

# Minutes

<b>1.</b>	<b>DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS:</b> .....	<b>3</b>
<b>2.</b>	<b>RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:</b> .....	<b>3</b>
<b>3.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:</b> .....	<b>3</b>
<b>4.</b>	<b>PUBLIC QUESTION TIME:</b> .....	<b>3</b>
<b>5.</b>	<b>APPLICATIONS FOR LEAVE OF ABSENCE:</b> .....	<b>4</b>
<b>6.</b>	<b>PETITIONS/DEPUTATIONS/PRESENTATIONS:</b> .....	<b>4</b>
6.1	SMALL BUSINESS CENTRE CENTRAL COASTAL.....	4
<b>7.</b>	<b>CONFIRMATION OF MINUTES:</b> .....	<b>5</b>
7.1	ORDINARY MEETING HELD WEDNESDAY 15 MARCH 2006 IN THE GREEN HEAD COMMUNITY CENTRE, GREEN HEAD.....	5
<b>8.</b>	<b>ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION:</b> .....	<b>5</b>
<b>9.</b>	<b>MATTERS FOR WHICH MEETING MAY BE CLOSED:</b> .....	<b>5</b>
<b>10.</b>	<b>REPORTS:</b> .....	<b>7</b>
<b>10.1</b>	<b>CHIEF EXECUTIVE OFFICER'S REPORT:</b> .....	<b>7</b>
10.1.1	CEO PERFORMANCE REVIEW – CONSULTANT SELECTION .....	7
10.1.2	UPGRADE OF GERALDTON CREMETORIUM .....	13
10.1.3	BUSHCHANGE .....	15
10.1.4	BUSHFIRE PROSECUTION.....	19
10.1.5	LOT 405 PATTON STREET GREEN HEAD .....	25
<b>10.2</b>	<b>MANAGER COMMUNITY DEVELOPMENT:</b> .....	<b>27</b>
10.2.1	LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - AMENDMENT BILL 2005 - PROPOSALS TO ALLOW FOR THE RETROSPECTIVE APPROVAL OF UNAUTHORISED STRUCTURES .....	27
10.2.2	LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - QUALIFICATIONS AND APPOINTMENT OF BUILDING SURVEYORS .....	33
10.2.3	LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - OTHER PROPOSALS TO CHANGE THE ACT CURRENTLY BEFORE PARLIAMENT.....	41
10.2.4	DISCUSSION PAPER ON PROPOSED NEW BUILDING ACT .....	45
10.2.5	NEED FOR LOCAL LAWS TO COVER TRANSFER STATION AND REFUSE SITE OPERATIONS.....	63
10.2.6	ISSUES FOR WHICH A DETERMINATION IS NEEDED TO CONTROL VEHICLE USE IN THE COASTAL RESERVES.....	67
10.2.7	DEVELOPMENT/SUB-DIVISION PROPOSAL FOR LOTS 58 AND 59 THOMAS STREET, LEEMAN .....	69
10.2.8	REQUEST TO RE-ZONE LOT 41 NAIRN STREET, LEEMAN .....	79
<b>10.3</b>	<b>MANAGER WORKS AND SERVICES:</b> .....	<b>85</b>
10.3.1	TENDERS TO PURCHASE TRUCK AND FRONT END LOADER .....	85
<b>10.4</b>	<b>MANAGER FINANCE AND ADMINISTRATION</b> .....	<b>87</b>
10.4.1	MONTHLY STATEMENT OF FINANCIAL ACTIVITY – MARCH 2006 .....	87
10.4.2	PURCHASE OF LOT 11 SPAIN STREET, COOROW .....	89
10.4.3	WAIVING OF FEES AND CHARGES – MALEY PARK REFURBISHMENT COMMITTEE .....	93
10.4.4	WAIVING OF FEES AND CHARGES – BONE DENSITY VAN .....	97
10.4.5	TRANSFER APPARATUS LICENSE – REDFM SERVICE .....	99
10.4.6	LEEMAN TELECENTRE.....	101
10.4.7	LEEMAN YOUTH CLUB.....	103
10.4.8	DRAFT PLAN FOR THE FUTURE OF THE DISTRICT .....	105
10.4.9	WAIVING OF FEES AND CHARGES – LEEMAN PARENTS AND CITIZENS ASSOCIATION .....	109
10.4.10	REFINANCING OF LOANS 71 AND 78 .....	111

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<b>11.</b>	<b>QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:</b> .....	<b>115</b>
11.1	DISCUSSION PAPERS .....	115
<b>12.</b>	<b>URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION:</b> .....	<b>123</b>
12.1	LATE ITEMS – APPROVAL TO CONSIDER .....	123
12.2	COMMUNITY & ECONOMIC DEVELOPMENT OFFICER .....	125
12.3	MANAGER WORKS AND SERVICES – CONTRACT OF EMPLOYMENT .....	129
12.4	ACCOUNTS FOR PAYMENT .....	133
<b>13.</b>	<b>MATTERS BEHIND CLOSED DOORS:</b> .....	<b>135</b>
<b>14.</b>	<b>DATE OF NEXT MEETING:</b> .....	<b>135</b>
14.1	NEXT MEETING OF COUNCIL.....	135
<b>15.</b>	<b>CLOSURE:</b> .....	<b>135</b>

**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS:**

The President, Councillor Girando, welcomed those present and declared the meeting open at 3.00pm.

**2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:**

Councillor M J Girando	President
Councillor J M Stacy	Deputy President
Councillor J K Waite	
Councillor S A Beswick	
Councillor T K Pethick	
Councillor G W Eaton	
Councillor B J O'Callaghan	Entered the meeting at 3.42pm.

Mr G A Sherry	Chief Executive Officer
Mr P D Gillis	Manager Works and Services
Mr J A Randall	Manager Community Development
Mr D J Alcock	Manager Finance and Administration

**Apologies**

Councillor B J McDonald

**Visitors**

Mr Robin Broun

**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:**

Nil.

**4. PUBLIC QUESTION TIME:**

Nil.

**5. APPLICATIONS FOR LEAVE OF ABSENCE:**

Cr Beswick requested Leave Of Absence on 1 May 2006 to 16 May 2006.

**RESOLUTION: 2006-042**

**Moved:** Stacy      **Seconded:** Waite

*That Leave of Absence from Council be granted to Cr Beswick from 1 May to 16 May 2006.*

**CARRIED 8/0**

**6. PETITIONS/DEPUTATIONS/PRESENTATIONS:**

**6.1 SMALL BUSINESS CENTRE CENTRAL COASTAL**

Delegates from the Small Business Centre Central Coastal will make a presentation to Council. The Facilitator Mr Norm Skogland, Chairman Mr Richard Notley and Mr Steve Moir, SBDC Director of Business Facilitation Services will be addressing Council.

Small Business Centre Central Coastal are holding a Board Meeting in Dandaragan on Thursday 13 April 2006.

Cr Girando advised that the delegates from the Small Business Centre Central Coastal are unable to attend today and will make a presentation to a future meeting of Council.

## **7. CONFIRMATION OF MINUTES:**

### **7.1 ORDINARY MEETING HELD WEDNESDAY 15 MARCH 2006 IN THE GREEN HEAD COMMUNITY CENTRE, GREEN HEAD**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	30 March 2006

#### **COMMENT:**

Nil

#### **OFFICER RECOMMENDATION:**

That the Minutes of the Ordinary Meeting held on Wednesday 15 March 2006 in the Green Head Community Centre, Green Head, be confirmed as a true and correct record.

#### **RESOLUTION: 2006-043**

**Moved:** Stacy      **Seconded:** Beswick

*That the Minutes of the Ordinary Meeting held on Wednesday 15 March 2006 in the Green Head Community Centre, Green Head, be confirmed as a true and correct record.*

**CARRIED 6/0**

## **8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION:**

At any meeting Council the person presiding may announce or raise any matter of interest or relevance to the business of Council or propose a change to the order of business.

Members may move that a change in order of business proposed by the person presiding not be accepted and if carried the change does not take place.

## **9. MATTERS FOR WHICH MEETING MAY BE CLOSED:**

For the convenience of members of the public Council may identify, by decision, early in the meeting any matter on the agenda to be discussed behind closed doors and that matter is to be deferred for consideration as the last item of the meeting.

Items for which the meeting will be closed include:

Nil at this time.



**10. REPORTS:****10.1 CHIEF EXECUTIVE OFFICER'S REPORT:****10.1.1 CEO PERFORMANCE REVIEW – CONSULTANT SELECTION**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>ATTACHMENTS</b>	10.1.1a - Request for Proposal 10.1.1b - WALGA Work Place Solutions' CEO Performance Review Proposal
<b>FILE</b>	S7.11 Staff – Chief Executive Officer

**SUMMARY:**

**Council is to select a consultant to assist with the CEO Performance Review**

**BACKGROUND:**

Councillors would recall the following resolution of the March 2006 Ordinary Meeting of Council:

RESOLUTION:2006-020

Moved: Girando      Seconded: Stacy

That Council:

1. conduct CEO Performance Review at a date to be set inside next month; and
2. a consultant employed to assist in the process.

CARRIED 6/2

Cr Eaton requested that his vote against the motion be recorded.

Council staff were unable to complete the actions required by this resolution and, given the conflict of interest in having the CEO select the Council's reviewing person, shouldn't have done so.

Staff, in consultation with the Shire President, approached three local government contractors with varying experience in completing CEO Performance Reviews, to submit a proposal to complete the CEO Performance Review. They were:

- WALGA Workplace Solutions;
- Mr Gary Martin; and
- Mr Peter Fitzgerald.

In selecting these consultants independence was seen as a priority, with consultants with existing commercial or residential links to Council being overlooked.

WALGA's Workplace Solutions provide an industrial relations advisory service to Councils. They also provide an employment and review service specifically aimed at the employment of Chief Executive Officer's to provide Council with independent advice.

Mr Gary Martin is an experienced Chief Executive Officer and respected consultant who has assisted the Department of Local Government and Regional Development in most of the major inquiries into local government for the last decade. Mr Martin completes the CEO Performance Review for the Shire of Dardanup.

Mr Peter Fitzgerald is an experienced Chief Executive Officer who has recently returned to local government consulting after retiring from the position as CEO of the Shire of Broomehill.

Each of the three consultants were provided by e-mail a Request for Proposal. The details of that Request for Proposal is included at Attachment 10.1.1a.

**COMMENT:**

At the close of the deadline for receipt of proposals, Council had received only one submission, being from WALGA Workplace Solutions. Mr Fitzgerald declined to offer a submission because he is committed to other work in the short to medium term, however Mr Martin, whilst he advised that he intended to submit a proposal, did not.

The WALGA Workplace Solutions' proposal is included at Attachment 10.1.1b for Councillors Information. As part of their proposal, WALGA Workplace Solutions are seeking feedback from Council on the following:

1. WALGA Workplace Solutions are able to accommodate any requirement by individual Councillors to 'interview' or take their feedback by telephone should they prefer this method to filling in a questionnaire. WALGA Workplace Solutions are able to attend a meeting of all Councillors to discuss their input into a 'Feedback Summary' working document, however if this involves additional travel we would need to review our quotation for our services. I can advise that, in our experience, this method is not usually adopted by other Councils.
2. We would also be pleased to know whether the formal appraisal (ie meeting) is undertaken by Council or by a committee of Council.

**STATUTORY ENVIRONMENT:**

**Local Government Act 1995**

**5.38. Annual review of certain employees' performances**

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

**Chief Executive Officer Contract**

**4. PERFORMANCE CRITERIA AND REVIEW OF OFFICER'S PERFORMANCE**

**4.1 Adherence to Performance Outcomes and Criteria**

The Officer agrees with the Council that the Officer must, in performing the Officer's obligations under this Agreement, use every reasonable endeavour to measure up to and achieve the Performance Outcomes and Performance Criteria.

**4.2 Performance Reviews**



- (a) The Officer's performance pursuant to this Agreement must be reviewed by the Council at least annually during the Term and more frequently if the Council or the Officer perceives that there is a need to do so.
- (b) A party who desires the conduct of a performance review shall give to the other party a notice in writing ("Review Notice") that a performance review is to be conducted.

#### 4.3 Conduct of Performance Review

A performance review will be conducted on behalf of the Local Government by the Council or such person or persons to whom the Council delegates that task ("Reviewing Person").

#### 4.4 Procedure

A performance review conducted under clause 4 shall follow the following procedure:

- (a) as soon as practicable but in any event within 14 days after the giving of a Review Notice, the Officer must prepare a report assessing the Officer's own performance of the Officer's obligations under this Agreement measured against the Position Description and the Performance Criteria, and present that report to the Reviewing Person;
- (b) the Officer and the Reviewing Person will enter into discussion on the process and timing of the performance review.
- (c) the Officer will make himself available for the performance review and will participate in at least one interview session that provides for mutual discussion and feedback;
- (d) the Officer may if he wishes nominate a representative to assist him at the interview;
- (e) within one month of the conclusion of the performance review the Reviewing Person shall prepare a report, in consultation with the Officer, to be signed by both the Reviewing Person and the Officer, such report to include:
  - (i) any conclusions about the Officer's performance during the period of the performance review;
  - (ii) any proposal by either party to vary the Performance Criteria as a consequence of the performance review or set Performance Outcomes;
  - (iii) any directions or recommendation made to the Officer in relation to future performance by the Officer; and
  - (iv) details of the extent, if any, to which the Officer disagrees with any statement in the report;
- (f) that report shall then be submitted to the Council for consideration; and
- (g) if the Officer disagrees with the report or with any decision of the Council in respect of the Officer following the Council's consideration of the report, the Officer may activate clause 11 (Dispute Resolution).

#### 4.5 Alternative Performance Review Procedure

The Officer and the Council may agree to implement and follow an alternative performance review procedure, but in the absence of any such agreement the procedure in clause 4.4 shall apply.

#### **STRATEGIC & POLICY IMPLICATIONS:**

There appears to be no strategic or policy implications regarding this matter.

#### **FINANCIAL IMPLICATIONS:**

WALGA Workplace Solutions have submitted a fee of \$2,500 (GST Inclusive) for completion of their CEO Performance Review Proposal. Council does not have a specific line item included in Council's 2005/06 Budget, and should approve any out of budget expenditure by absolute majority.

The CEO's Performance Review will be a key ingredient in negotiations for the CEO's Salary and Wage Review in May 2006.

#### **PUBLIC CONSULTATION:**

None required.

#### **VOTING REQUIREMENT:**

Absolute Majority to approve out of budget expenditure.

#### **OFFICER RECOMMENDATION:**

That:

1. Council appoint WALGA Workplace Solutions to complete their CEO Performance Review Proposal for a cost of up to \$2,500 (GST Inclusive) as included at Attachment 10.1.1b;
2. Council do not have a separate meeting with WALGA Workplace Solutions to complete the 'Feedback Sheet';
3. All of Council undertake the formal appraisal meeting portion of the Chief Executive Officer Performance Review; and
4. Council select a date and location to undertake the formal appraisal meeting portion of the Chief Executive Officer's Performance Review.

**RESOLUTION: 2006-044**

**Moved:** Eaton      **Seconded:** Waite

*That:*

1. Council appoint WALGA Workplace Solutions to complete their CEO Performance Review Proposal for a cost of up to \$2,500 (GST Inclusive) as included at Attachment 10.1.1b;
2. Council do not have a separate meeting with WALGA Workplace Solutions to complete the 'Feedback Sheet';
3. All of Council undertake the formal appraisal meeting portion of the Chief Executive Officer Performance Review; and
4. The formal appraisal meeting portion of the Chief Executive Officer's Performance Review will take place at 11.00am, 17 May 2006 at the Leeman Administration Centre.

**CARRIED 6/0 BY ABSOLUTE MAJORITY**



## 10.1.2 UPGRADE OF GERALDTON CREMETORIUM

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>FILE</b>	C2.2 Cemetery General

### **SUMMARY:**

**Council's financial support of the upgrade of the Geraldton Crematorium is sought.**

### **BACKGROUND:**

The Geraldton Cemetery Board are about to begin an upgrade to the Geraldton Crematorium. The Board is optimistic that the project will proceed in the latter half of 2006.

### **COMMENT:**

The Geraldton Cemetery Board seek consideration by Council of a financial contribution to the upgrading of the Geraldton Crematorium. The crematorium is the only facility of its kind north of Perth and services the Midwest and wider community. In the 2005/06 financial year 25% of the services performed at the Geraldton Crematorium were from outside the Geraldton/Greenough area.

With the Midwest region undergoing incredible economic growth the Board feels it is an ideal time to provide an improved facility for the bereaved public.

### **STATUTORY ENVIRONMENT:**

Nil.

### **STRATEGIC IMPLICATIONS:**

Council has adopted a plan to construct a cemetery in the coastal region of the Shire.

### **POLICY IMPLICATIONS:**

Nil.

### **FINANCIAL IMPLICATIONS:**

Notification has been received from the Regional Development Scheme of a grant of \$100,000. An application is currently under consideration by the Midwest Gascoyne Area Consultative Committee. The Shire of Greenough and the City of Geraldton are both expected to commit \$100,000 each and the Shires of Northampton has committed \$5,000 and the Shire of Chapman Valley \$2,000.

Any contribution of Council would be included in the 2006/07 Budget.

**PUBLIC CONSULTATION:**

Nil at this time.

**CONSIDERATION:**

A financial contribution size that Council may wish to consider, in comparison with the other contributions of Council's level of contribution, would be in the order of \$3,000.

Council may consider reducing this level of any financial contribution based on the remoteness from the Geraldton Crematorium from the population centres of the Shire of Coorow and the current preference for Council residents to associate with Perth rather Geraldton for these issues.

**VOTING REQUIREMENT:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council not make a financial contribution to the Geraldton Cemetery Board for the upgrading of the Geraldton Crematorium.

**RESOLUTION: 2006-045**

**Moved:** *Beswick* **Seconded:** *Pethick*

*That Council not make a financial contribution to the Geraldton Cemetery Board for the upgrading of the Geraldton Crematorium.*

**CARRIED 6/0**

**10.1.3 BUSHCHANGE**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>ATTACHMENT</b>	10.1.3 BushChange Publications
<b>FILE</b>	C8.1 Council - General

**SUMMARY:**

**Council to consider becoming a member of BushChange.**

**BACKGROUND:**

Nil.

**COMMENT:**

BushChange at seeks to promote country lifestyles and encouraging the creation of vibrant rural communities.

The BushChange website, at the address of [www.bushchange.com](http://www.bushchange.com), and publications are an initiative of the Nationals WA. Copies of the publications are included at Attachment 10.1.3 for Councillor's information. The website clearly seeks to promote the Nationals WA as a political party in WA.

The following is the credo of BushChange:

Our small country towns are one of the State's best-kept secrets for a number of reasons. Housing is still very affordable and building blocks are cheap.

While property prices along the South West coast are now beyond the reach of many people, as little as \$10,000 will get you started in several of our inland communities

For example, Quairading, (pop. 1,200) just 165 kilometres east of Perth in the Swan-Avon River catchment, is now selling fully-serviced town blocks at just over \$10,000 and un-serviced lots for as little as \$3,000 each (see BushChange Shires).

In addition, these towns are friendly and safe; they boast a myriad of recreational opportunities and inspire a real sense of community.

Our vision for BushChange involves practical, incentive-based initiatives that will tempt individuals and families to look inland, and not the coast, for lifestyle enrichment and we will work closely at the local level and from Opposition benches to achieve these objectives.

Our initiatives include:

- Lobbying State and Federal Governments to raise the first home buyers grant in WA to at least \$10,000 for houses in specified non-metropolitan areas;
- Persuading local governments to become involved through the provision of matching, in-kind incentives for first home buyers, in a partnership approach;
- Inviting investors and developers to look closely at the opportunities in many towns;
- Working with LandCorp for the release of land in communities open to BushChange;
- Incorporating The Nationals' Living Lakes 2030 concept to transform selected inland lakes and degraded creek and river systems into permanent waterways for recreational, tourism and commercial purposes.

Our immediate dream is of a BushChange culture where life-stylers, young and old, build their weekenders near the banks of Yenyenning Lakes at Quairading, or alongside the famous waters of Lake Dumbleyung (see Living Lakes).

Towns that have access to rivers, lakes and other waterways serve as drawcards for families who seek the same lifestyle benefits available to their counterparts on the coast.

We are confident BushChange will attract people, industry, services, education and recreational facilities back to the regions and with your support, we will turn this vision into a reality.

Other menu items of the BushChange website include:

- A list of participating Shires including the shires of Brookton, Bruce Rock, Carnamah, Corrigin, Cuballing, Dalwallinu, Dowerin, Dumbleyung, Gnowangerup, Goomalling, Kellerberrin, Kondinin, Koorda, Merredin, Mukinbudin, Mt Marshall, Northam, Perenjori, Quairading, Tammin, Victoria Plains, Wongan Ballidu, Wyalkatchem, York and the Town of Narrogin;
- Links to a real estate websites selling property and businesses in the participating shires;
- News about Nationals WA policies;
- Details about Nationals WA politicians;
- Upcoming events including Darkan Centenary dinner, Williams gateway Expo, Donnybrook Apple Festival and the Nationals WA State Conference;
- Photo's of Nationals WA leader Brendon Grylls at various country events; and



- The contact details for BushChange being the Nationals WA leader Brendon Grylls' parliamentary office.

**STATUTORY ENVIRONMENT:**

Nil.

**STRATEGIC IMPLICATIONS:**

BushChange seeks to openly promote BushChange as an alternative to SeaChange, the phenomenon of people moving to coastal lifestyle. Council is a member of the SeaChange Taskforce group of Councils, who are lobbying to increase grants and services to local governments affected by SeaChange.

**POLICY IMPLICATIONS:**

Nil.

**FINANCIAL IMPLICATIONS:**

There is not cost to being associated with BushChange.

**PUBLIC CONSULTATION:**

Nil

**VOTING REQUIREMENT:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council not become a member of BushChange website because of the identified strong links with an established political party and that Council maintain an apolitical approach to matters of community development.

**RESOLUTION: 2006-046**

**Moved:** Beswick **Seconded:** Eaton

*That Council not become a member of BushChange website because of the identified strong links with an established political party and that Council maintain an apolitical approach to matters of community development.*

**CARRIED 6/0**



<b>10.1.4 BUSHFIRE PROSECUTION</b>
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<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>ATTACHMENT</b>	10.1.4 Council's 2005/06 Bush Fire Notice
<b>FILE</b>	B6.24 Bushfire Prosecutions

**SUMMARY:**

**Council to consider action resulting from a breach of Council's Bush Fire Notice.**

**BACKGROUND:**

At their August 2005 Ordinary Meeting, with the following resolution Council adopted their Bush Fire Notice, based on the recommendation of Council's Bush Fire Advisory Committee:

RESOLUTION: 2005-140  
 Moved: Beswick Seconded: O'Callaghan  
 That Council:

1. Make the following appointments:
 

Chief Bush Fire Control Officer -	John Browne
Deputy Chief Bush Fire Control Officer (West) -	Jay Wann
Deputy Chief Bush Fire Control Officer (East) -	Kelvin Bean
Harvest Ban Officer – Western Sector -	James Raffan
Harvest Ban Officer – Western Sector -	Ian Falconer
Harvest Ban Officer – Eastern Sector -	Kelvin Bean
Harvest Ban Officer – Eastern Sector -	Ian Hunt
Special Permit Clover Burning Officer -	Ian Falconer
Fire Control Officers -	Peter Gillis, Gary Sherry, Ian Hunt, Barry Fowler, Jim Scott, Geoff Hortin, Cara Weaver, Jay Wann, Danny Johns, Simon Brockman, Alistair Adams and Bryan Greene;
2. adopt the draft 2005/06 Bush Fire Notice as contained at Attachment 10.3.2b; and
3. invite a representative of FESA and members of Council's Bush Fire Advisory Committee to address the September Meeting of Council on the issue of the specification of new replacement FESA fire units.

CARRIED 8/0

Council advertised their Bush Fire Notice, included as Attachment 10.1.4 for Councillors information, in the Government Gazette and local papers.

The dates for Council's Restricted and Prohibited Burning Periods were unchanged from previous years and had already been included in the information sheet provided to ratepayers with their Council Rates Notice.

Council also advertised the dates for Council's restricted and prohibited burning periods in the Council Matters publication provided to ratepayers in September 2005.

**COMMENT:**

On Thursday 23 March 2006, Mr John Raffan lit a fire to burn bush on his property north of Launer Road, west of Coorow.

Thursday 23 March 2006 was in Council's Restricted Period, when landholders are required to obtain a *Permit To Set Fire To The Bush* from a Council designated Fire Control Officer. Mr Raffan did not obtain a *Permit To Set Fire To The Bush* and subsequently advised staff that he was unaware of the requirement to have such a permit.

Mr Raffan's fire became uncontrolled during the afternoon of Thursday 23 March 2006. The fire was only attended by both units of the Coorow Town Volunteer Bush Fire Brigade. Council provided a grader upon the request of a Fire Control Officer.

Council's expenses in providing the grader amounted to \$219.86. The other direct costs associated with the Coorow Town Volunteer Bush Fire Brigade are met by Council's allocation from FESA's Emergency Service Levy.

By not obtaining a *Permit To Set Fire To The Bush*, Mr Raffan is in contravention of Section 18(6) of the Bush Fire Act 1954 and will be issued with a \$250 Infringement Notice.

Council, under Section 18(11) of the Bush Fire Act 1954, may seek to recover Council's costs of any expenses, up to a maximum amount of \$10,000, incurred in preventing the extension of or extinguishing a fire.

**STATUTORY ENVIRONMENT:**

Bush Fire Act 1954

**18. Restricted burning times may be declared by Authority**

- (1) Nothing contained in this section authorises the burning of bush during the prohibited burning times.
- (2) The Authority may, by notice published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the notice except in accordance with a permit obtained under this section and with the conditions prescribed for the purposes of this section, and may, by subsequent notice so published, vary that declaration or revoke that declaration either wholly or for the purpose of substituting another declaration for the declaration so revoked.
- (3) Where by declaration made under subsection (2) restricted burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those restricted burning times shall have effect in respect of that zone in each year until that declaration is revoked.
- (4) A copy of the *Gazette* containing a declaration published under subsection (2) shall be received in all courts as evidence of the matters set out in the declaration.

- (4a) In any year in which the Authority considers that seasonal conditions warrant a variation of the restricted burning times in a zone, or part of a zone, of the State the Authority may, by notice published in the *Gazette*, vary the restricted burning times in respect of that year in the zone or part of the zone by —
- (a) shortening, extending, suspending or reimposing a period of restricted burning times; or
  - (b) imposing a further period of restricted burning times.
- (5) (a) Subject to paragraph (b) in any year in which a local government considers that seasonal conditions so warrant the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —
- (i) vary the restricted burning times in respect of that year in the district or a part of the district by —
    - (A) shortening, extending, suspending or reimposing a period of restricted burning times; or
    - (B) imposing a further period of restricted burning times; or
  - (ii) vary the prescribed conditions by modifying or suspending all or any of those conditions.
- (b) A variation shall not be made under this subsection if that variation would have the effect of —
- (i) shortening the restricted burning times by; or
  - (ii) suspending the restricted burning times, or any prescribed condition, for, more than 14 successive days during a period that would, in the absence of the variation under this subsection, be part of the restricted burning times for that zone in that year.
- (c) The provisions of section 17(8), (9), (10) and (11), with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local government, as if those provisions were expressly incorporated in this section.
- (d) For the purposes of this subsection “prescribed condition” includes the requirement of subsection (6)(a).
- (6) Subject to this Act a person shall not set fire to the bush on land within a zone of the State during the restricted burning times for that zone of the State unless —
- (a) he has obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer of the local government if a bush fire control officer is not available; and
  - (b) the conditions prescribed for the purposes of this section are complied with in relation to the burning of the bush.
- (7) The person issuing a permit to burn under this section may, by endorsement on the permit —
- (a) incorporate therein any additional requirements and directions considered necessary by him relative to the burning; or
  - (b) modify or dispense with any of the conditions prescribed for the purposes of this section in so far as those conditions are applicable to the burning.
- (8) The holder of a permit to burn under this section —
- (a) shall observe and carry out any requirement or direction incorporated therein pursuant to subsection (7)(a);
  - (b) shall, where any prescribed condition is modified pursuant to subsection (5) or subsection (7)(b), comply with that condition as so modified;

- (c) need not comply with any prescribed condition that is suspended or dispensed with pursuant to subsection (5) or (7)(b).
- (9) A permit issued under this section may authorise the owner or occupier of land to burn the bush on a road reserve adjoining that land.
- (10) (a) Subject to the regulations a local government may by resolution declare that within its district bush may be burnt only on such dates and by such persons as are prescribed by a schedule of burning times adopted by the local government.
- (b) A person desiring to set fire to bush within the district of the local government that has so resolved shall, by such date as may be determined by the local government, apply to the local government for permission to set fire to the bush, and the local government shall allocate a day or days on which the burning may take place.
- (c) The burning shall be done only on the day or days and in the manner specified by the local government and subject to the conditions prescribed for the purposes of this section except that any prescribed period of notice may be varied by the local government in order to enable the schedule of burning times adopted by it to be given effect to.
- (11) Where a person starts a fire on land, if the fire escapes from the land or if the fire is in the opinion of a bush fire control officer or an officer of a bush fire brigade out of control on the land, the person shall be liable to pay to the local government on the request of and for recoup to its bush fire brigade, any expenses up to a maximum amount of \$10 000 incurred by it in preventing the extension of or extinguishing the fire, and such expenses may be recovered in any court of competent jurisdiction.
- (12) A person who commits a breach of this section other than subsection (11) is guilty of an offence.

Penalty: For a first offence \$4 500.

For a second or subsequent offence \$10 000.

*[Section 18 inserted by No. 65 of 1977 s. 14; amended by No. 8 of 1987 s. 8; No. 14 of 1996 s. 4; No. 42 of 1998 s. 16; No. 38 of 2002 s. 22, 39 and 40(1).]*

### **STRATEGIC IMPLICATIONS:**

Council has a responsibility to protect the interests of Council's volunteer fire fighters. Whilst there are inherent risks associated with fighting fires and volunteer firefighters accept these risks, this does not mean that irresponsible actions that result in fire should not be discouraged.

To discourage and reduce the risks associated with fire, Council imposes requirements, restrictions and prohibitions upon landholders. If these requirements, restrictions and prohibitions are not enforced the risks to volunteer fire fighters increase.

### **POLICY IMPLICATIONS:**

Council has a common law duty of care to the community to use the legal powers available to Council. Council is liable for the effects of damages caused when action by Council utilising such legal powers would have reduced or eliminated those damages.

**FINANCIAL IMPLICATIONS:**

Council incurs financial costs associated in providing Council's large construction plant, eg. graders, loaders and water tanker, at local fires. At this fire Council's direct expenses included:

Wages	\$ 71.33
Overheads	\$ 64.19
Plant Costs	<u>\$ 84.34</u>
	\$219.86

**PUBLIC CONSULTATION:**

The requirements of Council's Bush Fire Notice is widely publicised in a range of media.

**VOTING REQUIREMENT:**

Simple Majority

**OFFICER RECOMMENDATION:**

That, because Mr Raffan did not have a valid *Permit To Set Fire To The Bush* when lighting the fire on his property on Thursday 23 March 2005, Council:

1. support the Infringement Notice of \$250 for not obtaining a Permit to Burn Bush on Thursday 23 March 2005; and
2. seek to recover Council's expenses of \$219.86 incurred in preventing the extension of or extinguishing this fire by providing a Council grader.

**ALTERNATIVE RESOLUTION:**

That Council advise Council's Bush Fire Advisory Committee that because Council does not wish to enforce the requirements of a Restricted Burning Period and since this poses a public liability risk to Council from not enforcing these legal requirements, Council will not consider a Restricted Burning Period for the summer of 2006/2007.

**RESOLUTION: 2006-047**

**Moved:** Eaton      **Seconded:** Waite

*That, because Mr Raffan did not have a valid Permit To Set Fire To The Bush when lighting the fire on his property on Thursday 23 March 2005, Council:*

- 1. support the Infringement Notice of \$250 for not obtaining a Permit to Burn Bush on Thursday 23 March 2005; and*
- 2. seek to recover Council's expenses of \$219.86 incurred in preventing the extension of or extinguishing this fire by providing a Council grader.*

**CARRIED 6/0**





**10.1.5 LOT 405 PATTON STREET GREEN HEAD**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>ATTACHMENT</b>	10.1.5 Map of Green Head
<b>FILE</b>	Lot File GH 405

**SUMMARY:**

**Council is to consider an offer to purchase Lot 405 Patton Street Green Head.**

**BACKGROUND:**

In August 2005 Council was approached by interested parties in Green Head eager to set establish commercial premises in Green Head. At that time the commercial property available for purchase was held by speculators who were asking prices for this property that were seen as being too high.

The speculators looking to recover windfall profits from the sale of the commercial property appeared to be stifling development of the Green Head commercial area.

**COMMENT:**

At this time Council approached the Department for Planning and Infrastructure's (DPI) Land Asset Management Services (LAMS) to enquire over the status of Lot 405 Patton Street, Green Head.

Lot 405 Patton Street Green Head was developed with all other commercial property in Green Head during 1999, but while all the other commercial lots in Green Head were released for sale, Lot 405 Patton Street Green Head was not. All other the commercial lots in Green Head that were released have been sold, although to date few have been developed.

The basis of the Council enquiry was to have the block released to allow some level of commercial development to proceed. It was anticipated that should Lot 405 have been released a covenant on development in some time period should be imposed to ensure development and not speculation.

LAMS have now responded with an offer for Council to purchase outright Lot 405 Patton Street Green Head of \$125,000.

**STATUTORY ENVIRONMENT:**

Nil at this time.

**STRATEGIC IMPLICATIONS:**

To allow developers seeking to establish commercial enterprise in Green Head commercial land must be available. Lot 405 Patton Street, Green Head is one site that, if released, would allow commercial development to occur.

**POLICY IMPLICATIONS:**

Nil at this time.

**FINANCIAL IMPLICATIONS:**

Council does not have funds allocated in Council's 2005/06 budget to purchase lot 405.

Currently, as State Government property, Lot 405 Patton Street Green Head, Council does receive rates from this property. Release and sale of Lot 405 Patton Street, Green Head would increase Council's rate income, whilst establishment of a commercial enterprise on the site would further increase income.

**PUBLIC CONSULTATION:**

Nil.

**VOTING REQUIREMENT:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council not accept the offer for purchase of Lot 405 Patton Street Green Head but lobby the Department of Planning and Infrastructure to release Lot 405 Patton Street Green Head for commercial development with a covenant requiring development in a maximum of two years.

**RESOLUTION: 2006-048**

**Moved:** Beswick    **Seconded:** Pethick

*That Council not accept the offer for purchase of Lot 405 Patton Street Green Head but lobby the Department of Planning and Infrastructure to release Lot 405 Patton Street Green Head for commercial development with a covenant requiring development in a maximum of two years.*

**CARRIED 6/0**

## **10.2 MANAGER COMMUNITY DEVELOPMENT:**

### **10.2.1 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - AMENDMENT BILL 2005 - PROPOSALS TO ALLOW FOR THE RETROSPECTIVE APPROVAL OF UNAUTHORISED STRUCTURES**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	2 April 2006
<b>FILE</b>	B5.2 Building - General

#### **SUMMARY:**

**Council is to consider comment on the Act, currently before parliament, that is to provide a process for the approval of Unauthorised Buildings.**

#### **BACKGROUND:**

Comment period ends on 5 May 2006.

This amendment to the Local Government (Miscellaneous Provisions) Act is one of a number of proposals that have passed their second reading before state parliament. The proposals contained within the amendment have been split into three separate report items to better allow Council consideration of the issues involved.

The Proposed Amendments will provide a prescribed mechanism for the retrospective approval of Buildings. This will provide for uniform practice when Councils deal with unauthorised structures.

#### **COMMENT:**

Whilst the current legislation does not provide that buildings can be approved retrospectively, it also does not indicate that the issue of a Building Licence can only relate to a Building yet to be built. If this were the case, building approval of second-hand transported buildings would not be possible.

The amendment is needed as it has become the practice of a number of some Local Authorities in Perth to issue orders for the demolition of unauthorised structures on every occasion. This course of action then requires the appeal process to determine an appropriate response to the illegal structure, increasing the administrative appeal load.

Others Shires upon receiving certain certifications take the approach of acknowledging the existence of the building whilst indicating that it remains illegal.

Both approaches leave the property owner often somebody that did not undertake the illegal building work in a very difficult position.

One would have thought that the simple act of approving a structure regardless of whether or not it has already been erected or not would then make such a structure authorised.

Regardless of this, the amendment of the Act to provide a clear head of power for dealing with structures erected without Building Approval will clarify the issue. The approval would be in the form of a Certificate of Substantial Construction Compliance, the title clearly indicating that not all matters can be considered in giving such approval.

In providing such power, the amendments to the Act, either in their own right or as consequential amendments to other Acts will ensure that an appropriate fees/levies are paid to the Builder's Registration Board, Building Industry Training Fund and other bodies as appropriate.

In relation to the need for Home Indemnity Insurance the amendment will allow the application of a condition on the Certificate of Substantial Compliance. It is envisaged that where Home Indemnity Insurance is required then the need for such will become a condition of the certificate and require the Building Owner obtain such insurance 'on reasonable terms'. No detail has been provided as to what reasonable terms means nor is any detail provided as to what is to happen if reasonable terms can not be arrived at. In any case if it is an owner-builder the issue of insurance will only arise where the unauthorised works are valued over \$12,000 and it is intended to sell the house within seven years of when the unauthorised works were carried out.

The amendments will not limit the rights for Councils to prosecute persons for the carrying out of the unauthorised building works, nor will it limit the option of the Builder's Registration Board to prosecute for any breach of the Builder's Registration Act.

The assessment of unauthorised structures for substantial compliance with the Act need not be done by the issuing Council. Advice will be able to be taken from private building surveying practitioners. The amendments proposed to make such allowances are dealt with in the next report item.

Broadly the process of approval of unauthorised structures will be much in accordance with Council's current policy on the matter. That policy is as follows:

That where a building in progress for which no building licence has been issued comes to the notice of Council, the following shall apply:

- a) The building is to be assessed by the Manager Community Development for compliance with all relevant requirements of:
  - i) The Building Code of Australia 1997 as amended
  - ii) Council's current Town Planning Scheme
  - iii) The Health Act 1911 as amended
  - iv) Any relevant legislative or other requirement

- b) Should (a) above be satisfied, the person carrying out the work on the building be requested to submit plans and specifications for the building and
- c) Where the Manager Community Development is unable to satisfy himself that the requirements of the Building Code of Australia have been met, the person carrying out the work be required to submit to Council, certification from a practising Structural Engineer to the effect that the building as constructed complies with all relevant requirements of the Building Code of Australia

That the building be permitted to remain only where (a), (b) and when required (c) above have been complied with.

With the amendment of the Act a new fee will be prescribed to cover the retrospective approval of Buildings. The fees will likely be set higher than current licence fees, but not high enough to discourage persons from taking actions to legalise buildings.

The areas not covered in the discussion documents that are of concern are as follows:

1. On what basis is the valuation of the unauthorised extension be determined?

It would be appropriate that some formulae or best practice approach be suggested for determining the value of building extensions as the value applied apart from having effect on the fees payable will determine whether or not the person who undertook the works is at risk of Legal Action from the Builder's Registration Board and whether or not Home indemnity Insurance is required before the house can sold.

2. What actions can be taken if Home Indemnity Insurance can not be obtained on reasonable terms?
3. To allow Council's to provide clear advice to persons seeking to legalise unauthorised structures it will be necessary for the Builder's Registration Board to advise what their prosecution policy may be in relation to such breaches. Obviously Local Governments would be able to advise of their own prosecution policies

#### **STATUTORY ENVIRONMENT:**

Local Government (Miscellaneous Provisions) Act and Building Regulations

#### **FINANCIAL IMPLICATIONS:**

Nil

#### **POLICY IMPLICATIONS:**

When the amendments become Law, Council's existing policy on this matter will either no longer be needed or will need to be amended taking into account the new Act provisions.

**STRATEGIC IMPLICATIONS:**

The amendment of the Act will remove the administrative uncertainties relating to the approval of unauthorized structures.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council indicate its general support for the provision of legislation that will provide a clear head of power for dealing with unauthorised structures but that the following matters also need to be addressed:

1. On what basis is the valuation of the unauthorised extension to be determined?

It would be appropriate that some formulae or best practice approach be suggested for determining the value of building extensions as the value applied apart from having effect on the fees payable will determine whether or not the person who undertook the works is at risk of Legal Action from the Builder's Registration Board and whether or not Home Indemnity Insurance is required before the house can sold.

2. What actions can be taken if Home Indemnity Insurance can not be obtained on reasonable terms?
3. To allow Council to provide clear advice to persons seeking to legalise unauthorised structures it will be necessary for the Builder's Registration Board to advise what their prosecution policy may be in relation to such breaches. Obviously Local Governments would be able to advise of their own prosecution policies.

**RESOLUTION: 2006-049**

**Moved:** Waite      **Seconded:** Stacy

*That Council indicate its general support for the provision of legislation that will provide a clear head of power for dealing with unauthorised structures but that the following matters also need to be addressed:*

1. *On what basis is the valuation of the unauthorised extension to be determined?*

*It would be appropriate that some formulae or best practice approach be suggested for determining the value of building extensions as the value applied apart from having effect on the fees payable will determine whether or not the person who undertook the works is at risk of Legal Action from the Builder's Registration Board and whether or not Home Indemnity Insurance is required before the house can sold.*

2. *What actions can be taken if Home Indemnity Insurance can not be obtained on reasonable terms?*
3. *To allow Council to provide clear advice to persons seeking to legalise unauthorised structures it will be necessary for the Builder's Registration Board to advise what their prosecution policy may be in relation to such breaches. Obviously Local Governments would be able to advise of their own prosecution policies.*

**CARRIED 6/0**





**10.2.2 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT -  
QUALIFICATIONS AND APPOINTMENT OF BUILDING SURVEYORS**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Impartiality Interest – the author is employed as a Building Surveyor and this legislation has impact on the author’s employment in local government.
<b>DATE OF REPORT</b>	2 April 2006
<b>FILE</b>	B5.2 Building - General

**SUMMARY:**

**Council is to consider proposal to amend the Local Government (Miscellaneous Provisions) Act to require all Building Surveyors to have formal qualifications.**

**BACKGROUND:**

As a result of current interpretation of federal National Competition Policy the State Government is moving towards the application of a National Accreditation System for Building Surveyors within this State. This National Accreditation System prescribes a uniform system for application and recognition of Building Surveyors’ qualifications.

In WA the practice, until now, has been that persons appointed to the position of Building Surveyor have not required any form of formal qualification where the Local Government’s population is less than 15,000.

Where the population exceeded 15,000 the Building Surveyor required a qualification recognised by the Municipal Building Surveyors Qualifications Committee, unless a specific exemption was granted from this requirement.

In the absence of the appointment of a person to the Office of Building Surveyor, and where Council’s have thought it appropriate, the Council’s have been able to issue Building Licences in their own right.

In addition to the National Competition Policy Justification, reference is made to a Coroner’s Report about an incident where a child lost their life due to the structural failure of a building.

In his findings the Coroner found that the Shire was not responsible for the deficiencies in plans details as it did not have the expertise available to recognise the existence of such deficiencies. However the Coroner did record a recommendation that Local Governments be required to employ qualified Building Surveyors.

The recommendation made by the Coroner directly reflected that advice given to the Coroner by an officer of the Department of Housing and Works and reflected the Department’s position in relation to the development of a New Building Act for the State.

He did not make any finding in relation to the actions of the Registered Builder, or more importantly, the Builder's contractors. In fact he accepted that the actions of the Builder's Registration Board in fining and de-registering the Builder were entirely appropriate and left the matter there. An opportunity to examine the individual responsibility of individual contractors on building site was lost.

The current structure of legislation prevents any proceedings being taken directly against any building contractor (other than a registered Builder, plumber or electrician) for any failure on their part to comply with the Building Code. This helps maintain a culture where unregistered contractors are often un-accountable for their actions. This situation does not serve the general public interest.

### **The National Accreditation System for Building Surveyors**

Broadly the nationally agreed position is that:

1. The role of Approving Building Surveyor will be subject to Market Competition.
2. Three levels of Registered Building Surveyor will be recognised reducing to two after the cessation of a transition period.
  - a. Level 1: Will be able to approve all forms of Buildings, including large area and multi-storey development.
  - b. Level 2: Will be able to approve buildings up to three storeys in height and not more than 2,000m<sup>2</sup> in area.
  - c. Level 3 or Building Surveyor Technician:- Will be able to approve buildings up to 500m<sup>2</sup> and 2 storeys - (The Australian Institute of Building Surveyors AIBS website indicates that Level Three Building Surveyors will only have application for 5 years after the adoption of the National Accreditation Framework)

The introduction of a National Accreditation system for Building Surveyors is apparently not in question. However, the form of Transitional Arrangements is the subject of consultation.

### **Transition Proposals**

In the discussion document no period for transition arrangements is nominated. However this period will not likely exceed 5 years as indicated by AIBS information.

The transitional proposals are as follows:

1. Existing Building Surveyors will be able to remain in their current position for the period of the transition, but will not be able to take an equivalent position with other employers.

2. During the transition period Building Surveyors that do not hold recognised certificates of qualification will need to either have their qualification recognised through a Process of Recognition of Prior Learning or undertake tertiary studies to obtain a recognised certificate. Tertiary Studies will cost in the vicinity of \$10,000 to \$15,000.

The proposed Amendment provides for new regulations to create the Building Surveyors Qualification Committee to address the qualification requirements for Building Surveyors and this committee would only continue in existence for the transition period.

One suggested way of achieving recognition as a Building Surveyor is to allow the committee to appoint an external assessor to undertake assessment of qualifications. In Queensland this is delegated to the Australian Institute of Building Surveyors

### **Private Building Surveyors**

It will be possible for Building Surveyors not associated with any particular Local Government to sell their services and where appropriate provide report to Local Government independent of the Council's own Building Surveyor.

### **Compulsion as to the appointment of Person to the Office of Building Surveyor**

Current legislation allows Local Government to exercise discretion as to whether or not it will appoint a person to the office of Building Surveyor and whether or not they will delegate authority to approve Buildings on the behalf of the Local Government.

The proposed changes to the Act will allow direction to be given that a Building Surveyor be appointed and that such Building Surveyor hold such qualifications as may be prescribed unless the appointment is approved by the Minister or is for a period of less than three months.

### **COMMENT:**

The obvious question is why fix a system if it isn't broken?

The answer is that if you are forced to as a result of National Competition Policy requiring that action be taken to provide a level of uniform legislation between the states. The discussion document does not question whether or not the model for national accreditation of Building Surveyors is correct; it just accepts that it is to be imposed in the name of national competition policy.

If the process for Recognition of Prior Learning is equitable, I have little doubt that I will be able to achieve the recognition required under the proposals to be accepted as a Level 2 Building Surveyor.

If the matter of recognition is to be handled by the Institute of Building Surveyors it is understood the cost of the process will be in the vicinity of \$2,500 to \$3,000.

I must admit I remain suspicious of the Australian Institute of Building Surveyors and the commercial interest that may be reflected in that organisation for the development of a market for Consulting Building Surveyors.

It is of concern that the transitional arrangement does not provide any discussion of how disciplinary matters or matters of misconduct of private practitioners is to be dealt with. Broadly, all persons with some form of public authority, whether in private enterprise or otherwise are subject to some form of oversight by some form of management board or another. Eg. Doctors, Physiologists, Pharmacists, etc.

Broadly, National Competition Policy dictates that the changes are going to happen. It is the form and content of regulation that will hold the most relevant detail and the consultation documentation provides minimal guidance on this.

The only thing that is certain is that for the majority of Local Governments that have a population of less than 15,000, (ie. the majority of this State) and where they are located at a distance from a major population centre, the difficulty in attracting or retaining people with appropriate qualifications will increase.

Whilst the process of approval of building plans does not necessarily need to happen in close proximity to where the building is to be built, the fact is that the proposed changes will remove the building approval process away from the local area.

The proposed changes will also have the effect of diminishing the resources available locally for auditing the building construction process.

Further, the proposed new Building Act will make the process of building approval contestable between Local Government and Private Certifiers. When Local Governments already make a loss on building administration it is likely that the loss of the income stream from building approvals will result in further strains on service provision.

Unless suitable state support is offered to encourage the further study or recognition of prior learning requirements for existing Building Surveyors to meet National Accreditation Requirements there will be a severe short fall in the supply of suitably qualified practitioners and a loss of practitioners in all areas of the state other than large regional centres. This will consequently reduce audit activity of Building Work.

#### **STATUTORY ENVIRONMENT:**

National Competition Agreement

#### **FINANCIAL IMPLICATIONS:**

Whilst fees will be provided for in regulations the fact that they have not been quantified is of concern. A danger exists in that the fees that will be specified in regulation will not cover the administrative costs that will be incurred in complying with the proposed new Act.

#### **POLICY IMPLICATION:**

The issue is too complex to enable a full understanding of the policy implication at this stage.

**STRATEGIC IMPLICATIONS:**

National Competition Policy is having an effect on the Council's ability to provide services in its own right and even its ability to have the service provided locally. The current direction of the policy will result in the diminution of local service provision and reduce skill sets in all regions apart from those with large population bases

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council provide the following as comment on the proposals to amend the Local Government (Miscellaneous Provisions) Act to require all Building Surveyors to have formal qualifications:

Council, whilst it recognises that a national system for the formal prescription of Building Surveyor's Qualification is being driven by National Competition Policy, is concerned that the discussion document proposing the changes does not provide any analysis of the likely effects of the proposed changes on the provision of required services in the regions outside of large population centres. Further, it does not seem that the principals of National Competition Policy have been fully met in that no analysis is provided of the cost of implementation of the changes and the effect that it will have on areas with smaller populations. It would be thought that any proposal that will have such a profound effect of regional WA would warrant such analysis.

If the Government is to proceed with changes to the Act needed to allow for the implementation of the National Accreditation of Building Surveyors it should be required that the regulations to bring these changes to the Act should themselves be the subject of broad consultation. It is the detail that will be contained in these regulations that will heavily influence the acceptability, or otherwise, of the changes to be introduced.

In terms of the scant detail provided on proposed transitional arrangement the following comment is provided:

1. Building Surveyor's currently appointed to that office in Local Government should receive immediate recognition at the level of their current practice (for most Local Authorities this should be Level 2), even if the time period of such recognition is limited by the effect of transitional provisions;
2. Recognition of a Building Surveyor's Qualifications at their current level of practice should be transferable between the Local Governments within this State for the entire Transition Period;

3. The period of Transition to the National Accreditation Framework for the qualification of Building Surveyors should not be less than 10 years. Such extended introduction period will allow for adjustments to be made to the Accreditation Framework should unpredicted consequences result in problems with Building Approval Administration,
4. The State should, at least in the first instance, cover the costs related to applications for the recognition of prior learning of existing Building Surveyors where they currently don't immediately meet national accreditation criteria;
5. The State should consider the provision of scholarships to support existing Building Surveyors in the undertaking of further studies where they are required to undertake further tertiary study to continue in their current position beyond any transition period;
6. There will be a need for a continuing need for a body (separate from the Institute of Building Surveyors) to oversee the ongoing practice of Building Surveying in this State. It is not accepted that the processes of the Institute of Building Surveyors will be adequate for this purpose (as has been found to be the case with the Medical Practitioners Board); and
7. Council register concern about any action to allow Building Approvals to be given by other Local Authorities or by Private Building Surveyor's in its district. Such action will result in a reduction of revenue and therefore reduce its ability to maintain its Building Surveying Service Locally for greater community benefit. Consideration should be given to restricting the principal of competition to those markets where adequate skills exist (areas of large population). In areas with minimal population the revenue stream that helps keep the service within the region should be protected. Such action would be in the broad public interest, and therefore not be contrary to National Competition Policy.

**RESOLUTION: 2006-050**

**Moved:** Beswick    **Seconded:** Pethick

*That Council provide the following as comment on the proposals to amend the Local Government (Miscellaneous Provisions) Act to require all Building Surveyors to have formal qualifications:*

*Council, whilst it recognises that a national system for the formal prescription of Building Surveyor's Qualification is being driven by National Competition Policy, is concerned that the discussion document proposing the changes does not provide any analysis of the likely effects of the proposed changes on the provision of required services in the regions outside of large population centres. Further, it does not seem that the principals of National Competition Policy have been fully met in that no analysis is provided of the cost of implementation of the changes and the effect that it will have on areas with smaller populations. It would be thought that any proposal that will have such a profound effect of regional WA would warrant such analysis.*

*If the Government is to proceed with changes to the Act needed to allow for the implementation of the National Accreditation of Building Surveyors it should be required that the regulations to bring these changes to the Act should themselves be the subject of broad consultation. It is the detail that will be contained in these regulations that will heavily influence the acceptability, or otherwise, of the changes to be introduced.*

*In terms of the scant detail provided on proposed transitional arrangement the following comment is provided:*

- 1. Building Surveyor's currently appointed to that office in Local Government should receive immediate recognition at the level of their current practice (for most Local Authorities this should be Level 2), even if the time period of such recognition is limited by the effect of transitional provisions;*
- 2. Recognition of a Building Surveyor's Qualifications at their current level of practice should be transferable between the Local Governments within this State for the entire Transition Period;*
- 3. The period of Transition to the National Accreditation Framework for the qualification of Building Surveyors should not be less than 10 years. Such extended introduction period will allow for adjustments to be made to the Accreditation Framework should unpredicted consequences result in problems with Building Approval Administration;*
- 4. The State should, at least in the first instance, cover the costs related to applications for the recognition of prior learning of existing Building Surveyors where they currently don't immediately meet national accreditation criteria;*

5. *The State should consider the provision of scholarships to support existing Building Surveyors in the undertaking of further studies where they are required to undertake further tertiary study to continue in their current position beyond any transition period;*
6. *There will be a continuing need for a body (separate from the Institute of Building Surveyors) to oversee the ongoing practice of Building Surveying in this State. It is not accepted that the processes of the Institute of Building Surveyors will be adequate for this purpose (as has been found to be the case with the Medical Practitioners Board); and*
7. *Council register concern about any action to allow Building Approvals to be given by other Local Authorities or by Private Building Surveyor's in its district. Such action will result in a reduction of revenue and therefore reduce its ability to maintain its Building Surveying Service Locally for greater community benefit. Consideration should be given to restricting the principal of competition to those markets where adequate skills exist (areas of large population). In areas with minimal population the revenue stream that helps keep the service within the region should be protected. Such action would be in the broad public interest, and therefore not be contrary to National Competition Policy.*

**CARRIED 6/0**



**10.2.3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - OTHER PROPOSALS TO CHANGE THE ACT CURRENTLY BEFORE PARLIAMENT**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	2 April 2006
<b>FILE</b>	B5.2 Building - General

**SUMMARY:**

**Council is to consider other proposed changes to the Local Government (Miscellaneous Provisions) Act.**

**BACKGROUND:**

The previous two items have dealt with specific sections of the proposed changes to the Act.

They have been dealt with as separate items, as they required the individual consideration of Council. The following matters are also contained in the Act currently before Parliament:

1. Proposal to prevent Local Government Issuing a Building Licence in its own right

Currently Councils are able to issue Building Licences in their own right.

In the proposals before Parliament, Council's will no longer be able to do this, unless they have first taken the advice of a Building Surveyor, and only then in accordance with the advice of that Building Surveyor.

2. Proposal to allow Delegation of Authority for the Issue of Building Licences to persons other than direct employees

Currently the Act limits such delegation to employees of the Council. It is proposed to change the Act to allow delegation to person under contract to the Council.

3. Change to the definition of Swimming Pool

Current practise is to deem that the definition of Swimming Pool also includes a spa that is not normally emptied after every use, therefore these spas are required to be fenced the same as pools.

However concerns have been raised as to whether or not such installations are covered under the current definition. As a consequence it is proposed to amend the definition in the Act to put the matter beyond doubt.

4. Reinstatement in the Printed Version of the Act powers to legislate for Building Surveyors Qualifications.

These powers whilst repealed from the Local Government (Miscellaneous Provisions) Act continued to have application through reference in Schedule 9.2 of the current Local Government Act 1995. It is proposed to reinstate these sections of the Act with appropriate amendment for ease of reference in the legislation.

5. Increase in Penalties for Building without a Building Licence from \$5,000 and \$200 per day to \$50,000 and \$5,000 per day.

Increase in penalty is to keep the relevance of deterrent effect of fines and bring the level of penalty in line with those provided for under the Town Planning and Development Act

6. Increase daily penalty for the unauthorised occupation of a Building from \$400 and \$16 per day to \$4,000 and \$160 per day

Increase in penalty is to keep the relevance of deterrent effect of fines.

There has been no requirement that approval to occupy be obtained for sheds and houses. The amendments propose to allow a condition to be applied to Building Licences requiring that approval be obtained before any building is occupied.

**COMMENT:**

These changes will have little effect on the current practice of this Council, and comes as a natural progression of the changes covered in the previous items in this report.

Where it is proposed to remove the right of Councils to issue Building Licences in their own right without first taking and acting on the advice of a Building Surveyor it should be remembered that a Building Licence only relates to the structure of a building and not to its appearance, setbacks, aesthetics etc. These matters will continue to be the subject of Council control through the application of its Town Planning Scheme, the Residential Design Codes and its Planning Policies.

Broadly, I have no other comment on the proposals detailed above except to say that the Council should support these changes.

**STATUTORY ENVIRONMENT:**

Local Government (Miscellaneous Provisions) Act

**FINANCIAL IMPLICATIONS:**

Better chance of cost recovery if legal action is taken for breaches where fines are to be increased.

**POLICY IMPLICATION:**

Nil

**STRATEGIC IMPLICATIONS:**

Council will now have the option of retaining a contractor to deal with Building Approvals rather than having to maintain an employee. But if the option is taken up it will come with the loss of ability to give guidance and provide direct advice on building matters to residents as a contractor will not be resident in the local area. A contractor would also charge for the time taken in giving such advice.

It should be noted that Council could raise charges for other than administrative advice given in relation to building works

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council indicates its support for the proposed changes to the Local Government (Miscellaneous Provisions) Act including:

1. Proposal to prevent Local Government Issuing a Building Licence in its own right;
2. Proposal to allow Delegation of Authority for the Issue of Building Licences to persons other than direct employees;
3. Change to the definition of Swimming Pool;
4. Reinstatement in the Printed Version of the Act powers to legislate for Building Surveyors Qualifications;
5. Increase in Penalties for Building without a Building Licence from \$5,000 and \$200 per day to \$50,000 and \$5,000 per day; and
6. Increase daily penalty for the unauthorised occupation of a Building from \$400 and \$16 per day to \$4,000 and \$160 per day.

**RESOLUTION: 2006-051**

**Moved: Beswick Seconded: Waite**

*That Council indicates its support for the proposed changes to the Local Government (Miscellaneous Provisions) Act including:*

- 1. Proposal to prevent Local Government Issuing a Building Licence in its own right;*
- 2. Proposal to allow Delegation of Authority for the Issue of Building Licences to persons other than direct employees;*
- 3. Change to the definition of Swimming Pool;*
- 4. Reinstatement in the Printed Version of the Act powers to legislate for Building Surveyors Qualifications;*
- 5. Increase in Penalties for Building without a Building Licence from \$5,000 and \$200 per day to \$50,000 and \$5,000 per day; and*
- 6. Increase daily penalty for the unauthorised occupation of a Building from \$400 and \$16 per day to \$4,000 and \$160 per day.*

**CARRIED 6/0**

**Cr O'Callaghan entered the meeting at 3.42pm.**

**Council adjourned the meeting at 3.42 pm.**

**Council resumed the meeting at 3.48 pm.**

**10.2.4 DISCUSSION PAPER ON PROPOSED NEW BUILDING ACT**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Impartiality Interest – the author is employed as a Building Surveyor and this legislation has impact on the author's employment in local government.
<b>DATE OF REPORT</b>	2 April 2006
<b>FILE</b>	B5.2 Building - General

**SUMMARY:**

**Council is to consider the report on the proposed new Building Act.**

**BACKGROUND:**

The previous three items dealt with proposed amendments to current building legislation. Some of the matters discussed in the three previous items are also contained within the proposal for the new Building Act.

This report item relates to a separate matter over which consultation is being carried out.

The discussion document on this matter runs to 112 pages and describes the broad outline of proposals to be included in a new Building Act that will replace those sections of the Local Government (Miscellaneous Provision) Act 1960 that relate to the Building Approval Process.

During the preparation of the report various sections are highlighted. These highlighted sections are of a nature that is believed to be of significant policy interest to Council. Comment is indicated in italics and is provided continuously through the report.

The legislation proposal is broken into three broad administrative areas:

1. Building Approval / Building Licence Issuing / Building Regulation and Enforcement;
2. Compliance with the Building Code; and
3. Registration of Design and Certifying Professionals.

1. Building Approval / Building Licence Issuing / Building Regulation and Enforcement.

- i. Legislation will recognise three levels of authority

- The local authority who will have the fundamental responsibility within a local authority district;

- The State, who will be able to act in default of the Local Authority and, where it elects, to control projects that are of a particular interest to the State. It will also provide the appropriate legislative framework for building control. Further it will provide the lead role in setting standards of practice and provide guidance on the interpretation of the Building Code of Australia and associated standards
  - A Special Authority - This could be the Mines Department in relation to Buildings on Mine Sites, Port Authorities for Building within Port Precincts, Airport Authorities for Buildings at Airports, etc.
- ii. The Role of the Local Authorities will remain much the same. However a number of proposals for the Act will have a significant impact on how the role is carried out. The Local Authority will be responsible for;
- Risk Management of the Building Control Process by conducting random audits of the building process. This role is already fulfilled by most Local Authorities. Whilst not all buildings are inspected a number do have inspections carried out during the course of building works.
  - Ensuring that all statutory approvals are in place before any Building Licence is issued. This is in practice what already happens, but it will now become a legislated requirement. Under current legislation the Building Approval process is not linked to any other approval that may be required for the building.
  - Monitoring possible conflicts of interest and registration status of persons providing certification services. Currently this role only extends to Registered Builders. This role will be expanded to cover Registered Building Surveyors, Registered design professionals and other persons involved in certification of building works. How it is envisaged that the local authority is likely to be aware of commercial conflicts of interest is a mystery.
  - Monitor building usage and essential service maintenance. Currently, once a building has been built and legally occupied there is no ongoing system for monitoring if the building remains suitable for occupation. It is proposed to limit the period for which certificates of occupancy apply. Prior to expiry of such certificate the building will need to be reassessed for compliance and where necessary remedial works carried out prior to the issue of a further certificate of occupancy. These controls will not apply to single residential situation, but will apply to buildings like flats and other commercial buildings.
  - Local authorities will be required to engage a Registered Building Surveyor

- Local authorities will only be allowed to issue Building Licences, Building Approval or any Occupancy Approvals once advice has been obtained from a Registered Building Surveyor. The Registered Building Surveyor need not be in the employ of the Shire where advice is taken for the issue of Building Approval or Occupancy Approval.
- Local authorities will not be obliged to certify plans and specifications for compliance with the requirements of the BCA, however such certification will be required before any approval can be issued. In effect this will be able to be carried out by Registered Building Surveyors in private enterprise, or in the employ of other local governments. This will prove to be attractive to city local authorities who will probably take the action of reducing their building staff to one and in the process severely restrict their ability to oversee the building approval process.

The costs of obtaining a Building Approval will be set by the market and the Building Owner will be required to shop around for the service.

For country local authorities a source of income that supports the provision of a Building Surveyor locally will be lost, thus bringing further strain on service provision, and probably resulting in the loss of the service locally. This will also reduce the local ability for the conduct of audits of the building process.

In noting the potential risks to income, it should be noted that the proposed Act will allow for a number of new administrative charges covering various aspects of the paper work processes, but the general effect is believed to likely be a reduction in revenue.

- Appeal recourse will continue to sit with the State Administrative Appeals Tribunal

### iii. Application of the Act

- The Act will have application throughout the State. Current legislation permits the selective application of the Building Regulations and therefore the need to comply with the Building Code. It will be required that all buildings conform with the Building Code and relevant administrative requirements of the Act.

In this Shire, building control does not extend to Class 10 buildings erected on farm properties. Whilst such building will be required to conform with the building code it is not certain if they will be required to go through any building approval process.

- The Crown (State not Federal) will be bound by the Act. Current legislation does not bind the Crown, however in effect the crown does comply, but applies its own administrative arrangements for building administration. These vary from Department to Department. Current practices of the Crown will continue. Where required the Crown will be able to exempt itself from the Act.
- A new definition of a Building will be provided. The current definition indicates a building includes a fence unless a Magistrate applies otherwise.
  - Structures such as mines, process plant, conveyors, pipe lines, industrial plant, some utility provider works, bridges, ports and the like will be excluded from application of the Act.
  - Regulation will be extended to include works over water and certain changes in ground level when not carried out with other associated building works, where a risk may exist to a building or the community.
  - Some buildings will be exempted from needing approval where the works will not pose a significant risk to public health and safety. In these instances notification of works will be required and they will still need to comply with the Act in terms of structure. A small fee for notification will be provided for in Regulations. This may cover fences, and other minor structures.
- Building Approval will become the subject of two distinct processes.
  - Building Approval will be the certification that the Building, if built in accordance with the plans and specification, will comply with the Building Code, but it will not allow building work to commence. Private Building Surveyors, Building Surveyors from other Local Authorities, as well as the local authorities own Building Surveyor will be able to provide Building Approval.
  - The Building Licence is issued once all approvals, including Building approval, are in place. A Building Licence is the approval for work to commence and can not be issued unless a Building Approval and all other Approvals are in place.
  - Both Building Approval and the Building Licence will be able to be issued by the local authority. However a Building Approval will only be able to be issued if it is subject to the conditions/provisos recommended by a Registered Building Surveyor



- Legislation will allow the issue of a Building Licence for whole or part of a building. This is normally required where a Builder may have limits in contract as to what he is responsible for. It also allows works to proceed in stages where appropriate

iv. Building Approval and Licence Process

- Forms of application will be strictly regulated. No variation in the form will be permitted to ensure that practice is uniform throughout the State. Currently significant variation in the forms used from one local authority to another exists. I don't believe it is appropriate that form be strictly regulated. Regulation should only be provided to indicate content that is required in every instance and allow forms to request details that may suit local purposes.

I understand this proposal comes from the fact that some local authorities refuse to accept any application if it is not on their own personal form, even though the other form contains much the same information.

- Where it is appropriate buildings designers will be required to provide a certificate of design liability covering the entire building design or specialist aspects of the design. This will need to be provided by a suitably registered designer/certifier. Provision is to be made for the registration of building design professionals.
- Before any building approval is issued it will be required that proof be provided that all other required approvals are in place, eg. Fire Brigades Board, Health Act approvals and the like.
- Building Approval will only be able to be issued to the building owner. The Building Approval will signify that all statutory approvals required to be in place for the building and detailed in documents provided conform to those approvals
- The Building Approval is to specify the class and use of the building.
- When a builder has been identified and prior to the issue of a Building Licence the builder is required to furnish a certificate of construction liability certifying that the builder takes full legal responsibility for the quality of construction.
- The Building Licence will only be able to be issued to the building owner, but only after a Owner-Builder Approval or Certificate of Construction Liability is provided by the Registered Builder employed to undertake the works.
- The Building Licence will only have a limited validity period specified in regulations. Current legislation does allow some variation of practice in this

respect, and on certain levels does not adequately define such time limits on the licence.

- The Building Licence will be required to specify what independent inspections, if any, are required to be carried out during construction to confirm compliance. The building owner will be responsible for arranging that the inspections are carried out and will be responsible for paying all costs associated with the conduct of such inspections. Guidance for the determination of independent inspections will be provided in regulation or best practice guidelines and the requirement will be governed by the complexity of the structure, the experience of the builder and any other relevant factors.
- Independent inspections are to be carried out by suitably registered persons who must confirm a required inspection has been carried out. There does not appear to be a requirement that the person actually attend the site, it would seem evidence such as photos or report of another may provide a basis upon which certification can be given by the registered person.

The same applies where the Builder's Registration Act does not require the Builder to actually attend the site, but he is to make arrangements to ensure he is satisfied to the standard of construction through inspection of others or by any other means he considers appropriate.

- Appeal against Licence Conditions, including any requirement for independent inspection will rest with the State Administrative Appeals Tribunal. It will be clear however that the conditions as issued will apply until the appeal has been determined.
- Transfer of Licences will not be permitted. However separate licences will be able to be issued for the same work where responsibility for the work passes to a new person/owner.
- Fees for the issue of Building Approval and Building Licences will have maximums set by Regulations. The fees available will be designed to cover administrative costs only as the report on plans by a Registered Building Surveyor and conduct of required inspection will be set by the market. The person seeking the Building Licence or Building Approval will be required to appoint and pay for the services of a Building Surveyor to provide advice to the local authority on plans that he is trying to get approved. This may be the local authorities Building Surveyor or another practitioner.
- A clear procedure allowing for the approval of unauthorised building works will be specified. Broadly the owner of the property will be required to obtain the services of Registered Building Surveyor to provide a certificate of substantial compliance probably at their cost. Fees for this will also be set by

Regulation. This process will be separate from the consideration as to whether or not legal action is taken for the conduct of the work. Legal action for erecting an unauthorised structure can only be taken against the person who directed that the structure be built.

v. Inspections During Construction

- The builder will be required to provide a certificate of construction compliance (for the part of the construction that the builder is responsible for) and this certificate will form part of the application for a certificate of occupancy.
- The local authority may require independent inspections to be carried out during specified stages of construction. The building owner will be responsible for organising these inspections and it will be illegal to obstruct or frustrate the conduct of such inspections.

The need or requirement for independent inspections will generally be determined by an as yet to be determined risk assessment process taking into account the complexity of a building and the likely outcomes of building or building service failure.

- The forms for the certification of construction will generally be indicated by best practice guidelines or Regulation.
- The local authority will have a duty to require inspections.
- Building Licence is to specify inspection requirements. Such system of declaring when inspections are required up front will concentrate compliance efforts at those points. This may in effect mask poor building practice
- The registered person conducting the inspection is to certify that the inspections have been carried out and provide such certification to the Local Authority
- Variation from approved plans will only be able to be done with the approval of the local authority. The advice of a Registered Building Surveyor will only be required if it may affect the Buildings general compliance.
- Risk based approach to determination of required building inspections will differentiate between commercial and domestic construction

vi. Occupancy and Use Approval Process

- Licence issuing Authority to Issue a Certificate of Occupancy. Current legislation does not require this for Houses. The only class of building that will be exempted from this requirement will be private sheds, patios, carports or the like.
- Application for Occupancy will be in a standard form and it will be required that it be demonstrated that the construction complies with the Building Code and all required certifications have been obtained. This will include but not be limited to the provision of the certificate of substantial compliance by the builder and will cover requirement for specific certification of fire installations.
- It will be required that a Certificate of Occupancy be obtained before a building is occupied. This process will allow consideration of early occupancy where appropriate and other appropriate variations of process where necessary.
- The Certificate of Occupancy will be taken to indicate the building is fit to occupy and all essential life services are operational. Application of condition to the certificate of Occupancy will be allowed. Currently it may include conditions on the occupation
- A Fee will be specified in the Regulations for the issue of a Certificate of Occupancy. This will be in addition to the payment of costs associated with having any aspect of the building inspected.

vii. Maintenance of Regulated Usage and Services

- The Certificate of Occupancy will prescribe the inspection requirements on essential services, smoke handling systems, fire extinguishers, emergency lighting, etc.
- Where mandated the local authority will undertake periodic audits of building usage and the maintenance of essential services. To facilitate this Certificates of Occupancy will only be issued for specified periods, before the expiry of a certificate of occupancy an audit will need to be carried out. No detail is provided as when the Local Government will be mandated. I am uncertain as to what response is necessary on this particular proposal.
- A new Certificate of Occupancy will not be able to be issued without the advice of a suitably Registered Building Surveyor first being taken.

- Legislation will impose a duty on the Building Owner to ensure that the building remains in compliance and he will be required to report to the local authority the actions taken to ensure essential services remain operational and the essential characteristics of the building have been maintained. This legal requirement now only exists through the application of Occupation Health and Safety Requirements, Systems of Public Liability Management, and the Health Act (Public Building) Regulations.
- Maintenance records are to be maintained on every building where essential services need to be maintained and these are to be kept available for inspection.
- Penalties will be applicable for non-compliance with these requirements.
- Regulation will allow a Certificate of Occupancy to be revoked. Upon revocation of a Certificate of Occupancy it will be illegal to occupy the building.
- Independent Building Surveyor or other approved certifiers may report non-compliances but the responsibility for enforcement rests with the Local Authority. It should also be stipulated that where private Building Surveyors or certifiers notify that a building is not in conformity they will provide such a report in a form that will assist enforcement action.

viii. Enforcement

- The Licence Issuing Authority will be responsible for initiating enforcement action:
  - during construction works, either on its own initiative or on report from a registered Building Surveyor. The legislation should require the person making the report that requires the Council to take legal action to provide all necessary assistance with the legal action;
  - after the completion of building work;
  - after a Building Licence has Expired; or
  - where building work has been or is being carried out without approval.

These enforcement actions can be for:

- works that contravene the Act or the terms of a Building Licence; and
- building works that depart from approved plans and specifications

- Building work has been, or is being, carried out without a Building Licence
- The occupancy of the building contravenes the Act or a Building Licence
- The building is unfit for Occupation
- The building is a danger or potentially a danger to occupants, users or adjoining properties.
- The local authority will have authority to issue a building notice, a building order or a stop work order.
- A building notice can be served on both the builder or the building owner giving notice of compliance failure and requiring them to show why they should not be ordered to bring the building or works into compliance. The notice will be required before any other enforcement action is taken, except where extreme circumstance makes the issue of a notice inappropriate. This process is in accordance with first principals of natural justice.
- Other powers for issue of a notice will be similar to those that already exist. Building Orders will generally be served on the building owner.

Building Orders will be able to require the building owner to:

- Make the building safe or demolish it;
- Evacuate the Building;
- Bring the Building into compliance with the Act or the terms of a Building Licence or Building Approval;
- Obtain retrospective Building Approval; or
- Otherwise remove a cause for concern.
- Stop works orders will be able to be served on the owner and builder, with effect for up to 48 hours, where there is reason to believe a serious compliance failure has occurred or is to occur. The order may apply to the whole or part of a building.

- It will be required that local authorities enforce Building Orders. Legislation should make it that a building is not to be occupied if a Building Order has not been complied with to provide greater means for the enforcement of Building Orders.
  - Prosecutions will be able to be carried out for failure to comply with a building order. Currently the prosecution option is not provided in every instance. Sometimes it falls back on the Council to act in default of the Building Owner and then seek to recover costs for such work through court action.
  - All fines payable will be kept by the Licence Issuing Authority
  - Powers of entry will be provided for to the extent that they are consistent with the needs and rights of building owners and occupiers.
  - The State may act in default or in the absence of a local authority
- ix. Emergency Powers
- Powers will allow the Commissioner of Police to apply the powers of the Act in the event of an emergency situation such as an Earth-quake, Explosion etc.
  - Where strengthening or modifications are required in a building affected by an emergency, Building Approval and a new Certificate of Occupancy will be required before the works are carried out and the building re-occupied. Requirements may also require the conduct of independent inspections.
  - There will be powers of entry to allow protection works for adjoining buildings to be carried out.
- x. Construction on Boundaries
- It will be specified that construction is to be within the site unless the adjoining owner agrees and such agreement is recorded on the property titles.
  - Construction up to a boundary is not to impair the amenity of the adjoining land.
  - Construction is not to undermine structure on adjoining land
  - Standard of finish of any wall on boundary must be of high standard with requirements recorded in the Building Licence and be independently verified.

- Where the construction of a building requires access onto an adjoining property, requirements for reasonable notice of such access will be prescribed. Prior to the issue of a Building Licence it will be required that it be confirmed that the adjoining property owner has given their approval for access to their property for the conduct of building works. Where a building owner can not be found or permission is unreasonably withheld then the Act will allow a Court Order to permit legal access.

Currently there is no fall back option if the owner of the adjoining property refuses to allow access

- Processes will be prescribed for the undertaking of protection works where special support is required of an adjoining structure. The Building Owner will have a prescribed liability for any damage to the adjoining building.
  - These provisions will apply to party walls and fences.
- xi. Appeals - All decisions, notices, orders, direction given pursuant to the requirements of the Act will be able to be appealed.

- xii. Audits - Periodic Audits will be carried out of compliance certificates

Periodic Audits will be carried out of Local Authority Building Licence/Approval Processes.

## 2. Building Code Compliance

- i. The Building Code of Australia will remain the primary building standard.

ii. Certificates of Design Compliance

- In order to obtain a Building Licence it will be required that the building owner demonstrate that the building complies with all relevant Acts. This may include, but not necessarily be limited to;
  - Planning Approval
  - Heritage Approval
  - Compliance with the Building Code
  - Compliance with Health Regulations
  - Fire and Emergency Services Approval



This would be done by the production of evidence of relevant approvals and, in respect of compliance with the Building Code, certification will be required from a Registered Building Surveyor or a team Registered Design Professionals who individually or in concert can certify the whole structure. However in any case an over-arching certification will be required from a Registered Building Surveyor with the appropriate level of skill.

Currently no comprehensive system of registration of building professionals exists. It is proposed that one be created.

Technically the process of Building Approval is currently separate from all other approvals. However it is not normal to issue a Building Licence until proof of all other approval has been sighted.

- iii. The Local government will oversee the role of Certifiers. In effect the Local Authority will be required to vet Certifiers to see that they have no inappropriate conflicts of interest with a builder or otherwise.

The concept the Local Authority will be in a position to make such judgements is ridiculous. In effect all that could be done in this respect is to require certifiers to certify or identify any relationship they may have with the builder or others

### 3. Registration of Design and Certification Professionals

It is proposed that the Building Act will provide the head of power to establish systems of registration for design professionals. Further this would extend to the ability to require the design of certain building to be certified by a design professional that has relevant registration and design experience. This would normally apply to buildings which by virtue of size and/or use are by their nature complex in their design requirements. It is not thought likely that such consideration would apply to small commercial premises or houses.

Registration systems will extend to Architects, Engineers, Para-Professional with specialist skill, Building Surveyors etc

#### **COMMENT:**

Many of the concepts covered in the proposal for the new Building Act seem to be appropriate, but it will be that the devil is in the detail.

Certainly the process for Building Approval/Licence issue out-lined will increase the administrative burden in dealing with records of building activity. Specifically;

Risk Management Audits of the Building Process - the principal of random audits is generally accepted. However a problem arises when you try to write the principal into

legislation. The discussion document in not tackling how this is be undertaken and measured (if it is to be measured) means that the document is not currently complete.

Local Government to have a role in monitoring the conflicts of interest of Private Certifiers - Broadly the question is how is Local Government likely to know or be even aware if conflicts of interest exist? It would seem that the legislation would be better providing that independent certifiers are to ensure they have no conflicts of interest and even better to define in whose interest they are to act.

The normal culture of consulting would expect that they would act in the clients interest.

Where independent inspectors, certifiers and the like are used in the building process it should be required that they act in the interests of the whole community and not fall into the trap or serving a clients narrow interest.

Local authorities will be required to employ a Building Surveyor, but will not be required to provide a service to certify plans and specifications - The exact way this mix will work is uncertain. Certainly in the Perth metropolitan area it will likely result in Shire Building departments being reduced to a staff of one Building Surveyor, therefore removing any capacity for these local governments to provide random audits of the building process.

In the case of country local authorities the fact that Councils will not be certain of income from the Building Approval Certification Process will also produce economic pressure to cut back the provision of services locally. With the result that one Building Surveyor may cover an area of such geographic magnitude that again the capacity to provide random audit of the Building Approval Process will also be significantly reduced

There is a need, under National Competition Policy, to consider whether or not it serves the broader community interest to protect some local government's Building Approval Processes from private competition to provide for appropriate revenue flows that will help with the retention of qualified staff locally and also the ability to fulfil the requirements of the Act.

Act to have application throughout the State - the fact that the legislation will provide that all buildings will need to conform to the requirements of the BCA no matter whether or not they required a Building Licence or not is good. Currently, where exemption from building regulation applies, exemption from the Building Code also applies.

Council may wish to comment on whether or not it wishes the current exemption for Class 10 buildings on rural properties to remain. Functionally, I would suggest that the exemption should be removed, as its existence creates a level of administrative confusion as not all sheds erected on farms are Class 10 buildings.

Proposal to allow a process of notification to suffice for certain simple structures - Current legislation does not allow for any differentiation in process between simple and more complex structures. Requiring notification of simple structure will allow each to be

assessed on a case by case basis and where necessary require full building approval when such structures, by their size or nature need to be subject to more formal building approval. Broadly this concept is supported, although the definition of the line which determines whether or not a structure requires notification or more formal building approval will vary from locality to locality as does the performance requirements for buildings vary (cyclonic vs. non-cyclonic, earthquake zone, open terrain vs. suburbia)

Restricting issue of Building Licence to Building Owner only - Taken with other structures proposed for the Act it would seem that it follows that any legal action will also need to be taken against the building owner.

This is not appropriate on all instances. Certainly where a building owner has been relying on another (through his representation of himself as a tradesman or a builder), in such instance it is not always appropriate to take legal action against the owner. Legislation should allow for legal action to be taken directly against the person who undertook the non-compliant works.

The fact that the Builder's Registration Act and current building legislation effectively insulates individual tradespersons from being brought directly to account for breaches of the building code, has resulted in a culture where some trades do not take any care with their work. The new Act needs to address a system whereby all persons employed on a building site are jointly and severably liable for the work carried out on the site. Of course this would need to be limited to the effect of the work which they individually undertake or supervise and their level of building expertise.

The argument made against such a system is that action can be taken under contract law against the individual trades by the Building Owner or Builder. However this, in fact, very seldom happens and therefore has little deterrent effect on irresponsible building trades.

The current arrangements where only the building owner or registered builder can be prosecuted is unacceptable and if maintained will perpetuate a system where some contractors take little care or responsibility.

Certainly, if the home-owner relies on a tradesman to do compliant work it is not appropriate that the home-owner be prosecuted for a breach of the Building Code.

Identification of required independent inspections in the Building Licence - the fact that the discussion document does not attempt to quantify what guidelines may exist in this respect does indicate that greater consultation on this issue is required.

The application of this section should be expanded to require the builder be required to give notice of various stage of construction to assist the process of random audit of building projects.

Fees - It is clear that maximum fees will be prescribed for the various administrative actions required under the Act. Such fees should not be set on a State wide basis as the cost structures of local governments vary greatly. Provision should be made for the fees to be set locally and at levels that can be justified by the individual Council's cost structures.

Further, in areas distant from large population centres, local government should be able to prescribe that all plan certifications are to be done by their own Building Surveyor. This is required to ensure that Local Governments outside large regional centres have some security of cash flow to assist in the provision of services required under the Act. Such action can be justified under national competition policy, because it will help ensure local service provision for the broader community benefit. It is not appropriate to just impose a system that is in place in other States without considering community service/benefit factors.

Certificate of Construction Compliance - The builder should always be able to certify that a building has been constructed in accordance with the Building Code and the approved plans and specifications.

Consideration should be given to extending this system to require the individual trades certify their work, (this currently applies for plumber and electricians). Requiring such certification will help ensure that the individual trades take responsibility for their workmanship and will be even more appropriate where the works are carried out for an owner-builder.

I understand such systems exist in other state and it is a mystery why such option has not been canvassed in this discussion document.

Inspection by independent persons, Certification by independent Building Surveyors - Nothing in the discussion documents indicates that the actual certification needs to be done by the person actually carrying out the inspection. This structure would in fact allow, at the extreme end, allow one person to certify all works within the state.

Certainly the Builder's Registration Act allows structures of this nature where one registered builder supervises more building sites than a single supervisor is ever able to visit. To carry his obligation out he is able to employ underlings or rely on others for this task, none of whom are actually required to carry any special qualification. I would hope that in the new Building Act the appropriateness of such structures will receive serious consideration. Certainly the discussion document is silent on this issue.

The discussion document also does little to define or discuss what "independent" does in fact mean. Certainly if a person is retained by another for carrying out certain works they will always have a level of influence on how that person carries out the task, and in this respect no person is truly independent where any commercial or employment interest are involved. Large building groups are likely to establish an arm employing *Independent* Building Surveyors or Inspectors who may be in a group separate from the building

company itself but none-the less have a connection to the building company. Little in the discussion document addresses these possibilities and it is an area that requires further consideration. Such associations would not be permitted of a public officer, but similar standards do not apply to the private sector.

Broadly the package in describing issues or subjects to be dealt with in the Proposed Building Act does seem to be comprehensive. The devil will however be in the details and whilst the discussion document does include general discussion on some areas it does not provide any real detail on the detailed working on many of the proposals it contains. It is hoped that the Government will provide further opportunity to comment on what is a complex set of proposals.

**STATUTORY ENVIRONMENT:**

Discussion document on a Proposed New Building Act

**FINANCIAL IMPLICATIONS:**

Whilst fees will be provided for in regulations the fact that they have not been quantified is of concern. A danger exists in that the fees that will be specified in regulation will not cover the administrative costs that will be incurred in complying with the proposed new Act.

**POLICY IMPLICATION:**

The policy implication can not be determined until the actual form of the Act is known.

**STRATEGIC IMPLICATIONS:**

Broadly, the direction of the Act is likely to lead to the centralisation of Building Services to large regional centers with the commensurate reduction of service in the regions.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION:**

That Council adopt the content and direction of the comment provided in this report and authorise staff to provide this comment on behalf of Council.

**RESOLUTION: 2006-052**

**Moved:** Stacy **Seconded:** Waite

*That Council adopt the content and direction of the comment provided in this report and authorise staff to provide this comment on behalf of Council and Council wishes to make the comment that the current exemption for Class 10 buildings on rural properties remain.*

**CARRIED 6/1**

**10.2.5 NEED FOR LOCAL LAWS TO COVER TRANSFER STATION AND REFUSE SITE OPERATIONS**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	15 March 2006
<b>ATTACHMENT:</b>	10.2.5 Procedure for making a determination Matters for which determinations can be made
<b>FILE</b>	R21.9 Refuse Removal - General

**SUMMARY:**

**Council is to consider the need for Local Laws to govern Rubbish Tip and Transfer Station Usage**

**BACKGROUND:**

Council resolved in 2004 that Refuse Site Local Laws be adopted that embrace:

1. the manning of all refuse sites
2. open and closure time
3. user charges
4. recycling
5. management procedures
6. Opportunity to issue scavenging rights

In examining the opportunities available to Council in this respect it has been determined that there is no need for separate Local Laws on this matter as the Council's existing Property Local Law provides an appropriate head of power for dealing with such requirements.

Specifically, the Local Law allows for determinations to be made in relation to certain activities on Local Government Property. Details of how determinations can be made and the issues which they can cover are attached to this report.

The Local Law and the Local Government Act defines Local Government Property as anything except a thoroughfare

1. which belongs to the local government;
2. of which the local government is the management body under the *Land Administration Act 1997*; or
3. which is an 'otherwise unvested facility' within section 3.53 of the Act;

Otherwise unvested facilities include thoroughfares, bridges, jetties, drains, or watercourses belonging to the crown the responsibility for controlling or managing is not vested in any person.

**COMMENT:**

Adequate powers exist under Council's Property Local Law to cover the form of control that the Council may require to better operate Transfer Stations and its Refuse Sites. It should be noted however that the power only applies to land either vested in or owned outright by the Council.

There is no need for a Local Law or the like for the prescription of fees as the power for making such charges already exists under the Local Government Act, 1995 and does not require a local law for this purpose

At the appropriate juncture a series of determinations will be brought forward to Council for its consideration.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995

**FINANCIAL IMPLICATIONS:**

The process of making determinations is simpler and a little more immediate than making Local Laws.

**POLICY IMPLICATION:**

Broadly a determination is a formal policy with legal application similar to Town Planning Scheme Policies

**STRATEGIC IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council note that it does not need to make a Local Law to cover the operation of Refuse Sites and/or Transfer Stations and sufficient control can be effected through the making of determinations under the Local Government Property Local Law.



**RESOLUTION: 2006-053**

**Moved:** Pethick      **Seconded:** O'Callaghan

*That Council note that it does not need to make a Local Law to cover the operation of Refuse Sites and/or Transfer Stations and sufficient control can be effected through the making of determinations under the Local Government Property Local Law.*

**CARRIED 7/0**



**10.2.6 ISSUES FOR WHICH A DETERMINATION IS NEEDED TO CONTROL VEHICLE USE IN THE COASTAL RESERVES**

<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>ATTACHMENT:</b>	10.2.6 Procedure for making a determination Matters for which determinations can be made
<b>FILE</b>	R7.2 Reserves – Green Head R7.3 Reserves - Leeman

**SUMMARY:**

**Council is to consider the controls it requires on Coastal Reserves.**

**BACKGROUND:**

Council currently has a determination applying to its Coastal Reserves that prohibits the use of un-licensed motor bikes and un-licensed motor vehicles.

It has become clear that management problems within the reserves do not result from whether or not a vehicle is un-licensed it is more the manner in which the vehicle is used and where it is used, rather than whether or not the vehicle is licensed.

**COMMENT:**

The Local Government Property Local Law allows significant powers to control certain uses on Council Land.

Whilst Council may wish to keep the determination that prohibits the use of un-licensed motor vehicles in its coastal reserve it should consider making a determination to require that:

- all motor vehicles to keep to designated tracks;
- all motor vehicles to only access beach areas at designated beach access points;
- all motor vehicles when driven along a beach to remain below the vegetation line and not enter onto any sand dune;
- motor vehicles not exceed the walking pace for an adult person where they are to be driven along a beach near people; and
- motor vehicles are not driven in dangerous or hoon like manner.

If Council is generally agreeable with the controls suggested above then they will be included into a draft determination to be brought back to a subsequent meeting. Each of the areas of control indicated above are aimed at activities that have been the subject of complaint about motor vehicles on the coastal reserves.

Councillors may want to suggest some other issues that require consideration.

**STATUTORY ENVIRONMENT:**

Local Government Property Local Law

**FINANCIAL IMPLICATIONS:**

Nil

**POLICY IMPLICATION:**

The areas suggested for consideration relate to issues that have been the subject of complaint and I am satisfied that are matters over-which better control is required.

**STRATEGIC IMPLICATIONS:**

The process of making a determination will also serve to educate people to be more responsible in their use of public places.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council support the general direction of controls for and require that a draft determination be developed and brought back to Council for its further consideration.

**RESOLUTION: 2006-054**

**Moved:** Eaton      **Seconded:** O'Callaghan

*That Council support the general direction of controls for and require that a draft determination be developed and brought back to Council for its further consideration.*

**CARRIED 7/0**

**10.2.7 DEVELOPMENT/SUB-DIVISION PROPOSAL FOR LOTS 58 AND 59  
THOMAS STREET, LEEMAN**

<b>NAME OF APPLICANT:</b>	Landcorp
<b>LOCATION</b>	Lots 58 & 59 Thomas Street, Leeman
<b>AUTHOR</b>	John Randall
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>ATTACHMENT:</b>	10.2.7a Sub-Division Plan for the Lots 58 and 59 10.2.7b R-codes Table 1 - General Site Requirements
<b>FILE</b>	Lot File 58/59

**SUMMARY:**

**Council is to consider the Scheme of Sub-division proposed and associated Scheme amendment documentation for Lots 58 and 59 Thomas Street, Leeman.**

**BACKGROUND:**

The land in question is currently zoned Residential R50. This means is that under the current zoning, subdivision of Green Title and Strata Lots down to 160m<sup>2</sup> in area (exclusive of common property). This is illustrated R-codes table 1 included at Attachment 10.2.7b.

In discussions with Landcorp staff have expressed concern that development to R50 in Leeman might not be appropriate and the fact that development to such a density might not be able to be done within the parameters of current height restrictions that apply within the scheme that is 2 storey and 8m total height.

The layout as proposed is not acceptable if R50 were to continue to apply to the land. The subdivision plan is included at 10.2.7a. Under R50, lots 1, 2, 3, 4, 7, 8, 9, 12, 13, 14, 17, 18, 19, and 20 would have the potential for strata sub-division.

If such sub-division were to occur then the resultant development would be less than ideal. Broadly good strata development relies on the block having sufficient width so that the subsequent strata lots are located both sides of a shared access leg. This creates a more open development that is complementary to the streetscape.

These issues were taken up with Landcorp and it was agreed that the site should be re-zoned. R35 was suggested. At this density all lots will conform to the requirements for this density (minimum green title and strata lot size of 235m<sup>2</sup> exclusive of common property) and only lots 9 & 12 would continue to have some potential for strata sub-division (the actual potential in this respect can only be determined if a detailed site development plan were prepared).

The alternative of having lots 1 and 2, 8 and 9, 12 and 13, 19 and 20 combined and developed as vacant survey strata was canvassed, but it was indicated that Landcorp's policy is avoid any form of strata development.

In considering the change of density applicable to the land from R50 to R35, it needs to be remembered that Landcorp could have put forward a development that just conformed to the requirements of the R50 zoning and Council would not have been able to reject or modify the development.

With this in mind the development proposed is a good outcome, even though I still have concerns whether or not blocks down to 250m<sup>2</sup> in size are a good idea. In the proposal they form only a small part of the development and under the R50 zoning a far smaller blocks could have resulted and they all could have been smaller.

**COMMENT:**

Apart from changes proposed to the residential density to apply over the area the following issues have also been identified as needing to be dealt with;

1. Change the Zoning Table in the Scheme. Currently the table only provides that a dwelling is permissible in the residential zone regardless of the form of development. Most schemes make a distinction between Single Dwellings, Grouped Dwellings and Multiple Dwellings with the later 2 being the subject of the discretionary planning approval of Council.

A Single Dwelling is a house on Green Title lot

A Grouped Dwelling is a dwelling or group of dwellings on a single lot (generally subject to strata sub-division).

A Multiple Dwelling is the same as a grouped Dwelling except that the whole or part of the dwelling is located above or below another dwelling.

Making Grouped and Multiple Dwelling's the subject of planning consideration by Council allows for better direction as to the out-comes from this type of development.

This amendment has relevance to this sub-division proposal as it will have relevance to proposed lots 9 & 12.

2. Provide for powers relating to Detailed Area Plans - These amendments are required as the sub-division, as proposed by Landcorp, will require the preparation of a detailed area plan. Such detailed are plan will need to address as a minimum the following issues
  - Fixing the location of cross-overs to ensure that some capacity will exist adjacent to the development for on-street parking.
  - Adjust R-code setback requirements to ensure that there will be sufficient space within the building frontage to park a boat and trailer of reasonable length.
  - Provision of development guidelines aimed at ensuring good development outcomes for every lot less than 350m<sup>2</sup> and in the development generally.

Other issues may also need to be addressed as the proposal receives further consideration. Suffice to say an amendment is required to the Town Planning Scheme to provide for detailed area plans.

**STATUTORY ENVIRONMENT:**

Town Planning Scheme No 2  
Town Planning and Development Act

**FINANCIAL IMPLICATIONS:**

Nil

**POLICY IMPLICATION:**

Having the scheme amended to allow for detailed area plans to apply to development will permit greater flexibility in seeking appropriate development outcomes.

**STRATEGIC IMPLICATIONS:**

Amendments will make the Town Planning Scheme more adaptable to the shires needs.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council resolve in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend Town Planning Scheme No 2 by:

1. Modifying the Scheme Map by recoding Lots 58 and 59 Thomas Street, Leeman from Residential R50 to Residential R35
2. Deleting the use class of "Dwelling" indicated in Table 1: Zoning Table comprised within Part 4 of the Scheme, and inserting the following into Table 1:

Use Classes	ZONES							
	Residential	Commercial	Industrial	Tourist Accom	Rural	Rural Residential	Places Public Assembly	Private Clubs & Institutions
Single Dwelling	P	X	X	D	P	P	X	X
Grouped Dwelling	D	X	X	D	D	D	X	X
Multiple Dwelling	D	X	X	D	X	X	X	X

3. Amend the Table of Contents by inserting Part 12 – Detailed Area Plans – Page 41.

4. Inserting a new part – Part 12 - Detailed Area Plans – as set out below:

#### Part 12 - Detailed Area Plans

##### 12.1 Detailed Area Plan May Be Required

- 12.1.1 (a) The Council or the Commission may require a person to prepare and submit to the Council a Detailed Area Plan.
- (b) A person or the Shire may prepare and submit to the Council, a Detailed Area Plan provided the Detailed Area Plan is consistent with the Scheme.

12.1.2 A Detailed Area Plan shall be submitted to the Council in quadruplicate or such other quantity specified by the Council.

12.1.3 A Detailed Area Plan is to relate to a particular lot or lots and may be prepared and submitted:

- (a) to satisfy a condition of subdivision and/or planning approval;
- (b) in place of an application for planning approval required to comply with Clause 2.3.3 of the Residential Design Codes; or
- (c) for any other planning purpose.

##### 12.2 Matters that may be included in a Detailed Area Plan

12.2.1 A Detailed Area Plan may include details as to:

- (a) building envelopes and setbacks;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, site and building levels and drainage;
- (i) protection of sites of heritage, conservation, flora or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Council.

##### 12.3 Consideration of a Detailed Area Plan

12.3.1 Upon submission of a Detailed Area Plan to Council for consideration the Council is to assess the Detailed Area Plan within sixty (60) days if advertising is not required and ninety (90) days if advertising is required, and:



- (a) adopt the Detailed Area Plan with or without conditions and/or modifications which the Council may make or require the proponent to make; or
- (b) refuse to approve the Detailed Area Plan.

12.3.2 If within sixty (60) days if advertising is not required and ninety (90) days if advertising is required of receiving a Detailed Area Plan under subclause 12.3.1, or such longer period as may be agreed in writing between the proponent and the Council, the Council has not made one of the determinations referred to in subclause 12.3.1, the Council is deemed to have refused to approve the Detailed Area Plan.

12.3.3 If the Council requires modifications under subclause 12.3.1(a), the proponent shall make the modifications in consultation with the Council and resubmit the Detailed Area Plan. The Council may make the modifications required under subclause 12.3.1(a).

12.3.4 Following approval by the Council and any modifications required by the Council under subclause 12.3.1(a) being made to the Detailed Area Plan where required, the Detailed Area Plan should be certified by an officer authorised by Council.

12.3.5 The Council should forward a copy of the Agreed Detailed Area Plan to the Commission within 14 days of certification of the Agreed Detailed Area Plan under subclause 12.3.1(a).

#### 12.4 Public Notice of a Detailed Area Plan

12.4.1 The Council may at its discretion require a Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Detailed Area Plan under Clause 12.3.1.

12.4.2 The Council may at its discretion require an Amendment to an Agreed Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Amendment to the Agreed Detailed Area Plan under Clause 12.4.1.

12.4.3 Such publicity shall be undertaken by the proponent in accordance with the provisions of Clause 9.4 as may be directed by the Council.

#### 12.5 Operation of an Agreed Detailed Area Plan

12.5.1 An Agreed Detailed Area Plan shall come into operation on the date it is certified under Clause 12.3.4.

12.5.2 Once the Detailed Area Plan has been agreed it should be used, with respect to the land subject to the Agreed Detailed Area Plan, as the basis for:

- (a) making recommendations to the Commission on subdivision applications;

- (b) determining requests to clear a condition of subdivision approval; and
- (c) determining applications for planning approval.

12.5.3 Under an Detailed Area Plan:

- (a) the standards and requirements applicable to zones and R-Codes under the Scheme shall apply to the same extent to the areas having corresponding designations under the Agreed Detailed Area Plan; however notwithstanding the provisions of subparagraph (c), an Agreed Detailed Area Plan may by a clear statement of intent to do so, make provision for the design standards and requirements applicable to R-Codes and zones to be varied, and the design standard or requirement varied in that way shall apply within the area of the Agreed Detailed Area Plan, or any stipulated part of that area of the Agreed Detailed Area Plan;
- (b) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and effect in regard to the land in the Detailed Area Plan as if they were provisions of the Scheme;
- (c) any other provision, standard or requirement in relation to the R-Codes and zones in the Agreed Detailed Area Plan shall be given the same force and effect as if it was a provision, standard or requirement of the Scheme, but subject to the provision of subclause 12.5.3(a) allowing for a specific variation to the design standards and requirements by a Detailed Area Plan, if there is any other inconsistency or conflict not addressed as an intended variation by the Agreed Detailed Area Plan, the provision, requirement or standard of the Scheme shall prevail.

12.6 Amendment or Revocation of an Agreed Detailed Area Plan

12.6.1 An Agreed Detailed Area Plan may be amended with the approval of the Council under subclause 12.3.1.

12.6.2 The provisions of subclauses 12.3.1 and 12.3.2 shall apply to the consideration of the amendment.

12.6.3 An amendment to an Agreed Detailed Area Plan shall come into operation on the date it is certified under subclause 12.3.4.

12.6.4 The Council should forward a copy of the Amendment to the Agreed Detailed Area Plan to the Commission within 14 days of certification.

12.6.5 The Council may revoke an Agreed Detailed Area Plan. Following the Council's decision to revoke an Agreed Detailed Area Plan, the Council should advise the Commission of its decision to revoke an Agreed Detailed Area Plan.

**RESOLUTION: 2006-055****Moved:** Pethick      **Seconded:** Waite

That Council resolve in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend Town Planning Scheme No 2 by:

1. Modifying the Scheme Map by recoding Lots 58 and 59 Thomas Street, Leeman from Residential R50 to Residential R35
2. Deleting the use class of "Dwelling" indicated in Table 1: Zoning Table comprised within Part 4 of the Scheme, and inserting the following into Table 1:

Use Classes	ZONES							
	Residential	Commercial	Industrial	Tourist Accom	Rural	Rural Residential	Places Public Assembly	Private Clubs & Institutions
Single Dwelling	P	X	X	D	P	P	X	X
Grouped Dwelling	D	X	X	D	D	D	X	X
Multiple Dwelling	D	X	X	D	X	X	X	X

3. Amend the Table of Contents by inserting Part 12 – Detailed Area Plans – Page 41.
4. Inserting a new part – Part 12 - Detailed Area Plans – as set out below:

*Part 12 - Detailed Area Plans*

*12.1 Detailed Area Plan May Be Required*

12.1.1(a) *The Council or the Commission may require a person to prepare and submit to the Council a Detailed Area Plan.*

(b) *A person or the Shire may prepare and submit to the Council, a Detailed Area Plan provided the Detailed Area Plan is consistent with the Scheme.*

12.1.2 A *Detailed Area Plan shall be submitted to the Council in quadruplicate or such other quantity specified by the Council.*

12.1.3 A *Detailed Area Plan is to relate to a particular lot or lots and may be prepared and submitted:*

- (a) to satisfy a condition of subdivision and/or planning approval;
- (b) in place of an application for planning approval required to comply with Clause 2.3.3 of the Residential Design Codes; or
- (c) for any other planning purpose.

## 12.2 Matters that may be included in a Detailed Area Plan

### 12.2.1 A Detailed Area Plan may include details as to:

- (a) building envelopes and setbacks;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, site and building levels and drainage;
- (i) protection of sites of heritage, conservation, flora or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Council.

## 12.3 Consideration of a Detailed Area Plan

### 12.3.1 Upon submission of a Detailed Area Plan to Council for consideration the Council is to assess the Detailed Area Plan within sixty (60) days if advertising is not required and ninety (90) days if advertising is required, and:

- (a) adopt the Detailed Area Plan with or without conditions and/or modifications which the Council may make or require the proponent to make; or
- (b) refuse to approve the Detailed Area Plan.

### 12.3.2 If within sixty (60) days if advertising is not required and ninety (90) days if advertising is required of receiving a Detailed Area Plan under subclause 12.3.1, or such longer period as may be agreed in writing between the proponent and the Council, the Council has not made one of the determinations referred to in subclause 12.3.1, the Council is deemed to have refused to approve the Detailed Area Plan.

### 12.3.3 If the Council requires modifications under subclause 12.3.1(a), the proponent shall make the modifications in consultation with the Council and resubmit the Detailed Area Plan. The Council may make the modifications required under subclause 12.3.1(a).

### 12.3.4 Following approval by the Council and any modifications required by the Council under subclause 12.3.1(a) being made to the

*Detailed Area Plan where required, the Detailed Area Plan should be certified by an officer authorised by Council.*

12.3.5 *The Council should forward a copy of the Agreed Detailed Area Plan to the Commission within 14 days of certification of the Agreed Detailed Area Plan under subclause 12.3.1(a).*

12.4 *Public Notice of a Detailed Area Plan*

12.4.1 *The Council may at its discretion require a Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Detailed Area Plan under Clause 12.3.1.*

12.4.2 *The Council may at its discretion require an Amendment to an Agreed Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Amendment to the Agreed Detailed Area Plan under Clause 12.4.1.*

12.4.3 *Such publicity shall be undertaken by the proponent in accordance with the provisions of Clause 9.4 as may be directed by the Council.*

12.5 *Operation of an Agreed Detailed Area Plan*

12.5.1 *An Agreed Detailed Area Plan shall come into operation on the date it is certified under Clause 12.3.4.*

12.5.2 *Once the Detailed Area Plan has been agreed it should be used, with respect to the land subject to the Agreed Detailed Area Plan, as the basis for:*

- (a) making recommendations to the Commission on subdivision applications;*
- (b) determining requests to clear a condition of subdivision approval; and*
- (c) determining applications for planning approval.*

12.5.3 *Under an Detailed Area Plan:*

- (a) the standards and requirements applicable to zones and R-Codes under the Scheme shall apply to the same extent to the areas having corresponding designations under the Agreed Detailed Area Plan; however notwithstanding the provisions of subparagraph (c), an Agreed Detailed Area Plan may by a clear statement of intent to do so, make provision for the design standards and requirements applicable to R-Codes and zones to be varied, and the design standard or requirement varied in that way shall apply within the area of the Agreed Detailed Area Plan, or any stipulated part of that area of the Agreed Detailed Area Plan;*
- (b) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and*

- effect in regard to the land in the Detailed Area Plan as if they were provisions of the Scheme;
- (c) any other provision, standard or requirement in relation to the R-Codes and zones in the Agreed Detailed Area Plan shall be given the same force and effect as if it was a provision, standard or requirement of the Scheme, but subject to the provision of subclause 12.5.3(a) allowing for a specific variation to the design standards and requirements by a Detailed Area Plan, if there is any other inconsistency or conflict not addressed as an intended variation by the Agreed Detailed Area Plan, the provision, requirement or standard of the Scheme shall prevail.

12.6 *Amendment or Revocation of an Agreed Detailed Area Plan*

12.6.1 *An Agreed Detailed Area Plan may be amended with the approval of the Council under subclause 12.3.1.*

12.6.2 *The provisions of subclauses 12.3.1 and 12.3.2 shall apply to the consideration of the amendment.*

12.6.3 *An amendment to an Agreed Detailed Area Plan shall come into operation on the date it is certified under subclause 12.3.4.*

12.6.4 *The Council should forward a copy of the Amendment to the Agreed Detailed Area Plan to the Commission within 14 days of certification.*

12.6.5 *The Council may revoke an Agreed Detailed Area Plan. Following the Council's decision to revoke an Agreed Detailed Area Plan, the Council should advise the Commission of its decision to revoke an Agreed Detailed Area Plan.*

**CARRIED 7/0**

**10.2.8 REQUEST TO RE-ZONE LOT 41 NAIRN STREET, LEEMAN**

NAME OF APPLICANT:	R Bell
LOCATION	Lot 41 Nairn Street, Leeman
AUTHOR	John Randall
DISCLOSURE OF INTEREST	Nil
DATE OF REPORT	5 April 2006
FILE	Lot File LMN Lot 41

**SUMMARY:**

**Council is to consider the request to re-zone Lot 41 Nairn Street, Leeman from Special Use - Hardware to a less restrictive zoning.**

**BACKGROUND:**

The property is zoned as special use site with the term Hardware Store used to describe the uses to which the site may be put

A special use site is one of a number of special zoning types provided for in our Town Planning Scheme (TPS), they are as follows:

**4.5. Additional Uses**

Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

**4.6. Restricted Uses**

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

A restricted use is the only use or uses that is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

**4.7. Special Use Zones**

4.7.1. Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

4.7.2. A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in

Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

All of the above are planning instruments that have the ability to define a use to the extent that, whilst in general terms it may conflict with surrounding land-uses, the conditions applied to the use becomes more or less acceptable.

As the intent of these zones are to be restrictive, it is not permissible to consider any use other than the one specified and that use may have a number of other conditions attached to it.

Accordingly the only use that can be made of Lot 41 is a Hardware Store.

The option of having a caretakers quarters on the premises or it becoming another form of shop are not permitted under the current zoning.

**COMMENT:**

The property owner has identified that the current restrictive zoning may not be helping in his endeavours to sell the premises.

A number of options exist in terms of rezoning the site.

1. Do nothing - Strategically the site is an anomaly, and if the Shire does not take rezoning action now it will have to take rezoning action sometime in the future.
2. Apply extra uses to the special use zoning such as caretakers quarters, expand shop options etc. This is almost the same as the do nothing option. The site will continue to have a restrictive zoning.
3. Rezone the land to Residential so the zoning conforms to the land surrounding it. The existing shop use would then become a non-conforming use and the following would apply

4.8. Non-conforming Uses

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent —

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorize the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.



“Land” has the same meaning as in the Town Planning Act and includes houses, buildings and other works and structures.

#### 4.9. Extensions and Changes to a Non-conforming Use

##### 4.9.1. A person must not -

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.9.2. An application for planning approval under this clause is to be advertised in accordance with clause 9.4.

4.9.3. Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

#### 4.10. Discontinuance of Non-conforming Use

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

#### 4.11 Termination of a Non-conforming Use

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Section 13 of the Town Planning Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

#### 4.12 Destruction of Non-conforming Use Buildings

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the planning approval of the local government.

Basically it would allow some flexibility on the site use, and would allow residential development on the site. Such development may result in the hardware use not being continued, further Council could prevent any undue changes in the use.

It must be said however that the rezoning would most likely lead to the site becoming residential in the long term, particularly if sewer is ever extended into the locality. Until that time the site could only be used for a single residence anyway.

4. Rezone the site to residential and apply an additional use to the property. Such additional use need not specifically be hardware store it could be framed in such a way to allow a range of potential uses to avoid having to enact a scheme amendment for every change of use.

For example the additional use could be “Shop and Showroom”. The TPS defines these uses as follows:

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

“Showroom” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature.

Conditions can be applied to an additional use with the aim of keeping the use acceptable within the area it is located. Conditions could be:

- Hours of opening are to be in the range of 8.00am to 5.00pm. Currently the business is open seven days on occasional long weekends;
- Premises is not to be used for the sale of food, unless it is only incidental to the predominant use on the site;
- The premises is not to employ the use of noisy machinery, except to the extent that might be expected of a handyman in a residential area;
- Business is to be operated in a manner that remains cognisant of the fact that it is located in a residential zone, and not do anything that might downgrade the amenity of the area;
- The business is not to undertake any activity that might require a Dangerous Goods licence unless the planning approval of Council has first been obtained; and
- Any change of use of the premises is to require the planning approval of Council. The Council will refuse any change of use where such new use is likely to be more damaging to the amenity of the residential area than the previous use.

It is believed that option four is the more appropriate option. Allowing the additional use to encompass a range of uses will allow the commercial activity on the site to evolve overtime without resort to a TPS amendment on every occasion.

**STATUTORY ENVIRONMENT:**

Town Planning Scheme No 2  
Town Planning and Development Act

**FINANCIAL IMPLICATIONS:**

Nil

**POLICY IMPLICATION:**

The process of scheme amendment will ensure consultation with the adjoining property owners.

**STRATEGIC IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

Council resolve in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend Town Planning Scheme No 2 by:

1. Changing the zoning of Lot 41 Nairn Street, Leeman from “*Special Use – Hardware Store*” to “*Residential*” with the same residential density to apply as does to surrounding properties; and
2. Insert into schedule 2 of the Town Planning Scheme the following:

	No	Description of Land	Additional Use	Conditions
A4	4	Lot 41 Nairn Street, Leeman	Shop Showroom	<ul style="list-style-type: none"> <li>▪ Hours of opening are to be in the range of 8.00am to 5.00pm. Currently the business is open seven days on occasional long weekends.</li> <li>▪ Premises is not to be used for the sale of food, unless it is only incidental to the predominant use on the site.</li> <li>▪ The premises is not to employ the use of noisy machinery, except to the extent that might be expected of a handyman in a residential area.</li> <li>▪ Business is to be operated in a manner that remains cognisant of the fact that it is located in a residential zone, and not do anything that might downgrade the amenity of the area.</li> </ul>

				<ul style="list-style-type: none"> <li>▪ The business is not to undertake any activity that might require a Dangerous Goods Licence unless the planning approval of Council has first been obtained.</li> <li>▪ Any change of use of the premises is to require the planning approval of Council. The Council will refuse any change of use where such new use is likely to be more damaging to the amenity of the residential area than the previous use.</li> </ul>
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**RESOLUTION: 2006-056**

**Moved:** Pethick      **Seconded:** Eaton

Council resolve in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend Town Planning Scheme No 2 by:

1. Changing the zoning of Lot 41 Nairn Street, Leeman from “Special Use – Hardware Store” to “Residential” with the same residential density to apply as does to surrounding properties; and
2. Insert into schedule 2 of the Town Planning Scheme the following:

	No	Description of Land	Additional Use	Conditions
A4	4	Lot 41 Nairn Street, Leeman	Shop Showroom	<ul style="list-style-type: none"> <li>▪ Hours or opening are to be in the range of 8.00am to 5.00pm. Currently the business is open seven days on occasional long weekends.</li> <li>▪ Premises is not to be used for the sale of food, unless it is only incidental to the predominant use on the site.</li> <li>▪ The premises is not to employ the use of noisy machinery, except to the extent that might be expected of a handyman in a residential area.</li> <li>▪ Business is to be operated in a manner that remains cognisant of the fact that it is located in a residential zone, and not do anything that might downgrade the amenity of the area.</li> <li>▪ The business is not to undertake any activity that might require a Dangerous Goods Licence unless the planning approval of Council has first been obtained.</li> <li>▪ Any change of use of the premises is to require the planning approval of Council. The Council will refuse any change of use where such new use is likely to be more damaging to the amenity of the residential area than the previous use.</li> </ul>

**CARRIED 7/0**

## **10.3 MANAGER WORKS AND SERVICES:**

### **10.3.1 TENDERS TO PURCHASE TRUCK AND FRONT END LOADER**

<b>AUTHOR</b>	Peter Gillis
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	20 March 2006
<b>FILE</b>	T4.7 Tenders – Trucks T4.5 Tenders – Other Machines

#### **SUMMARY:**

**Council to consider calling tenders for the supply of one Tip Truck and one Front End Loader.**

#### **COMMENT:**

With the adoption of Council's Plant replacement program at Council's March meeting, Council is in a position to call tenders for the supply of a new tip truck to replace Council's 2001 model Iveco tip truck as well as to purchase a new Tractor to be delivered in 2006/07.

#### **STATUTORY ENVIRONMENT:**

Nil

#### **STRATEGIC IMPLICATIONS:**

The calling of tenders for these two major plant items will make the budget estimates more accurate.

#### **POLICY IMPLICATIONS:**

Nil

#### **FINANCIAL IMPLICATIONS:**

If Council were to call tenders and receive them in time for the June meeting, Council would know exactly what amounts would be required when completing their 2006/07 Budget.

The tender documents would clearly state that the delivery date not be before September 2006, fitting with Council's cashflow.

#### **PUBLIC CONSULTATION:**

Nil at this time

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council:

1. call tenders for the supply of one Truck;
2. offer Council's 2001 Iveco for trade; and
3. call tenders for the supply of one Front End Loader tractor.

**RESOLUTION: 2006-057**

**Moved:** Waite      **Seconded:** Pethick

*That Council:*

1. *call tenders for the supply of one Truck;*
2. *offer Council's 2001 Iveco for trade; and*
3. *call tenders for the supply of one Front End Loader tractor.*

**CARRIED 7/0**

## **10.4 MANAGER FINANCE AND ADMINISTRATION**

### **10.4.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY – MARCH 2006**

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>ATTACHMENT</b>	10.4.1 Statement of Financial Activity to 31 March 2006
<b>FILE</b>	F8.06 Finance – 2005/06

#### **SUMMARY:**

**In accordance with the Local Government (Financial Management) Regulations 1996, regulation 34 stipulates that a local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month.**

#### **COMMENT:**

The form of the Monthly Financial Statements presented to Council is a Statement of Financial Activity, which also includes supplementary information including an Operating Statement Function and Activity, Balance Sheet, Cash Flow Graph and Plant Cost Recovery Report. A copy of the Statement of Financial Activity for the month ended 31 March 2006 is included at Attachment 10.4.1 for Councillor's information.

Council is required to prepare the Statement of Financial Activity as per Local Government (FM) Reg 36, but can resolve to have supplementary information included as required.

#### **STATUTORY ENVIRONMENT:**

*Local Government (Financial Management) Regulations 1996.*

#### **34. Financial reports to be prepared — s. 6.4**

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of the month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing -
  - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;

- (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
  - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown -
- (a) according to nature and type classification;
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be -
- (a) presented to the council -
    - (i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or
    - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and
  - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

**FINANCIAL, STRATEGIC AND POLICY IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council accepts the Monthly Statement of Financial Activity as included at Attachment 10.4.1 for the period ended 31 March 2006.

**RESOLUTION: 2006-058**

**Moved:** Stacy      **Seconded:** O'Callaghan

*That Council accepts the Monthly Statement of Financial Activity as included at Attachment 10.4.1 for the period ended 31 March 2006.*

**CARRIED 7/0**



**Cr Beswick declared a Financial Interest in Item 10.4.2 in that she is contracted to sell Lot 11 Spain Street, Coorow, and left the meeting at 4.45pm.**

#### 10.4.2 PURCHASE OF LOT 11 SPAIN STREET, COOROW

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>ATTACHMENT</b>	10.4.2 2006/07 Plant Replacement Budget
<b>FILE</b>	H5.5 Housing – General

#### **SUMMARY:**

**That Council considers purchasing Lot 11 Spain Street, Coorow.**

#### **BACKGROUND**

At the February Ordinary Meeting of Council, Council resolved the following;

**RESOLUTION:** 2006-005

Moved: O’Callaghan Seconded: McDonald

That Council adopt as decisions of Council recommendations 2005-15, 2005-16, 2005-17, 2005-18, 2005-19 and 2005-20 of Council’s Building Management Committee.

CARRIED 5/2

Recommendation 2005-19 read as follows;

That the Building Management Committee recommend that Council:

1. investigate possibilities of leasing and purchasing additional suitable employee housing in Coorow;
2. construct at least one staff house in 2006/07;
3. finance any housing constructed in Coorow from recurrent income and not through debt funding;
4. not construct an executive house in Coorow; and
5. prepare a design, funding and implementation plan for suitable extensions to the Leeman Administration Centre to locate the Chief Executive Officer and Finance & Administration staff.

Council has identified that there is a staff housing shortage in Coorow. Council is presently leasing a farmhouse 12kms from town to house an employee. At present there is a Grader/Plant Operator position that is still vacant and with no staff housing available to offer with this position, the Manager Works and Services has not been able to advertise widely for this position. This position is urgently required to be filled as the works crew has only one grader operator at the moment and with the commencement of winter grading to commence in the next few months this is a concern. It should also be noted that Council’s only grader operator is due for long service leave in October 2006.

The construction of a new staff house in 2006/07 will not alleviate the pressure on the shortage of staff housing in the short term due to the Local Government tendering

process and the construction delays in the building industry at the moment a new house is unlikely to be completed by June 2007.

**COMMENT:**

Lot 11 Spain Street, Coorow has been listed by Ray White Real Estate, Jurien Bay for sale for \$90,000. The house is a 3 x 1 transportable built in 1993. Executive staff inspected the house on Thursday 30 March. The house will not require any major renovations. There was some water damage in one of the bedrooms resulting from the shower recess. Other than that the house was in very good condition.

The Shire of Coorow could not build this house for \$90,000 and would most likely cost in the vicinity of \$150,000 to \$170,000 for Council to build a similar house.

Staff are not aware of any other suitable residences currently for sale or lease within the Coorow town site.

**STATUTORY ENVIRONMENT:**

Local Government Act (1995)

**6.8 Expenditure From Municipal Fund Not Included In Annual Budget**

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

(1a) In subsection (1) –

“Additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

**FINANCIAL IMPLICATIONS:**

Council allocated \$170,000 towards building a new residence in Coorow in the 2005/06 budget. \$85,000 was to be funded through a transfer from the building reserve. Technically Council did not budget to purchase an established residence. If Council was to purchase this house this expenditure would be out of budget expenditure.

**STRATEGIC IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Absolute Majority

**OFFICER RECOMMENDATION:**

That Council:

1. authorise out of budget expenditure of \$90,000 (GST Inclusive) for the purchase of Lot 11 Spain Street, Coorow;
2. authorise the Chief Executive Officer to sign the Offer and Acceptance for the value of \$90,000; and
3. authorise the President and Chief Executive Officer be authorised to sign and seal all transfer of land documentation for the purchase of Lot 11 Spain Street, Coorow.

**RESOLUTION: 2006-059**

**Moved:** Stacy      **Seconded:** O'Callaghan

*That Council:*

1. *authorise out of budget expenditure of \$90,000 (GST Inclusive) for the purchase of Lot 11 Spain Street, Coorow;*
2. *authorise the Chief Executive Officer to sign the Offer and Acceptance for the value of \$90,000; and*
3. *authorise the President and Chief Executive Officer be authorised to sign and seal all transfer of land documentation for the purchase of Lot 11 Spain Street, Coorow.*

**CARRIED 6/0 BY ABSOLUTE MAJORITY**

**Cr Beswick returned to the meeting at 4.58pm.**



**Cr O’Callaghan and Chief Executive Officer declared an Impartiality Interest in item 10.4.3, in that they are members of the Maley Park Refurbishment Committee.**

<b>10.4.3 WAIVING OF FEES AND CHARGES – MALEY PARK REFURBISHMENT COMMITTEE</b>
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<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>ATTACHMENTS</b>	10.4.3 Letter from Maley Park Refurbishment Committee
<b>FILE</b>	D6.1 – Debtors General

**SUMMARY:**

**Council is to consider waiving of fees and charges for the Maley Park Refurbishment Committee.**

**BACKGROUND:**

Council has received a letter from the Maley Park Refurbishment Committee requesting an invoice issued by the Shire of Coorow for the hire of the kitchen at Maley Park Community Centre for \$50 be waived and be considered as an in-kind contribution towards their fundraising activities. This letter has been provided as attachment 10.4.3.

At the February Ordinary Meeting of Council, Council resolved the following;

**RESOLUTION: 2006-038**

Moved: McDonald                      Seconded: Waite

That Council not adopt;

1. Policy 3.2.8(as presented) Waiving of Fees and Charges for Council Facilities as included at Attachment 10.4.4a;
2. Delegation 3.2.3 (as presented) Waiving of Fees and Charges for Council Facilities as included at Attachment 10.4.4b; and

That Council grants the Coorow Townscape Committee’s request for waiving of fees to use Maley Park.

CARRIED 6/2

The Waiving Fees and Charges policy needs to be developed further. Council wishes to encourage volunteer groups in their fundraising activities for the community.

Council receives requests for the waiving of fees and charges for Council facilities from time to time. At the March 2006 Ordinary Meeting of Council decided not to adopt a policy on “Waiving of Fees and Charges for Council Facilities”, requiring that this policy be developed further and that Council wishes to encourage volunteer groups in their fundraising activities for the community.

Until Council adopts a policy on “Waiving of Fees and Charges for Council Facilities” Council will need to deal with these on an individual case by case basis.

**COMMENT:**

The Maley Park Refurbishment Committee is fundraising for the construction of new men’s and ladies change rooms at the Maley Park Recreation Centre. The committee used the Maley Park kitchen to carry out catering preparation for a fundraising venture at a clearing sale held at the Flower Farm on Tuesday 28 March 2006.

The Chief Executive Officer inspected the Maley Park kitchen after use and found that the area was left in a clean state. However Council carried out further cleaning to adequately disinfect the kitchen area.

Council would be aware that fees and charges are charged to recover the cost of providing a particular service or facility. In the case of Council facilities that are hired out, the costs of cleaning and operating that venue need to be recovered. It is realised that in most cases there will not be full cost recovery as such fees and charges would be unrealistic.

**STATUTORY ENVIRONMENT:**

Nil.

**FINANCIAL IMPLICATIONS**

Council will forgo income if fees and charges are waived.

**STRATEGIC AND POLICY IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council grants Maley Park Refurbishment Committees their request for the waiving of fees to use the Maley Park kitchen.

**RESOLUTION: 2006-060**

**Moved:** Stacy      **Seconded:** Waite

*That Council grants Maley Park Refurbishment Committees their request for the waiving of fees to use the Maley Park kitchen.*

**CARRIED 5/2**





#### 10.4.4 WAIVING OF FEES AND CHARGES – BONE DENSITY VAN

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>FILE</b>	D6.1 Debtors General

#### **SUMMARY:**

**Council is to consider waiving the Coorow Municipal Hall hire charges for the Bone Density Van.**

#### **BACKGROUND:**

Council Policy 5.5.1 Provision of Health Services by Entities from Council Controlled Health Facilities seeks to maximise the provision of health services to our communities.

The guidelines for this policy state that Council is seeking to maximise the provision of services from Council controlled Health Facilities. Therefore in agreements governing use, Council will generally not seek to recover commercial rents for use of health facilities controlled by Council, however Council reserves the right to recover costs to Council associated with the use of a facility.

#### **COMMENT:**

Normally when a service similar to the Bone Density Van unit requests a locality to place their van, staff would allow them to use the Coorow Medical Centre and this would be given free of charge as per Council Policy 5.5.1. In this case it was decided that the positioning of a van at the Coorow Medical Centre would not be suitable due to the limited parking area for a bus in the Coorow Medical Centre carpark.

The Bone Density Van was offered the use of the Coorow Hall at a cost of \$73 for the day.

Council may consider that the Bone Density Van is a service good for the community and to entice this service to continue visiting our towns to waive the hall hire charge.

The Bone Density Van will be at the Coorow Hall on Tuesday 11 April 2006.

Council needs to keep in mind that the Bone Density Van is a for profit organisation.

#### **STATUTORY ENVIRONMENT:**

Nil.

#### **FINANCIAL IMPLICATIONS**

Council will forgo income if fees and charges are waived.

**STRATEGIC AND POLICY IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council waive the Hall hire charges for the Bone Density Van.

The request has been withdrawn by the proponent.

#### 10.4.5 TRANSFER APPARATUS LICENSE – REDFM SERVICE

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>ATTACHMENT</b>	10.4.5 Application for Transfer of Apparatus License
<b>FILE</b>	T3.1 - Television

#### **SUMMARY:**

**Council to consider transferring the apparatus license for RedFM to the Shire of Coorow.**

#### **BACKGROUND:**

Redwave Media Pty Ltd currently holds the apparatus license for RedFM for broadcast sites in Coorow (License No.1152131), Green Head (License No. 1151844) and Leeman (License No. 1384911).

#### **COMMENT:**

This is an unusual situation for a company to hold an apparatus license for equipment it does not own or operate. As Council owns and operates this equipment it makes sense that Council holds the license for RedFM in each town site.

The Shire of Coorow holds Apparatus Licenses for the re-broadcasting of GWN, WIN, ABC, SBS and other radio stations.

The cost of the licenses will be approximately \$150.

#### **STATUTORY ENVIRONMENT:**

Nil.

#### **FINANCIAL IMPLICATIONS:**

Council will be required to pay an annual license for RedFM. This cost is covered by the TV Service Charge.

#### **STRATEGIC AND POLICY IMPLICATIONS:**

Nil.

#### **VOTING REQUIREMENTS:**

Simple Majority.

**OFFICER RECOMMENDATION:**

That Council transfer Apparatus Licenses 1151844, 1152131 and 1384911 to the Shire of Coorow and pay the ongoing license fees for those licenses.

**RESOLUTION: 2006-061**

**Moved:** Eaton      **Seconded:** O'Callaghan

*That Council transfer Apparatus Licenses 1151844, 1152131 and 1384911 to the Shire of Coorow and pay the ongoing license fees for those licenses.*

**CARRIED 7/0**

**10.4.6 LEEMAN TELECENTRE**

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>ATTACHMENT</b>	10.4.6 Letter from Leeman Telecentre
<b>FILE</b>	T3.2 – Telecentre Coastal

**SUMMARY:**

**Council is to consider donating \$680 to the Leeman Telecentre.**

**COMMENT:**

The Leeman Telecentre has asked Council to fund the purchase of four fire extinguishers to be installed in the Leeman Telecentre building. The Leeman Telecentre has indicated that they are not in a financial position to supply these items themselves. A recent safety inspection has highlighted that these fire extinguishers are required.

At the moment Council does not provide financial assistance to the Leeman Telecentre.

In comparison, the Coorow Telecentre does not receive any untied financial assistance from Council, but Council does provide a section of the Coorow District Hall as the Telecentre premises at no charge and hires the data projector at an annual cost of \$900.

**STATUTORY ENVIRONMENT:**

Local Government Act (1995)

**6.8 Expenditure From Municipal Fund Not Included In Annual Budget**

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
- (d) is incurred in a financial year before the adoption the annual budget by the local government;
  - (e) is authorised in advance by resolution\*; or

\* Absolute majority required

- (f) is authorised in advance by the mayor or president in an emergency.

(1a) In subsection (1) –

“Additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

**FINANCIAL IMPLICATIONS:**

Council has not budgeted for this expenditure in 2005/06.

**STRATEGIC AND POLICY IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Absolute Majority.

**OFFICER RECOMMENDATION:**

That Council authorises out of budget expenditure of \$680 to be donated to the Leeman Telecentre for the purchase of four fire extinguishers.

**RESOLUTION: 2006-062**

**Moved:** Eaton      **Seconded:** Stacy

*That Council authorises out of budget expenditure of \$680 to be donated to the Leeman Telecentre for the purchase of four fire extinguishers.*

**CARRIED 6/1 BY ABSOLUTE MAJORITY**

**10.4.7 LEEMAN YOUTH CLUB**

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>ATTACHMENT</b>	10.4.7 E-mail from Jason Mills
<b>FILE</b>	Y1 –Youth Affairs

**SUMMARY:**

**Council is to consider recognising the Leeman Youth Club as a voluntary Council organisation.**

**COMMENT:**

Mr Jason Mills, Officer in Charge Leeman Police Station has indicated that he would like to start a Leeman Youth Club. Mr Mills points out that there is an opportunity for a partnership to be developed with the Police, Shire of Coorow and the Leeman Telecentre if this was to occur.

For this organisation to get off the ground, public liability insurance is required by the club. Public Liability cover is a prohibitive recurring cost for a club that will have little resources and a low revenue capacity. Council's insurance does cover Council's volunteers. If Council was to consider that the Leeman Youth Club was a voluntary Council organisation this group would be covered by Council's insurance. The Coorow Carpet Bowls and Darts operate under similar circumstances.

**STATUTORY ENVIRONMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

There will be no increase cost to Council's insurance if Council was to recognise the Leeman Youth Club as a voluntary Council organisation. Council would need to perform an occupational safety and health induction for the volunteers of the Leeman Youth Club for this organisation to be covered by Council's insurance.

**STRATEGIC AND POLICY IMPLICATIONS:**

This organisation will provide the youth of Leeman and Green Head another activity to keep themselves occupied and may go a long way to lowering the vandalism and graffiti that occurs in Council's coastal towns.

**VOTING REQUIREMENTS:**

Simple Majority.

**OFFICER RECOMMENDATION:**

That Council:

1. recognises the Leeman Youth Club as a voluntary Council organisation; and
2. perform an occupational health and safety induction of the Leeman Youth Club volunteers.

**RESOLUTION: 2006-063**

**Moved:** Waite      **Seconded:** O'Callaghan

*That Council:*

1. *recognises the Leeman Youth Club as a voluntary Council organisation;*
2. *perform an occupational health and safety induction of the Leeman Youth Club volunteers; and*
3. *authorise out of budget expenditure of up to \$1,800 in line with grant funding to be received.*

**CARRIED 7/0 BY ABSOLUTE MAJORITY**



**10.4.8 DRAFT PLAN FOR THE FUTURE OF THE DISTRICT**

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>ATTACHMENTS</b>	10.4.8 Draft Principal Activity Plan 2006/2010
<b>FILE</b>	P8.06 – Plan for the Future of District 2006/07

**SUMMARY:**

**That availability of the Draft Plan for the Future of the District 2006/2010 be advertised and public comment sought.**

**BACKGROUND:**

The recent amendments to the *Local Government Act 1995* replaced the requirement for local governments to prepare a Plan of Principal Activities [PAP] with a new provision that requires “a local government to plan for the future of the district”. The new provisions also require a local government to ensure that these plans are in accordance with any regulations made about planning for the future. The relevant Regulations are 19C and 19D of the *Local Government (Administration) Regulations 1996*.

The new provisions are far less prescriptive with respect to the content required to be included in a plan for the future than those that were in place for the PAP, particularly in relation to specific activities.

In view of the broad nature of the requirement for a local government to plan for the future of the district, it is up to each local government to decide the overall scope of the plan that it wishes to adopt to effectively achieve the objectives of the legislation. The first step in this process could be a full review of all the existing plans, such as the Strategic Plan, long-term financial plans and previous PAP, to ascertain if these contain information that would be considered appropriate and meaningful for inclusion in a document that captures the plan for the future of the district.

Questions such as, is a visionary policy blueprint for the development of the district the ideal plan, or, would a 2 to 5 year financial plan be more appropriate or a combination of both, need to be answered in deciding the final make-up of the plan.

Local governments may prefer to continue with the PAP approach may do so provided that they comply with the requirements of Regulations 19C and 19D. These Regulations require that a plan for the future of the district shall be for a minimum period of two years, shall be reviewed every two years and that the electors and ratepayers be consulted during the development and review of the plan.

After adoption by Council of the plan, local public notice is to be given advising that a plan for the future of the district has been adopted for the period specified in the plan and where and when the plan may be inspected. The adopted plan is to contain a description of the involvement by the electors and ratepayers in its development and modification.

As with the PAP, a local government is to have regard to the contents of the plan for the future of its district when preparing and adopting its annual budget.

**COMMENT:**

The Draft Plan for the Future of the District 2006/2010 is a plan for Council's activities for the financial years 2006/07, 2007/08, 2008/09 and 2009/10 is now available for release.

The Draft Plan for the Future of the District 2006/2010 has been included with Councillor's Agenda package and will be available from Council offices and libraries.

In addition electors who traditionally have provided comment to Council on the Principal Activity Plan each year will be forwarded a copy of their own Draft Plan for the Future of the District 2006/2010.

The basis of the Draft Plan for the Future of the District 2006/2010 has been designed on the 2005/2009 Principal Activity Plan.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995

**5.56. Planning for the future**

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

Local Government (Administration) Regulations 1996

**19C. Planning for the future s. 5.56**

- (1) In this regulation and regulation 19D – “plan for the future” means a plan made under section 5.56.
- (2) A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).
- (3) A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.
- (4) A local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.
- (5) A council is to consider a plan, or modifications, submitted to it and is to determine\* whether or not to adopt the plan, or the modifications, as is relevant.  
\*Absolute majority required.
- (6) If a plan, or modified plan, is adopted by the council then the plan or modified plan is to apply to the district for the period of time specified in the plan.
- (7) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.
- (8) A plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.

- (9) A local government is to ensure that a plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.

Local Government (Administration) Regulations 1996

**19D. Notice of plan to be given**

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

**STRATEGIC IMPLICATIONS:**

The adopted Plan for the Future of the District will form the basis of Council's 2006/07 Budget and longer term planning for future budgets.

**POLICY AND FINANCIAL IMPLICATIONS:**

There are no policy or financial implications regarding this matter.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council give local public notice of the existence of Council's Draft Plan for the Future of the District 2006/2010 and that submissions be invited until Friday 2 June 2006.

**RESOLUTION: 2006-064**

**Moved:** *Beswick*      **Seconded:** *O'Callaghan*

*That Council give local public notice of the existence of Council's Draft Plan for the Future of the District 2006/2010 and that submissions be invited until Friday 2 June 2006.*

**CARRIED 7/0**



<b>10.4.9 WAIVING OF FEES AND CHARGES – LEEMAN PARENTS AND CITIZENS ASSOCIATION</b>
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<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>ATTACHMENTS</b>	10.4.9 Letter from Leeman Gala Day Committee
<b>FILE</b>	D3.1 – Debtors General

**SUMMARY:**

**Council is to consider waiving of fees and charges for the hire of chairs and tables to the Leeman Parents and Citizens Association.**

**BACKGROUND:**

Council has received a letter from the Leeman Gala Day Committee on behalf of the Leeman Parents and Citizens Association requesting the use of the Leeman Recreation Centre chairs and tables free of charge for the Leeman Gala Day to be held on Sunday 16 April at the Leeman Primary School.

At the February Ordinary Meeting of Council, Council resolved the following;

**RESOLUTION:** 2006-038  
 Moved: McDonald                      Seconded: Waite

That Council not adopt;

1. Policy 3.2.8(as presented) Waiving of Fees and Charges for Council Facilities as included at Attachment 10.4.4a;
2. Delegation 3.2.3 (as presented) Waiving of Fees and Charges for Council Facilities as included at Attachment 10.4.4b; and

That Council grants the Coorow Townscape Committee's request for waiving of fees to use Maley Park.

CARRIED 6/2

The Waiving Fees and Charges policy needs to be developed further. Council wishes to encourage volunteer groups in their fundraising activities for the community.

Council receives requests for the waiving of fees and charges for Council facilities from time to time. At the March 2006 Ordinary Meeting of Council decided not to adopt a policy on "Waiving of Fees and Charges for Council Facilities", requiring that this policy be developed further and that Council wishes to encourage volunteer groups in their fundraising activities for the community. Until Councils adopts a policy on "Waiving of Fees and Charges for Council Facilities" Council will need to deal with these on an individual case by case basis.

**COMMENT:**

The Leeman Gala Day Committee has indicated that the plans are going along very well for the event and that they will require a large amount of seating for the event.

The Leeman Parents and Citizen Association will be raising funds during the Leeman Gala Day for the Leeman Primary School.

Council would be aware that fees and charges are charged to recover the cost of providing a particular service or facility. In the case of Council equipment, the costs of providing and replacing this equipment needs to be considered when external parties are using Council's equipment.

Council charges \$1 and \$10 per chair and table respectively. The Leeman Parents and Citizens Association have not indicated how many chairs and tables they require, as they were not sure at this time.

**STATUTORY ENVIRONMENT:**

Nil.

**FINANCIAL IMPLICATIONS**

Council will forgo income if fees and charges are waived.

**STRATEGIC AND POLICY IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council grants Leeman Parents and Citizens Association their request for the waiving of fees to use the Leeman Recreation Centre chairs and tables.

**RESOLUTION: 2006-065**

**Moved:** Stacy      **Seconded:** Pethick

*That Council grants Leeman Parents and Citizens Association their request for the waiving of fees to use the Leeman Recreation Centre chairs and tables.*

**CARRIED 5/2**

#### 10.4.10 REFINANCING OF LOANS 71 AND 78

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	5 April 2006
<b>FILE</b>	L8.71 –Loan 71 and L8.78 – Loan 78

#### SUMMARY:

**Council is required to either payout or refinance Loans 71 and 78.**

#### COMMENT

Loan 71 was a debenture of \$140,000 to finance the purchase of the dwelling at Lot 50 Nairn Street Leeman. This debenture was to be refinanced after four years.

The terms of the original loan were:

Lending Amount	\$140,000
Lending Date	23 April 1998
Maturity Date	23 April 2002
Interest Rate	5.64 % pa
Schedule	8 Semi-Annual repayments based on 20 year annuity
Repayment Amount	\$5,881.76

The terms of the refinanced loan were:

Lending Amount	\$120,645.37
Lending Date	23 April 2002
Maturity Date	23 April 2006
Interest Rate	6.36 % pa
Schedule	8 Semi-Annual repayments based on 16 year annuity
Repayment Amount	\$6,177.10

Loan 78 is a debenture of \$100,000 raised to finance drainage construction in Green Head.

The terms of the original loan were:

Lending Amount	\$100,000
Lending Date	23 April 2002
Maturity Date	23 April 2006
Interest Rate	6.33 % pa
Schedule	8 Semi-Annual repayments based on 10 year annuity
Repayment Amount	\$6,824.53

At the end of the term of Loan 71, Council is required to payout or refinance \$102,612.78.

At the end of the term of Loan 78, Council is required to payout or refinance \$67,267.07.

Council does not have the financial resources to pay \$169,879.85.

## **STATUTORY ENVIRONMENT:**

Local Government Act 1995

### **6.20. Power to borrow**

- (1) Subject to this Act, a local government may -
  - a) borrow or re-borrow money;
  - (b) obtain credit; or
  - (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit, to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.
- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) power to borrow and details of that proposal have not been included in the annual budget for that financial year -
  - (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
  - (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and -
  - (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
  - (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized, the local government may resolve\* to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.  
\* Absolute majority required.
- (4) A local government is not required to give local public notice under subsection (3) -
  - (a) where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or
  - (b) in such other circumstances as are prescribed.
- (5) A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.

## **FINANCIAL IMPLICATIONS**

Councils repayments will change depending on the rate of interest charged.

## **STRATEGIC AND POLICY IMPLICATIONS:**

Nil.



**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council:

1. refinance loan 71 with 12 Semi-Annual repayments based on a 12 year annuity;
2. refines loan 78 with 12 Semi-Annual repayments based on 6 year annuity; and
3. authorises the President and Chief Executive Officer to sign under common seal the Debenture Documents for the re-financing of Loans 71 and 78.

**RESOLUTION: 2006-066**

**Moved:** Stacy      **Seconded:** O'Callaghan

*That Council:*

1. *refinance loan 71 with 12 Semi-Annual repayments based on a 12 year annuity;*
2. *refines loan 78 with 12 Semi-Annual repayments based on 6 year annuity; and*
3. *authorises the President and Chief Executive Officer to sign under common seal the Debenture Documents for the re-financing of Loans 71 and 78.*

**CARRIED 7/0**



## **11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:**

### **11.1 DISCUSSION PAPERS**

<b>AUTHOR</b>	Cr Eaton
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	3 April 2006
<b>FILE</b>	C8.1 Council – General
<b>ATTACHMENT:</b>	11.1 Traffic volumes and speed data from traffic classifier.

#### **SUMMARY:**

**Council to give consideration to prepare discussion papers of current strategic issues for Council and community consideration.**

#### **BACKGROUND:**

This item follows on from the Strategic Planning process currently underway, the 2005/2006 Local Government Structural Review, January 2006 Building Management Committee, and 2004/2005 Audit Report, Road Safety, and the motivation behind Regional Local Government, Australian Coral Coast development, and the Wildflower Country regional branding concept.

#### **COUNCILLOR COMMENT:**

This Agenda item recognizes the demands on Local Government and the changing dynamics of rural and coastal settings. It is felt important to be pro-active and to take charge of the future in contrast to the future creeping up quietly on the community whereby change is thrust upon the community to attend to and cope with. Advanced Town planning, infrastructure, services and facilities and commerce are crucial planning ingredients which the community and Council cannot afford to overlook, as we all seek to shape the future for our community as we would like it to be.

Discussion papers proposed are,

1. Housing Within the Coorow Shire, including:
  - a. The provision of staff housing.
  - b. Staff housing subsidies.
  - c. Land development for commercial gain.
  - d. Building or purchasing properties for commercial gain.
  - e. Availability of land for development.
  - f. Housing stocks generally.

This topic requires addressing on a three town and broad Shire basis taking in to account non-urban areas within the shire.

2. Indian Ocean Drive

The completion of the Indian Ocean Drive (IOD) is immanent. Are the immediate locations of Greenhead and Leeman ready for the impact the completion of the IOD, and are the two communities conscious of the likely implications? Leeman will be affected in an additional manner with IOD going alongside and through the town. Security, business, country living in a quiet setting, volume of traffic, safety, and medical services are among the items, which require a high level of consideration.

3. Main Road Speed Limit Leeman Town Site

With the on-set of the completion of the IOD which will produce a much higher volume of road traffic, and a local desire to share the natural attractions of Leeman with commercial spin-offs for local business, there is a need to reduce the speed of traffic on the main road area from the points of entering Leeman and passing through, to 50 km/h. There is also a need to recognize the IOD through Leeman divides the residential and industrial areas of the town.

The current speed limit which is 80 km/h is not consistent with traffic stopping or general safety for those who plan to stop, or crossing between the industrial and residential areas of Leeman. Traffic at 50 km/h will have an extra benefit of reducing traffic noise and ease the current practice of exceeding the existing 80 km/h, which is constant.

4. The Location of the Administration Going Forward

Over time with current trends the growth and the management of the Shire may develop a coastal leaning. The associated level of management relating to infrastructure, population, dwellings and overall levels of traffic, could put pressure of where Local Government physically positions itself. The long-term best planning options require consideration. Consideration does not mean a change, but the development of various options and scenarios.

5. Boundary Review

There appears to be adequate reasoning for the Coorow and Carnamah Shires to have open and orderly discussions on the benefits of the coastal strip from Brand Highway and between the Shires of Irwin and Dandaragan becoming the Local Government providence of the Coorow Shire. There appears to be little advantage to affected stakeholders by maintaining the current arrangement. Strategic planning may in fact demonstrate positive outcomes for all stakeholders and a sign of enhanced management practice in the region.

6. Cash Backed Reserves

There is an identified requirement to develop a range of strategies associated with the creation of a more advanced level of cash reserves for use as deemed necessary by Council in accordance with executive recommendations and

community need. The audit process has highlighted this area as one of requiring attention and caution.

7. Tidy Towns

An approach, which can be adopted by Council and the Community to further enhance the presentation and image of both coastal towns, as they experience a growth in visitors and property owners, and a region of quiet enjoyment, great facilities and natural attractions.

**STAFF COMMENT:**

Staff certainly agree that Discussion Papers have the ability to place issues before our communities for a wide ranging discussion. Alternative methods and actions are available to Council.

In relation to the specific Discussion Papers proposed, I would make the following comments:

1. Housing Within the Shire of Coorow

This topic was addressed by Council's Building Management Committee, but without seeking any specific public comment. Revisiting this issue would only be supported if the Council wanted to raise those issues reviewed by Council's Building Management Committee for comment from the community

2. Indian Ocean Drive

Certainly the completion of IOD is expected by 2010 although the State Government has not made the specific provision for funding, to complete the works.

Other impacts of IOD that Council may wish to consider would be the impacts on housing prices, housing availability, population, tourism industry and tourism facilities and availability of commercial land for development.

3. Main Road Speed Limit Leeman Town Site

At a recent seminar about heavy vehicles in Geraldton, Cr Eaton asked Mr Ian Hamilton from Main Roads WA how Council could go about reducing this speed limit.

Mr Hamilton responded by saying that MRWA would need proof of speeding vehicles and traffic volumes.

Council's Manager Works and Services has since placed one of Council's traffic classifiers on Leschenaultia Road. The data shows that some 10,957 vehicles crossed over the tapes of the classifier during the 25 day period that the classifier was on the road, this is an average of 438.28 vehicles per day, of

which 71.20% were traveling at or below the 80 km/h speed limit whilst 28.80% were exceeding the speed limit.

Council has spoken to Main Roads WA several times in the past five years regarding a lower the speed limit on Leschenaultia Road and received the same response. If vehicles are speeding it is a police matter.

The current speed limit of 80 km/h is consistent with Main Roads WA formula based on vehicle traffic and entrances to IOD. A discussion paper and resulting community support would have little impact on Main Roads WA. Perhaps more direct, political approaches through Main Roads WA or to the Minister may be more beneficial in changing the speed limit.

#### 4. The Location of the Administration Going Forward

The provision of administration facilities to provide for the growth of the Shire will be an ongoing issue.

Certainly the requirement for additional facilities will develop from increased residential and population growth in the coastal area of the Shire. Demand for Health, Building, Planning, Ranger and community development services will continue to build as the Leeman and Green Head communities expand.

Council's ability to meet the financial requirements to satisfy this demand for increased administration facilities should be a major part of any discussion paper.

This topic was also covered by recommendations adopted by Council from the Building Management Committee. Staff would support this discussion paper if Council's intention was to seek public comment on the issue.

Identifying these issues early will allow Council to manage the expected negative community reaction from Coorow ratepayers and residents.

#### 5. Boundary Review

Certainly there is reasoning for a discussion regarding structural reform with the Shire of Carnamah, but Council should be wary of only having a few predetermined views on such reform. Already there are a number of initiatives currently underway that will shape Council's future attitudes to structural reform of our two Shires.

Currently Council is participating with the Shire of Carnamah in preparing the Carnamah Coorow Coastal Planning Strategy that will identify the basis of the Shire of Carnamah's future coastal development. This study may make recommendations, such as residential development to the immediate north of the town of Leeman, where it may be in the interests of the Shire of Coorow to seek boundary change through Local Government Advisory Board (LGAB).

Council is also seeking to establish the Regional Local Government of the Wildflower Country Regional Council, including the Shire of Carnamah, that will deliver benefits to member Councils by achieving economies of scale in service provision.

The Minister of Local Government and Regional Development has received a report from the LGAB regarding structural reform. Until the Minister makes a public announcement about his intentions regarding this report, Council should seek to publicly discuss any policy on Structural Reform.

At this time staff would advise that Council should wait until these other key developments are completed before consideration of altering the strategic direction of Council to Local Government Structural Reform.

#### 6. Cash Backed Reserves

Whilst the audit process has highlighted the development of cash reserves, or more correctly not under taking further borrowing, as an area requiring Council's focus, Council has only two courses of action to establish reserves. These are:

1. Spend less; or
2. Rate higher.

Given that Council has so many funding priorities the ability to reduce expenditure is limited. Certainly priorities could be reviewed, but often Council does not fund programs that are very worthwhile in terms of the benefits they would deliver to communities.

Council's rates, particularly GRV urban rates, are currently at a comparatively high level. Council may face community resistance in imposing a rate increase that has no expenditure link. It could be argued that rates are best left in the pockets of ratepayers until they are needed. Although a public debate about the issue may offer a different view.

Before preparing this Discussion Paper Council may benefit from completing the budget process and seek to establish cash reserves, outside of a formal policy, during 2006/07.

#### 7. Tidy Towns

Certainly the presentation of all our towns is a matter for Council allocated resources. Currently staff, particularly coastal staff, are operating at near capacity and to require additional town works will require a policy or finding decision by Council. The matters that such a Discussion Paper will need to include are:

1. Description of the levels of service that Council wish to provide to community facilities;
2. The number of community facilities, ie parks & gardens, boat ramps, car parks, etc, that Council needs to provide;

3. The types of community facilities provided, such as steering away from higher maintenance gardens to lower maintenance lawn;
4. Council taking a greater involvement in planning decisions on facilities rather than agreeing to community requests to design and construct facilities that have in the past imposed substandard facilities requiring high levels of maintenance from Council staff; and
5. Standards for street and road signage.

As general comment, Council would be aware that by Council electing to complete these discussion papers will require that other projects of Council may be delayed.

## **STATUTORY ENVIRONMENT:**

### **Local Government Act 1995**

#### **2.10. The role of councillors**

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

#### **2.7. The role of the council**

- (1) The council —
  - (a) directs and controls the local government's affairs; and
  - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to —
  - (a) oversee the allocation of the local government's finances and resources; and
  - (b) determine the local government's policies.

#### **1.3. Content and intent**

- (1) This Act provides for a system of local government by —
  - (a) providing for the constitution of elected local governments in the State;
  - (b) describing the functions of local governments;
  - (c) providing for the conduct of elections and other polls; and
  - (d) providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.
- (2) This Act is intended to result in —
  - (a) better decision-making by local governments;
  - (b) greater community participation in the decisions and affairs of local governments;



- (c) greater accountability of local governments to their communities; and
  - (d) more efficient and effective local government.
- (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

*[Section 1.3 amended by No. 49 of 2004 s. 15.]*

**STRATEGIC IMPLICATIONS:**

Preparation of these discussion papers are consistent with the Strategic Planning process.

**POLICY IMPLICATIONS:**

Nil at present.

**FINANCIAL IMPLICATIONS:**

Nil at present.

**PUBLIC CONSULTATION:**

Nil at present.

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR RECOMMENDATION:**

That the Chief Executive Officer with the support of Council staff and input from Councillors prepare discussion papers on the topics of:

1. Housing within the Coorow Shire;
2. Implications with the Completion of the Indian Ocean Drive;
3. Main Road Speed Limit Leeman Town Site;
4. Administration Location Going Forward;
5. Boundary Review Coastal Strip;
6. Cash Reserves Strategy; and
7. Tidy Towns on the Coast

Discussion papers to be presented to Council as completed, but all papers completed in full by the July 2006 Council Meeting.

**ALTERNATIVE STAFF RECOMMENDATION:**

That Council:

1. prepare discussion papers to be presented at the June 2006 Ordinary Meeting of Council on the topics of:
  - a. Housing within the Shire of Coorow;

- b. Administration Location Going Forward;
2. prepare discussion papers to be presented at the October 2006 Ordinary Meeting of Council on the topics of:
  - a. Implications for the Shire of Coorow with the completion of Indian Ocean Drive;
  - b. Cash Reserves Strategy; and
  - c. Tidy Towns on the Coast;
3. consider a policy to support a lesser speed limit on Indian Ocean Drive through Leeman and take actions to obtain a lesser speed limit including, but not limited to:
  - a. seek to have representatives from Main Roads WA attend a meeting of Council to explain the basis for the current speed limit;
  - b. lobby parliamentarians to implement the change;
4. prepare a discussion paper on possible structural reforms alternatives that Council may wish to explore following the completion of the Carnamah Coorow Coastal Planning Strategy and the release of the Local Government Advisory Board's Report into Structural Reform Local Government.

### **RESOLUTION: 2006-067**

**Moved:** Eaton      **Seconded:** O'Callaghan

*That Council:*

1. *prepare a Draft Strategic Plan and discussion papers to be presented at the June 2006 Ordinary Meeting of Council on the topics of:*
  - a. *Housing within the Shire of Coorow;*
  - b. *Administration Location Going Forward;*
2. *prepare discussion papers to be presented at the October 2006 Ordinary Meeting of Council on the topics of:*
  - a. *Implications for the Shire of Coorow with the completion of Indian Ocean Drive;*
  - b. *Cash Reserves Strategy; and*
  - c. *Tidy Towns on the Coast;*
3. *consider a policy to support a lesser speed limit on Indian Ocean Drive through Leeman and take actions to obtain a lesser speed limit including, but not limited to:*
  - a. *seek to have representatives from Main Roads WA attend a meeting of Council to explain the basis for the current speed limit;*
  - b. *lobby parliamentarians to implement the change;*
4. *prepare a discussion paper on possible structural reforms alternatives that Council may wish to explore following the completion of the Carnamah Coorow Coastal Planning Strategy and the release of the Local Government Advisory Board's Report into Structural Reform Local Government.*

**CARRIED 5/2**

## **12. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION:**

### **12.1 LATE ITEMS – APPROVAL TO CONSIDER**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	7 April 2006
<b>FILE:</b>	C8.1 Council - General

#### **SUMMARY:**

**Council is requested to consider a Late Agenda Items for the February 2006 Meeting in respect to Council:**

- **consideration of the creation of a full time Community and Economic Development Officer position in 2006/07; and**
- **entering into a contract of employment with the Manager Works & Services;**
- **Accounts for Payment.**

#### **COMMENT:**

Staff are attempting to have the Agenda prepared at least a week before each Council Meeting. In completing this schedule, business of an urgent nature will arise from time to time in particular where commercial activities within the district would be delayed by Council not considering the item.

It would appear that community groups need again to be reminded that Council Policy requires that information regarding matter to be the subject of an agenda item needs to be received by Council two weeks prior to an ordinary meeting of Council.

#### **STATUTORY ENVIRONMENT:**

Shire of Coorow – Standing Orders Local Law 1999 – Section 2.10:

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

#### **FINANCIAL, POLICY AND STRATEGIC IMPLICATIONS:**

There appear to be no implications in this regard.

#### **OFFICER RECOMMENDATION:**

That the Late Agenda Items, in respect to:

1. **consideration of the creation of a full time Community and Economic Development Officer position in 2006/07; and**
  2. **entering into a contract of employment with the Manager Works & Services.**
- be raised without notice and decided by the meeting.

**RESOLUTION: 2006-068**

**Moved:** Beswick    **Seconded:** Eaton

*That the Late Agenda Items, in respect to:*

- 1. consideration of the creation of a full time Community and Economic Development Officer position in 2006/07; and*
  - 2. entering into a contract of employment with the Manager Works & Services; and*
  - 3. Accounts for Payment;*
- be raised without notice and decided by the meeting.*

**CARRIED 7/0**

**12.2 COMMUNITY & ECONOMIC DEVELOPMENT OFFICER**

<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	7 April 2006
<b>FILE</b>	S7.15 Staff - Other

**SUMMARY:**

**Council to consider the creation of a full time Community and Economic Development Officer in 2006/07, with the employment process to proceed through the remainder of 2005/06 financial year.**

**BACKGROUND:**

Council provided a financial allocation to employ a part time Community & Economic Development Officer (CEDO) during 2005/06. At that time it was expected that the benefits of employing a CEDO would be assessed, prior to 2006/07 year.

A summary of the review of the activities of the CEDO from July 2005 until February 2006 includes:

- The CEDO completed an increased number of funding applications than in previous years. These applications included a number of complex applications, including the Coorow Aged Person Joint Venture Housing and Water Grant Application for providing ground water to Maley Park Recreation complex Coorow, that had not previously been able to be completed;
- The CEDO represented Council at meetings of the Midwest Seniors Recreation Council. This representation, in part, assisted the Council's decision to hold a Seniors Expo in Coorow in May 2006;
- The CEDO was able to provide the level of oversight on successful funding applications to ensure their completion. The CEDO provided such oversight over Council's "Thank a Volunteer" Grant and the "Bikewest Dual Use Path" funding in Green Head. The CEDO was negotiating with suppliers and community groups over the refurbishment of the Coorow District Hall;
- in relation to grant applications, the CEDO was able to establish a personal rapport with funding and regulatory agencies, that will provide future benefits to Council. The CEDO carried out very positive discussions with Homeswest over the possibility of Council seeking funding of a second stage of Leeman Aged Person Joint Venture Housing. The CEDO successfully negotiated the approval of the aboriginal heritage claimant over for development of Bay Beach Leeman, that will provide benefits when Council seeks similar approvals for other developments in Leeman; and
- In the initial stages much the benefit arising from the CEDO were very focused on the eastern section of the Shire, but it would be expected that a full time CEDO would be able to fully cover a greater geographical area.

Certainly the benefits gained from the CEDO were largely obtained later in the period being reviewed. This occurs because the CEDO received significant initial training to extend her skills, time is required to develop projects into comprehensive funding

applications and the requirement for a capable employee to grow into the unfamiliar position.

Indeed much of the benefit received by Council from the CEDO came from the personal skill and passion of the employee Ms Kylie-Sue Yeo. However, as Council would be aware, Ms Yeo has now left Council's employ.

In the interim, Council have appointed a full time Finance Officer to complete the part time finance duties completed by Ms Yeo and in addition Council's Ranger, Ms Sharon McTaggart, will take over day to day management of activities associated with the CEDO. The Ranger handling CEDO projects is not a long term solution.

Council considered this matter at their March 2006 Meeting where the following was resolved:

RESOLUTION: 2006-023

Moved: Waite                      Seconded: Beswick

That Council defer this item to the April Meeting of Council and that staff investigate available funding opportunities to help with the employment costs of this position.

CARRIED 8/0

Staff have investigate the possibility of funding opportunities to assist with the employment costs of this position, however no direct funding opportunities exist to contribute to this position. In the past funding opportunities have existed through a funding program similar to the federal Department of Transport and Rural Services' current Regional Partnerships program. At this time Council, in conjunction with the Shires of Carnamah and Perenjori, made application but were unsuccessful. However Council may be able to recover administration expenses, including a portion of the CEDO's time, in any successful grant applications.

**COMMENT:**

The substantial benefit received by Council from the appointment of CEDO, although only part time, should lead to Council to seek to appoint a full time CEDO. In making such a move, Council should consider the delay in making such an appointment, the provision of a vehicle for the use of the CEDO and the location of the CEDO.

It is not expected to find a CEDO from within the Shire of Coorow therefore the employment process will include a full advertising process (4 weeks), selection period (2 weeks), the successful applicant being required to give notice to their current employer (3 weeks to 12 weeks) and allowing time to move to the Shire of Coorow (2 weeks). Therefore Council may wish to begin the appointment process for a full time CEDO this financial year rather than wait until the start of the new financial year. This would be an advantage because:

- the long lead time in benefits arising from the employment of a CEDO;
- the requirement to continue management of existing projects;
- Council will be able to better meet funding deadlines that close in late 2006 for 2007/08 projects.

Given it is unlikely that a suitable replacement will be found from within the Shire of Coorow, Council should expect to be required to provide/arrange housing for the employee. As Council is aware, no such suitable housing is currently available in Coorow. Therefore the position will need to be based in the Leeman Administration Centre, adjacent to housing.

The CEDO will be expected to service all areas of the Shire and will therefore require a dedicated vehicle. Such a vehicle could be leased, although the purchase of a vehicle is a more cost effective in the longer term. It would be in Council's interest to offer private use of this vehicle to make the position more attractive. Having two vehicles based in Leeman will make it easier to provide Councillors with a vehicle to attend Council and other meetings.

#### **STATUTORY ENVIRONMENT:**

Nil.

#### **STRATEGIC IMPLICATIONS:**

The CEDO will provide input into the achieving of Council's longer term strategic projects through the preparation of funding applications for these projects.

#### **POLICY IMPLICATIONS:**

Nil.

#### **FINANCIAL IMPLICATIONS:**

An outline of an anticipated budget for the employment of full time CEDO in 2006 is outlined below in comparison to the employment of a part time CEDO during 2005/06.

<b>FACTOR</b>	<b>EXPLANATION</b>	<b>2006/07 FULL TIME \$</b>	<b>2005/06 PART TIME \$</b>
Salary	Level 7.2	47,080	22,437
Super 7%	Council sponsored Super	2,825	1,800
Super 9%	Guaranteed Super	4,237	-
Workers Comp	2.90%	1,365	651
Uniform		600	300
Vehicle Lease	\$1,065 per month	12,780	-
Vehicle Maintenance	Insurance, Fuel, etc	6,000	-
Computer		2,000	-
Housing Lease	Net \$200 a week	10,920	-
Mobile Phone	\$40 a month	480	-
<b>Totals</b>		<b>88,287</b>	<b>25,188</b>

The costs of the CEDO position could be reduced in two different ways. Council's lease of Lot 490 Tamerisk Street Leeman expires in May 2006 Council could house the CEDO officer in that house. Council currently leases this house for \$150 per week (\$7,800 per year) and would have to forfeit this income. This income is not discretionary expenditure, rather required to be kept in trust for maintenance of this residence.

Alternatively a Coorow based employee, with their own housing, would reduce the \$200 per week (\$10,400 per year) net housing lease cost. Such an employee would be entitled to Council's Housing allowance for staff who provide their own housing, currently \$40 per week (\$2,080 per annum). However if Council selected a Coorow based employee who lived on a rural property outside of Coorow, the commuter travelling of the employee would probably increase vehicle costs. With the commuter kilometers included, the cost of the vehicle lease may increase.

Therefore the cost of the annual salary package for a Leeman based employee would be \$77,887, for a Coorow based employee \$79,967 with the real possibility of increase vehicle lease and maintenance costs.

**PUBLIC CONSULTATION:**

Nil at this time.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council approve the creation of a full time Community and Economic Development Officer position in the 2006/07 financial year and permit staff to begin the employment process for the Community and Economic Development Officer position in the 2005/06 financial year.

**RESOLUTION: 2006-069**

**Moved:** Eaton      **Seconded:** O'Callaghan

*That Council*

- 1. approve the creation of a full time Community and Economic Development Officer position in the 2006/07 financial year and permit staff to begin the employment process for the Community and Economic Development Officer position in the 2005/06 financial year; and*
- 2. establish annual economic and community targets and projects for the position.*

**CARRIED 6/1**



**Council adjourned the meeting at 5.55pm**

**Council resumed the meeting at 5.59pm.**

**Manager Works and Services declared a Financial Interest in Item 12.3, in that his contract of employment will be considered by Council, and left the meeting at 5.59pm.**

**Mr Broun, Manager Community Development and Manager Finance and Administration left the meeting at 5.59pm.**

<b>12.3</b>	<b>MANAGER WORKS AND SERVICES – CONTRACT OF EMPLOYMENT</b>
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<b>AUTHOR</b>	Gary Sherry
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	4 April 2006
<b>CONFIDENTIAL ATTACHMENT</b>	14.1 Manager Works and Services Contract of Employment
<b>FILE</b>	S7.13 – Staff – Manager Works & Services

**SUMMARY:**

**It is necessary for Council to consider a contract of employment with Mr Peter Gillis in his position as Manager Works and Services.**

**BACKGROUND:**

Mr Peter Gills has been employed by the Shire of Coorow since 9 October 2000 in the position of Manager Works and Services. On 30 June 2006 Mr Gillis will have completed two contracts of employment with Council.

**COMMENT:**

Council's current three year contract of employment with Mr Peter Gillis is due to expire on 30 June 2006.

The following clause is included in that contract:

**2.2 Extension of Term**

*There is no compulsion on either the Council or the Officer to agree to an extension of the Term, however:*

- (a) *the Council shall invite the Officer in writing not later than 12 months prior to the expiry of the Term to discuss the possibility of the parties entering into a new agreement for a further term with the intent of finalising those discussions not later than 6 months prior to the expiry of the Term; and*
- (b) *in the event that the Council and the Officer agree to an extension of the Term, this document shall continue to apply unless varied in writing by the parties.*

Subsequently the Manager of Works and Services and the Chief Executive Officer have negotiated a new contract utilising the new draft contract document provided by the Local Government Managers Australia.

Significant clauses and changes to the previous Contracts of Employment include:

- Term of five years commencing on 1 July 2006 and expiring on 30 June 2011 - Clause 2.1;
- A requirement for at least annual performance reviews - Clause 4.2;
- Inclusion of Annual Leave Loading into the Officer's annual salary - Clause 5.1(a)(ii);
- An increase in cash salary, inclusive of Annual Leave Loading of 3% from \$68,382 to \$70,433 - Clause 5.1(a)(i);
- Offering to provide a vehicle allowance to the Officer in lieu of Council providing a vehicle. Under this term the officer would provide a vehicle to complete all of the normal work requirements and received payment from Council to do so - Clause 5.4;
- Providing a home internet connection for the officer. Council's provision of such a connection is exempt from Fringe Benefit Tax and favours the Officer who does not have to commit to a long contract for the installation of broadband internet access that may only be provided in Coorow and not elsewhere – Clause 5.5;
- The officer undertaking one professional development conference each year – Clause 5.6;
- Council providing housing to the officer at a zero rental charge – Clause 5.7;
- Provides for an annual review of salary prior to 1 July each year where salary maybe increased but not decreased – Clause 6;
- The officer is entitled to five weeks annual leave – Clause 8.1; and
- The contract provides for termination of the contract by either party for any reason, with six months notice by Council and six weeks notice by the Officer – Clause 9.3 and 9.4.

## **STATUTORY ENVIRONMENT:**

Local Government Act 1995

### **5.39. Contracts for CEO's and senior employees**

- (1) The employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (2) A contract under this section —
  - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
  - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
  - (a) the expiry date is specified in the contract;
  - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
  - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.

**Standing Order Local Law 1999 Section 16.1.2:**

The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.

**FINANCIAL IMPLICATIONS:**

Council to refer to the confidential Contract of Employment Schedule – remuneration clauses enclosed separately in this Agenda which details the annual gross salary of \$70,433 and a total annual salary package of \$93,952.

**STRATEGIC & POLICY IMPLICATIONS:**

There appears to be no strategic or policy implications regarding this matter.

**PUBLIC CONSULTATION:**

None required.

**VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council:

1. enter into the five (5) year Contract of Employment included at Attachment 14.1 between Mr Peter Donald Gillis and the Shire of Coorow;
2. authorise the President and Chief Executive Officer to sign the contract included at Attachment 14.1 under common seal.

**RESOLUTION: 2006-070**

**Moved:** Eaton      **Seconded:** Stacy

*That Council:*

1. *offer a three (3) year Contract of Employment as included at Attachment 12.3 between Mr Peter Donald Gillis and the Shire of Coorow, with the amendments to:*
  - a. *remove the opportunity to enter into a Vehicle Allowance; and*
  - b. *the base salary to remain at current level, at this time, with resulting changes to total salary package;*
2. *authorise the President and Chief Executive Officer to sign the contract included at Attachment 12.3, as amended, under common seal.*

**CARRIED 5/2**

**The Manager Works and Services, Manager Community Development, Manager Finance and Administration and Mr Broun returned to the meeting at 6.45pm.**

**12.4 ACCOUNTS FOR PAYMENT**

<b>AUTHOR</b>	Dacre Alcock
<b>DISCLOSURE OF INTEREST</b>	Nil
<b>DATE OF REPORT</b>	11 April 2006
<b>ATTACHMENT</b>	12.4 Accounts Due and Submitted To Council Meeting 12 April 2006

**SUMMARY:**

**Council approval is required for payment of accounts made within the months of March 2006 and April 2006 and to approve payments of accounts due in April 2006.**

**COMMENT:**

Approval is sought for the following list of payments of accounts made since Council's last meeting on 15 March 2006 and of accounts that are now due.

A list of all payments submitted for approval is contained at Attachment 12.4 Accounts Due and Submitted to Council Meeting on 12 April 2006.

**STATUTORY ENVIRONMENT:**

*Local Government (Financial Management) Regulations 1996*

**13 Lists of Accounts**

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared:
  - (a) the payee's name;
  - (b) the amount of the payment;
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing:
  - (a) for each account which requires council authorization in that month:
    - (i) the payee's name;
    - (ii) the amount of the payment; and
    - (iii) sufficient information to identify the transaction; and
  - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be:
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting;

**FINANCIAL, POLICY & STRATEGIC IMPLICATIONS:**

There are no financial, policy or strategic implications regarding this matter.

**VOTING REQUIREMENT:**

Simple Majority

**OFFICER RECOMMENDATION:**

That payments listed at Attachment 12.4 Accounts Due and Submitted to Council Meeting on 12 April 2006 including:

1. Vouchers 16013, 16094 to 16208, payments, DP71080306 to TP71070406, TP72080306 to TP72070406, DD81080306, DD81230306, DD83300306, MFA, CEO, MCD, MWS VISA CARDS totalling \$445,100.21 from Council's Municipal Fund; and
2. Vouchers 1989 to 1990 totaling \$322.05 from Council's Trust Fund, be authorised and passed for payment.

**RESOLUTION: 2006-071**

**Moved:** Eaton      **Seconded:** Stacy

*That payments listed at Attachment 12.4 Accounts Due and Submitted to Council Meeting on 12 April 2006 including:*

1. *Vouchers 16013, 16094 to 16208, payments, DP71080306 to TP71070406, TP72080306 to TP72070406, DD81080306, DD81230306, DD83300306, MFA, CEO, MCD, MWS VISA CARDS totalling \$445,100.21 from Council's Municipal Fund; and*
2. *Vouchers 1989 to 1990 totaling \$322.05 from Council's Trust Fund, be authorised and passed for payment.*

**CARRIED 7/0**

**13. MATTERS BEHIND CLOSED DOORS:**

Nil at this time

**14. DATE OF NEXT MEETING:**

**14.1 NEXT MEETING OF COUNCIL**

3.00 pm Wednesday 17 May 2006 at the Leeman Administration Centre, Leeman.

**15. CLOSURE:**

There being no further business the President, Councillor Girando, closed the meeting at 6.50pm.