation re Sportsmans Club CSRFF application.
- Preparation of an article for next edition of the Western Councillor.

**10.2**      **CR DE LANDGRAFFT**

Reported attendance at Lake King Anzac Service – the event was extremely well attended.

**10.3**      **CR DUNKELD**

Reported attendance at the Newdegate Anzac Day Dawn Service – also well attended.

**10.4**      **CR WALKER**

Reported attendance at the following meetings/functions during the past month:  
Lake Grace Anzac Service – Service led by Father Pierre, did a brilliant job, and is extremely well versed and in tune with the subject.

- Met with Gemini Medical – discussion on the what's, ifs, and maybe's to do with the pharmaceutical business operating out of the Lake Grace Medical Centre and the effects it could have on our present arrangements.
- Met with the Minister for Sport & Recreation & his Assistant in relation to the Sportsmans Club's synthetic turf bowling green project and their unsuccessful application for funding through the CSRFF program.
- Regional Road Group Meeting in Kulin.
- Meeting with Diesel Motors – as an outcome they have been in town looking at Council's Mercedes truck.
- Met with school principal re parking area/school buses/safety issues at the front of the Lake Grace District High School.

Advised Council has appointed Mr Tony Cooke, independent Consultant to put together a Reform Strategy on behalf of the Shire of Lake Grace to put our case forward and make sure of our future – Council has applied for available funding through the Department for Local Government to cover the cost.

**11.0 MATTERS FOR CONSIDERATION – WORKS & SERVICES**

*No items for consideration*



## 12.0 MATTERS FOR CONSIDERATION – TOWN PLANNING

### 12.1 PROPOSED STRUCTURE PLAN – LOT 1 GRIFFIN ST LAKE GRACE

<b>Applicant:</b>	Shire of Lake Grace
<b>File No.</b>	0358 & 0369
<b>Attachments:</b>	Plans 1 to 5 & Attachment 1
<b>Authors:</b>	Mr Joe Douglas & Mr Carlo Famiano – Urban & Rural Perspectives Town Planning Consultants
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	18 May 2009
<b>Senior Officer:</b>	Mr Jim Fraser Chief Executive Officer

#### Summary

This report documents the outcomes from the recent public advertising of the proposed Structure Plan for Lot 1 Griffin Street, Lake Grace and provides a recommendation for Council consideration regarding the plan's final adoption.

#### Background

The Shire of Lake Grace has historically undertaken the staged subdivision development of Lot 1 Griffin Street, Lake Grace for residential purposes to satisfy market demand for vacant residential land within the townsite. The current supply of vacant residential land in the Lake Grace townsite has now dropped to a level where the Shire needs to consider developing additional residential land to ensure an adequate supply for the future to satisfy consumer demand.

Lot 1 Griffin Street is located in the eastern-most part of the Lake Grace townsite and is currently owned in fee simple (i.e. freehold) by the Shire of Lake Grace (see Plans 1, 2 & 3). Lot 1 comprises a total area of approximately 7.85 hectares and is classified 'Residential' zone with a density coding of R20 under the Shire's current operative Local Planning Scheme No.4 (LPS No.4).

At its Ordinary Meeting held on 25 March 2009 Council resolved to endorse the Structure Plan prepared in respect to Lot 1 Griffin Street, Lake Grace and authorise the Shire's administration to make arrangements to advertise the plan for public comment in accordance with the procedures prescribed in clause 2.4 of the Shire of Lake Grace Local Planning Scheme No.4. A copy of the plan advertised for public comment is attached to this report (see Plans 4 & 5 – Proposed Structure Plan).

The following is a brief summary of the subdivision statistics for the Structure Plan area:

LOT TYPE	LAND AREA
46 x Single House Lots	Ranging from 720m <sup>2</sup> to 2,371m <sup>2</sup>
1 x Grouped Dwelling Lot	4,908m <sup>2</sup>
1 x Public Open Space Reserve	5,000m <sup>2</sup>
1 x Landscape Buffer for noise attenuation purposes.	7,934m <sup>2</sup>

The proposed Structure Plan has been prepared in accordance with the strategic objectives contained in the Shire's 'Local Planning Strategy' as this applies specifically to the Lake Grace townsite.

#### Comment

The proposed Structure Plan was advertised for public comment for the minimum required period of twenty one (21) days concluding on 11 May 2009. The advertising process included advertisements in the local newsletters, correspondence to all relevant government agencies and adjoining landowners and display of the plan at the Shire's administration centre.

At the conclusion of the public advertising process a total of eleven (11) submissions had been received by the Shire, all of which were from government agencies. A summary of all submissions received is provided in the attached 'Schedule of Submissions' (see Attachment 1).

A detailed review of the submissions has revealed that the government agencies that provided a response are generally supportive of the plan and have no objections to the proposal. It should be noted that a number of these agencies provided technical advice that will need to be considered as part of the future subdivision development of the land.

Given that the submissions received do not recommend any modifications to the proposed Structure Plan layout, Council is now in a position to finally adopt the plan. Council is advised that the revised Structure Plan, if adopted by Council, will replace the current Guided Development Plan (Structure Plan) for Lot 1 previously adopted by Council at its Ordinary meeting on the 23 September 1998. Adoption of a new Structure Plan under the relevant provisions of LPS No.4 is required to illustrate Council's preferred pattern for all future subdivision development over the land and will be used as the basis for the preparation and lodgement of a subdivision application to the Western Australian Planning Commission for the next stage of development.

Following Council's adoption of the plan it will then be referred to the Western Australian Planning Commission for final endorsement to enable the Commission to formally consider any future subdivision applications for land within this area.

#### **Conclusion**

The proposed Structure Plan for Lot 1 Griffin Street, Lake Grace has been prepared to enable the development and release of additional residential lots to address the current shortage of vacant residential land in the townsite.

In considering the submissions made on the attached Structure Plan, Council should note that the plan:

- i) is consistent with and unlikely to compromise the general aims and objectives of the land's current 'Residential' zoning classification in Local Planning Scheme No.4;
- ii) is consistent with the objectives contained in the Shire's 'Local Planning Strategy' for future residential development in the Lake Grace townsite;
- iii) is consistent with the provisions and standards prescribed by the Residential Design Codes of Western Australia for land assigned a residential density coding of R20;
- iv) has due regard for existing land uses and is generally consistent with the prevailing lot sizes in the immediate locality; and
- v) is generally supported by the local community and government agencies with an interest in the land as evidenced by the submissions received by the Shire during the recent public advertising process.

To that extent it is recommended that Council finally adopt the Structure Plan presented herewith and authorise the Shire administration to refer the plan to the Western Australian Planning Commission for final endorsement.

#### Legal Implications

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

#### Policy Implications

In order to provide for the coordinated subdivision and development of Lot 1 Griffin Street, Lake Grace Council must first prepare and adopt a Structure Plan as a Local Planning Policy in accordance with the specific requirements of the Shire's current operative Local Planning Scheme No.4.

#### Consultation

External: The proposed Structure Plan was advertised for public comment in accordance with the specific requirements of clause 2.4 of Local Planning Scheme No.4. Advertising of the proposal was undertaken by the Shire for a minimum period of twenty one (21) days which concluded on 11 May 2009.

#### Financial Implications

The cost of preparing, advertising and finally adopting the proposed Structure Plan is required to be met by the Shire of Lake Grace and is estimated to be in the order of \$1,500.00 excluding GST. The cost of this work has been accounted for in Council's budget for the 2008/2009 financial year.

#### Strategic Implications

The subdivision of Lot 1 Griffin Street, Lake Grace for residential purposes is consistent with strategic land use planning direction afforded by the Shire of Lake Grace Local Planning Strategy as this relates to future residential development in the Lake Grace townsite.

#### Cultural Implications

Nil

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10789**

Moved Cr Newman  
Seconded Cr Milton

That Council adopt without modification the draft Structure Plan prepared in respect of Lot 1 Griffin Street, Lake Grace as depicted in the attached Plans 4 & 5 dated 13th October 2008 and authorise the Shire administration to make arrangements to refer the Structure Plan to the Western Australian Planning Commission for final endorsement.

**MOTION CARRIED 9/0**

## 12.2 PROPOSED ROAD CLOSURE – UNNAMED & UNCONSTRUCTED ROAD RESERVE ABUTTING LOTS 12858, 14243 & 12993 NORTH LAKE GRACE KARLGARIN RD KUENDER

<b>Applicant:</b>	WR & TN Willcocks (Landowners)
<b>File No.</b>	0355
<b>Attachments:</b>	Plans 6 to 9
<b>Author:</b>	Mr Joe Douglas & Mr Carlo Famiano – Urban & Rural Perspectives Town Planning Consultants
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	18 May 2009
<b>Senior Officer:</b>	Mr Jim Fraser Chief Executive Officer

### Summary

This report provides details and recommendations in respect of the procedures required to be followed by Council to progress a recent written request from WR & TN Willcocks to close portion of an unnamed, unconstructed road reserve abutting Lots 12858, 14243 & 12993 North Lake Grace - Karlgarin Road, Kuender.

### Background & Comment

At its Ordinary Meeting held on 25 March 2009 the Lake Grace Shire Council considered an application for the proposed subdivision of Lots 12858, 14243 & 12993 North Lake Grace – Karlgarin Road, Kuender for the purpose of realigning the common boundaries between three (3) existing agricultural lots.

Council resolved to support the proposed subdivision subject to a number of conditions including the following:

- i) *The proposed subdivision plan being modified in accordance with the revised configuration illustrated in Plan 9 (see attached copy); and*
- ii) *The subdivider making suitable arrangements with the Shire of Lake Grace and the State of Western Australia to formally close the unnamed, unconstructed road reserve along the eastern boundary of Lot 12858 and amalgamate the land comprising the closed road reserve area into the proposed new lots.*

On 28 April 2009 the Shire received correspondence from the Western Australian Planning Commission WAPC advising that processing of the subdivision application had been deferred by the applicants pending initiation of the required road closure process. The Shire subsequently received a written request from the applicants' for Council's approval to initiate the road closure process.

The unnamed, unconstructed road reserve area subject to the proposal is approximately 8 kilometres long, 20 metres wide and is located between Mordetta Road to the south and Magee Road to the north. The road reserve traverses a number of private landholdings currently used for broadacre agricultural purposes (i.e. cropping & grazing). The road reserve also contains a number of salt lakes and native vegetation. This report only considers that

portion of the road reserve abutting Lots 12858, 14243 & 12993 which is approximately 2.6km in length and is predominantly used for agricultural purposes (see Plans 6 & 7).

In considering this proposal Council should note that closure of the remaining balance portions of the road reserve area north and south of Lots 12858, 14243 & 12993 will proceed at a later date if and when the relevant adjoining landowners wish to subdivide. Given that the owners of Lots 12858, 14243 & 12993 are funding all costs associated with the proposed road closure adjacent to their land, it is considered unreasonable and inequitable to require them to fund closure of the entire road reserve area.

In order to progress the proposed road closure the Shire of Lake Grace is required under the terms of the Land Administration Act 1997 to undertake the following key tasks:

- i) Advertise the proposal for a minimum period of thirty five (35) days in a newspaper circulating in the district;
- ii) Provide written notification of the proposal to all adjoining landowners and relevant service authorities; and
- iii) Assess all submissions received following completion of the thirty five (35) day advertising period and make a final decision as to whether or not to proceed with a request to the Minister for Land's for approval to the road closure proposal.

### **Conclusion**

Having regard for:

- i) the existing established road network in the immediate locality,
- ii) the current alignment of the road reserve area in its entirety;
- iii) the road reserve's physical characteristics and current land usage; and
- iv) the likely costs associated with developing / maintaining the road reserve in the future (i.e. construction of a new road carriageway and associated drainage infrastructure, ongoing maintenance etc.),

it is concluded that the road reserve does not have any strategic benefit to the immediate locality or the district generally and is unlikely to be required in the future.

Council's support for the road closure proposal will also:

- i) help to resolve any legal liability issues associated with the current private use of the road reserve area for agricultural purposes;
- ii) remove the Shire's responsibility for maintaining and/or constructing the road reserve in the future: and
- iii) help to facilitate the practical, efficient and long term use of Lots 12858, 14243 & 12993 North Lake Grace – Karlgarin Road, Kuender for productive agricultural purposes.

### Legal Implications

Land Administration Act 1997

Land Administration Regulations 1998

### Policy Implications

Nil

Consultation

Community consultation will be undertaken for a minimum period of thirty-five (35) days in accordance with the specific requirements of the Land Administration Act 1997 and Land Administration Regulations 1998.

Financial Implications

Nil. The applicants have provided written confirmation of their agreement to pay all costs associated with the road closure proposal.

Strategic Implications

Nil

Cultural Implications

Nil

Voting Requirements

Simple majority required

Recommendation/Resolution

**MOTION 10790**

Moved Cr Taylor  
Seconded Cr Farrelly

That Council support the request from WR & TN Willcocks to close that portion of the unnamed, unconstructed road reserve abutting Lots 12858, 14243 & 12993 North Lake Grace - Karlgarin Road, Kuender and authorise the Shire Administration to proceed with the following key tasks:

1. Advertise the proposal for a minimum period of thirty five (35) days in a newspaper circulating in the district;
2. Provide written notification of the proposal to all adjoining landowners and relevant service authorities; and
3. Assess all submissions received following completion of the thirty five (35) day advertising period and prepare and submit a final report and recommendation to Council on whether or not to proceed with a request to the Minister for Land's for approval to the road closure.

**MOTION CARRIED 9/0**

### 12.3 **PLANNING APPLICATION – LP GAS STORAGE FACILITY 25 MALEY ST NEWDEGATE**

**Applicant:** Newdegate Hire Pty Ltd (Mr Len Armstrong)  
**File No.** 0455  
**Attachments:** Attachments 2 & 3  
**Authors:** Mr Joe Douglas & Mr Steve Pandevski – Urban & Rural Perspectives  
 Town Planning Consultants  
**Disclosure of Interest:** Nil  
**Date of Report:** 25 May 2009  
**Senior Officer:** Mr Jim Fraser  
 Chief Executive Officer

#### Summary

This report provides details and recommendations in respect of an application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales on Lot 14 (No.25) Maley Street, Newdegate.

The application has been advertised in accordance with a previous resolution by Council and the specific requirements of clause 9.4 of the Shire of Lake Grace Local Planning Scheme No.4. At the close of advertising a total of two (2) submissions had been received by the Shire, both of which expressed objection to the application.

#### Background

At its Ordinary Meeting held on 25 March 2009, Council considered an informal application (written request) submitted by Newdegate Hire Pty Ltd for in-principle approval to establish an LPG Bottle Exchange Facility on Lot 14 (No.25) Maley Street, Newdegate.

At that meeting Council resolved (motion 10755):

*“That the establishment of an LPG Bottle Exchange Facility on the subject land, which is classified ‘Residential’ zone in Local Planning Scheme No.4 (LPS No.4), is consistent with the objectives of the zone and that Council accordingly requires the applicant to submit a completed planning application form with suitable plans for approval.”*

Following the Shire’s receipt of a formal application seeking Council’s planning approval for the establishment of an LPG Bottle Exchange and “Storage for Hire / Building Supplies” facility on Lot 14, Council again considered the proposal at its Ordinary Meeting held on 22 April 2009 and resolved (Motion 10775):

1. *[That it] Require the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish a Kleenheat Gas LPG Bottle Exchange Facility on Lot 14 (No.25) Maley Street, Newdegate to be advertised for public comment for a minimum period of 14 days in accordance with the specific requirements of clauses 9.4.1 and 9.4.3 of the Shire of Lake Grace Local Planning Scheme No.4.*
2. *[That it] Grant to the Chief Executive Officer or his nominee delegated authority to approve the application for planning consent*



*submitted by Mr Len Armstrong Newdegate Hire Pty Ltd for a Kleenheat Gas LPG Bottle Exchange Facility on Lot 14 (No.25) Maley Street, Newdegate in accordance with the details of the plans submitted in support of the application and subject to the following conditions if, at the conclusion of the public advertising period no substantial objections have been received by the Shire:*

- i) A completed building licence application must be submitted to and approved by the Shire's Building Surveyor for any earthworks or construction on the land.*
  - ii) The development is to be constructed and operated in accordance the specific requirements of Kleenheat Gas and all relevant State and Federal legislation and regulations.*
  - iii) A 3 metre wide vegetated "strip" is to be planted on the land along the Maley Street frontage for the purpose of providing a positive contribution to the Maley Street streetscape to the satisfaction of the Shire of Lake Grace.*
  - iv) The landscaping is to be established within 60 days of the date of this approval and maintained to the satisfaction of the Shire of Lake Grace.*
  - v) The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental Protection (Noise) Regulations 1997.*
  - vi) The carrying on of the development and use must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, mulching or sealing of accessways and parking areas shall be implemented to prevent or control dust nuisance as directed by and to the satisfaction of the Shire of Lake Grace.*
  - vii) Should floodlights be required they shall not be illuminated after 10pm, with all illumination being confined to the limits of the development or as otherwise approved by the Shire of Lake Grace in writing.*
  - viii) The discharge of any additional storm water drainage generated by the development shall be contained within the lot to the satisfaction of the Shire of Lake Grace.*
  - ix) Any proposed advertising signage must be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4.*
- 3. If any substantial objections to the proposal are received during the public advertising period the application shall be presented at the next available Council meeting for further consideration and a final determination by Council.*

Previous reports to Council have provided various background information regarding the subject land (i.e. location, land area, zoning, adjoining land uses etc.). It is presumed therefore that Council is familiar with the land and that there is no need to again provide that information in this report.

Council should however note that the development and use of the land for the purposes applied for have commenced prior to Council granting the necessary planning or building licence approvals.

### Comment

Having regard for:

- the nature of the proposed development and use;
- Council's previous resolutions in this matter;
- the provisions contained in Local Planning Scheme No.4; and
- the submissions received in relation to the development,

Council is now required to determine whether or not it will grant retrospective approval to the planning application received for Lot 14.

As previously mentioned the applicant has commenced using the subject land for the purposes stated in the application, including the proposed building addition works. The works and use are currently being undertaken without Council's planning or building licence approvals. In the event that Council resolves to not grant planning approval to the application, it should also resolve to issue the applicant with the respective notices under the Planning and Development Act and the Local Government (Miscellaneous Provisions) Act requiring all work and use of the land to cease, and all unauthorised or unapproved buildings, structures and development on the land to be removed.

If the applicant is aggrieved by the decision or the notices issued by the local government the applicant will have a right of review of Council's decision by the State Administrative Tribunal.

The nature and extent of the use on Lot 14 for which approval is being sought has recently become clearer to the authors of this report following receipt of a copy of an advertisement recently placed in "The Gate Post" promoting the business activities on Lot 14 (see Attachment 2).

According to the advertisement the use:

- provides for the exchange of LPG cylinders;
- hires various building and construction equipment and goods; and
- sells various building and construction materials and goods.

It is understood that the provision of these services and the sale of these goods is available to the general public.

Given that the subject land is classified 'Residential' zone it may be that the LPG Exchange Facility component of the use could be classified as a "use not listed" under LPS No.4 and therefore it may be supported if Council is satisfied that it is consistent with the stated objectives for 'Residential' zoned land under LPS No.4.

On the other hand, the hiring and sale of building equipment, materials and goods could be determined by Council to be the predominant use of the site and therefore falls within the definition of "Shop", which is not permitted on land classified 'Residential' zone because it may have a detrimental impact on the residential amenity and character of the immediate locality and may adversely affect the enjoyment of other nearby residential properties.

Schedule 1 'Dictionary of defined words and expressions' contained in LPS No.4 defines a "Shop" as:

*"premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet."*

As previously mentioned Council considered correspondence from the applicant at its Ordinary Meeting held on 25 March 2009 in which approval to operate an LPG Exchange Facility on the subject land was sought. The report considered by Council at that meeting formed the view that:

*"In reviewing the nature of the LPG Bottle Exchange Facility against the 'Residential' zone objectives applicable to the subject land it is reasonable to conclude that the use:*

- i) is unlikely to contribute to a high standard of residential development for the benefit of the community given that the predominant surrounding land uses are residential. It is however noted and accepted that service commercial land uses are located on the opposite side of Maley Street;*
- ii) is unlikely to enhance the character of the residential area; and*
- iii) will not provide for the residential use of the land.*

*...this report is concerned with the storage of substantial volumes of highly flammable materials on a 'Residential' zoned lot that is surrounded by existing residential development.*

*Although safety and security measures will no doubt be implemented to address these safety concerns, the authors of this report are not convinced that the use of the land for an LPG Bottle Exchange Facility is consistent with the objectives of the land's current 'Residential' zoning classification under LPS No.4 and that there is insufficient community benefit for the use to be established in an established residential area where the risk to property and human safety may be significantly increased as a result.*

*It is concluded from this assessment that the establishment of an LPG Bottle Exchange Facility on Lot 14 (No.25) Maley Street, Newdegate is inconsistent with the 'Residential' zone objectives contained in LPS No.4 and that Council should therefore advise the applicant that:*

*it does not support the development and use of the land for the proposed purpose; and such use of the land is required to immediately cease."*

Notwithstanding the above, Council formed the view that the proposed development and use of the land was suitable and accordingly required the applicant to submit a completed planning application form with appropriate plans for approval.

At its Ordinary Meeting held on 22 April 2009 Council considered the formal planning application submitted by the applicant and resolved to advertise the application for public comment. Council also resolved to delegate authority to the Chief Executive Officer to issue conditional approval to the application if no substantial objections to the proposal were received during public advertising.

At the close of the public advertising period, being 22 May 2009, a total of two (2) submissions had been received by the Shire from nearby occupiers of residential properties, both of which objected to the application.

The reasons for the objections are summarised below. The authors of this report have also provided comments for Council's consideration:

<b>Objection Issues Raised</b>	<b>Comments</b>
<p>“There must be an industrial block where the business could be relocated. I was also under the impression that the old bakery building had been heritage listed.”</p>	<p>There is ‘Industrial’ zoned land in Newdegate, as there is also ‘Commercial’ and ‘Service Commercial’ zoned land, however that should not be of primary consideration in this matter, and indeed Council cannot base a planning decision on whether alternative and appropriately zoned land is available within the Newdegate townsite to accommodate the activity. Council must determine the application on its individual merits having regard for the provisions applicable to the land under LPS No.4.</p> <p>Lot 14 (No.25) Maley Street, Newdegate (the subject land) is identified as having local cultural heritage significance and is accordingly listed in the Shire of Lake Grace Municipal Heritage Inventory (MHI). The MHI identifies the building as being constructed of common brick and corrugated iron. The management category of the building under the MHI is “retain and conserve if possible”.</p> <p>Given the subject land’s inclusion and classification in the MHI, Council must determine whether or not the proposed development and use will compromise its heritage character and significance.</p>
<p>“The buildings on the block are illegal as there has been no Town Planning approval being granted (sic) at the time of erection of this facility.”</p>	<p>It is assumed that the submission is referring to the additions recently erected as part of this planning application and not the original building. If this is the case then it is acknowledged that the recent building additions have been erected without the necessary planning or building licence approvals.</p>
<b>Objection Issues Raised</b>	<b>Comments</b>
<p>“Dangerous goods are being stored on residential property causing a health hazard and a danger to the general public.”</p>	<p>LPG is a class 2 dangerous good as identified by the Dangerous Goods Safety (General) Regulations 2007. It is agreed that the storage of dangerous goods in a residential area has the potential to be a health hazard and a danger to life and property; however the threat to property and life maybe substantially decreased with the implementation of appropriate management measures.</p>
<p>“It is a precedent for other residents to establish any sort of business on their residential property.”</p>	<p>It is not agreed that the application, if approved, will establish precedent for other residential properties to establish any sort of business. Without going into the detailed rationale for this position, the State Administrative Tribunal has consistently dealt with the question of precedent in planning considerations and it is sufficient, at this stage, to advise that each planning application is assessed and determined on its individual merits.</p>
<p>“The outlook which greets me each morning is one that can only be described as a salvage yard.”</p>	<p>Noted.</p>

<p>“There has been no consultation by the developer with affected adjoining neighbours.”</p>	<p>There is no requirement for the developer to consult with neighbours however it is acknowledged that this is good practice. Notwithstanding the applicant's failure to consult nearby landowners, the Shire of Lake Grace has undertaken a community consultation process in a manner consistent with the requirements of LPS No.4.</p>
<p>“Deliveries are being undertaken on Sundays and the business operates 7 days a week, which would be a disturbance to the community. Is it necessary to have a licence to operate on Sunday?”</p>	<p>The relevant planning considerations associated with Sunday trading relate primarily to the impact of traffic movements and the generation of noise on the character and amenity of residential areas.</p> <p>Maley Street currently accommodates a significant volume of traffic which is likely to increase if the application is approved.</p> <p>The generation of noise is managed by the Environmental Protection (Noise) Regulations 1997. Noise levels generated by activities are required to comply with the regulations.</p> <p>Council may in issuing planning approval impose conditions to address noise. Furthermore if Sunday trading or traffic is a concern it could impose conditions not allowing Sunday trading.</p> <p>The above issues should not be considered by Council in isolation. Council should consider the sum of all potential impacts and then determine whether that “sum” of impacts is reasonable and acceptable in the immediate locality.</p>
<p>“There is another gas storage bottle operator in the town that had to go through various procedures before he could store bottles, yet this activity has been operating for some time without approval.”</p>	<p>Noted.</p>
<p>“Noise and dust problems are a major concern as well as sand drift from the piles of sand stored on the site.”</p>	<p>It is not clear whether the current noise, dust and sand drift emissions are caused by the operations of the business or the works (building additions) being undertaken. Notwithstanding, if Council grants its approval to the application it may impose conditions to address, noise, dust and sand drift.</p>
<p><b>Objection Issues Raised</b></p>	<p><b>Comments</b></p>
<p>“The residential properties on either side of this operation will be greatly devalued.”</p>	<p>Speculation as to the possible affect on adjoining and nearby property values is not a relevant planning consideration, however it is understood that this concern has arisen from the potential detrimental impact of the activity on the residential amenity of the adjoining and nearby properties.</p>
<p>“Other materials and goods will be stored and sold from the site which constitutes a shop.”</p>	<p>As previously mentioned, it is open for Council to classify the sale and hire of goods as a ‘Shop’, and therefore a use that is not permitted by LPS No.4 on ‘Residential’ zoned land.</p>

"The activity does not comply with the objectives of the 'Residential' zone under LPS No.4."	This view is shared by the authors of this report.
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A full copy of the two submissions received in respect of the proposal during public advertising is provided at Attachment 3.

### Options

In considering and determining the application it is considered, having due regard for the details submitted in support of the application, the current local planning framework, Council's previous resolutions in this matter and the submissions received during public advertising, that Council has two (2) options. It may either:

1. Conditionally approve the application; or
2. Refuse to grant its approval to the application and issue notices to the applicant/ landowner under the Planning and Development Act 2005 and the Local Government (Miscellaneous Provisions) Act requiring all work on and use of the land to cease, and all unauthorised or unapproved buildings, structures and development on the land to be removed.

#### Option 1 – Conditional Approval

Council may form the view that the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate is suitable and acceptable, and accordingly may resolve to grant its conditional approval.

If this is Council's preferred position the following resolution is recommended:

1. **APPROVE** the application for retrospective planning approval submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate in accordance with the details of the plans submitted in support of the application and subject to the following conditions:
  - i) A completed building licence application must be submitted to and approved by the Shire's Building Surveyor.
  - ii) The development is to be constructed and operated in accordance with the specific requirements of Kleenheat Gas and all relevant State and Federal legislation and regulations.
  - iii) The approved use of the land shall only operate between the hours of 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm on Saturdays. No trading is permitted on Sundays or Public Holidays.
  - iv) A three (3) metre wide vegetated "strip" is to be planted on the land along the Maley Street frontage for the purpose of providing a positive contribution to the Maley Street streetscape to the satisfaction of the Shire of Lake Grace.
  - v) The landscaping is to be established within 60 days of the date of this approval and maintained to the satisfaction of the Shire of Lake Grace.

- vi) The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental Protection (Noise) Regulations 1997.
  - vii) The carrying on of the development and use must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, mulching or sealing of accessways and parking areas shall be implemented to prevent or control dust nuisance as directed by and to the satisfaction of the Shire of Lake Grace.
  - viii) Should floodlights be required they shall not be illuminated after 10pm, with all illumination being confined to the limits of the development or as otherwise approved by the Shire of Lake Grace in writing.
  - ix) The discharge of any additional storm water drainage generated by the development shall be contained within the lot to the satisfaction of the Shire of Lake Grace.
  - x) Any proposed advertising signage must be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4.
2. Advise the applicant that if aggrieved by the decision of, or the conditions imposed by, the local government there may be a right of review by the State Administrative Tribunal.
  3. Advise those that made submissions of Council's decision.

#### Option 2 – Refusal

Council may form the view that the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate is not suitable and not acceptable, and accordingly may resolve to refuse to grant its approval.

If this is Council's preferred position the following resolution is recommended:

1. **REFUSE** the application for retrospective planning approval submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate for the following reasons:
  - i) Council has formed that view that the predominant use of the subject land falls within the definition of "Shop", as defined in Schedule 1 'Dictionary of defined words and expressions' contained in the Shire of Lake Grace Local Planning Scheme No.4, which is a use that is not permitted on land classified 'Residential' zone.
  - ii) Approval of the application would be inconsistent with the stated objectives for the 'Residential' zone contained in the Shire of Lake Grace Local Planning Scheme No.4.
  - iii) Approval of the application would have an adverse impact on the amenity, safety and enjoyment of the inhabitants of nearby residential properties.

2. Instruct the Shire Administration to prepare and issue notices to the applicant to cease all works/use of the land and remove all unauthorised buildings/structures forthwith under section 214 of the Planning and Development Act 2005 and sections 401 and 401A of the Local Government (Miscellaneous Provisions) Act 1960.
3. Advise the applicant that if aggrieved by the decision or the notices issued by the local government there may be a right of review by the State Administrative Tribunal.
4. Advise those that made submissions of Council's decision.

### **Conclusion**

Having regard for:

- i) the provisions of Local Planning Scheme No.4, particularly as they apply specifically to all land classified 'Residential' zone;
- ii) the content of the two (2) submissions received from nearby occupiers of residential properties; and
- iii) the potential negative impacts of the proposed uses on the amenity, safety and enjoyment of the inhabitants of nearby residential properties,

it is concluded that the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate should be refused and that appropriate notices under the Planning and Development Act and Local Government (Miscellaneous Provisions) Act be issued to the applicant.

### Legal Implications

Planning and Development Act 2005  
Local Government (Miscellaneous Provisions) Act 1960  
Shire of Lake Grace Local Planning Scheme No.4

### Policy Implications

Nil

### Cultural Implications

Nil

### Consultation

Community consultation completed in a manner consistent with clause 9.4 of the Shire of Lake Grace Local Planning Scheme No.4.

### Financial Implications

Nil

### Strategic Implications

Nil



### Recommendations

That Council resolve to:

1. **REFUSE** the application for retrospective planning approval submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate for the following reasons:
  - i) Council has formed that view that the predominant use of the subject land falls within the definition of “Shop”, as defined in Schedule 1 ‘Dictionary of defined words and expressions’ contained in the Shire of Lake Grace Local Planning Scheme No.4, which is a use that is not permitted on land classified ‘Residential’ zone.
  - ii) Approval of the application would be inconsistent with the stated objectives for the ‘Residential’ zone contained in the Shire of Lake Grace Local Planning Scheme No.4.
  - iii) Approval of the application would have an adverse impact on the amenity, safety and enjoyment of the inhabitants of nearby residential properties.
2. Instruct the Shire Administration to prepare and issue notices to the applicant to cease all works/use of the land and remove all unauthorised buildings/structures forthwith under section 214 of the Planning and Development Act 2005 and sections 401 and 401A of the Local Government (Miscellaneous Provisions) Act 1960.
3. Advise the applicant that if aggrieved by the decision or the notices issued by the local government there may be a right of review by the State Administrative Tribunal.
4. Advise those that made submissions of Council’s decision.

### Voting Requirements

Simple majority required.

### Resolution

#### **MOTION 10791**

Moved Cr Newman  
Seconded Cr Chamberlain

1. That Council **APPROVE** the application for retrospective planning approval submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd to establish an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate in accordance with the details of the plans submitted in support of the application and subject to the following conditions:
  - i) A completed building licence application must be submitted to and approved by the Shire’s Building Surveyor.

**MOTION 10791 continued**

- ii). The development is to be constructed and operated in accordance with the specific requirements of Kleenheat Gas and all relevant State and Federal legislation and regulations.
- iii) The approved use of the land shall only operate between the hours of 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm on Saturdays. No trading is permitted on Sundays or Public Holidays.
- iv) A three (3) metre wide vegetated “strip” is to be planted on the land along the Maley Street frontage for the purpose of providing a positive contribution to the Maley Street streetscape to the satisfaction of the Shire of Lake Grace.
- v) The landscaping is to be established within 60 days of the date of this approval and maintained to the satisfaction of the Shire of Lake Grace.
- vi) The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental Protection (Noise) Regulations 1997.
- vii) The carrying on of the development and use must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, mulching or sealing of access-ways and parking areas shall be implemented to prevent or control dust nuisance as directed by and to the satisfaction of the Shire of Lake Grace.
- viii) Should floodlights be required they shall not be illuminated after 10pm, with all illumination being confined to the limits of the development or as otherwise approved by the Shire of Lake Grace in writing.
- ix) The discharge of any additional storm water drainage generated by the development shall be contained within the lot to the satisfaction of the Shire of Lake Grace.
- x) Any proposed advertising signage must be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4.

2. Advise the applicant that if aggrieved by the decision of, or the conditions imposed by, the local government there may be a right of review by the State Administrative Tribunal.

3. Advise those that made submissions of Council's decision.

**MOTION CARRIED 5/4**

***Reason for Change: Majority of Members voted for the application to be approved.***

**13.0 MATTERS FOR CONSIDERATION – HEALTH & BUILDING**

*No items for consideration*

## 14.0 MATTERS FOR CONSIDERATION – FINANCE

### 14.1 ACCOUNTS FOR PAYMENT – APRIL 2009

<b>Applicant:</b>	Shire of Lake Grace
<b>File No.</b>	0277
<b>Attachments:</b>	List of Creditors
<b>Author:</b>	Miss Jessica de Burgh Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	20 May 2009
<b>Senior Officer:</b>	Mr Jim Fraser Chief Executive Officer

#### Summary

For Council to ratify expenditures incurred for the month of April 2009.

#### Background

List of payments for the month of April 2009 through the Municipal account is 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

N/A

#### Consultation

N/A

#### Financial Implications

The list of creditors paid for the month of April 2009 from the Municipal Account totals \$814,299.92. There were no Trust Account payments during April 2009.

#### Strategic Implications

N/A

Cultural Implications

N/A

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10792**

Moved Cr Farelly  
Seconded Cr Dunkeld

That Municipal Account cheques 33541 to 33573, Electronic Funds Transfers EFT5013 to EFT5152, and direct debits to the Municipal Accounts totalling \$814,299.92; having been checked and certified in accordance with the Financial Management Regulation 12, be confirmed, and passed for payment against the respective accounts as shown on the summary of Accounts for Payment schedule.

Cheque 33544 was cancelled

**MOTION CARRIED 9/0**

## 14.2 FINANCIAL STATEMENTS – APRIL 2009

**Applicant:** Shire of Lake Grace  
**File No.** 0275  
**Attachments:** Financial Reports  
**Author:** Mark Burbridge  
Manager Corporate Services  
**Disclosure of Interest:** Nil  
**Date of Report:** 20 May 2009  
**Senior Officer:** Jim Fraser  
Chief Executive Officer

### Summary

Consideration of the financial statements for the month ending 30 April 2009.

### Background

The following financial reports are included for your information:

- Monthly Statement of Financial Activity
- Summary of Net Current Assets
- Operating Statement by Programme
- Balance Sheet
- Assets Purchased and Sold
- Capital Road Works, Operating Revenue & Expenditure Graphs
- Bank Reconciliations
- Rates Summary Chart

### 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

N/A

### Cultural Implications

N/A

### Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10793**

Moved Cr Milton  
Seconded Cr De Landgraft

That the financial reports for the month ending 30 April 2009 as attached be received.

**MOTION CARRIED 9/0**

**14.3      INVESTMENT REPORT – APRIL 2009**

**Applicant:** Shire of Lake Grace  
**File No.** 0267  
**Attachments:** Nil  
**Author:** Mr Mark Burbridge  
 Manager Corporate Services  
**Disclosure of Interest:** Nil  
**Date of Report:** 19 May 2009  
**Senior Officer:** Mr Jim Fraser  
 Chief Executive Officer

Summary

Report on the investment of surplus funds for the Municipal and Reserve Funds.

Background

A report on investment activity is presented to Council each month (where applicable) in accordance with Council Policy 3.5.

Comment

The following surplus funds have been invested during April 2009:

Financial Institution	Fund	Lodgement	Maturity	Term	Amount	Interest Rate
BankWest	Municipal	23/03/09	N/A	N/A	\$640,870.00	3.65%
Elders Rural Bank	Reserve	12/03/09	12/06/09	3 months	\$1,247,822.75	4.50%

Council held approximately \$7,000 in its Municipal Cheque account at the end of April.

Funds are being transferred from Council's cash management account with BankWest Lake Grace as and when required to meet upcoming cash expenditure requirements.

This approach aims to maximise Council's interest returns whilst maintaining availability of funds in the short term. This approach also helps limit Council's financial exposure as deposits up to \$1million with each financial institution are automatically covered by the Federal Government's Deposit Guarantee.

Legal Implications

Nil

Policy Implications

As per Council Policy 3.5

Consultation

N/A



Financial Implications

N/A

Strategic Implications

N/A

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10794**

Moved Cr Milton  
Seconded Cr Dunkeld

That Council receive the April 2009 investment report.

**MOTION CARRIED 9/0**

## 14.4 RECORDS STORAGE FACILITY - PROPOSAL

<b>Applicant:</b>	Manager Corporate Services
<b>File No.</b>	0627
<b>Attachments:</b>	Quotations, Plans, Photographs
<b>Author:</b>	Mr Mark Burbridge Manager Corporate Services
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	12 May 2009
<b>Senior Officer:</b>	Mr Jim Fraser Chief Executive Officer

### Summary

For Council to consider the development of a dedicated records storage facility adjacent to the Shire Administration Centre.

### Background

Given the requirements of the State Records Act 2000 and Council's Record Keeping Plan, it has long been considered by staff that a dedicated Records Storage Facility is necessary for controlling and preserving Council's archival documents.

In developing the new Administration Centre, a dedicated, fire-rated room was constructed which has proven an excellent facility for storing and managing all of Council's "current" records (ie current files, building plans, legal agreements and rating documents). However, whilst the capacity of this room meets requirements for such documents, Council has no dedicated facility for the safe and efficient storage of archival documents.

It is also recognised that the current administration building lacks in storage space for items such as cleaning supplies & equipment, tables & chairs, and some of the less-often used printing and stationery supplies.

Council considered a brief proposal to construct such a facility as part of 2008/09 Budget deliberations. However due to budget constraints and the lack of any detailed planning the proposal was deferred at that time. Council instead opted to make a contribution of \$33,000 towards an Office Redevelopment Reserve, to be used at a later date for projects such as furniture and fit out upgrades, as well as the development of further storage facilities.

### Comment

Currently Council's archival documents in the Dressing Room behind the stage at the Lake Grace Town Hall. This is considered unsatisfactory due to the poor security of the premises, and the lack of convenient access to staff.

Apart from the Dressing Room now not being available to hall users, the conditions in the room are proving detrimental to the archives.

The documents are disorganised and the lack of suitable shelving results in great difficulty, occupational hazard and wasted time when staff attempt to locate older records.

Given the poor organisation and condition of these records, and the unacceptable conditions in which they are stored, staff are reluctant to even access these records, let alone attempt to improve their organisation.

This proposal aims to construct a 15 x 5 metre dedicated records storage facility, within close proximity and easy access to the Shire Administration Centre.

The most accessible space readily available without impeding current car parking areas is located to the west of the building, where currently exists a brick paved area and the edge of the old tennis court now used as a skate park. The proposal would take a 5 metre section of the skatepark, a section which is now badly cracked and less than ideal for skateboard use. A section of the existing colorbond fence is to be removed, facilitating access from the paved courtyard at the rear of the Administration building.

It is anticipated that staff would only access the building when working on archival documents or accessing storage space, therefore no provision for natural light has been made in the building. This reduces security weaknesses in the building, helps to maintain a constant temperature for archival conditions, and increases external fire resistance.

In considering suitable options for such a storage facility, the following construction methods have been assessed:

- **Kit Style Purpose Designed Structure**

This is the preferred option due to the security and insulation it will provide to documents, the fire resistance, and the ability to design the building to match available space. The building can be assembled by Council staff and coloured to match the new Shire Administration Centre.

- **Steel Frame Colourbond Clad Shed**

A cost effective and permanent solution, though limited in terms of value of protection offered to records storage. Difficult to insulate effectively against weather, dust, insects, etc. Limited fire/heat resistance value. This style of building would require additional work in lining and insulating the interior which increases cost.

- **Sea Container**

Given Council's Local Planning Scheme No 4 generally prohibits the use of sea containers for uses other than the transportation of goods, this option should not be considered.

Quotes have been obtained for the Kit Style Structure from Fortress Home Building Systems, and a steel framed colorbond shed of comparable dimensions from West Coast Sheds. These types of structures would require the same level of preparation in terms of footings and concrete slab, and in kit form would require a similar level of staff time to construct.

However, to complete the building to a standard suitable for records storage, the shed would require the installation of a suspended ceiling, wall and ceiling insulation, and internal wall lining. This further work would not only make the costs between a shed structure and the Fortress Home Building System comparable, but would delay the availability of the structure for several weeks.

## Proposed Project Budget (Comparison between Building Methods)

<b>Fortress HBS Kit</b>		<b>Steel Framed Colorbond Shed</b>	
Purchase Kit	\$40,830.00	Purchase Kit	\$12,490.91
Site Works	\$2,000.00	Site Works	\$2,000.00
Concrete Slab	\$2,250.00	Concrete Slab	\$2,250.00
Erection - Labour	\$3,715.00	Erection - Labour	\$3,715.00
Commercial Vinyl	\$6,325.00	Commercial Vinyl	\$6,325.00
Electrical Installation	\$2,000.00	Electrical Supply & Install	\$7,000.00
Internal Painting	\$1,500.00	Internal Painting	\$1,500.00
External Painting	\$1,161.80	Ceiling, Cladding, Insulation	\$15,000.00
		Labour – Internal Cladding	\$6,317.00
Shelving	\$5,880.00	Shelving	\$5,880.00
<b>Total</b>	<b>\$65,661.80</b>	<b>Total</b>	<b>\$62,477.91</b>

Fortress Home Building Systems have also offered to provide on-site assistance for 2 days in the initial construction of the building, which may reduce the labour component required for erection.

Given the faster construction time frame and better level of security and protection for document storage, the Fortress HBS Kit is the preferred option. The external rendered surface matching the Shire Administration Centre would also be more aesthetically pleasing and more in keeping with the general amenity of the precinct.

An opportunity has arisen with Fortress Home Building Systems to secure the required building at the fixed price listed above. Due to the cancellation of another contract, Fortress HBS can commence construction of the kit within the next few weeks and have the building available for delivery in July 2009. Fortress HBS would require a deposit in the order of \$25,000 towards the project, with the balance payable on completion. This is an opportunity to fast-track the construction schedule and fixes the price at a 2009 level.

The deposit could be made through an amendment to the 2008/09 Budget, with an allowance made in the 2009/10 Budget to pay the balance and complete the project.

Legal Implications

Local Government Act 1995 Section 6.8 (1) (b)

Policy Implications

Council maintains a Record Keeping Plan in accordance with Council Policy 7.6, the guidelines of which state:

*“Records are to be categorised as to their level of sensitivity and adequately secured and protected from violation, unauthorised access or destruction, and kept in accordance with necessary retrieval, preservation and storage requirements.”*

Council’s Asset Management Policy 7.9 recognises the need to take into account not only the capital cost, but also the ongoing cost of maintenance, refurbishment, replacement and operating costs (“whole of life” cost assessment). This is considered further under Financial Implications.

Consultation

- Internal
  - Chief Executive Officer
  - Administration Staff responsible for records management
  - Building Maintenance Officer
  - Building Surveyor
- External
  - Fortress Home Building Systems
  - West Coast Sheds

#### Financial Implications

Council has made provision of \$33,000 to Transfer to an Office Redevelopment Reserve in the 2008/09 Budget.

Council can reduce this provision by \$25,000 and transfer it into a new Capital Expenditure account for the construction of the proposed records storage facility. This will have no impact upon the operating result of the 2008/09 Budget – the only effect being a reduced level of reserves at 30 June 2009.

In proceeding with this proposal, Council will need to make allowance of approximately \$40,000 in the 2009/10 Budget to complete the project. It is also recognised that Council will be considering upgrades to Council chambers furniture (desks and chairs) as part of the 2009/10 budget deliberations, and that the Office Redevelopment Reserve funds will be used to fund this exercise. Staff have obtained quotes in the vicinity of \$30,000 to complete this refurbishment. Assuming Council proceeds with the proposed storage facility, and uses the balance of the Office Redevelopment Reserve, a total commitment of approximately \$62,000 will be required in the 2009/10 budget to finalise all of the above.

Whilst it is anticipated that the building will be durable and low maintenance, Council should also consider the total life costs of any building before committing to new developments. Council currently spends approximately \$40,000 each year on operational and maintenance costs for the Shire Administration Centre. It is estimated that a further \$2,500 - \$3,000 per annum will be required in operational and maintenance costs as a result of the development of this new records storage facility.

#### Strategic Implications

The proper storage and preservation of records is of utmost importance to the strategic functions of Council.

#### Cultural Implications

Nil

#### Recommendation

#### Voting Requirements

Absolute Majority (5) Required

Recommendation/Resolution

**MOTION 10795**

Moved Cr Taylor  
Seconded Cr Farrelly

That Council:

1. Amends its 2008/09 Budget to reduce Account E042570 “Office Redevelopment – Transfer to Reserve” by \$25,000 to \$8,000.
2. Amends its 2008/09 Budget to include a new Capital Expenditure Account E042546 “Development of Records Storage Facility” at \$25,000.
3. Commits “in-principle” support to the inclusion of further funds approximating \$40,000 in the 2009/10 Budget to complete the development of a records storage facility.

**MOTION CARRIED BY ABSOLUTE MAJORITY 7/2**

## 15.0 MATTERS FOR CONSIDERATION – ADMINISTRATION

7.45pm *Mr Armstrong, Mrs Knill and Mr Genders left the meeting.*

### 15.1 DELEGATION OF POWERS TO THE CHIEF EXECUTIVE OFFICER AND THE DELEGATION REGISTER

**Applicant:** Chief Executive Officer  
**File No.** 0052  
**Attachments:** Register of Delegations  
**Author:** Mrs Jeanette Bennett  
 Executive Assistant  
**Disclosure of Interest:** Nil  
**Date of Report:** 19 May 2009  
**Senior Officer:** Mr Jim Fraser  
 Chief Executive Officer

#### Summary

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

#### Background

In accordance with the requirements of section 5.46 of the Local Government Act 1995 every Council is to register and annually review its delegations to the Chief Executive Officer.

The Delegation Register is a requirement and subject to the annual external audit process.

#### Comment

The attached Delegation Register where the Chief Executive Officer has delegated powers and duties, is presented to Council with the following changes recommended since the previous review in June 2008:

- Delegation F01 relating to road train permits remains subject to further review pending new Main Roads WA regulations
- Delegation F04 relating to the authority to sell items of surplus equipment. The current delegation applies only to items with an estimated value of less than \$2,000.00 each. It is proposed to increase that value to \$5,000.00.

#### Legal Implications

Local Government Act, 1995

- s5.16 Delegations to committees
- s5.42 Delegations to the CEO
- s5.43 Limits on delegations
- s5.44 CEO may delegate

Town Planning and Development Act 2005

Bush Fires Act 1954

Dog Act 1976

Health Act 1911  
Local Government (Miscellaneous Provisions) Act 1960

Policy Implications

Clarification of existing delegations.

Consultation

N/A

Financial Implications

N/A

Strategic Implications

Provides for the improved documentation of Council operations.

Voting Requirements

Absolute majority (5) required.

Recommendation/Resolution

**MOTION 10796**

Moved Cr Farrelly  
Seconded Cr Sinclair

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 attached Register of Delegations (May 2009) noting that the Chief Executive Officer has on-delegated some of his powers and duties to other staff.

**MOTION CARRIED BY ABSOLUTE MAJORITY 9/0**

7.45pm

*Meeting adjourned for tea.*

8.25pm

*Meeting reconvened with all those previously in attendance present.*



## 15.2 AUTHORISED OFFICERS - APPOINTMENTS

**Applicant:** Chief Executive Officer  
**File No:** 0052  
**Attachments:** Nil  
**Author:** Mrs Jeanette Bennett  
Executive Assistant  
**Disclosure of Interest:** Nil  
**Date of Report:** 19 May 2009  
**Senior Officer:** Mr Jim Fraser  
Chief Executive Officer

### Summary

The purpose of this report is for Council to appoint Authorised Persons to exercise power under the Local Government Act 1995, associated legislation and other Acts, on behalf of the Shire of Lake Grace.

### Background

In accordance with a number of provisions of various Acts, Regulations and local laws, Council is required to appoint authorised persons to perform various authorised functions.

Authorisations are reviewed on an annual basis and updated to reflect staff changes. Following approval by Council the authorisations are gazetted and published in the Government Gazette.

### Comment

(1) Section 3.24 of the Local Government Act 1995 enables a local government to expressly authorise a person(s) to exercise its executive powers under Division 3 of the Act.

These authorisations relate to certain provisions about land, including issuance of notices requiring certain things to be done by an owner or occupier of land in accordance with Schedule 3.1 of the Act. These can include matters relating to drainage requirements, safety issues and unsightly land. It is proposed to appoint Mr Jim Fraser and Mr Mark Burbridge.

(2) Part 3 Division 3 Section 3.28 & 3.29 of the Local Government Act 1995 provides for Power of Entry eg. abandoned vehicles or home industry. For this purpose it is proposed to authorise Mr Phil Gough of Great Southern Ranger Services.

(3) Section 3.39 of the Local Government Act 1995 enables Council to appoint an authorised person for the purpose of removing or impounding of goods that are involved in a contravention, as prescribed by regulation or local law, that can lead to impounding. Mr Jim Fraser is the authorised officer and it is proposed to include Mr Phil Gough of Great Southern Ranger Services.

(4) For the purposes of s37 of the Control of Vehicles (Off-road Areas) Act 1978 the following staff members are designated as Authorised Officers – Mr Jim Fraser and Mr Phil Gough.

(5) Section 9.10 of the Local Government Act 1995 provides for the appointment of authorised persons for the purpose of investigating the suspected commission of an offence against the Local Government Act 1995 and or the Shire's local laws (s9.11 & s9.15). Mr Jim Fraser, Mr Mark Burbridge and Mr Phil Gough are the appointed officers.

For the subsequent issue of infringement notices in accordance with s9.13, s9.16 and 9.17 of that Act, Mr Jim Fraser, Mr Mark Burbridge and Mr Phil Gough are to be appointed.

(6) The extension of the payment period (s9.19) and/or the withdrawal of the notice (s9.20) is to be authorised by the Chief Executive Officer Mr Jim Fraser.

(7) Furthermore, in accordance with s449 of the Local Government (Miscellaneous Provisions) Act 1960, a local government may establish and maintain one or more public pounds and may appoint persons to be keepers of those pounds so as to have care, control and management of those pounds. Mr Mark Spencer and Mr Robert Palmer are appointed as Pound Keepers. Mr Phil Gough of Great Southern Ranger Services is appointed as Ranger.

(8) Pursuant to the Dog Act 1976 the Shire is required to appoint "Registration Officers" to effect the registration of dogs pursuant to the requirement of the Act.

The following staff members along with Mr Phil Gough are appointed as authorised "Registration Officers":

- Mark Burbridge
- Danielle Robertson
- Joanne Morgan
- Jessica De Burgh

(9) Pursuant to s27 of the Health Act 1911 Council may appoint an Environmental Health Officer to perform such duties as the local government from time to time directs and also such as are specifically prescribed by any order of the Executive Director, Public Health. Mr Maurice Walsh is the appointed Environmental Health Officer.

(10) Pursuant to s59(2)(a) of the Bush Fires Act 1954 a local government may institute or carry on proceedings, including the issue of infringement notices, against a person for an offence alleged to have been committed against the Act.

For the purposes of proceedings, Council has delegated its authority to the Chief Executive Officer (s59(3)) who has on-delegated (see Delegations

Register – Other 03) to the Manager of Corporate Services. Mr Phil Gough is also included.

(11) Pursuant to s17 of the Caravan Parks and Camping Grounds Act 1995 the Chief Executive Officer may appoint such persons to be authorised persons for the purposes of the Act. An authorised person may enter and inspect premises to ensure compliance with the requirements of the Act.

The Chief Executive Officer has appointed Mr Maurice Walsh as an authorised person for the purposes of the Caravan Parks and Camping Grounds Act 1995.

(12) For the purposes of s26 of the Litter Act 1979, all Councillors and Staff are deemed to be authorised officers. Mr Phil Gough is also included.

Consultation

N/A

Legal Implications

Local Government Act, 1995

Local Government (Miscellaneous Provisions) Act 1960

Bush Fires Act 1954

Dog Act 1976

Health Act 1911

Litter Act 1979

Control of Vehicles (Off-Road Areas) Act 1978

Caravan Parks and Camping Grounds Act 1995

Cemeteries Act 1986

Policy Implications

N/A

Financial Implications

N/A

Strategic Implications

Provides for the good governance of the Shire.

Cultural Implications

N/A

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10797**

Moved Cr Newman  
Seconded Cr De Landgraftt

That Council appoint the following persons as “Authorised Officers” in respect to the requirements of the specified Acts:

**(1) Local Government Act 1995**, Part 3, Division 3, Subdivision 2, Certain provisions about land - s3.24 (relates to the issuing of notices):

- Jim Fraser
- Mark Burbridge

**(2) Local Government Act 1995**, Part 3 Division 3 Section 3.28 & 3.29 of the Local Government Act 1995 provides for Power of Entry (relates to abandoned vehicles or home industry):

- Phil Gough

**(3) Local Government Act 1995**, Part 3, Division 3, Subdivision 4, impounding goods involved in certain contraventions – s3.39 (relates to the power to remove and impound):

- Jim Fraser
- Phil Gough

**(4) Local Government Act 1995**, Part 9, Division 2, Subdivision 1, Miscellaneous provisions about enforcement – s9.10, s9.11 and s9.15; and **Control of Vehicles (Off-Road Areas) Act 1978** – s37 (relates to the fining of a person committing an offence):

- Jim Fraser
- Phil Gough

**(5) Local Government Act 1995**, Part 9, Division 2, Subdivisions 1 & 2, Miscellaneous provisions about enforcement and infringement notices – s9.13, s9.16 and s9.17: (relates to the issuing of notices):

- Jim Fraser
- Mark Burbridge
- Phil Gough

**(6) Local Government Act 1995**, Part 9, Division 2, Subdivision 2, Miscellaneous provisions about enforcement – s9.19 and s9.20 (relates to amendment of notices):

- Jim Fraser

**(7) Local Government (Miscellaneous Provisions) Act 1960** – s449 Local governments may establish pounds, appoint pound keepers and Rangers:

- Mark Spencer (Pound Keeper)
- Robert Palmer (Pound Keeper)
- Phil Gough (Great Southern Ranger Services)

**MOTION 10797**

**(8) Dog Act 1976** – Registration Officers

- Mark Burbridge
- Danielle Robertson
- Joanne Morgan
- Jessica De Burgh
- Phil Gough

**(9) Health Act 1911** – s27 Appointment of Environmental Health Officer

- Maurice Walsh

**(10) Bush Fires Act 1954** – s59(2)(a) and (3) – Issue of infringement notices, Council Delegation – Other 03

- Mark Burbridge
- Phil Gough

**(11) Caravan Parks and Camping Grounds Act 1995** – s17 Authorised

- Persons
- Maurice Walsh

**(12) Litter Act 1979** – s26

- All Elected Members
- All Council Staff
- Phil Gough

**MOTION CARRIED 9/0**

### 15.3 LOCAL GOVERNMENT ELECTIONS – OCTOBER 2009

**Applicant:** Western Australian Electoral Commission  
**File No.** 0229  
**Attachments:** Letter  
**Author:** Mr Mark Burbridge  
Manager Corporate Services  
**Disclosure of Interest:** Nil  
**Date of Report:** 14 May 2009  
**Senior Officer:** Mr Jim Fraser  
Chief Executive Officer

#### Summary

For Council to appoint the Electoral Commissioner to be responsible for the conduct of the October 2009 ordinary elections and decide that the method of conducting the election will be as a postal election.

#### Background

The Local Government Act, 1995 (the *Act*) provides that a Local Government is to hold elections on the third Saturday in October every two years. The Act was amended in 2006 by the Parliament of Western Australia to specify ordinary elections in October rather than in May as in the past.

In October 2009, Council has four (4) vacancies arising across its three Wards following the expiry of the terms of Councillors Farrelly, Taylor, Sinclair, and Chamberlain.

Section 4.20 of the *Act* provides that the Chief Executive Officer is the returning officer of a local government for each election unless Council appoints a person other than the CEO. Section 4.20(4) of the *Act* enables a local government to declare the Electoral Commissioner to be responsible for the conduct of the election having first obtained the Commissioner's written agreement.

Furthermore, section 4.61 of the *Act* enables a local government to conduct the election as a postal election.

In the attached letters, the Commissioner has agreed to conduct the ordinary elections in October 2009 and seeks Council's endorsement in accordance with the requirements of the *Act*.

#### Comment

Council has previously acknowledged the benefits of postal elections, namely:

- Increased voter participation;
- Convenience for electors;
- The availability of an experienced Returning Officer at "arms length" from local government business;
- Detailed candidates guides prepared by the Commissioner;

- All eligible electors being given information about the election; and
- Statutory requirements are fulfilled.

In addition, the holding of a postal election is cost effective and the Electoral Commissioner has previously allowed the cost to be allocated over two budget years, if necessary.

Legal Implications

Local Government Act, 1995 – Part 4

s4.20(4) – Electoral Commissioner to conduct election

s4.61(2) – Postal Elections

Policy Implications

Council has previously agreed to conduct postal elections

Consultation

Internal – Chief Executive Officer

Financial Implications

The Electoral Commission have estimated a cost of \$9,000 (Inc GST) to conduct the October 2009 elections.

It is proposed that Council give consideration in its 2009/10 Budget an allowance of \$9,000 for election expenses (Account E041040).

Strategic Implications

By making the Electoral Commissioner responsible for these elections, Council will ensure that elections are conducted independently and with impartiality. In addition, through adopting postal voting, Council will employ a method of conducting elections that is more convenient for electors and typically achieves a much higher rate of voter participation.

Cultural Implications

N/A

Voting Requirements

Absolute majority required (5)

Recommendation/Resolution

**MOTION 10798**

Moved Cr Taylor  
Seconded Cr Farrelly

That Council:

1. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2009 ordinary elections together with any other elections or polls which may also be required; and,

2. Agree, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election.

**MOTION CARRIED BY ABSOLUTE MAJORITY 9/0**



## 16.0 URGENT BUSINESS BY DECISION OF THE MEETING

### 16.1 CEO SELECTION COMMITTEE MEETING

#### Background

At its April 2009 Ordinary Meeting, Council endorsed the CEO Selection Committee's recommendation to contract Mike Fitz Gerald of Fitz Gerald Strategies to assist with the selection and recruitment of a new CEO.

Since that meeting, the following has been undertaken:

- Review and development of the Position Description
- Review and development of the Performance Criteria
- Review and development of a Salary and Conditions Package
- Review and development of the draft Contract of Employment
- Consideration of the Selection and Appointment Process
- Consideration of Advertising and Interview timelines
- Consideration of the Draft Advertisement

The CEO Selection Committee met immediately prior to this meeting to approve the final details of the Position Description and the Salary and Conditions Package and make a recommendation to Council for endorsement.

Following lengthy discussion on all of the above points the following resolution arose out of tonight's meeting:

*Moved Cr Dunkeld*

*Seconded Cr Chamberlain*

*It be recommended to Council to:*

- *Approve the proposed position description for the position of Chief Executive Officer including the selection criteria as set out in the position description.*
- *Approve the proposed salary package, subject to the cash component range being from \$95,000 to \$120,000 and the value of the housing being stated at \$18,200 per annum based on a gross weekly rental value of \$350. Further that the value of the telephone and mobile phone be removed from the package and that the figures be adjusted accordingly.*
- *Approve the draft contract document subject to a provision being inserted specifying what the Chief Executive Officer may spend the professional development allowance on, and subject to a clause being inserted limiting the amount of any additional payments to the CEO on termination to a maximum of 12 months salary or the balance of the contract, whichever is the lesser. Further that the provisions relating to the supply of the telephone, Internet connection and mobile phone be amended to simply provide these items as tools of trade.*
- *Approve the draft advertisement for the Chief Executive Officer position subject to the salary package being adjusted to come into line with the proposed salary package. That the council instructs Mr Fitz Gerald to place the advertisement in the West Australian and the Australian Local Government Job Directory for*

*two consecutive weeks in the weeks of Saturday 6 and Saturday 13 June 2009.*

- *That council authorises Mr Fitz Gerald to conduct a preliminary assessment of all applications received and to short list applicants in consultation with the CEO Selection Committee.*
- *That council authorises the CEO Selection Committee and Mr Fitz Gerald to conduct the final short listing of applicants for interview by full council on a date to be advised in July 2009.*
- *That Council instructs Mr Fitz Gerald to prepare draft questions to be used at the interview.*
- *The president be authorised to co-ordinate the interviews in consultation with Mr Fitz Gerald.*
- *That the full Council be invited to participate in the interview process and the final selection of a new CEO.*

#### CEO Selection Committee Recommendation/Council Resolution

#### **MOTION 10799**

Moved Cr Chamberlain  
Seconded Cr De Landgraft

That Council:

1. Approve the proposed position description for the position of Chief Executive Officer including the selection criteria as set out in the position description.
2. Approve the proposed salary package, subject to the cash component range being from \$95,000 to \$120,000 and the value of the housing being stated at \$18,200 per annum based on a gross weekly rental value of \$350. Further that the value of the telephone and mobile phone be removed from the package and that the figures be adjusted accordingly.
3. Approve the draft contract document subject to a provision being inserted specifying what the Chief Executive Officer may spend the professional development allowance on, and subject to a clause being inserted limiting the amount of any additional payments to the CEO on termination to a maximum of 12 months salary or the balance of the contract, whichever is the lesser. Further that the provisions relating to the supply of the telephone, Internet connection and mobile phone be amended to simply provide these items as tools of trade.
4. Approve the draft advertisement for the Chief Executive Officer position subject to the salary package being adjusted to come into line with the proposed salary package.

**MOTION 10799 continued**

5. That the council instructs Mr. Fitz Gerald to place the advertisement in the West Australian and the Australian Local Government Job Directory for two consecutive weeks in the weeks of Saturday 6 and Saturday 13 June 2009.
6. Authorise Mr Fitz Gerald to conduct a preliminary assessment of all applications received and to short list applicants in consultation with the CEO Selection Committee.
7. Authorise the CEO Selection Committee and Mr Fitz Gerald to conduct the final short listing of applicants for interview by full council on a date to be advised in July 2009.
8. Instructs Mr Fitz Gerald to prepare draft questions to be used at the interview.
9. Authorise the Shire President to co-ordinate the interviews in consultation with Mr Fitz Gerald.
10. Invite the full Council to participate in the interview process and the final selection of a new CEO.

**MOTION CARRIED 9/0**

**17.0 SCHEDULING OF MEETING**

**17.1 JUNE 2009 ORDINARY MEETING**

**Motion 10720 December 2008 states:**

An Ordinary Meeting of Council will be held on Wednesday 24 June 2009, commencing at 1:00pm at Council Chambers, Bishop St Lake Grace.

**18.0 CONFIDENTIAL BUSINESS – As per Local Government Act s.5.23 (2)**

*No items of Confidential Business.*

**19.0 CLOSURE**

There being no further business, the Chairperson closed the meeting at 8.48pm.

**20.0 CERTIFICATION**

I Andrew James Walker certify that the minutes of the meeting held on the 27 May 2009 as shown were confirmed as a true record at the meeting held on the 24 June 2009.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date