

Shire of Lake Grace



# ***Minutes***

Ordinary Council Meeting

23 December 2009

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## **SHIRE OF LAKE GRACE**

Minutes of the Ordinary Meeting of Council held at Council Chambers, 1 Bishop St, Lake Grace on Wednesday 23 December 2009.

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

The Chairperson (Shire President) opened the meeting at 1.07 pm, welcomed all visitors present and advised that Mr Gary Batt, Architect for the Newdegate Medical Centre was in attendance in relation to Item 13.2 – Tender 3/2009, Construction of the Newdegate Medical Centre Project.

### **2.0 ATTENDANCE RECORD**

#### **2.1 PRESENT**

Cr AJ Walker	Shire President
Cr IG Chamberlain	Deputy Shire President
Cr R Chappell	
Cr JF De Landgraftt	
Cr AJ Dunkeld	
Cr AI Milton	
Cr WA Newman	
Cr OP Farrelly	
Cr DP Sinclair	
Mr SK Fletcher	Chief Executive Officer
Mr MW Burbridge	Manager Corporate Services
Mrs NY Owen	Manager Community Services
Mrs J Bennett	Executive Assistant
Mr Maurice Walsh	Environmental Health Officer
Ms Michelle Slarke	Development Officer
Mr Gary Batt	Architect, Newdegate Medical Centre Project
Mrs Debby Clarke	Observer
Mrs Mary Naisbitt	Observer
Mrs Helen Bennett	Observer
Mrs Roz Lloyd	Observer
Mrs Helen McDonald	Observer
Mrs Phyllis McCracken	Observer
Ms Alison Spencer	Observer
Mrs Suzanne Reeves	Observer
Mr Marcus Owen	Observer
Mr Ross Bowron	Observer

#### **2.2 APOLOGIES**

None.

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

None.

### **3.0 PUBLIC QUESTION TIME**

#### **3.1 MRS DEBBY CLARKE**

Previous to the meeting, Council received the following written question regarding the proposed Newdegate Medical Centre from Mrs Debby Clarke:

*Question*

*Should the New Medical Centre proceed in the current form (option A), what other plans that the Shire has as identified in the “Plan for the Future” will be delayed or prevented from happening at all, (such as land development for release, new housing), also how will this affect the day to day running of the Shire such as maintenance on roads and buildings?*

*The question is based on budgeting \$500,000 for the Medical Centre and relying on grants which I believe have been unsuccessful.*

**Reply – Shire President**

***The issue is one of fiscal responsibility i.e. the Shire’s willingness to borrow or take out loans. Option A will put the loan debt ratio at 5%. The maximum is 10%. However, this is due to the fact the Shire has significant reserves and grant funding.***

***The type of borrowings undertaken include loans for land development and construction of buildings***

***Council, in future, may be reluctant to undertake more borrowings as the debt ratio approaches 10%.***

***At this point in time the Shire has \$1.5M in reserve which gives our ratio a good mark, if there was only \$500,000 in reserve the loan debt ratio would be significantly increased.***

***The Chief Executive Officer commented that once the loan debt ratio reaches 6½ - 7½% the Shire’s flexibility to fund future loans will be taken away and Council will need to re-evaluate projects.***

*Question*

*Mrs Clarke then asked the question – Basically are you saying that if the Newdegate Medical Centre Project goes ahead in its current form will it put other projects at risk?*

**Reply**

***The Chief Executive Officer advised he was unable to give a definitive answer, next year Council will be undertaking future planning for the next ten years including a five year financial forecast.***

#### **3.2 MRS HELEN McDONALD**

*Question*

*Why can’t the Shire go to the original plan for the Newdegate Medical Centre which was planned, an architect employed by Council and approved by the general public?*

*We understand some grants are no longer going to be available at this stage but surely a loan for the residue required is a course of action. We would appreciate the Shire's efforts for this long awaited project and hope you will as a Shire put every effort towards this.*

**Reply**

**Shire President replied that Council has not yet made its decision in regard to the original plan, the Officer's Recommendation indicates the project should be put on hold for re-evaluation. The project was put out to tender and tenders have come in with the lowest tender being \$200,000 plus higher than the original budget. This means financially it will be a huge impost on ratepayers.**

**The original plan is still there, however expected grant funding is not available and Royalties for Regions direct grants have been deferred and the Royalties for Regions regional fund monies are uncertain at this time.**

**The Chief Executive Officer advised that a letter from the Minister has been received advising that the Royalties for Regions funding has been put on hold and Shire's will be informed of the amended funding arrangements in 2010.**

*Mrs McDonald then commented that the project will escalate in price as time goes by, it will not become any cheaper and the tender process costs money – every effort should be made to continue with the current plan.*

**Reply**

**The President responded that with regard to the Shire's debt ratio it is not a simple thing to say we'll just do it – Council will consider the matter today, the project is not in jeopardy.**

**3.3 MR ROSS BOWRON**

*Question*

*Has a comparative costing been done between a built on site structure versus a pre built structure (transportable)?*

**Reply**

**The President advised that Council has not gone down that path to any great extent and today's decision will determine the path. The tender has come in well above the allocated budget for the project.**

**4.0 APPLICATIONS FOR LEAVE OF ABSENCE**

None

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

### **5.1 ORDINARY MEETING – 25 NOVEMBER 2009**

#### Resolution

#### **MOTION 10925**

Moved Cr Newman  
Seconded Cr Chappell

That the minutes of the Ordinary Meeting of Council held on the 25 November 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**

### **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**

None.

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

The following Notices of Motion which have been received will be considered as part of Item 13.2 – Tender 3/2009 Construction of the Newdegate Medical Centre.

### **8.1 CRS CHAMBERLAIN & NEWMAN**

#### Notice of Motion

1. That the Shire of Lake Grace proceed as soon as possible and accept the tender from Cimeco Pty Ltd subject to normal checks to construct the Medical Centre at Newdegate as per tender specifications.
2. That the Lake Grace Shire raise a loan to facilitate any short fall in the funding required to complete the project.
3. That the Shire President and Chief Executive Officer execute the contract document for Cimeco Pty Ltd and apply the Common Seal.

Supporting Information

1. Base interest rates are forecast to increase from the current 3.75% to 5% in December 2010.
2. Current indicated loan rate for 10 years is 6.25%, average CPI over the last 10 years is 3.8%, based on this calculation the true cost of finance is 2.4% per year above CPI.
3. The Gorgon Gas and affiliated gas projects, Federal Government schools projects are all forecast to increase construction costs considerably and consequently the availability of construction workers will be at a premium in the near future.
4. The built environment of this project will meet the necessary outcomes for the Newdegate Three Stage Rejuvenation Project. All headworks costs for the three stages of the project should not be costed against the medical centre alone but should be included to save future costs of the overall project.
5. This project will meet community expectations for an urgently needed facility that is long overdue, complies with the strategic plan and has fulfilled all the necessary procedures, i.e. community consultation, planning approval, conforming tender process.

**8.2 CRS MILTON & FARRELLY**Notice of Motion

That Council direct the CEO to continue with the process of developing the plans for the Newdegate Medical Centre including the investigation and fully costing suitable building methods for the floor plan of option A, in keeping with Local Planning Scheme No 4 and the general amenity of the area. This report is to be presented at the 24<sup>th</sup> February 2010 Ordinary Council Meeting.

Supporting Information

1. That Council is united in its desire to provide a medical facility for the community of Newdegate and surrounding areas.
2. Council believes that it is appropriate for there to be further investigation of suitable construction types.

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

None

**10.0 MEMBERS' REPORTS****10.1 CR DE LANDGRAFFT**

Attended the Lake King Primary School Annual Concert - presented the Shire Award to Thomas Pinney.

**10.2 CR DUNKELD**

Attended the Newdegate Primary School Annual Concert – presented the Shire Award to Isaac Ness

**10.3 CR CHAMBERLAIN**

Reported attendance at the December Newdegate Community Development Association Meeting.

**10.4**      **CR MILTON**

Reported attendance at the December Development Association Meeting and the Annual Electors Meeting.

**10.5**      **CR WALKER**

Attended the Lake Grace District High School Awards Presentation Evening and presented the Shire Dux Award to Chrystal King as well as presenting other awards on behalf of Minister Waldron who was unable to attend.

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

*No items for consideration.*

## 12.0 MATTERS FOR CONSIDERATION – PLANNING

### 12.1 PLANNING APPLICATION – LP GAS BOTTLE EXCHANGE FACILITY, BUILDING EQUIPMENT HIRE & BUILDING SUPPLIES SALES ON LOT 14 MALEY ST, NEWDEGATE

#### MOTION 10926

Moved Cr Newman  
Seconded Cr Chamberlain

That Item 12.1 be tabled until the Chief Executive Officer has investigated with the Department of Lands the official status of Lot 15 Maley St Newdegate

#### **REASON**

***Cr Newman expressed concern over the re-vegetating of Lot 15 Maley St in that it is residential land and could be built on in the future when the LP Gas Bottle Facility has been re-located to the industrial area.***

***Refer page 621 for consideration of Item 12.1***

<b>Applicant:</b>	Newdegate Hire Pty Ltd (Mr Len Armstrong)
<b>File No.</b>	0455
<b>Attachments:</b>	Plans 1 to 4
<b>Author:</b>	Mr Joe Douglas & Mr Steve Pandevski Urban & Rural Perspectives
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	15 December 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

#### Summary

This report recommends that Council grants retrospective, conditional approval of the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd for an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate in accordance with orders received from the State Administrative Tribunal (SAT) dated 20 November 2009 and 26 November 2009 in relation to DR Matter 335 of 2009.

During SAT mediation procedures Newdegate Hire Pty Ltd has agreed to submit a new planning application with the Shire of Lake Grace to enable Council, in accordance with the aforementioned SAT orders, to impose an additional condition and advice notes limiting the validity of the approval period until 3 June 2012.

### Background

At its Ordinary Meeting held on 27 May 2009 Council approved a planning application from Newdegate Hire Pty Ltd for the establishment of an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate subject to ten (10) conditions.

A nearby landowner (Ms Nancy Rintoul), aggrieved by Council's decision, wrote to the Minister for Planning requesting an investigation into Council's decision to approve the application. Pursuant to section 211 of the Planning and Development Act 2005 the Minister for Planning referred the matter to the SAT for investigation and preparation of a report and recommendation on the matter.

In considering the matter to-date, the Tribunal has held two (2) directions hearings and two (2) mediation sessions with the relevant parties. Following the mediation sessions (particularly the on-site mediation session attended by the Shire President and Chief Executive Officer on 6 November 2009) the Tribunal, with agreement from the parties, prepared an order with the aim of resolving the matter.

On 20 November 2009 the SAT ordered, and on 26 November 2009 affirmed, that:

*“1. The respondent Council assist the second respondent, Newdegate Hire Pty Ltd, to prepare and lodge a new development application ('DA') for Lot 14 (No 25) Maley Street, Newdegate to include a further condition (condition XI) generally as follows:*

#### **Condition XI**

*This amended approval is valid for thirty-six (36) months from 3 June 2009. Following expiry of this period, the development shall not be continued unless a further planning approval is granted by the Shire.*

#### **Advice Note**

1. *With regard to condition No XI and in determining whether or not to grant a further planning approval, should an application be made, the Shire will consider (inter alia):*

- (a) The availability of suitably zoned land within or in proximity to the Newdegate townsite capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility currently approved on Lot 14 (No.25) Maley Street, Newdegate;*
- b) The performance of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate over the thirty-six (36) month period of the approval and its compliance with the conditions of the approval; and*
- c) If suitably zoned land within or in proximity to the Newdegate townsite is available and capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility the Shire will not grant any further planning approval for the development on Lot 14 (No.25) Maley Street, Newdegate beyond a period considered reasonable by the Shire to enable relocation of the development; or*

d) *If the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate is operated in a way that fails to substantially comply with the conditions of the planning approval over the thirty-six (36) month period of the approval the Shire will not grant a further approval for the development on that land.*

2. *Having regard to Advice Note 1 and condition No XI, should the Shire grant a further planning approval, that planning approval shall be limited in time to a period not exceeding twenty-four (24) months.*

2. *The respondent Council is to consider and determine this matter at its meeting of **23 December 2009**.*

3. *Upon determination of the 'DA', the second respondent (Newdegate Hire Pty Ltd) is to advise the Tribunal and all parties within 7 days in writing that it:*

*(a) accepts the decision and conditions of the DA*

*(b) agrees to surrender the current application approval.*

4. *The respondent Council is to prepare and send a letter to the Tribunal and the applicant (Nancy Rintoul) by **23 December 2009** that it will initiate the landscaping of Lot 15 Maley Street, Newdegate (Reserve No 19016), as per a previous Council resolution, with native plants of suitable type, size and planting density to provide a substantial buffer to the activities on Lot 14 (No 25) Maley Street, Newdegate for the residential property of the applicant to the West Lot 16 (No 29) Maley Street, Newdegate.*

*The respondent is to proceed with these activities of site preparation and planting as appropriate in the 2010 season and to keep the parties advised of their actions.*

5. *The matter is set down for further mediation at 10 am on 14 January 2010 by telephone by prior arrangement with the Tribunal.*

6. *The respondent Council is encouraged to waive application fees for the DA."*

#### Comment

In accordance with the abovementioned SAT order, Newdegate Hire Pty Ltd has submitted a new planning application to the Shire seeking Council's issuance of a new planning approval for the LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate (see Plans 1 to 4 – Submitted Development Plans).

Given that Council has previously approved the same application and that this application has come about as a result of a SAT order, it is the reporting officers' view that there is no need for the matter to again be advertised for public comment. It is considered appropriate for Council to simply approve the application subject to the same conditions as those previously imposed on the original application **with the addition of the condition and advice notes stipulated by the SAT order.**

Once the matter is approved by Council and the additional condition is imposed the SAT order requires the following further actions to be undertaken:

- i) Newdegate Hire Pty Ltd is to confirm in writing that it accepts the additional condition and that it agrees to surrender the planning approval granted by Council dated 27 May 2009.
- ii) The Shire is to prepare a letter and send it to the nearby landowner aggrieved by Council's original decision and the SAT confirming that it will appropriately landscape adjoining Reserve 19016 in accordance with a previous (circa 1999) Council resolution.

*(Note: The Chief Executive Officer has already prepared this correspondence and has arranged for it to be sent to the relevant parties).*

- iii) The Shire is to proceed with the landscaping of Reserve 19016 as appropriate in the 2010 season and keep the parties advised of its actions.

Once a fresh approval is granted (with the additional condition) and actions i) and ii) above are satisfied, the parties will present back to the SAT. If all parties are satisfied with the solution it is open to the SAT to report back to the Minister for Planning advising that:

- the matter is resolved;
- the nearby landowner is no longer aggrieved by Council's decision; and
- no further action be undertaken.

### **Conclusion**

Having regard for the outcomes from the recent mediation process and SAT order, it is concluded that the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd for re-approval of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate should be approved subject to the same conditions as those imposed by Council at its meeting on 27 May 2009 **with the addition of the condition and advice notes stipulated by the SAT order.**

### Legal Implications

- Planning and Development Act 2005
- State Administrative Tribunal Act 2004
- Shire of Lake Grace Local Planning Scheme No.4

### Policy Implications

Nil

### Consultation

Community consultation not required. Council has previously determined that the use is consistent with the objectives of the subject land's current 'Residential' zoning classification under the Shire of Lake Grace Local Planning Scheme No.4 and is therefore permitted.

Financial Implications

It is estimated that the cost of responding to the SAT matter and committing to the actions ordered by the SAT will cost Council approximately \$25,000.00. It is understood that sufficient funds are available in Council's 2009/2010 budget to cover these costs.

Strategic Implications

Nil

Recommendation

That Council:

1. **APPROVE** the application for retrospective planning re-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 and advice notes:

**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 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.
- xi) This amended approval is valid for thirty-six (36) months from 3 June 2009. Following expiry of this period, the development shall not be continued unless a further planning approval is granted by the Shire.

### **Advice Notes**

1. With regard to condition xi) and in determining whether or not to grant a further planning approval, should an application be made, the Shire will consider (inter alia):

(a) The availability of suitably zoned land within or in proximity to the Newdegate townsite capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility currently approved on Lot 14 (No.25) Maley Street, Newdegate;

b) The performance of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate over the thirty-six (36) month period of the approval and its compliance with the conditions of the approval; and

c) If suitably zoned land within or in proximity to the Newdegate townsite is available and capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility the Shire will not grant any further planning approval for the development on Lot 14 (No.25) Maley Street, Newdegate beyond a period considered reasonable by the Shire to enable relocation of the development; or

d) If the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate is operated in a way that fails to substantially comply with the conditions of the planning approval over the thirty-six (36) month period of the approval the Shire will not grant a further approval for the development on that land.

2. Having regard to advice note 1 and condition xi), should the Shire grant a further planning approval, that planning approval shall be limited in time to a period not exceeding twenty-four (24) months.

3. Delegate to the Chief Executive Officer (or his nominee) the right of carriage and conduct, on behalf of Council, in the State Administrative Tribunal matter DR 335 of 2009 (Rintoul v Shire of Lake Grace).

<b>13.0 MATTERS FOR CONSIDERATION – HEALTH &amp; BUILDING</b>
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**13.1 NEWDEGATE RUBBISH TIP – OPENING HOURS & SANITARY WASTE DISPOSAL RATE**

<b>Applicant:</b>	Environmental Health Officer
<b>File No.</b>	0366
<b>Attachments:</b>	Nil
<b>Author:</b>	Mr Maurice Walsh Environmental Health Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	14 December 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

Summary

This report recommends the introduction of a sanitary waste disposal rate and opening hours for the new Whurr Road rubbish tip in Newdegate.

Background

The current Newdegate rubbish tip was due to close on 7<sup>th</sup> December 2009 due to the expiration of the operating licence issued by the Department of Environment and Conservation. The Department of Environment and Conservation's decision not to renew the annual licence for the existing landfill site was based upon environmental issues namely the close proximity to Burkett Lake and also due to the fact that the life of the site had reached its end.

As a result of the above Council engaged a consultant to prepare an application to the Department of Environment and Conservation for approval to construct a new rubbish tip/landfill site to replace the current Newdegate rubbish tip. The new rubbish tip site selected for the Newdegate community is located on Location 116 Whurr Road Newdegate.

The Department of Environment and Conservation (DEC) issued a Works Approval to construct the new site in October 2009. However, due to time constraints to construct the new site in time to coincide with the closure of the current site the DEC decided to extend the current licence of the existing site until the 7<sup>th</sup> March 2010. It is expected that the construction of the Whurr Road site will be constructed on time to coincide with the closure of the current Newdegate rubbish tip.

The following comments were previously provided to Council for consideration in October-November 2008:

*“The Shire of Lake Grace has been very proactive over the last 5 years in the pursuit of endeavouring to improve waste management services. Despite this there have been ongoing issues that continue to hinder this process. Some of these issues include limited staff resources to carry out the required works, increasing costs of compliance and general landfill site maintenance and dealing with the proper disposal of specific waste items such as tyres, i.e. the estimated cost of disposing of the*

*tyre stockpile at the Lake Grace rubbish tip alone is in the vicinity \$12,000. The main reason why this issue is such a problem is the fact that none of the Shires 4 landfill sites are able to be manned due to management costs.*

*Staff believe that one of the ways that the Shire's landfill sites could be better managed in the future would be to have more control over the disposal of waste at the landfill sites, i.e. stockpiles of tyres and waste oil containers. Council has recently been fined \$1,000 by the Department of Environment and Conservation for improper waste oil containment at the Shire's landfill sites. Currently the Shire's 4 landfill sites are open to the public 24 hours a day 7 days a week".*

*"It is therefore recommended that Council take the first step in improving waste management practices within the Shire of Lake Grace by introducing a reduction in the opening hours of the 4 landfill sites. It is believed that this step will allow staff to be able to manage the landfill sites much better and reduce operating costs. It is suggested that initially as a trial and as the Lake Grace rubbish tip is already largely fenced off to the public. That the opening hours of the Lake Grace rubbish tip be reduced first. It is suggested that the Lake Grace rubbish tip be open on Tuesdays, Thursdays and Saturdays only from 9.00 am to 5.00 pm commencing on 1<sup>st</sup> March 2009. The initiative would need to be advertised over the next few months both in the local press and at the Lake Grace rubbish tip including comment of Council's intention to review the opening hours of the facility within a year".*

The reason for reiterating the above comments is because the Works Approval to construct the new Whurr Road site contains a condition which requires the entrance gates to the premises to be closed when the site is unattended.

Staff from the DEC have advised that the same standard condition for any new and upgraded landfill sites in Western Australia, will be in the new annual licence to operate the new Whurr Road rubbish tip site. This in effect means that the new Whurr Road site will have to be manned when the site is open to the public. A breach of any condition in the licence could incur a fine of up to \$125,000.

The above clearly raises an important issue concerning to the level of service that Council can provide to the Newdegate community in regard to the opening hours of the new Whurr Road rubbish tip due to the costs involved in manning the site whilst it is open to the public. The author believes that the Whurr Road site cannot be open 7 days a week and would only need to be open two days a week for a number of set hours i.e. 9.00 am to 4.00 pm.

### **How to Fund Waste Management Practices in the Future**

The following comments were previously provided to Council for consideration in May-June 2006:

*"Council has received reports from the Department of Environment on audits of the Shire of Lake Grace's 4 rubbish tips that were carried out on 14 February 2006. The Department of Environment has advised the Shire of Lake Grace that although several breaches of the legislation were noted at the time of the audits, no infringements will be issued.*

*However, the Department of Environment has further advised that the annual licence to operate the Newdegate rubbish tip will not be renewed and compliance with the Environmental (Country Landfill) Regulations 2002 regarding all the Shire's rubbish tips is required by August 2006. The works required to be undertaken both in the short and long term incur costs that need to be funded by Council. To date the only specific rates that are levied by Council to cover the costs of providing waste management services in the Shire are those imposed on premises within the 4 townsites that are provided with a weekly rubbish pick up collection service. However, the issues mentioned above are not related to this service they are related to the way that rubbish is disposed of at the Shire's rubbish tips and how the rubbish tips are managed. The Health Act provides Council with a mechanism to raise specific rates to cover the cost of providing waste management services to the community".*

*"The Department of Environment has previously audited the Lake Grace, Newdegate and Lake King rubbish tips in mid 2004. The Shire's rubbish tips were inspected again by staff from the Department of Environment on 14 February 2006. In the first instance Council was requested to improve waste management practices within the Shire of Lake Grace. As a result of the most recent audit when several breaches of the Environmental (Country Landfill) Regulations were noted Council has been directed by the Department of Environment to comply with the provisions of the Environment (Country Landfill) Regulations by improving the standard of waste management practices in regard to the way in which the Shire's 4 rubbish tips are operated. Council has been further advised that any further breaches of the legislation may well result in infringements of \$5,000 per breach being issued on Council. The Department of Environment has also advised Council that it will not be renewing the licence to operate the Newdegate rubbish tip when it expires in March 2007. This matter poses further important issues that will need to be considered by Council in regard to the future direction of waste management operations within the Shire of Lake Grace".*

*"The information provided above reinforces previous advice to Council that the Department of Environment is currently going through an enforcement and prosecution policy review which may result in infringements of up to \$5,000 being issued on local authorities in the future that are found to be in breach of the Environment (Country Landfill) Regulations 2002. Furthermore, as from August 2006 Council is required to submit an endorsed Annual Statement of Compliance for each rubbish tip in the Shire of Lake Grace. See copy of Form P7 attached for Councils perusal and information. False statements can incur a maximum penalty of \$50,000. The author reminds Council that it is estimated that the cost to clean up and remove accumulated tyres, waste oil products, chemical containers and empty fuel drums from all rubbish tips in the Shire of Lake Grace is currently in excess of \$25,000. All of the issues are related to the fact that Council does not have any control of what is dumped at any of the rubbish tips in the Shire because the sites are not manned".*

The author believes that the costs involved in manning the Whurr Road rubbish tip annually will be in the vicinity of \$30,000, rehabilitation of the old site will in the vicinity of \$100,000 and the cost of removal of used tyres at all 4 rubbish tips in the Shire is probably now in excess of \$40,000. All of these costs need to be funded somehow in the future. The fairest way to do this is to impose a sanitary waste disposal rate on all improved properties in the Shire of Lake Grace because every property generates rubbish in some way or form, not just the properties that have a weekly and fortnightly pickup service. Any property receiving a waste pickup service would naturally still incur an additional waste collection rate. To implement such a rate charge is fairly straightforward.

All local governments in Western Australia are legally required by the provisions of the Health Act of Western Australia of 1911 (as amended) to provide services to the community for the collection and disposal of rubbish. In return Councils have the power to impose rates to recover the costs for providing such services.

#### Legal Implications

Environmental Protection Act 1986 (as amended).  
Environmental (Country Landfill) Regulations 2002.  
Health Act 1911 (as amended).  
Contaminated Sites Act 2003.  
Local Government Act 1995.

Section 41 of the *Health Act* states:

“Every local authority may from time to time, as occasion may require, make and levy as aforesaid and cause to be collected an annual rate for the purpose of providing for the proper performance of all or any of the services mentioned in section 112, and the maintenance of any sewerage works constructed by the local authority Under Part VI.

Such annual rate shall not exceed-

- (a) 12 cents in the dollar on the gross rental value; or
- (b) where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple”.

Section 112 (1) (g) of the Health Act states:

“A local authority may, and when the Executive Director, Public Health so requires, shall undertake or contract for the efficient execution of the following works within its district, or any specified part of its district - the providing of suitable places, buildings and appliances for the deposit or destruction of refuse and rubbish”.

Introducing the sanitary rate does not require amendments to be made to the Shire of Lake Grace’s Local Health Laws.

#### Policy Implications

N/A

#### Financial Implications

To be determined during the 2010/2011 budget deliberations.

#### Strategic Implications

*Shire of Lake Grace Strategic Plan*

5. Infrastructure (other than Roads)

5.4 – Strive for excellence in the management of environmental and natural resource infrastructure programs, waste management, water management, parks and reserves and salinity.

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10927**

Moved Cr Farrelly  
Seconded Cr Milton

That Council:

1. Refer the matter of introducing a sanitary waste disposal rate for inclusion in the next budget deliberations as per the provisions of Sections 41 and 112 of the Health Act on all improved properties within the Shire of Lake Grace to cover the costs incurred in providing and managing waste disposal sites (rubbish tips) within the Shire that have been designated for the disposal of rubbish.
2. Endorse the Chief Executive Officer to seek comments from Newdegate residents regarding their preferred opening hours of the new Whurr Road rubbish tip in Newdegate.

**MOTION CARRIED 9/0**

**13.2 TENDER 3/2009 – CONSTRUCTION OF NEWDEGATE MEDICAL CENTRE**

*Mr Gary Batt, Architect for the Newdegate Medical Centre Project was invited to make a short presentation on the background to the location of the Medical Centre in the centre of the Newdegate Townsite.*

*President thanked Gary for travelling from Perth and his presentation. Good overview of the history of the project.*

2.00pm *Mrs Owen left the meeting and returned at 2.02pm.*

2.05pm *Mr Walsh left the meeting.*

2.05pm *Mr Batt & Mr Fletcher left the meeting & and returned at 2.07 pm.*

*Notices of Motion as advised at 8.1 were considered during deliberations.*

<b>Applicant:</b>	Chief Executive Officer
<b>File No.</b>	0534
<b>Attachments:</b>	Plan – Proposed Medical Centre Newdegate Plan – Koorda Health Centre Newdegate Medical Centre Construction Options Whole of Life Costs – Newdegate Medical Centre
<b>Author:</b>	Mr Sean Fletcher Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	15 December 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

**Summary**

The purpose of this report is to provide Council with the outcomes of the tender opening and evaluation for Tender 3/2009 regarding the construction of the Newdegate Medical Centre. The tenders received highlight that there is a significant funding shortfall regarding the project in question.

The report discusses the history of the project, notes the impact of the funding shortfall and considers a number of options explored to date including a phased approach over two financial years so that the project can still proceed. However, the uncertainty of key funding sources now means that Council may very well need to defer the project until such times as there is some certainty regarding how the project will be funded. Mr Gary Batt the architect for this project will also be attending the meeting.

**Background**

At the Council meeting on 28 October 2009, the author submitted a report outlining the history of the Newdegate Medical Centre development and a recommendation to go out to tender for construction and fit-out of this facility.

In summary, Council resolved on 25 March 2009 (Motion 10767) to use \$250,000 from the Country Local Government Fund (Royalties for Regions) for the Medical Centre. Accordingly, an application was also submitted to the National Rural and Remote Health Infrastructure Program during April 2009 seeking \$301 500 (GST Exclusive).

This meant that the project would then be funded as follows:

NRRHIP:	\$301 500
Newdegate Field Day:	\$125 000
Shire:	\$ 54 598
Royalties for Regions:	<u>\$250 000</u>
<b>Total</b>	<b>\$731 098</b>

Budget deliberations showed advice from the Manager Corporate Services that \$500 000 including a Shire Loan of \$125 000 was allocated in the first instance and that the NRRHIP funding be taken into account once successful. Unfortunately, the Shire was unsuccessful in its bid for the NRRHIP funding. The budget component is currently made up of:

Country Local Government Fund (CLGF1):	\$250 000
Newdegate Field Day:	\$125 000
Shire Loan:	<u>\$125 000</u>
	\$500 000

As a result Council discussed the need to test the marketplace and subsequently resolved to go out to tender (Resolution 10887).

The Shire President then asked for a workshop to be held so that further information could be reviewed and discussions held to assist Council with its understanding regarding this project. The workshop was held on 14 December 2009 where a number of issues were addressed at the information session including:

- The Shire's ability to afford the construction of the project;
- The aesthetics of the project and how this fits in with the Local Planning Scheme and architectural design including the original concept plans drawn up by the architect as a result of consultation with the Newdegate Community;
- Construction type e.g. stand alone versus being part of another facility;
- The need to act fiscally responsible i.e. not only being able to afford the project but making sure the ongoing costs can be met and ensuring that other shire projects are not impacted.

Tenders have now been received and a number of options explored regarding the Shire's ability to fund the construction of the Newdegate Medical Facility.

#### Comment

#### **Tender Process**

The Shire's architect Gary Batt called for tenders on 4 November 2009 with a closure date of 7 December 2009. In response to the request to tender, four were received thus ensuring that there was a competitive basis for awarding a contract for works. The details of the tenders received in order of eligibility based on price weighting criteria only are as follows:

**Table One: Tender Evaluation Newdegate Medical Centre**

Company	Price (GST Exclusive)	Other Weighting Applied	Met Specifications
Cimeco Pty Ltd	\$774 685	N/A	Yes
Briklay Builders	\$974 961	N/A	Yes
R & L Constructions	\$997 359	N/A	Yes
Orixon Pty Ltd	\$1 055 363	N/A	Yes

However, the project has other costs in addition to the construction costs. These are \$164,295 (GST Exclusive) and consist of the following:

Water Corp Head Works	\$4 700 (allowance)
Western Power Head Works	\$70 725 (down from \$103,000)
Consultant Fees	\$68 870
Fit out and Furniture	<u>\$20 000 (allowance)</u>
	\$164 295

In essence, this means that the project based on the lowest tender would be in the order of \$938 980. The project based on the highest tender would cost in the order of \$1 219 658. The average (market cost) would be \$1 114 887.

Based on price weighting only, Cimeco Pty Ltd has provided the lowest tender. This builder was asked to verify his figures because of the marked difference with the other tenders supplied. Cimeco has responded that this tender is correct. The architect has also identified that Cimeco is suitably qualified to carry out the work in question regarding the construction of the Newdegate Medical Facility.

Unfortunately, what the tenders indicate is that for a similar project completed in Perth or a major regional centre at a cost of \$650 000 to \$700 000, would more than likely cost in the order of at least \$938 980 in Newdegate. The Shire budgeted \$500 000 for this project for 2009/10 with a budget adjustment applicable should NRRHIP funding be successful. As advised previously, the Shire was unsuccessful re NRRHIP funding and thus the funds available for completing the project for 2009/10 are \$500 000, leaving a funding shortfall of at least \$438 980. This clearly cannot be funded this financial year.

An analysis of how the funding shortfall can be addressed is provided in attachment two. A range of options are shown including constructing the project as is, phasing the project over two financial years through to increasing the utilisation of the Town Hall.

Elected Members at the Workshop on 14 December 2009 indicated that best value for money appeared to be a stand alone building phased over two financial years based on Option 3A – Solid Built Construction (Original Design – Attachment One) at a construction cost of \$938,979 and Option 3B – Transportable (Shire of Koorda Model – Attachment Two) at a construction cost of \$625,296. In essence, this would involve headworks and some other associated costs funded by CLGF1 component this financial year. The balance of the project can then be funded in 2010/11 using the CLGF2 and the Lakes VROC CLGF Regional component. However as only \$150 000 is required for the headworks, then \$100 000 of the CLGF1 component would need reallocation. The Department of Local Government has been advised of this potential change.

However, as mentioned at the workshop the author has received further disturbing news regarding the future of the Country Local Government Fund. The prospect of phasing the Newdegate Medical Centre project looks doubtful as the future of the Country Local Government Fund is up in the air. The CLGF2 Guidelines have yet to be issued as they are still waiting on ministerial

approval. In conjunction with this a statement has been issued by the Royalties for Regions Program that the Lakes VROC CLGF Regional component is dependent on the successful completion of the CLGF1 funding for each of the member local governments. The concern is growing and WALGA is seeking further clarification.

Some local government consultants are indicating that CLGF2 will not eventuate and that the funding will be redirected into the reform process. WALGA is also concerned re the future of this program.

### **Value for Money**

When considering options 3A or 3B at the end of the day as per the *Local Government Act 1995*, the *Local Government (Functions and General) Regulations 1996* and the Shire's Purchasing Policy 3.7 require that: "full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money".

Value for money is not the lowest price but is defined as an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Local Government.

This includes taking into account:

- User requirements;
- Quality standards;
- Sustainability;
- Life cycle costing (i.e. whole of life cost or asset management); and
- Service benchmarks.

### User Requirements

Under the Shire's Planning Scheme, there is a requirement to do development that has a regard for the surroundings. In other words, this is about ensuring that any development is in keeping with the built environment. The main requirement in this situation is that any facility constructed looks decent and attractive. It can also be made from a wide range of materials.

As such, the Newdegate Rejuvenation Committee in line with a survey issued to the respective users and in consultation with the architect identified that there was a need to develop a medical facility that was in keeping with the amenity or built environment of Newdegate. This included the need to look at continuing the lines of the main street from the hotel through to the town hall and how this can be an attractive townscape for Newdegate and thus generate not only interest from passers by but reinforce the statement about the future of Newdegate. Being a public building and on the main street it also needs to appear more robust.

Option 3A addresses the Newdegate Rejuvenation Concept requirement. Option 3B does not. The architect considers that more masonry in 3A will not only be in context but will provide more status and community pride. The architect has advised that Option 3B does not address the externalities of the concept plan and would be difficult to achieve a similar look with a transportable solution. However, in terms of a similar interior and floor plan this is possible to achieve. The Shire's Planner has also advised that Option 3B is a modern and innovative design that would definitely make a statement that the Newdegate

Community is moving forward. The architect does agree that 3B is innovative but questions whether this can be seen as moving forward.

Quality Standards

The Shire’s Building Surveyor has advised that there is no difference in the quality of the two options presented. In other words both building types would comfortably meet a 30 year life cycle.

Option 3A is a solid built construction that is of very high quality. The architect says 3A is better than 3B because it is built from the ground up. Although the site is classified as Class M Soil Type – Mildly Reactive Clay the architect has advised that the footings have been designed to ensure that cracking will be avoided. Significant site works would also need to be done. The architect also contends that less external maintenance is required although repainting of the externals will be required after ten years or so.

Option 3B is also of a very high quality. Although this a fibro cement structure with steel frame and colourbond/zincalume exterior, the structure is flexible in nature and less prone to cracking. The internal walls can now be villa board construction as opposed to gyprock which means they are almost impervious to damage. It is also far easier to service i.e. keep clean and maintained and have other works done to it e.g. additional plumbing or electrical works. The architect has commented that all of the walls will need to be repainted over time. Also, at the end of the day it can be relocated if need be.

Sustainability

Are both types sustainable? In other words, what are the environmental, social and financial considerations?

A summary is provided as follows:

**Table Two: - Sustainability Considerations (See Attachment Four)**

Option	Environmental	Social	Financial
A	Built environment is met  Is environmentally friendly	Will meet the primary health care needs of the community  Would also satisfy social capital needs of the community i.e. increased community interaction because community renewal is happening also provide more status and pride.	<b>\$100 000 Loan (10 yrs):</b> <ul style="list-style-type: none"> <li>• \$58 716 pa</li> <li>• 0.74% rate increase</li> </ul> Probably within acceptable rate increase limits  <b>\$250 000 Loan (10 yrs)::</b> <ul style="list-style-type: none"> <li>• \$83 306 pa</li> <li>• 1.97% rate increase</li> </ul> Starts to have a material impact on all the communities
B	Built environment is met  Perhaps has the edge in terms of having less impacts on the environment re cooling and heating costs.	Will meet the primary health care needs of the community  Would also satisfy social capital needs of the community i.e. increased community interaction because community renewal is happening	<b>\$100 000 Loan (10 yrs):</b> <ul style="list-style-type: none"> <li>• \$47 567</li> <li>• 0.18% rate increase</li> </ul> Within acceptable rate increase limits  <b>\$250 000 Loan (10 yrs):</b> <ul style="list-style-type: none"> <li>• \$72 157 pa</li> <li>• 1.41% rate increase</li> </ul> Starts to have a material impact on all the communities

Under the financial component in Table Two, the impact of the loan is based on a ten year repayment program. For instance the total repayment for \$250,000 over a ten year period is \$341,570 or \$35,000pa. Although the annual repayment for a loan over 15 years or 20 years respectively will be less, the cost of the total repayments will be more. For 15 years, this is a total of \$400,626 or \$26,633pa. For a 20 year period this will be a total repayment of \$464,861 or \$23,165pa.

#### Life Cycle Costing (See Attachment Four)

In terms of the whole of life cost, based on current dollars the following is evident:

- Option A is costed at \$31 299 per annum. Option B is costed at \$20 843 per annum. This is a difference of \$10 456 per annum;
- Operating costs are put at \$11,567 and \$10,874 respectively.

#### Service Benchmarks (See Attachment Four)

Both facilities will provide the same level of service benchmarks. The current medical facilities and services in Newdegate are used as follows:

Medical Consultations:	24 per week
Home & Community Care:	14 per week
Southern Ag Care:	3 per week
Allied Services:	3 per week

The benchmark for medical consultations is 32 - 40 per day. At 24 per week taking into account travel time to reach Newdegate and so on, the Doctor is achieving that benchmark. In terms of overall use, the 44 visits (or uses) per week equate to 2 288 visits per annum. This in turn reflects that the current cost of providing medical services in Newdegate is \$3.90 per visit or \$8 924 per annum.

The cost of providing this service in terms of the building only is then:

- Option A servicing a \$100,000 loan: \$25.66 per visit;
- Option A servicing a \$250 000 loan: \$36.41 per visit;
- Option B servicing a \$100 000 loan: \$20.79 per visit;
- Option B servicing a \$250 000 loan: \$31.54 per visit.

What the above shows is that there will be a marked increase in the level of cost (or use) per visit.

There is no data to suggest that the level of service will increase. However, there is a need to ensure that current numbers do not decline. Also with the Ravensthorpe Nickel Project now in the process of changing hands and coming on line will mean that there could be increased service levels required as a result of increase numbers living in the Medical Centre's catchment area.

#### **Conclusion**

There are a number of issues to be considered regarding the Newdegate Medical Centre Project based on a risk management approach:

#### Level of Tenders

The level of tenders and other costs required to build the Newdegate Medical Centre means it cannot be constructed this financial year. However, there is

the potential to phase the project over two financial years providing the Country Local Government Fund 2 happens. This means that there may be the opportunity regarding Option 3A to negotiate with the lowest tender to begin works in March/April 2010 with a view to finish in September/October 2010.

However, this scenario is unworkable while the sources of funding are up in the air.

A retender may be required which will certainly mean an escalation in the costs of the project and a further challenge regarding how it is funded.

#### Construction Cost

Option 3B shows initial savings are in the order of \$313 683. This is the equivalent of a reasonable sized project for the Shire of Lake Grace e.g. construction of a house or significant road work or other infrastructure project.

#### Value for Money

The least financial impact on the Shire of Lake Grace would appear to be Option B. However, should Council select Option B as a viable way forward then it would be prudent to undertake further consultation with the community regarding the Medical Centre project.

#### Country Local Government Fund Round 1

If the phased approach goes ahead for either option, it will mean that \$100 000 from the \$250 000 CLGF1 allocation will need to be redirected. Possible re-allocations could be as follows:

Varley Hall:	\$30 000
Day Care Centre:	\$30 000
Newdegate Tip:	<u>\$40 000</u>
	\$100 000

As discussed previously in this report, the CLGF Round 2 funding and Lakes VROC regional funding may be under threat. The ongoing lack of guidelines is of extreme concern.

#### Impact of Funding Sources

It may be prudent to put the Newdegate Medical Centre Project on hold until the new Country Local Government Fund guidelines are known. A further decision can then be made once the funding sources have been shored up. However, this may at some point mean reallocating the \$250 000 CLGF1 in its entirety.

#### Legal Implications

*Local Government Act 1995 – s3.57 Tenders for Providing Goods and Services  
Local Government (Functions and General) Regulations 1996 – Tender Regulations – Division 2 Tenders for Providing Goods or Services*

#### Policy Implications

Price Preference Policy 3.4 – Not applicable

#### Consultation

##### **External**

Gary Batt, Architect

Joe Douglas, Shire Planner  
Darryle Baxter, Shire Building Surveyor  
Graeme McDonald, Chief Executive Officer Shire of Koorda  
Bruce Wittber, BHW Consulting  
Helen Westcott, BHW Consulting  
Fiona Colbeck, Department of Local Government (Royalties for Regions)  
Jo Burgess, WALGA

**Internal**

Senior Management Team  
Shire President  
Council Information Session and Workshop 14 December 2009

Financial Implications

As stated throughout the report.

Strategic Implications

*Shire of Lake Grace Strategic Plan*

**Goal 2** Social and Community Well Being

**Action 2.1.2** Newdegate Medical Centre – NRP Stage One – Priority 1

Voting Requirements

Simple majority required.

Officer Recommendation

That Council:

1. Defer the Newdegate Medical Centre project.
2. Proceed with the Newdegate Medical Centre project once it makes a decision regarding how the project will be funded.

Resolution

**MOTION**

Moved Cr  
Seconded Cr

That Council:

1. Defer the Newdegate Medical Centre project.
2. Proceed with the Newdegate Medical Centre project once it makes a decision regarding how the project will be funded.

**RECOMENDATION LAPSED DUE TO LACK OF MOVER OR SECONDED**

**MOTION 10928**

Moved Cr Newman  
Seconded Cr Dunkeld

1. That the Shire of Lake Grace proceed as soon as possible and accept the tender from Cimeco Pty Ltd subject to normal checks to construct the Medical Centre at Newdegate as per tender specifications.
2. That the Lake Grace Shire raise a loan to facilitate any short fall in the funding required to complete the project.
3. That the Shire President and Chief Executive Officer execute the contract document for Cimeco Pty Ltd and apply the Common Seal.

**MOTION CARRIED BY ABSOLUTE MAJORITY 5/4**

*Voting for for the motion – Crs Chamberlain, Newman, Sinclair, De Landgraftt and Dunkeld*

*Voting against the motion – Crs Walker, Milton, Farrelly and Chappell*

*Notice of Motion as at 8.2 – Crs Farrelly & Milton - 'That Council direct the CEO to continue with the process of developing the plans for the Newdegate Medical Centre including the investigation and fully costing suitable building methods for the floor plan of option A, in keeping with Local Planning Scheme No 4 and the general amenity of the area. This report is to be presented at the 24<sup>th</sup> February 2010 Ordinary Council Meeting.' – was not considered as it was no longer relevant with the previous resolution being carried.*

2.45pm Cr Chamberlain, Mr Gary Batt, Ms Michelle Slarke, Mrs Debby Clarke, Mrs Mary Naisbitt, Mrs Helen Bennett, Mrs Roz Lloyd, Mrs Helen McDonald, Mrs Phyllis McCracken, Ms Alison Spencer, Mrs Suzanne Reeves, Mr Marcus Owen and Mr Ross Bowron left the meeting.

2.46pm Mr Fletcher left the meeting and returned at 2.49pm.

2.50pm Cr Chamberlain re-entered the meeting.

## 14.0 MATTERS FOR CONSIDERATION – FINANCE

### 14.1 ACCOUNTS FOR PAYMENT – OCTOBER 2009

<b>Applicant:</b>	Shire of Lake Grace
<b>File No.</b>	0277
<b>Attachments:</b>	List of payments
<b>Author:</b>	Miss Jessica de Burgh Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	8 December 2009
<b>Senior Officer:</b>	Mr Mark Burbridge Manager Corporate Services

#### Summary

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

#### Background

List of payments for the month of November 2009 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

N/A

#### Consultation

N/A

#### Financial Implications

The list of creditors paid for the month of November 2009 from the Municipal Account totals \$593,621.77. The list of creditors paid for the month of November 2009 from the Trust Account totals \$968.00.

#### Strategic Implications

### **7. Organisational Excellence**

7.1 Develop systems compliant with various statutes, regulations and policies.

Voting Requirements  
Simple majority required.

Recommendation/Resolution

**MOTION 10929**

Moved Cr Milton  
Seconded Cr De Landgraft

That Trust Account Cheques 574 to 577, totalling \$968.00, and Municipal Account Cheques 33785 to 33811, Electronic Funds Transfers EFT5826 to EFT5872, and direct debits to the Municipal Account totalling \$593,621.77, 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.

**MOTION CARRIED 9/0**

## 14.2 FINANCIAL STATEMENTS – NOVEMBER 2009

**Applicant:** Shire of Lake Grace  
**File No.** 0275  
**Attachments:** Financial Reports  
**Author:** Mrs Danielle Robertson  
Senior Finance Officer  
**Disclosure of Interest:** Nil  
**Date of Report:** 15 December 2009  
**Senior Officer:** Mr Mark Burbridge  
Manager Corporate Services

### Summary

Consideration of the financial statements for the month ending 30 November 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

*Shire of Lake Grace Strategic Plan*

**Goal 7:** Organisational Excellence

**Strategy 7.1:** Develop systems to ensure compliance with various statutes, regulations and policies.

### Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10930**

Moved Cr De Landgraft  
Seconded Cr Sinclair

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

**MOTION CARRIED 9/0**

<b>15.0 MATTERS FOR CONSIDERATION – ADMINISTRATION</b>
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**15.1 CENTRAL COUNTRY ZONE (WALGA)**

<b>Applicant:</b>	Central Country Zone
<b>File No.</b>	0030
<b>Attachments:</b>	Email Steve Martin Election 2010 Forms WALGA State Council Minutes/Agendas available at the Shire Office
<b>Author:</b>	Mr Sean Fletcher Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	30 November 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

Summary

The purpose of this report is for Council to consider issues raised through the Central Country Zone.

Background

The Shire of Lake Grace is a member of the Central Country Zone. The purpose of the Zone is to provide feedback to WALGA (Local Government's peak body in Western Australia) and other stakeholders on key issues faced by Local Government. Members of WALGA State Council are also selected from each of the Zones.

Members of the group include:

- Beverly;
- Brookton;
- Corrigin;
- Cuballing;
- Dumbleyung;
- Kulin;
- Lake Grace;
- Narrogin Shire;
- Narrogin Town;
- Pingelly;
- Quairading;
- Wagin;
- Wandering;
- West Arthur;
- Wickepin; and
- Williams.

Under the List of Committees, the Shire of Lake Grace Zone representatives are the Shire President and Deputy Shire President. The CEO also attends these meetings and has voting rights in the absence of one or both representatives.

The Zone also considers matters before State Council and a copy of the agenda/minutes of these meetings is available at the Shire Office should you wish to review them at any time.

The Executive Officer is Bruce Wittber of BHW Consulting and can be contacted on 9313 5761 should you have further queries regarding matters under discussion by the Zone.

Comment

The author participated in the teleconference held on Thursday 26 November 2009 @ 10:00am.

There were no major issues other than to note that WALGA's state budget submission includes:

- \$40M per annum for the next ten years re the grain freight task;
- \$60M for local government reform. This is for the establishment of 15 new local governments (reduction of 45 down to 15);
- Endorsement of the State – Local Government Partnership Agreement:
  - Two meetings a year with the Premier, Treasurer, Ministers for Planning, Transport and Local Government;
- Development of a new State/Local Government Library Framework Agreement
- The Wheatbelt health planning initiative was also discussed.

Nominations have now been called to sit on both the Zone Executive and WALGA State Council. The representatives to the State Council must come from the Shire Zone delegates (i.e. Shire President and Deputy President). Should you wish to nominate, please complete the attached nomination form which must be countersigned by the author.

Minutes of the 26 November Teleconference meeting and the December 2009 State Council meeting are also available at the Shire Office.

**Next Meeting**

The next meeting of the Central Country Zone is:

- |                 |                                |
|-----------------|--------------------------------|
| Teleconference: | 28 January 2010 (CEO's Office) |
| In Person:      | 26 February 2010 (Pingelly)    |

Legal Implications

Nil

Policy Implications

Nil

Consultation

Bruce Wittber – Executive Officer Central Country Zone

Financial Implications

Nil

Strategic Implications

Nil

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10931**

Moved Cr Farrelly  
Seconded Cr Chappell

That Council receive the Chief Executive Officer's report regarding the Central Country Zone.

**MOTION CARRIED 9/0**

**15.2 LAKES VOLUNTARY REGIONAL ORGANISATION OF COUNCILS**

<b>Applicant:</b>	Lakes Voluntary Regional Organisation of Councils
<b>File No.</b>	0031
<b>Attachments:</b>	Nil
<b>Author:</b>	Mr Sean Fletcher Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	11 December 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

**Summary**

The purpose of this report is to keep Council abreast of matters regarding the Lakes Voluntary Regional Organisation of Councils (Lakes VROC) that consists of the Shires of Lake Grace, Dumbleyung and Kent.

**Background**

Council, at its Ordinary Meeting held on Wednesday 22 July 2009 as per resolution 10 841 resolved as follows:

*That Council sign a Certificate of Agreement to enter into a Memorandum of Understanding with the Shires of Dumbleyung and Kent with the intent of developing an alliance that responds proactively to the changing environment whilst maintaining individuals identities.*

Accordingly, the former CEO wrote to the Shire of Dumbleyung on 23 July 2009 advising Council's resolution to enter into a memorandum of understanding which was signed on 19 August 2009.

At this point the Shire of Dumbleyung has proposed as part of its reform submission that a formal ROC would be in place by October 2011. The Lakes VROC will receive the Country Local Government Fund (Royalties for Regions) regional component for 2009/10 starting at \$690 000 and rising to \$980 000 in 2010/11.

Key projects proposed to date based on upgrading key systems are:

- Asset management;
- Development of long term plans and financial reporting;
- Sharing of administration resources;
- Records management;
- Assisting other members of the group in road works; and
- Having similar IT arrangements being in place.

**Comment**

The CEOs from Lake Grace and Dumbleyung, the Deputy CEO from Dumbleyung and the Manager Works from Dumbleyung met on 11 December 2009 in Lake Grace to discuss the initial parameters and projects

for the VROC. The discussions concluded that the following matters need consideration as VROC projects and initiatives:

1. Establishment of a regional planning scheme

This would set the basis for a generic approach to planning across the region. In other words local planning schemes will have the same look and feel but will still be individually tailored to each district.

2. Synchronised engineering infrastructure programs

This is about synchronising works programs including roads, parks and gardens and other engineering infrastructure programs. This would include the respective Managers of Works to identify:

- Synergies from synchronised road programs e.g. possible savings from bitumen and aggregate purchased in bulk;
- Training savings by putting in place regional based training programs;
- Relevance of the outcomes to and from the Sub Regional Road Group Technical Group.

3. Review of the financial and record keeping systems

The following financial management and record keeping issues require resolution with a view to achieving best practice:

- Implementation of Key Words for Councils at the Shire of Dumbleyung. Lake Grace already has this in place and is in the process of evaluating the relevance of a suitable electronic record keeping system i.e. make better use of the existing system or upgrade this. Dumbleyung will be sending staff over in January 2010 to look at the best way of implementing the above;
- The respective managers to look at the accounting processes and whether these can be synchronised;
- Synchronising of the respective payroll systems including timesheets;
- Establishing better banking practices. Lake Grace has direct access to the major banks, Dumbleyung does not (it must use agencies);
- Reviewing relevant policies.

4. Joint plant and equipment purchases

Identifying the plant that the respective shires have and whether joint purchases or a refined plant replacement program can provide savings and other synergies including use of each other's equipment.

5. Review rubbish and waste management

Look further at the benefits of the waste management group and our respective rubbish collection and recycling programs.

6. Management of recreation ground surfaces

This is about ensuring that our various ovals and other playing surfaces are treated in a way that ensures savings and better practice e.g. regular aeration of the turf.

7. Pursue effective asset management

What do we do once the WAAMI (asset management of buildings and other facilities) process is completed and Romans II (road asset management) is due for implementation?

On the matter of the Country Local Government Fund Regional component that is due to be paid to the Lakes VROC once the respective CLGF1 funding has been spent in each shire, the following was discussed:

- Implementation of a housing project across the region;
- Implementation of aged housing across the region;
- Ensuring medical facilities are of a reasonable standard across the region; and
- Ensuring that the funding is spent equitably within each shire.

It is planned as per the MOU that the Lakes VROC meets every two months and the executive meets in between months.

As mentioned above, each shire must now spend all of its round one funding under the Country Local Government Fund (Royalties for Regions) before the regional component will be paid to the Lakes VROC.

Legal Implications

Nil

Policy Implications

Nil

Consultation

**External**

CEO Dumbleyung  
CEO Kent  
Shire President Dumbleyung

**Internal**

Manager Corporate Services  
Shire President  
Elected Member Updates

Financial Implications

Nil

Strategic Implications

**Shire of Lake Grace Strategic Plan - Item 6 Leadership**

6.1 Develop and implement through collaboration with other local state and federal government agencies resource sharing and regional service delivery.

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10932**

Moved Cr De Landgraft  
Seconded Cr Newman

That Council receive the Chief Executive Officer's report on the latest developments regarding the Lakes VROC.

**MOTION CARRIED 9/0**

### 15.3 **LOCAL GOVERNMENT REFORM UPDATE**

<b>Applicant:</b>	Local Government Reform Update
<b>File No.</b>	0552
<b>Attachments:</b>	Letter from Minister for Local Government Circular 08 – 2009 WALGA Media Release
<b>Author:</b>	Mr Sean Fletcher Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	30 November 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

#### Summary

The purpose of this report is to keep Council abreast of matters regarding Local Government Reform.

#### Background

##### **January 2009**

The then CEO and Cr De Landgraff in response to WALGA's SSS report met with representatives from the Shires of Ravensthorpe, Kent and Jerramungup in Ravensthorpe to discuss resource sharing and the possible formation of a VROC.

##### **February 2009**

The Minister for Local Government, the Hon John Castrilli MLA, announced at a combined Zone Meeting held on 5 February 2009 in Exmouth the need for Local Government Reform. Guidelines were issued including the need to undertake a Sustainability Checklist, consultation with neighbours, community consultation, prepare a report regarding the impacts of reform on the Shire and resolutions on the reform process regarding regional councils, elected member numbers and whether it will undergo an amalgamation.

##### **April 2009**

The Shire of Jerramungup wrote to Council requesting consideration of a proposal to join with them in the preparation of a report into amalgamation. Council, at its Ordinary Meeting held on Wednesday 22 April 2009 as per resolution 10 780 resolved as follows:

*That Council continues to liaise with the Shires of Kent and Dumbleyung for the possible formation of a Voluntary Regional Organisation of Councils.*

The former CEO subsequently submitted the Reform Checklist for Lake Grace.

**May 2009**

The former CEO submitted an application to the Department of Local Government seeking funding of \$10 000 towards the development of a reform submission. Mr Tony Cooke was nominated as the consultant to undertake the report.

**June 2009**

Round One community consultations were subsequently conducted on 4 June 2009 with community members invited to meet Mr Cooke. Under the outcome of the Checklist Assessment, the Shire received a rating of Category Three.

**July 2009**

Round Two community consultations were undertaken on 27 and 28 July including consideration of no change (Status Quo), community member ideas; boundary realignments (Pingaring/Varley/Pingrup) and amalgamations (Shires of Kent and Dumbleyung plus boundary change for Pingaring and Varley).

The former CEO wrote to the Shire of Dumbleyung on 23 July 2009 advising of Council's resolution to enter into a memorandum of understanding which was subsequently signed on 19 August 2009.

The various Department of Local Government workshops held through WA emphasised the need for population centres of 5 000 and 10 000 to address the future funding requirements set by the Federal Government.

**August 2009**

At Local Government Week, Ministers Grylls, Castrilli and the Premier made it very clear that the "Status Quo" was not an option. The Premier spoke about there being a need to reduce the number of local governments in WA to well under 100 within the next five years. He also made comment that there were 37 local governments servicing districts of populations of 1 000 or less and another 45 of less than 2 000.

Minister Castrilli advised that submissions could be extended until 30 September 2009. The author subsequently wrote to the Department of Local Government seeking the extension of time.

The Shire as required advised the Department of Local Government by 1 September 2009 that the Lakes VROC was its preferred grouping to receive the Country Local Government Fund (Royalties for Regions) regional component. For 2009/10 this will be \$690 000 rising to \$980 000 in 2010/11.

**September 2009**

At the Ordinary Council Meeting on 23 September 2009, Council resolved in part the following (Resolution 10879):

1. To advise the Minister for Local Government of its willingness for the Shire of Lake Grace to partially amalgamate in cooperation with other local governments on the basis of community of interest including social fall.

**Preferred Option**

2. To advise the Minister that, as its preferred option, the pursuit of partial amalgamation in cooperation with other local governments on the basis of community of interest including social fall would encapsulate a boundary adjustment as follows:
  - a. Expansion of the Shire of Lake Grace to the north of the existing shire boundary that includes annexing the portion of the Shire of Kulin bounded by the Lake Grace - Karlgarin Road and the Kulin - Holt Rock Road and includes the locality of Pingaring.
  - b. Expansion of the Shire of Lake Grace to the west of the existing shire boundary that includes annexing the portion of the existing Shire of Dumbleyung lying eastward of Rabbit Proof Fence Road and would incorporate the existing locality of Kukerin.
  - c. Expansion of the Shire of Lake Grace to the south of the existing shire boundary that includes annexing the portion of the existing Shire of Kent:
    - i. East of Rabbit Proof Fence Road;
    - ii. Then east of a line due south of the intersection of Chester Pass Road and the Nyabing – Pingrup Road extending to the existing southern boundary of the Shire of Kent; and
    - iii. Would incorporate the locality of Pingrup.
  - d. This entails reductions of approximately 50% of the area of the existing Shire of Kulin; about 50% of the Shire of Dumbleyung; and, 50% of the Shire of Kent. It represents about a 50% increase in the size of the Shire of Lake Grace. A name change to the expanded Shire would be required.

The Shire President called a special meeting for 29 September 2009 to further discuss the merits of Council's resolution 10879 in light of information provided at the Central Country Zone meeting at Wagin on 25 September 2009. A rescission motion was put was unsuccessful due to not reaching an absolute majority. In the interim the report by Hon Max Trenorden MLC on his fact finding mission to Queensland and South Australia was distributed to all elected members.

The submission was subsequently sent via email to the Department of Local Government on 30 September 2009. An electronic acknowledgment was received the following day.

**October 2009**

The Shire President, Cr Farrelly, Cr Milton, the CEO and the Executive Assistant met with WALGA President Cr Bill Mitchell and WALGA Deputy CEO Wayne Scheggia on 1 October 2009. Cr Mitchell also commented that the reform process was an opportune time to discuss a new type of service delivery model as the focal point for reform. This would entail positioning the new local government as a full on service provider regarding health, education, policing and so on.

Copies of the Shire's submission were then sent to the Shire of Kulin, the Shire of Dumbleyung and the Shire of Kent on 5 October 2009. The response to date has seen the Shire's of Dumbleyung and Kent reject the Shire of Lake Grace Reform submission. The Shire of Kulin wrote to the Pingaring community regarding the Lake Grace proposal. Consequently, the Shire President received a verbal invitation to attend the Pingaring community meeting on 27 October 2009. The President advised Council at the information session on 27 October 2009 that he declined to attend the Pingaring meeting.

At its meeting on 28 October 2009, Council resolved through motion 10896 to form a think tank to explore the Shire of Lake Grace as a key service centre for a State Government service.

### **November 2009**

Council resolved the following (Motion 10918):

1. Receive the Chief Executive Officer's report regarding the update on the Local Government Reform process.
2. Respond to the letters from the Shires of Dumbleyung, Kent and Kulin by acknowledging their respective concerns.
3. Advise the Shire of Kulin that the Shire of Lake Grace will not be changing its submission and that this matter is now for the consideration of the Local Government Advisory Board.

### Comment

#### **Meeting with CEO Shire of Katanning**

The author met with Dean Taylor the Shire of Katanning CEO on 27 November 2009 to discuss issues of mutual interest regarding the reform process. In particular, Mr Taylor and the author discussed each others reform submissions and how the respective submissions came about. In the Shire of Katanning's case, Mr Taylor showed the author the map that was used and how the corresponding methodology of using a 50km, 75km and 100km radius was applied. He also explained the level of consultation that was undertaken and the difficulty experienced when engaging Katanning's neighbours regarding the reform process and how to address the ongoing use of its various facilities by these communities e.g. recreation centre, medical services and so on.

Mr Taylor then went on to explain that the Shire of Katanning has signed an MOU with the City of Albany in terms of regional cooperation and mutual support. This body will receive the regional component of the Country Local Government Fund. Katanning is looking to do the same with the Town of Narrogin and will also approach the Shire of Lake Grace. The author said he was more than happy to look at such an arrangement and analyse the implications for the Shire of Lake Grace.

### **Establishment of Regional Transition Groups**

As advised in the Elected Member Update 13, the Hon Minister for Local Government has thanked both the author and the Shire of Lake Grace for the significant and commendable effort made in contributing to the State Government's reform process.

In short the Minister has determined that the optimal (best) reform option for the Shire of Lake Grace is to engage with neighbouring local governments to form a Regional Transition Group (RTG). The aim of the RTG is to provide a framework for the transition of the Shire and its neighbours into one shire by 2013.

Although the Shire has received recognition for its proactive stance it would appear that the boundary adjustment proposal and the report to the Local Government Advisory Board are secondary considerations.

The Department of Local Government will contact the author shortly (Friday 18 December 2010) to advise who the other local governments will be in the RTG before setting up a process to make this happen.

In the meantime, a number of CEOs have called for a meeting of local governments in Perth on Monday 21 December 2009 to respond to the issue of RTGs. A minimum of 30 local governments are required under WALGA's constitution to call such a meeting and bring through an issue that WALGA must then act on. The perception is that WALGA has gone missing on this issue and thus a number of local governments are advocating as per the Shire of Yalgoo:

- that a letter be sent to the Minister advising that WALGA no longer speaks for Yalgoo on this matter. A number are now wary of WALGA re-interpreting to suit themselves;
- requesting the Minister to advise what statutory authority he has for this direction, and a legal opinion confirming that this is the case,
- advising that unless the Minister has statutory authority, we will not be participating in the farce any longer (acknowledging that he does have statutory power to require information);
- c.c. to WALGA and various parliamentarians. WALGA, in relation to the SSS Report, has mistaken weariness for willingness, and it is now being used against us, instead of for us.

The author believes attending Monday's meeting is pointless at this time unless a clear outcome is identified i.e. undertaking serious regional cooperation versus amalgamations. The main purpose of the meeting has been listed as holding the Minister accountable, transparent and maintaining integrity to an agreed process of local government reform. Also, as the author has pointed out previously, there is no point targeting WALGA on this issue. WALGA does not support RTGs.

As the author has indicated previously there are a number of different views re what the Minister can and can't do:

1. Legal opinion that he can ignore the Poll provisions in the Act and undertake a reform process;

2. He can't undertake reform unless he changes legislation.

The author believes that the loophole the Minister will exploit in this process is acting on the advice that he receives back from the Local Government Advisory Board and thus bypass some of the other requirements of the Act. The author has corresponded with Neil Douglas from McCleods Barristers and Solicitors seeking an opinion regarding this matter.

The matter now comes down to whether Council is comfortable with the RTG process. Given that the Shire of Lake Grace has advocated a positive approach to reform, perhaps it is prudent to wait until we know who our new partners will be?

Legal Implications

Nil

Policy Implications

Nil

Consultation

**External**

- Mr Dean Taylor, CEO of Katanning;
- Mr Graeme McDonald, CEO Shire of Koorda;
- Mr Don Burnett, CEO City of Kalgoorlie - Boulder
- Mr Henry Van der Ende, CEO of Dumbleyung;
- Mr Alan Wright, CEO of Kent;
- Mr Greg Hadlow, CEO of Kulin;
- Mr Tony Cooke, Reform Consultant;
- Mr Bruce Wittber, Executive Officer Central Country Zone;
- Cr Bill Mitchell and Mr Wayne Scheggia WALGA;
- Ms Pip Shields Senior Regional Officer Wheatbelt Development Commission.

**Internal**

- Manager Corporate Services;
- Executive Assistant;
- Senior Management Team Information Session 28 October 2009.

Financial Implications

Nil

Strategic Implications

*Shire of Lake Grace Strategic Plan*

**Goal 3 Financial Sustainability**

3.2.6 Investigate sources of funding that could support resource sharing.

**Goal 6 Leadership**

6.1 Develop and implement through collaboration with other local state and federal government agencies resource sharing and regional service delivery.

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10933**

Moved Cr Chappell  
Seconded Cr Farrelly

That Council consider the next step of the Reform Process once we know the outcomes of the Regional Transition Groups.

**MOTION CARRIED 9/0**

**15.4      2010 AUSTRALIA DAY AWARDS - CITIZENSHIP**

**Applicant:** Community Nominations  
**File No.** 0435  
**Attachments:** Nominations  
**Author:** Mrs Jeanette Bennett  
Executive Assistant  
**Disclosure of Interest:** Nil  
**Date of Report:** 15 December 2009  
**Senior Officer:** Mr Sean Fletcher  
Chief Executive Officer

Summary

For Council to consider and determine the 2010 Premier's Australia Day Active Citizenship Awards recipients for Citizens of the Year and Community Group / Events of the Year.

Background

Each year for each of the Shire's five communities, two local citizens and one local community group are eligible for the Premier's Active Australia Day Active Citizenship Awards.

These annual awards encourage and reward the spirit of active citizenship with recipients selected from people and groups who have made a noteworthy contribution during the current year, or given outstanding service to the local community over a number of years through active involvement.

Awards are presented for each community in two age categories as well as a community group or event.

During October and November, nominations were invited from each community for the following categories:

- Premier's Australia Day Active Citizenship Award for a person of 25 years or older
- Premier's Australia Day Active Citizenship Award for a person under 25 years
- Premier's Australia Day Active Citizenship Award for a community group or event

In recent years Awards recipients have been kept confidential with winners announced at the various community Australia Day Breakfast celebrations. Often the recipients are not present at the official events so this year it was agreed by Council not to keep the recipients confidential so they have prior knowledge of the Award and the opportunity to participate in the official presentation ceremony on Australia Day.

Comment

Closing date for nominations was 11 December 2009. The following nominations have been received:

**Lake Grace Citizen of the Year**

1. Amanda Trevenen nominated by the Lake Grace FESA Cadets.

**Lake Grace Community Event of the Year**

1. Art2Wear 2009 hosted by the Lake Grace Artists Group and nominated by the Lake Grace Development Association.
2. 2009 Harmony Day celebrations hosted and nominated by the Lake Grace Development Association.

Legal Implications

N/A

Policy Implications

N/A

Consultation

External: Advertisements were placed in all five local community newsletters throughout October and November. Nominations forms were sent to all Progress/Development Associations and were also available at the Shire Office and online from the Australia Day website.

Financial Implications

2009/10 Budget: An allowance for award certificates and framing is included in Account E0421170 – Council’s Other Expenses.

Strategic Implications

Recognition through the awards fosters both community pride and spirit.

Recommendation

That 2010 Premier’s Australia Day Active Citizenship Awards be awarded to the following:

Citizen of the Year for persons over 25 years:

for Lake Grace

Community Event of the Year:

\_\_\_\_\_ for Lake Grace

Voting Requirements

Simple majority required.

Resolution

**MOTION 10934**

Moved Cr Chappell  
Seconded Cr Milton

That 2010 Premier's Australia Day Active Citizenship Awards be awarded to the following:

**Lake Grace Citizen of the Year for persons over 25 years:**

Amanda Trevenen

**Lake Grace Community Event of the Year:**

Art2Wear

**MOTION CARRIED 9/0**

**15.5 LAKE GRACE GYM CLUB – MEMORANDUM OF UNDERSTANDING REVIEW**

**Applicant:** Lake Grace Gymnastics Club Committee  
**File No.** 0025  
**Attachments:** Nil  
**Author:** Mr Sean Fletcher  
Chief Executive Officer  
**Disclosure of Interest:** Nil  
**Date of Report:** 2 December 2009  
**Senior Officer:** Mr Sean Fletcher  
Chief Executive Officer

Summary

This report recommends the letter from the Lake Grace Gymnastics Club be received.

Background

The Lake Grace Gymnastics Club wrote a letter of complaint when it was requested by the Shire to pack up its equipment located at the Lake Grace Town Hall to make way for the official launch of the Lake Grace branch of Rabobank on 21 September 2009. Although Rabobank subsequently changed the date of its function, the Gym Club still felt aggrieved or ignored regarding a lack of consideration for its circumstances and requested that a meeting was held to review the MOU between the Shire and the Gym Club.

Mrs Wendy O'Neill and Mrs Genni Curtin made a presentation at its meeting on 26 August 2009. Council subsequently under motion 10862 made the following resolution:

*That Council acknowledges the letter received from the Lake Grace Gymnastics Club and requests staff to review the MOU.*

The motion was contrary to the previous CEO's advice to receive the report as he believed that there was no need to review the agreement.

As such the agreement sets out the terms and conditions of use including that the Gym Club is required to pack up its equipment if requested by the Shire should it need use of the venue.

Comment

The author in conjunction with the Manager Community Services met with Wendy O'Neill on 1 December 2009 to discuss the MOU and other matters. Mrs O'Neill again explained why the Gym Club felt so aggrieved and under appreciated. She also commented that this was the first time in eight years since the inception of the agreement that there had been a problem.

Mrs O'Neill suggested that a clause should be inserted regarding the specific use or preferential hiring of the Town Hall by the Gym Club such as that used by the Shire of Dumbleyung.

The author replied the Shire appreciates the hard work that the Gym Club does and he would be disappointed should such an incident occur in future without due consideration for the Gym Club's circumstances.

The author then went on to remind Mrs O'Neill that at the end of the day, the Town Hall is a Shire facility and it is up to the Shire how this is managed. The MOU was a very simple agreement and he believed that it did not require change to accommodate how the Town Hall was currently utilised.

Mrs O'Neill agreed that no further change was required to the MOU.

Legal Implications

N/A

Policy Implications

Council Policy 2.6 – Concession, Hall Hire Fees – Not for Profit Groups/Residents

Consultation

Internal: Customer Service Officers  
Manager Corporate Services  
Manager Community Services

External: Rabobank Representatives  
Lake Grace Gymnastics Club

Financial Implications

Nil

Strategic Implications

*Shire of Lake Grace Strategic Plan*

**1. Economic Diversity**

Strategy 1.2 - Provide resources and assist with development projects.

Strategy 1.3 – Actively promote the Shire of Lake Grace as a district opportunity.

**2. Social and Community Wellbeing**

Strategy 2.1 – Retain, promote and develop health, education, recreational provision and access within the Shire.

Recommendation

That Council acknowledges the letter received from the Lake Grace Gymnastics Club and authorises the Chief Executive Officer to respond accordingly.

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10935**

Moved Cr Milton  
Seconded Cr Farrelly

That Council acknowledges the letter received from the Lake Grace Gymnastics Club and authorises the Chief Executive Officer to respond accordingly.

**MOTION CARRIED 9/0**

3.25pm Meeting adjourned for afternoon tea  
3.59pm Meeting re-convened with all those previously in attendance present.

*The President advised that during the afternoon tea break the CEO had been in contact with State Land Services – Lot 15 (No 27) Maley St is a Government Reserve with a purpose of public utility and the responsible agency is the Department for Planning and Infrastructure.*

*There is no management order attached to the land as per Council's Resolution 8575 of February 2000, which resolved that the Shire make application to the Department for Lands to change the purpose of the reserve from 'public utility' to 'community purposes'.*

## **CONSIDERATION OF ITEM 12.1 - PLANNING APPLICATION 25 MALEY ST NEWDEGATE**

<b>Applicant:</b>	Newdegate Hire Pty Ltd (Mr Len Armstrong)
<b>File No.</b>	0455
<b>Attachments:</b>	Plans 1 to 4
<b>Author:</b>	Mr Joe Douglas & Mr Steve Pandevski Urban & Rural Perspectives
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	15 December 2009
<b>Senior Officer:</b>	Mr Sean Fletcher Chief Executive Officer

### Summary

This report recommends that Council grants retrospective, conditional approval of the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd for an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate in accordance with orders received from the State Administrative Tribunal (SAT) dated 20 November 2009 and 26 November 2009 in relation to DR Matter 335 of 2009.

During SAT mediation procedures Newdegate Hire Pty Ltd has agreed to submit a new planning application with the Shire of Lake Grace to enable Council, in accordance with the aforementioned SAT orders, to impose an additional condition and advice notes limiting the validity of the approval period until 3 June 2012.

### Background

At its Ordinary Meeting held on 27 May 2009 Council approved a planning application from Newdegate Hire Pty Ltd for the establishment of an LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate subject to ten (10) conditions.

A nearby landowner (Ms Nancy Rintoul), aggrieved by Council's decision, wrote to the Minister for Planning requesting an investigation into Council's decision to approve the application. Pursuant to section 211 of the Planning and Development Act 2005 the Minister for Planning referred the matter to the SAT for investigation and preparation of a report and recommendation on the matter.

In considering the matter to-date, the Tribunal has held two (2) directions hearings and two (2) mediation sessions with the relevant parties. Following the mediation sessions (particularly the on-site mediation session attended by the Shire President and Chief Executive Officer on 6 November 2009) the Tribunal, with agreement from the parties, prepared an order with the aim of resolving the matter.

On 20 November 2009 the SAT ordered, and on 26 November 2009 affirmed, that:

*"1. The respondent Council assist the second respondent, Newdegate Hire Pty Ltd, to prepare and lodge a new development application ('DA') for Lot 14 (No 25) Maley Street, Newdegate to include a further condition (condition XI) generally as follows:*

**Condition XI**

*This amended approval is valid for thirty-six (36) months from 3 June 2009. Following expiry of this period, the development shall not be continued unless a further planning approval is granted by the Shire.*

**Advice Note**

1. *With regard to condition No XI and in determining whether or not to grant a further planning approval, should an application be made, the Shire will consider (inter alia):*

- (a) The availability of suitably zoned land within or in proximity to the Newdegate townsite capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility currently approved on Lot 14 (No.25) Maley Street, Newdegate;*
- b) The performance of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate over the thirty-six (36) month period of the approval and its compliance with the conditions of the approval; and*
- c) If suitably zoned land within or in proximity to the Newdegate townsite is available and capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility the Shire will not grant any further planning approval for the development on Lot 14 (No.25) Maley Street, Newdegate beyond a period considered reasonable by the Shire to enable relocation of the development; or*
- d) If the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate*

*is operated in a way that fails to substantially comply with the conditions of the planning approval over the thirty-six (36) month period of the approval the Shire will not grant a further approval for the development on that land.*

*2. Having regard to Advice Note 1 and condition No XI, should the Shire grant a further planning approval, that planning approval shall be limited in time to a period not exceeding twenty-four (24) months.*

*2. The respondent Council is to consider and determine this matter at its meeting of **23 December 2009**.*

*3. Upon determination of the 'DA', the second respondent (Newdegate Hire Pty Ltd) is to advise the Tribunal and all parties within 7 days in writing that it:*

*(a) accepts the decision and conditions of the DA*

*(b) agrees to surrender the current application approval.*

*4. The respondent Council is to prepare and send a letter to the Tribunal and the applicant (Nancy Rintoul) by **23 December 2009** that it will initiate the landscaping of Lot 15 Maley Street, Newdegate (Reserve No 19016), as per a previous Council resolution, with native plants of suitable type, size and planting density to provide a substantial buffer to the activities on Lot 14 (No 25) Maley Street, Newdegate for the residential property of the applicant to the West Lot 16 (No 29) Maley Street, Newdegate.*

*The respondent is to proceed with these activities of site preparation and planting as appropriate in the 2010 season and to keep the parties advised of their actions.*

*5. The matter is set down for further mediation at 10 am on 14 January 2010 by telephone by prior arrangement with the Tribunal.*

*6. The respondent Council is encouraged to waive application fees for the DA."*

#### Comment

In accordance with the abovementioned SAT order, Newdegate Hire Pty Ltd has submitted a new planning application to the Shire seeking Council's issuance of a new planning approval for the LPG Bottle Exchange Facility, Building Equipment Hire and Building Supplies Sales outlet on Lot 14 (No.25) Maley Street, Newdegate (see Plans 1 to 4 – Submitted Development Plans).

Given that Council has previously approved the same application and that this application has come about as a result of a SAT order, it is the reporting officers' view that there is no need for the matter to again be advertised for public comment. It is considered appropriate for Council to simply approve the application subject to the same conditions as those previously imposed on the original application **with the addition of the condition and advice notes stipulated by the SAT order.**

Once the matter is approved by Council and the additional condition is imposed the SAT order requires the following further actions to be undertaken:

i) Newdegate Hire Pty Ltd is to confirm in writing that it accepts the additional condition and that it agrees to surrender the planning approval granted by Council dated 27 May 2009.

ii) The Shire is to prepare a letter and send it to the nearby landowner aggrieved by Council's original decision and the SAT confirming that it will appropriately landscape adjoining Reserve 19016 in accordance with a previous (circa 1999) Council resolution.

*(Note: The Chief Executive Officer has already prepared this correspondence and has arranged for it to be sent to the relevant parties).*

iii) The Shire is to proceed with the landscaping of Reserve 19016 as appropriate in the 2010 season and keep the parties advised of its actions.

Once a fresh approval is granted (with the additional condition) and actions i) and ii) above are satisfied, the parties will present back to the SAT. If all parties are satisfied with the solution it is open to the SAT to report back to the Minister for Planning advising that:

- the matter is resolved;
- the nearby landowner is no longer aggrieved by Council's decision; and
- no further action be undertaken.

### **Conclusion**

Having regard for the outcomes from the recent mediation process and SAT order, it is concluded that the application for planning consent submitted by Mr Len Armstrong of Newdegate Hire Pty Ltd for re-approval of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility on Lot 14 (No.25) Maley Street, Newdegate should be approved subject to the same conditions as those imposed by Council at its meeting on 27 May 2009 **with the addition of the condition and advice notes stipulated by the SAT order.**

### Legal Implications

- Planning and Development Act 2005
- State Administrative Tribunal Act 2004
- Shire of Lake Grace Local Planning Scheme No.4

Policy Implications

Nil

Consultation

Community consultation not required. Council has previously determined that the use is consistent with the objectives of the subject land's current 'Residential' zoning classification under the Shire of Lake Grace Local Planning Scheme No.4 and is therefore permitted.

Financial Implications

It is estimated that the cost of responding to the SAT matter and committing to the actions ordered by the SAT will cost Council approximately \$25,000.00. It is understood that sufficient funds are available in Council's 2009/2010 budget to cover these costs.

Strategic Implications

Nil

Recommendation

That Council:

1. **APPROVE** the application for retrospective planning re-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 and advice notes:

**Conditions**

- xi) A completed building licence application must be submitted to and approved by the Shire's Building Surveyor.
- xii) 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.
- xiii) 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.
- xiv) 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.
- xv) 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.
- xvi) 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.

xvii) 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.

xviii) 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.

xix) 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.

xx) Any proposed advertising signage must be provided in accordance with the specific requirements of the Shire of Lake Grace Local Planning Scheme No.4.

xi) This amended approval is valid for thirty-six (36) months from 3 June 2009. Following expiry of this period, the development shall not be continued unless a further planning approval is granted by the Shire.

#### **Advice Notes**

1. With regard to condition xi) and in determining whether or not to grant a further planning approval, should an application be made, the Shire will consider (inter alia):

(a) The availability of suitably zoned land within or in proximity to the Newdegate townsite capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility currently approved on Lot 14 (No.25) Maley Street, Newdegate;

b) The performance of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate over the thirty-six (36) month period of the approval and its compliance with the conditions of the approval; and

c) If suitably zoned land within or in proximity to the Newdegate townsite is available and capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility the Shire will not grant any further planning approval for the development on Lot 14 (No.25) Maley Street, Newdegate beyond a period considered reasonable by the Shire to enable relocation of the development; or

d) If the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate is operated in a way that fails to substantially comply with the conditions of the planning approval over the thirty-six (36) month period of the approval the Shire will not grant a further approval for the development on that land.

2. Having regard to advice note 1 and condition xi), should the Shire grant a further planning approval, that planning approval shall be limited in time to a period not exceeding twenty-four (24) months.

3. Delegate to the Chief Executive Officer (or his nominee) the right of carriage and conduct, on behalf of Council, in the State Administrative Tribunal matter DR 335 of 2009 (Rintoul v Shire of Lake Grace).

Voting Requirements

Simple majority required.

Recommendation/Resolution

**MOTION 10936**

Moved Cr Farrelly  
Seconded Cr De Landgraft

That Council:

1. **APPROVE** the application for retrospective planning re-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 and advice notes:

**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 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.

**MOTION 10936 continued.**

- 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.
- xi) This amended approval is valid for thirty-six (36) months from 3 June 2009. Following expiry of this period, the development shall not be continued unless a further planning approval is granted by the Shire.

**Advice Notes**

1. With regard to condition xi) and in determining whether or not to grant a further planning approval, should an application be made, the Shire will consider (inter alia):
  - (a) The availability of suitably zoned land within or in proximity to the Newdegate townsite capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility currently approved on Lot 14 (No.25) Maley Street, Newdegate;
  - b) The performance of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate over the thirty-six (36) month period of the approval and its compliance with the conditions of the approval; and
  - c) If suitably zoned land within or in proximity to the Newdegate townsite is available and capable of accommodating the relocation of the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility the Shire will not grant any further planning approval for the development on Lot 14 (No.25) Maley Street, Newdegate beyond a period considered reasonable by the Shire to enable relocation of the development; or

**MOTION 10936 continued.**

d) If the LPG Bottle Exchange, Building Equipment Hire and Building Supplies Sales Facility at Lot 14 (No.25) Maley Street, Newdegate is operated in a way that fails to substantially comply with the conditions of the planning approval over the thirty-six (36) month period of the approval the Shire will not grant a further approval for the development on that land.

2. Having regard to advice note 1 and condition xi), should the Shire grant a further planning approval, that planning approval shall be limited in time to a period not exceeding twenty-four (24) months.

3. Delegate to the Chief Executive Officer (or his nominee) the right of carriage and conduct, on behalf of Council, in the State Administrative Tribunal matter DR 335 of 2009 (Rintoul v Shire of Lake Grace).

**MOTION CARRIED 8/1**

**MOTION 10937**

Moved Cr Newman  
Seconded Cr Chappell

That the Chief Executive Officer confirm that written approval was obtained from the Department of Lands for the revegetation of Lot 15 Maley St Newdegate.

**MOTION CARRIED 9/0**

**REASON**

***As this matter dates back to a Council resolution made in February 2000, Council wished to have written confirmation of the details from the Department of Lands.***

***The CEO will now write to the Manager of State Land Services requesting approval to revegetate the block. This may require the issuing of a Management Order to the Shire.***

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

None.

**17.0 SCHEDULING OF MEETING**

**17.1 FEBRUARY 2010 ORDINARY MEETING**

**Motion 10913 November 2009 states:**

An Ordinary Meeting of Council will be held on Wednesday 24 February 2010, commencing at 1:00pm at Council Chambers, 1 Bishop St Lake Grace.

**18.0 CONFIDENTIAL BUSINESS – As per Local Government Act s5.23 (2)**

**19.0 CLOSURE**

There being no further business, the Chairperson closed the meeting at 4.10 pm.

**20.0 CERTIFICATION**

I Andrew James Walker certify that the minutes of the meeting held on the 23 December 2009 as shown were confirmed as a true record at the meeting held on the 24 February 2010.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date